ALBANY, NEW YORK

June 14, 1996

10:02 a.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

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

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

The invocation today will be given by Rabbi Gordon Tucker of Temple Israel Center in White Plains.

Rabbi Tucker.

RABBI GORDON TUCKER: Thank you.

When the first human couple walked through the ancient garden, we are told that they heard the voice of God saying to them, "Look at my wonderful garden. Do not destroy or corrupt it, for if you do, there is none to repair it after you."

That is and has always been our mandate as human beings, to tend the garden, to see that it is neither corrupted nor destroyed. God's garden is, in the first instance, our

Earth which we dare not allow to be destroyed, but God's garden is also our entire society in which we are called to establish order, law, equity and justice.

To pray is, first and foremost, to acknowledge our responsibility to care for the garden, to see that God's rivers, God's trees, God's air, are not sullied but also to ensure that all members of our society down to the most vulnerable are cared for and enabled to reach their fulfillment.

We are gifted in this country and this state to have democratically elected leaders who acknowledge this responsibility on our behalf. On this day on which we honor our country's flag and in this august chamber, we ask for you, our representatives in the sacred work of tending, and for us all, may we be endowed with intelligence, wisdom and understanding, may God grant us knowledge and discernment so that we may be called each day to renew the work of creation, and may we earn the merit, through You, to be accounted God's

partners in creation.

Amen.

THE PRESIDENT: Thank you, Rabbi Tucker.

The reading of the Journal, please.

THE SECRETARY: In Senate, Thursday, June 13. The Senate met pursuant to adjournment. The Journal of Wednesday, June 12, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno, we have some substitutions here at the desk.

SENATOR BRUNO: Please make the substitutions.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 38, Senator Hoffmann moves to discharge from the Committee on Rules, Assembly Bill Number 9556A, and substitute it for the identical Senate Bill 6672A.

On page 41, Senator Bruno moves to discharge from the Committee on Rules Assembly Bill 10469 and substitute it for the identical Senate Bill 7740.

THE PRESIDENT: Substitutions ordered.

Senator DiCarlo? No.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe that there is a resolution at the desk. Can we at this time read the title, by Senator Larkin, and move for its immediate adoption?

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution, commending Dermal Brown of Marlboro High School upon the occasion of his selection as the 14th pick overall in the major league amateur free agent baseball draft.

THE PRESIDENT: The question is on the resolution.

All in favor, please signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Bruno, are you ready for the calendar?

SENATOR BRUNO: Madam President, on this last day of the regular session, I would like to, in an orderly way, take up the noncontroversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 22, by Senator LaValle, Senate Print 3292B, an act to amend the Education Law, in relation to procedures for standardized testing.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 7. This act shall take effect in 30 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 258, by Senator Saland, Senate Print 2457B, an act to amend the Family Court Act and the Executive Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 317, by Senator Farley, Senate Print 1378A, an act to amend the Penal Law, in relation to restitution.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 329, by Senator LaValle, Senate Print 4293D, an act to amend the Civil Rights Law.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

343, by Senator Leibell, Senate Print 6004B, an act to amend the Insurance Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 482, by Senator Farley, Senate Print 2083B, an act to amend the State Finance Law, in relation to eligible expenditures.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 490, by Senator Leibell, Senate Print 6134A, an act to amend the Public Authorities Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number

568, by Senator Spano, Senate Print 6146, an act to amend the Vehicle and Traffic Law, in relation to authorizing a residential parking system.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 529, by Senator Holland, Senate Print 5536C, an act to amend the Real Property Tax Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 623, by Senator Saland, Senate Print 6028A, an act to amend the Criminal Procedure Law, in relation to mandatory arrests.

THE PRESIDENT: Lay it aside,

please.

THE SECRETARY: Calendar Number 643, by Senator Holland, Senate Print 6313A, an act to amend the Social Services Law, in relation to excluded resources for Medicaid.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 718, by Senator Libous, Senate Print 6899A, an act to amend the Mental Hygiene Law and the Education Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 721, by Senator Kuhl, Senate Print 3981A, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 749, by Senator DiCarlo, Senate Print 6107A, an act to amend the Executive Law, in relation to display of the flag.

THE PRESIDENT: Read the last

section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

THE PRESIDENT: The bill is passed.

SENATOR LEICHTER: Madam President.

THE PRESIDENT: Senator.

SENATOR LEICHTER: Yes, Madam President. I laid Senator Holland's bill, Calendar 643, aside by mistake. If you want to call that bill, I have no objection to it.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 643, by Senator Holland, Senate Print 6313A, an act to amend the Social Services Law, in relation to excluded resources for Medicaid.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 4. This act shall take effect January 1.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 831, by Senator Goodman, Senate Print 6344A, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 840, by Senator Levy, Senate Print 7215A, an act to amend the Public Authorities Law, in relation to adding a nonvoting member to the membership of the Triborough Bridge.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 849, by Senator Levy, Senate Print 7363A, an act to amend the Public Authorities Law.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 939, by Senator Rath, Senate Print 7153B, an act to amend the County Law.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 1057, by Senator Lack, Senate Print 4995B, an act to amend the Surrogate's Court Procedure Act, in relation to increasing the limits of a small estate.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 1062, by Senator Skelos, Senate Print 6561A, an act to amend the Tax Law, in relation to the transfer of the stock of a cooperative housing corporation.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 5. This act shall take effect January 1.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1069, by Senator Maziarz, Senate Print 7432A, an act to amend the Executive Law and the Environmental Conservation Law.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 3. This act shall take effect January 1.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1161, by Senator Hoblock, Senate Print 7083B, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 1180, by Senator Larkin, Senate Print 5786A, an act to amend the Not-For-Profit Corporation Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 1379, by Senator Spano, Senate Print 6575A, an act to amend the Labor Law and the Tax Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 1483, by Senator Hoblock, Senate Print 5747A, an act to amend the Education Law, in relation to property of the State Museum.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1496, by Senator Hannon, Senate Print 7580, an act to amend the Emergency Tenant Protection Act

of 1974.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 1498, by Senator Kuhl, Senate Print 7591A, an act in relation to authorizing the city of Canandaigua, county of Ontario to exchange and convey certain parklands.

THE PRESIDENT: There is a home rule message at the desk.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1503, by Senator Nanula, Senate Print 6579B, an act granting certain retirement service credit.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1520, by Senator LaValle, Senate Print 7709A, an act to amend the Local Finance Law, in relation to the issuance of land installment purchases.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1527, by Senator Stachowski, Senate Print 1672A, an act directing the Commissioner of the Division of Criminal Justice.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1532, by Senator Skelos, Senate Print 4842A, an act to amend the Civil Practice Law and Rules, in relation to objections to service of process.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 3. This act shall take effect January 1.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1533, by Senator Tully, Senate Print 4908A, an act to authorize the county of Nassau.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 1543, by Senator Hoblock, Senate Print 7726, an act to amend Chapter 30 of the Laws of 1996.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1544, by Senator Hoblock, Senate Print 7738, an act to amend the Civil Service Law, in relation to disciplinary action against a member.

THE PRESIDENT: Read the last

section, please.

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

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 1550, by Senator Skelos, Senate Print 6034B, an act to amend the Navigation Law.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 6. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42, nays 2. Senators Kuhl and Wright recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1551, by Senator DeFrancisco, Senate Print 6053A, an act to amend the Public Health Law, in

relation to establishing an adoption medical information sub-registry.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I would like to explain my vote.

Basically, what this bill does - and I think it's important for everybody in the chamber to realize this because the public information is extremely important to make this work. Basically, if you're an adoptee presently, there's virtually no way that you can have updated medical information about your natural parent. What this bill does is it provides a process by which an adoptee can

obtain information from the registry that's currently in existence as to the medical history of the natural parent since the time of the adoption.

Many times, the person -- the natural parent is a young woman with very little medical history, so the initial medical history might not make any sense or it might not have any valuable information. However, over time, more information is gathered and a natural parent through this bill once it becomes law can voluntarily provide that information to the adoption registry and still maintain that person's confidential information, can still maintain the anonymity, and not disclose who the natural parent is.

So it's an extremely important bill that will only succeed if everyone becomes aware of it being in existence because it depends upon the voluntary provision of information to the registry by natural parents so that adoptive children or adopted adults can obtain that information as it becomes known in

later years about the natural parent.

This bill has a co-sponsor in the Assembly, Assemblywoman Weinstein, and we expect it to pass there and, hopefully, it will become law, and once we get the word out, it will be extremely important to those people who don't know their medical history, don't know what's happened to their natural parents since the date of the adoption, and this will provide valuable information that will give them information to plan whatever medical support that they may need in future years.

THE PRESIDENT: Thank you, Senator DeFrancisco.

The bill is passed.

THE SECRETARY: Calendar number 1556, by Senator Hannon, Senate Print 6491A, an act to amend the Criminal Procedure Law.

SENATOR STACHOWSKI: Lay it aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number

1562, by Senator Skelos, Senate Print 7195A, an act to amend the Private Housing Finance Law, in relation to allowing limited liability companies.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1563, by Senator Saland, Senate Print 7247A, an act in relation to authorizing a special district payment to the town of Poughkeepsie.

THE PRESIDENT: There is a local fiscal impact memorandum right here.

Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1566, by Senator Maltese, Senate Print 7507A, an act to amend the Election Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 1569, by Senator Onorato, Senate Print 7797, an act to amend the Civil Practice Law and Rules, in relation to fees for referees.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1571, by Senator Stavisky, Senate Print 2302, an act to amend the Penal Law, in relation to penalties for criminal solicitation.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1572, by Senator Hoblock, Senate Print 3867C, an act authorizing the town of Colonie.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 1573, by Senator Hannon, Senate Print 6393A, an act to amend the Social Services Law, in relation to limiting the method of payment.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: On page 38, Senator Hoffmann moves to discharge from the Committee on Rules Assembly Bill Number 9556A and substitute it for identical Senate Bill 6672A.

THE PRESIDENT: Substitution ordered. Secretary will read.

THE SECRETARY: Calendar Number 1574, by Member of the Assembly Magee, Assembly Print 9556A, an act to authorize payment of transportation aid.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1575, by Senator Larkin, Senate Print 7503, an act to amend the Highway Law, in relation to designating a portion of the state highway system.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1576, by Senator Tully, Senate Print 7558A, an act to authorize the payment of transportation aid.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1577, by Senator Wright, Senate Print 7584A, an act to amend the Alcoholic Beverage Control Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 1578, by Senator Spano, Senate Print 7588, an act to amend the Administrative Code of the City of New York, in relation to the participation of part-time employees.

THE PRESIDENT: There is a home rule message at the desk.

Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1579, by Senator Hannon, Senate Print 7602, an act to amend the Education Law.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1580, by Senator Rath, Senate Print 7603A, an act to authorize the trustees of the State University of New York.

SENATOR STACHOWSKI: Lay it aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 1581, by Senator Saland, Senate Print 7647A, an act to amend the Mental Hygiene Law.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 1582, by Senator Leibell, Senate Print 7660A, an act to amend Chapter 915 of the Laws of 1982.

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 1583, by Senator Wright, Senate Print 7665, an act to legalize, ratify and confirm the acts and proceedings of the board of education.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1584, by Senator Wright, Senate Print 7666, an act to reopen the special retirement plan.

THE PRESIDENT: There is a home rule message at the desk.

Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1586, by Senator Trunzo, Senate Print 7676, an act in relation to terms and conditions of employment.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1587, by Senator Johnson, Senate Print 7716, an act to amend Chapter 161 of the Laws of 1995.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1588, by Senator Velella, Senate Print 7717, an act to amend the Penal Law, in relation to the theft and criminal possession of air bags.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 5. This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1589, by Senator Alesi, Senate Print 7736, an act to amend the Insurance Law, in relation to permitting excess line brokers.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1590, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 10469, an act to amend Chapter 483 of the Laws of 1978.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

SENATOR GOODMAN: Madam President.

THE PRESIDENT: Senator Goodman.

SENATOR GOODMAN: Yes. May I please, with unanimous consent, be recorded in the negative on Calendar 1578, which passed a few moments ago.

THE PRESIDENT: Without objection.

Senator Levy.

SENATOR LEVY: Yes, Madam President. I would like to announce that there will be a meeting of the Senate Transportation Committee at 10:45 in Room 123. It was previously announced but the location and time were not set, so we're setting it for 10:45, Room 123.

THE PRESIDENT: Thank you. There will be a meeting of the Senate Transportation Committee in Room 123 at 10:45.

Senator Farley.

SENATOR FARLEY: Can I be recorded in the negative on Calendar Number 1550?

THE PRESIDENT: Without objection.

THE SECRETARY: Calendar Number 1591, by Senator Volker, Senate Print 7765, an act to authorize employees of the Department of Health facilities.

ACTING PRESIDENT KUHL: Read the last section, please.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

Record the negatives. Announce the results when tabulated.

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1592, by Senator Sears, Senate Print 7771, an act to legalize, validate and ratify.

ACTING PRESIDENT KUHL: Lay the bill aside.

SENATOR DiCARLO: Mr. President.

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

SENATOR DiCARLO: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 1550, please.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator DiCarlo will be recorded in the negative on Calendar Number 1550.

THE SECRETARY: Calendar Number 1593, by the Committee on Rules, Senate Print 7772, an act to amend Chapter 30 of the Laws of 1996.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1594, by the Committee on Rules, Senate Print 7783, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1595, by the Committee on Rules, Senate Print 7791, an act to amend Chapter 831 of the Laws of 1981.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1596, by the Committee on Rules, Senate Print 7801, an act to amend the Labor Law, in relation to the garment industry.

SENATOR BRUNO: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1597, by the Committee on Rules, Senate Print 7802, an act to amend the Administrative Code of the city of New York.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1598, by the Committee on Rules, Senate Print 7803, an act to amend the Administrative Code of the city of New York, in relation to the powers, duties and responsibilities of the board of trustees.

ACTING PRESIDENT KUHL: There is a home rule message at the desk.

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1599, by Senator Seward, Senate Print 7826, an act to amend the Public Service Law.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1600, by Senator Seward, Senate Print 7827, an act to amend the Public Service Law.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

Senator Bruno, that completes the reading of the noncontroversial calendar.

What's your pleasure?

SENATOR MARKOWITZ: Mr. President, if I may.

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

SENATOR MARKOWITZ: With the permission of the Senate, I would like to be recorded in the negative on yesterday's Calendar Numbers 1000, 1479 and 1538, and to thank my colleague, Senator Paterson, for offering some

comments on my behalf on Calendar 1479 yesterday.

Thank you.

ACTING PRESIDENT KUHL: Senator Markowitz, the record will reflect that had you been here yesterday when the roll calls were taken on Calendar Number 1479 and also on Calendar Number 1538 that you would have voted in the negative, and also Calendar Number 1000.

SENATOR MARKOWITZ: Thank you.

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

SENATOR MAZIARZ: Thank you, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar Number 1550, please.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Maziarz will be recorded in the negative on Calendar Number 1550.

Senator Libous, why do you rise?

SENATOR LIBOUS: Thank you, Mr. President. If I may have unanimous

consideration to be recorded in the negative on 1566.

ACTING PRESIDENT KUHL: Without objection, and hearing no objection, Senator Libous will be recorded in the negative on Calendar Number 1566.

Senator Seward, why do you rise?

SENATOR SEWARD: I would ask unanimous consent to be recorded in the negative -

ACTING PRESIDENT KUHL: May we have a little order in the house, please.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT KUHL: Senator Seward, thank you for the interruption.

SENATOR SEWARD: Yes, Mr. President. I, too, would like to ask for unanimous consent to be recorded in the negative on Calendar 1550.

ACTING PRESIDENT KUHL: Without objection, and hearing no objection, Senator Seward will be recorded in the negative on Calendar Number 1550.

Senator Libous, for your information, the bill that you want to be recorded in the negative, the bill was laid aside. It was not acted upon by the house. I thought you would want to know that.

SENATOR LIBOUS: Thank you, Mr. President. I just want to be prepared, sir.

ACTING PRESIDENT KUHL: It's always good to be prepared.

Senator Nozzolio, why do you rise?

SENATOR NOZZOLIO: Mr. President, I ask unanimous consent to be recorded in the negative on Calendar Number 1550.

ACTING PRESIDENT KUHL: Without objection, and hearing no objection, Senator Nozzolio will be recorded in the negative on Calendar Number 1550.

Senator Seabrook, why do you rise?

SENATOR SEABROOK: Yes, Mr. President. Yesterday, I was out of the chamber when there was a vote on Senate Bill 1000 and

Senate Bill 1479 and Senate Bill 1538 and, for the record, had I been present, I would have voted in the negative on those three bills.

ACTING PRESIDENT KUHL: Senator Seabrook, the record will reflect that had you been in the chamber yesterday when the votes were taken on Calendar Numbers 1000, 1479 and 1538, that you would have voted in the negative.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT KUHL: Yes. Yes, Senator Stafford.

SENATOR STAFFORD: May we please have the report from the Finance Committee concerning the nominations, please.

ACTING PRESIDENT KUHL: There is a report of the Senate Finance Committee at the desk.

We will return to the order of reports of standing committees.

I will ask the Secretary to read.

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

Member of the Public Service Commission, Thomas J. Dunleavy, of New York City.

ACTING PRESIDENT KUHL: Senator Stafford.

SENATOR STAFFORD: Mr. President, it's a pleasure for me to rise and move the confirmation of Mr. Thomas J. Dunleavy.

Mr. Dunleavy has had a distinguished career. As a very young man, he entered the military at 17, went to Korea, saw combat, then went on to Fordham, and then from there had a distinguished and successful career in the communications industry.

We think he will bring the energy, the ability, the concern. He appeared before us in the Senate Finance Committee today. There were discussions in depth concerning issues. He showed that he does have a concern. I think he will be an excellent member of the Public Service Commission.

Times are changing, and I'm sure that I should have asked -- before I said

anything, should have asked the Senator who is Chairman of Energy to comment on this, and I know he will, and I will join with him in supporting the nominee.

Senator Seward.

ACTING PRESIDENT KUHL: Chair recognizes Senator Seward.

SENATOR SEWARD: Yes, Mr. President. Thank you, Senator Stafford.

Mr. Dunleavy's nomination comes before us at a time that is of great change, as Senator Stafford alluded to. Only a few weeks ago, the Public Service Commission issued its order on competition, competitive opportunities. It's an order that's going to change the face of the electric utility industry in the state of New York; and earlier this year, the federal government passed a major telecommunications act which once again will serve to create great change in the telecommunication area for us as well.

As a member of the Public Service Commission here in New York, with a term to

expire in the year 2001, Mr. Dunleavy is going to be right in the middle of all of this and will be playing a major role in formulating of new policies for the very rapidly changing times that we face in both the energy and the telecommunication industry.

Mr. Dunleavy has had a wide breadth of experience and has a good working knowledge of these issues that are facing the Public Service Commission. His background is both in the private sector, heading up a number of telecommunications-related companies, but also he has experience in the public sector with the city of New York.

His background is particularly geared toward telecommunications, but I believe that that background will serve him well as a model as we move toward more competition in not only the local telephone service but also in the electric utility industry as well. He appeared before our Energy and Telecommunications Committee. We had an excellent discussion. I believe him to be a very well qualified, very

sound nominee, very intelligent man, good sense of humor, tremendous integrity, all of the qualities that will serve him well and the people of the state of New York will be well served with Mr. Dunleavy on the Public Service Commission.

I'm pleased to join in moving his nomination today.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Tully on the nomination.

SENATOR TULLY: Thank you, Mr. President.

The nominee is not a constituent of mine, but the commission on which he is going to serve is very significant to the residents of my community. Skyrocketing cost of energy is severely impacting those residents and many of them are seeking other climes and we would like to keep them, and I think the background, training and experience of this particular nominee makes him eminently qualified to serve on the Public Service Commission.

I look forward to great things

from him. I hope he keeps his sense of humor, and I know that we will be well served, and I'm pleased to second his nomination.

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

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, on the nomination.

SENATOR GOLD: Yes, Mr. President. I want to add a few short words.

Mr. Dunleavy really does have a fine background. What impressed me more, to tell you the truth, than his background was his openness and his very apparent willingness to want to learn, to want to participate and, I believe, to want to do the right thing.

And I won't kid you. One of the main factors in my vote is his lifelong membership as a Friendly Sons of St. Patrick. I think that is important. But he really is an individual who has earned this appointment, and we look to him for fine things.

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

(There was no response.)

Hearing none, the question is on the nomination of Thomas J. Dunleavy of New York City to become a member of the Public Service Commission.

All those in favor of the nomination, signify by saying aye.

(Response of "Aye.")

All those opposed, nay.

(There was no response.)

The nominee is unanimously confirmed.

We're very happy to have Thomas J. Dunleavy with us in the chamber.

Mr. Dunleavy, congratulations.

(Applause)

Secretary will read.

THE SECRETARY: Major General, New York Air National Guard, John Hutchins Fenimore V, of Cold Spring.

ACTING PRESIDENT KUHL: Chair recognizes Senator Stafford.

SENATOR STAFFORD: Mr. President. We today have five very fine nominees before us. It's a pleasure to move General Fenimore's nomination. He, too, has a distinguished career. We are sure that he will continue the fine work that he has done in the military.

He has an excellent background, excellent education, a Union College graduate. I can only compliment the Governor, as we have on the previous nomination, and I think we're very, very fortunate to have the General serving our state.

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

Senator Goodman, could you please take your seat, sir. Senator Hoblock is wishing to address the chamber behind you. I could not see him with you standing up.

Chair recognizes Senator Hoblock

on the nomination.

SENATOR HOBLOCK: Thank you, Mr. President.

It gives me great pleasure to join with Senator Stafford in moving the nomination for promotion to Major General the name of John Fenimore, who is currently the Adjutant General for New York and is also the Commander of the New York Air National Guard.

I have had the opportunity and privilege of working with General Fenimore in my position as Chairman of Veterans and Military Affairs and found him to be not only highly professional and qualified but just a very nice individual, and I think we have made some substantial progress in the short time that we have been able to work together.

Without going into detail on his background, I would like to defer to Senator Leibell, which General Fenimore is a constituent, for further word on the nomination.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leibell on the nomination.

SENATOR LEIBELL: Thank you, Mr. President.

Once again, I'm in a position of complimenting our Governor, George Pataki, for forwarding to this chamber for consideration the nomination of a man who I know is, without question, greatly qualified for the position we are discussing today.

I have had the opportunity over some time now to know General Fenimore. He is a man of great competence and great character. We are today considering his appointment for Major General, New York Air National Guard. I think that any of us who look at a position like this would want to say if it was either ourselves or one of our sons or daughters, who would we wish them to be commanded by? And I can tell you without hesitation that I can say clearly that General Fenimore is the sort of person that all of us could feel comfortable with commanding any of our sons and daughters from New York State.

He has had a long and distinguished career. A graduate of Union

College, he has served long with the Air Force and the Air National Guard. He has served in combat in Vietnam. He has numerous decorations from the Legion of Merit, Meritorious Service Medal, Air Medal, Air Force Commendation Medal, Vietnam Service Medal, Republic of Vietnam Campaign Medal.

On May 15, 1991, he was promoted to the rank of Brigadier General. As I noted earlier, I have had the opportunity over some period of time now to meet with General Fenimore and to work with him and to discuss issues that are of concern to this state and especially with respect to our military reserve forces.

I am most pleased and greatly honored to have the opportunity to move today the nomination of General Fenimore for the position of Major General.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Larkin on the nomination.

SENATOR LARKIN: Thank you, Mr. President.

I rise to second the nomination

of General Fenimore to the rank of Major General. Anyone recognizing the career of General Fenimore truly recognizes that we are nominating someone here today who has gone up the ladder at tremendous -- amount of responsibility varied in combat, noncombat roles, and his commitment to the Guard -- when you talk to the men in the Air Guard, the Army or the Navy who are under his command, they will tell you very clearly that he is an individual truly committed to them as individuals and to see that we in the State of New York have the finest Guard there is.

General Fenimore is known as a trooper's trooper and, quite frequently, we find that lacking in individuals who rise to this rank who forget -

Thank you, Mr. President.

When you start to think about an individual with this responsibility and you find out where the Guard has been going under his leadership -- we have been recognized as a Guard that is trained, available. The actions of this

Guard in all of the missions of late -- Somalia, now of Bosnia -- and other humanitarian efforts under his leadership, has gained him the reputation of a truly outstanding commander.

I think it serves us well in this state to have an individual of General Fenimore's competence, quality, dignity and leadership to be Major General, AG state of New York.

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

(There was no response.)

Hearing none, the question is on the nomination of John Hutchins Fenimore V, of Cold Spring, to become Major General of the New York Air National Guard.

All those in favor of the nomination, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The nominee is unanimously

confirmed.

We're very happy to have General Fenimore in the chamber with us today.

General, welcome and congratulations.

(Applause)

The Secretary will read.

THE SECRETARY: Major General, New York Army National Guard, Robert R. Rose of Brooklyn.

ACTING PRESIDENT KUHL: Chair recognizes Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President.

Again, as I've mentioned, joining the five nominees this morning is General Rose. I just want to emphasize this. For those of us who have served in the military, many of us have not worn stars. In fact, most of us have not, and I would just say that if you have served as some of us have, you understand just how much it means. We constantly would tell General King that over in the Assembly when he was serving,

and he didn't seem to understand. So I'm sure you people do.

But on a serious note, again, for the promotion serving the Army National Guard - I might add, a great Guard in this nation. General Rose has an excellent background, excellent education, extremely successful in business and, of course, he's carrying that over into the military, into the Guard, and we're very fortunate to have him serving our state.

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: Mr. President, these are very significant nominations that have reached us, both with respect to General Fenimore and General Rose. General Rose lives right across the Narrows from me. I can see his house from my house, although he may not be aware of it.

But in any event, he does have a brilliant military record. His capability has been proven time and again, and it's very reassuring, Mr. President, to have someone of

his caliber serving the Air Guard.

I did spend a small amount of time, not as long as I would have liked, with the Air Guard in duties ranging from serving the DEW line when it was a very important component of our intelligence system to other myriad tasks, the breadth of which really defies the imagination and the knowledge of most people.

The Guard does play an integral role in the defense of the United States because it's part of the Total Force Theory, unless that has all been changed. I don't think so. This means that if there is an incident or a requirement -- an urgent requirement that can be benefited by their presence in Bosnia, in the Middle East, in the Far East, anywhere in the world where American interests and world stability is at stake, the Guard does play an integral role, as part of that Total Force Theory and capability which enhances -- which enhances and reassures the world that we are well served in this respect.

Combined with that, within the

state itself, their mission has been expanded over and over again from natural disasters to other circumstances where their presence is very, very critical and necessary.

So we -- I believe Senator Larkin made reference to it. We really have a great Guard. It's a model for the entire nation, and our two distinguished generals -- and, General Rose, you are being confirmed now -- is a very, very important brace of nominations that we are processing here this morning. I can't think of anything comparable in the civil sectors that is of greater importance than the roles that they are covering.

So I certainly urge unanimous consideration of this nomination and along with the good wishes and pledge of support when they need it in the future.

Thank you, Mr. President.

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

Senator DiCarlo.

SENATOR DiCARLO: Thank you, Mr. President.

I rise in support of the nomination of Bob Rose -- General Rose. General Rose is a constituent of mine and a friend of mine. He is another example of a Brooklyn boy who's made good, and it's usually those from Brooklyn who excel the most, and Bob Rose is one of those individuals.

His professional career has been spoken about. His army career has been spoken about, and I just want to rise to tell you about the man, General Bob Rose. He is a pillar in my community, someone who whenever asked to help out in any circumstance has been there for the community and somebody who we all look up to in our Brooklyn community, and I'm very proud today to be able to second your nomination and your promotion to Major General of the New York Army National Guard.

ACTING PRESIDENT KUHL: Senator Maltese, on the nomination.

SENATOR MALTESE: Mr. President,

I want to join my colleagues in seconding this important nomination. The Army National Guard, as Senator Marchi and others have indicated, is very important to the state and the nation. I'm very pleased that General Rose served as an enlisted man prior to attending officer candidate school and then assuming a great deal of very, very critically important command roles in the course of his career. In addition, not to repeat many of the virtues that have already been extolled and commented upon, he at the same time brings a business background to the administration of the National Guard and, certainly, as Senator DiCarlo has indicated, a community awareness and participation that is important in the role of the National Guard with citizen participation.

In addition, of course, he is a family man, and I wish to congratulate General Rose and his family and second the nomination.

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

(There was no response.)

Hearing none, the question is on the nomination of Robert R. Rose of Brooklyn to become a Major General of the New York Army National Guard.

All those in favor of the nomination, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The nominee is confirmed.

We're very pleased to have General Rose in the chamber with us.

General, welcome and congratulations.

(Applause)

The Secretary will read.

THE SECRETARY: Members of the Board of Trustees of the City University of New York: John J. Calandra of Pelham, Robert Price of New York City.

ACTING PRESIDENT KUHL: Chair recognizes Senator Stafford on the nomination.

SENATOR STAFFORD: I move the confirmation, your Honor -- or Mr. President.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter, on the nomination.

SENATOR LEICHTER: Yes. May I be heard on the nomination of John Calandra, but since I will oppose it, maybe somebody wishes to speak for the nomination before.

SENATOR STAFFORD: I can only say it's an honor, and I want to do this. I just hope some time -- and I say this with all the sincerity that I can muster. I hope some time that somebody, one of my colleagues, will speak of my son or daughter the way I am going to speak about the son of a former colleague of ours.

He graduated from Columbia College in 1988 with a 3.7 average, which is good. That's dean's list, if anybody wants to ask about that. He then graduated number 3 out of 187 graduates of Cornell Law School.

As a matter of fact, his average

again was 3.7, and that's cum laude, for those -- I'm sure everyone knows that, but that's very impressive, very impressive. He then went to work for Kravath, Swaine and Moore. I don't have to tell you about Kravath, Swaine and Moore, do I? And I don't mean to make light of it.

I am sincerely impressed with what he has done, and I don't mean to question anybody who wants to raise a question, but he is now litigating with McDermott, Will and Emery.

Age has been mentioned. The only point I would make there is that he is exactly the same age as I was when I used to argue with a colleague of ours about -- a colleague of ours about who was younger and who was the youngest person here. As you can see, we used to have silly discussions then, too.

But on a serious note, Mr. President, I think John Calandra is of the age when he can make a contribution together with Bob Price, together with others who serve on the board, as was mentioned earlier today, the

trustees.

And, by the way, I was quite impressed with the trustees. I had -- I hadn't remembered who really is on that board right now, a number of people we have worked with.

He certainly has the ability. He is involved in government. He is involved in the political system. I don't think there's anything wrong with that. If anything, I think that's a strength that he is willing to be involved. If anything, not enough people are coming forth and willing to put their name on the line and be out there on the firing line and be willing to take part.

I think John Calandra has been a credit to his family, to his community and, indeed, to himself, and I can only compliment the Governor on appointing or nominating John. I would remind him if he was here that, as I was reminded once, the river never rises higher than its source. For those of you -- I think you know I'm speaking of his late dad.

With that, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Gold on the nomination.

SENATOR GOLD: Thank you, Mr. President.

Mr. President, at the Finance Committee, I had the opportunity to hear the remarks of Senator Leichter, which I know he has an opinion and I respect Senator Leichter as much as anybody, and I say in all candor I like to consider myself the head of the Franz Leichter fan club. That doesn't mean that Franz and I always have to agree, and in this case we may not agree.

I have had the honor of serving under five governors, and I could not look anybody in this chamber in the eye and tell you that Nelson Rockefeller and Malcolm Wilson and George Pataki are a bunch of politicians and Mario Cuomo and Hugh Carey were statesmen. I mean politics is politics. So, to me, the fact that people want to get involved in government for some political reason doesn't bother me, and the Kennedy family, which is certainly not

Republican, is an example of people who went in at a young age.

I remember, because I was there in the Assembly, when a fellow named Richard Gottfried, I think, had to leave sometimes to go to classes, because I think he was still in law school when he was elected. So I must tell you I am not impressed with an argument that says that a young person should not be in this position.

As a matter of fact, while I'm on the youth kick, I don't want to embarrass people who are not here to defend themselves so I will not mention names, but there certainly was one instance of a chancellor in recent years who brought from one of the colleges some very young people who he had known as students in that college, and when he left as chancellor, he "protected", quotes/unquotes, those individuals, and they hold some pretty responsible jobs at CUNY today and some people think they do a good job, some people are critical, but the point is that nobody was

screaming, that I heard, too loudly when these very, very young individuals received major assignments at CUNY.

But I don't say that John J. Calandra is qualified just because he is young. I think that this young man is entitled to be judged on his record, and I think his scholastic record is excellent. Having said that, let's look at the philosophies here.

I know people on that CUNY board and so do other people in this room, and certainly people of the stature of a Stanley Fink. There is Michael Del Giudice, I think still serves. I think Herman Badillo still serves. These are people who we respect.

Interestingly enough, while I'm not suggesting that the ends justify the means, sometimes you wonder how, with all of the right ingredients, the end isn't necessarily so terrific, and I have questions about some of the things that go on at CUNY. I have questions about some of the policies, and I have had the opportunity to have lunch with Stanley Fink and

talk to him about some things where we disagree on some policy issues.

So I say to all of you, what is wrong with taking a younger person who might have a different point of view and shaking up this pot a little bit? Now, I don't think that John J. Calandra, with his background at Columbia and Cornell, is going to be intimidated by these other people. I don't think he is going to have the slightest difficulty sitting at the table with these other people, and I see some advantages.

A point was made that he has some political ambition and if -- I look at his taking this job as an acknowledgment that he's not going to win his election, but if he did win the election, he can resign. But I do not think that there is anything improper about this nomination because the individual has political ambition, and I do think that it is exciting for some of us who knew John Calandra, the Senator, and some of us who knew John Calandra, the Assistant United States Attorney, to see that

his son is developing in such a wonderful way that John can look down and be very, very proud.

So with the greatest respect - and I do not say that in any way but sincerely -- to my colleague Senator Leichter, I am going to vote for John J. Calandra, and I will do it in a very proud way.

ACTING PRESIDENT KUHL: Chair recognizes Senator LaValle on the nomination.

SENATOR LAVALLE: Thank you, Mr. President.

The nominee went through the Higher Education Committee and the members who were present and voting for the nominee did so enthusiastically and, as you have heard, the nominee demonstrated in just a very, very short time a strong intellect, and you could see an enormous amount of energy and willingness to undertake duties and responsibilities as a trustee.

John Calandra, there's no doubt about it, is his own person, and he got into and interested in the City University through issues

that arose in the last year or two with the Calandra Institute, and I think John Calandra, Jr. demonstrated, as he has in business, that he can carry over those skills as a litigator into the government arena by working with people to resolve issues.

And I think what the Governor has done, what Governor Pataki has done in sending down the nominees -- some that we have not yet brought before this house, have not been interviewed by the Higher Education Committee, but it is a panoply of individuals with varying skills, ages, coming from obviously different parts of the city of New York.

And so I think that John Calandra, Jr.'s age is a plus in this instance, as has been mentioned, because he can identify with the problems of the students who are in attendance and they can identify with him as a trustee. I think the nominee will make an excellent trustee and continue to bring honor to the name Calandra and public service in this state.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Mr. President.

Regretfully, I must disagree with my distinguished colleagues who have spoken in favor of this nomination. Let me say, Senator Gold often agrees with me or I agree with him and it's a healthy thing and it shows democracy at work, individual viewpoints, and that's really what we're all about. We would probably benefit if there was more disagreement among people on the same side of the aisle within this chamber, because I think it's healthy to have this exchange of ideas, and I respect the points that he made and the points that Senator LaValle said and Senator Stafford rightly pointed out, that this is a young man with very fine academic credentials, and it pains me in some respects to get up and to oppose somebody who bears what I think is a very distinguished and proud name.

I thought John Calandra was terrific. We disagreed on a lot of things, but

I think without in any way denigrating anybody else here, this place was a lot of fun with John Calandra and he provided really good service to the people of the state of New York and certainly to his district, and I think it's wonderful to see that his son is building a career for himself, that he has managed to do so well in college and law school, went to work for one of the most prominent law firms in New York, is now with a law firm where one of the partners is a former partner of mine, and he told me, "This is a terrific guy; he is a fine young associate."

But wait a second. What are we choosing him for? It's not a matter of youth, that anything is wrong with youth as such, and I say again, this is an exceptionally able young person, but what are you looking for on the board of the City University of New York or the board of the State University of New York. You are looking for somebody who has some experience and status. It's not a criticism of youth to say that you don't have the experience. That

is, of course, inevitable, and in some instances it's wonderful to have people who are young. Senator Stafford was elected to this chamber at a young age. Dick Gottfried was barely in his 20s, but the voters chose him, and it made sense to those voters to have somebody with that vigor and enthusiasm.

But on the board of trustees of a major educational institution, you look to people who have the status, who have the experience, who have the know-how, who have served in government. And who is on that board of trustees? Stanley Fink, former Speaker of the Assembly; Herman Badillo, Congressman, Borough President, Deputy Mayor; you have Jim Murphy, a distinguished banker, somebody that we all know.

The next person we're going do nominate is exactly the sort of person we want, Bob Price, former Deputy Mayor, advisor to governors, presidents, investment banker. That's really what you are looking for.

And it's no criticism of John

Calandra, Jr. to say he doesn't have that experience. How could he at his age? So it's not a matter of youth. It's a matter of whether he can bring the sort of status to the position which it requires.

There's another reason that I think that we can not support this nomination, and that is John Calandra is running for public office at this particular time. That's great. I think we ought to encourage people of his skill and his ability, and whether he is a Republican, a Democrat, that doesn't matter. I think we all want to see able people get into politics, and he is certainly able, but how can you run for public office with all that that demands and at the same time do the justice which your position as a member of the board of trustees requires? You can't.

Should he win -- and I assume it's a serious race that he is running. I'm told it's a serious race. The name Calandra in the Bronx, by itself, makes anybody with that name a serious candidate. But if he wins, then

he's got to resign. At the very least, I think the Governor would want to wait until November to see whether he's going to win or not. It raises the question, is he being nominated, is he being put on this board of trustees to have a credential as a candidate? I don't think that's the reason that we would want to put somebody on the board of trustees.

To my mind, it says something about this Governor and his commitment to the City University of New York. This is an institution that's going through some extremely difficult times, as is the State University of New York. What you want to do is to put on people who can really contribute, build up public support for that institution, deal with the very difficult financial and academic questions that now are being discussed for that university system. That's really what it needs. It doesn't need somebody who was chosen really for partisan political purposes.

I was maybe a little harsh in the Senate Finance Committee. I said "petty

partisan politics." I want to remove the word "petty," but it's certainly -- it's certainly -- it's certainly partisan politics. It's using the City University for political purposes. It's not serving the City University system, and that's in no way saying anything derogatory about John Calandra, Jr., who I think is a very fine young man and somebody who may well have a distinguished public career, but he is not the right person by experience, by status, by availability of time, and considering the needs of the City University of New York, this is not the time to put this nominee on this board.

I am going to vote negative.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I wasn't going to say a word because I don't know even know John Calandra, Jr. Don't know him at all. But after listening to my colleague, Senator Leichter, who I have

the utmost respect for, I felt compelled to get up and make a few comments.

Senator Leichter, maybe one of reasons why the City University system has had some problems is because maybe there are too many of these prestigious individuals that don't understand the real world, and maybe we need a solid citizen like John Calandra to serve on that board, because maybe we've had too many people who really don't have a feel for what takes place in what I call the real world today, and I would never say that because someone doesn't have great status -- and, of course, the men that you spoke of and women who serve on that board, I, too, respect because they are successful, and I would never take success away from anyone who achieves it and earns it honestly, but that certainly is no reason to say that someone is not qualified for a board.

And because -- the other reason is because an individual chooses to run for public office. This is America. Anyone can run for public office in America and particularly in

New York State. This is an opportunity. He should not be criticized nor should his name be put aside because he chooses to run for a public office. I mean that is his right as a citizen to do so.

So again, Mr. President, I don't know this gentleman at all, and I'm sure the Governor and the people who made the decision made a strong one, but I was just compelled to make some statement.

And, again, as I said, I certainly respect Senator Leichter and just - it brought that out of me.

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

SENATOR LEICHTER: Mr. President, would Senator Libous yield?

SENATOR LIBOUS: Sure.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: Senator, I appreciate your comments in joining into this. I just want to know what is the "real world"?

Let me ask you, Bob Price, who we are now going to take up as the next nominee, is he in the real world?

SENATOR LIBOUS: Well, Mr. President, my comment was that as he was talking about prestigious people. We're all in the real world but, you know, Mr. President, because someone carries a title who is a president - you talked about -- I don't have the document in front of me of your exact remarks, but just because he has no title before his name doesn't mean he's not qualified to serve on the board.

Common sense. Common sense is in the real world, and as I said to you, Senator Leichter, I'm not saying that the persons who serve on the board have no common sense. I have tremendous respect for them, but don't discredit someone else who may not have the title of president or CEO or advisor to the mayor or to the governor. They can serve just as well.

SENATOR LEICHTER: Mr. President, if Senator Libous would yield.

ACTING PRESIDENT KUHL: Senator

Libous, do you yield to one question?

SENATOR LEICHTER: Senator, I'm just interested because, you know, I keep on hearing this remark, the "real world." Senator Dole, when he left the U.S. Senate, he said, "I'm going to the real world." I want to know where this real world is, and I want to - because I have a lot of respect for you, Senator Libous, I just thought maybe you would point me to it. And, also, since you said that maybe one of the reasons that City University has a problem is that those people that I mentioned that I thought were distinguished are not in the real world, I want to know who they are. Do you think Stanley Fink, the former Speaker of the Assembly, he is not in the real world?

SENATOR LIBOUS: Mr. President. Senator Leichter, the real world is outside of this chamber, Senator Leichter, plain and simple. It's outside the city limits of Albany. That is the real world.

SENATOR LEICHTER: Okay. I'll accept that answer.

ACTING PRESIDENT KUHL: Is there any other Senator other than Senator Velella wishing to speak on the nomination?

SENATOR VELELLA: Mr. President, I'm not surprised at Senator Leichter's difficulty in understanding what's happening in the real world. I believe he spent most of his adult life trying to find the real world, and is still trying to find the real world.

Let's talk about Stanley Fink. Good friend of mine. I served in the Assembly with him. Speaker of the Assembly, a great politician, a great statesman. What did he know about running a college? We put him on the board, and Leichter cheered.

Herman Badillo, Congressman of the United States, a great man, good legislator, former borough president of the Bronx. Knew less than I do about running a college, about running a university. We put him on the board, and Leichter cheered.

Do you realize, Senator Leichter, that in five years John Calandra, Jr. could

qualify to be President of the United States, but in your mind he is not qualified to serve on the board of directors of City University?

Maybe this governor is doing something your governor didn't do. He is reaching out to younger people to bring them into government, to let somebody who is close to that college level, who has just gone through the system, to be on that board as an equal person.

We allow student representatives to be on that board. I haven't heard you complain that they are too young and inexperienced. They had the opportunity of getting on that board.

If you are talking about partisan politics, Senator, you don't have to look any further than the mirror when you shave there in the morning. You're attacking John Calandra because he happens to be a Republican who will be running for office in November. Every argument you have raised is just a political smoke screen, his age, and now you say it's not

the question of his age. He is going to be 30 years old. Dick Gottfried was an Assemblyman at 21 and you were supporting him. I was an Assemblyman at 27. I know you didn't support me, but thank God. That helped me get elected. That helped me get elected.

His experience in administering a college -- Stanley Fink didn't have any experience, Badillo didn't have any experience. Even Murphy, the chairman of the board, doesn't know about running a college. But they went on there; you cheered for them. There was no difference.

He is a fine young man. I've known him since his early, early days. He certainly is a well-educated, well-respected individual, and I believe your attack is nothing more than, as you said, petty partisan politics.

I move the nomination.

ACTING PRESIDENT KUHL: For the benefits of the members who will be voting momentarily, the nominations of John J. Calandra

and Robert Price both were called, so we're voting on both the nominations.

Senator Goodman, why do you rise?

SENATOR GOODMAN: If we're voting on both, I would like to say a word with respect to the other nominee.

ACTING PRESIDENT KUHL: It is entirely appropriate at this time.

Senator Goodman, on the nomination.

SENATOR LEICHTER: Mr. President, point of order.

Point of order, Mr. President.

ACTING PRESIDENT KUHL: What's your point of order?

SENATOR LEICHTER: My point of order is that I believe the practice of this house has been that where a member wishes to identify a particular office because they wish a separate vote or they wish to vote against it, that we vote it separately, so my request is that we vote the two separately. I'm going to

vote for Bob Price. I'm going to vote against John Calandra.

ACTING PRESIDENT KUHL: It's nice to see you making decisions today, Senator Gold.

Senator Goodman, on the nomination.

SENATOR GOODMAN: May I ask for a point of -

ACTING PRESIDENT KUHL: Senator Velella.

SENATOR VELELLA: In order to accommodate Senator Leichter, there is no objection on this side to taking up John Calandra first and then taking up the second nominee if you would like to proceed that way, unless that presents a problem at the desk.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the nomination of John J. Calandra?

Senator Johnson, on the nomination.

SENATOR JOHNSON: I'm too old to

speak but, nevertheless, I would like to say a word on behalf of John Calandra, and I would like to express what Franz Leichter would probably say if John's father were here. "I have nothing to say."

His father would have had a vigorous part in this debate and would have certainly stood up for his son, who is his father with a lot more good qualities, as well.

John Calandra is a fine young man. It's lamentable that this debate ever took place. It was inappropriate, I think. Nevertheless, it did, and I would like to join in seconding the nomination, certainly supporting the nomination of John Calandra for the position to which he has been nominated.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the nomination of John J. Calandra?

Senator Gold.

SENATOR GOLD: Just very briefly for everybody's information. Under the Education Law 6204, the board of trustees

consists of 17 people, 10 trustees appointed by the governor, 5 by the mayor and two ex officio, and one of those ex officios is the chairperson of the university student center.

So we have already acknowledged that there is a place for a voice for youth, and if the Governor believes that a qualified person 30 years old can also be on there, I see nothing wrong with it.

SENATOR VELELLA: I move the nomination.

ACTING PRESIDENT KUHL: The question is on the nomination of John J. Calandra of Pelham, New York, to become a member of the board of trustees of the City University of New York.

All those in favor of the nomination, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(Response of "Nay.")

The nominee is confirmed.

SENATOR VELELLA: Mr. President.

ACTING PRESIDENT KUHL: Senator Velella.

SENATOR VELELLA: There will be an immediate meeting of the Higher Education Committee in Room 124. Immediate meeting.

ACTING PRESIDENT KUHL: Immediate meeting of the Higher Education Committee - immediate meeting of the Higher Education Committee in Room 124 of the Capitol.

Now, the question is on the nomination of Robert Price of New York City. I'll ask the Secretary again to read the nomination.

THE SECRETARY: Member the Board of Trustees of the City University of New York, Robert Price of New York City.

The Chair recognizes Senator Goodman, on the nomination.

SENATOR GOODMAN: Mr. President, it gives me much pleasure to speak on the nomination of Robert Price for this high office. Mr. Price is a lifelong New Yorker, having attended the Bronx High School of

Science, having gone through his college years in New York, and becoming the youngest executive deputy mayor to serve in the history of New York City.

In the first administration of Mayor John V. Lindsay, as executive deputy mayor, he actually was involved in the multifaceted task of running the City as a sort of "Mr. Inside," while Mayor Lindsay was doing things that characterized him as "Mr. Outside"; therefore, Mr. Price has had a rich experience in understanding how the City works and its many faceted population's needs, and in that respect he has a high qualification and has been tempered in the crucible of very practical experience.

Going beyond that, upon leaving the government, Mr. Price became a partner in the firm of Dreyfus & Company and subsequently in the firm of Lazard, Freres & Company, two of the most eminent investment banking companies on Wall Street, and subsequent to that, became an entrepreneur in his own right running what today

is one of the largest cellular telephone and cable television combination corporations in the state.

He has had an extraordinary success in both the fields of government and private enterprise and, therefore, in my judgment, has a very rare set of qualifications which enable him to grasp many of the fiscal aspects of the City University problems and also to understand in a very deep way the needs of our people.

Therefore, Mr. President, it strikes me that this is an exceptionally good stroke of fortune for City University that one of this competence and qualification should be willing to serve on this board at this very difficult time for the university, and I place his nomination before the Senate in the hopes that it will be unanimously confirmed.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Marchi, on the nomination.

Senator Stachowski, why do you rise?

SENATOR STACHOWSKI: I wanted to know if Senator Goodman would yield to a question.

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

SENATOR GOODMAN: Mr. President, do I have the floor now or does Senator Marchi have the floor?

SENATOR STACHOWSKI: I just wanted to ask you a question while you were standing, and I didn't want to interrupt you.

SENATOR GOODMAN: No. Please, go right ahead.

SENATOR STACHOWSKI: My question was in Finance when Senator Leichter was questioning the youth of the one nominee, I guess the age and experience of this nominee, Senator Stafford inferred that possibly Mr. Price had given the advice that got New York City into the garbage strike, and I was just trying to find that out -- had caused the garbage strike in New York, and I was just trying to find out if that was true or not.

SENATOR GOODMAN: Are you -

SENATOR STACHOWSKI: I was just trying to find out if that was true or not because I didn't want to see another garbage strike.

SENATOR STAFFORD: No. What I pointed out, Bob Price certainly did not do anything like that, but it was mentioned in the Finance Committee that Mr. Price was an advisor to Nelson Rockefeller, and I said if you remember back in 1968 when there were some differences of opinion, Mr. Price wasn't advising Mr. Rockefeller. He was advising another gentleman by the name of Mr. Lindsay. We're not saying who was right or wrong. We're getting old enough to know -

ACTING PRESIDENT KUHL: Senator Stafford -- Senator Stafford -- Senator Stafford, if I might interrupt. You're talking totally away from your microphone.

SENATOR STAFFORD: But I was trying to help.

ACTING PRESIDENT KUHL: I under

stand what you're trying to do, but also as you know, all of the proceedings are taken down by stenographers and they're just looking at me with frustration in their eyes, not being able to hear a word you're saying nor do their job and record it.

So while I appreciate your attempt to help out, you're creating a frustration in front of me that needs to be resolved, and I appreciate your cooperation.

SENATOR STAFFORD: While I'm on my feet and we're mentioning schools, I have to point out that I believe Mr. Price graduated from Columbia Law School, and he has had a distinguished career, and there are many of us who certainly are very, very pleased to support his nomination, and I'm sure he will be a credit and make a tremendous contribution to the trustees.

ACTING PRESIDENT KUHL: Senator Mar... excuse me. Senator Goodman.

SENATOR GOODMAN: Mr. President, first of all, in response to the Senator's query

from across the aisle, let me just say that Mr. Price over the years has been an advisor to many of the leading public servants of our generation.

He worked very closely with Mayor Lindsay as was earlier stated as his executive deputy mayor. He was also an advisor to Nelson Rockefeller in a political context which is not directly related to this matter but, in fact, during Governor Rockefeller's quest for the presidency, Mr. Price played a key role in managing several of his successful state primary campaigns in search of that nomination.

May I say that with respect to the garbage strike in New York, that is completely irrelevant to this record, having had nothing whatsoever to do with the garbage strike. Mr. Price was nonetheless involved in innumerable successful labor negotiations in the state of New York, and I think it appropriate to note, among other qualifications which I omitted in Round 1 of my comments, that he served in the United States Army, that he was a graduate of

Columbia University Law School, that he was also in the U.S. District Court as a clerk to Judge Archie Dawson, one of its most noted members and served in the Department of Justice in the Southern District as an assistant U.S. Attorney in the criminal division. He also practiced law for some years for a gentleman who now sits on the Appellate Division of -- bench of the state of New York.

So I would simply reiterate in my sense that this is an exceptional resume which qualifies him most highly for this important post.

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

SENATOR PATERSON: Mr. President -

ACTING PRESIDENT KUHL: Did you want to speak on the nomination, Senator Paterson?

SENATOR PATERSON: Yes, I would. Mr. President, I believe -

ACTING PRESIDENT KUHL: Senator

Marchi had indicated -- and I've got a list going. Senator Marchi had -

SENATOR PATERSON: If Senator Marchi would yield, this will take five seconds. I just want -

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: -- Senator Goodman and Senator Stafford to know that I believe Senator Stachowski's remarks were made with all humor and mirth and just the satirical splendor that Senator Stachowski enjoys, and there was no attempt to diminish the great credentials of this very excellent candidate.

ACTING PRESIDENT KUHL: Thank you, Senator Paterson.

The Chair recognizes Senator Marchi, on the nomination.

SENATOR MARCHI: Yes, Mr. President. I think Senator Paterson's observation is fully justified. The events that he alluded to, Senator Stachowski, were the subject of much mirthful badinage at that time.

I -- certainly, the composition of the board of trustees, the -- this membership, we started with John Calandra who has certainly fabulous -- I don't think he has any -- he may have peers but he doesn't have anyone that was more academically qualified because of the exceptional academic background that he brings, and in a variegated grouping, such as the board of trustees, you want different elements to give it the taste and flavor and the seasoning of judgment.

Bob Price -- at the time I was chairman of the affairs of the city of New York and at that time any bill that affected the city of New York, irrespective of higher education, corrections, interstate compacts, going far beyond -- in fact, they abolished the committee after I left because then they started to assign bills to -- to the different committees, substantive committees.

So I dealt with Bob Price and sometimes we had some very spirited differences, but he brought enormous energy, intelligence,

intellect, commitment to principle, a bundle of qualities that were truly impressive, and going beyond that when he continued his service even after leaving the city of New York, his service -- services were beneficial to so many different activities and in so many different disciplines that I think they all add up to a splendid array of experience that he brings.

Senator Goodman, of course, was in a vantage point for making the remarks that he did because he served in the same adminis tration within a position of responsibility.

So everything I see, Mr. President, fully attests to the fact that this is, indeed, a splendid nomination, and I believe it's going to be to the profit of the City University when we act favorably on this recommendation.

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

(There was no response.)

Hearing none, the question is on

the nomination of Robert Price of New York City to become a member of the Board of Trustees of the City University of New York. All those in favor of the nomination signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is confirmed.

Senator Lachman, did you wish to -

SENATOR LACHMAN: Yes, Mr. President. Unfortunately, I missed a couple of votes yesterday. Had I been in the chamber, I would have voted no on Calendar item 1000, no on Calendar item 1529 and no on 1526.

Thank you kindly.

ACTING PRESIDENT KUHL: Senator Lachman, the record will reflect that had you been in the chamber yesterday when the roll calls were taken on Calendars Number 1000, 1526 and 1529 that you would have voted in the negative.

SENATOR MARCELLINO: Mr.

President.

ACTING PRESIDENT KUHL: Senator Marcellino.

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

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

Senator Marcellino.

SENATOR MARCELLINO: Yes. I notice you may have some motions to do. After that, we would like to take up the regular order of the controversial calendar, starting with Senate Calendar Number 258.

ACTING PRESIDENT KUHL: We will return to motions and resolutions.

The Chair recognizes Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President,

on behalf of Senator Leibell, on page number 7, I offer the following amendments to Calendar Number 343, Print Number 6004-A.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 343 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Nozzolio.

SENATOR NOZZOLIO: Yes, Mr. President. On behalf of Senator Levy, I wish to call up Senate Print Number 371, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read the title.

THE SECRETARY: By Member of the Assembly Bragman, Assembly Print 1894, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Senator Nozzolio.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is restored to the calendar and before the house.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I now move to discharge from the Committee on Transportation Assembly Print Number 1894 and substitute it for Senator Levy's identical bill.

ACTING PRESIDENT KUHL: The Assembly bill is discharged from the committee and substituted for the bill.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. We'd like to go back to the regular order of the controversial calendar, beginning with Calendar Number 258, Senator Saland's bill.

ACTING PRESIDENT KUHL: The

Secretary will read the title to Calendar Number 258.

THE SECRETARY: Calendar Number 258, by Senator Saland, Senate Print 2457-B, an act to amend the Family Court Act, the Executive Law, in relation to enacting the Juvenile Justice Reform Act.

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

THE SECRETARY: Section 67. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Regular order, 1057, please.

ACTING PRESIDENT KUHL: For the benefit of the members, Senator Marcellino, I have at the desk and the desk has informed me

that the bills that are going to be acted upon in order are Calendar Number 1057, Calendar Number 1496, Calendar Number 1556, Calendar Number 1580, Calendar Number 1582 and Calendar Number 1594. These are all bills on the regular calendar, Calendar No. 63, currently being addressed, correct?

SENATOR MARCELLINO: Proceed, sir. You are absolutely correct.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1057.

THE SECRETARY: Calendar Number 1057, by Senator Lack, Senate Print 4995-B, an act to amend the Surrogate's Court Procedure Act, in relation to increasing the limits of a small estate.

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

THE SECRETARY: Section 2. This act shall take effect in 30 days.

SENATOR LACK: Mr. President.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Never mind.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1496, by Senator Hannon, Senate Print 7580, an act to amend the Emergency Tenant Protection Act of 1974.

SENATOR HANNON: Lay it aside.

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

THE SECRETARY: Calendar Number 1556, by Senator Hannon, Senate Print 6491-A, an act to amend the Criminal Procedure Law and the Executive Law, in relation to imposing plea bargaining limitations.

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

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

November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1580, by Senator Rath, Senate Print 7603-A, an act to authorize the trustees of the State University of New York.

SENATOR PATERSON: Explanation.

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

SENATOR PATERSON: Mr. President, Senator Stachowski laid this bill aside. If we could just hold it pending his return, I believe he went to the -

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

The Secretary will read Calendar Number 1582.

THE SECRETARY: Calendar Number

1582, by Senator Leibell, Senate Print 7660-A, an act to amend Chapter 915 of the Laws of 1982.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will read Calendar Number 1594.

THE SECRETARY: Calendar Number 1594, by the Committee on Rules, Senate Print 7783, an act to amend the Racing, Pari-mutuel Wagering and Breeding Law.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, it was Senator Stachowski that, again, wanted to -- to have an explanation on this bill.

ACTING PRESIDENT KUHL: Senator Marcellino, do you want to lay that aside temporarily also?

SENATOR MARCHI: Yes, Mr. President. Both Senators are in the Rules Committee meeting at the present, so we can accommodate that.

ACTING PRESIDENT KUHL: That concludes, Senator Marcellino, the calling of the controversial calendar on Calendar No. 63.

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

ACTING PRESIDENT KUHL: We're clean up here, Senator Marcellino. There's no housekeeping at the desk.

SENATOR MARCELLINO: Are you absolutely sure? You wouldn't want to double check? At which time, I think we should be in recess -- or at least stand at ease until the Rules Committee report comes out.

ACTING PRESIDENT KUHL: The Senate will stand at ease momentarily.

(Whereupon, the Senate stood at

ease briefly.)

ACTING PRESIDENT KUHL: The Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, I would like to ask for an immediate conference of the Majority in Room 332, and we're trying to get some of the bills to the floor and do some of the work that we have to do to clean up. So we might take a recess until 1:00 o'clock -- or stand at ease until 1:00 o'clock and then we can reconvene.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Majority Conference immediately after the completion of the Rules Committee. Immediate meeting of the Majority Conference after the completion of the Rules Committee in Room 332, the Majority Conference Room, and the Senate will stand at ease until 1:00 p.m.

(Whereupon, the Senate stood at ease from 11:53 a.m. until 1:00 p.m.)

ACTING PRESIDENT MARCELLINO: The

Senate is in session.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions and resolutions, I move that we adopt the Resolution Calendar in its entirety.

ACTING PRESIDENT MARCELLINO: Read the -- call the roll -- okay. The Resolution Calendar is adopted.

SENATOR SKELOS: All in favor say aye.

(Response of "Aye".)

Opposed, Nay.

(There was no response.)

ACTING PRESIDENT MARCELLINO: All in favor say aye.

SENATOR SKELOS: The Resolution Calendar is adopted.

ACTING PRESIDENT MARCELLINO: Thank you.

SENATOR SKELOS: If we could then return to reports of standing committees, I believe there's a report of the Rules Committee

at the desk. I'd ask that it be read.

ACTING PRESIDENT MARCELLINO: The Secretary will -- we'll return to reports of standing committees and the Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 2127, by Senator Johnson, an act to amend the Insurance Law;

2476-A, by Senator Skelos, an act to amend the Emergency Tenant Protection Act of 1974;

3289-C, by Senator Farley, an act to amend the Tax Law;

3370-A, by Senator Velella, an act to amend the Private Housing Finance Law;

3910-B, by Senator Maltese, an act to amend the Tax Law;

4190-B, by Senator Velella, an act to amend the General Business Law;

4714, by Senator Velella, an act to amend the Executive Law;

5912-A, by Senator Nozzolio, an

act to amend the Penal Law;

6007, by Senator Johnson, an act to amend the Tax Law;

6406, by Senator Marchi, an act to amend the Navigation Law;

6728-B, by Senator Velella, an act to amend the Insurance Law;

6806, by Senator Hannon, an act to amend the New York State Medical Care Facilities Finance Agency Act;

6837, by Senator Oppenheimer, an act authorizing the reopening of the 20-year retirement plan;

7142-A, by Senator Johnson, an act to amend the Real Property Tax Law;

7401-A, by Senator Marcellino, an act to amend the General Municipal Law;

7595, by Senator Wright, an act to legalize, validate, notify and confirm;

7642, by Senator Marcellino, an act to amend the Environmental Conservation Law;

7650-A, by the Senate Committee on Rules, an act to amend Chapter 904 of the

Laws of 1984.

7663, by Senator Cook, an act in relation to education expenditures;

7708, by Senator Goodman, an act to amend Chapter 196 of the Laws of 1995;

7711-A, by Senator Stafford, an act to legalize, ratify and confirm the acts and proceedings;

7732, by Senator Kuhl, an act to amend the Agriculture and Markets Law;

7749, by Senator Stafford, an act approving the exchange of certain lands;

7753, by Senator Maltese, an act to amend the Election Law;

7756, by Senator Cook, an act in relation to assessments;

7794, by Senator Markowitz, an act to amend Chapter 60 of the Laws of 1994;

7804, by the Senate Committee on Rules, an act to amend the Local Finance Law;

7807, by the Senate Committee on Rules, an act making an appropriation to pay Geneva Healey, widow of the late Philip P.

Healey, Member of the Assembly from the 12th District;

7835, by Senator Levy, an act to amend the Public Authorities Law;

7836, by Senator Levy, an act to amend Chapter 56 of the Laws of 1993;

And 7854, by the Senate Committee on Rules, an act making appropriations for the support of government.

All bills ordered directly for third reading.

ACTING PRESIDENT MARCELLINO: All those in favor of accepting the report of the Rules Committee respond by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time if we could take up Calendar Number 16...

ACTING PRESIDENT MARCELLINO:

Senator Skelos, before we do that, can we take up some motions that we have.

The Chair recognizes Senator Farley.

SENATOR FARLEY: Mr. President, on behalf of Senator Velella, on page 9, I offer the following amendments to Calendar 421, Senate Print 5941 and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MARCELLINO: The amendments are received and it will retain its place on the Third Reading Calendar, Senator.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time if we could take up Calendar Number 1631 on Supplemental Calendar Number 1.

ACTING PRESIDENT MARCELLINO: There is a message of necessity.

The Secretary will read.

THE SECRETARY: Calendar Number 1631, by the Senate Committee on Rules, Senate Print 7854, an act making appropriations for the support of government.

SENATOR SKELOS: Mr. President, is there a message of necessity and appropriation at the desk?

ACTING PRESIDENT MARCELLINO: There is, sir.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MARCELLINO: The messages of appropriation and necessity are accepted -- all those in favor of accepting the message of necessity and appropriation please by -- signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The messages are accepted.

Read the last section.

THE SECRETARY: Section 41. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The

bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time if we could have a reading of Supplemental Calendar Number 1, non controversial.

ACTING PRESIDENT MARCELLINO: We'll have a reading of the non-controversial calendar of Supplemental Calendar Number 1.

The Secretary will read.

THE SECRETARY: Senator Johnson moves to discharge from the Committee on Rules Assembly Bill Number 3214 and substitute it for the identical Calendar Number 1601.

ACTING PRESIDENT MARCELLINO: There is a substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1601, by Member of the Assembly Harenberg, Assembly Print 3214, an act to amend the Insurance Law, in relation to automobile insurance rates.

ACTING PRESIDENT MARCELLINO:

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number -- excuse me. Senator Skelos moves to discharge from the Housing and Community Development Committee Assembly Bill Number 1240-A and substitute it for the identical Third Reading Calendar 1602.

ACTING PRESIDENT MARCELLINO: The substitution is ordered and the Secretary will read.

THE SECRETARY: Calendar Number 1602, by Member of the Assembly Weisenberg, Assembly Print 1240-A, an act to amend the Emergency Tenant Protection Act of 1974.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1603, by Senator Farley, Senate Print 3289-C -

ACTING PRESIDENT MARCELLINO: The bill is high. Lay it aside.

THE SECRETARY: Senator Velella moves to discharge from the Committee on Housing and Community Development Assembly Bill Number 3988-A and substitute it for the identical Third Reading Calendar 1604.

ACTING PRESIDENT MARCELLINO: Read the last section -- I'm sorry. The substitution is ordered. Read the last section.

THE SECRETARY: Calendar Number

1604, by Member of the Assembly Klein, Assembly Print 3988-A, an act to amend the Private Housing Finance Law, in relation to increasing the secondary wage.

ACTING PRESIDENT MARCELLINO: Call the roll -- read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1605, by Senator Maltese, Senate Print 3910-B, an act to amend the Tax Law, in relation to exempting certain tangible personal property.

ACTING PRESIDENT MARCELLINO: There is a local fiscal impact statement at the desk. Please read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Senator Velella moves to discharge from the Committee on Consumer Protection Assembly Bill Number 1035-C and substitute it for the identical Third Reading Calendar 1606.

ACTING PRESIDENT MARCELLINO: Read the last section -- there is a substitution ordered.

THE SECRETARY: Calendar Number 1606, by Member of the Assembly Dugan, Assembly Print 1035-C, an act to amend the General Business Law, in relation to providing.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

THE SECRETARY: Section 9. This act shall take effect January 1.

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1607, by Senator Velella, Senate Print 4714, an act to amend the Executive Law, in relation to obtaining nationwide criminal history records.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Senator Nozzolio moves to discharge from the Committee on Codes Assembly Bill Number 8592-A and substitute it for the identical Third Reading Calendar 1608.

ACTING PRESIDENT MARCELLINO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1608, by Member of the Assembly Wright, Assembly Print 8592-A, an act to amend the Penal Law, in relation to prohibiting sexual activities.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Senator Johnson moves to discharge from the Committee on Rules Assembly Bill Number 8718 and substitute it for the identical Third Reading Calendar 1609.

ACTING PRESIDENT MARCELLINO: The substitution is ordered and the Secretary will

read.

THE SECRETARY: Calendar Number 1609, by Member of the Assembly Harenberg, Assembly Print 8718, an act to amend the Tax Law, in relation to notice of determination.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1610, by Senator Marchi, Senate Print 6406, an act to amend the Navigation Law, in relation to the board of commissioners of pilots.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1611, by Senator Velella, Senate Print 6728-B, an act to amend the Insurance Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay it aside.

THE SECRETARY: Senator Hannon moves to discharge from the Committee on Rules Assembly Bill Number 10677 and substitute it for the identical Third Reading Calendar 1612.

ACTING PRESIDENT MARCELLINO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1612, by the Assembly Committee on Rules, Assembly Print Number 10677, an act to amend the state Medical Care Facilities Finance Agency

Act.

ACTING PRESIDENT MARCELLINO: Please read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Senator Oppenheimer moves to discharge from the Committee on Rules Assembly Bill Number 9356 and substitute it for the identical Third Reading Calendar 1613.

ACTING PRESIDENT MARCELLINO: The substitution is order.

The Secretary will read.

THE SECRETARY: Calendar Number 1613, by Member of the Assembly Galef, Assembly Print 9356, an act authorizing the reopening of the 20-year retirement plan.

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

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1614, by Senator Johnson, Senate Print 7142-A -

ACTING PRESIDENT MARCELLINO: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1615, by Senator Marcellino, Senate Print 7401-A, an act to amend the General Municipal Law, in relation to authorizing.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO:

That worthy bill is passed.

THE SECRETARY: Calendar Number 1616, by Senator Wright, Senate Print 7595, an act to legalize, validate, notify and confirm certain transportation contracts.

ACTING PRESIDENT MARCELLINO:

Call the roll -- read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Now call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Paterson.

SENATOR PATERSON: Mr. President, has -- Bill Number 1615 which we just passed, is

that still in the house?

ACTING PRESIDENT MARCELLINO: Yes, it is, Senator.

SENATOR PATERSON: May we -- I would like to move to reconsider the vote by which this bill was passed and lay it aside for Senator Leichter with unanimous consent.

ACTING PRESIDENT MARCELLINO: The Secretary will call the roll on reconsideration of Bill Number 1615 -- Calendar Number 1615.

THE SECRETARY: Calendar Number 1615, by Senator Marcellino, Senate Print 7401-A, an act to amend the General Municipal Law.

ACTING PRESIDENT MARCELLINO: The bill is laid aside -- call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

The Secretary will read.

THE SECRETARY: Calendar Number 1617, by Senator Marcellino, Senate Print 7642, an act to amend the Environmental Conservation Law, in relation to scup and black sea bass.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed. Please move it from the house.

THE SECRETARY: Calendar Number 1618, by the Senate Committee on Rules, Senate Print 7650-A, an act to amend Chapter 904 of the Laws of 1984.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1619, by Senator Cook, Senate Print 7663, an act in relation to education expenditures.

ACTING PRESIDENT MARCELLINO: There's a local fiscal impact note at the desk. Please read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1620, by Senator Goodman, Senate Print 7708, an act to amend Chapter 196 of the Laws of 1995.

ACTING PRESIDENT MARCELLINO:

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1621, by Senator Stafford, Senate Print 7711-A -

ACTING PRESIDENT MARCELLINO: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1622, by Senator Kuhl, Senate Print 7732, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1623, by Senator Stafford, Senate Print 7749 -

ACTING PRESIDENT MARCELLINO: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1624, by Senator Maltese, Senate Print -

ACTING PRESIDENT MARCELLINO: The bill is high. Lay it aside.

THE SECRETARY: -- 7753. Calendar Number 1625, by Senator Cook, Senate Print 7756, an act in relation to assessments for real property.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1626, by Senator Markowitz, Senate Print 7794, an act to amend Chapter 60 of the Laws of 1994.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1627, by the Senate Committee on Rules, Senate Print 7804, an act to amend the Local Finance Law, in relation to the sale of bonds and notes.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 7. This

act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Senator Bruno moves to discharge from the Committee on Rules Assembly Bill Number 11026 and substitute it for the identical Third Reading Calendar 1628.

ACTING PRESIDENT MARCELLINO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1628, by the Assembly Committee on Rules, Assembly Print 11026, an act making an appropriation to pay Geneva Healey, widow of the late Philip B. Healey, Member of the Assembly from the 12th District.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1629, by Senator Levy, Senate Print 7835, an act to amend the Public Authorities Law, in relation to the issuance.

ACTING PRESIDENT MARCELLINO: We have a message of necessity at the desk. Read the last section -- I move that we accept the message. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1630, by Senator Levy, Senate Print 7836, an act to amend Chapter 56 of the Laws of 1993.

ACTING PRESIDENT MARCELLINO: Senator Kuhl.

SENATOR KUHL: Is there a message at the desk?

ACTING PRESIDENT MARCELLINO: Yes, there is.

SENATOR KUHL: I'd move we accept the message.

ACTING PRESIDENT MARCELLINO: All those in favor of accepting the message of necessity please signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Kuhl, we finished the reading of the non-controversial calendar.

SENATOR KUHL: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Kuhl.

SENATOR KUHL: Yes. May we return to the regular calendar, the first calendar of the day, Calendar No. 63, and could you call up Calendar Number 1573, Senate Print 6393-A, by Senator Hannon.

ACTING PRESIDENT MARCELLINO: That was Calendar Number 1576, Senator? Senator Kuhl, Calendar Number -

SENATOR KUHL: 1573.

ACTING PRESIDENT MARCELLINO: 1573 of the regular calendar.

SENATOR KUHL: On the regular Calendar No. 63.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 1573, by Senator Hannon, Senate Print 6393-A, an act to amend the Social Services Law, in relation to limiting the method of payment.

SENATOR DOLLINGER: Explanation.

SENATOR GOLD: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Hannon, an explanation has been asked for.

SENATOR HANNON: Yes. This legislation would deal with the payment of pharmaceuticals under Medicaid managed care and when specified that -- there was somebody addressing me and I didn't understand. If they would address the -

ACTING PRESIDENT MARCELLINO: If

we have a question, could we bring it up here so we can all hear it?

SENATOR GOLD: Yes, Mr. President.

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

SENATOR GOLD: I asked for the explanation, and I would appreciate it if it could be so I could hear it. I wasn't trying to be difficult with the Senator, although that's the return, but I just couldn't hear him.

ACTING PRESIDENT MARCELLINO: Senator Hannon, please continue.

SENATOR HANNON: This bill which provides free hearing aids for -- excuse me. That's the wrong bill.

SENATOR GOLD: Could we have a five-minute recess. (Laughter)

SENATOR HANNON: Begging your indulgence, Mr. President, and begging your indulgence, Senator Gold, I'm sorry. Rarely do I have an opportunity like that.

This legislation would deal with

the payment for pharmaceuticals under Medicaid and would provide that pharmaceutical reimbursement under a capitated Medical Assistance Program would be the same as that for other venues of providing medical assistance.

The bill has been amended and it would only continue until the end of the current fiscal year, deemed to be repealed on March 31st, 1997.

SENATOR GOLD: Thank you, Senator Hannon.

ACTING PRESIDENT MARCELLINO: Senator Dollinger.

SENATOR DOLLINGER: Would the sponsor yield to just one question?

ACTING PRESIDENT MARCELLINO: Senator Hannon, do you yield?

SENATOR HANNON: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR DOLLINGER: To the chairman of the Health Committee, my

understanding is that the state -- the Department of Health had sent out a request for -- proposal for the pharmaceutical portion of Medicaid managed care and that there were contracts that were either going to be awarded or had been awarded for this, and I'm just wondering how does this impact that what appeared to be progression down the road to some kind of statewide Medicaid pharmaceutical managed care program?

SENATOR HANNON: There would appear to be a certain tension between this bill and those contracts.

SENATOR DOLLINGER: Do you know whether -- again through you, Mr. President. Do you know whether the Department of Health will continue to go through that or whether this puts all that on hold?

SENATOR HANNON: This bill would not have the effect of going on hold. That program would really be dispositive as a result of separate discussions between this house and the Assembly as to what's going to go on for

Medicaid managed care.

This bill really I don't think would have a great effect because -- I'm trying to look into the future as dimly as one can see -- that program is not going to be truly up and running until the latter part of this fiscal year, and I don't think this should have that much impact. It basically would tend to leave things alone. It would become a much greater question when it is -- when Medicaid managed care is up and running at the projected levels of two or three million people.

SENATOR DOLLINGER: Okay. And just one other clarification, Mr. President, since I've read several of the memos, but I just want to make sure I understand it.

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

SENATOR HANNON: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The Senator continues to yield.

SENATOR DOLLINGER: Is this a

permanent carve-out or is this a time -

SENATOR HANNON: Time limited. It is only effective until March 31st, 1997, the end of the current fiscal year for which presumably some day we'll have a budget.

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

ACTING PRESIDENT MARCELLINO: Senator Dollinger, on the bill.

SENATOR DOLLINGER: Under these circumstances, as explained by the chairman of the Health Committee, I'll support this bill. I remain concerned about the concept of Medicaid managed care, how we're going to make it work.

I understand that a premature imposition of a complete managed care system will have devastating impacts -- potentially devastating impacts on local pharmacies and small pharmaceutical chains, but I think that what we have to continue to realize is that as we move down the road to managed care, there are certain things that if we're going to really manage it, if we're truly committed to it that

we have to do, and I'm not suggesting, as I think you described as a somewhat opaque future, perhaps about what managed care is going to look like in this state. At least from my perspective, if we're really going to get there, part of it is going to be to manage the delivery of pharmaceutical services as well.

So I'll support a carve-out until the start of the next fiscal year with the idea that depending on how we structure this Medicaid managed care and what public policy restrictions and consumer protections and market protections that we put onto this system -- which I know are close to the chairman's heart as well -- we have to look at this issue again in great detail to see whether we get the real savings because it's a savings issue.

Thank you, Mr. President.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Gold.

SENATOR GOLD: Mr. President, the -- apparently there is a memo that's been filed

in opposition by the city of New York. On the other hand, I've got memorandums from the Chain Pharmacy Association and from the Pharmacists Society and from the Indo-American Pharmaceutical Society, et cetera, et cetera, and I appreciated Senator Hannon's explanation, and I intend to support it.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Staying on that same calendar, Calendar No. 63, the first calendar of the day, may you now call up Calendar Number 1594 by Senator Larkin.

ACTING PRESIDENT MARCELLINO: The Secretary will call -- Senator Goodman, did you wish to -

SENATOR GOODMAN: May I be recorded in the negative on Senator Hannon's bill, please.

ACTING PRESIDENT MARCELLINO: Please record Senator Goodman without objection in the negative on Calendar 1573. It has been done, sir.

The Secretary will read Calendar Number 1594.

THE SECRETARY: Calendar Number 1594, by the Senate Committee on Rules, Senate Print 7783, an act to amend the Racing, Pari-mutuel Wagering and Breeding Law.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Larkin, an explanation has been asked for by Senator Stachowski.

SENATOR LARKIN: Senator Stachowski, what this bill does is it just extends the existing practices for one year, and

basically we have been negotiating with the other house on certain things with regard to simulcasting. At this time we haven't finalized it. So by both parties, we decided that it was best to extend it as we proceed forward.

SENATOR STACHOWSKI: Mr. President, would Senator -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator Stachowski. Gentlemen, when we speak -- I understand the need to speak to our colleagues, but if we could speak as close as possible to the microphones, that would assist the stenographer to get an accurate account of what you're saying and help your colleagues to understand and hear what you're saying.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, would Senator Larkin yield for a couple of questions?

ACTING PRESIDENT MARCELLINO: Senator Larkin, do you yield?

SENATOR LARKIN: Yes, Mr.

President.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR STACHOWSKI: Senator, have you heard of anybody that's opposed to this extender as it is for a year?

SENATOR LARKIN: I haven't received any information, Senator.

SENATOR STACHOWSKI: If I could ask -- continue.

ACTING PRESIDENT MARCELLINO: The Senator continues to yield.

SENATOR STACHOWSKI: It's also - it's my understanding that -- I understand all the harness tracks are against it, but Yonkers in particular said if this year extender goes and we continue for the next year in the same simulcasting provisions as we have currently, that they will go out of business. I was told that yesterday, as a matter of fact, and then again today.

SENATOR LARKIN: Senator, I also heard that yesterday, but they -- Yonkers are

well aware of the fact that we are trying to correct the problem, but we can't correct it between now and whenever we get out of here today. So it's something that's going to expire. We thought we better protect ourselves as the ongoing negotiations are going on. We're making some progress, but we don't want to be stonewalled on a time frame and miss something in order to ensure the continuation of Yonkers and a few others like Monticello that will also be affected by this.

SENATOR STACHOWSKI: If the Senator would continue to yield.

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

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR STACHOWSKI: Senator, couldn't we do a shorter extender than a year while you're negotiating since negotiations are in progress and maybe we can alleviate some of

the concerns of not only Yonkers but other harness tracks that are fragile in nature anyway and are very concerned about their continued existence if we do happen to go for another year under the current regulations?

SENATOR LARKIN: Well, Senator, all of the people that were interested in this were made quite -- were made aware of the proposal, and there was no real problem with it because they were made to understand that what our proposals were, how we were trying to get at it and the time was in order to ensure us that we could do it and do it properly.

SENATOR STACHOWSKI: Thank you.

On the bill.

ACTING PRESIDENT MARCELLINO: Senator Stachowski, on the bill.

SENATOR STACHOWSKI: I understand that the parties were made aware of -- that negotiations were going on, and I'm also aware of the fact that Buffalo Raceway, which is in my area, is very concerned about this particular one-year extender. I know that Senator Volker

who now has Buffalo Raceway actually in his district is also aware of that same problem.

I was made aware today that Yonkers Raceway says if this one-year extender goes and there happens to be no negotiations to change that, that they will be out of business with the passage of this one-year extender and the following year of business.

So I don't understand why we can't do a shorter one. I don't know how we can pass -- I know we have to do something. So I'm not going to say I don't know how we can pass this knowing that these tracks, one, for sure will go out of business and possibly others to follow. I don't know why we do it for a year.

So with that in mind, I would love to be cooperative and vote for the extender, but the fact is that this will put some tracks in jeopardy. I also understand that the Finger Lakes has problems with this.

So that with all these considerations on the negative side, I can't support this bill right now, and I would ask

that my colleagues on this side join with me and on the other side in not doing this one-year extender right now and maybe come up with -- I know we have done four months, I saw earlier in Rules. I don't know why we're doing that one, and I think it's a big mistake to do a one-year extender at this time, and I would suggest that people vote in the negative.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 9.

ACTING PRESIDENT MARCELLINO: Sen... I'm sorry. Read the last section.

THE SECRETARY: This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

Announce the results, please, when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 1594 are Senators Connor, Dollinger, Gold, Lachman,

Leichter, Mendez, Onorato, Padavan, Paterson and Stachowski. Ayes 43, nays 10.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Could we call up on the same calendar now, Calendar No. 63, Calendar Number 1572 by Senator Hoblock.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 1572.

THE SECRETARY: Calendar Number 1572, by Senator Hoblock, Senate Print 3867-C, an act authorizing the town of Colonie Fire Districts.

SENATOR KUHL: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MARCELLINO: There is, sir.

SENATOR KUHL: I'd move we accept the message.

ACTING PRESIDENT MARCELLINO: The motion is to move to accept the message of

necessity. All in favor say aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary -- there is also a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Kuhl.

SENATOR KUHL: On that same calendar now, could we call up Senator Rath's bill, Calendar Number 1580.

THE SECRETARY: Calendar Number 1580, by Senator Rath, Senate Print 7603-A, an act to authorize the trustees of the State

University of New York.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Rath, an explanation has been asked for by Senator Stachowski.

SENATOR RATH: Yes. Mr. President, this bill allows the State University of New York at Buffalo to contract with the University of Buffalo foundation to go to bid for leasing land that is on the back of their present North Campus which, of course, those of us from western New York know the vastness of the amount of the campus and the additional vastness of the amount of space at the back of that campus, for student housing purposes only. It would not be for any other purpose, and there is no way to get the student housing out on to what's commonly called the North Campus and short of costing a lot of money one way or the other, this was a plan that was worked out - and apparently it has been done at other times in state -- in the State University of New York, and the property then after 60 years would

revert to the State University of New York at Buffalo, and this is an opportunity for them to get student housing on that campus, which is desperately needed, their number one priority on that campus and, again, they want to do it by leasing the land out and having a contractor build the buildings for them.

SENATOR STACHOWSKI: Mr. President, would Senator Rath yield for a few questions?

SENATOR RATH: Sure.

ACTING PRESIDENT MARCELLINO: Senator, will you yield? She yields, Senator.

SENATOR STACHOWSKI: Senator, is this bill of major importance to the University?

SENATOR RATH: Senator Stachowski, they advise me through the number of meetings that we had with them back over in western New York, this was their number one priority. Of all the things that SUNY-Buffalo is interested in every year, this was number one.

SENATOR STACHOWSKI: If the Senator would continue to yield.

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

SENATOR RATH: Surely.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR STACHOWSKI: Would you happen to know if the University is doing anything about the problems they have at the same time with housing, the students in the vicinity of the South Campus which happens to be in an area shared by Assemblyman Hoyt and myself?

SENATOR RATH: Senator Stachowski, my understanding is that former Senator now Professor Sheffer, as he has assumed a lot of the responsibilities that were held by now President Moore of Buffalo State, they have a task force that is working through that situation in the university district, because I understand your concerns and I understand Assemblyman Hoyt's concerns for the students as

they move from the private dwellings now that are broken up into apartments, and I too am concerned about the university district of the city of Buffalo, maintaining the neighborhood ambiance and what it should be, and there is a real sincere concern about that, Senator, and, yes, there is a task force working on that.

SENATOR STACHOWSKI: Mr. President, if Senator Rath would continue to yield.

ACTING PRESIDENT MARCELLINO: Senator, do you continue to yield? She continues to yield.

SENATOR RATH: Surely.

SENATOR STACHOWSKI: Senator, do you know if this bill is directed towards any particular developer to do the project?

SENATOR RATH: No. The UB foundation would be going out for public bids. They are required by law to go for public bids. The contract between UB and the foundation is a direction of the responsibility from the University to the foundation but the foundation

goes for bids.

SENATOR STACHOWSKI: Senator, did you have these meetings in Albany or in western New York with the University?

SENATOR RATH: This was said to us at the luncheon that they hosted for us that day, as you'll recall, in downtown Buffalo. All of the members of the delegation came in, and they had a laundry list of things that they were interested in, and actual meetings, Senator, I can't say that it was -- they were actually meetings, but this one came to the top of their list of interests, and we started to advance it and draft the legislation.

SENATOR STACHOWSKI: Mr. President, if Senator Rath would continue.

SENATOR RATH: Surely.

ACTING PRESIDENT MARCELLINO: The Senator continues to yield.

SENATOR STACHOWSKI: Does the University have somebody that they send to Albany that would talk to you about an issue like this?

SENATOR RATH: Yes. I believe Molly McKeown was here and it was an oversight. She wanted to talk with you and, unfortunately, that didn't happen, and I would apologize that I did not follow through and make sure that that happened.

SENATOR STACHOWSKI: Thank you, Senator.

I appreciate Senator Rath apologizing, and it's really not her fault and she doesn't have any reason to apologize for this, but it's amazing to me that the University would have a number one priority bill to do this bill and then they have other representatives representing other parts of the University, same school, SUNY-Buffalo, that have other unique problems and not only wouldn't they stop by to tell you about this number one priority, they must have thought it was a waste of time to discuss it with us.

I have nothing against the University. I happen to think that the idea may not be that bad. I know that Assemblyman Hoyt

is very concerned about doing anything in the housing at the North Campus until there is a solution for the South Campus. I don't necessarily feel that that's the order that it has to be in, but I'm really miffed that the University still does have somebody that comes here and that I didn't hear from them.

I have -- I'm really not going to ask anybody to vote against this. I'm going to decide while -- when I sit down if I'm going to vote for it or not. I just can't believe that these oversights continue to happen, because if people expect you to vote for bills and they know who you are and they know where to find you on other situations, it's always amazing to me that they can't find you when this is their number one priority.

I think it's really unique because last year Syracuse had a bill that was a major issue to them. I'm not from Syracuse, but the chancellor talked to me about it. I mean, he's probably more important and busier than the person whose job is government liaison for SUNY

Buffalo, but the chancellor of the University of Syracuse took the time out of his day to at least talk to me about a bill that was important to him. I'm just sorry that the University of Buffalo's government liaison person is just too busy to get that kind of thing done, and I'm going to vote no on the bill.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

SENATOR STACHOWSKI: Slow roll call.

SENATOR GOLD: Slow roll call.

ACTING PRESIDENT MARCELLINO: Are there five members standing? All right. Five members are standing, and the Secretary will call the roll slowly but not that slowly. Can we have the bells rung so that everyone knows we're calling the roll slowly.

THE SECRETARY: Senator Abate.
(There was no response.)
Senator Alesi.
SENATOR ALESI: Yes.
THE SECRETARY: Senator Babbush.
(There was no response.)
Senator Bruno.
(Affirmative indication)
Senator Connor.
(There was no response.)
Senator Cook.
SENATOR COOK: Yes.
THE SECRETARY: Senator DeFrancisco.
SENATOR DeFRANCISCO: I would like to explain my vote.
ACTING PRESIDENT MARCELLINO: Senator DeFrancisco, to explain his vote.
SENATOR DeFRANCISCO: I want to apologize to Senator Rath that Syracuse University has such outstanding people that they take such care where the chancellor would call individually everybody that he wanted to talk to

on a bill, and it's very difficult for everybody else throughout the state to uphold that standard that Syracuse exemplifies in just about everything they do.

So I apologize to Senator Rath, but I applaud the chancellor for being so good at what he does and being a citizen of Syracuse, it doesn't surprise me at all.

I'll vote yes on this bill.

ACTING PRESIDENT MARCELLINO: Senator DeFrancisco will be recorded in the positive.

Continue calling the roll.

THE SECRETARY: Senator DiCarlo.

(There was no response.)

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just briefly to explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Dollinger.

SENATOR DOLLINGER: I'm going to vote with Senator Stachowski on this matter. As I've said on other occasions before this body,

what I regard as a disappointing trend, and that is people who represent areas or issues that affect areas which a specific member represents, people don't bother to come and talk.

I voted against members for the Greater Rochester Transportation Authority, the last three. They don't bother to come and talk to me. I guess they think they can just talk to some people on some side of the aisle and not bother to come to talk to the people, even though 70 percent of the people who ride on the Transit Authority are my constituents. I regard that as a disappointing trend. I think Senator Stachowski is right. It's just a disappointing approach, whether it's at UB or any place else.

I'm voting in the negative.

ACTING PRESIDENT MARCELLINO: Gentlemen, ladies, staff, can we please take conversations out of the room. Staff, find your seats. Can we continue to call the roll so we can hear.

Thank you.

THE SECRETARY: Senator Espada.

(There was no response.)
Senator Farley.
SENATOR FARLEY: Yes.
THE SECRETARY: Senator Gold.
SENATOR GOLD: Yes.
THE SECRETARY: Senator Gonzalez.
(There was no response.)
Senator Goodman.
SENATOR GOODMAN: Yes.
THE SECRETARY: Senator Hannon.
SENATOR HANNON: Yes.
THE SECRETARY: Senator Hoblock.
SENATOR HOBLOCK: Yes.
THE SECRETARY: Senator Hoffmann.
(There was no response.)
Senator Holland.
SENATOR HOLLAND: Yes.
THE SECRETARY: Senator Johnson.
(There was no response.)
Senator Kruger.
SENATOR KRUGER: No.
THE SECRETARY: Senator Kuhl.
SENATOR KUHL: Aye.

THE SECRETARY: Senator Lachman.
SENATOR LACHMAN: No.
THE SECRETARY: Senator Lack.
SENATOR LACK: Aye.
THE SECRETARY: Senator Larkin.
(There was no response.)
Senator LaValle.
SENATOR LAVALLE: Explain my vote, Mr. -
ACTING PRESIDENT MARCELLINO: Senator LaValle, to explain his vote.
SENATOR LAVALLE: Mr. President, I want to compliment Senator Rath because she has worked very hard, very diligent on this bill that is important to her district, her region and has -- really from the time that she received the draft has worked to make changes, to make accommodations so that this bill could be presented in a form that would be presented to us that would be acceptable.
It's a shame sometimes when we have processes and there are shortcuts to that process that would taint what might otherwise be

a perfect bill, and so I rise to compliment and vote for Senator Rath's bill.

I vote in the affirmative.

ACTING PRESIDENT MARCELLINO: Senator LaValle will be recorded in the affirmative.

Continue the roll call.

THE SECRETARY: Senator Leibell.

(There was no response.)

Senator Leichter.

SENATOR LEICHTER: No.

THE SECRETARY: Senator Levy.

SENATOR LEVY: Aye.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Aye.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator

Markowitz.

(There was no response.)

Senator Maziarz.

SENATOR MAZIARZ: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Maziarz, to explain his vote.

SENATOR MAZIARZ: Yes, Mr. President. I just too want to join Sen... in congratulating Senator Rath. I think it's a great bill, and it's unfortunate we have to go through this exercise. I vote aye.

Thank you.

ACTING PRESIDENT MARCELLINO: Senator Mendez.

SENATOR MENDEZ: Explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Mendez, to explain her vote.

SENATOR MENDEZ: Mr. President, I am supporting this bill because I do understand very well the need for student housing in Buffalo University. On the other hand, I personally resent enormously that the person in charge of government -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator. Excuse me.

SENATOR MENDEZ: -- that the person in charge of government relations has behaved with such discourtesy towards a member of my Conference.

Nevertheless, I do support the bill.

ACTING PRESIDENT MARCELLINO: Senator Mendez in the affirmative.

Please continue the roll.

THE SECRETARY: Senator Montgomery.

(There was no response.)

Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

(There was no response.)

Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Rath, to explain her vote.

SENATOR RATH: With this being the first piece of legislation that I've had on the floor that asked for a slow roll call, I believe I'm honored that my colleague from the Erie County Legislature is the person that has asked for that slow roll call because it's particularly significant.

I think it's significant because when you serve in the Majority, you say some things and do some things. When you serve in the Minority, you say some things and you do some things. When I lefty Erie County, I was a Minority Leader, and I served in Erie County as

a Minority for a long, long time. I understand how it is not to have people come to you when there's something that's very important. There was no discourtesy meant. I would like to assure my colleagues that that was not what the circumstance was.

There have been a number of times when there have been local bills that have come through that I have reached out to my colleagues in western New York because I felt that there were things that were happening in their district and they weren't hearing about them from anyone else except from me. Informally and casually, they were told about items that they wouldn't have heard about officially until the time to vote came. I don't think that's right. I know how it feels to be in the Minority.

I vote yes.

ACTING PRESIDENT MARCELLINO: Senator Rath will be recorded in the affirmative.

Continue the roll, please.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.
THE SECRETARY: Senator Santiago.
(There was no response.)
Senator Seabrook.
(There was no response.)
Senator Sears.
SENATOR SEARS: Aye.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: Yes.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
(Negative indication)
Senator Spano.
(There was no response.)
Senator Stachowski.
SENATOR STACHOWSKI: To explain my vote.
ACTING PRESIDENT MARCELLINO: Senator Stachowski, to explain his vote.
SENATOR STACHOWSKI: Mr. President, just to make this perfectly clear, I have no trouble with the way Senator Rath has

conducted herself in doing this bill. She's always more than gracious, and she lets me know about these projects and talks to us amongst the delegation.

The problem with the bill isn't with Senator Rath. It's not with the sponsor. It's with the people that are pushing the bill, if it was such a major bill to them and their number one priority and since I've walked by the people, I'd say three times in the last two weeks -- they said "Hello" very nicely, kept going and I said "Hello" because I didn't know they were up here for any particular reason other than maybe budget items -- I just thought, you know, what would it hurt them to take five minutes out of their time and say, "By the way, this bill is coming together on that housing that we talked about at the luncheon", but they couldn't be bothered.

So I guess I'm just trying to make an impression on them that it really wouldn't hurt them just to say, Hey, this is our number one priority. We've worked so hard with

Senator Rath's office in putting this together. We finally have it in a form that'll make it happen, and we can do this housing thing in the North Campus, and that'll be great with me because I happen to love the University at Buffalo, but that wasn't the case.

So I vote no.

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

Continue the roll.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky, excused.

Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Tully.

SENATOR TULLY: Aye.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

SENATOR WALDON: Explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Waldon, to explain his vote.

SENATOR WALDON: Mr. President, my colleagues, it is understood that normally when an issue affects the district in which a colleague -- which a colleague represents, I am very reluctant to do anything negative in regard to a vital issue.

This is not personal in regard to Senator Rath. I concur with what Senator Stachowski has characterized as her openness and her willingness to work with those of us on this side of the aisle on issues of importance to her district.

However, I am incensed that someone who has the stature of Bill Stachowski, who has represented that area for these many years in this chamber and who has an outgoing, gregarious, spirited personality, has a warmth about him that allows even the lobbyists to come to him knowing that they will be well received,

to be disrespected, and when you disrespect Stachowski, I believe that you disrespect the entire Democratic Conference, and it is for that reason, the disrespect shown by the lobbyists to Bill Stachowski, that I will stand with him on this issue and I will vote in the no, and I hope that in the future when the votes are closer, when something that will affect his region may need one or two votes to make it, that the lobbyists will remember that they blew it this time in terms of respect for him and maybe they'll come see him the next time.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Waldon in the negative.

Continue the roll.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT MARCELLINO: Would you call the absentees, please.

THE SECRETARY: Senator Abate.

SENATOR ABATE: Yes.

THE SECRETARY: Senator Babbush.

(There was no response.)
Senator DiCarlo.
SENATOR DiCARLO: Aye.
THE SECRETARY: Senator Espada.
(There was no response.)
Senator Gonzalez.
(There was no response.)
Senator Hoffmann.
(There was no response.)
Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Aye.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Aye.
THE SECRETARY: Senator Markowitz.
SENATOR MARKOWITZ: No.
THE SECRETARY: Senator Montgomery.
(There was no response.)
Senator Oppenheimer.
SENATOR OPPENHEIMER: Yes.

THE SECRETARY: Senator Santiago.
(There was no response.)
Senator Seabrook.
(There was no response.)
Senator Spano.
(There was no response.)
Ayes 42, nays 10.
ACTING PRESIDENT MARCELLINO: The bill is passed.
Senator Kuhl -- excuse me, Senator.
Senator Abate, why do you rise?
SENATOR ABATE: Yes. I'd ask for unanimous consent to be recorded in the negative on Calendar Number 1594.
ACTING PRESIDENT MARCELLINO: Senator -- without objection, Senator Abate will be recorded in the negative on Calendar Number 1594.
SENATOR OPPENHEIMER: Mr. President.
ACTING PRESIDENT MARCELLINO: Senator Oppenheimer.

SENATOR OPPENHEIMER: With unanimous consent, I'd like to be recorded in the negative on the same bill, 1574.

ACTING PRESIDENT MARCELLINO: No objection being heard, Senator Oppenheimer will be recorded in the negative on Calendar Number 1594, and Senator Nanula as well?

SENATOR NANULA: Mr. President, I'd like to request unanimous consent to be recorded in the negative on Calendar Number 258.

ACTING PRESIDENT MARCELLINO: I'm sorry. Senator Nanula will be recorded in the negative on Calendar Number 259. Without objection, no objection being heard, it will be done.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Continuing with bills on that same calendar, Calendar No. 63, on page 16, if the Secretary would call up Calendar Number 718, by Senator Libous.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 718, by Senator Libous, Senate Print 6899-A, an act to amend the Mental Hygiene Law and the Education Law.

SENATOR KUHL: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MARCELLINO: There is, Senator Kuhl.

SENATOR KUHL: I'd move we accept the message of necessity.

ACTING PRESIDENT MARCELLINO: On the motion to accept the message of necessity, all those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

SENATOR KUHL: Mr. President.

ACTING PRESIDENT MARCELLINO: Yes, Senator Kuhl.

SENATOR KUHL: Would you recognize Senator Spano.

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

SENATOR SPANO: Mr. President, had I been in the chamber, I would have voted in the affirmative on Calendar 1580.

ACTING PRESIDENT MARCELLINO: The record will so indicate.

SENATOR SPANO: Thank you.

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

SENATOR MENDEZ: Mr. President, I want the record to show that yesterday if I would have been in the chamber when the vote was taken on Bill Number -- Calendar Number 1529, I

would have voted in the negative.

ACTING PRESIDENT MARCELLINO: The record will so show.

SENATOR MENDEZ: Thank you.

ACTING PRESIDENT MARCELLINO: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Can we now move to Supplemental Calendar Number 1, go to page 2, and would you have the Secretary call up Calendar Number 1611, by Senator Velella.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 1611, by Senator Velella, Senate Print 6728-B, an act to amend the Insurance Law, in relation to authorizing fraternal benefit societies.

ACTING PRESIDENT MARCELLINO: Senator Kuhl.

SENATOR KUHL: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MARCELLINO: There is, sir.

SENATOR KUHL: I'd move we accept the message of necessity.

ACTING PRESIDENT MARCELLINO: On the motion to accept the message of necessity, all in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 13. This act shall take effect January 1.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Mr. President, if we may stay on the same calendar, Calendar Supplemental 1, move to page 3, can we have the

Secretary call up Calendar Number 1621, by Senator Stafford.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 1621, by Senator Stafford, Senate Print 7711-A, an act to legalize, ratify and confirm the acts and proceedings.

ACTING PRESIDENT MARCELLINO: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Is there a message of necessity at the desk?

ACTING PRESIDENT MARCELLINO: There is, sir.

SENATOR KUHL: I'd move we accept the message of necessity.

ACTING PRESIDENT MARCELLINO: On the motion to accept the message of necessity, all in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section. There is a local fiscal impact statement on file.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Kuhl, what is your pleasure?

SENATOR KUHL: Yes, Mr. President. Would you recognize Senator Spano, please.

ACTING PRESIDENT MARCELLINO: Senator Spano.

SENATOR SPANO: Mr. President, I'd like to be recorded in the negative on Calendar 1631.

ACTING PRESIDENT MARCELLINO:

Senator Spano will be recorded in the negative without objection on Calendar Number 1631.

SENATOR VELELLA: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Velella.

SENATOR VELELLA: I also was out of the chamber when that bill was called and would also like to be recorded in the negative on Calendar Number 1631.

ACTING PRESIDENT MARCELLINO: It shall be done, sir, without objection.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President, again on Supplemental Calendar Number 2, move back to page 2. There was a bill that was previously laid aside, Calendar Number 1615 because Senator Leichter was out of the chamber. Could we call that bill up now.

ACTING PRESIDENT MARCELLINO: We will call that very worthy bill up now.

The Secretary will read the last section.

THE SECRETARY: Calendar Number

1615, by Senator Marcellino, Senate Print 7401-A, an act to amend the General Municipal Law, in relation to authorizing.

SENATOR KUHL: Would you read the last section.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT MARCELLINO: The bill is passed.

SENATOR HOFFMANN: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Hoffmann.

SENATOR HOFFMANN: I was out of the chamber when Calendar 1594 was called up. I'd request unanimous consent to be recorded in the negative.

ACTING PRESIDENT MARCELLINO:

Without objection, you will be recorded in the negative.

SENATOR HOFFMANN: Thank you.

ACTING PRESIDENT MARCELLINO: None being heard, it will be done.

Senator Kuhl -- I'm sorry. Senator Levy.

SENATOR LEVY: Yes, Mr. President. On behalf of Senator Sears, he wishes to call up Print Number 1177-B, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

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

SENATOR LEVY: Senator Sears wishes to have the vote reconsidered on this bill.

ACTING PRESIDENT MARCELLINO: Call the roll on reconsideration, please.

(The Secretary called the roll on

reconsideration.)

THE SECRETARY: Ayes 55.

SENATOR LEVY: On behalf of Senator Sears, I'd hand up the following amendments.

Thank you very much.

ACTING PRESIDENT MARCELLINO: The amendments are received.

Senator Spano.

SENATOR SPANO: Mr. President, on Calendar 1631, I had asked to be recorded in the negative. I would like to be recorded in the affirmative on 1631, and on Calendar 1594, please have me recorded in the negative.

ACTING PRESIDENT MARCELLINO: Without objection, we'll do exactly what you said.

Senator Velella.

SENATOR VELELLA: Having relied on my distinguished colleague for the calendar number that I wished to vote on in the negative, I have now checked the calendar and realized that 1631, I wish to be recorded in the

affirmative, and I had gotten some wrong information and would like to be recorded in the negative on 1594, and it was the last time I will depend on one of my colleagues to give me a calendar number.

ACTING PRESIDENT MARCELLINO: Without objection, that's what happens when you rely on those Northerners.

Senator Seabrook -- I'm sorry - Senator Kuhl.

SENATOR KUHL: Is there any housekeeping at the desk?

ACTING PRESIDENT MARCELLINO: Do we have a broom? No, sir.

SENATOR KUHL: Well, then, the -

ACTING PRESIDENT MARCELLINO: May we please have some order. It's a little confusing in here right now.

SENATOR KUHL: Mr. President, we have at this moment done as much as we can do. We have done every bill that's live on Calendar No. 63. We have done every bill that's live and able to be done on Supplemental Calendar Number

1. We do have, I believe, some additional work being done in the background to arrange for more bills but in the meantime, we have a number of bills which are high on our calendars, and at the moment what is holding us up is the lack of messages from the second floor to be able to do those.

So at this time we will have to stand at ease momentarily until messages arrive from the second floor. When those arrive and as they do arrive, we will continue to do those bills which are marked high on our calendars.

ACTING PRESIDENT MARCELLINO: The Senate will stand at ease pending the receipt of messages from the second floor.

The Chair would ask all members to be at hand so that we can call you back immediately and promptly, to do the bills at hand. The Senate is at ease.

(Whereupon, the Senate stood at ease from 2:14 p.m. until 2:25 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to

find their places, the staff to find their places, please, so that Senator Skelos can be heard.

The Chair recognizes Senator Skelos.

SENATOR SKELOS: Mr. President and Senator Gold, we have not received any messages yet, so there will be an immediate meeting of the Rules Committee in Room 332 of the Capitol and the Senate will stand at ease pending the receipt of a message or the Rules report.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332. Immediate meeting of the Rules Committee, Majority Conference Room, Room 332. The Senate continues to stand at ease.

(The Senate stood at ease.)

(Whereupon, at 2:36 p.m., the Senate reconvened.)

ACTING PRESIDENT KUHL: Senate will come to order. Ask the members to find their places.

Senator Marcellino, the messages are arriving. The Chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I believe we have a report of the Rules Committee at the desk. If we do, can we have that read and move to have it accepted?

ACTING PRESIDENT KUHL: We do have a report of the Rules Committee at the desk.

We will return to the order of reports of standing committees.

I'll ask the Secretary to read the Rules report.

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

6628A, by Senator Goodman, an act

to amend the Real Property Law;

7744, by Senator Padavan, an act to amend the Retirement and Social Security Law;

7780, by Senator Goodman, an act to amend Chapter 912 of the Laws of 1920;

7786, by Senator Stafford, an act to amend the Tax Law;

7860, by the Committee on Rules, an act making an appropriation for capital projects liabilities; and

7861, by the Committee on Rules, an act making appropriations for June payments to school districts.

All bills directly for third reading.

SENATOR MARCELLINO: We move the report be accepted.

ACTING PRESIDENT KUHL: The motion is to accept the report of the Rules Committee.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(Response of "Nay.")

The report of the Rules Committee is accepted.

SENATOR GOLD: Sounds like a tie.

ACTING PRESIDENT KUHL: Chair recognizes Senator Marcellino.

SENATOR MARCELLINO: I believe there is a resolution by Senator Kuhl. I ask that its title be read and move it be adopted.

ACTING PRESIDENT KUHL: There is a privileged resolution.

Return to the order of motions and resolutions.

The Secretary will read the title to the privileged resolution which is at the desk.

THE SECRETARY: By Senator Kuhl, Legislative Resolution, commending Keith Cartwright of Elmira, New York, for his heroic action in saving the life of another and for successfully extinguishing a structural fire.

ACTING PRESIDENT KUHL: The question is on the resolution.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, we would like to re-call Calendar Number 343 from the original calendar of today. Calendar Number 343.

ACTING PRESIDENT KUHL: We're on Calendar No. 63, the original calendar of the day. I'll ask the Secretary to read Calendar Number 343, Senate 6004A, by Senator Leibell.

THE SECRETARY: Calendar Number 343, by Senator Leibell, Senate Print 6004B, an act to amend the Insurance Law, in relation to expanding provisions.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I believe there is a message of necessity at the desk.

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

SENATOR MARCELLINO: I move that it be accepted.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 343.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(Response of "Nay.")

The message is accepted.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Leibell, an explanation of Calendar Number 343, has been requested by Senator Paterson.

SENATOR LEIBELL: Mr. President, this bill expands provisions relating to insur able interest by allowing certain charitable,

educational or religious corporations that are not-for-profits to procure or cause to be procured a contract of life insurance upon the person of another and may designate itself as the beneficiary of such contract.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, we can speed this up really quickly if Senator Leibell will yield for just a quick question.

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

SENATOR LEIBELL: Yes, I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: How does this bill differ from the "A" print?

SENATOR LEIBELL: There is a five-year sunset. This has been negotiated with the Assembly. There is a five-year sunset in this bill, and that's the only difference, Senator.

SENATOR PATERSON: Very well.

Thank you, Senator.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we stay on that very same Calendar No. 63, and read Calendar Number 623.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 623, by Senator Saland, Senate Print 6028A.

THE SECRETARY: Calendar Number 623, by Senator Saland, Senate Print 6028A, an act to amend the Criminal Procedure Law, in relation to mandatory arrests.

ACTING PRESIDENT KUHL: Senator

Marcellino.

SENATOR MARCELLINO: I believe there is a message of necessity at the desk, sir.

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

SENATOR MARCELLINO: I move that the message be accepted.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 623.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect in 90 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we call up Calendar Number 1180, please?

ACTING PRESIDENT KUHL: The Secretary will read the title of Calendar Number 1180.

THE SECRETARY: Calendar Number 1180, by Senator Larkin, Senate Print 5786A, an act to amend the Not-For-Profit Corporation Law.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. I believe you have a message of necessity at the desk on this particular piece of legislation.

ACTING PRESIDENT KUHL: There is, Senator Marcellino.

SENATOR MARCELLINO: Mr.

President, I move that the message be accepted, please.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1180.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: One moment,

sir.

(Whereupon, there was a pause in the proceedings.)

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: May we have a noncontroversial reading of the supplemental active list for Friday, June 14, which is on all the members' desks at this moment?

Supplemental active list.

ACTING PRESIDENT KUHL: For the benefit of the members, we're still on Calendar No. 63, the basic calendar which has been provided for you for the day. There is a supplemental active list which has been provided on your desk.

The first bill on the supplemental active list is Calendar Number 410. I ask the Secretary to read the noncontroversial reading of the supplemental active list on Calendar No. 63.

THE SECRETARY: Calendar Number 410, by Senator Wright, Senate Print 6300B, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Is there a message of necessity at the desk, sir?

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

SENATOR MARCELLINO: I move that we accept it.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 410.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 579, by Senator Skelos, Senate Print 5730C, an act to amend the General Business Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 918, by Member of the Assembly Weisenberg, Assembly Print 1311C, an act to amend the Education Law.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

1053, by Member of the Assembly Weprin, Assembly Print 4728C, an act to amend the Estates, Powers and Trusts Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will read the title of Calendar Number 918.

THE SECRETARY: Calendar Number 918, by Member of the Assembly Weisenberg, Assembly Print 1311C, an act to amend the Education Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to call the noncontroversial reading of supplemental active list. The next bill is Calendar Number 1391, by Senator Marcellino.

THE SECRETARY: Calendar Number 1391, by Senator Marcellino, Senate Print 7355A, an act to amend the Environmental Conservation Law, in relation to requirements under the federal Clean Air Act.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Mr. President.

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

SENATOR PATERSON: May we lay that bill aside, please?

ACTING PRESIDENT KUHL: Calendar Number 1391 will be laid aside at the request of the Acting Minority Leader, Senator Paterson.

The Secretary will continue to call the noncontroversial reading.

THE SECRETARY: Calendar Number 1487, by Senator Hannon, Senate Print 6615A, an act to amend Chapter 535 of the Laws of 1983.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we have a reading of the controversial -

ACTING PRESIDENT KUHL: For the benefit of the members, we are on Calendar Number 1487, which is on the supplemental active list. It's on the regular calendar. It has

been called up.

I'll ask the Secretary to read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

The Chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Mr. President, if we can have one moment. We have to check a couple of things.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we go to the Supplemental Calendar No. 2, which is at the desk, and take up Calendar Number 1636?

ACTING PRESIDENT KUHL: For the

benefit of the members, we're moving to Supplemental Calendar -- Supplemental Calendar -- the calendar that has just been distributed out to your desk. The bills are on your desk, also. We're going to go, on page 1, down to Calendar Number 1636, a Rules bill, Senate Print 7860.

I'll ask the Secretary to read.

THE SECRETARY: Calendar Number 1636, by the Committee on Rules, Senate Print 7860, an act making appropriations for capital projects liabilities.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is a message of necessity and appropriation at the desk.

SENATOR MARCELLINO: I appreciate the correction, and I move that both the message of necessity and appropriation be accepted.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity and appropriation on Calendar Number 1636.

All those in favor of the motion, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. Presi dent, on the same calendar, Senate Supplemental Calendar No. 2, may we take up Bill Number 1637?

ACTING PRESIDENT KUHL: Same calendar, same page, Calendar Number 1637, Rules Print 7861.

I ask the Secretary to read.

THE SECRETARY: Calendar 1637, by the Committee on Rules, Senate Print 7861, an act making appropriation for June payments to school districts.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Is there a message of necessity and appropriation on the bill at the desk?

ACTING PRESIDENT KUHL: There is a message of necessity and appropriation at the desk.

SENATOR MARCELLINO: I move we accept both messages.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity and appropriation on Calendar Number 1637.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we stay on Senate Supplemental Calendar No. 2 and read in the regular order?

ACTING PRESIDENT KUHL: We are on the same calendar, Supplemental Calendar No. 2. I'll ask the Secretary to read the noncontroversial reading, beginning with Calendar Number 1632, by Senator Goodman.

Secretary will read.

THE SECRETARY: Calendar Number 1632. Senator Goodman moves to discharge from the Committee on Rules Assembly Bill 10588A and substitute it for the identical Senate Bill 6628A.

ACTING PRESIDENT KUHL: Substitution is ordered.

Secretary will read the title.

THE SECRETARY: Calendar Number 1632, by the Assembly Committee on Rules, Assembly Print 10588A, an act to amend the Real Property Law and the Real Property Tax Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1633, by Senator Padavan, Senate Print 7744, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1634, by Senator Goodman, Senate Print 7780, an act to amend Chapter 912 of the Laws of 1920.

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

THE SECRETARY: Section 5. This act shall take effect in 120 days.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside at the request of Senator Stachowski.

THE SECRETARY: Calendar Number 1635, by Senator Stafford, Senate Print 7786, an act to amend the Tax Law.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

SENATOR MARCELLINO: Mr.

President, can we call up Bill 1634?

ACTING PRESIDENT KUHL: For the benefit of the members, we're on Supplemental Calendar No. 2, page 1.

I ask the Secretary to read the title to Calendar Number 1634, Senate Print 7780, by Senator Goodman.

THE SECRETARY: Calendar Number 1634, by Senator Goodman, Senate Print 7780, an act to amend Chapter 912 of the Laws of 1920, relating to allowing and regulating boxing, sparring and wrestling matches.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator Goodman, an explanation of Calendar Number 1634 has been requested by Senator Stachowski.

SENATOR GOODMAN: Mr. President, this bill emanates from an investigation by the Senate Investigations Committee of a new form of combative contest known, broadly speaking, as "ultimate fighting" or "battlecade". This is a contest in which two contestants are placed -

I gather we need a little order,

Mr. President.

The contestants are placed in an octagonal-shaped ring, and they are allowed to battle one another without any limitations of time -- in other words, there are no rhymes in the contest -- until one of them has either choked the other into unconsciousness or has pummeled him to the point where his face looks something like the chopped meat you would see in a butcher case in a store, in which blood oozes from your chopped meat.

In short, this is an extraordinarily unique form of contest which it is generally agreed at this point requires regulation, so the thrust of this bill is to place it under the aegis of the State Athletic Commission, which at the moment has no control over these bouts, and will enable them to use their discretion in bringing about an appropriate set of rules and regulations which will prevent these fights from inflicting extraordinary injury on the contestants.

ACTING PRESIDENT KUHL: Senator

Stachowski.

SENATOR STACHOWSKI: Mr. President, will Senator Goodman yield for a question?

SENATOR GOODMAN: Yes, I will.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STACHOWSKI: So the essence of this bill is merely to put it under the Athletic Commission, and they will develop a set of rules and regulations, and then they will be able to have these ultimate fights if some promoter so desired to have them in any city in New York?

SENATOR GOODMAN: That is correct.

SENATOR STACHOWSKI: Explana tion's satisfactory.

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

THE SECRETARY: Section 5. This act shall take effect in 120 days.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

SENATOR LAVALLE: (Indicating.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we take up Calendar Number 1599 on the original active list?

ACTING PRESIDENT KUHL: Senator LaValle, was it your intention to vote in the negative on the last calendar that was called, 1634, by Senator Goodman?

SENATOR LAVALLE: Yes, it was.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator LaValle will be recorded in the negative.

Similar request, Senator Hoffmann. Without objection, hearing no objection, Senator Hoffmann will be recorded in the negative on Calendar Number 1634.

We'll go to the original

calendar, Calendar No. 63, page 42, Calendar Number 1599, Senate Print 7826, a bill by Senator Seward. I will ask the Secretary to read the title.

THE SECRETARY: Calendar Number 1599, by Senator Seward, Senate Print 7826, an act to amend the Public Service Law and the Uniform Commercial Code.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, is there a message of necessity at the desk?

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

SENATOR MARCELLINO: I move we adopt it.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1599.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

Message is accepted.

Secretary will read the last section.

ACTING PRESIDENT KUHL: Senator Seward, an explanation of Calendar Number 1599 has been requested -

SENATOR SEWARD: Yes, Mr. President.

ACTING PRESIDENT KUHL: -- by multiple intervenors.

SENATOR SEWARD: Pardon me?

Mr. President, this bill establishes a financing mechanism through which electric rates could be reduced as a result of lower cost financing of certain intangible utility assets, such things as IPP contracts, demand side management programs, environmental remediation programs, things of that sort.

The bill authorizes utilities, on a voluntary basis, I would point out, to present

a rate reduction plan to the Public Service Commission for approval using this law, and that plan would propose raising from a level of an expectation to a level of an actual property right, these intangible assets belonging to the utility, and under the proposed law the Commission would be required to review the plan, determining that significant ratepayer savings would result as a precondition of accepting the plan -- and that's written right into the bill -- and approve the plan as a whole or in part.

So, in return for this, the Commission, under the bill, would be authorized to obtain certain concessions from the utility, and while such concessions are left to the discretion of the PSC to work out on a case-by-case basis, examples could be multi-year rate reductions or a writedown of a portion of the utility's stranded costs.

This is a temporary measure. This bill would expire at the end of the year in the year 2000. It would provide lower rates in a bridge to competition through this financing

mechanism.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, it seems from this legislation that the con sumers are going to have to pay for it, and in projects such as the Shoreham power plant, you'd wonder why the consumers would have to do it rather than the rate -- shareholders.

And so if you had a situation like the Shoreham plant, does this guarantee that there would be a charge-back to the consumer? If the Senator would yield for an answer to that question.

SENATOR SEWARD: Mr. President, I would respond to Senator Paterson this way: Quite the contrary, Senator. This plan would - under a provision in the bill, would be -- would have to result in a significant rate reduction before the plan would be approved by the PSC. There would be no other option. This would not benefit the stockholder. This is benefiting the ratepayer specifically under the bill, because

under this mechanism it would provide lower cost financing for some of these so-called intangible assets of the utility.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, just to summarize and maybe try to truncate the process a little bit.

What this bill means, as far as we're concerned, is that the consumer is going to get back, really, pennies for a tremendous amount of money that's going to have to be paid into the system, and we don't think that it's going to inure to the benefit of the consumers who are the ratepayers in this particular circumstance.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President.

I'm not sure, under this bill, Senator Paterson, that the consumer will get

back even pennies. The irony of this bill and, I submit, its inherent contradiction is that it promises lower costs to the ratepayers but in order to get those lower costs, you are going to have to pay an enormous amount because the ratepayers are the ones that are going to have to pick up all of these various capital costs, the so-called stranded costs, and all of that is going to be passed on to the ratepayer, and what I think is objectionable is that none of that is borne by the utility itself or the shareholders.

So I don't see where the benefit is to the ratepayer. In fact, very likely, this is going to increase costs. Certainly, initially, it's going to increase costs.

I would be extremely wary of this bill. This is at best -- well, I won't say at best, but I think this is a Trojan horse.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Will Senator Seward yield to a question?

ACTING PRESIDENT KUHL: Senator

Seward, do you yield to a question from Senator Dollinger?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: I know, Senator, the stranded cost is a critically important one as utilities face competition. I know your longstanding concern on this issue.

But just so I make sure I understand it, this bill says that if utilities can use another borrowing method to reduce their borrowing costs, that is a benefit to the ratepayers because there's less cost going into the rate. Is that correct?

SENATOR SEWARD: That's basically correct, yes.

SENATOR DOLLINGER: Then they would get a qualified order -- a qualified rate order, which would establish the ability of the utility to pass the stranded costs on to the ratepayers but at a lower borrowing rate. Is that correct?

SENATOR SEWARD: Well, Mr. President, it is difficult at this point in time to say exactly what would happen because the Public Service Commission would deal with these plans on a case-by-case basis. So we are not, under this bill, setting up a specific scenario that would cover every situation. We are setting up the mechanism so that determinations such as the one that you have outlined could be possible, but it is done on a case-by-case basis. It would have to be approved by the Public Service Commission. We are merely setting up the mechanism for it to happen.

But the bottom line is this: By securing all or part of these so-called in tangible assets, the utilities would be able to borrow capital at a much lower financing cost and those savings would be transferred to the ratepayer in the form of lower electric rates.

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

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

SENATOR DOLLINGER: If Senator Seward would continue to yield.

SENATOR SEWARD: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: As I understand it, under current law, the issue of who would pay the stranded cost is an issue that would be resolved by the PSC in a fashion in which, assuming after a full proceeding, the PSC would make some allocation of those stranded costs to be paid by ratepayers and some other allocation to be paid by stockholders or shareholders of the utility companies. Is that correct?

SENATOR SEWARD: Well, Senator, this legislation is merely a supplemental tool. It will not replace what the current decision making process is on these types of issues. This merely provides an additional option for dealing with this very expensive problem, which now, incidentally, the ratepayer is already paying for.

SENATOR DOLLINGER: Right, a very substantial -

SENATOR SEWARD: We're attempting to provide a manner in which the ratepayer would be paying less.

SENATOR DOLLINGER: But what - again, through you, Mr. President.

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

SENATOR SEWARD: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: What I'm trying to understand is that under a current proceeding, the issue of what cost goes into the rates includes some portion of the stranded costs, the intangible assets, because the PSC in sitting down and trying to figure out what the rate will be says, "A certain portion of that we're going to allow to be charged to the rate, and a certain portion of that we're going to just not allow to be charged in the rate, and the stockholders and shareholders will have to

pick up that additional cost."

Is that correct? It's done in a full proceeding where the PSC looks at the cost of the asset and the management decisions that go into these assets and all the factors that the PSC would have to look at in trying to apportion how much of the cost -- the stranded cost is going to be paid for by the ratepayer versus how much is just going to be left there to be picked up by the shareholder in a reduction in profit. Is that correct?

SENATOR SEWARD: Well, this legislation is dealing with the portion that is currently being picked up by the ratepayer, and so -- in large portion is currently being picked up by the ratepayer, and so what this does is add an additional option that would -- could be exercised as long as that option, under the law, provided for significant rate relief.

SENATOR DOLLINGER: Right. But again through you, Mr. President.

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

Senator continues to yield.

SENATOR DOLLINGER: What I'm trying to make sure I understand is, what this bill will do is it alters the current PSC methods of divvying up the stranded asset cost between ratepayers and shareholders, and what it says is that if you can show some rate relief by a reduction in borrowing, you can take more of the stranded cost and pass that on to the ratepayer. Because they're getting the break from a reduction in borrowing costs, you can shift more of the cost to the ratepayer. Is that a fair description?

SENATOR SEWARD: Mr. President, I wouldn't describe it as a fair representation because the issue of how these stranded costs are going to be dealt with is still an open question. Right now, the -- and that's an open question from FERC at the federal level and, of course, our own PSC. So those determinations are yet to be made.

Right now, the ratepayer, I'm telling you, is getting hit right in the neck

with high electric rates, and what we are attempting to do under this bill is to provide an additional option and give full protection to that ratepayer because we -- as I said, it specifies that it would have to be significant rate relief. That's the ultimate goal of this legislation, and it's not a hope or a dream. This legislation couldn't be implemented unless it does provide that significant rate relief.

SENATOR DOLLINGER: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I appreciate the explanation from the Chairman of the Energy Committee.

I understand the promise that this bill contains. I'm somewhat skeptical that promise will be realized. As I understand it, what this bill does is, this bill says that we currently have a mechanism which allows the PSC to look at the stranded cost. It's a huge problem, as you and I have discussed -- the

Chairman of the Energy Committee and I have discussed. There's a huge problem in the stranded cost in the era of competition that, in essence, they are going to be saddled with regulatory requirements and regulatory assets - regulatory-generated assets, whether it's the IPPs or other things, that they have an extreme disadvantage in making the transition to a competitive energy market because they've got all these assets they're carrying on their books which are what we would call, I guess, in the private sector "non-full producing assets" - IPPs generating power at excess cost, not a productive asset in their portfolio.

My concern in this bill is that what we're, in essence, saying is that there's a possibility that if we can borrow at less money, reduce our borrowing cost, we will be able to shift to the ratepayer a greater portion of the stranded asset cost than would otherwise, under our current process, be shifted to them.

And I appreciate the efforts of the Energy Committee's chair, but it seems to me

that there is a danger in this bill that you would have a significant -- even though you could show a minor benefit or possible benefit, as Senator Leichter said, of rate reduction because of the reduced borrowing costs, by shifting a greater portion of the stranded costs or by giving an incentive to shift more of the stranded costs to the rate base rather than to the shareholders as would be done under the current system, we may be sending the wrong message.

So, I'm going to reluctantly vote against this. This is a very complicated bill, a very complicated issue. To some extent, I regret that it comes out this late in the session. I know it came from the second floor.

I would like to commit the efforts of this side of the aisle to continue to look at the stranded cost issue, to continue to look at the divvying up between ratepayers and shareholders to try to see whether we can come up with a way to make this work and provide relief for utilities. They are going to have to

face a competitive environment in the future, but it seems to me that at least at this point I'm not fully confident that this will produce significant reductions for the ratepayers in the long run.

So I appreciate the effort. I guess I'm in the skeptical column and under those circumstances, I will be voting in the negative. But I look forward, perhaps, at some special session later this year or some other time in the near future to look at this issue again. Maybe I will better understand it, and maybe we can seek the final answer about what this really means to ratepayers.

Thank you.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. I want to ask Senator Seward one question, please.

SENATOR SEWARD: Certainly.

ACTING PRESIDENT KUHL: Senator Seward yields, Senator Leichter.

SENATOR LEICHTER: I'm not sure that you explained this. Why do you make it - why is the order of the PSC irrevocable? Why does that order have to be irrevocable? Assuming they proceed in good faith and they think there's going to be a reduction in rates and they push onto the ratepayers these stranded costs, if it turns out that because of changed economic conditions or their projections were wrong that the ratepayers are really paying more, why does that initial determination have to be irrevocable?

SENATOR SEWARD: Mr. President, really, the answer to that is, the whole thrust of this legislation is directed toward setting up a mechanism for lower cost financing of these so-called intangible assets which are actually costs to the utility ratepayers. So the words in terms of being irrevocable are in there to provide, shall we say, a greater comfort level to the bondholders so that they will be asking for a lower interest rate. That's the whole idea of the lower cost financing, those lower

costs being transferred to the ratepayers in the form of lower rates.

SENATOR LEICHTER: Mr. President, again, just briefly.

I think that's an understandable reason. But I'm not so sure -- you know, we deal with the high interest rates that these utilities are paying. I'm not sure that's really the case at all, and it's hard for me to see how this is really going to provide a savings to the ratepayers. What you're doing through these irrevocable orders, even though there is an economic justification for it, as you point out, Senator Seward, is to really make sure that all of these stranded costs, these very, very substantial costs reflecting, in part, mistakes that the utilities have made, expensive purchases, plants that never should have been built, all of that -- irrevocably now -- irrevocably will have to be paid by the ratepayer. None of it will have to be borne by the shareholders.

I think, as I said -- and it may

not be so intended but this may be a Trojan horse that's going to end up with the ratepayers in New York State paying more and more and more and higher and higher rates over the years. I think that's probably the likely outcome of this legislation.

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

Senator Paterson.

SENATOR PATERSON: Mr. President, I concur with what Senator Leichter said, and for those who are supporting this legislation, I just simply ask this question:

Can you guarantee the ratepayers of New York State, can you guarantee all of those who are in the catchment area of Niagara Mohawk who live upstate in this particular area, with all of the stranded costs, with two major nuclear power plants in this state, with all of the related issues and stranded costs, as I said before, that that may entail, can we guarantee that there will be a reduction in rates to the consumer? I don't think so. I don't think we

can guarantee that at all, and that's why I would urge a no vote on this particular bill.

ACTING PRESIDENT KUHL: Senator Hoffmann.

SENATOR HOFFMANN: I share some of the concerns of my colleague from Rochester, Senator Dollinger, who finds it difficult to understand all of the provisions of the bill and what it will ultimately do, and I appreciated the explanation from the Chairman of the Energy Committee, and I will have to accept on face value the explanation today, because my overriding concern, as the Senator who represents the corporate headquarters of Niagara Mohawk, is the viability of that company as an industry in Central New York at this point, and -- this is a very big caveat -- on the ability of Niagara Mohawk to make preferential arrangements for reduced cost power to a number of existing businesses in Central New York that literally face the prospect of leaving this state because of high utility costs, in addition to Workers' Comp' and other unresolved issues.

If we're not going to address Workers' Comp' in a timely fashion in this Legislature, I would at least like to be able to go back and tell the people of Central New York that we're attempting to grapple with the cost of high energy, specifically through Niagara Mohawk. So I will take on good faith the explanation given to us today and cast my vote in the affirmative for this measure.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR SEWARD: To explain my vote.

ACTING PRESIDENT KUHL: Record the negatives.

Senator Seward to explain his vote.

SENATOR SEWARD: Yes, Mr. President. I acknowledge that this legislation before us is a bit complex and complicated. I fully acknowledge that. I would say, in voting for this legislation, I do not want any member of this body to be left with the impression that this legislation in any way will result in higher electric rates for any ratepayer in the state of New York. Quite the contrary.

We are voting, by supporting this legislation, for lower electric rates. We are not shifting stranded costs to the ratepayer from the stockholders of utilities. Quite frankly, today, the ratepayer is paying through the nose for these stranded costs and these other intangible assets which are really expenses for the utility.

This legislation provides an additional option for lower financing of these intangible assets. It's a way, quite frankly, for the PSC to shift more of the stranded costs

over to the stockholders through the forms of writedowns and other concessions on the part of the utilities before they could approve a plan under this legislation.

I think we are -- by passing this legislation, we are really voting for lower electric rates in this state, and I vote aye because we desperately need those lower electric rates.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1599: Senators Abate, Connor, Dollinger, Gold, Kruger, Leichter, Markowitz, Mendez, Nanula, Onorato, Oppenheimer, Paterson, Stachowski, Waldon. Ayes 41, nays 14.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we take up Calendar Number 1600,

by Senator Seward.

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number 1600.

THE SECRETARY: Calendar Number 1600, by Senator Seward, Senate Print 7827, an act to amend the Public Service Law.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, is there a message of necessity at the desk?

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

SENATOR MARCELLINO: I move that it be adopted.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1600.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

Senator Seward, an explanation of Calendar Number 1600 has been requested by Senator Paterson.

SENATOR SEWARD: Certainly, Mr. President. While we're on the theme of lower electric rates, I'm very pleased to explain this particular piece of legislation.

This bill is intended to provide rate relief and job retention for businesses that retain jobs in the state of New York without shifting the burden of this relief onto the shoulders of other classes of ratepayers, such as residential customers.

The bill does this by establishing a partnership in economic development wherein the State Power Authority and the major utilities would combine to provide 400 megawatts of economic development power to businesses which are likely to close or curtail operations, relocate out of state or leave the grid entirely. This is a temporary program

aimed at assisting the businesses to retain jobs during the transition to competition in the electric industry.

An application for this economic development lower cost power would have to be made within three years and the contracts for the power could not exceed three years. This is a bridge to competition to save jobs in New York in the meantime.

The Power Authority would contribute 200 megawatts from its FitzPatrick plant, and utilities would contribute a like amount. The PASNY power combined with a like amount of the utility power would be wheeled by the utility to these businesses needing this lower cost power.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

On the bill. I think that Senator Seward's plan is actually a workable plan. It actually could help to reduce rates

for businesses, as he has just demonstrated. I'm far more sure that it can than the last bill, which I think is the 1996 version of the six-cent law.

But on this particular piece of legislation, the problem I have with it is the Economic Development Power Allocation Board. This board would have four members on it, two of them appointees of the Governor, one of them is the Majority Leader, and this is exactly the kind of configuration that opens the door to charges that this is not really a genuine attempt to lower rates.

This is obviously a political process. We're not blaming anybody for the fact that it is, but to construct a board with such high level state officials on it really is just opening the door to all kinds of scrutiny and all kinds of accusations that there is more to this than may meet the eye.

I am not presuming anything but I must state that in situations such as this, where we have the capacity to lower rates for

businesses, where we're really trying to simulate economic development, we have to be scrupulously careful about how we construct these types of boards; and so that the political charge cannot be made, we have to have some assurance that there is real monitoring by professionals in the field, by individuals who are aware of what power authorities need, what small companies that offer power can deliver, and not some sort of situation which looks like some kind of transparent opportunity to create some kind of a wasteland or some other sort of endeavor that would not be based on merit but would be based on some other qualification. I don't need to spell that out specifically, and I'm not accusing that it's actually been done. I'm just staying that this is exactly the kind of process that in a tainted situation could inure to the detriment, not the assistance, of small businesses that need help.

ACTING PRESIDENT KUHL: Senator Hoffmann.

SENATOR HOFFMANN: Mr. President,

I wonder if Senator Seward would be so kind as to yield to a question?

SENATOR SEWARD: Certainly, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HOFFMANN: Thank you.

Senator Seward, are you familiar with the situation currently faced by Owl Wire in Canastota relative to the high cost of electricity?

SENATOR SEWARD: Mr. President, I have seen some -- I guess, some headlines and some press on it, but I can't tell you I'm intimately familiar with the problem, no.

SENATOR HOFFMANN: Senator Seward, would you yield for a second question?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HOFFMANN: I don't mean to catch you off guard with the specifics of the Owl Wire situation. I realize in your capacity

as Chairman of the Energy Committee, you are aware of many operating facilities around the state, manufacturing concerns, that are faced with high cost of electricity and find themselves at a competitive disadvantage. Owl Wire is just one of dozens in this state.

However, Owl Wire is at a very critical point right now and faces the imminent loss of 500 jobs to a much lower electrical rate in one of the southern states that is actively seeking its business through preferential rates.

My question to you, Senator Seward, would this measure allow our state agencies the ability they need to reach a swift and accommodating negotiation that would permit Owl Wire a preferential treatment on a short term basis that might conceivably make the difference in allowing them to stay in New York State and thrive and to possibly expand?

SENATOR SEWARD: Well, Senator, if you have a business in your district that has 500 jobs threatening to leave the state and has

every possibility of leaving the state, one of the problems that business faces and one of the reasons for leaving would be the high cost of electricity, this legislation is designed specifically to help a situation such as you have outlined. I don't have all the details.

Now, we have -- this legislation solves a number of problems, one of which is this. We have the State Power Authority with relatively inexpensive power, and this has been a tremendous tool for us in terms of economic development in this state, but one big problem we've had is we have the Power Authority with the inexpensive power and the utilities of the state controlling the transportation network in terms of getting that power to a business such as you have outlined.

Because of the partnership that we're forming under this bill with the utilities and the Power Authority coming together to provide this economic development power, we will be able to react in this state to situations like you have mentioned much more rapidly

because we won't be in this negotiation that's gone on -- very difficult, in many cases - between the Power Authority and local utilities in terms of how we're going to get the power there, and the like.

So with what little you have told me about that situation, I just believe that this bill would provide the kind of relief that that company is looking for.

SENATOR HOFFMANN: Thank you, Senator Seward.

Mr. President, on the bill.

The loss of businesses in this state right now is no longer a trickle. We are hemorrhaging to death in this state, and one of the recurring complaints from businesses, large and small, is high cost of energy.

I have frequently found myself in a situation where a long-term employer in my district has sought preferential power through the Power Authority only to be told that they would have to wait until an allocation became available or until special legislation created a

larger pool, that the existing pool simply was not able to accommodate their needs no matter how desperately they needed remediation in power rates at the present time.

If this measure, as has been explained by Senator Seward, will address this problem, then I will embrace it wholeheartedly and do everything in my power to see that some meaningful negotiations take place with the other house so that it can, in fact, be enacted.

We're really past the point where we can be overly concerned about concentrating too much political power in the hands of one or two state agencies. The reality of the situation is that we must have a way that we can quickly address the needs of industries that are being courted aggressively by other states not overladen with the kind of bureaucratic stranglehold that we suffer from in New York State. We have to be able to come in with a quick and effective fix to give low cost power to existing employers in New York State.

I urge my colleagues on this side

of the aisle to support this measure, knowing that that concern is as serious as any other issue facing the state today.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just briefly.

As acting ranking member on the Energy Committee, I'm going to vote in favor of this bill, even though there are -- at least one part of it that I don't like, and that is the composition of the board, I think, is a political problem, quite frankly. My hope is that in discussions with the Assembly that political problem will be worked out.

I agree with Senator Paterson, who spoke about it, that composition seems to be a little tilted and perhaps could use some more balance.

But I think the concept of continuing the flexible rate structure to, in essence, set aside a certain amount of power that we will provide at GRT reduced rates to

certain customers throughout the state of New York, who have the ability to get up and walk out if they find that their GRT is too high or their utility rate is too high, makes good sense.

As I understand it, this will expand that pool from 200 million to 400 million megawatts. I think the concept moves in the right direction, and I think the only loser in this process is the state of New York, who comes up with less GRT because there will be a reduction in GRT on this 400 million megawatts.

So, to some extent, I would like to see a greater continuation of both this partner -- power partnership and also the flexible rate concept because I think that works well, too. That has a shareholder component of sharing of the cost in it. So I think this continues to move in the right direction. I frankly think, in negotiations, the composition of this board, the political composition will be worked out, and we'll end up with a continuation of the approach which says we're going to use

our power resources as a form of economic development.

So I will be voting in favor of this bill, Mr. President.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1600 are Senators Leichter, Markowitz and Paterson. Ayes 52, nays 3.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I believe we have a privileged resolution at the desk by Senator Stachowski. May we have the title read, and we'll move to adopt.

ACTING PRESIDENT KUHL: Return to motions and resolutions.

There is a privileged resolution at the desk. I'll ask the Secretary to read the title.

THE SECRETARY: By Senator Stachowski, Legislative Resolution commemorating the 15th Anniversary of the Arts and Education Institute of Western New York in recognition of the institute's 15th Anniversary Visitors Day, Monday, June 24, 1996.

ACTING PRESIDENT KUHL: Question is on the resolution.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we now take up Bill Number 1379 -- Calendar Number 1379, the original active

list. I believe it's by Senator Spano.

ACTING PRESIDENT KUHL: On page 34 of Calendar No. 63, the first calendar, the Secretary will read the title to Calendar Number 1379, by Senator Spano.

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

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: May we have that adopted, please?

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1379.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

Is there any Senator wishing to speak on the bill?

(There was no response.)

Hearing none, Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: If we may have a moment, sir.

Mr. President.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: May we call

up on the same calendar, Calendar Number 1577, by Senator Wright.

ACTING PRESIDENT KUHL: On page 39, Calendar No. 63, the Secretary will read the title to Calendar Number 1579, by Senator Hannon.

SENATOR MARCELLINO: No, 1577.

ACTING PRESIDENT KUHL: 1577.

SENATOR MARCELLINO: By Senator Wright.

ACTING PRESIDENT KUHL: By Senator Wright.

THE SECRETARY: Calendar Number 1577, by Senator Wright, Senate Print 7584A, an act to amend the Alcoholic Beverage Control Law, in relation to ownership of licensed premises.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: I believe there is a message of necessity at the desk, sir.

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: I move to

accept it.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1577.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

Message is accepted.

Any Senator wishing to speak on the bill?

(There was no response.)

Hearing none, the Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: May we now move to Calendar Number 1161, by Senator Hoblock.

ACTING PRESIDENT KUHL: On page 31 of Calendar 63, the Secretary will read the title to Calendar Number 1161, by Senator Hoblock.

THE SECRETARY: Calendar Number 1161, by Senator Hoblock, Senate Print 7083B, an act to amend the Vehicle and Traffic Law, in relation to taxicab partitions and shields.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: I move that we accept it.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1161.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

Is there any Senator wishing to speak on Calendar Number 1161?

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, at this time, can we take up Calendar Number 490 -- 490, by Senator Leibell.

ACTING PRESIDENT KUHL: On page 10, Calendar No. 63, the Secretary will read the title to Calendar Number 490, by Senator Leibell.

THE SECRETARY: Calendar Number 490, by Senator Leibell, Senate Print 6134A, an act to amend the Public Authorities Law, in relation to powers of the State of New York Mortgage Agency.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: May we move to have it accepted?

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 490.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

Is there any Senator wishing to speak on Calendar Number 490?

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: May we turn to the second supplemental calendar and call up Bill Number 1635, please. Senator Farley will

discuss.

ACTING PRESIDENT KUHL: On Supplemental Calendar No. 2, page 1, the Secretary will read the title to Calendar Number 1635, by Senator Stafford.

THE SECRETARY: Calendar Number 1635, by Senator Stafford, Senate Print 7786, an act to amend the Tax Law, in relation to franchise taxation of thrift reserves for loan losses.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: I move that we accept it.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1635.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

Is there any Senator wishing to speak on Calendar Number 1635?

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we now turn to the Supplemental Active List for Friday, June 14, and may we call up Calendar Number 579 at this time, please?

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 579 on the

Supplemental Active List for Calendar No. 63.

THE SECRETARY: Calendar Number 579, by Senator Skelos, Senate Print 5730C, an act to amend the General Business Law.

ACTING PRESIDENT KUHL: Senator Marcellino?

(There was no response.)

Any Senator wishing to speak on the bill?

(There was no response.)

Hearing none, we'll read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President. May we at this time reconsider the vote by which Calendar Number 1628 was passed?

ACTING PRESIDENT KUHL: We're on Supplemental Calendar No. 1, page 4, Calendar Number 1628, previously passed the house.

The motion is to reconsider the vote by which the bill passed the house. I will ask the Secretary to call the roll on reconsideration.

THE SECRETARY: Calendar Number 1628, by the Assembly Committee on Rules, Assembly Bill Number 11026, an act making appropriation.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Marcellino.

SENATOR MARCELLINO: Mr. Presi dent, do we now have a message of appropriation?

ACTING PRESIDENT KUHL: There is a message of appropriation at the desk.

SENATOR MARCELLINO: I move that we accept it.

ACTING PRESIDENT KUHL: The motion is to accept the message of appropriation which is at the desk.

All those in favor of accepting the message, signify by saying aye.

(Response of "Aye.")

All those opposed, nay.

(There was no response.)

The message of appropriation is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino, we have one piece of housekeeping at the desk. We can take that up.

SENATOR MARCELLINO: Sure. Take up motions and resolutions.

ACTING PRESIDENT KUHL: Return to motions and resolutions.

Chair recognizes Senator DiCarlo.

SENATOR DiCARLO: Thank you, Mr. President.

On behalf of Senator Levy, I wish to call up Bill Print 5960, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: By Senator Levy, Senate Print 5960, an act to amend the Vehicle and Traffic Law.

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

ACTING PRESIDENT KUHL: The motion is to reconsider the vote by which the bill passed the house.

The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we go back to the Supplemental Active List of Friday, June 14, of this current year and take up Calendar Number 1391, by

Senator Marcellino? Never heard of him.

ACTING PRESIDENT KUHL: We will return to the Supplemental Active List of the regular calendar, Calendar No. 63. I will ask the Secretary to read Calendar Number 1391, by Senator Marcellino.

THE SECRETARY: Calendar Number 1391, by Senator Marcellino, Senate Print 7355A, an act to amend the Environmental Conservation Law.

SENATOR MARCELLINO: Mr. President, this bill changes the state's Title V Program, makes changes which are necessary in order for the DEC to gain full approval from the EPA for their Title V program. Failure to receive approval from the EPA could result in the imposition of federal sanctions as well as the implementation of the federal program where EPA would take over the program responsible for permitting New York's Title V sources, and EPA would collect the per ton emission fees from such sources for deposit in the U.S. Treasury.

The EPA has informed New York State that the state's Title V program can not receive full approval without making these necessary changes. Both NYPIRG and EPL have criticized this bill because it -- excuse me.

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

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee -- immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

Thank you for the interruption, Senator Marcellino. If you wait just a minute, I think with people leaving for the Rules Committee, it will quiet down, and then you will be able to continue with your explanation.

Senator Marcellino.

SENATOR MARCELLINO: As I stated before, Mr. President, both NYPIRG and EPL had criticized this bill because it allows the DEC to change the Title V permit application dead

line in order to match the deadline requirement of the EPA. The EPA, in recognition of the complexity of the new Title V permitting program, is allowing states to use a total of five years to make the program fully operational rather than the three years currently allowed in New York State statute.

It is in the best interest of New York to take advantage of this federal deadline extension. Both DEC and approximately 1,000 facilities required to apply will benefit from the extension. DEC will have more time to permit -- to process permit applications, while industry, in particular small businesses, will have more time to prepare permit applications. Additionally, the public will have more time to participate in the permit process.

Over 80 percent of the heaviest sources have already been incorporated under the process. The 20 percent we're talking about are the small businesses which do not have the staffs or the resources of these larger businesses. They still must comply with all

emission guidelines. This does not permit them to pollute. It simply gives them more time to do paperwork while they must still meet all standards under the guidelines. So there is no way in which we're letting them off the hook; we're simply allowing them a little extra time to do some paperwork.

I note that the environmental advocates, EPL, opposes this legislation and there is a sentence that is repeated twice in their memo of opposition, and it says, "...to allow the DEC to take as much time as they want to approve all operating permits for stationary sources."

That is clearly not the intent of this bill. We are now allowing anybody to take as much time as they want to. We are simply saying let this state comply with the federal level and the federal time span.

This will be a good bill that will permit us to allow small businesses to come into compliance. The state will avoid being sanctioned by the federal government and the

loss of whatever fines the state might want to impose on those businesses that do not comply.

We think it's a good bill and worthy of being accepted.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Mr. President, will Senator Marcellino yield, please?

ACTING PRESIDENT KUHL: Senator Marcellino, do you yield?

SENATOR MARCELLINO: Yes, sir.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: As I understand it, the main purpose of this bill is in relation to the DEC's plan to try to bring New York State into compliance with federal clean air standards. Is that correct?

SENATOR MARCELLINO: Yes.

SENATOR LEICHTER: Right, and as you and I know, and everybody else here, we have had an abysmal record of complying, and DEC - and I'm not blaming the current administration

because it goes back to the previous administration -- has had a very unfortunate record in meeting deadlines. The Legislature would say, Have a report by such and such a date. They would just ignore it.

We have ignored federal requirements, and in many other ways, we failed to act as aggressively as we need to, to see that the people of this state have clean air.

Now, my concern is that, as I understand, the main purpose of your bill isn't small business, and so on. The main purpose of your bill is to give DEC more time, which we can do in compliance with federal law as you rightly point out. But my question to you is, is that of real benefit, to give this agency which has been such a laggard and has been so tardy, to give them more time?

Why not try to hold their feet to the water? Why not say the three years, which I believe you mentioned, they have now? If later it turns out, for justifiable reason, they need more time, do that.

So my question is, shouldn't we try to keep them on a fairly tight leash?

SENATOR MARCELLINO: Senator, New York State has already had an advanced air permitting program when Title V was enacted, and New York State is ahead of many states, and our permits are still in place. 60 percent -- under this five-year transition plan, 60 percent of all Title V facilities representing 80 percent of the aggregate emissions would come under, "must receive their permits within the first three years," and will.

We are, in fact, allowing those smaller businesses a little more time for paperwork purposes only. They must comply with all emissions standards. They are not given relief from compliance with the emission standards. The only thing we're giving them is some time to fill out paperwork which the EPA at a federal level has recognized is extremely complicated and is allowing everyone to have five years.

So I agree with you. In the

past, the DEC has had an abysmal record and the state of New York is not -- should not be overly happy with that. However, in this particular situation, we're not impacting air quality; we're simply taking time with paperwork.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Mr. President, just very briefly on the bill.

I thank my good friend Senator Marcellino. I understand his point.

I would say that in weighing the various considerations, balancing them, it seems the most important thing is to try to get the state of New York as quickly as possible into compliance with the federal Clean Air Act.

Obviously, this is not a merely technical issue. It's a matter of -- you see the trouble I'm having breathing. It's clearly a matter of the welfare, the health of the people of the state of New York, and the feeling is that if you extend the permitting period two more years, that's going to become the time when

action is going to be taken instead of being taken more expeditiously. It's for that reason that EPL and NYPIRG have opposed it, their thrust being we ought to move as quickly as we possibly can, keep DEC's feet to the fire, make all of the various sources of pollutants comply as quickly as possible.

DEC, as I understand it, has the staff. They can process these within three years. If they need more staff, we would provide it. But it's certainly not to the benefit of the health of New Yorkers to extend this period by two more years.

SENATOR MARCELLINO: Mr. President, just to get the record clear.

Again, we are not extending compliance with air emission quality standards. Every business will still be held to the full air quality standards of their pre-permitting process. They must comply. We're talking about paperwork here. This is a case where these environmental organizations, these activist organizations, once again have not looked at the

bill and read it carefully.

Similar to what Senator LaValle pointed out yesterday with respect to Senator Volker's bill, they reissued a memo in opposition on a bill that no longer existed. This memo in opposition -- as I read to you, it does not give unlimited time. This is clearly a misstatement. It was pointed out, and they refused to change it.

I don't really care if you are in opposition or you disagree, but at least be accurate. I mean they are supposed to be accurate if they are going to give us information.

So in this case, what we think we are doing is a good thing. In fact, these necessary amendments that are made in this bill to the Title V program will actually benefit the environment. A great benefit of this bill is that it requires the DEC to consider a source's fugitive emissions when calculating their overall emissions. This will result in more success, more sources being subject to Title V

sources, thus providing for even greater protection of the environment.

I move this bill be accepted, sir.

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

(There was no response.)

If not, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

Record the negatives. Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 1391 are Senators Abate, Connor, Dollinger, Gold, Goodman, Hoffmann, Leibell, Leichter, Markowitz, Nanula, Onorato, Oppenheimer, Paterson, Seabrook, Stachowski and Waldon. Ayes 39, nays 16.

ACTING PRESIDENT KUHL: Bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we call up Calendar 529, by Senator Holland. I believe it's the active calendar, active list on the main calendar.

ACTING PRESIDENT KUHL: On page 11, Calendar No. 63, first calendar of the day. The Secretary will read the title of Calendar Number 529, by Senator Holland.

THE SECRETARY: Calendar Number 529, by Senator Holland, Senate Print 5536C, an act to amend the Real Property Tax Law.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: I move that it be accepted.

ACTING PRESIDENT KUHL: The

motion is to accept the message of necessity on Calendar Number 529.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

Message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, do you have any housekeeping at the desk?

ACTING PRESIDENT KUHL: Senator

DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: I would request unanimous consent to be recorded in the negative on the first calendar, Calendar Number 1161. The bill is S.7083B.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator DeFrancisco will be recorded in the negative on Calendar Number 1161.

Senator Marcellino, we don't have any housekeeping, other than we have a report from the Rules Committee at the desk.

SENATOR MARCELLINO: Mr. President, may we return to the reports of standing committees so we might read and adopt the report of the Rules Committee?

ACTING PRESIDENT KUHL: We will return to the order of reports of standing committees. There is a report of the Rules Committee at the desk.

I will ask the Secretary to read the Rules report.

THE SECRETARY: Senator Bruno,

from the Committee on Rules, reports the following bills:

Senate Print 2447, by Senator Dollinger, an act to amend the Vehicle and Traffic Law;

4646B, by Senator Farley, an act to amend the Banking Law and the Real Property Law;

5208A, by Senator Present, an act to amend the General Municipal Law;

7483, by the Senate Committee on Rules, an act to amend the Tax Law;

7573A, by Senator DeFrancisco, an act to legalize, ratify and confirm;

7758A, by the Senate Committee on Rules, an act to amend the Parks, Recreation and Historic Preservation Law;

7779, by Senator Hannon, an act to amend the Public Health Law and the Education Law;

7810, by Senator Libous, an act to amend the Education Law;

7829, by Senator Lack, an act

relating to the preservation, protection and management;

And 7845, by Senator Volker, an act to amend the Public Authorities Law.

All bills ordered directly for third reading.

ACTING PRESIDENT KUHL: The motion is to accept the rules report.

All those in favor of accepting the Rules report, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The Rules report is accepted.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, at this time, may we have a noncontroversial reading of Supplemental Calendar No. 3?

ACTING PRESIDENT KUHL: All the bills have been distributed. The Supplemental Calendar No. 3 should be on every member's desk.

I'll ask the Secretary to read the noncontroversial reading of Supplemental Calendar No. 3.

THE SECRETARY: Calendar Number 1638, by Senator Dollinger, Senate Print 2447, an act to amend the Vehicle and Traffic Law, in relation to the issuance of parking tickets.

ACTING PRESIDENT KUHL: There is a home rule message at the desk.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: 1639, by Senator Farley, Senate Print 4646B, an act to amend the Banking Law and the Real Property Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Lay the bill aside.

SENATOR PATERSON: Mr. President.

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

SENATOR PATERSON: We have no objection to this bill. You can have the Secretary read the last section.

ACTING PRESIDENT KUHL: The Secretary will read the last section to Calendar Number 1639.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1640, by Senator Present, Senate Print 5208A, an act to amend the General Municipal Law, in

relation to peace officers.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1641, by the Senate Committee on Rules, Senate Print 7483, an act to amend the Tax Law, in relation to the distribution mechanism.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1642, by Senator DeFrancisco, Senate Print 7573A, an act to legalize, ratify and confirm certain actions and proceedings.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

Announce the results when tabulated.

THE SECRETARY: Ayes 54, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1643, by the Senate Committee on Rules, Senate Print 7758A, an act to amend the Parks,

Recreation and Historic Preservation Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

SENATOR LEICHTER: Mr. President, when I voted negative, it was on 1643 -- or I intended it to be 1643. I see it was on 1642. So would you please vote me in the affirmative on 1642, and lay aside 1643?

ACTING PRESIDENT KUHL: Without objection, and hearing no objection, Senator Leichter will be recorded in the affirmative on Calendar Number 1642.

The Secretary will continue to call the noncontroversial Supplemental Calendar No. 3, Calendar Number 1644.

THE SECRETARY: Calendar Number 1644, by Senator Hannon, Senate Print 7779.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1645, by Senator Libous, Senate Print 7810, an act to amend the Education Law, in relation to

the definition of practice of podiatry.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1646, by Senator Lack, Senate Print 7829.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1647, by Senator Volker, Senate Print 7845, an act to amend the Public Authorities Law, in relation to the Horizons Waterfront Development Project.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: I move that it be accepted.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar

Number 1647.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

Message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we now have a reading of the controversial calendar for Supplemental Calendar No. 3?

ACTING PRESIDENT KUHL: The

Secretary will read the controversial reading of Calendar Number -- Supplemental Calendar No. 3, commencing with Calendar Number 1643.

THE SECRETARY: Calendar Number 1643, by the Senate Committee on Rules, Senate Print 7758A, an act to amend the Parks, Recreation and Historic Preservation Law.

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

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Marcellino, an explanation has been asked of Calendar Number 1643.

SENATOR MARCELLINO: Senator Kuhl -- Mr. President. For purposes of giving an explanation, Senator DeFrancisco should be recognized.

ACTING PRESIDENT KUHL: Chair recognizes Senator DeFrancisco for the purpose of an explanation.

SENATOR DeFRANCISCO: We recently passed a bill that was much broader than this to authorize 40-year leases that the Parks and

Recreation Department could enter into for just a broad, undefined number of projects. Basically, what this bill does is it limits it to specific projects that are listed in the bill narrowing substantially the broader bill that was passed earlier this week.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1644, by Senator Hannon, Senate Print 7779.

ACTING PRESIDENT KUHL: Lay the bill aside. The bill is still high.

THE SECRETARY: Calendar Number 1645, by Senator Libous, Senate Print 7810, an act to amend the Education Law, in relation to

the definition of practice of podiatry.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Libous, an explanation has been requested of Calendar Number 1645.

SENATOR LIBOUS: Thank you, Mr. President.

Basically, what this legislation does is it defines the definition of the practice of podiatry.

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

Senator Paterson.

SENATOR PATERSON: Mr. President, will the Senator yield for a question?

ACTING PRESIDENT KUHL: Senator Libous, do you yield?

SENATOR LIBOUS: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, this will expand the scope of podiatry under the law?

SENATOR LIBOUS: No. It actually redefines it, Senator.

SENATOR PATERSON: Redefines it? Would the podiatrist now be able to perform what would in a sense be a physical examination?

SENATOR LIBOUS: No, Mr. President. As a matter of fact, Senator Paterson is probably referring to a memo of opposition by the Medical Society.

Senator Paterson, I just want to bring this to your attention because I think it will answer your question.

The memo of opposition is on Bill Senate Print 6285. We're debating 7810 and, Senator, we have amended the bill since this memo has been printed. As a matter of fact, the bill was reprinted on Tuesday, the 12th, and I see this memo was written on 6/13. Apparently, the Medical Society didn't update their memo.

But that is now taken out of the bill, Senator.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Well, I know about the first bill, Senator. But this memo I have is on 7810. It is updated. They still oppose it, and the reason that they oppose it is that they feel that podiatrists don't have the education requisite to actually allow for these physical evaluations, so it appears that they have come forward with a memorandum in opposition.

So I was wondering if you would yield for another question.

ACTING PRESIDENT KUHL: Senator Libous, do you yield?

SENATOR LIBOUS: Certainly, Mr. President.

Senator Paterson, if I could see a copy of that, because I don't have that memo, but I can answer your question. I will be happy to answer your question.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: (Holding up the paper in his hand) Can you see it?

(Laughter.)

SENATOR LIBOUS: I see it.

The provision that you are discussing basically is defined when we're talking about podiatric treatment, and that is specifically defined already.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you very much, Senator Libous.

Perhaps while the Senator is taking a look at the memorandum so that he might want to reflect on anything further that it says, I will just state for the record that the Medical Society does oppose the legislation. They do feel that there is a standard of professionalism and educational level that must be achieved in order to pronounce or, as would be the case, offer a physical evaluation of an individual who seeks the assistance of a medical care professional and that podiatrists are not trained in that particular area.

No disrespect to podiatrists, but

that this is something that is outlined in procedures and training that medical physicians go through and is perhaps injurious to the public to have individuals that don't meet the standard to be able to do this.

Now, of course, in the past, there's always been a whole situation involving tradition and the fact that podiatrists or any other individuals may work in the field -- and they actually do a very good job, but for legal protections and for the peace of mind of the consumer, I believe this is why the Medical Society has taken a second look at the second bill and has offered the memorandum in opposition.

SENATOR LIBOUS: Mr. President, I can answer Senator Paterson's concern.

Basically, Senator Paterson, what this does, if you take an individual like my father, who is a diabetic who goes to a podiatrist on a regular basis, when he goes in, that physical examination basically means they may take his blood pressure and make sure that

he is in good health overall.

But the guidelines for the practice of podiatry are pretty restrictive. Those guidelines are already in place, and this is nothing different than what presently takes place now.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator. I'm sorry that you weren't aware of the memorandum, and that's really quite responsive in a very short period of time, and I thank the Senator for his response. Thank you.

Mr. President, on the bill. According to the bill, this legislation would also allow for open physical traumatic wounds where the bone might even be escaping the circumference of the skin area, and although this treatment can only be allowed for in a hospital, it is again something that we wonder if podiatrists have received the apt training.

I don't know if Senator Libous wants to comment on that, but that was the other

concern I just wanted to raise.

Thank you.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect in 90 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar 1645 are Senators Connor, DeFrancisco, Farley, Hoffmann, Marcellino, Nanula, Oppenheimer, Paterson, Seabrook and Seward. Ayes 46, nays 10.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr.

President, at this time, is there any housekeeping? The ever-popular broom.

ACTING PRESIDENT KUHL: There's nothing at the desk.

Senator Hoffmann, why do you rise?

SENATOR HOFFMANN: Mr. President, I request unanimous consent to be recorded in the negative on Calendar 1161.

ACTING PRESIDENT KUHL: That was 1166, Senator?

SENATOR HOFFMANN: 1161.

Thank you.

ACTING PRESIDENT KUHL: 1161 - excuse me. Without objection, hearing no objection, Senator Hoffmann will be recorded in the negative on Calendar Number 1161.

There is no housekeeping at the desk, Senator Marcellino.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Pending further messages of necessity, may the Senate stand at ease, and we'll call you back. Please stay close so we can call you back when we receive the appropriate messages.

I'm sorry. Stand at ease.

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

(Whereupon, at 4:30 p.m., Senate was at ease.)

(The Senate reconvened at 5:37 p.m.)

ACTING PRESIDENT KUHL: Senate will come to order.

SENATOR SKELOS: Mr. President, at this time could you, on the original calendar, the main calendar, would you please call up Calendar 282.

ACTING PRESIDENT KUHL: For the benefit of the members we're on Calendar Number 63, the original calendar of the day. We'll call up Calendar Number 282.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Yes, Senator Gold. Why do you rise?

SENATOR GOLD: Before you do that, could I please be recorded in the negative on Calendar 1645.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Gold is recorded in the negative on 1645.

Secretary will read the title of Calendar Number 282.

THE SECRETARY: Calendar Number 282, by Senator Lack, Senate Print Number 3775 C, an act to amend the Family Court Act.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk.

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept the message.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar

282. All those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the main calendar would you call up Calendar Number 452.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar 452.

THE SECRETARY: Calendar Number 452, by Senator Holland, Senate Print 218-A, an act to amend the Real Property Tax Law.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar 452. All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Message is accepted. Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the main calendar, Calendar 1020, would you call up Calendar 1020.

SENATOR TULLY: Mr. President, a point of information. Are we on Calendar Number 63.

ACTING PRESIDENT KUHL: We're on Calendar Number 63, the first calendar of the day. We've passed two bills, Calendar 282 and 452. Now we're going to Calendar 1020.

Secretary will read the title of Calendar Number 1020.

THE SECRETARY: On page 26, Calendar Number 1020, by Senator Cook, Senate Print 7353-A, an act to amend the Education Law.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move we accept the message.

ACTING PRESIDENT KUHL: Motion is

to accept the message of necessity on Calendar Number 1020. All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

ACTING PRESIDENT KUHL: Motion is accepted. Secretary -

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Explanation of Calendar 1020 has been asked for.

SENATOR COOK: Mr. President, essentially this bill permits school districts to designate a certified nurse practitioner as the head of the school health services when there is no physician available in the district.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President. Would you repeat after me: The Secretary -

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

SENATOR PATERSON: You've got it.

THE SECRETARY: Section 19. This act shall take effect on the first day of September.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: On the main calendar, Mr. President, would you call up Calendar Number 1399.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 1399.

THE SECRETARY: Calendar Number 1399, by Senator Hoblock, Senate Print 7631-A, an act to amend the Criminal Procedure Law, the Family Court Act and the Penal Law.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Message of necessity at the desk.

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept the message.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 1399. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

Secretary will read the last section.

THE SECRETARY: Section 7. This act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on Supplemental Calendar Number 1, please call up Calendar Number 1603, by Senator Farley.

ACTING PRESIDENT KUHL: On Supplemental Calendar Number 1, Secretary will read the title of Calendar Number 1603, by Senator Farley.

THE SECRETARY: Calendar Number 1603, by Senator Farley, Senate Print 3289-C, an act to amend the Tax Law.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 1603. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the original active list, would you call up Calendar Number 721.

ACTING PRESIDENT KUHL: Back on the regular calendar, but on the supplemental active list, Secretary will read the title of Calendar Number 721.

THE SECRETARY: Calendar Number 721, by Senator Kuhl, Senate Print 3981-A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: Yes, there is.

SENATOR SKELOS: Move we accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 721. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there are two -- if we could return to motions and resolutions. I believe there are two resolutions at the desk by Senator Kuhl. I ask the titles be read on each one and move their adoption.

ACTING PRESIDENT KUHL: Return to motions and resolutions, and the Secretary will read the title to the two privileged resolutions at the desk.

THE SECRETARY: By Senator Kuhl, Legislative Resolution congratulating Mildred and Robert DeWitt upon the occasion of their 50th Wedding Anniversary.

Legislative Resolution commending Glenn Miller as Firefighter of the Year by the Yates County Firemen's Association.

ACTING PRESIDENT KUHL: Question is on the resolutions. All those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolutions are adopted.

Chair recognizes Senator Farley.

SENATOR FARLEY: Do I have to stand?

On behalf of Senator Wright over here, I offer the following amendments to Calendar Number 1005, Senate Print 6629-B, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to 1005 are received and adopted and the bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, on Calendar 63, would you call up Calendar 803.

ACTING PRESIDENT KUHL: On the original calendar, Secretary will read the title of Calendar 803.

THE SECRETARY: Calendar Number 803, by Senator Maltese, Senate Print 5843-A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 875.

ACTING PRESIDENT KUHL: Secretary will read the title of Number 875.

THE SECRETARY: Calendar Number 875, by member of the Assembly Sweeney, Assembly Print 6132-E, an act to amend the Education Law and the State Finance Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 6. This

act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 920.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 920, on page 21.

THE SECRETARY: Calendar Number 920, by Senator LaValle, Senate Print 7226-A, an act to amend the Education Law and others.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 56. This act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Abate, why do you rise?

SENATOR ABATE: Yes, Mr. President. I ask unanimous consent to be recorded in the negative on Calendar Number 1645.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Abate is recorded in the negative on Calendar Number 1645.

SENATOR ABATE: Thank you.

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

SENATOR SANTIAGO: Mr. President, I would like the record to show that if I had been in the chamber when the following bills were called, I would have voted in the negative. That's Senate Bill 5590, 5591, 5592, 5593, 5594, 7714, 7723, 7724, 7725 and 7733.

Thank you very much.

ACTING PRESIDENT KUHL: Senator

Santiago, the record will reflect that had you been in the chamber when the roll call was taken on these bills, that you would have voted in the negative.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the original active list, would you call Calendar Number 1533, by Senator Tully.

THE SECRETARY: Calendar Number 1533 -

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1533.

THE SECRETARY: Calendar Number 1533, by Senator Tully, Senate Print 4908-A, an act to authorize the county of Nassau.

SENATOR SKELOS: Mr. President, is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move we accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar 1533. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on Supplemental Calendar Number 3, would you call up Calendar Number 1646, by Senator Lack.

ACTING PRESIDENT KUHL: On Supplemental Calendar Number 3, page 1, Secretary will read the title to Calendar Number 1646.

THE SECRETARY: Calendar Number 1646, by Senator Lack, Senate Print 7829, an act

relating to the preservation, protection and management.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move we accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 1646. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, can we stand at ease, please.

SENATOR WRIGHT: Mr. President. Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos. Prior to Senator Skelos.

Senator Wright, why do you rise?

SENATOR WRIGHT: Thank you, Mr. President. I ask unanimous consent to be recorded in the negative on Calendar Number 1645.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Wright will be recorded in the negative on Calendar Number 1645.

Senator Skelos.

SENATOR SKELOS: On the main calendar, Calendar 63, would you call up Calendar Number 479.

ACTING PRESIDENT KUHL: Secretary

will read the title to Calendar Number 479 which is on page 10 of the original calendar of the day, Calendar Number 63. Secretary will read.

THE SECRETARY: Calendar Number 479, by Senator Saland, Senate Print 6145-A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 658.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 658, on page 14 of Calendar Number 63.

THE SECRETARY: Calendar Number

658, by member of the Assembly Harenberg, Assembly Print 3490-A, an act to amend the Executive Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 772.

ACTING PRESIDENT KUHL: Secretary will read the title of Calendar Number 772, which is on page 18.

THE SECRETARY: Calendar Number 772, by Senator Holland, Senate Print 6860-B, an act to amend the Social Services Law.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

THE SECRETARY: Section 3. This act shall take effect 100 -

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Senator Holland, an explanation of Calendar 772 has been asked for by Senator Leichter.

SENATOR HOLLAND: Mr. President, the purpose of this bill is to divert applicants and recipients of public assistance from public assistance rolls if their needs can be met by providing a child care allowance rather than cash benefits. In other words, they would just receive child care allowance.

SENATOR LEICHTER: Senator Holland yield, please?

ACTING PRESIDENT KUHL: Senator Holland, do you yield to Senator Leichter? Senator yields.

SENATOR LEICHTER: Yeah, Senator, let me just see if I understand it. People - this applies to people on public assistance who also are employed?

SENATOR HOLLAND: Anyone. It could apply to anyone who qualifies for public assistance -

SENATOR LEICHTER: Right.

SENATOR HOLLAND: -- but doesn't take public assistance, only child care. They would have to qualify for it though.

SENATOR LEICHTER: O.K. Obviously they'd have to have children to qualify for day care.

SENATOR HOLLAND: Yes.

SENATOR LEICHTER: I understand that, and they would be given a choice of either getting their public assistance grant or receiving day care.

SENATOR HOLLAND: Only day care, yes, sir, and they would have to be employed as you suggested.

SENATOR LEICHTER: I'm sorry. Could you speak up? I can't hear.

SENATOR HOLLAND: And they would have to be employed, as you suggest.

SENATOR LEICHTER: They would

have to be employed.

SENATOR HOLLAND: Yes.

SENATOR LEICHTER: Now, for the sake of the argument, if the cost of the day care is more than the grant that they were receiving, would they still qualify for the day care?

SENATOR HOLLAND: So that you understand, they would already be eligible for the day care. They would -- they would have to qualify for the day care. Try again.

SENATOR LEICHTER: Well -

SENATOR HOLLAND: If the day care was worth more than the other, they would get the day care, yes. Is that the question?

SENATOR LEICHTER: All right. And is that the choice of the day care recipient?

SENATOR HOLLAND: The choice would be of the applicant, yes. They could either choose to go on PA or they could, yes, choose the day care.

SENATOR LEICHTER: Is there any

diminution in benefit as a consequence of your bill?

SENATOR HOLLAND: Well, necessarily, they would not get the cash grant but that's their choice. They would choose just the day care.

SENATOR LEICHTER: Well, Senator, is it possible under existing law that one of the people who would be covered by your bill could presently receive a grant, that they might also be qualified to receive day care in an effort to get that person back to work?

SENATOR HOLLAND: Yes.

SENATOR LEICHTER: But under your bill they could no longer receive both the grant and day care?

SENATOR HOLLAND: It's not that they could no longer, Senator. It's that some people choose not to go on public assistance at all, even though they're qualified for it. These people could choose just the day care component if they so chose. Right now they would have to go on public assistance in order

to get the day care. Under this bill they could choose only day care if they wanted to.

SENATOR LEICHTER: So am I correct in understanding that the purpose of this is that, for those people who would qualify for public assistance and day care but who, for various reasons, do not wish to take the public assistance, at least it would enable them to get the day care?

SENATOR HOLLAND: That's correct.

SENATOR LEICHTER: And that's all that the bill does?

SENATOR HOLLAND: Yes, sir.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill? Hearing none, the Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect in 180 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Would you call up Calendar Number 1585, by Senator Saland.

ACTING PRESIDENT KUHL: Secretary will read the title to Calendar Number 1585 on page 40 of the first calendar of the day, Calendar Number 63.

THE SECRETARY: Calendar Number 1585, by Senator Saland, Senate Print 7672, an act in relation to authorizing the city of Poughkeepsie.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the original active list, would you call up Calendar Number 939, by Senator Rath.

ACTING PRESIDENT KUHL: Secretary will read the title to Calendar Number 939, on page 22 of the original calendar.

THE SECRETARY: Calendar Number 939, by Senator Rath, Senate Print 7153-B, an act to amend the County Law and the General Municipal Law.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move we accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 939. All those in favor signify by saying aye.

(Response of "Aye.")
Opposed nay.
(There was no response.)
The message is accepted.
Secretary will read the last section.
THE SECRETARY: Section 7. This act shall take effect immediately.
ACTING PRESIDENT KUHL: Call the roll.
(The Secretary called the roll.)
THE SECRETARY: Ayes 57.
ACTING PRESIDENT KUHL: The bill is passed.
Senator Skelos.
ACTING PRESIDENT KUHL: Senate will come to order.
SENATOR SKELOS: Mr. President.
ACTING PRESIDENT KUHL: Have the members take their places, curtail the conversations. We still have some business to do.
Senator Leichter? Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 271, by Senator Levy. This bill had passed previously, was recalled, amended, and now we have a message from the Governor.

ACTING PRESIDENT KUHL: Secretary will read the title to Calendar Number 271. For the benefit of those members, the bill was just distributed and placed on your desks. Secretary will read.

THE SECRETARY: Calendar Number 271, by Senator Levy, Senate Print 5960-A, an act to amend the Vehicle and Traffic Law and the Criminal Procedure Law.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk.

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move we accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 271. All those in favor signify by

saying aye.

(Response of "Aye.")

All those opposed nay.

(Senator Marchi indicates negative.)

ACTING PRESIDENT KUHL: Is there any Senator wishing to speak on Calendar Number 271?

Senator Dollinger?

SENATOR DOLLINGER: Could we just have a quick explanation, Mr. President?

SENATOR LEVY: Senator, we had a rather lengthy discussion on this bill yesterday. Let me say that there is now a three-way agreement. This is a Governor's program bill. Thirty-two states, plus the District of Columbia, have previously enacted what is called colloquially a "zero tolerance" bill, .02, .01 or zero BAC.

This is a .02 bill. There are three -- explanation satisfactory?

SENATOR DOLLINGER: Well, I just -- what is different in this bill -

SENATOR LEVY: I just was going to give you the three substantive changes. This is a less restrictive bill than we passed here yesterday. That bill was also a Governor's program bill.

Under the bill we had before us yesterday, the suspension period was nine months; under this bill it is now consistent with my bill of last year which passed this house. The same provision was in the Assembly bill; the Assembly did not pass their bill last year. They passed the bill this year. The bill before us has the six-month penalty that we had in last year's bill.

The second provision under the Governor's program bill, the records were in existence for ten years. Under this bill there is a compromise. The records are to be destroyed not longer than three years or to the age of 21, whichever is longer, so it is less restrictive.

SENATOR DOLLINGER: Through you, Mr. President, not just -- is that from the date

of the infraction or the date of the incident?

SENATOR LEVY: Yes, from the date of the incident, yes, from the date of the incident.

And finally under the Governor's program bill someone who is charged not under the bill we had before us yesterday but charged with DWAI, less than .10, under the Governor's bill a person who was 16, 17, 18, 19 or 20 under the Governor's bill, they could not plead out of 1192-a, to a non-alcohol offense.

Under this bill, with the consent of the district attorney, a young person 16 through and including 20 can plead to .02, operating a motor vehicle after having consumed alcohol. Those are the three substantive changes.

ACTING PRESIDENT KUHL: Senator Dollinger.

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

I want to commend Senator Levy. We've spoken about this before, seeing this

thing through to the conclusion. I think that's a fair compromise with those three ingredients in it. As a father of a 17-year-old, I can appreciate what this bill is all about, and I strongly support it.

Thank you.

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: Mr. President, if I could explain my vote.

ACTING PRESIDENT KUHL: Let me read the last section then. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR MARCHI: I only say this with the greatest respect for my distinguished

colleague, Senator Levy. I have taken a position -- I am not going to belabor this at this hour -- that once they're 18, we shouldn't have two standards. One standard should apply to all. If it's zero, zero for everybody, but I don't -- I don't buy the concept that there be a notion of gradualism.

In fact, I don't agree with the 21-year-old law to begin with. I just think that it creates a cynicism among youngsters. It's my point of view, and I think the majority of the population doesn't agree, but I don't think it's a constructive way to approach the problem of sobriety in the operation of a motor vehicle or the conduct by a young adolescent or emerging adult with respect to alcohol.

So I vote no.

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

The Chair recognizes Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Yes, I also vote in the negative, and I spoke on this when

it came up the last time, that .02 or .01 are standards which I think come within the standard deviation of error in the testing that is conducted by the tests that are used for DWI arrests and, as Senator Marchi mentioned and I mentioned the last time, we are in a situation that we are treating people of different ages differently.

If it's such a wonderful idea to have zero tolerance, then we should have zero tolerance not only for the people that vote the least, the young adults, but for the senior citizens, the people that aren't senior citizens, the whole community, and I think it's a standard that should apply to all, not to just one group. If it was any other group that we were carving out to have special more stiff laws, then I think we would have outrage expressed on this Senate floor.

So no doubt someone at some point will accuse me of coddling, coddling those individuals who would violate the alcoholic beverage laws in the state of New York. They

are dead wrong. I just think this type of bill is the wrong bill to accomplish that. I've supported many, many bills dealing with stiffer penalties for DWI that were across the board and I feel that this bill is not a good bill and for those reasons I'm voting no.

ACTING PRESIDENT KUHL: Senator DeFrancisco will be voting in the negative.

The Chair recognizes Senator Hoffmann, to explain her vote.

SENATOR HOFFMANN: I find myself in very strong agreement with Senator DeFrancisco in this instance, and I have a great deal of difficulty setting a double standard for young people. I believe if they are responsible drivers, we should treat them as responsible drivers and we should not create an entirely different standard of measurement for them than for the rest of the population.

I was one of those people who initially opposed increasing the drinking age out of concern that we would be sending a message to young people that we expected them to

be abusive of alcohol. This is another illustration that sends a very negative message to young people. It implies that they are somehow incapable of doing what other people are doing, that we expect them to do wrong, and it becomes a self-fulfilling prophecy.

People in Central New York in the law enforcement field have made it extremely clear to me that, in the year since the drinking age has been raised, there is a proliferation of illegal drinking, and I'm afraid that there is also a spill-over effect of other illegal activity and a general lack of respect for the law. People who are singly targeted by special legislation are going to be disrespectful of the law and lawmakers in a larger arena, and we are once again inviting young people to disrespect us by showing that we do not have confidence in them.

I will vote in the negative.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 271 are Senators DeFrancisco, Hoffmann, Holland and Marchi. Ayes 53, nays 4.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on Supplemental Calendar Number 1, Calendar Number 1623, by Senator Stafford, would you please have the title read.

ACTING PRESIDENT KUHL: We're moving to Supplemental Calendar Number 1, page 3, Secretary will read the title to Calendar Number 1623.

THE SECRETARY: Calendar Number 1623, by Senator Stafford, Senate Print 7749, an act approving the exchange of certain lands.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept the message.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 1623. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on Supplemental Calendar Number 2, would you please call up Calendar Number 1633.

ACTING PRESIDENT KUHL: We're moving to calendar -- Supplemental Calendar Number 2, page 1. Secretary will read the title of the Calendar Number 1633.

THE SECRETARY: Calendar Number 1633, by Senator Padavan, Senate Print 7744, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 1633. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. There

is a home rule message at the desk. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on Supplemental Calendar Number 3, would you call up Calendar Number 1644, by Senator Hannon.

ACTING PRESIDENT KUHL: We're now moving to Supplemental Calendar Number 3, page 1, ask the Secretary to read the title of Calendar Number 1644.

THE SECRETARY: Calendar Number 1644, by Senator Hannon, Senate Print 7779, an act to amend the Public Health Law.

ACTING PRESIDENT KUHL: Senator

Skelos.

SENATOR SKELOS: Mr. President, is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move we accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 1644. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Message is accepted.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Hannon, an explanation OF Calendar Number 1644, Senate Print Number 7779, has been requested by the Acting Minority Leader, Senator Paterson.

SENATOR HANNON: Mr. President, this legislation would improve the physician discipline procedures of the state of New York. We last passed major legislation on this in 1991. It's become obvious that there is a need

to do some substantial fine tuning, and there are some significant changes that we believe will aid things in general and prevent such tragedies as occurred with the Dr. Benjamin case in which a patient died during a procedure being performed by that doctor after a medical disciplinary committee had already ordered that his license be revoked.

There are a number of changes here, in regard to public disclosures of orders, elimination -- an automatic stay which would allow people who already received disciplinary action to stay that while appeal is pending, notice, summary orders, there are a number of things that are done including ironically the requirement that when a disciplinary action has been taken by an HMO, that that would be reported to the Department of Health.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Hannon would yield for a few questions.

SENATOR HANNON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator, when there is a -- when there is a stay pending the appeal, the doctor is not allowed to practice at that time, is he or she? I was wondering, can the doctor practice at that time during the stay?

SENATOR HANNON: Now, there is an automatic stay that is available to the physician in the -- after there has been a hearing and they make appeal either to the courts or to the administrative review board. This bill would remove that automatic stay in those very serious cases which involve a revocation or suspension.

Other things that might involve better record keeping or something, those would continue to be subject to the stay.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. Just one second. I beg your indulgence, Mr. President.

Thank you, Mr. President. So Senator, I think I have this right now. In a case such as -- I'm not really sure, but I have to at least try to be positive.

In the 1991 situation as in the case of what happened with Dr. Benjamin, in that particular case since there was a recommendation of a disciplinary committee, am I correct that he had a stay at that particular time, this would now remove it and he wouldn't have been able to have been practicing at that time should a situation recur in another instance?

SENATOR HANNON: You're exactly right, Senator, and this is one of the, I think, two major improvements that this bill adds to the current process. It really leaves all of us in a bit of an untenable public posture to have constructed a system, to have a complaint made, an investigation made and a hearing been carried out and the result of that hearing is that

somebody should have their license suspended or revoked and yet by the mere fact of filing appeal to the courts, their being able to continue that practice.

I might add, Senator, you remind me of a point that is another -- the other major aspect of this is that of the time at which the publicity about the action occurs has been moved early in the process so that as soon as the hearing takes place and there has been a result, that there is a narrow public disclosure.

That is not the case under the current situation, so we think that once again, we make this a much more dependable procedure, much more tenable procedure, that we say that after the hearing has been carried out that it should be public and there should not be in very serious cases an automatic stay.

Those are the major advances, and I think that the people who are supporting this legislation, the Medical Society had to go through a lot of internal decision-making to come up with that conclusion that this ought to

be supported.

There were other groups, consumer groups, profes... people who help deal with consumer -- with medical education, treatment, thought that this was an excellent advance, people like NYPIRG and the New Yorkers for Professional -- I think professional medical - Professional Medical Treatment. I don't have the exact name right here, so I think these are some major advances.

Do they answer all the questions that are out there? I'm not so sure. We're dealing with once again a medical profession. It's a question of dealing with treatment of art. It's not totally a science. We wish it were much more certain, had much more exacti tude, but could we -- I think these make major advances.

SENATOR PATERSON: Well, so far, Senator, it's quite thorough. If the Senator would yield for a couple more questions.

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

SENATOR HANNON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator, on the issue of the publication if adopted, beyond the regular publication that takes place, is there any specific publication in the doctors' records of the patients who are known to be patients of the doctor at that time?

SENATOR HANNON: No, but that's -- that is an ongoing question in regard to treatment, an ongoing question regard to questions of procedure. There is just a question of how far you can extend this string out. In fact, until we get into a managed care system, there probably is no recordkeeping that would make available to anybody who has been - what people have been treated for what.

We think of the way that your own individual records are kept, that your own individual physicians, there is no way that they have an overall program that says that they're

able to detail who's been treated for what within the past month or 12 months.

The managed care system they do that, they have that ability. They have the ability to monitor. That's one of the advantages despite what some people would believe, to manage the care, to take a look at the general levels, the general amounts, who has been treated for what and to see how that compares to general population statistics to see if they're doing better or worse than the general population.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If the Senator would continue to yield for another question.

ACTING PRESIDENT KUHL: Senator, you continue to yield?

SENATOR HANNON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR HANNON: In the matter of managed care, Senator, I note that HMOs are

required to report acts of misconduct and I was wondering if that applies to all acts of profes sional misconduct on the part of the doctor?

SENATOR HANNON: All acts? Well, I'm not so sure I understand the difference between -- I don't understand there's a difference. It's whatever is -- that the HMO knows about they have to report, and, therefore, share their information with the rest of the state and the Department of Health.

One of the other things, by the way, is to allow the Department of Health to get a chance at the initial time that physicians from another state come into our state to take a look at their records.

Right now the registration is with the Department of Education, and the Department of Health doesn't get jurisdiction until they get the New York registration. Now, we're going to have a chance to move the Department of Health's professional conduct scrutiny up sooner in the process when they're beginning to practice in New York.

And another interesting thing that they do in terms of oversight is to give the Department of Health jurisdiction over residents. You know, a significant amount of health care in this state is carried out by residents in the medical education programs and somehow in the 1991 statute, the jurisdiction over them was not transferred to DOH but left with the Department of Education.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator Hannon.

Mr. President, on the bill. I think I came to this discussion unalterably opposed to this bill. However, Senator Hannon, with his wisdom and persuasiveness, with his disciplined forthrightness and honesty, has prevailed upon me, but I not only have changed my mind but I just wish the rules of this Senate would permit me to be a supporter and co-sponsor of this legislation.

There's probably very little in

this legislation that he hasn't covered and I'm quite satisfied.

ACTING PRESIDENT KUHL: Chair recognizes Senator Dollinger, on the bill.

SENATOR DOLLINGER: Senator - would the sponsor yield to a couple quick questions?

ACTING PRESIDENT KUHL: Senator Hannon, do you yield to a couple questions from Senator Dollinger?

SENATOR HANNON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: Senator Hannon, let me call your attention to page 4, the new language that deals with the summary dismissal from the medical practice or the -- my first question is obviously we've chosen the word "may". The licensed professional will discontinue or refrain from practicing medicine in whole or in part, or to take certain action immediately. We chose the word "may" which

shows that the Commissioner will be exercising discretion. We did not choose the word "must" and my question is, why do you leave it up to the Commissioner's discretion?

SENATOR HANNON: Senator, bear with me. I don't have the printed version. I have a bill draft version. Just tell me which section of the bill, first, you're dealing with.

SENATOR DOLLINGER: Section 7, amends subdivision 12 of Section 230 of the Public Health Law, and then there's a section, creates a new Section 12 which is renumbered, and then it's (b); I guess it's 12 (b), Mr. Chairman. It's the new language that starts, When a licensee has been -- has pleaded or been found guilty, the underlined new section.

SENATOR HANNON: What line of the bill?

SENATOR DOLLINGER: Well, fortunately, it's line 40, page 4.

SENATOR HANNON: 40, O.K. (b) and then.

SENATOR DOLLINGER: Starts off, When a licensee has pleaded or been found guilty.

SENATOR HANNON: And where does the "may" or "shall" appear?

SENATOR DOLLINGER: Line 53 on my copy.

SENATOR HANNON: Let me get down to line 50 from 43 by reading it. I would simply respond, it's there so that an appropriate order in regard to that individual can be made by the -- by the Commissioner, and why it ought not to be "must", it may be that there would be situa tions where the "must" would be an inappropriate dictation to be put in statute.

SENATOR DOLLINGER: What standards, if any, are in the bill for the exercise of that discretion by the Commissioner, and I guess my question is, do you need them? I don't know.

SENATOR HANNON: Well, let's go through what's happening here. We have a complaint being made. There is a review by

Office of Professional Misconduct -- Office of Professional Conduct, in regard to that complaint. Many might be dismissed. We then have an Investigations Committee, which is the equivalent of a grand jury, that will go through and will set up a record. Then with the notice and procedure and a hearing, we have a Hearing Committee which will make a determination and an order. That Hearing Committee, in and of itself, is sufficient so that if somebody wants to challenge it and appeal the results of the Hearing Committee, they can go directly to court and, as you know, under Section 7803, they could use the record of the Hearing Committee to skip the Supreme Court and go right into the Appellate Division. So there is a sufficient record.

So my response to you would be the Commissioner is going to be acting after, at whatever stage he or she needs to act, there is a record that's built that would give her the ability to have facts, to make judgments as to what's appropriate in those circumstances, and I

would point out to you that the current adminis tration of this Commissioner has suspended licenses of about 230 physicians in the last year, and that number has sharply increased, that this Commissioner has taken very appropriate, quick, swift action when there have been egregious circumstances that have needed to be dealt with so somebody could not be dealing with the public.

So I think the record is there's a good message there, and I think also the history of the revised disciplinary process since '91 shows that there is a certain efficiency and there is a certain, I think, rationale as to the whole process so that the standards that are being used are sufficient for us to have confidence that people can go forward and rely on that.

SENATOR DOLLINGER: You've answered my question. You obviously aren't telling her she must do it. We're allowing he or she that she may do it, and the standards that are built into other parts of the law would

circumscribe that exercise of discretion. We don't need a public interest and, you know, so long as it serves the public interest to give her or to give the courts the guidance on how to interpret that exercise of discretion.

Two other, again -

SENATOR HANNON: Yes, to your point; I agree with your point.

SENATOR DOLLINGER: Yes, but another technical point. This says that the Commissioner can, in the exercise of that discretion, order them to discontinue practice. I assume that's after the license has been revoked or suspended. Is that correct?

And two, and perhaps you can, while you're thinking about that answer, two -

SENATOR HANNON: You got to go back to line 40.

SENATOR DOLLINGER: All right. This says, if they've been found guilty but it doesn't say -

SENATOR HANNON: Pleaded or found guilty or convicted.

SENATOR DOLLINGER: Right. This says that they've been convicted of a crime, but it doesn't say that the actual license has been revoked or suspended.

Mr. Chairman, the reason why - the reason why I ask that question is because, as you know, if a member of the bar is convicted of a felony, they're automatically disbarred. It doesn't -- they aren't finally disbarred and the disbarment occurs at the time of the conviction, usually ratified by the Appellate Division subsequently, but my question is, there's nothing in here that suggests that the license is revoked or suspended.

Is that the intention that there would be other issues to discontinue the practice of medicine without an order, without another order already having revoked or suspending the license?

SENATOR HANNON: I don't think - I think, first of all, we're dealing with folks that come into the state. These are proceedings under line 40, pleaded guilty, convicted of an

act that constitutes a felony, constituting a felony under New York law.

SENATOR DOLLINGER: Right.

SENATOR HANNON: So it may be - it may be, say, a misdemeanor under federal or some other state's law, but if it equals a felony under our law, then they get, subject to this section, what would constitute a -- and then the "substantially equivalent to a fine", so once again there's a record part of this.

SENATOR DOLLINGER: Right.

SENATOR HANNON: So my point to you is, I think there's enough severity that they have to make a judgment based on how severe the acts are.

SENATOR DOLLINGER: Just two other again technical -

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

SENATOR DOLLINGER: I apologize.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DOLLINGER: Does this

anticipate that the Commissioner could go to court to enforce that order, that is requiring that they discontinue or refrain from practicing medicine and, if so, do you need express statu tory authority to authorize the Commissioner to go into a court to enforce that order?

SENATOR HANNON: Sufficient statutory authority under the general powers of the Commissioner.

SENATOR DOLLINGER: O.K.

SENATOR HANNON: There is nothing that was further needed than this if, for instance, there was to be a flaunting of the order of the Commissioner.

SENATOR DOLLINGER: That's my concern. One final question, Mr. Chairman. Is there anticipated that there would be an interim court appeal upon the issue of that order saying discontinue or refrain from practice?

SENATOR HANNON: There was.

SENATOR DOLLINGER: Because my question, the reason for that is because what this triggers is, this triggers the ability of

the Commissioner to say stop practicing medicine. We're going to do this investigation which is described in the later -- later act, another portion of that section.

Is it anticipated that an aggrieved physician could seek Article 78 or some similar relief on the basis of the order to refrain even while the continuing administrative appeal was pending?

SENATOR HANNON: They can do that, but if it's egregious, the whole idea is to make sure that they can not continue.

SENATOR DOLLINGER: Right. I'm simply trying to find out whether the -- I understand you want to put them through the administrative process, but as an advocate for physicians in other contexts, I would be looking to see whether I could challenge the order of the Commissioner, and do you need to give them the authority to do that?

SENATOR HANNON: Can, but the ideas is not to allow the challenge, in serious cases to allow the individual to continue to

practice.

SENATOR DOLLINGER: You would allow them -- in other words this is interpreted to allow them to exhaust their administrative remedies before they go to the courtroom. That's what I thought it was supposed to be. Is that correct?

SENATOR HANNON: Yes.

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

I think this is a good step. I think it does address a significant problem in this state. I -- my understanding is the Medical Society is on board with this, and I think this whole concept of perhaps breaking down some of the public secrecy that too often surrounds both disciplining of physicians, disciplining of lawyers, disciplining perhaps even of judges, I think it's important that the public have confidence in our disciplinary process, have greater access to information about how it works. So I'll be voting in favor of this, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT KUHL: Senator Padavan.

SENATOR PADAVAN: Will the sponsor yield to a question?

ACTING PRESIDENT KUHL: Senator Hannon, do you yield to a question from Senator Padavan?

SENATOR HANNON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PADAVAN: Senator, res idents graduate from a medical school assigned to a hospital, aren't licensed, as you know.

SENATOR HANNON: Yes.

SENATOR PADAVAN: As a matter of fact, they can't take Part III of the national boards for at least six months thereafter, so you have now an unlicensed person who, in effect, is a graduate student. Even though he graduated medical school. He's still an

unlicensed physician, and he makes a mistake. He's supposed to be under the supervision of a physician in the hospital. He was obviously senior person, staff. Under your bill, what happens to this recently graduated medical student, not yet licensed?

SENATOR HANNON: We would add under Section 1 of the bill medical residents to those individuals who would be subject to disciplinary standards of the Office of Professional Conduct.

SENATOR PADAVAN: But those standards relate to his license, don't they?

SENATOR HANNON: Standards relate to the conduct that the person must use in carrying out their duties. The license per se is that you're of good character and did you pay your fee and things like that? It is -- and in the way we've worded the bill, the term "licensee" shall mean da-da da-da-da, medical resident.

SENATOR PADAVAN: But you do not get licensed until you have completed Part III

of the national boards and have completed at least six months of work in a hospital as a resident.

SENATOR HANNON: Well, we're not deeming someone to be licensed by this. We're just saying for the purposes of jurisdiction of this committee the licensee shall include these individuals.

SENATOR PADAVAN: What would be the nature of the discipline? In most cases, it's either suspension or revocation of a license. In this case, there is none.

SENATOR HANNON: It may be ineligibility to go further in the profession. Sometimes it's not entirely the suspension of the license, but limiting the license to certain types of procedures. For instance, if somebody were to be -- were to be a surgeon, it might - and the rest of their practice had been fine, they might limit and exclude from their permitted practice, you can only do surgery. It might be for people who are harassing individuals that they cannot treat anybody

alone, and they must always have somebody practicing with them.

So there's a number of ways and when you're dealing -- you're dealing here with a balance of making sure you have quality care, integrity in their quality of care, and you're also dealing with the person's property rights and that's what the courts have recognized and we are going to make sure we get through those balances.

SENATOR PADAVAN: Well, I'm going to vote for the bill, Mr. President, because I understand the basic motivations, but I think we have to be very careful in this area. We have these young doctors just out of medical school put into environments and situations that are somewhat familiar by virtue of their two years of clinical training, but in many cases quite new. Put them to work for 60, 70, 80 hours a week sometimes, depending on the hospital, under close supervision in some of the hospitals, particularly in the city of New York with limited supervision, and so mistakes can happen

and how -- how disciplinary action is applied under those circumstances, I think, has to be considered very, very carefully, the motivation, experience, and all the other things taken into consideration.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill? Hearing none, the Secretary will read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. I believe there is a privileged resolution by Senator Kuhl at the desk. May we have the title read and move its acceptance.

ACTING PRESIDENT KUHL: Return to the order of motions and resolutions. The

Secretary will read the title of the privileged resolution.

THE SECRETARY: By Senator Kuhl, Legislative Resolution commending Joseph F. Mead, Jr. upon the occasion of his designation as 1996 Rotary Citizen of the Year, Hammondsport, New York.

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we return to the original calendar and call up Calendar Number 1592, by Senator Sears.

ACTING PRESIDENT KUHL: We'll return to the original calendar, Calendar Number 63, return to page 41, ask the Secretary to read the title to Calendar Number 1592, by Senator

Sears.

THE SECRETARY: Calendar Number 1592, by Senator Sears, Senate Print 7771, an act to legalize, validate, ratify and confirm.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I believe there's a message of necessity at the desk.

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: Move its adoption.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 1592. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we return to calendar - Supplemental Calendar Number 1, and call up Calendar 1614, please.

ACTING PRESIDENT KUHL: Secretary will return to Supplemental Calendar Number 1.

ACTING PRESIDENT KUHL: For the record, Calendar Number 1592 was passed. Now, moving to Supplemental Calendar Number 1, page 2, Calendar Number 1614, by Senator Johnson. Ask the Secretary to read the title.

THE SECRETARY: Calendar Number -- excuse me. Calendar Number 1614, by Senator Johnson, Senate Print 7142-A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I believe there's a message of necessity at the desk.

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: I move the acceptance.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 1614. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The the message is accepted. The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we return to the main calendar and call up Calendar Number 173, by Senator Johnson.

ACTING PRESIDENT KUHL: Return to Calendar Number 63, the original calendar of the day, page 5, ask the Secretary to read the title of the Calendar Number 173, by Senator Johnson.

THE SECRETARY: Calendar Number 173, by Senator Johnson, Senate Print Number 5344-B, an act to amend the Correction Law, the Criminal Procedure Law, and the Social Services Law.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT KUHL: Senator

Marcellino.

SENATOR MARCELLINO: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: Move its acceptance.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 173. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

Senator Montgomery, did you wish to ask an explanation on Calendar Number 173?

Senator Johnson.

Excuse me. Senator Marcellino, before the explanation, did you have an announcement?

SENATOR MARCELLINO: Yes. Can we call an immediate meeting of the Finance

Committee in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Senate Finance Committee in the Majority Conference Room, Room 332. Immediate meeting of the Finance Committee in the Majority Conference Room, Room 332.

Senator Johnson. Senator Montgomery?

SENATOR MONTGOMERY: Yes, Mr. President. I wonder if it would be more expedient if Senator Johnson would yield to a question. I think -

ACTING PRESIDENT KUHL: Senator Johnson, do you yield to a question from Senator Montgomery?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR MONTGOMERY: Yes, Senator Johnson. I seem to remember this legislation coming before us and the question that I had

then is the question that I have now. In the event that there is a person who is receiving AFDC, which essentially is maintenance for the children in that particular situation, what is the safeguard that the children are not automatically cut off and left in some -- in a state without having any support before there is a resolution to the placement of those children?

SENATOR JOHNSON: Senator, actually, this bill is probably a salutary bill in that it would deal with your concern because it doesn't say that, when you're sentenced to jail your welfare stops. It says that the local services -- social services commissioner shall be notified of the sentence and reinvestigate the case. So I say Senator, probably would be beneficial in that someone would find out about the situation and deal with it properly in accordance with the law.

SENATOR MONTGOMERY: Thank you. Thank you, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Ayes 56, nays one, Senator Seabrook recorded in the negative.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, do we have any housekeeping at the desk, my proverbial question?

ACTING PRESIDENT KUHL: No housekeeping at the desk.

SENATOR MARCELLINO: Mr. President, I suggest that the house stand at ease awaiting the report of the Finance Committee or further messages of necessity by the Governor.

ACTING PRESIDENT KUHL: The

Senate will stand at ease for a few moments.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: For the benefit of the members, there will be an immediate meeting of the Rules Committee, an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332. There will be an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332, and with that, Senate will stand at ease.

(The Senate stood at ease from 6:53 p.m. to 7:12 p.m.)

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there's a report from the Finance Committee at the desk. I'd ask that it be read.

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

THE SECRETARY: Senator Stafford,

from the Committee on Finance, offers up the following nomination -

ACTING PRESIDENT MARCELLINO: Can the house come to order, please. Can we take our conversations out to the outer room so we can do business.

Thank you.

THE SECRETARY: -- member of the New York State Hospital Review and Planning Council: Shirish J. Parikh, M.D. of Menands.

ACTING PRESIDENT MARCELLINO: Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President.

I yield to Senator Hannon.

ACTING PRESIDENT MARCELLINO: Senator Hannon.

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

Dr. Parikh appeared before the committee yesterday. He is a distinguished physician, the radiologist in chief at Samaritan Hospital in Troy as well as an attending

radiologist at Child's Hospital in Saratoga, St. Mary's in -- and Amsterdam Memorial and Leonard.

Can we get a little order just so at least what I'm saying makes it into the record.

SENATOR STAFFORD: Please, Mr. President.

ACTING PRESIDENT MARCELLINO: If we could have some order in the house so that Senator Hannon can be heard.

Thank you, gentlemen and ladies.

SENATOR HANNON: He is also a board member of the Northeast Health Systems and a member of their Strategic Planning Committee, as well as being a member of the Upstate Physicians Network board of directors.

The nomination that's being proposed for is the State Hospital Review and Planning Council, and his nomination was recommended unanimously by the members of the committee.

I would move his nomination, Mr. President.

ACTING PRESIDENT MARCELLINO: Is there anyone wishing to speak on the nomination?

(There was no response.)

The motion is on the nomination of Shirish J. Parikh of Menands for a term as a member of the New York State Hospital Review and Planning Council. All in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Dr. Parikh is confirmed. Congratulations.

The Secretary will read.

THE SECRETARY: Member of the New York State Hospital Review and Planning Council: Jane Rees of Rome.

ACTING PRESIDENT MARCELLINO: Senator Hannon.

SENATOR HANNON: Another nomination that has been unanimously recommended by the Health Committee. Ms. Rees appeared

before the committee yesterday for the -- she is being nominated for a position with the State Hospital Planning and Review Council.

She is the president of the Stonehenge Nursing Homes in Rome and in Chenango, New York and has served at a facility which has not received any bad terms for the length of its existence for about 15 years. She is active in the community. She is overseeing the substantial application permit process and has gone through New York's excruciating certificate of need procedure for renovations and upgrades.

We recommend her for confirmation of this nomination, Mr. President.

ACTING PRESIDENT MARCELLINO: Is there any other Senator wishing to speak on the nomination?

(There was no response.)

The question is on the nomination of Jane Rees of Rome for a term to expire December 9, 1996 as a member of the New York State Hospital Review and Planning Council. All

in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Jane Rees is appointed as -- is recommended as a member of the New York State Hospital Review and Planning Council. Congratulations, Jane Rees, wherever you are.

SENATOR SKELOS: Mr. President, stand at ease for a moment.

ACTING PRESIDENT MARCELLINO: The house will stand at ease.

(Whereupon, the Senate stood at ease from 7:22 p.m. until 7:30 p.m.)

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I would like unanimous consent to be recorded in the negative on Calendars Number 1391, 1594, 1599 and 1645.

ACTING PRESIDENT MARCELLINO: The record, without objection, will so reflect.

SENATOR MONTGOMERY: Thank you.

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

SENATOR HOBLOCK: Mr. President, I was out of the chamber when Calendar Number 271 was voted upon. That's Senate Bill 5960-A. I would like to be recorded in the negative with unanimous consent to do so.

ACTING PRESIDENT MARCELLINO: Without objection, the record will so reflect.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 721.

ACTING PRESIDENT MARCELLINO: Without objection, the record will so reflect.

SENATOR DiCARLO: Mr. President.

ACTING PRESIDENT MARCELLINO: Yes, Senator DiCarlo.

SENATOR DiCARLO: Just want to check to be recorded in the negative on Calendar 271, not 721.

ACTING PRESIDENT MARCELLINO: We will so revise the record to reflect you're in

the negative on Calendar Number 271 and in the affirmative on Calendar Number 721.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: On the regular calendar, would you please call up Calendar 100...

ACTING PRESIDENT MARCELLINO: I'm sorry, sir?

SENATOR SKELOS: On the regular calendar, would you please call up Calendar Number 1009 by Senator Maziarz.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 1009 from the main calendar.

THE SECRETARY: Calendar Number 1009, by Senator Maziarz, Senate Print 7312-A, an act to amend the Public Health Law and the Mental Hygiene Law.

ACTING PRESIDENT MARCELLINO: Read the last section -- an explanation has been requested from Senator Maziarz, if we could just

wait a moment.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT MARCELLINO: It's already been done, Senator. We're waiting for him to come into the chambers.

Senator Maziarz, an explanation of your bill, Calendar Number 1009, Print Number 732 -- 7312-A has been asked for by Senator Montgomery and Senator Leichter.

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

Mr. President, the purpose of this regulatory reform bill is to eliminate the Health Systems Agency from the certificate of need approval process.

Currently, there are three levels of approval in New York State, Mr. President, the Department of Health, the State Hospital Review and Planning Council and the Health Systems Agency. My bill will eliminate the Health Systems Agency approval which will shorten the certificate of need approval time and provide for the type of regulatory relief

health care providers have been requesting.

This bill, I might add, Mr. President, is supported by the Hospital Association -- Hospital Association of the state of New York (HANYS) and the Western New York Hospital Association.

ACTING PRESIDENT MARCELLINO: Senator Leichter.

SENATOR LEICHTER: Mr. President, just briefly on the bill. I think it's regrettable that we're eliminating the Health Systems Agencies from the regulatory process.

Senator Maziarz, you point out, Well, you still have the Health Department. You have the state council -- whatever their name is. The fact is that both of those are really controlled by the executive. There's no independence in either of those bodies. In fact, the relationship between the hospital health planning council, whatever its name is, and the Health Department, of course, is so close that they're really identical.

The importance of the Health

System Agencies is that they represent an independent assessment, very often reflected community needs. I think one of the reasons that they're being removed -- I know they have been defunded -- is because they were an independent voice and often disagreed with official policies, whether it came from Governor Mario Cuomo or Governor George Pataki. They did exist and they function to protect the public, and to remove them from our system of determining what sort of health services that are going to exist, what sort of health facilities, I think is a mistake.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I too rise in objection to eliminating the HSA as part of the planning process for health services because the HSA is a very local organization and their knowledge and understanding of health services at the very, very local level -- for instance, New York City on a borough-by-borough basis, on a neighbor

hood-by-neighborhood basis, it's -- it has been the HSA that has been the primary agency to look at health trends, health care needs, where the greatest need for hospitals, where beds should be -- should try and be part of the planning process for hospitals doing regional services, that -- all of that has been done by the local HSA in New York City, and for us to lose that agency means that we lose a hands-on agency as part of the planning process for our very local needs.

And so, Mr. President, I really think that this is a big mistake that we're making. I realize that the HSAs have not been funded for the last two years. That also is unfortunate. It's a small amount of money which resulted for us in a great capacity to look at the future and to try and determine what kinds of decisions made sense for this body as well as the Health Department, as well as local health providers as it relates to health and mental health services.

So I would really like to have

that decision revisited, if you will, because I think that it is a big mistake. It's a big loss for both the state as well as the localities in the state.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1009: Senators Abate, Dollinger, Leichter, Libous, Mendez, Montgomery, Paterson, Seabrook, Smith and Waldon. Ayes 47, nays 10.

ACTING PRESIDENT KUHL: The bill is passed.

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'd ask that it be read.

ACTING PRESIDENT KUHL: There is, Senator Skelos. We'll return to the order of standing committees. I'll ask the Secretary to read the report of the Rules Committee.

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

By Senator Present, Senate Print 430, an act to amend the Real Property Tax Law;

By Senator Gonzalez, Senate Print 1094, an act to amend the Election Law;

By Senator Spano, Senate Print 1118, an act to amend the Alcoholic Beverage Control Law;

By Senator Trunzo, 1323, an act to amend the Executive Law;

By Senator Stafford, 5410-B, an act to amend the Alcoholic Beverage Control Law;

By Senator Wright, 6132-B, an act

to authorize the village of Alexandria Bay;

By Senator Johnson, 6304, an act to amend the Public Health Law;

By Senator Abate, Senate Print 6863, an act to amend the Alcoholic Beverage Control Law;

By Senator Alesi, Senate Print 6911, an act to authorize the county of Monroe;

By the Committee on Rules, Senate Print 6968, an act to amend the Highway Law;

By Senator Libous, Senate Print 7023-A, an act to authorize the village of Waverly;

By Senator Farley, 7138, an act to amend the Banking Law;

By Senator Hannon, 7212-A, an act to amend the Public Health Law;

By Senator Maziarz, 7276, an act to amend the State Administrative Procedure Act;

By Senator Kuhl, 7294, an act to amend the Alcoholic Beverage Control Law;

By Senator Bruno, Senate 7607, an act to amend the Election Law;

By Senator Sears, 7747-A, an act authorizing the city of Utica;

By the Committee on Rules, 7763, an act to amend the Administrative Code of the city of New York;

By the Committee on Rules, 7777, an act to amend the Public Health Law;

By Senator Stafford, 7819, an act to amend the Public Health Law;

By Senator Stafford, 7820, an act to amend the Railroad Law;

By Senator Cook, 7825, an act to amend the Executive Law;

By Senator Bruno, 7856-A, an act to amend the Election Law;

By the Committee on Rules, 7865, an act to amend the Racing, Pari-mutuel Wagering Law;

By Senator Oppenheimer, 7467, an act to authorize the payment of transportation;

By Senator Libous, 7699, an act to enact the Cigarette Tax Enforcement Act;

By Senator Maltese, Senate Bill

6475, an act to amend the Administrative Code of the city of New York.

All bills directly for third reading.

ACTING PRESIDENT KUHL: Senator Skelos.

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

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution -- or, excuse me. The Rules report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up the Supplemental Rules Report Number 4, non-controversial.

ACTING PRESIDENT KUHL: All of

the members should have all of the bills on Supplemental Calendar Number 4 on their desk. You also should have Supplemental Calendar 4 on your desk.

I'll ask the Secretary to read Supplemental Calendar Number 4, the non controversial reading.

THE SECRETARY: Calendar Number 1648, by Senator Present, Senate Print 430, an act to amend the Real Property Tax Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1649, by Senator Gonzalez, Senate Print 1094, an act to amend the Election Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1650, by Senator Spano, Senate Print 1118 -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1651, by Senator Trunzo, Senate Print 1323, an act to amend the Executive Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1652, by Senator Stafford, Senate Print 5410-B, an act to amend the Alcoholic Beverage Control Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1653, by Senator Wright, Senate Print 6132-B, an act to authorize the village of Alexandria Bay.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number 1654, by Senator Johnson, Senate Print 6304, an act to amend the Public Health Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1655, by Senator Abate, Senate Print 6863, an act to amend the Alcoholic Beverage Control Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1656, by Senator Alesi, Senate Print 6911, an

act to authorize the county of Monroe.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1657, by the Committee on Rules, Senate Print 6968, an act to amend the Highway Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1658, by Senator Libous, Senate Print 7023-A, an act to authorize the village of Waverly.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1659, by Senator Farley, Senate Print 7138, an act to amend the Banking Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1660, by Senator Hannon, Senate Print 7212-A, an act to amend the Public Health Law.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: I move we accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1660. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1661, Senator Maziarz moves to discharge from the Committee on Commerce, Economic Development and Small Business Assembly Bill Number 7756-A and substitute it for the identical Senate Bill 7276.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1661, by the Assembly Committee on Rules,

Assembly Print 7756-A, an act to amend the State Administrative Procedure Act.

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

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

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1662, by Senator Kuhl, Senate Print 7294, an act to amend the Alcoholic Beverage Control Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1663, by Senator Bruno, Senate Print 7607, an act to amend the Election Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1664, by Senator Sears, Senate Print 7747-A, an act authorizing the city of Utica.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk, Mr. President?

ACTING PRESIDENT KUHL: Yes, there is. The motion is to accept the message of necessity at the desk on Calendar Number 1664. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

There's a home rule message at the desk.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1665, by the Committee on Rules, Senate Print 7763, an act to amend the Administrative Code of the city of New York.

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

THE SECRETARY: This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1666, by the Committee on Rules, Senate Print 7777, an act to amend the Public Health Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message of necessity, Mr. President?

ACTING PRESIDENT KUHL: There is a message at the desk.

SENATOR BRUNO: I move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message on Calendar Number 1666. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 11. This

act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1667, by Senator Stafford, Senate Print 7819, an act to amend the Public Health Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk, Mr. President?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1667. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1668, by Senator Stafford, Senate Print 7820, an act to amend the Railroad Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: I move we accept the message.

ACTING PRESIDENT KUHL: The

motion is to accept the message of necessity on Calendar Number 1668. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1669, by Senator Cook, Senate Print 7825, an act to amend the Executive Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a

message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message on Calendar Number 1669. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 47. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1670, by Senator Bruno, 7856-A, an act to amend the Election Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: I would move we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1670. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

1671, by the Committee on Rules, Senate Print 7865, an act to amend the Racing, Pari-mutuel Wagering and Breeding Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: I move we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1672, by Senator Oppenheimer, Senate Print 7467, an act to authorize the payment of transportation aid.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1673, by Senator Libous, Senate Print 7699, an act to enact the Cigarette Tax Enforcement Act of 1996.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1674, by Senator Maltese, Senate Print 6475, an act to amend the Administrative Code of the city of New York.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT KUHL: Senator Padavan.

SENATOR PADAVAN: May I be recorded in the negative on Calendar 1671.

ACTING PRESIDENT KUHL: What was that number again, Senator Padavan?

SENATOR PADAVAN: 1671, Calendar 1671.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Padavan will be recorded in the negative on Calendar Number 1671.

Any other Senator wishing to record a vote?

(There was no response.)

Hearing none, Senator Bruno.

SENATOR BRUNO: Mr. President, can we move to the controversial calendar with Supplemental Calendar Number 4.

ACTING PRESIDENT KUHL: The Secretary will read the controversial reading of Supplemental Calendar Number 4.

THE SECRETARY: Calendar Number 1650, by Senator Spano, Senate Print 1118, an act to amend the Alcoholic Beverage Control Law, in relation to permitting licenses authorized to sell liquor.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Spano for an explanation.

SENATOR SPANO: Mr. President, this bill would allow liquor stores across the state to sell cigars by the box and publications on cigar products.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR NANULA: Mr. President.

ACTING PRESIDENT KUHL: Senator Nanula.

SENATOR NANULA: Senator Spano, would you yield for a couple of questions, please?

ACTING PRESIDENT KUHL: Senator Spano, do you yield to Senator Nanula?

SENATOR SPANO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR NANULA: That was a very brief explanation. I've got a couple of questions relative to really the necessity of expanding what is already a product available in food stores, convenient stores and smoke shops now to be available in liquor stores.

SENATOR SPANO: The thought, Senator, was to allow for the small "mom and pop" liquor stores -- who, frankly have been struggling for a long, long time across the state, to -- particularly those stores that

cater to people who might come in to buy some better wines or fine wines, to have people also have an opportunity to purchase cigars by the box at that store.

I don't think that this will create any hardship on, say supermarkets or convenient stores or those stores that currently can sell those same type of products. All this does is allow them to be involved in a pretty specialized area. You know, there are -- you're seeing cigar smoking today where -- which is on the rise in some areas and people that might want to go in and purchase a bottle of wine would also have that extra opportunity to purchase a box of cigars.

SENATOR NANULA: One other quick question. This is really a -- in relation to the fact -- and this issue has been debated in the past in this chamber, in the Assembly. Right now supermarkets and more specifically small convenient stores and small food stores are not able to sell liquor products. They're not able -- other than, beer, of course.

They're not able to sell wine. They're not able to sell hard liquor. This issue now being able to, in this case, if this bill were to become law, have cigar sales in liquor stores. In your opinion, do you believe that crates an unfair advantage to liquor stores over small convenient stores and food stores that are not able to sell products that liquor stores sell?

SENATOR SPANO: I don't think it does at all. People that -- people who will stop at the convenient store to buy a newspaper or to buy milk or bread or to -- whatever else they might pick up at a convenient store or -- I think it would be a different type of clientele, a different -- that will also go in and try to purchase a box of cigars.

It's -- I don't think that we're talking about someone going in and buying, you know, a White Owl cigar that might be sold in a lot of the convenient stores. I don't think you're seeing many of the convenient stores who really cater to the -- to the real cheapo cigar smokers, excuse the -

SENATOR NANULA: On the bill.

Thank you, Senator Spano.

ACTING PRESIDENT KUHL: Senator Nanula.

SENATOR NANULA: A couple of points I would like to make regarding this bill. In all due respect, Senator Spano, I don't necessarily agree with you. This has been an issue, liquor sales, wine sales and food retail outlets versus liquor stores. It's been debated intensely in this chamber in the past. I think this certainly would create a clear competitive advantage, possibly open the door for additional tobacco-type sales, cigarettes, chewing tobacco, et cetera, to be sold in liquor stores right now. More so smaller convenient stores are struggling. 18 to 25 percent of some of these store sales come from tobacco products. They're a drive into these smaller stores to create other purchases and stimulate other purchases. That certainly is a concern to me.

In addition to that, we have -

and, in fact, we have another bill today relative to cigarette smoking and this issue in the broader sense and, personally, I feel that if we're going to be increasing the venues and opportunities for people to buy tobacco products, we need to be looking at that with great scrutiny.

Right now, convenient stores are a venue that sell tobacco products. There's regulation -- there's not only regulation, but there's enforcement of regulation at those stores. There's a regulatory structure. There's a bureaucratic structure put in place to ensure that those regulations, whether it be sales to minors, et cetera, are being followed. This would be yet another venue that we, and those of us who are concerned about the sale of tobacco products are going to have to now look at in terms of minors being -- having the availability of tobacco products. I think it's a move in the wrong direction. For these reasons, and for these reasons, I'm going to vote no on this bill.

Thank you.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

Record the negatives and announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1650: Senator DeFrancisco, Senator Dollinger, Hoffmann, Levy, Marcellino, Montgomery, Nanula, Seabrook and Tully. Ayes 48 -- also Senator Skelos; also Senator Trunzo. Ayes 46, nays 11.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1652, by Senator Stafford, Senate Print 5410-B, an act to amend the Alcoholic Beverage Control Law, in relation to agreements between brewers and beer wholesalers.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Stafford for an explanation. Senator Paterson asked for the explanation, Senator Stafford.

SENATOR STAFFORD: Mr. President -

SENATOR CONNOR: The explanation is satisfactory.

SENATOR STAFFORD: Last section, please.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR DOLLINGER: Explain my vote, Mr. President.

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

SENATOR DOLLINGER: Mr. President, this bill has a particularly adverse

impact on one of the largest employers in my district. Probably everybody in this room knows the familiar brand of Genesee beer. Genesee beer and the brewery is against this bill because it will restrict rather than increase competition among brewers in this state, and it seems to me when there are 300 jobs in New York, 300 jobs directly at the brewery, there are other people who depend on Genesee brewery in my district.

It seems at a time when we both want to increase competition, as I believe this will not do, and at a time that we want to preserve jobs right here in New York State, it seems to me it makes good sense to look at the impact of this on regional breweries. Genesee/ F.X. Matt's are against this bill because it will adversely affect their ability to get on the shelf and their ability to deal with the wholesalers.

Although all politics is local, Mr. President, in this instance, although there may be some good aspects in this bill, I think

the fact that the brewery in my district says that this will adversely impact their ability to compete and that it's anti-competitive in that nature, it should be defeated, and I urge everyone if you support jobs in this state and support the need to keep those jobs in this state, look at this bill and its impact on local brewers and you'll find if you support those jobs and want to keep them here, you'll have to vote no.

Record me in the negative, Mr. President.

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

Senator Stafford to explain his vote.

SENATOR STAFFORD: Mr. President, this is the second time I have explained my vote. I would just like to clear the air and correct what I would submit are statements in error and are not in conformity with the facts.

All we wish to do is to have a level playing field and have everybody be

treated equally and fairly. There are thousands and thousands of jobs involved here throughout the state.

I have seen from my experience someone who sells a product from a major distributor -- from a distributor -- excuse me -- from a manufacturer. I have seen them work their hearts out. Their family worked their hearts out for 44 years. Then I have seen them told that you are no longer selling the product and you will not be able to sell your point.

It is inequitable, unfair. There are built-in provisions for everybody here must be above board, straight, open and candid. We just want everyone treated fairly and no one treated unfairly.

Thank you.

ACTING PRESIDENT KUHL: Senator Stafford will be recorded in the affirmative. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1652: Senator DeFrancisco, Senator Dollinger, Senator Nanula,

Senator Onorato. Ayes 53 and nays 4. Also Senator Waldon. Ayes 52 and nays 5.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1661, by the Assembly Committee on Rules, Assembly Print 7756-A, an act to amend the State Administrative Procedure Act, in relation to the review of existing rules.

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

THE SECRETARY: Section 2. This act shall take effect January 1st, 1997.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1663, by Senator Bruno, Senate Print 7607, an act to amend the Election Law, in relation to requiring campaign finance information.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT KUHL: Senator Bruno, an explanation of Calendar Number 1663 has been requested by the Minority Leader, Senator Connor.

SENATOR BRUNO: Thank you, Mr. President.

We've talked for a lot of years about getting information to the Board of Elections on who affects elections financially here in this state.

So this bill requires that all of those people that make contributions, whether they're in checks or in services that they deliver, that they be equated to a value and that they get recorded with the state Board of Elections, and the bill purposely encompasses a lot of groups out there that are not considered necessarily politically active entities in this state, but they are out affecting elections with phone banks and in many other ways.

So the intent of this is if we want to do a computerization program, we want to

reform campaign finance reporting, this is the way to do it, not in a limited way, not in a small way but do it right.

And, Mr. President, that is the purpose of this legislation.

SENATOR OPPENHEIMER: Mr. President -- Mr. President.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: I believe I have an amendment at the desk.

ACTING PRESIDENT KUHL: There is an amendment at the desk, Senator Oppenheimer. Are you asking for that to be -- the reading of that to be waived?

SENATOR OPPENHEIMER: No. I'll waive the reading, please, and I'll explain it very briefly.

ACTING PRESIDENT KUHL: The reading of the amendment is waived, and you are now afforded the opportunity to explain it.

SENATOR OPPENHEIMER: Thank you, Mr. President.

Well, this amendment that I am going to be offering is the bill that passed in the Assembly. It's Assemblyman -- Assembly member Galef's bill, and I'm carrying it here in the Senate and, as you all know, it passed the Assembly about three months ago, I believe.

Briefly what it would do is it would require the state Board of Elections to create an electronic reporting and data retrieval system for campaign finance information. It would require candidates and campaign committees who raise or spend more than $50,000 in a year to file their reports on a computer disk, and it would make this information available through the Internet. We're now living in a world where we have the Internet and that can provide us with the kind of comprehensive and very timely, very immediate disclosure, and I think it's time that the Senate also delivered on this promise of campaign finance reform.

Some of our reports, I know, are absolutely indecipherable. I know the

handwriting of my treasurer is not good, and some of our reports can't even be accessed 'til after the campaigns are finished because of the rush of material that comes in as we draw closer to Election Day.

My amendment would make this information accessible to people who want to know where the candidate's money is coming from, and I think it's an important step to restore confidence in the public. The public seems to be pulling away from we political elected officials, and I think this is the most obvious way to try to restore that trust.

They believe out there that - that money buys every decision we make, and we have to change that because we are seeing smaller and smaller numbers vote in this nation, and you think of people who are coming here from other countries, they cannot believe that people are not voting, and one of the main reasons they're not voting is because they think government is for sale.

The bill then that is before us

presents a couple of problems -- well, perhaps we should discuss the amendment first.

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

Hearing none, the -- Senator Connor on the amendment.

SENATOR CONNOR: Yes, Mr. President. I think this is an issue of keeping faith, I think, keeping faith with the voters and making some incremental changes that are very, very important to lead to more openness in the system and as one famous justice of the Supreme Court said, Sunlight is the best disinfectant, and what we have found is we developed a system in New York State where many local candidates, local party organizations in various counties are exempt from filing at the state Board of Elections, and they file these reports ordinarily with the local board on paper. The way they're filed and organized by the local boards, leaving aside for now the state Board of Elections which, believe me, is

no prize, they're filed at local Boards of Elections where I know for a fact until recent years the New York City Board of Elections did nothing more than throw them in file drawers. They couldn't tell you who gave to Carl Lake contributions between different candidates. In fact, I know -- I believe Senator Hoffmann has had a provision requiring that these local filings be coordinated with the state board as well, so you could look in one glimpse and see what the real activity is as opposed to the massed activity.

I've had bills over the years supporting computerization. The Board of Elections -- the state Board of Elections, in fact, has put in each year for the budget process for money so they on their own could go and computerize. It was a measure that's been called for repeatedly. It was called for, I believe it was 1987 or '88 in the Feerick Commission report, and anyone who's ever done the kind of research -- and I assume that includes some of our friends in the -- from the

fourth estate know that it's very, very difficult without computers to tell whether or not certain features of New York's Election Law have been complied with.

For example, we have overall aggregate limits on individuals and what they can contribute to all campaigns in New York State. No one has ever fathomed the way to see if that's being complied with. No Board of Elections in this state could assure whether that's being complied with by a given individual. You would have to literally look, search the records of many, many filings of all -- all the county Boards of Elections and also the state Board of Elections to get a true aggregate total, whether it be for an individual or a corporation which is subject to an aggregate limit.

Earlier this session Assemblywoman Galef and Senator Hoblock introduced a bill. I read the news clippings. Senator Hoblock said it'll pass. Senator Bruno said we're going to do this, but that's not the

bill -- that's not the bill that's brought before us today. It's the amendment. The amendment is that bill.

What's the difference between this bill? Well, you know, we require, for example, a filing by any candidate that raises and spends more than $1,000. That's not a lot of money today in a campaign. That law applies to the school board candidates. Indeed, it applies to community board candidates in New York City. I know because I passed -- I passed that chapter some years ago, a good ten years ago. People raised 11- or $1200 in bake sales and whatever. Now, of course, they should disclose, but I think to say that they have to disclose on a computer disk is taking it a little far.

The original bill sponsored by Senator Hoblock, which is this amendment, would provide that only committees that deal with larger amounts of money have to actually file their filings on computer disks. Doesn't that make sense? Isn't it ridiculous to tell -

isn't it designed for failure? Isn't it a scheme designed for failure to say to candidates that raise $1100 for the school board that you have to get a computer and prepare your filing on a computer disk or pay someone else to do it, a couple hundred dollars when you only have $1100 to spend in your own campaign, spend 4-, 5-, $600 to file a disk, spend more than half the money you've raised just on complying with the disclosure? That's absurd and it's designed to fail, but there are more important poison pills in the main bill that the amendment - from which the amendment does not suffer.

Now, the main bill takes a piecemeal approach to imposing new limits and aggregate limits on certain organizations that were never part of the original law for good and valid public policy reasons but, for example - and I'll say it right out -- the main bill would say a labor organization can only make contributions of $5,000 in the aggregate to all candidates in New York State in a given year, and this is said how that is somehow or other

fair. Oh, this is fair because corporations - corporations are subject to a similar limit, but I ask the sponsor, what about that giant loop hole which only a few of us election lawyers knew about these past years but which, lo and behold, the Republican State Committee discovered and publicized to the whole state not five or six weeks ago with that little announcement that corporations can give $100,000 to the housekeeping account.

Why aren't we closing the Bill Powers loophole, the $100,000 aggregate limit or the $200,000 or $100,000 housekeeping? You remember that event. Pay $100,000 to a corporation, you get to sit with the Governor, drink champagne with Bill Powers. Why aren't we closing that loophole in the main bill?

Indeed, the main bill is partisan. It's not agreed upon with the Assembly. It's not the original bipartisan Hoblock-Galef bill. It's not a bill that'll work.

We support a bill that'll work

that'll get all of those filings onto computers -- and the main bill, by the way, for that little filing; come on, is it too much to ask the Board of Elections to put this on computer? That's what the amendment would do.

You know, the $1100 candidate for school board files the little one-page report that showed how much they got at the bake sale, let the Board of Elections put that on computer. Don't tell that candidate they have to go get a computer disk, spend 6- or $700 of their 1100 on it.

Let's have a bill that'll work, not a charade. Let's support the amendment, the one that was originally committed by the leadership of the Republican Party in the press to pass, and if we want to have another bill plugging up all the loopholes, whether by unions, corporations or whatever, I'd support that, but let's start with the Bill Powers $100,000 housekeeping loophole.

I support the amendment.

ACTING PRESIDENT KUHL: Is there

any other Senator wishing to speak on the amendment?

(There was no response.)

Hearing none, the question is on the amendment. All those in favor of the amendment signify -

SENATOR CONNOR: Party vote in the affirmative.

ACTING PRESIDENT KUHL: The Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the party line votes.

THE SECRETARY: Ayes 20, nays 37, party vote.

ACTING PRESIDENT KUHL: The amendment fails.

On the bill, the Secretary will read -- Senator Hoffmann.

SENATOR HOFFMANN: I have found myself in the unusual position several times of being so impressed by Majority Leader Bruno's efforts to improve the way we conduct our

business here at the state level that I have actually put out press releases praising him, and I would like to be able to do that after the passage of this bill.

Not having seen the bill before, not having had an opportunity to review it carefully, there are a few areas where I'm still somewhat confused, and I wonder if Senator Bruno would be so kind as to yield for a question, Mr. President.

ACTING PRESIDENT KUHL: Senator Bruno, do you yield?

SENATOR HOFFMANN: An easy question.

SENATOR MALTESE: Mr. President, I would be pleased to yield for a question.

SENATOR BRUNO: Mr. President, yes.

ACTING PRESIDENT KUHL: Senator Bruno yields.

SENATOR BRUNO: I thought we had moved on to the next bill, and I was just trying to collect myself. I am now collected.

SENATOR HOFFMANN: I can see that, Senator Bruno. Thank you very much for yielding and for being collected.

SENATOR BRUNO: Yes.

SENATOR HOFFMANN: Senator, my question to you, as you know, over many years I have carried a bill which has not yet made it to the floor of this chamber for a vote. The bill that I have attempted to introduce in the past would try to correct a terrible irregularity within our election record keeping system by insisting that all of the expenditures in a campaign be filed next to the candidate in that campaign. One -- one source -- single source filing, I think is the way it's been referred to by some people.

Right now, as you know, it's very possible for some political action committees to spend vast amounts of money on a whole range of campaigns. This is sometimes called bundling. They could, for instance, retain a media consultant and pay one bill to one media consultant for hundreds of thousands of dollars

and it's virtually impossible for an average citizen pouring through the records of the Board of Elections to determine how much was spent on individual campaigns.

My question to you, Senator Bruno, is does this bill that is before us now incorporate that change that I have attempted to enact over a number of years?

SENATOR BRUNO: It does not.

SENATOR HOFFMANN: Thank you, Senator Bruno.

On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Hoffmann, on the bill.

SENATOR HOFFMANN: I -- I very much appreciate Senator Bruno's gracious response, albeit briefer than I might have expected to my question, and I must say that it is apparent to me that if this measure does not provide the very clear direction from this chamber that we want to see single source filing, that we believe the voters of this state have a right to know who is paying for the

campaigns of the candidates in this state without having you go through enormous freedom of information requests, without hiring private detectives, without putting reporters or public interest researchers to work for days and weeks on end; if we can't send that kind of message, I don't believe that we should be passing this bill tonight.

Therefore, I would urge all of my colleagues to consider seriously our responsibility to come up with a better bill, one that would incorporate some of the electronic data record keeping that Senator Bruno has so wisely introduced here along with a sound information assessment that will make it readily possible for anyone to see who is paying for what in the elections in New York State.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Oppenheimer.

SENATOR OPPENHEIMER: Would the good collected Senator yield for a question, Senator Bruno.

ACTING PRESIDENT KUHL: Senator

Bruno, do you yield to a question from Senator Oppenheimer?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR OPPENHEIMER: Collected and composed. I find the language unclear on - well, I'll describe it -- on the second page. I'm trying to figure out exactly who this language applies to. You talk about -- on the bill -- in-kind contributions, phone banks, campaign, literature produced and distributed, where the activity occurs at the phone bank and it's unclear to me. Would this cover community groups, you know, 20 neighbors in an area association? It's not clear. There's nothing spelled out.

SENATOR BRUNO: I am, Mr. President, conferring with counsel because this is a very technical, comprehensive and important piece of legislation and I don't want to say anything inadvertently, and my counsel advises

me that -- my learned counsel, Mr. President - that if a group of volunteers just got together informally and were doing whatever it is they think might be appropriate on a person's behalf, then they would not be included as such, but if they are part of an organization, an organized effort, raising money, spending money on behalf of or against a candidate, then they would be included in the legislation.

SENATOR OPPENHEIMER: If the Senator would yield for another question.

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

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR OPPENHEIMER: Then would I be correct or incorrect in assuming that an organization like the PTA or the Garden Club - I mean, they are organizations of maybe 50, 100 people -- would they be included in this?

SENATOR BRUNO: As you described

it, if they were organized with phone banks, then they would be included. If they're spending money, paying money, they would be included.

The objective is if the organization that you describe raised $100,000 and set up a -- banks of phones, mailed out literature and did all kinds of things, wouldn't you want to have that reported even though they called themselves the Oppenheimer Garden Club? I would think you would, and that's what this is intending to get to, and we can talk all we want about amendments, but the bottom line is if you want real reform of election, finance information and you want it computerized, vote for this bill.

If you want the issue and you want to be out there just talking about it, well, then, be my guest.

SENATOR OPPENHEIMER: Thank you, Senator.

On the bill for a moment.

ACTING PRESIDENT KUHL: Senator

Oppenheimer, on the bill.

SENATOR OPPENHEIMER: I feel if we really want computerized campaign financing information contributions, then we have to sit down and negotiate with the Assembly that has a very pure bill, that's the bill I'm carrying in this house, and I feel that this bill has just inserted this poison pill into the negotiation, and I hope that we will see a genuine bill as soon as possible because this -- this process - the whole idea of the influence of money in campaigns is really very disturbing to me, maybe because I was a past president of the League of Women Voters, but this is a very distressing issue to me.

I'll be voting no.

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

THE SECRETARY: Section 9. This act shall take effect on January 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

THE SECRETARY: Ayes 37, nays 20, party vote.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1670, by Senator Bruno, Senate Bill Number 7856 A, an act to amend the Election Law.

ACTING PRESIDENT KUHL: Secretary will -

SENATOR CONNOR: Explanation.

ACTING PRESIDENT KUHL: Senator Bruno, an explanation of Calendar Number 1670 has been requested by Senator Connor.

SENATOR BRUNO: Mr. President, this bill is referred to as the ballot access bill. Again, a lot of conversation about the technicalities that keep people from running for office, getting on the ballot. This again is a very comprehensive approach to eliminating a lot

of the technicalities that have been used in the past to keep people off the ballot. We think we've corrected those. We've changed the form. We've simplified it, and just made it much easier for people to get on the ballot, to run for office.

That's the bottom line, that people would not get knocked off a ballot because they left a street off or they didn't use the right color paper or they didn't clip together properly. The intent is that, if the signatures are there and if they're in proper form, people will have access to running for public office.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President. On the bill.

ACTING PRESIDENT KUHL: Senator Connor, on the bill.

SENATOR CONNOR: I'm delighted that at this late hour in the session, I guess yesterday, the Governor sent up this bill and

today sends a message of necessity for it as amended, but indeed the provisions in this are the things that people have been literally seeking for decades.

Some features of this bill go back to a bill I introduced in 1978 and '79 when I was first elected. In fact, I had a staff member track the provisions and actually just about every one of them corresponds to a bill that I've introduced in the last 15 years. But they were good ideas when I had them and they're good ideas now that they're on the floor.

Does it go far enough? And as many of you know, I voted against the so-called Election Reform Act of 1989, was it, which, in fact left off, because it left most of these provisions we would now do away with on the books. We don't need A.D.s and E.D.s. We have computers; you can find voters. We don't need all the rigmarole, although let me say as with prior legislation, this addresses what I always call the news columnist Election Law. I keep reading in columns that people keep searching

through petitions to knock people off with no middle initial.

I think the Legislature, wisely, in 1949 or '50, wisely passed a law that no petition would be invalid because of no middle initial. All you need is the first name, but I keep reading that this is the reason people keep getting kicked off because of that, and we addressed that a year ago even though there was this 50-year-old law on the books.

The issue of color comes to mind. Certainly in the last 50 years -- and I'm familiar with election law in New York City through most of that time or all of that time - I've never ever heard of a candidate being removed from the ballot because of using the wrong color paper, but I keep reading it in the headlines and papers. It must be true. I read it in some of the best papers in the land.

So we've addressed that in case it ever does -- in case it ever becomes -- in case it ever becomes real, in case any of those columns become true. We've now obviated it

before the fact and require no such color identification in this bill.

This bill doesn't do some things it could do, it could well do. I proposed legislation a number of years ago which would eliminate entirely the witness statement. Who needs it? Who cares? You have computers. You look up the signatures on the petition. If they're really registered voters, it's not a forgery; it's a legitimate signature; it's valid. Do you really care whether a notary or a commissioner of deeds or a local ward healer took the signature and swore to it? It doesn't really matter. The signature is genuine. It's genuine, yet people will continue -- will continue under this legislation to be removed from the ballot because of -- of fraud or defects or misidentifications by the witness. To me, it doesn't make any sense.

This bill also doesn't address the required number of signatures for offices like President of the United States and indeed while I appreciate the Governor's haste in

getting this to us in the last four hours, it's a shame that the people of New York, once upon a time earlier this year when there was national interest in who would be the candidate at least of the Republican Party for President and there were then prominent national candidates, that they had to either avoid New York or overcome incredible obstacles, resort to lawsuits, and so forth, to get any place on the ballot.

If we could act this hastily, I just can't believe we couldn't have acted back in January when the Speaker and I introduced legislation that would have let all presidential candidates that qualified for matching funds appear on the ballot merely by signing their name, as many many states do.

So while this -- and I intend to voted for this. This is good. I regret that the Governor -- another regret I, frankly, have is we are now in the middle of the petition process for this year, the year 1996, and I say to all those candidates out there with all my colleagues, beware, this is not effective until

December 1st. Democracy with a small "d" remains at risk for the next few months, notwithstanding whether or not this ever becomes law, the Assembly acts on it and the Governor sign it. The bad old rules still apply and, if the second floor in this house could act so quickly over the last two days of the -- I don't know what to call it -- what do we call it, the near end or the beginning of the end of session or whatever -- we could have acted much earlier and provided at least the candidates access in the current era.

So it doesn't go far enough but it does make some -- frankly, makes some big strides that we've been calling for for many, many years.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first day of December.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1673, by Senator Libous, Senate Print 7699, an act to enact the Cigarette Tax Enforcement Act of 1996.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 12. This act shall take effect on September 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1674, by Senator Maltese, Senate Print 6475, an act to amend the Administrative Code of the city of New York.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: There is no home rule message at the desk, so the bill will be laid aside.

Senator Bruno, that completes the calendar, the controversial reading of the calendar. Did you want to return to motions and resolutions for a motion?

SENATOR BRUNO: This motion at the desk?

ACTING PRESIDENT KUHL: There's no housekeeping at the desk.

SENATOR BRUNO: Anything else? Mr. President, you might want to at this time - is there other housekeeping to be done?

Senator Montgomery?

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

SENATOR MONTGOMERY: Mr. President, I would like unanimous consent to be recorded in the negative on Calendar Number 1607.

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

Montgomery will be recorded in the negative on Calendar Number 1607.

Senator Saland, why do you rise?

SENATOR SALAND: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 1671.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Saland will be recorded in the negative on Calendar Number 1671.

Any other Senator wishing to record a vote?

The Chair would recognize Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

You know, not being quite young enough to be into the technical age, I've been reading about and wondering about as I read about virtual reality and the Majority is now asking me to go first in my closing statement for the 1996 session, so I'm beginning to think I understand what virtual reality is. It sort

of seems to be there but it's not really there, so I will give my ersatz closing speech and avoid -- try to avoid giggling.

I do want to thank so many people as a new leader, concluding the second session. There are many, many people in this room and outside of this room to whom I really owe a personal thank you.

First and foremost, let me say before I offer some appropriate partisan criticisms, there has certainly been no one I have enjoyed and respected working with more than our Majority Leader, Senator Bruno, who is always a gentleman, always on time and seems a little early to me this year, with this closing.

But certainly Senator Bruno has -- has improved in many respects life for the members in this house and, hopefully, it's reflected in some respect the public may have gained -- we're not there yet, but some respect they have gained for the way we do business, at least the timeliness of it, and some of the

openness.

To certainly my own right arm, Senator Paterson, our Deputy Minority Leader, thank you for your patience, for your eloquent presentation of our Conference's position in the debates. To our more than able Assistant Minority Leader, Senator Stachowski who also leads in debate, to our -- and his job is not yet done, but to our ranking member on Finance, Senator Gold, who has been of invaluable support to me and to our Conference, of course to our Conference chair, Senator Mendez, who you all don't see but presides over our sometimes, not often actually, contentious conferences. The conferences really we found large consensus. And to all of my colleagues, and I thank all of you on both sides of the aisle, on the other side of the aisle for your courtesy which, if I may say in these last two years, and it's a credit to Senator Bruno, and to all the members of this house, I think many of the courtesies that we enjoyed as colleagues and the respect for each other that sometimes seem to have

broken down in some past years have been largely restored, and that's good for the people of the state of New York that we air our differences in a respectful and deliberate way and to, of course, my colleagues in the Democratic Conference I thank you for giving me the opportunity to serve.

Well, here we are. It's the closing speech. We've done much in the Senate. We seem to have set a record for one-house bills. The other house is not with us tonight in Albany and is continuing its work next week. We have made some progress in some areas and indeed the election reform bill, as I pointed out, is an important one, although long over due, and better late than never I suppose, although those people who are unfairly removed from the ballot this August and September will wonder exactly why we are so late.

It seems rather strange to be calling an end to session when a few minor items of importance remain undone. It is virtually unprecedented in this Capitol that we declare

the regular session concluded and we have no state budget. I said "minor" with some facetiousness, but my colleagues on this side of the aisle remain ready to work next week and the week after in cooperation with all of our colleagues in the Legislature for a budget that does recognize the values we think are important to New Yorkers, that provides for the future for our children and their education, that promotes economic security and jobs for middle class people who are quite concerned about it.

That's the only way to ensure fairness to families, that protects our homes by keeping a lid on property taxes, that meets our responsibilities to the aged and disabled and to all New Yorkers for quality health care. Indeed NYPHRM is part of that as well as the budget, NYPHRM which remains expiring and unsolved because one-house bills don't become law. It does require agreement between both houses and the Governor, and we have to uphold our traditions by fostering certainly openness and accountability, and some of the amendments my

colleagues offered, for example, for an itemized legislative budget would advance that.

We have not taken action in a real way on -- at least the Majority has not brought to the floor legislation that the public wants to deal with assault weapons. Regrettably this house has not taken action to ensure an increase in the minimum wage which is something for which our working people cry out. We did offer amendments on that. They were rejected by the Majority in this house, but no action was taken, and that in my mind is regrettable.

The question of extending the loft tenants is not done and indeed were I a loft tenant, I would really wonder what we were doing leaving here saying the regular session is over but maybe we'll deal with your problem. I'd be quite frightened if I thought I could be put out in the street in a mere two or three weeks if we don't return and do something with it, and I think perhaps we're not meeting our responsibility as a Senate and I think the Majority should really take action on that

before we leave. We owe that to those people.

The year has been an interesting one. It's been rather unique. I can't remember a budget process like this. We saw just last week the Governor's own party in both houses soundly rejecting his budget proposals. I guess the Gingrich-Pataki revolution is over in New York State. The Assembly Republicans voted down the Governor's budget proposal and indeed our Majority, and I applaud them for it -- I don't think it went far enough in certain areas -- put forth a budget that was nearly a billion dollars more than what the Governor had proposed.

So I think it's clear the Legislature, and I say this in a non-partisan way, I applaud the fact that legislators of whatever political persuasion are attempting to meet the needs of the people without regard for whether or not they are politically aligned with the second floor.

We have not in a real way -- we have two one-house versions dealing with Workers' Compensation, something that's

important to the businesses of this state, the small business of this state, as well as to the working men and women of this state and their health and economic security. My colleagues in this Conference, seeing the Majority proposal in this house and seeing the Assembly's proposal, indeed just a couple weeks ago put out our own proposal. I would urge those who are negotiating with the other house to take a look at some of the features. I think you will see in some respects it's closer to this house's proposal, in other respects closer to the Assembly, and we actually have a few new ideas in there that I think both houses would take benefit from taking a look at, providing you're not bounded by that Albany illness that sometimes says, Ignore what the minorities do. You know, we welcome you to steal our good ideas. You've done it before. I know you'll do it again. Do it in this case.

Mr. President, I feel a little silly saying goodbye to everybody, saying we wish you a good summer. I hope you have a good

week next week. I certainly will not say I wish you well with the summer and with the elections in November because something tells me we will be back here in a relatively short while.

So that, Mr. President, is my ersatz closing farewell speech.

Thank you.

ACTING PRESIDENT KUHL: Chair recognizes Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

For one of the few times in this chamber, I feel that the Minority Leader, my es teemed colleague, was at a loss to properly describe what he was doing, so let me be helpful.

What is happening -- there is no confusion at all as to what is happening here tonight at ten minutes to nine, not at three in the morning or six in the morning with a 36-hour marathon.

What we are doing tonight, Mr. President, is concluding the regular session of

the Senate. We adopted in January a calendar with the Minority, with the Majority in the other house, with the recognition of the Governor, that we would work diligently on behalf of the people of this state and on June 14 we would conclude our work and conclude the regular session.

So, Mr. President, I'm proud, pleased to stand here and say that we have concluded the regular session in the Senate and we have done the things that we should have done on behalf of the people of this state. We have passed a budget, and it is a budget that we in this house would be willing to see become law and all that it would take for that budget to become the law of this state would be for it to pass the Assembly in the same form and get signed by the Governor.

We did pages of very meaningful things that are represented in the Journal, like a Workers' Compensation package that truly reforms Workers' Comp.; the breast cancer/ pesticide bill; NYPHRM and many many others that

you're very aware of. So we have done our work in an efficient, orderly way.

Does it make sense to go on endlessly? We think not. When you're done, you're done. We're done with the regular session. What does that mean? That means that we stop the hundreds of bills that go through the process; they get recommitted.

And yes, Mr. President, we will be back. We shall return and, when we return, hopefully it will be to pass a three-way budget that will be an agreement, five ways, all ways, with 211 legislators agreeing to do, we hope, an agreed-on version of some of the things that are now only done in this chamber. We hope that will be the case, and when that is the case we'll be back.

In the interim we'll be doing the other things that are important in our lives during this season, whatever they are. That's what we'll be doing. Tomorrow, Sunday, Monday, Tuesday, Wednesday, we will not be here. Why? Because we have completed our work in the

regular session. Will people be working? Yes. Will I be here and not in Italy? Yes. Just for the record, Mr. President, O.K.?

So committees will function, people will function and staff will function. We have done a lot, so my colleague is right, we'll be back. We'll be back when it's appropriate. In the meantime, we will be saving the taxpayers of this state whatever part of the approximately $55,000 a day it takes to keep us here. We'll be saving that for the taxpayers. So take great comfort in that; but we'll come back when we have work to do, and as far as I'm concerned, the sooner the better. We're prepared.

Now, when you do as much as we've done this year, a lot of people participate and I want to say thank you to the people that get involved with us and help us be as effective as we have been this session.

We have been effective and we in this chamber can be proud of what we've done and I want to thank my colleague on my right,

Senator Dean Skelos, who sits here, does a lot of the things that have to get done in this chamber and does a number of other things that makes me very, very thankful for the assistance and makes my life a lot simpler.

Senator Stafford, our chair of Finance does the same, doing a lot of heavy lifts, and light lifts too sometimes, but he does both extremely well; and the others in this chamber who contribute to this process and make it as orderly and as effective and as efficient as it is, and there are people who support us all and you all know who they are because the process couldn't work without them:

Tim Collins, our Executive Counsel, and Dave Dudley, who work literally 3:00, 4:00 in the morning, some Senators do, making sure that we can function the next day and the day after, so I say thank you and I think it was at 3:30 or 4:00 o'clock this morning that the group was meeting and doing a lot of things to help us get through this day.

Abe Lackman, who is here

somewhere unless he's negotiating something, has been invaluable in helping us in doing all of the things that we have to do. Steve Boggess, my chief of staff, stays side by side helping us in every way to be effective. Pat Stackrow, my executive assistant, who is here and you know the kind of work that takes place in that office because you relate, and I hope in a very positive way. John McArdle, our director of communications, Marcia White, my press secretary, try and make me look good and it's very difficult many times, and this Majority, and at times we bring along the Minority; and I'll thank them on your behalf for doing that.

At the front desk, the people work hard, Billy Greer, Tom Testo, and the others you see there who keep us orderly and functioning and we say thank you; and Steve Sloan, our Secretary to the Senate has been with us for a lot of years keeping this place running in an orderly way, and all of the Sergeant-at Arms that are here and those that aren't, who are on duty not knowing what to expect, but

they're here, they function, and they help us a lot, and all the pages that are here and so many others.

This is a very complicated process. To be efficient, to be orderly, to be kindly, takes the support of a lot of people and I've left out a lot of names, but to all of them, I just want to say thank you for getting us through to an orderly conclusion on June 14th. We can be proud that we have done that.

So, as we conclude this regular session and you, Mr. President, have been there looking down on us mostly in a benevolent way, being helpful, banging the gavel, not breaking any this year, but we thank you for that, because they're very expensive.

And I want to say really a thank you to Senator Marty Connor, our leader on this side of the aisle, and Dave Paterson, his able assistant for being what you are. You are capable and able in representing your interests as you see them and as you feel is your responsibility. Sometimes you agree with us and

sometimes you don't agree with us. You can't be right all the time, but what you do, and I do appreciate, Senator Connor, your comment that we have worked together, and we have, and I think that holds us all in good stead.

I think the projection out there to the people of this state is that we can agree or disagree and still respect each other and our position is really what it ought to be like in this chamber, and I think that's what it's all about, to create a dignity that goes with being a Senator, and being in the Senate.

So I thank you for your cooperation and your help in getting us through what we get through here on a daily basis. We'll go forward from here. We'll do the things that we have to do and we will be back. We'll be back to do the things that we have to do. But when we're back, we will be back for a specific purpose. It will be to pass a budget. It will be to pass a Workers' Compensation bill, a NYPHRM, hopefully a loft bill. I've been hearing from all of the people with lofts in my

district.

SENATOR SKELOS: Hay lofts.

SENATOR BRUNO: They're hay lofts. You wonder what effect really the loft bill has on them, and I keep trying to find that out too. But we -- Mr. President, I'd like to conclude on a light note, so let's do that, and let's hope that we can go forward, work together. We'll work with the Speaker, and the Speaker has done an outstanding job from his position in doing what he thinks he ought to be doing and, hopefully, we can get an agreement to do something with the Governor and get a budget before us, and I hope in the not too distant future, because that is critically important.

So I don't want anyone to think that we're leaving here acting as if we've done everything that we're supposed to do. We haven't but, as I've said, we've had a session. We're closing that regular session. We'll come back when we need to. So at this time, I'd like to recommit all of the calendar bills to the Committee on Rules.

ACTING PRESIDENT KUHL: Without objection, the committee bills -- calendar bills -- all of the calendar bills are recommitted to the Committee on Rules.

SENATOR BRUNO: And, Mr. President, there being no further business to come before the Senate presently at this time, I would move that we adjourn subject to the call of the Majority Leader and intervening days to be legislative days.

Thank you.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned subject to the call of the Majority Leader, all intervening days to be legislative days.

(Whereupon at 9:03 p.m., the Senate adjourned.)