ALBANY, NEW YORK

July 12, 1996

12:31 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

SENATOR BRUNO: Mr. President, it is now tomorrow.

ACTING PRESIDENT KUHL: The Senate will come to order. Ask all the members to please rise and join with me in saying the Pledge of Allegiance to the Flag, including those visitors in the gallery.

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

ACTING PRESIDENT KUHL: In the absence of clergy, may we bow our heads in a moment of silence.

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Thursday, July 11th. The Senate met pursuant to adjournment, Senator Kuhl in the Chair upon designation of the Temporary President. The Journal of Wednesday, July 10th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT KUHL: Hearing

no objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno.

SENATOR BRUNO: Mr. President, I would move that we presently stand at ease until 10:00 a.m. this morning. Have a good night.

ACTING PRESIDENT KUHL: The Senate stands at ease until 10:00 a.m. today, 10:00 a.m. today.

There also, at the request of the Judiciary chairman, will be a Judiciary meeting tomorrow morning at 10:00 a.m. Also a Judiciary Committee meeting tomorrow at 10:00 a.m., in Room 124 of the Capitol.

Senate stands at ease until 10:00

a.m.

(Whereupon at 12:33 a.m., the Senate stood at ease.)

(The Senate reconvened at 10:05 a.m.)

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

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Just a reminder that there's a Judiciary meeting, Judiciary Committee meeting, that started at 10:00 a.m., I believe it's in Room 123 of the Capitol, and at this time, if we could take up Calendar Number 1352, Senate 5591-C.

ACTING PRESIDENT KUHL: There is a meeting of the Senate Judiciary Committee that is going on in the Capitol, Room 123.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: The Senate will come to order. Senator Skelos.

SENATOR SKELOS: Mr. President, on Calendar Number 1352, we don't have the message yet, so we'll lay that aside temporarily and with the consent of the Minority at this time, if we could take up Calendar Number 691 on the regular calendar.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 691, by Senator Padavan, Senate Print Number 4216-B, Assembly Print 30017, an act to amend the Penal Law, in relation to increasing the penalties for auto stripping.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Skelos.

SENATOR SKELOS: Again, with the consent of the Minority at this time, if we could take up Calendar Number 1241.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 1241, by Senator Kuhl, Senate Print 906-A, an act to amend the Tax 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 56.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time, if -- Mr. President, at this time

if we could take up Calendar Number 1352, Senate 5591-C.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 1352, Budget Bill, Senate Print 5591-C, an act making appropriation for the support of government.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity and appropriation at the desk?

ACTING PRESIDENT KUHL: The message of appropriation or message of necessity, it's a budget bill, is at the desk, Senator Skelos.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 1352. 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.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation of 1352 has been asked for by the Acting Minority Leader, Senator Paterson.

SENATOR STAFFORD: Thank you, Mr. President.

We are now about to take up the budget bills. Fasten your seat belts. I think everyone will find that a great deal of work has been done. I think we'll have a good budget. I think it will reflect concern, a compassion, also a need for fiscal responsibility, while still meeting the needs of the people of our state.

I do want to say again, Mr. President, that I don't think anyone should

apologize for the hard work, for the hours, for the compromises that went into reaching the conclusions that we're going to have today.

Is everyone satisfied? If they were, we wouldn't have done our job. A good compromise leaves everyone unhappy. I think we must have a good compromise. As I look around today -

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Stafford would yield.

ACTING PRESIDENT KUHL: Senator Stafford yield? Senator Stafford yields.

SENATOR PATERSON: With regard to the community reinvestment and those original plans to cut aid to mental health facilities in communities and then the restorations, can you give me an approximate amount as to what the restorations are?

SENATOR STAFFORD: By all means. I -- I don't want anyone to think that I planted that question, but I'm going to give you a

response that I'm very pleased to give, and I think that it will make people realize that we have listened and that we're doing our best to make sure that, again, the needs of our people are met.

I would like to start by mentioning there is a facility called Kingsboro Psychiatric Center. The full amount has been restored to that facility. I think that probably is of interest to a number of individuals in that -- within the sound of my voice.

The community mental health reinvestment has been fully restored to the tune of $11 million. I think that that is something that will be obviously good for all concerned, including all of the people of our state.

Also we are going over and making sure we have exactly what you have asked for and the OASAS, I think you will find also extremely pleasing and also very encouraging.

Aid to localities has been restored to the amount of $21,650,000. That is

a summary; if you want me to go into any more detail that you would like.

SENATOR PATERSON: Thank you, Mr. President.

If Senator Stafford would continue to yield.

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: If the original budget cuts were approximately 35 billion -- 35 million, excuse me, $35 million dollars, and we're restoring $21,650,000, that would leave approximately a shortfall of $13,350,000, but I would assume that you would want to subtract some numbers when you consider Kingsboro. How much would that be and, after the subtraction, what would be the final shortfall?

SENATOR STAFFORD: It's going to be -- take a bit of time here for us to hone our minds here to give us these numbers, but I'm sure we'll get there. I'm -- I've been here

long enough, I'm not afraid to say when I lose somebody, I lose them. I lost exactly what you're asking, but I will say 42 million was initially the -- the reduction to local assistance, and now we are restoring really half, which is what we're restoring. I -

SENATOR PATERSON: Well, if you take the 21,650,000 that would be approximately half, but I thought that you would probably identify a numerical coefficient that would reflect the restoration to Kingsboro.

SENATOR STAFFORD: Well, Kingsboro is not a part of that. I should have said that. That's my problem.

SENATOR PATERSON: It's not. O.K. So then you're saying that the shortfall as it would stand now would be about 21 million, 20,650,000.

SENATOR STAFFORD: It wouldn't be that. Yeah, but -

SENATOR STACHOWSKI: Mr. President.

ACTING PRESIDENT KUHL: Senator

Stachowski.

SENATOR STACHOWSKI: Would Senator Stafford yield to a question?

ACTING PRESIDENT KUHL: Senator yield to a question from Senator Stachowski? Senator yields.

SENATOR STACHOWSKI: Senator, I see where in alcohol and substance abuse, that 35.5 million is restored for alcohol and community services. Would you tell me what that does? Is that a total restoration; is it a partial; what's the percentage of restoration?

SENATOR STAFFORD: Right. There is a 20 percent reduction and that represents 10 percent restoration of that reduction.

SENATOR STACHOWSKI: If the Senator would yield again.

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR STACHOWSKI: In the same vein, 5.3 million is restored to prevention and program support, same question, what percentage,

same thing? 20 percent cut, 10 percent?

SENATOR STAFFORD: Right.

SENATOR STACHOWSKI: And no, that's it for me. I'll get back.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill? Hearing none, the Secretary will read the last section.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If Senator Stafford would yield for a question.

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator, I notice in the legislation there are a lot of grants, and I'm sure it would be extremely helpful to different communities and they're placed in different areas around the state, and some of them are not for a significant amount of money, but I'm sure what they will do in prevention will certainly justify it, but I'm

just a little curious as to how you determined where these rewards are since this is a problem that afflicts so many people around the state and -- go ahead.

SENATOR STAFFORD: I think, again, your question is very perceptive, and I think I can go right to the heart of the matter.

I, after being here for a few years, it's quite popular to sometimes criticize the input that various legislators have as far as their interests are concerned, the areas where they work such as mental health, Senator Libous and others, in various fields, also what they are concerned as far as their districts are concerned.

When I first came here, a legislator really had practically no input as far as really the budget was concerned as to the functioning of the various agencies and the programs in their district. Today, that is much different, and I might add I think sometimes we don't say this enough, when a legislator works

for a program either statewide or in someone else's district or in their own district, they have to answer for that. They have to answer for that, and the people obviously decide whether that is worthwhile and it's -- whether it is something that should be in the budget.

I don't apologize for this way of doing it. Frankly, I think it's better. It's a bit more cumbersome. It isn't easy because you have all of this information coming in and then decisions have to be made, priorities have to be set, as far as really what ends up in the budget. But I guess the short answer, after my long answer, is that it's input from the members of the Senate and Assembly.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Mr. President, since this is the beginning of, I guess, the real budget, I would like to make some -- excuse me, some general observations.

First of all, there ought to be a

perspective on this. Comments have been made along the way with regard to different bills, different issues that I think, as we crystallize it into the real budget, some of it has to be repeated and I guarantee you, my friends, I will not be long.

The issue was raised a couple days ago as to things like legislators receiving pay packages while we were doing this budget, a late budget, and as I pointed out then, the job, as I see it, as to the public and this year particularly, to protect the public against the December 1995 George Pataki budget, and in doing that, while I am proud as a Democrat to have played my role, I think every member of this house deserves some of the credit.

Last year, the Republicans in this house presented their own budget for the first year of Governor Pataki. You challenged the Democrats in the Assembly to come out with a budget. This year you didn't do that and the reason you didn't do that, certainly early on, was that the January -- the December 1995 George

Pataki budget was indefensible and, as I say these things, you know, we are professionals, this isn't personal.

Our former colleague in the Senate is a very decent man who I think believes in what he tries to do, but it is where you get, not the road you take but where you get that is important, and that December budget would have been disastrous to people.

The amendment in January was a little better, but this house, Republicans and Democrats alike, could not have passed that budget and been fair to the people of this state. In March once again, the Governor changed the budget. He said that some re-evaluations had happened and now he could do some better things and even then, this house, Democrat, Republican alike, would not pass that budget.

So the people should understand that while the budget is late, we have been there fighting for them to get a budget that people could live with. As a matter of fact,

one of my pet peeves in the budget process is the raid on the state done by the rating institutions. This state pays its debts. We may be late; we may be doing things which can be criticized in the way we handle our processes but we pay our debts, and in determining what we should pay in the marketplace for interest, in my opinion the only thing that's important is the fact that we are stable and we pay our debts.

This year, as a matter of fact, while we didn't do other things with the budget, we did pass on time our debt service bill telling the financial community, we pay our debts, so this whole concept of some genius sitting in a back room and getting a headache trying to figure out all of the books and records of the state of New York so that they can tack on extra interest to us is a sham, and I would like very much at some point for this Legislature to deal with that.

We actually pay these people money in the bonding process to look at our

books and to -- I was going to use a dirty word but do that to us in the marketplace, which is ridiculous.

Having said that, I now blame the Governor along the following lines: If that is the game, if we have not yet changed that game, then I think it's the responsibility of the Governor to understand that game and bring a budget in on time.

Now, one of the elements that has kept this budget from coming in on time was the linking into the budget non-budget issues.

Now, I understand the concept of using strengths and looking at weaknesses and having bargaining chips. I know all of those cliches, but what is most important is that when you get past the first week, two, three, four, you have to say to yourself, maybe this is not the way to do a budget.

Now, there has been criticisms of whether or not the Assembly should have caved or not caved on issues or whether the Senate should have caved or not caved, but we weren't talking

budget issues.

Now, you can say if you want to in the most general sense, that anything has monetary implications so you can talk about it in the budget. But there isn't one person in this chamber that doesn't know that there were traditional non-budget items that were on that table which held up this budget and contributed to it being late, and most of that was done by the Governor.

Now, if you read the press, there are some people in the press who have leanings this way, some have leanings that way and some have the nerve to say this one wins, that one loses, and, of course, those people don't have to work for a living so they can write anything they want, but the point is that the losers were the people and also the process because the Governor made a terrible mistake this year, and I hope next year and the year after he should live and be well and in good health, that he doesn't do it again and that we handle the budget as a financial matter.

Today's budget increases by a significant amount of money, I believe it's 1.5 billion, the amount of spending that was suggested by the Governor and as I've said before and I won't bore you with it, the Majority in this house is -- has now opened up the windows. The light of day is through and people now know you are not tax cutters, you are spenders, and that's fine because I will tell you I agree with a lot of the spending that we have added in.

It had to be done. At least you are now acknowledging it had to be done. But what I find fascinating is that the so-called two-way agreement that was reached a month or so ago, which excluded the Governor, had this 21.2 billion in additional spending over the Governor.

The single one-house budget which was passed by your side eventually had about $900 million in additional spending over the Governor, but then when both sides sat down with the Governor and worked out the final budget, we

had 1.5 billion over the original Governor's budget, so I don't know, since this all took place behind closed doors -- and my colleague, Senator Leichter, has pointed this out very well -- the process, instead of opening itself up, gets more and more secret every day.

I don't want to put all of the blame on Senator Bruno, because I think one of the things Senator Bruno has done is to try to, slow as it may be, open up this system and make it more businesslike; but I don't know whether there's ever been a budget that's been more secret than the way the process was done this year.

So I can't tell you as I stand here whether it was George Pataki and his people who added the extra 300 million or what the two houses agreed to or whether or not, as I hold the budget bills up, to me I hear "Oink, oink, oink" because it's filled with so much pork that you people finally threw in and, without my getting specific -- without my getting specific, I hope there's nobody on the other side of the

aisle that doesn't appreciate the fact that we know what member items are, no matter how they are covered up, and what is actually being done with taxpayer dollars.

At any rate, as far as this particular bill is concerned, getting more specific, while there are some general disappointments we have in the overall scheme, the 1.3 billion in one-shots which is not great financing, Governor Pataki and Senator Bruno, and while there are -- we have been counting on moving Medicaid spending off the state's back and changing some other things which didn't happen, I'm going to vote yes on this bill and I'm going to vote yes on this bill because the bottom line is that the Minority in this house believes that you don't spend money for nothing. You do not have the right to take one penny from the public unless you're spending that penny in a way that helps the public, and our philosophy is, if we could close that door, even when a Democrat is speaking, our philosophy is that there must be a philosophy and that

means you take care of the needs of women and children and the elderly, et cetera, et cetera, you know all of the groups, the college students, the pre-K students and, in our philosophy of what is right morally in this society, we believe that the restorations that we have fought for and that the Assembly has fought for have substantially been reflected in what these final numbers are.

So that the fact that institutions of higher education are going to be able to avoid drastic increases in tuition and that some of the most needy in our state are going to find that we've been able to restore some of those benefits, is a major plus in terms of where Governor Pataki put us and where, after six or seven months, the Legislature has been able to conquer those draconian philosophies and bring us to where we are today.

So, Mr. President, thank you for the indulgence. I intend to support the bill.

ACTING PRESIDENT KUHL: Senator Paterson. Senator Stafford?

SENATOR STAFFORD: Mr. President, I wonder if Senator Paterson would let me make just one statement.

SENATOR PATERSON: I'd be delighted to. I hope that it's a long point. Talking about points.

SENATOR STAFFORD: Thank you. And I understand this. I can be criticized for not saying enough at times, but I will continue to try to be criticized for that.

I do want to say, however, my esteemed colleague, the ranking member on Finance who I have worked with for years, we were counterparts a number of years ago at another responsibility and have always worked well together, respected one another, I do have to emphasize that there isn't an issue in this state that isn't non-budget and I think the Governor, Senator Bruno and all those who negotiated these past days are to be complimented getting this state back on the track.

Within the last eight to ten

years we lost 500,000 jobs in this state. I watched the last six to eight years us have a three, four, five billion dollar deficit year after year. This year we had a $500 million surplus. We will also have a surplus this year.

We have gained 100,000 jobs in this state the past year. If we had not had Governor Pataki, Senator Bruno and those negotiating to get this state back on the track, we were going down the drain or down the track, whichever you would like to categorize it. That's where we were going.

So I would say that it is good and the people of the state of New York should be thankful that we have wrestled with some of the issues in this state that were putting us under and making us non-competitive with other states.

Finally, we see light at the end of the tunnel. Again, thanks to Governor Pataki, Senator Bruno and all of those -- all of those who were part of this compromise and this

final work, our budget.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR GOLD: Mr. President.

SENATOR PATERSON: If I could - Mr. President, if I could just -- if the Senator would just yield for a question.

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: I was sitting here and I was listening to Senator Gold. I usually never listen to Senator Gold, but I didn't bring my glasses today so I was unable to read, so I was listening to Senator Gold and I thought he made an excellent point: The two-way agreement, and it called for an increase over the Governor's original proposal of $900 million, that now here we are a month later, we have a $1.5 billion spending increase and, if we're going to say that we're going down a new path, I think what Senator Gold was -- was demonstrating in his comments just a moment ago

is that a lot of that is quite justifiable.

We've made some -- some restorations in areas that are extremely critical. One that we just discussed, Senator, was the issue of mental health facilities in this state, but if we're going to do that, then as responsible public servants, it would seem that we would tell the public that, that that's what we're actually doing, not to say that we're not spending when we actually are.

This budget has about a billion dollars in one-shots and what it's doing is it's financing a tax cut and when these tax cuts run out because maybe it's not too early to start talking about next year's budget, we're going to have to find a way to finance the -- the tax cuts that would be proposed in the scale for next year; and so all I'm asking is how is this different than any other budget that we've ever put forth here, and if it's not different that doesn't necessarily mean that it's wrong. It just means that regardless of who the leadership has been that, on a bipartisan basis, there are

some issues that we have to address in terms of the real public safety, not just public protection, but the public safety when it comes to issues such as poor housing and substance abuse and crime fighting and employment opportunities and education and health care facilities, and so I guess my question is simply, why would we be in any way, trying to confuse the public when it's clear that we are spending a great amount of money over what the agreement was a month ago?

SENATOR STAFFORD: I -- first again, my also esteemed colleague, Senator Paterson, I'm always reminded, I served with his father, always reminded that the river never rises higher than its source, so we remember that.

I would say now, whether you want to call this a track or a path, that makes no difference at least to me. On the other hand, if we're confused, this is the way I want to be confused and I'll just point this out. When we have had a three, four, five billion dollar

deficit for the past six to eight years and we have a $500 million surplus this year, I would say that's not confusion, that's -- I'll let you draw that conclusion.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: I'd like to speak.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Gold.

SENATOR GOLD: Mr. President, I want to give public credit to Senator Stafford who, over the years, has shown me something that very few people can do with this skill and that is to say the most incredible things, look you right in the eye with a straight face. Senator, you're the best at that.

How do you tell the people that we have a surplus when you're throwing in one shot spending on the other side that creates that surplus? You know, we have people in this room who can't keep a straight face when we say

that, and I love them for it, most of them on your side. I love them for it. Gee!

Senator, you -- you've said something a number of times now, and I -- and I must object. I know you mean it in a very loving way, but I must object. This -- this comment of yours about rivers never rising higher than the source. Thank God there are rivers, but I don't know one father in the world that, when he holds that son or daughter in his arms, doesn't have great dreams and hope that the world will provide better and stronger for the child and, thankfully, as this world has developed, we have seen that.

I think Basil Paterson was a great Senator and a great public official and the concept that David Paterson has now risen to his position in the Legislature not only defies your analogy but proves mine, that parents want to kvell with what happens with their children. I always have to throw in a Yiddish word, and I see the stenographer's face and she says, Oh, I've got to talk to him later.

But I don't know one parent who doesn't get excited at the success of their children, and the thought is I'm up here and I never get close to that. I think there's a stop gap. I don't think that ever happens.

Getting into some substance, Senator, figures lie and liars figure. We've all heard that. I don't think there's been one year in my time in this Legislature when one party didn't say that the economy was up and the other party didn't say it was down and they each had their numbers, et cetera, and this issue of jobs, Senator, is one which takes a little bit of fair, honest analysis.

I heard a discussion, Senator, on public television this week on the Workfare program, and the argument that was being made was that all Workfare really is, is a program to make sure that the poor never get a good job because what you're basically doing is forcing people to take jobs which give them no future. If we lose jobs in the state, Senator, we lose the jobs which people wanted and could support

their families and if you supplant that with three jobs which are all half-day jobs or part time jobs where people have to work more than one job to get a living wage, in your numbers, Senator Stafford, we are increasing jobs, but in the reality of life, we have not made it better for our people. We have not created a situation where the average individual can bootstrap themselves and hopefully get out from under. All we've done is play a numbers game and the people who are well-to-do in this state can read the New York Times or the Daily News if you're in New York City in the morning, and sit back and say, Well, as my butler brings me coffee, I don't have to feel badly this morning because the job rate is up and the little people are working.

That is just really the kind of philosophy that I think my party has fought all of these years because the concept here is to give somebody the opportunity to better themselves and better themselves, and that goes back to your comments about the river.

Senator, at this point in time, let's be perfectly clear that when we talk about deficits we are no longer talking about Cuomo deficits. We're talking about deficits now, they are Pataki deficits and by using the one shots this year, what you are assuring, Senator Stafford, is that in the second and third year we are going to be hit with real deficits as a result of the tax cutting program and not handling it in a proper fiscal manner.

When we had our hearings -- when we held our hearings on the budget, Senator, it was very interesting to hear the commissioners talk about economic development in this state, talking about programs to help create jobs, and I think it was Senator Waldon -- I may be wrong -- but it was one of my colleagues who pointed out that there is great economic need in areas of this state.

On the other hand, we are talking about spending money for economic development and jobs and the question is, are we spending it in the areas that have the unemployment? So,

for example, when there was talk of moving jobs out of Jamaica, Queens, out of the Queens area where those jobs were very important to the economic life of a whole community and we were moving them to some place outside the city of New York, I specifically asked, are the monies that you are going to spend going to be spent in Jamaica and in South Jamaica where you're now creating unemployment?

I was assured, as we always are assured at a hearing, that I would receive a response with some specificity. I was assured at the hearing as we always are assured at the hearing, that as the plans developed we would know those plans and certainly by budget time we would know those plans; but I'll tell you, as I stand here today, Senator Stafford, I'd like some assurances along those lines because I haven't seen any of those plans. I haven't seen anything which assures Senator Waldon or Senator Gold or Senator Onorato or any of us from the Queens area that, while you are stealing -- and it really is stealing -- jobs from people in our

area, are you giving us some of that economic development money so that the innocent hard working people whose jobs you're taking away will have a future?

Whenever we get into this area, unfortunately, there has to be a villain. Politically, whether it's right or wrong, there must be a villain, and the easiest target is that non-working bum on welfare who cheats the public and who does this and that and is un - ungrateful and who is undeserving.

But if you want to talk about the truth, that's not the villain. I just described to you a situation in Queens, for example, where we have working people -- working people, they are not bums, they are working people, working for the state and they are smiling people, because they get up in the morning and they go to work and they have their families and their kids are going to school and their wife is either working or home taking care of the kids and they are living a normal life and enjoying it, and as a result of the actions of this

Governor, they find out they're out of work. Well, they're not out of work because they're lazy; they're not out of work because they're cheating the welfare system or want to cheat the welfare system. They're out of work because politically it is more advantageous for the Republican Party to take these jobs and put them some place in some Republican area and put these people out of work.

Having said that, arguments about welfare cheating, arguments about laziness, arguments about ethnic laziness, all of that is junk and I say, as I said at the hearing, as Senator Waldon and Senator Smith and others said at the hearing, O.K., if you have to move these jobs, we have a cadre of people with a work ethic. We have a cadre of people who are family value ethicked, who want to go to work. Where is the economic development factor that is going to give them jobs of equal stature?

Now, I don't know the answer I'm getting from the Republican Party. If the answer I'm getting is that a job is a job, I

tell you a job is not a job and if somebody is working right now in Queens County and earning, I'll pick a number, $30,000, and you tell them, Don't worry, there are jobs in the paper and tomorrow you'll have a job, it's $12,000, there's not one person in the Republican side of this house who, if it was his family or her family member involved, would say, What's the difference? It's a job, that 18,000 in that one case would make quite a difference.

So, Senator Stafford, unless you want to come to the floor and give us an analysis of the jobs, what the relative amounts of money involved are, how people are not only getting more jobs in this state but better jobs and more opportunities, I'd be glad to hear that story but I don't think that is the story and I think that's one of the reasons we don't get that detail.

ACTING PRESIDENT KUHL: Senator Waldon.

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

Would Senator Stafford clear something up for me?

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to Senator Waldon?

SENATOR STAFFORD: By all means.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR WALDON: Thank you, Senator. I'm just trying to find out when we dropped the State Investigation Commission here, did we, in fact, maintain the six commissioners and which page does it appear on?

SENATOR STAFFORD: Yes, we did, Senator, page -- do we have this? Page of the bill, I'll have to -- I'll have to get back to you. I'll get you the page of the bill, Senator.

SENATOR WALDON: Thank you.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Stafford would just yield for a few

questions.

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator, the reimbursement to, I guess, hospitals -- we covered the mental health facilities -- how would you assess the restorations of the budget with respect to just health care and paybacks to hospitals?

SENATOR STAFFORD: Once again, I don't want -- Senator, I don't want anyone to think that again you and I are planning these questions because again I'm very pleased to respond to your very good and fair, perceptive general question.

Many of us work very, very hard, including yourself, including Senator Hannon - now both you and Senator Libous owe me a dollar; those are the two names I've mentioned so far but there will be many others, but exactly, everyone raise their hand, and I'll make sure that they're mentioned.

(Senator Hannon hands Senator Stafford a dollar.)

SENATOR STAFFORD: Oh, no. Oh, no, no. Oh, no, no way. On a serious note, we -- it was suggested that this challenge has been myth. There's still a great deal of work to do, but we feel the restorations that were needed are there and we think that we have a responsive budget in this very, very complex and probably the most important field that we deal with.

The restorations are approximately 230 -- $239 million.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR STAFFORD: Excuse me. The page number. Sorry, Mr. President. The page number concerning the SIC is page 234.

SENATOR WALDON: Thank you.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: I -- I would have offered a -- I was thinking of

offering a -- a hostile amendment on an issue that's very important and serious to me and to the residents of my district and all of West chester and indeed probably all of the state, but let me just discuss it now, and that is I had hoped to see more money added to the amount for Tick-borne Disease Institute.

In the last three years we have been putting $150,000 into the budget for the Tick-borne Institute -- Tick-borne Disease Institute, and we also have had in the past half year going into the current year, 30 - $300,000 from the fed's. However, there is a - a major epidemic going on in -- in Westchester, and it involves not just the well discussed Lyme Disease, but two new diseases that have come onto the scene in the last year, year and a half, and that's something called ehrliciosis, and babesiosis, and these diseases are even more serious than Lyme Disease, and we know Lyme Disease to be a terribly debilitating disease.

Some people are very fortunate. Some people, when they get bitten by the deer

tick, then get a rash and if they get a rash they then know to get the antibiotic. However -- or the antidote. However, at least half the people do not get a rash once they are bitten and in time this can lead to very serious debilitating signs and illnesses, and we need to put a lot more money into this, and I would be seeking 150,000 additional dollars to be put into the budget.

We have to do a great deal more in the area of prevention and detection and treatment because we have to find a cure for these tick-borne diseases. We have new knowledge that is developing all the time with the research that's going on, and we have very special epidemiologic studies going on, and we're learning how to control the particular vendor which the main character is the white footed, mouse as well as the deer.

We have to control the reservoir host and we have to find an answer because too many people are seriously debilitated that they are forced into wheel chairs and they simply

cannot function neurologically.

So I would have chosen to see another $150,000 put into this problem, and I hope certainly in the future that we will recognize the seriousness of this and the enormous rapid growth of these tick-borne diseases and that we will handle it in a more liberal financial manner to try and get an answer and to deal with prevention because it is becoming a very serious issue.

It is already very serious in Westchester, but I can assure you it will be throughout the state just as serious within a couple of years because these deer and these mice move about. They don't just stay in the Westchester boundaries.

I believe the amendment that I was going to offer has arrived and so, if it is at the desk, I certainly would waive its reading since I have already explained it and it seeks another $150,000 in funding, and I would move its adoption.

ACTING PRESIDENT KUHL: The

question is on the amendment to amend -

SENATOR HANNON: Mr. President.

ACTING PRESIDENT KUHL: Senator Hannon, on the amendment.

SENATOR HANNON: Let me make an inquiry. Is it not the rule that the amendment must be presented before the consideration of the bill is taken up?

ACTING PRESIDENT KUHL: No, it is not, Senator Hannon. Talking with the Journal Clerk the amendments have come up after they've started processing the bills in the past. There's precedents that's been set, so the amendment the Chair is dealing with as being appropriate at this time.

The question is on the amendment to amend the bill, the amendment being offered by Senator Oppenheimer. All those in favor of the amendment.

SENATOR STAFFORD: Mr. President, I would just put in the record that all of us, I believe, certainly myself, understand the concern with this disease. I believe Senator

Lack was very involved in this matter during the past few years. I have a staff member who, interestingly enough, was taken -- just happened to be with me and he passed out and they couldn't figure out what was wrong and, lo and behold, he has this disease. He likes to take part in a certain activity in the fall that I guess he still is doing but he's more careful. It's very serious.

I would also point out, I believe I'm correct here, that our present Governor has been very involved in this matter and I think possibly this would be because of where possibly people live in this state. So I would only say that we understand the concern. We assure you that overall this budget will meet this issue and many, many others and under the circumstances, I certainly would suggest that we continue with the budget and not have this amendment prevail.

ACTING PRESIDENT KUHL: The question is on -- Senator Lack.

SENATOR LACK: Mr. President,

Senator Stafford certainly is correct and if Senator Oppenheimer would like to look in the budget submissions we have, you'll find, as there has been for the last eight years, there is between 4- and $500,000 in the budget for the premier Lyme clinic in the United States at the State University of New York at Stony Brook, which is, in our parlance, a lift that's been carried by this Senate Majority without any fanfare, without any press releases, without any amendments, but very quietly. It does its job very well.

We've never had any indication of any interest as a financial consideration from the Senate Minority on behalf of myself, Senator LaValle, Senator Johnson, Marcellino, Senator Trunzo, from Suffolk County which has the highest incidence of Lyme Disease -- Senator Levy, I'm sorry -- in the country. If the Senate Minority would like to join in as part of a financial contribution to help support that in the budget, please file a letter or give any indication to us and we'd be glad to make you

part of what has been an ongoing multi-year effort by the Senate, the Senate Majority specifically, to handle any problems with Lyme Disease, and I've got to tell you, Senator Oppenheimer, since you personally sit on the floor and talked about personal problems, et cetera, I don't appreciate political grandstanding of any kind with respect to Lyme Disease, but hard dollars is always much better.

ACTING PRESIDENT KUHL: Senator Oppenheimer, on the amendment.

SENATOR OPPENHEIMER: Yes, on the amendment. I -- I was hoping that it would be heard by the other side of the aisle that we now have something beyond Lyme -

ACTING PRESIDENT KUHL: Senator Oppenheimer, excuse me just a minute. Have a little order in the house. There's a colleague who is trying to address the chamber. Can't hear her, and I'm not that hard of hearing.

Thank you.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Mr. President.

I certainly don't mean to denigrate the efforts that have gone on on Long Island, though I would point out that the lab in Armonk has been doing a spectacular job on Lyme Disease as well.

What I was hoping you would hear on the other side of the aisle that this is beyond Lyme Disease. Ehrli...ehrliciosis - it's hard to say -- and babesiosis are new diseases that we have found in the past year and they are more serious than Lyme Disease, and that is why I am asking for the additional funding.

SENATOR LACK: Mr. President, let the record be straight that the Lyme Disease clinic at Stony Brook is involved in ehrliciosis and every other Lyme Disease-related affliction that we know about. It's nothing to do with Armonk and anything else, because the state many years ago chose to channel its main diagnostic efforts with respect to all such diseases out of

the state-owned university hospital and medical school, the State University of New York at Stony Brook.

If Senator Oppenheimer would be ever interested in coming out to Stony Brook and looking at the ongoing effort in the clinic, we'd be happy to arrange it.

SENATOR OPPENHEIMER: I would be delighted to go, Mr. President, to see that effort. I would not denigrate the effort of Durland Fish who is recognized as one of the experts in the field who, true, left Westchester, went up to New Haven to Yale, and now the monies have come back to Westchester and the lab is operating out of Armonk.

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

(Response of "Aye.")

Opposed nay.

(Response of "Nay.")

The amendment is lost.

SENATOR GOLD: Aah!

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill? Senator Marcellino.

SENATOR MARCELLINO: Explain my vote.

ACTING PRESIDENT KUHL: Explain your vote.

SENATOR MARCELLINO: Yeah, I'll do that.

ACTING PRESIDENT KUHL: 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.)

ACTING PRESIDENT KUHL: Senator Marcellino to explain his vote.

SENATOR MARCELLINO: Mr. President, we've heard a lot of discussions about restorations in this bill, this budget, and there are some and they're necessary and we agree with them and it's a great budget over

all, but there are also some things that have been lost in the discussion, and I rise with our local Long Island newspaper which can hardly be considered a bastion of Republican favoritism, nice story on the -- on page 7, A7, which talks about budget deal tax cuts, and it says the nearly $66 billion state budget that Governor Pataki and the leadership of the Assembly and Senate put together includes tax cuts worth $83 million dollars over the current fiscal year and expands to more than $200 million through the year 1999.

That doesn't even talk about the income tax cuts that have been already done, other tax cuts that have been done. We have had a real estate tax gains tax, the so-called Cuomo tax, has been repealed; clothing sales tax experiment coming up, child care credit, sales tax reductions, petroleum business tax reductions, our taxes for trucking and rail companies reduced.

This budget is replete with what we call tax reduction or business incentives to

create jobs, to bring businesses back to New York State, which was not part of the previous budgets under Cuomo administration. All they did were raise taxes and drive businesses and jobs out of the state.

The Pataki history and the Pataki budgets have cut taxes and brought businesses and jobs back to the state. There can be no argument with that fact.

I vote aye.

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

Announce the results.

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: Senator Dollinger, do you wish to be recorded in the negative? Senator Hoffmann also.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger in the negative.

O.K. Any other Senators wishing to be recorded in the negative raise their

hands. Announce the results.

THE SECRETARY: Ayes 54, nays 2, Senators Dollinger and Hoffmann recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SKELOS: Mr. President. Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Skelos.

SENATOR SKELOS: If we could return to motions and resolutions, I believe there's some housekeeping at the desk.

ACTING PRESIDENT MAZIARZ: Senator Tully.

SENATOR TULLY: Yes, Mr. President.

On behalf of Senator Stafford, I offer the following amendments to Calendar Number 1354, Senate Print 5593-B and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MAZIARZ:

Amendments received and adopted.

Senator Tully.

SENATOR TULLY: Yes, Mr. President.

On behalf of Senator Stafford again, who's so gracious, I offer the following amendments to Calendar Number 1353, Senate Print Number 5592-B, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MAZIARZ: Amendments received and adopted.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT MAZIARZ: We need to return to messages from the Assembly. Secretary will read.

THE SECRETARY: Assembly sends for concurrence Senate Print 5595-A, Budget Bill, with a 30,014-A reprint.

ACTING PRESIDENT MAZIARZ: Senator Tully.

SENATOR TULLY: Yes, Mr.

President.

Again, on behalf of Senator Stafford, I move that the Senate not concur in said amendments and move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MAZIARZ: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT MAZIARZ: Senator Tully.

SENATOR TULLY: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MAZIARZ: Amendments received.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there's a report of the Judiciary Committee at the desk. I ask that it be read and that you recognize Senator Lack.

ACTING PRESIDENT MAZIARZ:

Reports of standing committees. The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, offers up the following nomination: New York State Court of Claims, Philip J. Patti, of Hornell.

ACTING PRESIDENT MAZIARZ: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

It's my pleasure once again to rise and move for the confirmation of an excellent nominee sent to us by Governor Pataki for a vacancy in the New York State Court of Claims, for Philip J. Patti, of Hornell.

Mr. Patti has been examined by the staff of the Committee and has been found to have excellent credentials. He appeared before the committee this morning, was unanimously endorsed and sent to the floor, and it is my pleasure at this time, Mr. President, to yield to my colleague, John Randolph Kuhl, with respect to a second.

ACTING PRESIDENT MAZIARZ: Senator Kuhl.

SENATOR KUHL: Thank you, Mr. President. Thank you, Senator Lack.

It's indeed my privilege and a great pleasure to be able to stand here and second the nomination of Philip J. Patti to a position on the Court of Claims.

It's not often that an area like the Southern Tier gets the opportunity to have an individual serve on the Court of Claims. It's been some time since we've had a representative who has been serving on the Court of Claims. I can't think of any other individual in my experience in my area who would better represent the area than Phil Patti, who is with us today.

Phil is truly a lawyer's lawyer. When we go to law school, you always hear about the "jealous mistress", and the "jealous mistress" meaning that there's such a tension, such a demand, such a draw of the legal profession on an individual that it kind of has

a tendency to over-consume you and take up all of your time.

Phil has really totally involved himself in the practice of law. I had the great privilege when I first started practicing law years ago to be on the other side of the aisle so to speak. He was working for the assistant -- or for the district attorney's office, and I was doing some defense work and oftentimes we did the trip throughout the district and hit three or four or five or six or seven courts in one day and were -- where we would gather at the end of the day and count up our wins and our losses, and it was a great experience, a great experience for him and certainly a great experience for us together.

I also had the great pleasure of working with Phil in the assistant county attorney's position. So, Phil, what I'm trying to point out is Phil has had a multitude of experience both in criminal law, both in civil law. He's worked for municipalities and he's done everything that I can see that would

properly prepare him for this position.

I know of no other individual who has the credentials that he has, that has the experience that he does, but his participation in the world is not limited to the profession of law. He's been very active in the community, done coaching. He has an older family now, a boy, a daughter, and he was at one time a coach on a Vince Lombardi football team, spent some time there. Very active in his church; served on the board of trustees of the community college; and so his experience is broad based. I think it gives him the perspective that we want in somebody who serves on the judiciary to actually be able to look at a case, to hear a case, understand from all perspectives what is being presented to him.

So it's my great pleasure to present to you one of the jewels of the Southern Tier, my friend and my colleague, Phil Patti, and I would move his nomination.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Kuhl.

Question is on the confirmation of Philip J. Patti as judge of the New York State Court of Claims. All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Philip J. Patti is hereby confirmed as a judge of the New York State Court of Claims.

Judge, on behalf of Senator Bruno and all of my colleagues in the New York State Senate, want to welcome you and your wife Pauline and your children, Stephen and Colleen, here to the Senate chamber and to congratulate you and wish you well. Best of luck in your new endeavors. Congratulations, Judge.

(Applause)

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate conference of the Majority in the Majority Conference Room.

Senator Paterson.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Mr. President, there will be an immediate conference of the Minority, and we're going to hold that in the Majority Conference Room as well but, if they don't let us, we'll have it in Room 314, the Minority Conference Room is better.

ACTING PRESIDENT MAZIARZ: Senator Skelos.

SENATOR SKELOS: Also we will, at the direction of Senator Bruno, we will reconvene at 11:55, because I think certain things happen at 12:00 noon that we have to deal with prior to that, so we will reconvene at 11:55 a.m.

ACTING PRESIDENT MAZIARZ: There will be an immediate meeting of the Majority Conference in Room 330 -- 332, I'm sorry, an immediate meeting of the Minority Conference in Room 313, and the Senate will reconvene at 11:55 a.m.

(Whereupon at 11:20 a.m., the

Senate stood at ease.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT STACHOWSKI: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Rules Committee in 328 of the Capitol.

ACTING PRESIDENT STACHOWSKI: Immediate meeting of the Rules Committee in Room 328 of the Capitol.

SENATOR SKELOS: Thank you.

ACTING PRESIDENT STACHOWSKI: Senator Skelos.

SENATOR SKELOS: Mr. President, if at this time we could return to reports of standing committees, I believe there's a report the Rules Committee at the desk. I ask that it be read.

ACTING PRESIDENT STACHOWSKI: The Secretary will read.

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

Senate Print 7944, from the Committee on Rules, an act to amend Chapter 905 of the Laws of 1986.

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

ACTING PRESIDENT STACHOWSKI: All in favor.

(Response of "Aye".)

Opposed?

(There was no response.)

The Rules report is accepted.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk - would you call the bill up, please.

ACTING PRESIDENT STACHOWSKI: The Secretary will read the title. The Secretary will read.

THE SECRETARY: Calendar Number 1738, by the Committee on Rules, Senate Print 7944, an act to amend Chapter 905 of the Laws of 1986.

SENATOR SKELOS: Mr. President,

is there a message of necessity at the desk?

ACTING PRESIDENT STACHOWSKI: Yes, there is a message.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT STACHOWSKI: All in favor of accepting the message, aye.

(Response of "Aye".)

Opposed?

(There was no response.)

The message is accepted.

Read the last section.

THE SECRETARY: This act shall take effect immediately.

ACTING PRESIDENT STACHOWSKI: All in favor -- call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STACHOWSKI: All in favor -

THE SECRETARY: Ayes 56.

ACTING PRESIDENT STACHOWSKI: Opposed -- the bill is passed.

SENATOR SKELOS: Thank you, Mr. President.

And at this time we'll continue to stand at ease.

(Whereupon, at 12:50 p.m., the Senate reconvened.)

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

Senator Skelos.

SENATOR SKELOS: Mr. President, if at this time we could take up Calendar Number 13... first of all, I believe there's some housekeeping at the desk. So if we could return to motions and resolutions.

ACTING PRESIDENT KUHL: Return to the order of motions and resolutions.

The Chair recognizes Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Goodman, I wish to call up his bill, Print Number 4688-D, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: By Senator Goodman, Senate Print 4688-D, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Senator Libous.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Mr. President, I offer up the following amendments.

Mr. President, I have one more.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Libous.

SENATOR LIBOUS: On behalf of Senator Saland, I'd like to call up his bill, Print Number 7688, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read the title.

THE SECRETARY: By Senator Saland, Senate Print 7668, an act to amend the Social Services Law.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: 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 56.

ACTING PRESIDENT KUHL: Senator

Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I offer up the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time if you'd call up Calendar Number 1355, Senate 5595-B.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1355.

THE SECRETARY: Calendar Number 1355, Budget Bill, an act making appropriations for the support of government.

SENATOR SKELOS: Mr. President, is there a message at the desk?

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

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on

Calendar Number 1355. 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 5. This act shall take effect immediately.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yes, on the bill.

Mr. President, since it is somewhat confusing with bills coming somewhat rapidly and delays and then suddenly moving, I think it would be helpful if we made sure that all the members understood what bills were before us, and I'm sure that you will carry out that duty.

Mr. President and my colleagues,

on the Legislative and Judiciary Budget, we've debated that at some length earlier this year. I presented some amendments. I'm not going to do the same thing again, but that should not be taken to mean that we have lost any of our intent or purpose in pointing out how this legislative budget continues really to be a fraud on the people of the state of New York. It's a phony budget because it's a non-budget, because it's not a detailed budget, but what is particularly galling this year is that last year we were specifically promised by the Majority Leader that we would get a detailed budget, and he and I had some discussion on that, and he stated to me at that time -- excuse me just a second -- and during our discussion last year when I asked him, "Are we going to have a detailed budget", he said -- Senator Bruno said to me, "I think you will be very happy, very satisfied as will my colleagues here to see every cent that we spent itemized so that everyone's salaries are itemized" -

ACTING PRESIDENT KUHL: Senator

Leichter, excuse me just a moment.

Senator Stafford, why do you rise?

SENATOR STAFFORD: I wonder if Senator Leichter would yield to a question. I think maybe it would be good to join -

ACTING PRESIDENT KUHL: Senator Leichter, do you yield to a question from Senator Stafford?

SENATOR LEICHTER: Sure. Could you just let me finish reading because I don't think that the words of our Majority Leader should be left sort of hanging there. They deserve to be presented uninterrupted and then I'll take your question.

SENATOR STAFFORD: Well, you're not doing what I'm trying to do, but go ahead.

SENATOR LEICHTER: Okay. Well, I usually end up not doing what you'd like me to do. Okay. Let me again -- because these are the words of our Majority Leader. He said to me when I asked him if we were going to have an itemized budget, and I quote. "I think you will

be very happy, very satisfied as will my colleagues here to see every cent that we spent itemized so that everyone's salaries are itemized, all the expenditures for travel, for office expenses, for your district office, itemized and don't know how much more fully we can disclose than that", unquote, and then I went on and said, Well, Senator Bruno, is that going to be in the budget? He said, Yes. He said, We're going to itemize to the same extent that the Executive Budget itemizes.

Now, I've had a lot of disagreements with Senator Bruno on substantive issues, but I consider him a person of his word, of his integrity, and so on, and we've certainly seen how he has said we're going to start sessions on time. They start on time. That's wonderful, but he did say we're going to have an itemized budget, and the budget that we have is precisely the same one that we've had for decades which is vague, imprecise, general, which hides from the public and hides from the members actual information that anybody who

votes on the budget has to know but above all, the public has a right to know how their money is being spent by the Executive, by the Judiciary and, yes, even by the Legislature.

I will be happy to yield to Senator Stafford.

ACTING PRESIDENT KUHL: Senator Stafford, Senator Leichter yields.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: Senator Stafford said I could ask one quick question first. May I do that, sir?

ACTING PRESIDENT KUHL: Senator Leichter, do you yield to a question from Senator Gold?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GOLD: Senator Leichter, are you saying that the budget is as bad today as it was when Senator Israel Ruiz was a Senator

here also?

SENATOR LEICHTER: Senator Ruiz is paying as much attention to you now as he did then.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: I'll yield to Senator Stafford.

SENATOR STAFFORD: Well, I would -- this is going to be sort of a -- well, it's a question. It's a question. You do know, don't you, Senator, that we are going to have expenditure reporting, and I believe you no doubt have looked at your expenditure report and I might add, you're to be complimented, I'm sure. I haven't seen it, but I'm sure your expenses are like mine, low. Every single penny spent here in the Legislature will be accounted for and will be in this expenditure reporting.

Now, I want to compliment anyone who has been involved in pushing this, obviously Senator Bruno and many others and, frankly, Senator, you don't go unmentioned for what is

being done. It will be there. It will be in the open, and I just wondered if you had -- I appreciate your comments.

SENATOR LEICHTER: Senator Stafford, I think it's fair for you to point that out because unquestionably that is something that should have been done a long time ago and at least credit ought to go to Senator Bruno who, after all, makes that decision, for finally revealing that.

Now, we can go through the history and say, Yeah, but it took all of those times when people had to get up on the floor and complain. It took a lawsuit, and so on. Forget it. It's being done, and for that we can be thankful and grateful but, Senator, I wondered whether, really partly in response to you and to clarify the issue, you would be good enough to yield.

SENATOR STAFFORD: Yes. I'm sorry. Yes.

SENATOR LEICHTER: Senator, would you agree with me it's not the same thing to

appropriate money in, if you will, a lump sum and then down the line say, Well, we'll account how we spend it and in the first instance when that money is appropriated, when you and I cast a very important vote, when we exercise our responsibility and are accountable to our constituents in deciding how public monies are going to be spent, in knowing as you cast that vote, not 30 days from now or three months from now or six months from now or a year from now, but as you cast a vote, how is the money to be spent? How are you appropriating this money, and will you agree with me that there's a big difference in itemizing in the budget and itemizing one year from now as to how the money, in fact, was spent?

SENATOR STAFFORD: I -- I'm going to be very careful. I'm going to have to say right in the beginning, probably you and I won't agree very much in this debate, but there's nothing necessarily wrong with that. I found here that in debates -- I was going to mention to Senator Gold when he was mentioning, Well,

you have numbers here. It's how they're interpreted and how you do it and what's the end product.

I would suggest, Senator, that I don't think you and I are Machiavellian. On the other hand, I guess all of us are to a degree or we wouldn't be here, and we're interested in the end. The end product of Senator Bruno's efforts and all those who have been involved, the end product will result in every penny of the Legislature being accounted for publicly and it will be attached or directed to or part of - what I'm saying is it will be indicated publicly what Senator is responsible for that expenditure.

SENATOR LEICHTER: Right. Senator, you made that point. I agree with you. It's something that needs to be done, but you've got to start that process at the very beginning, and as you and I cast our votes as we're about to do in a few minutes on the legislative budget, we should know precisely. You shouldn't have to wait a year from now to

find out how much Leichter spends on mailing and other things. You ought to know. You ought to know what my staff allotment is and, frankly, I would be interested in knowing your staff allotment, and that ought to be in the budget and people ought to -

SENATOR STAFFORD: Let me mention this -- excuse me. Would the Senator yield?

ACTING PRESIDENT KUHL: Senator Leichter, do you yield?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STAFFORD: Do you know - and I'm really pleased -- again, it's going to be like Senator Paterson. It sounds like I planted this but, you know, you're going to find your staff allotment not that much different than mine.

SENATOR LEICHTER: Well, I'll be interested in that, and if that's the case - and let me say, certainly you hold one of the most important positions in this body, and I

could well understand that you would have greater staff than I would, but I just think that we ought to know.

Now, actually there is a breakdown here for the Senate Finance. There always has been, but it isn't itemized. It isn't detailed, and it's not that I'm particularly interested in what you have, Senator Stafford. I just think that the public ought to know what all of us have. The public ought to know what the -- how the Legislature spends its money for it spends it.

And let me just say that in the amendment that we presented which, unfortunately the Majority voted against en masse, we showed that if you begin to itemize, you can get some savings, and the fact is that we in the Legislature, while we have been very critical of the Executive and somewhat critical of the Judiciary about their expenditure -- we make a lot of changes in the Executive Budget -- but the Legislature has been like a sacred cow, and our budget has not seen the sort of decrease or

limitation on growth that we've had for the Executive Budget.

You begin to itemize, and you can see how you can make savings, and I say to my friends on the other side of the aisle - because I don't think you have a greater concern about efficiency in government and getting 100 cents value for every dollar spent than we do. I think you like to talk about it a little more. So, therefore, maybe you've got a responsibility, and I would say to you that I don't see that your words on cutting out waste in government match your action when it comes to the Legislative Budget.

I'm not going to say this is a bloated budget. I don't think it is. We've shown you how you can save money on the Legislative Budget and our amendment, in fact, had significant savings on the Legislative Budget, both the Senate and the Assembly. There's no difference in our criticism here between the Senate and the Assembly. This is - as far as we're concerned, if you will, it's not

a partisan issue. It becomes pretty much an institutional issue. Maybe it's the Minority against the Majority. Maybe I get more Republican Assembly members agreeing with me than I would get Democratic Assembly members, but here too, I think that if you look, not at who's making the criticism, Well, it's just Minority members. They always want more, but if you look at the basic fairness, if you look at what other states do, if you look at what experts on budgeting do and what they tell you in regard to a budget, they would say this is laughable. This is a joke.

So I say to all of us, but I say particularly to Senator Bruno and to Speaker Silver, it's time we cleaned up our act. It's time that we as legislators acted responsibly. It's time that we met our Democratic responsibility of letting the public know when we vote for it, not a year down the road, how public monies are being spent.

This Legislative Budget doesn't do it. It didn't do it last year. It didn't do

it the year before. I was hoping that this year we would do it because Senator Bruno said, Leichter, you're going to be very happy. You're going to be satisfied, and here I stand and I'm very unsatisfied and very unhappy and all of you should be because it's not a fair, honest budget, and for that reason as I think every year that I have been in the Legislature, more years than I care to think about or anybody can count almost, I voted against the Legislative Budget and I will vote against this Legislative Budget.

SENATOR STAFFORD: Mr. President, I will be very, very brief.

ACTING PRESIDENT KUHL: Senator Stafford.

SENATOR STAFFORD: I'm speaking of words. Senator Leichter mentioned a sacred cow. Well, we also -- we don't want a gored ox either. I would suggest that we have -- in the media here, we have again and I think it has to be emphasized that Senator Bruno has done what he was -- what he said he was going to do.

Every single penny will be accounted for publicly, and the Senator that is responsible for that expenditure will be so assigned or it will indicate that that Senator is the Senator responsible.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: 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.)

ACTING PRESIDENT KUHL:

Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 1355, Senators Abate, Dollinger, Hoffmann, Leichter, Nanula, Oppenheimer and Stavis... excuse me. Oppenheimer. Ayes 52, nays 6.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Leichter, why do you rise?

SENATOR LEICHTER: Mr. President, while I'm on a roll, would you please, with unanimous consent, record me in the negative on Calendar Number 1352.

SENATOR SKELOS: No objection.

ACTING PRESIDENT KUHL: Without objection, Senator Leichter will be recorded in the negative on Calendar Number 1352.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 1353, Senate 5592-B.

ACTING PRESIDENT KUHL: Going to the regular calendar, page 4, Calendar Number 1353, it's the Transportation, Economic Development and Environmental Conservation budget bill.

I'll ask the Secretary to read the title.

THE SECRETARY: Senator Stafford moves to discharge from the Committee on Finance

Assembly Bill Number 8402-D and substitute it for the identical Senate Bill 5592-C.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

SENATOR SKELOS: Mr. President, is there a message?

ACTING PRESIDENT KUHL: The Secretary will read the title.

THE SECRETARY: Calendar Number 1353, Budget Bill, Assembly Print 8402-D, an act making appropriations for the support of government.

ACTING PRESIDENT KUHL: Senator Skelos.

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

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

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The

motion is to accept the message of necessity on Calendar Number 1353. 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: This act -

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation has been asked for by Senator Leichter of Calendar Number 1353.

SENATOR STAFFORD: Mr. President, moving along here in our budget process, this budget as has been mentioned contains transportation -

ACTING PRESIDENT KUHL: Senator Stafford, excuse the interruption just a moment. We have too many conversations going on.

Thank you, Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President.

I just can't believe that people aren't hanging on every word. On the other hand, I can.

Transportation, Economic Development and Environmental Conservation are considered and are provided for in this portion of our budget -- or in this budget bill.

As I mentioned, Transportation, Economic Development, Environmental Conservation are increased in the general fund by $20 million and the overall appropriation for these provisions are 100... or is $160 million.

Additional spending is provided for agricultural programs, economic development zones, housing programs and for the Ontario Watershed Protection Alliance program, to name a few.

In addition, funding is restored for zoos, botanical gardens, aquariums and the like, as well as redirection of funding within the Environmental Protection Fund which is a

serious subject, obviously.

Mr. President, I could go on. I could go into detail, be glad to. I'd be glad to answer any questions. Again, a great deal of work went into this here in the Senate, in the Assembly and obviously the Executive branch. I think this budget responds and is responsive to the requirements.

ACTING PRESIDENT KUHL: Senator Leichter, do you wish to follow up?

The Chair recognizes Senator Abate.

SENATOR ABATE: Yes. Would Senator Stafford yield to a number of questions?

SENATOR STAFFORD: Yes.

SENATOR ABATE: As you know, Senator Stafford, I come from a region called New York City and -

SENATOR STAFFORD: The capital of the world.

SENATOR ABATE: Thank you.

We're the economic engine of the

world, I'm told. My concern comes from a historical concern. Two years ago just about every mass transit system in the state received an increase and New York City received a decrease. That historical pattern has been continued year after year. My concern is that 80 percent of the riders of all the mass transit systems lie in New York City but we get a fraction of the money coming back to New York City. I believe last year it was 64 percent of the total dollar.

How do we do this year in terms of the appropriation to local aid for mass transit? Are we receiving an increase in dollars, and what is the proportion of that increase compared to other local mass transit systems?

SENATOR STAFFORD: I am relatively well prepared for this subject because some of you people asked some very tough questions when Mr. Kalikow was up for reconfirmation, and I said, I will get you some answers, and I did.

Now I'll get the answers.

SENATOR ABATE: Okay. Great.

SENATOR STAFFORD: It is just about even, but I want to be very accurate and be very careful. Overall, there is a 17 million increase -- or decrease, excuse me, for the MTA this year.

SENATOR ABATE: A 17 million decrease.

SENATOR STAFFORD: Yes.

SENATOR ABATE: And how many other jurisdictions, other local mass transit systems also received a decrease?

SENATOR STAFFORD: Well, of course, we're talking about -

SENATOR ABATE: I mean Buffalo, Syracuse, throughout the state.

SENATOR STAFFORD: I was going to answer that.

SENATOR ABATE: Okay. Thank you.

SENATOR STAFFORD: I'm answering it -- attempting to. If there were any decreases, they were de minimus, but on the

other hand for the overall budget, I would suggest that 17 million -- it's a lot of money upstate. It's a lot of money anywhere, but on the other hand, percentagewise, it's not really too much of a decrease.

Now, there also -- it was explained to me by Mr. Kalikow and others that the 17 million is going to be more than made up as far as being able to provide services and it is not going to be a problem as far as providing, if not better services for this coming year.

SENATOR ABATE: Would Senator Stafford continue to yield?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR ABATE: Senator, I'm not sure if I understand. Let me rephrase the question again. In terms of local aid to mass transit, was there an overall increase in dollars to those systems in New York State?

SENATOR STAFFORD: No.

SENATOR ABATE: Okay. What was the total decrease in dollars to mass transit?

SENATOR STAFFORD: I'll get that. I don't have the actual decrease, but it was de minimus, that's small.

SENATOR ABATE: But if 17 million went to New York City as a decrease -

SENATOR STAFFORD: Overall, it will be 20 million.

SENATOR ABATE: So totally in New York State, the total decrease in funding for mass transit was 20 million of which a 17 million decrease came out of mass transit in New York City. So virtually all the cuts -

SENATOR STAFFORD: No, that isn't right.

SENATOR ABATE: Okay. Then I didn't understand.

SENATOR STAFFORD: First -- let me try to put this into perspective. $1 billion is spent on mass transit. 900 million is spent in the MTA. 100 million is spent in other areas of the state. The 17 million comes out of the

900 million. The de minimus also comes out of the 100 million.

SENATOR ABATE: So whatever was cut from the mass transit basically came out of New York City's budget, whether it was de minimus or not. The cuts came out of -

SENATOR STAFFORD: Proportion wise when you're comparing 900 million with 100 million, yes, more came from New York.

SENATOR ABATE: But I'm sure you're aware, Senator, that most of the ridership comes from New York City and yet those dollars -

SENATOR STAFFORD: Let me answer that. Let me spend a minute on that. I think we all -- we all are doing our best to have every citizen of the state treated equally and have equal opportunity.

Now, I've got to agree that my cart -- that's c-a-r-t. It's not one you pull, but they call my buses up there -- their vans carts. I got to admit, sometimes they drive 30 miles and pick up two people, but yet those two

people live in New York and they, of course, need transportation as much as a person who lives in the metropolitan area, in the capital of the world and for the record, I slipped the other day and I said Plattsburgh. I want to make sure the record -- it is the great city of the world.

ACTING PRESIDENT KUHL: Senator Stafford, could you excuse an interruption, please?

Senator Holland, why do you rise?

SENATOR HOLLAND: Mr. President, there will be a meeting of the Higher Ed' Committee in Room 124 at 1:30.

ACTING PRESIDENT KUHL: There will be a meeting of the Higher Education Committee, a meeting of the Higher Education Committee in ten minutes at 1:30 in Room 124 of the Capitol.

Thank you, Senator Stafford, for the interruption.

Senator Abate, you have the

floor.

SENATOR ABATE: Yes. A totally different topic. There's a -- there's something called the Triborough Bridge and Tunnel surplus tolls, and it was a formula that was instituted many years ago where the first, I believe 24 million -- again, this is my recollection -- the first 24 million of surplus tolls go to New York City and then anything beyond that is divided three ways between New York City mass transit, between Long Island Rail Road and Metro North.

When the formula was developed, there was only a small amount of surplus collected. Now there are hundreds of millions of dollars collected. So the surplus generally is divided three ways even though the majority, I think 70-some percent of the tolls are collected in New York City. Everyone -- not virtually everyone but many of the experts recognize there's an inequity now. Which was once an equitable formula is now an inequitable formula and actually hurts New York City. Is there anything in this budget that attempts to

remedy that inequity?

SENATOR STAFFORD: Well, when Mr. Moses and his genius came up with the formula, I think again people were talking and also thinking of and being concerned about all the areas of the state, and just as one area at times does assist, help, support one area, I would suggest that in this situation, we're looking at mass transportation as a whole and we are providing, hopefully an equal opportunity for everyone in the state.

SENATOR ABATE: Just quickly on the budget bill.

ACTING PRESIDENT KUHL: Senator Abate, on the bill.

SENATOR ABATE: Once again, I cannot support particularly this transportation part. Everyone recognizes that there are needs throughout the state that have to be met and that's from one corner of the state to the other, but when there are disproportionate needs in one area, even though that means a high percentage of those dollars have to go to that

area because there are more riders that use mass transit, more capital problems, et cetera, those dollars should flow to those areas that need - need those dollars.

In some instances, those dollars should not go to New York City, but the instance of mass transit, there are -- very few people can argue the issue that there are enormous needs in developing and maintaining a quality mass transit system in New York City.

Year after year, New York City is shortchanged. It does not get the dollars it needs proportionally to maintain that system. Other systems either get an increase or the status quo and year after year, New York City mass transit feels the ax of budget cuts.

My recollection, if it serves me right, is that we serve 80 percent of the riders in New York City but only receive 64 percent of the dollars. From my -- the indication today, that inequity is just worsened. We, again have to bear the brunt of these cuts, and I will not be able to support this budget bill because it

maintains this inequity. We're now moving in the right direction. The dollars should go where the need lies and this budget bill is not correcting that problem.

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

Senator Mendez.

SENATOR MENDEZ: Thank you, Mr. President.

I wonder if the good Senator would yield for a question.

SENATOR STAFFORD: By all means.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MENDEZ: Thank you.

In the -- in the -- again, the transportation issue, you mentioned that in one part of your district, there are only two people who need to use -- to use the cart or the van to get somewhere. The state of New York should, in fact, feel as committed to resolve that transportation problem in your district as any transportation problem in the city of New York.

Now, in my district, I have a beautiful place, a planned community that is called Roosevelt Island. Interestingly enough -- yes, yes. Even in Europe, they know about Roosevelt Island, but the interesting thing about Roosevelt Island is its history. It was an experiment implemented by a Republican governor, Governor Rockefeller -- may he rest in peace -- for planned communities; one in Rochester, one in New York City and two in two other parts of the state. I don't remember. Two of those four initial projects, Senator, already are non-existent. I'm told that the one in Rochester has become a slum.

Now, the Roosevelt Island-New York City has succeeded because it has a group of citizens that are very actively involved and have been able to create a lot of activities through the voluntary services to improve the quality of life.

In terms of transportation, you do know that there are subsidies -- every village, county and city of the state of New

York receives transportation subsidies like in your district and many others, and my question to you is at the present time, that beautiful tram and the buses that take seniors in short rides in the Island, they have a deficit of $1.5 million.

The suggestion of accommodation that has been made is for the MTA to take over that operation, and everybody gets very frus trated because it's a big No, No, No, No. My question is the citizens of Roosevelt Island, shouldn't they be treated in the same fashion that other residents in the city of New York, like all the residents in your district and villages and towns in the state are receiving subsidies because of their transportation needs?

SENATOR STAFFORD: Yes, and let me share this with you, and I'm sure that you will share this with your people when you get home because I happen to know that one has a better network in their district that you do. There's $600,000 in this budget for Roosevelt

Island.

SENATOR MENDEZ: I know.

SENATOR STAFFORD: New money.

SENATOR MENDEZ: That's operation -- operation and money, but originally there was a request for 1.1 million. $600,000 is better than nothing, not that I don't appreciate it, but it's better than nothing. From 600,000, my dear Senator, to 1.1 million, there's a little difference, even though -- and I recognize that even though I had a horrible mathematics teacher in third grade.

So, anyhow, what about the capital budget reappropriations? What about - could you tell me any figures in the budget?

SENATOR STAFFORD: I didn't understand. What -

SENATOR MENDEZ: Reappropriations in the capital budget.

SENATOR STAFFORD: For -

SENATOR MENDEZ: Roosevelt Island.

SENATOR STAFFORD: By all means.

SENATOR MENDEZ: It's there.

SENATOR STAFFORD: As a matter of fact, there was some negotiations and we had to push to have that concluded.

SENATOR MENDEZ: Okay. And thirdly then, in the transportation -- in this bill here, $11 million that will address deficits of the MTA, why in the world can -- the deficit of Roosevelt Island will be taken over by the MTA and placed with the $11 million.

SENATOR STAFFORD: I certainly am not going to argue at all that your argument is correct and it follows exactly what I said, that every single person on Roosevelt Island is as important as any person anywhere in this state.

Now, I'm sure you'll agree with me, this Roosevelt Island situation has had quite a history, and those of us who have been here have watched it, and I can see -- and I'm not -- again, I'm not making light of this. I can see how frustrating it's been for anyone who has represented -

SENATOR MENDEZ: You know,

Senator, the fact is that once the plan is - the original plan is put into effect, in around three years or so, the Island will be economic ally independent of any state subsidies, but this situation of the -- of the transportation problem there doesn't allow the Island residents to be economically independent.

SENATOR STAFFORD: Thank you.

SENATOR MENDEZ: Thank you.

SENATOR MARCHI: Mr. President.

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: Would Senator Mendez yield?

SENATOR MENDEZ: Yes.

ACTING PRESIDENT KUHL: Senator Mendez, do you yield to a question from Senator Marchi?

Yes.

SENATOR MARCHI: I know how you feel in New York because I feel exactly the way you do, but does this mean that all the upstate colleagues that you have are now going to vote

for this because they're -- they're having a huge advantage over the disadvantaged New Yorkers? Does this mean that they're going to vote for this?

SENATOR MENDEZ: For this bill?

SENATOR MARCHI: Yeah.

SENATOR MENDEZ: I don't know. I haven't conducted a survey.

SENATOR MARCHI: Pardon?

SENATOR MENDEZ: I haven't conducted a survey, you know, to find out which way they're going to vote, but are you saying -

SENATOR MARCHI: No. I applaud the passion and the vigor that you bring to the argument because I'm out in Staten Island. It's even worse. So I -- I have great empathy, but I was just wondering whether your upstate colleagues on the other side of the aisle are now going to be very anxious to vote for this because they're getting money at our expense.

SENATOR MENDEZ: Oh, oh. I see your point now. What a devilish point, Senator.

SENATOR MARCHI: But I applaud what you're saying.

SENATOR MENDEZ: Thank you.

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

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: If Senator Stafford would yield, please.

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

(Senator Stafford nods head.)

The Senator yields.

SENATOR LEICHTER: Yes. Senator Stafford, on economic development, there's an appropriation in here for the Urban Development Corporation, for its varied activities supposedly assisting economic development in New York State. What is that amount?

SENATOR STAFFORD: I believe it's approximately 88 million.

SENATOR LEICHTER: Now, Senator,

do we set forth what projects the Urban Development -- I still call it Urban Development. It's actually called Empire State Development Corporation -- what projects it's going to expend that money for?

SENATOR STAFFORD: Yes. I believe there are programs as well as projects.

SENATOR LEICHTER: Senator, my understanding is that, indeed, there are programs -- certain programs of minority and women in business, certain programs such as Jobs Now which have now been cut, but I believe there's also a lump sum appropriation, if my memory serves me -- and obviously we've had very little time to review this. I think it's somewhere in the range of some $20 million which, as I understand it, is a lump sum appropriation.

SENATOR STAFFORD: I think I can -- I can respond, I think even though the Senator hasn't completed his actual thought, but I think I can respond. I think I see where you're coming from. I believe 20 years -- 1974

to 1994, we had a chief executive which was not of the party of the Majority in the Senate. I think that's a fair -- a fair statement.

Now, I have to admit that during that 20 years, I would see economic development and often I would have the same frustrations that now is being evidenced because economic development is very competitive, and we want it all, and we all want it for our own area -- we all want it for our own area and we all say that I'm falling into this trap, believe it or not, that if I didn't get what I wanted the last 20 years and someone did, I said, Oh, it's because -- and that wasn't necessarily true. It isn't true today. We're trying to get this state, as I've said earlier, back on the track.

Senator Paterson used the word "pact". That's fine also, but I don't think - on one serious note very quickly and then I'll respond to any others. Sure, we can argue that if we're not of the same persuasion and we're not being treated exactly the way we want to be treated, we can say, Well, wait a minute. It's

because of this or that. I don't think it was the case in 20 years from 1974 to '94 and, frankly, I don't think that's the case now. I'm trying to be very sincere.

SENATOR LEICHTER: Mr. President, if Senator Stafford will continue to yield.

Senator, I -- I want to thank you for what I would call an interesting and an accurate philosophical view and presented in a good homespun manner and I agree, and I think you made your point, but let me see if I can sharpen my question.

We have -- and I'm looking now at the actual bill. I'm not going from memory as before. We have 20 million for Jobs Now and then we have $38,750,000 which is, in fact, that lump sum appropriation that I referred to for the various programs of the economic -- the Empire State Development Corporation.

My question to you is -- now, that's a lump sum appropriation. We don't know what they're going to spend for, and I understand again the philosophical point you

make. You know, I may want more. You may want more for but we're one state, and so on, but is there a memorandum of understanding that exists somewhere in regard to how that $38,750,000 is going to be spent?

SENATOR STAFFORD: Yes.

SENATOR LEICHTER: It is?

SENATOR STAFFORD: Yes.

SENATOR LEICHTER: Have you seen it?

SENATOR STAFFORD: Yes.

SENATOR LEICHTER: You've seen it.

SENATOR STAFFORD: Yes.

SENATOR LEICHTER: Will you - may -- will you share it with us?

SENATOR STAFFORD: Yes.

SENATOR LEICHTER: Good. I thank you.

I'm not used to getting such emphatic answers on this floor, least of all from you, Senator Stafford. So I've got to sort of collect my thoughts for a moment, but I

appreciate that. Do you have that memorandum of understanding with you at this time?

SENATOR STAFFORD: Not this second, but I will go over it with you -- oh, oh, wait a minute.

SENATOR LEICHTER: Okay.

SENATOR STAFFORD: Yes.

SENATOR LEICHTER: Fine. May I see it?

SENATOR STAFFORD: Yes. I think there is a memorandum of understanding that's being worked on with the Assembly, with the Senate and to answer your question very, very succinctly and seriously, there will be definite limitations on how the money can be spent, where it can be spent and, in other words, what you are interested in will be there.

SENATOR LEICHTER: Well, Senator Stafford, if you would be good enough to continue to yield. What I'm interested in is having not only myself but all of the other members of this body know what's in that memorandum of understanding.

I mean, it just seems to me that it's another instance of having an unitemized item in the budget. This time it's not the Legislative Budget, but if we're giving $38 million to the Empire Development -- Empire State Development Corporation, I think we ought to know how that money is going to be spent and we ought to know it not a month from now. We ought to know it right now. We shouldn't know it two hours from now after this bill is passed.

SENATOR STAFFORD: The parties to the agreement are the chairman of the New York State Urban Development Corporation, the Temporary President, Majority Leader of the Senate and the Speaker of the Assembly.

I would like to read some of the provisions. I think you'll -

SENATOR LEICHTER: Would you? Thank you. That would be helpful. I hope it will be helpful.

SENATOR STAFFORD: Now, therefore, in consideration of the mutual

covenants contained herein, the parties hereto agree as follows:

1. The corporation agrees that upon receipt by the corporation of application or other formal request for funding for any project, the corporation shall provide notice of such application or requests within ten days of such receipt to the Senators and members of the Assembly representing the district in which such projects needs to be located.

The corporation further agrees that such Senators and members will timely be provided copies of all correspondence relating to each application provided, however, that proprietary information may be withheld from such correspondence if such Senators and members are given notice that such information has been withheld.

Such Senators and members will be provided notice of all proceedings relating to such application, shall be invited to participate in such proceedings. A copy of such notice shall also be provided to the designees

of the Temporary President, the Majority Leader of the Senate and the Speaker of the Assembly.

4. Such Senators and members shall be provided with notice of the final disposition of the application by the corporation and the reasons for such disposition.

In order to ensure that the funds appropriated for existing statutory programs are approved in an equitable, reliable and a timely manner, the corporation agrees that with respect to projects provided, approved -- excuse me - approved after the date of execution of this memorandum of understanding, the projects shall be approved to be financed out of the Empire State Economic Development fund generally in amounts which are proportional to amounts appropriated to the Urban and Community Development Program, the Regional Economic and Development Partnership Program and the Minority and Womens Owned Business and Development Program.

I wanted to give you a flavor

of -

SENATOR LEICHTER: Good. Senator, I thank you and that certainly provided us with information that ordinarily is not provided. I think the one missing part -- and it's a very important part because I believe that the distinguished parties to this agreement and the Governor have also decided when -- not when but where that money is going to be spent, what particular projects, and it's that information that I think is important, and if you have it, I wondered if you would share that with us.

SENATOR STAFFORD: Well, I think as in the past, we have to give those that are working on economic development projects -- I think we have to give them flexibility.

I will say that I think from 1974 to 1994 a good job was done. I think a good job is continuing to be done. I think that we're finding that, if anything, due to some changes that we talked about earlier in the state, I think that we're even doing maybe better than we

were.

So I -- I would say that the product would be there and I think overall you'll be pleased when you see really the end product, so to speak.

SENATOR LEICHTER: Well, Mr. President, if Senator Stafford would yield for one more question -

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR LEICHTER: -- just on this item. As our good colleague, Senator Gold, with his ability to get right to the heart of it just pointed out, he said, Well, that memorandum will inform members if something is being done in their district, but it doesn't tell them if nothing is being done in their district or necessarily give them the opportunity to have an input to see that something happens in their district, and I guess what you're telling me is that as far as you know, you're not in a position to say what decisions were made as to regions or areas of the state where that $38

million is to be spent.

SENATOR STAFFORD: Well, again, I'm pleased you asked that question because something caught my eye. I didn't want to just continue to read here ad nauseam but, for instance, this agreement also states that there will be a cumulative summary of commitments and disbursements by appropriations and that will be quarterly, the geographic distribution of approved projects, the extent of which approved projects are expected to create and obtain jobs in New York, the impact of approved projects were qualified -- quantified and available under stressed urban and rural communities, small and medium sized businesses and strategic industries. I think this is going to the heart of what you're asking and that is going to be provided.

SENATOR LEICHTER: Well -- Mr. President, I want to thank my good friend, Senator Stafford, and I appreciate that you at least gave us a glimpse into all of these MOUs that are not floating around but that are in

some locked boxes ordinarily kept from view of legislators and the public.

Mr. President, I have a lot of problems with this budget, the particular bill before us and the overall budget. I just want to focus for a moment on something that has been of concern to me for many years, and that was the Urban Development Corporation, or the Empire State Development Corporation as it's now known and really the whole effort of the state of New York to create jobs.

I was extremely critical of the previous administration. I'm critical of the present administration, and I am most dubious of the appropriations that we make.

Let me first address the Jobs Now for which $20 million is being provided. This is a program, as I understand the outlines - and again, we really don't have any details in this budget, but that is to go to the larger corporations if they create, I believe it's 300 or more jobs.

You know, that part by itself may

be fine. The difficulty with this program and one I think that we're going to regret is that it also involves, as I understand it, jobs that are retained, and that's really an Achilles heel to the whole program, and I want to remind those of you who have been here some years of the difficulty that we had with the job improvement program, something that I particularly focused on, pointed out its shortcomings and after about a billion and a half dollars had been wasted - wasted in this state in 1982 -- or 1983 under the leadership of Mario Cuomo and with the support, obviously of the Legislature, the program was terminated, and that particular program provided that if you created more than five jobs or retained more than five jobs -- the difficulty was the -- again, on the retention, and you had a situation such as where Irving Trust Company, which has now been merged in the Bank of New York, received $75 million in reduction of their corporate taxes because they claim that other -- that otherwise all of their jobs would have been lost and that they claim

thousands and thousands of jobs, tellers' jobs which they say were retained as a result of their putting up a building which qualified them for the subsidy, and I think you're going to find the exact same problem here because it's very tough. Somebody says -- and the CEOs have become very adept at doing this particularly in the city of New York. They're always threatening us they're going to move to Jersey, and the city of New York often sometimes with the help of New York State has said, Oh, please, don't move to Jersey. Here's some money. Stay in New York. Often we found that these are just absolute bluffs.

Secondly, we found that it just doesn't pay in the long run to engage in this sort of competition with other states, and when you deal with job retention, there just is really no very good objective basis to say a job has been retained.

So I suspect that we're not going to see any job growth under this but you're going to see a lot of claims. Oh, I kept such

and such corporation from moving a division or moving a factory or moving the entire headquarters out of the state of New York. It is not a good investment.

Let me tell you that what we ought to be doing is spending whatever economic development monies we have on improving overall business conditions. The irony is that the Republicans who, if you mention to them industrial policy, they -- they recoil in horror. Oh, my God. It's not up to government to pick winners or losers. Let the market do it, but that's exactly what you're doing with this program. It's a form of industrial policy, and it always -- you know, it amazes me that good conservatives like Owen Johnson are going to vote for industrial policy. He's along with Robert Reich and all of those liberals, you know, that he ordinarily looks so aghast at, but here he is right with them having an industrial policy.

I don't mean to make light of this or poke fun at my good friend Owen Johnson

who is really very consistent in his views, but I think if you examine for a moment what you're doing, you are engaged in sort of an industrial policy and one, frankly, that has not worked for New York State, probably hasn't worked for most states, and I think we're finding now that governments agree that all of this bidding for plants, for businesses, and so on, is not the way to create jobs. It's not the way to foster economic conditions. What you have to do is address overall needs, try to -- in New York State, what are those? We got to bring down our utility costs. We got to have a trained work force. We have to see that the quality of life is better. We have to deal with some of our transportation problems. We have to reduce some taxes that are onerous on businesses. That's where we should be spending our money and not a Jobs Now program.

I must say that I don't have much confidence in this administration of the economic development -- of the Economic State Development Corporation utilizing this money

well.

Similarly, we have a $38 million appropriation with very unclear and very uncertain guidelines and certainly not public as to how that money is going to be spent.

I just wonder whether we're going to see the sort of political patronage that we've seen in the past under this administration. I question whether we're going to find partisanship, political considerations, financial considerations as to support of candidates and parties playing a role in this. It makes me very, very uneasy. That's reason enough to vote against it.

I think Senator Abate certainly gave those of us from the downstate area a good reason to vote against this bill because of the discrimination against the mass transit riders in the downstate areas.

It's not just that it's unfair. It's just bad public policy because we depend to such a large extent on a good mass transporta tion system and one that's reasonably priced in

the downstate area, and that's really an obligation that I think all of us from the state -- from wherever we come in the state of New York have because the economic activity that is supported by a good mass transportation system inures to the benefit of all New Yorkers.

But finally, let me just say, there's an awful lot in this bill, and I suspect that most of it is unknown to the members of this house because this bill was put on our desks -- when was it -- some time this morning. Even though agreement apparently was reached some days ago, we still could not get those three wise men who came together and reached an agreement to let us legislators who are going to have to vote on this in on their big agreement. They wanted to keep this a secret.

I must say I've never seen this process as bad as it has been this year, and it makes really just a mockery of the action that we take now in approving the budget. Whether we're ratifying, confirming, adding our voices, the fact is that three people in secrecy sat

down, came together on a budget, excluded the Legislature, didn't let the public in on what was happening, and I don't know any other state that has a process that is as bad as the one in New York State, and with all the criticisms in the past year, I want to say that George Pataki, Joe Bruno and Sheldon Silver, they outdid any of their predecessors in the degree of secrecy and the manner in which they reached agreement and also, of course, in the length of time that it took them to reach agreement.

It's an appalling process, and I think it leaves us here with a bill that's being voted on with very few people -- or really nobody knowing the full extent of the appropriations.

I must also say just taking a look at this bill and the overall budget, I don't see any direction. I don't see any vision for New York State. I see a lot of pork barrels here and there. I see a lot of political decisions being made, but particularly when you look at economic development, what is the

program for New York that's going to enable us to deal with our economic problems? Where is the plan? Where is the future set forth in this budget? I don't see it. I'm really very disappointed. I think it's a budget that does not deserve to be approved.

ACTING PRESIDENT KUHL: The Secretary -- Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, I have a question. Should I direct that to Senator Stafford?

ACTING PRESIDENT KUHL: Senator Stafford, would you yield to a question from Senator Montgomery?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR MONTGOMERY: Senator Stafford, on the UDC part of the budget that funds the $20 million, that is part of what I understand to be a block grant for certain economic development projects?

SENATOR STAFFORD: How much,

Senator?

SENATOR MONTGOMERY: The $20 million.

SENATOR STAFFORD: $20 million. I got it.

SENATOR MONTGOMERY: Block grant for economic development projects. The language in the bill stipulates that the Commissioner can use part of that money for working capital loans and loan guarantees to businesses creating at least 300 new permanent full-time private sector jobs. That seems to be very restrictive in terms of the size of the business that would be eligible for those funds.

SENATOR STAFFORD: This one is intended for larger business, and then 38 million is for smaller. So it was intended to be that way.

SENATOR MONTGOMERY: Okay. With the 38 million, can we assume that the businesses are for the smallest kinds of businesses, start-up funds for very small businesses like mom and pop shops that may be in

my district?

SENATOR STAFFORD: They would be included in small businesses.

SENATOR MONTGOMERY: Small, very small. Okay. Thank you.

Thank you, Mr. President.

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.)

Record the negatives and announce the results.

THE SECRETARY: Ayes 56, nays 2, Senators Hoffmann and Leichter recorded in the negative. Also Senator Abate. Ayes 55, nays 3.

ACTING PRESIDENT KUHL: Bill is passed.

SENATOR STAFFORD: Thank you, Mr. President. Can we please announce a Finance meeting in Room 332 immediately.

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

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we now take up Calendar Number 1393, Senate Print Number 7423B.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1393 which is on page 4 of the regular calendar, Senate 7432B, by Senator Volker.

THE SECRETARY: Calendar Number 1393, by Senator Volker, Senate Print 7423B, an act relating to permitting nonbargaining unit salaried employees to join the state retirement system.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Is there a message at the desk, sir?

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: Move we accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1393.

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 6. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr.

President, is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: No, there's none.

SENATOR MARCELLINO: Then I suggest the Senate stand at ease awaiting the report of the Finance Committee.

ACTING PRESIDENT KUHL: Senate will stand at ease awaiting the report of the Senate Finance Committee.

(Whereupon, at 2:00 p.m., the Senate was at ease until 2:11 p.m.)

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Mr. President, if we can return to reports of standing committees, I believe there is a report of the Finance Committee at the desk. I ask that it be read.

ACTING PRESIDENT WRIGHT: Secretary will read.

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

following nomination:

Trustee of the State University Construction Fund, Francis B. McKenna, of White Plains.

ACTING PRESIDENT WRIGHT: Is there anyone wishing to speak on the nomination?

(There was no response.)

On the question of the confirmation of the Trustee of the State University Construction Fund, Francis B. McKenna, of White Plains, all in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The confirmation stands approved.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could continue now with the report of the Finance Committee.

ACTING PRESIDENT WRIGHT:

Secretary will read.

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

Senate Print 7938, by the Committee on Rules, an act in relation to certain provisions;

Senate Print 7940, by Senator Libous, an act to amend the Tax Law;

7942, by the Committee on Rules, an act in relation to certain provisions.

All bills directly for third reading.

ACTING PRESIDENT WRIGHT: Senator Skelos.

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

ACTING PRESIDENT WRIGHT: All those in favor of accepting the report of the Finance Committee, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The ayes have it. The report is accepted.

SENATOR SKELOS: Mr. President, call up Calendar Number 1739.

ACTING PRESIDENT WRIGHT: Calendar 1739. Secretary will read.

THE SECRETARY: Calendar Number 1739. Senator Stafford moves to discharge from the Committee on Finance Assembly Bill Number 11312 and substitute it for the identical Senate Bill 7938.

SENATOR SKELOS: Mr. President, is there a message of necessity?

ACTING PRESIDENT WRIGHT: Excuse me, Senator Skelos.

First of all, I have a substitution, Calendar Number 1739, the Assembly version is being substituted. Substitution is ordered.

Secretary will read.

THE SECRETARY: Calendar Number 1739, by the Assembly Committee on Rules,

Assembly Print 11312, an act relating to certain provisions.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT WRIGHT: There is a message at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT WRIGHT: Motion is to accept the message. All in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted, Senator Skelos.

Read the last section.

SENATOR LEICHTER: Lay it aside.

SENATOR STAFFORD: Senator. Senator. Explanation?

SENATOR LEICHTER: Yes. Explanation, please.

ACTING PRESIDENT WRIGHT: Senator Stafford.

SENATOR STAFFORD: Many of you will recall a number of years ago, the Court of Appeals came down with what they called the Bonkers decision. In that decision they stated that we could not put any language in a Budget Bill. We, of course, wanted to make sure that we had language defining what our intention was and what we expected to see result from the passage of the budget.

Therefore, now we pass bills that are, in effect, language bills explaining exactly what we expect to see when the budget is passed. This is one of those language bills for the Transportation, Economic Development, Environmental Conservation areas of the budget.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT WRIGHT: Chair recognizes Senator Leichter.

SENATOR LEICHTER: Yes, if Senator Stafford will be so good as to yield.

SENATOR STAFFORD: Yes.

ACTING PRESIDENT WRIGHT: Senator Stafford will yield.

SENATOR LEICHTER: We understand the nature of these bills and why we have these separate and apart from the actual budget bills; but could you just give us some description of what you consider or what are the more signifi cant provisions, the language that the Legislat ure added here, changing programs, so we have some idea of what we're voting on?

SENATOR STAFFORD: It's not as much -- it's not as much changing any program, but it's just making sure that we're clarifying exactly what our thoughts and intentions are as far as the appropriations that are, of course, included in the budget. Now, I would just -- at random, I would just take an area.

For instance, Department of Environmental Conservation; and, again, I could read it, but I don't want to sound as if I'm being patronizing. That explains what we intend to have that money used for, frankly.

Page 3, Section 8. Again, to be

more specific, for instance, anyone would think of Environmental Conservation when you read this paragraph: Notwithstanding the provisions of any general or specific law, the monies appropriated shall be available for land preservation and projects -- preservation and improvement, excuse me. Expenditures for approval -- land preserva tion and improvement projects in accordance with Section 5107.03 of the Environmental Conserva tion Law, upon the issuance of a certificate of approval of availability by the Director of the Divisions of land -- no -- Division of the Budget, not Lands and Forest. Division of the Budget. The State Comptroller shall, at the commencement of each month, certify to the Director of the Division of the Budget, the Commissioner of Environmental Conservation, the chair of the Senate Finance Committee and the chair of the Assembly Ways and Means Committee the amounts disbursed from such appropriation for land preservation and approval of disburse ments for the month preceding such certification.

If I could just go a step further. You might say that we're pulling - no, excuse me. We're putting the reins on the appropriations, and we're explaining what we expect to have done and what will be done with the monies.

SENATOR LEICHTER: Senator Stafford, if you will continue to yield. I know there are also a number of these language pro visions relating to Transportation and some of them relating to the Metropolitan Transportation Authority; and are there any of these language changes that relate to some of the issues that were raised by Senator Abate as to the division between upstate and downstate?

SENATOR STAFFORD: I would say no.

SENATOR LEICHTER: Now, Senator, if we were going to change the formula as to the distribution of the Triborough Bridge surplus that Senator Abate I think very appropriately called to our attention and how unfair that distribution is, that provision would be in this

language bill if we did something?

SENATOR STAFFORD: No. No. Excuse me. Would the Senator yield?

SENATOR LEICHTER: Yes.

SENATOR STAFFORD: That is not correct.

SENATOR LEICHTER: That would be -

SENATOR STAFFORD: In the Article 7 bill, in the Article 7 bill and, remember, we used to pass a number of Article 7 bills for such subjects as you're talking about. Now we pass an all-inclusive Article 7 bill.

SENATOR LEICHTER: So that would be in there. Okay. Thank you.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56, nays 2,

Senators Abate and Leichter recorded in the negative.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 1740.

ACTING PRESIDENT WRIGHT: Secretary will read.

THE SECRETARY: Calendar Number 1740, by Senator Libous, Senate Print 7940, an act to amend the Tax Law, in relation to cigarette tax enforcement.

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

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

SENATOR SKELOS: Move to accept it.

ACTING PRESIDENT WRIGHT: All in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

Ayes have it. The message of necessity is accepted.

Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 90th day.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Results.

THE SECRETARY: Ayes 58.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar 1741.

ACTING PRESIDENT WRIGHT: Secretary will read.

THE SECRETARY: Calendar Number 1741, by the Committee on Rules, Senate Print 7942, an act in relation to certain provisions which impact upon the expenditure of certain

appropriations.

SENATOR SKELOS: Mr. President, is there a message at the desk?

ACTING PRESIDENT WRIGHT: There is a message at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT WRIGHT: Motion to accept the message. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

Message is accepted.

Explanation has been requested.

Senator Stafford, an explanation has been requested.

SENATOR STAFFORD: Right. I apologize.

ACTING PRESIDENT WRIGHT: Thank you.

SENATOR STAFFORD: This, again, is the language bill or the bill that sets forth the language whereby we explain in detail how we

not only expect but direct the funds to be spent for Public Protection, Health and Mental Hygiene. Again, to mention as I mentioned earlier and I won't mention it again but just to emphasize, what this is -- many of us remember when we would include language in the various Budget Bills as they would come to the Legislature. We would, in effect, amend the Budget Bills by putting in language, and the Court of Appeals said that the Legislature will not do that.

Therefore, we said we're going to continue our responsibilities to make sure that for want of a better word we would have the reins, so to speak, on where the money is spent and how it is spent -- legislative intent, if you will. We're doing that again here for the Public Protection area of the budget, Health and Mental Hygiene.

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

SENATOR ABATE: I believe there is an amendment at the desk, and I waive the

reading of that amendment. I put before this body an amendment that would expand the EPIC program which is the elderly pharmaceutical insurance.

ACTING PRESIDENT WRIGHT: Excuse me, Senator Abate. I don't mean to interrupt. Could you advise the Chair whether or not this amendment has been served on the President of the Senate, and the chairman of the respective committee?

SENATOR STAFFORD: I would suggest that -- this is informal now. This is by no means -- I feel people have the right to amend anything they want to amend. That's what we're elected for, but I would suggest that this amendment would be for an Article 7 bill and not for the language bill.

SENATOR ABATE: In terms of time we would have to go through a process and redraft it. It does -- certainly is germane to the health portion of this Budget Bill.

SENATOR STAFFORD: Well, I -- I don't want to nitpick. I just am suggesting

that the -- this is my suggestion only, that the appropriate amendment would be when we take up the Article 7 bill concerning the subjects you are interested in.

SENATOR ABATE: If the Senator will permit, we will take that under advisement for next year and follow your lead for next year. If we could continue on this path this year, we'd certainly appreciate it.

SENATOR STAFFORD: Well, maybe we won't. I would suggest that the amendment is out of order.

ACTING PRESIDENT WRIGHT: Senator Stafford, are you raising a point of order with regards to the amendment?

SENATOR GOLD: Are you raising a point of order? I'm sorry, is there a point of order?

Mr. President.

ACTING PRESIDENT WRIGHT: Senator Gold.

SENATOR GOLD: Yes. Might I just have the gentleman explain the point of order so

we know why he thinks this is out of order.

SENATOR STAFFORD: Very fair. Very fair.

ACTING PRESIDENT WRIGHT: Senator Stafford.

SENATOR STAFFORD: What I tried to explain earlier, which I obviously didn't but now I will continue. This amendment amends the Health Law and not appropriations. So I would suggest when you want to do this you would amend the Article 7 bill which pertains to the Health Law. That's all I'm suggesting.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Gold.

SENATOR GOLD: Will the gentleman yield to a question?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT WRIGHT: Senator will yield to your question, Senator Gold.

SENATOR GOLD: Senator, just so we get it clear -- and I appreciate the helpfulness of your attitude. You have made a

suggestion that perhaps this language and this issue should be part of the Article 7 bill. A point of order does not talk about what might be better drafting or more appropriate. It declares that something cannot be done and is out of order. In that regard, Senator, might I raise the question with you that while it might be preferable to put it some place, that this bill does deal with this subject matter and, therefore, the amendment is proper even if we discuss it on this bill.

SENATOR STAFFORD: Again, I guess I have to come down to the word that was used earlier, and the last thing I -- I certainly, when we have the appropriate legislation, will stand here as long as anybody wants when they want to amend something properly, but this is not germane and that is my point of order.

SENATOR GOLD: If the Senator will yield to one more question?

SENATOR STAFFORD: Yes.

SENATOR GOLD: Senator, in what way -- I mean the word "germane" is a word both

you and I understand, and I would like to know in what way the amendment that is being offered is not germane to the subjects that are being discussed in this bill?

SENATOR STAFFORD: I'm having confusion myself. Just one second. Of course, what we're doing here, we're just trying to have an orderly process.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Gold.

SENATOR STAFFORD: I'm not finished.

SENATOR GOLD: I apologize. I thought you were.

SENATOR STAFFORD: And we're just trying to have an orderly process and, as I say, we just can't have amendments that have nothing to do with what we're doing; therefore, we have the rule here in the Senate that an amendment has to be germane.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT WRIGHT: Senator

Gold, why do you rise?

SENATOR GOLD: Mr. President, the key to whether this is out of order as I'm understanding, if the gentleman will yield, is the issue of germaneness; and the bill that is being amended certainly does impact and have influence on the EPIC program, and the amendment is dealing with the EPIC program. It is certainly germane.

Now, I respect Senator Stafford as a lawyer, and Senator Stafford as a lawyer might well decide that he wanted to raise the issue on another bill, but it does not make it out of order or not germane on this bill and, therefore, while Senator Stafford and Senator Abate can discuss next year's format, I think that on the issue of whether it's out order or germane, I would ask Senator Stafford, as the gentleman he is, to acknowledge that the subject matter of the EPIC program is discussed in this bill and that Senator Abate's amendment certainly is germane to that subject matter, and then maybe we could have had this debate already

and we would have been on to the next subject.

SENATOR STAFFORD: Thank you.

SENATOR GOLD: There was a question mark at the end, if you will yield, Senator.

SENATOR STAFFORD: I yield.

SENATOR GOLD: My question is the issue of germaneness. This bill does in fact deal with the EPIC program and so does the amendment. So to that extent, Senator, I think that it is certainly germane. You might prefer as a distinguished lawyer, successful lawyer, successful builder, businessman, that if it was up to you -

SENATOR STAFFORD: Don't overdo it.

SENATOR GOLD: -- that if it was up to you, you might want to put it in another bill. But the fact is that it certainly is germane and, if it is germane, it certainly is in order, and I would just suggest to you that we probably would have finished the main debate had we been handling it.

But won't you at least acknowledge, Senator, that the bill, 1741, does have part of it referenced to the EPIC program, and in that regard certainly the amendment is germane.

SENATOR STAFFORD: Let me say this. Let me say this. I could continue to say that it isn't germane. We could appeal the ruling of the Chair. We could prevail, but that would be a waste of time. Why don't we just continue.

SENATOR GOLD: The amendment?

Yes, thank you, Senator. You are, as usual, a gentleman, and I do appreciate it.

I yield to Senator Abate.

ACTING PRESIDENT WRIGHT: Thank you, Senator Stafford and Senator Gold.

SENATOR ABATE: Yes, I would like to thank Senator Stafford for his largesse and his consideration around this important issue. What is before this house is a very important amendment that concerns just about everyone in

this room because we all have seniors, needy seniors, that rely strongly on the EPIC program, and we know with the rising costs of medical care and many of our seniors live on fixed incomes, this is a wonderful opportunity to address this program, to expand the eligibility and to make prescription drugs more affordable to seniors throughout our districts.

What this amendment does is increases the income level, therefore, makes more seniors eligible for the EPIC program. It lowers the amounts of monies payable for prescription drugs. It reduces prescription copays, and it expands coverage.

This is a very good bill. It's one that many seniors throughout the state have long lobbied for, and I suggest to all my colleagues that they support this amendment today.

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

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The amendment is defeated.

SENATOR GOLD: Party vote in the affirmative.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: In consultation with Senator Stafford, I think looking at the language of the bill, I'm going to ask for a ruling of the Chair as to whether the amendment is germane.

ACTING PRESIDENT WRIGHT: Senator Skelos, on the point of order that you raise regarding the issue of the germaneness of the amendment, the Chair would rule that the amendment is not germane.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Gold.

SENATOR GOLD: Mr. President, I think we are about to get to one of those points

of foolishness.

I think that Senator Stafford is pretty good at analyzing what is businesslike or what is or is not a waste of time. I don't know why the Majority would want to require that Senator Abate -- would want to require that Senator Abate take this subject up at 11:30 or 12:00 o'clock tonight and have a two-hour debate on the methods and the advantages to the EPIC program at that time.

I mean we have a situation, Senator Skelos, where we have the time now and there's going to be a vote on this. Now, whether the vote is now or later I think is irrelevant other than I know that Senator Bruno, Senator Skelos, likes to move things along.

Now, by calling it not germane now, I don't know how that is going to save us time later on today. Senator Skelos, you and I both know that the bill is germane because of the subject matter being germane, and I would really encourage that we not do this procedural business in terms of using the powers of the

Majority to force a very distinguished gentleman like our colleague Senator Wright into being wrong. I don't think that's a fair thing to do to him.

So, Senator Skelos, I really would ask that you withdraw that point. Let us take our vote now. Get it out of the way, and save us a lot of time later tonight.

ACTING PRESIDENT WRIGHT: Senator Gold, the Chair appreciates your concern and compassion for the Chair; however, the amendment has been ruled out of order unless you choose to appeal the ruling of the Chair.

SENATOR GOLD: I choose to appeal it, and I would ask for a slow roll call.

ACTING PRESIDENT WRIGHT: There is an appeal of the ruling of the Chair. A slow roll call has been requested. I see five members standing.

The question -

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: I think we all understand that sometimes amendments are germane, not germane, close to being germane. It is my feeling this amendment really isn't germane. It's not going to prevail, whether it's now or at 11:45 this evening.

So I would withdraw my request for a ruling from the Chair, I think all sides understanding that it perhaps is not germane but would be germane to the Article 7 bill later this evening.

SENATOR STACHOWSKI: So ordered.

ACTING PRESIDENT WRIGHT: The point of order is withdrawn, Senator Skelos.

SENATOR SKELOS: If we could then proceed with the vote with an understanding that the Minority knows that it is not truly germane to the bill in front of us, more germane to this evening, not really germane now.

Now that everybody is confused, we will vote it down.

ACTING PRESIDENT WRIGHT: Thank you, Senator Skelos. The point of order is

withdrawn. The question is now on the amendment.

SENATOR STACHOWSKI: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

ACTING PRESIDENT WRIGHT: Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 22, nays 36, party vote.

ACTING PRESIDENT WRIGHT: Party vote, and the amendment is defeated.

SENATOR MARKOWITZ: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Markowitz.

SENATOR MARKOWITZ: Yes, with the permission of the members, had I been here yesterday evening, I would have voted in the negative.

ACTING PRESIDENT WRIGHT: Excuse me. Excuse me, Senator Markowitz. We're on a

bill now. We'll get back to that.

Read the last section.

THE SECRETARY: Section 96. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Results.

THE SECRETARY: Ayes 57, nays 1, Senator Dollinger recorded in the negative.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Markowitz.

SENATOR MARKOWITZ: Thank you very much, Mr. President. Had I been here yesterday evening, I would have voted in the negative on Senate Bill 3223.

ACTING PRESIDENT WRIGHT: The record will so reflect.

SENATOR MARKOWITZ: Thank you.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Mr. President, would you call Calendar Number 632, by Senator Norman Levy.

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

SENATOR DOLLINGER: Mr. President, could I ask unanimous consent to be recorded in the negative on two prior measures, the Transportation Budget Bill and the Transportation Language Bill, Mr. President. I don't happen to have those calendar numbers. Perhaps I can work it out with the Chair, but I would like to be recorded in the negative on both of those, if I could.

ACTING PRESIDENT WRIGHT: With no objection, it's so ordered.

SENATOR DOLLINGER: Thank you, Mr. President.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Leichter.

SENATOR LEICHTER: May I have unanimous consent to be recorded in the negative

on Calendar 7942 -- I'm sorry, Senate 7942. I guess it's Calendar 1341, is it? 1741! Thank you.

ACTING PRESIDENT WRIGHT: There being no objection, so ordered.

We are on page 3 of today's calendar, Calendar Number 632. Secretary will read.

THE SECRETARY: Calendar Number 632, by Member of the Assembly Tokasz, Assembly Print 9452B, an act to amend the Railroad Law, in relation to sanitary conditions.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57, nays 1, Senator Cook recorded in the negative.

ACTING PRESIDENT WRIGHT: Bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar 1336.

ACTING PRESIDENT WRIGHT: Calendar Number 1336. Secretary will read.

THE SECRETARY: Calendar Number 1336, by Senator Alesi, Senate Print 6852A, an act to amend the Social Services Law and the Tax Law, in relation to the misuse of food stamps.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT WRIGHT: There is a message here at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT WRIGHT: Motion 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.

Senator Skelos?

Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT WRIGHT: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Would you call up Calendar Number 201, Senate Print Number 1728A.

ACTING PRESIDENT WRIGHT: Calendar 201. The Secretary will read.

THE SECRETARY: Calendar Number 201, by Senator Johnson, Senate Print 1728A, an act to amend the Penal Law, in relation to the possession, sale and use of self-defense spray

devices.

SENATOR SKELOS: Mr. President, is there a message at the desk?

ACTING PRESIDENT WRIGHT: There is a message at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT WRIGHT: Motion to accept the message. All in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

Message is accepted.

Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT WRIGHT: The bill is passed.

SENATOR GOODMAN: Excuse me, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Goodman is recorded in the negative. Senator Abate shall be recorded in the negative. Senator Gold will be recorded in the negative.

All right. Those in the negative, will you please raise your hand.

Results.

THE SECRETARY: Those recorded in the negative on Calendar Number 201 are Senators Abate, Connor, Gold, Goodman and Kruger. Ayes 53, nays 5.

ACTING PRESIDENT WRIGHT: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: We've come to one of those points where we will stand at ease.

ACTING PRESIDENT WRIGHT: Senate will stand at ease.

SENATOR SKELOS: Or sit at ease.

(Whereupon, at 2:48 p.m., the Senate was at ease.)

SENATOR SKELOS: There will be an immediate conference of the Majority in Room 332 of the Capitol and the Senate will stand at ease.

(Whereupon, at 3:58 p.m., Senate reconvened.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senate will come to order. Members please take their places, staff their places.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

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 SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Would you call up Calendar 1171.

ACTING PRESIDENT KUHL: On the regular calendar, Calendar No. 69, page 3, Secretary will read the title to Calendar Number 1171, by Senator Libous.

THE SECRETARY: Calendar Number 1171, by Senator Libous, Senate Print 6990B, an act to amend the Social Services Law.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1171. 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.

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

ACTING PRESIDENT KUHL: Senator Montgomery?

(There was no response.)

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 and announce the results.

THE SECRETARY: Ayes 58, nays 1, Senator Montgomery recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 1541, Senate 7668A.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1541. The bill is on the members' desks. It was restored earlier to the calendar.

Secretary will read.

THE SECRETARY: Calendar Number 1541, by Senator Saland, Senate Print 7668A, an act to amend the Social Services Law and the Tax Law.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move we accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1541. 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 5. This act shall take effect December 1.

ACTING PRESIDENT KUHL: An explanation, Senator Saland, has been asked for on Calendar 1541 by the Acting Minority Leader Senator Onorato.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, what this bill does is it builds upon the successes we had in last year's budget when we adopted as part of the budget a mechanism whereby a -- a support enforcement tool, the suspension of licenses and professional licenses -- automobile and professional licenses -- was used to encourage people to make their delinquent support payments. That has proved to be effective.

Support collections have gone up

by some 17 percent in the past year. What this would do now is to take that success a step further and to say the Department of Taxation and Finance instead of the Department of Social Services will now bear primary responsibility for collecting delinquent support from support obligors, and what will happen will be much like in the system that we crafted for the motor vehicle suspensions and license suspensions.

After an obligor is four months in arrears, Department of Social Services has the ability to transfer this matter to Taxation and Finance for collection. The long and the short of it is, people really have, I don't think, the kind of regard or fear that the tax man places when you get a notice from the tax man, "I'm going to seize your assets." This will effectively do that. Deadbeat parents are going to be put on notice that Taxation and Finance is coming after their assets.

I think it's going to wind up with greatly enhanced collections. The taxpayers of the State of New York will benefit,

because where there have been AFDC payments, New York will recoup those payments. Mothers and children will benefit. The only losers in this system, basically, are deadbeat parents. Those people for whom I'm sure we have little or no sympathy are going to have their feet put to the fire.

It's an agreed-on bill with the Assembly, and the Governor is awaiting to sign it.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on December first.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we take up at this time Calendar

Number 1725.

ACTING PRESIDENT KUHL: Secretary will read the title to Calendar Number 1725, by Senator DeFrancisco, which is on page 5 of the regular calendar, No. 69.

THE SECRETARY: Calendar Number 1725, by Senator DeFrancisco, Senate Print 7920, an act authorizing the extension of the Geddes Fire Protection District.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Is there a message at the desk, sir?

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: Move we accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1725. 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 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Any housekeeping?

ACTING PRESIDENT KUHL: Nothing at the desk, Senator Marcellino.

SENATOR MARCELLINO: Be at ease for a moment awaiting the report of the Finance Committee.

ACTING PRESIDENT KUHL: Senate will be at ease awaiting the report of the

Senate Finance Committee.

(Whereupon, at 4:04 p.m., Senate was at ease until 4:11 p.m.)

ACTING PRESIDENT KUHL: Senator Marcellino. Senate will come to order.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we return to reports of standing committees.

ACTING PRESIDENT KUHL: Senate will return to reports of standing committees.

There is a report of the Senate Finance Committee at the desk. I will ask the Secretary to read it.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers up the following bill directly for third reading:

Senate Print 7939, by the Committee on Rules, an act in relation to certain provisions which impact upon the expenditure of certain appropriations.

ACTING PRESIDENT KUHL: Without objection, the report is accepted. The bill is

ordered directly to third reading.

Senator Leichter, why do you rise?

SENATOR LEICHTER: Well, Mr. President, since you haven't read the title of the bill yet, I don't know whether you intend to move it, but I have a point of inquiry, a point of order. We have not yet done the appropriation bill to which this language bill applies. Is it your intention to now call up this bill?

ACTING PRESIDENT KUHL: Senator Leichter, the bill isn't before the house. It was just reported out of the Finance Committee. It's been accepted. It's been ordered directly to third reading. That's where it sits.

SENATOR LEICHTER: That was my question.

ACTING PRESIDENT KUHL: That's a point of information for you, sir.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. Chairman. Can we take up now Calendar 1354.

ACTING PRESIDENT KUHL: On your regular calendar, Calendar No. 69, on page 4, Calendar Number 1354, Budget Bill, which is high. It's Senate Print 5593B. I will ask the Secretary -

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Can I get it before the house first, Senator Stachowski.

We're working on it. We're working on it. That's what happens when you get too old, you know. Hearing goes first, they say.

Secretary will read the title.

THE SECRETARY: Calendar Number 1354, Budget Bill, Senate Print 5593C, an act making appropriation for the support of government, General Government Budget.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Is there a message at the desk, sir?

ACTING PRESIDENT KUHL: There is a message of necessity on Calendar Number 1354

at the desk.

SENATOR MARCELLINO: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1354.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

Senator Stafford, an explanation of Calendar Number 1354 had been requested by Senator Stachowski.

SENATOR STAFFORD: Thank you, Mr. President.

This bill is the General Government Budget Bill. As we mentioned earlier, we have various subjects, doing it a bit different than we have done it in past years. We're doing it by subject matter, and this would be really the potpourri, so to

speak. Running it down: The ABC Board, Audit and Control, Banking, Division of the Budget we have eliminated -- no, no, no -- Division of the Budget -- we've got to keep our sense of humor -- Civil Service, Consumer Protection Board, Election Board -- State Board of Elections, excuse me, Employee Relations, Executive Chamber, Office of General Services -- I could go on -- Insurance, Department of Law, the Lobbying Commission, Public Employment Relations Board, Real Property Tax Services, Office of Regulatory Reform, Department of State, Taxation and Finance.

I could go on with specific appropriations if anyone would like to if you have the legislation in front of you. Take your time. Take your time. And you can see amounts.

Now, this is not light, obviously. There is another provision here that we're not going to forget obviously. That's the Local Assistance, which we obviously are very interested in.

I'm going slow on purpose. A number of my colleagues I see looking at the legislation, and this is a matter of interest.

Overall -- I would like to know the appropriation overall for this bill. Do we have that?

Thank you. Thank you. We have it. We have it. It's right in front of me. The overall appropriation for this General Government Budget Bill $3.1 billion.

It reduces General Fund spending by 47 million, which I'm sure people are interested in. Most of the savings are due to reestimates of employee fringe benefits and to the deferral for one year of the first-year cost of the fiscal year 1966-97 -- excuse me - 1996-97 Early Retirement Incentive Program.

Be glad to answer any questions.

Thank you. Last section, please.

SENATOR NANULA: Mr. President.

ACTING PRESIDENT KUHL: Senator Nanula.

SENATOR NANULA: I believe there

is an amendment at the desk. I would like to waive its reading, provide a brief explanation on the amendment.

ACTING PRESIDENT KUHL: There is an amendment at the desk, Senator Nanula. The reading of it is waived, and you are now afforded an opportunity to explain the amendment.

SENATOR NANULA: Thank you, Mr. President.

The amendment submitted would restore $1.2 million of the budget for the purpose of allowing the Comptroller to audit Blue Cross and Blue Shield, Empire Blue. Blue Cross and Blue Shield has a special public purpose. They have traditionally served as the state's insurer of last resort.

In return for this, the state has granted them certain benefits and they have received many subsidies from the state. We, the Legislature, ordered the Comptroller to perform the audits of the Blues' operations after reve lations of mismanagement and the questionable -

and questionable spending policies. The audits were needed because it was discovered that Blue Cross and Blue Shield was being less than truthful with the Insurance Department and the Legislature regarding operations, management and the like, from this provider.

New York State, in fact, in 1992 had to bail out Empire Blue with an infusion of $100 million. At the time of the Blues' financial crisis and the state bailout, the reports of financial mismanagement and the lavish lifestyle of executives at public expense were appalling -- the reports of yachts, corporate jets, and expensive entertaining.

New York State has an obligation to the taxpayers and to the customers of these insurance companies to make sure that there are no continuing abuses, and I think what's key is that the $1.2 million will not cost the state a penny. The funds actually come from an assessment on the insurance companies which are being audited.

Two quick other points. I think

this really drives home, most fundamentally, two issues, one being insuring the solvency of this entity and the effect of insolvency not only on those who are insured but on the investment that we've made as a state in making sure that this insurer of last resort stays strong, provides affordable health insurance coverage to those who need it in New York State, those who are currently being assured by these programs in New York State.

The money was appropriated in previous budgets. We, as a Legislature, have made a significant investment in these Blues. I can't see nor can I understand why these dollars would not be included, and again, I think most importantly, the funds actually come from an assessment on the insurance companies which are being audited.

That's why we introduced this amendment. I encourage my colleagues to support this amendment, and hopefully with our collective support we will get it passed.

Thank you.

SENATOR VELELLA: Senator Nanula yield to a question?

SENATOR NANULA: Yes.

ACTING PRESIDENT KUHL: Senator Nanula?

The Senator yields.

SENATOR VELELLA: Senator, this one -- well, what is it?

SENATOR NANULA: $1.2 million.

SENATOR VELELLA: $1.2 million. That was appropriated last year for the same purpose, wasn't it?

SENATOR NANULA: I believe so.

SENATOR VELELLA: Do you know what it was spent on?

SENATOR NANULA: No, Senator Velella, I don't.

SENATOR VELELLA: How about 18 positions to fund the Comptroller that had nothing to do with auditing Empire Blue Cross/ Blue Shield, does that ring a bell to you?

SENATOR NANULA: Through you, Mr. President, if I can answer.

ACTING PRESIDENT KUHL: Are you asking Senator Nanula a question, Senator Velella?

SENATOR VELELLA: Yes, sir, I'm asking if it rings a bell with him or if he's aware of 18 positions in the Comptroller's office that had nothing to do with auditing Empire Blue Cross/Blue Shield were funded with that $1.2 million?

SENATOR NANULA: Mr. President, through you.

I'm only aware, Senator, that the Comptroller has requested these dollars. I am not aware that the dollars were appropriated nor am I aware, if they were appropriated, that the Comptroller has not utilized these dollars in regards to this audit.

I also am aware, by the way, Senator, that there has been a court battle in regards to whether or not this audit can even be formed on behalf of the Blues. In fact, I was informed that you have historically been supportive of this audit being done. So if that

was done, I'm not aware of it.

SENATOR VELELLA: May I ask another -- will you yield to another question?

ACTING PRESIDENT KUHL: Senator Nanula, do you yield?

SENATOR NANULA: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield, Senator Velella.

SENATOR VELELLA: Senator, you said you're aware of a court battle. Are you aware of the fact that the Appellate Division has said that the Comptroller does not have the authority to conduct this type of an audit of a private corporation and not a governmental corporation? So why would we appropriate money to audit something that the courts at this point say he doesn't have the authority to do?

SENATOR NANULA: Through you, Mr. President. Very good question.

I was aware that the Appellate Court had made that decision, although I was also made aware that it wasn't going to end

there in the courts, that the Comptroller and his office was going to continue to bring this up the court system in an effort to render the ability to move forward on this audit.

SENATOR VELELLA: Senator Nanula yield for another question?

ACTING PRESIDENT KUHL: Senator Nanula.

SENATOR NANULA: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR VELELLA: Is it sound policy for this Legislature to appropriate monies on the basis of what might happen in the future and what the courts might do in the future and we might have some expenses and this might be found to be a reversible case; so, therefore, we're going to put $1.2 million into the budget to spend on a maybe?

SENATOR NANULA: Through you, Mr. President.

We often appropriate dollars in an environment of uncertainty as to whether or

not those dollars for whatever reason can actually be spent, and we appropriated those dollars in the past in regard to this measure. It's an unresolved issue. If it is resolved, at least it is my intent and my belief that those dollars should be made available for the reason why they were in the past, so that the Comptroller can move forward on this audit, again presuming whatever court level this case rises to renders a decision that would enable the Comptroller to perform this audit.

SENATOR VELELLA: Thank you, Senator.

May I speak on the amendment, Mr. President?

ACTING PRESIDENT KUHL: No other speaker -- Senator Velella on the amendment.

SENATOR VELELLA: This amendment ought to be soundly defeated. It has no real merit.

$1.2 million has been appropriated in the past for the Comptroller to audit Empire Blue Cross and Blue Shield. He has

not done one audit on Empire Blue Cross/Blue Shield, and, in fact, the money has been spent to fund other people within his office.

Now, they may be doing a great job and they maybe should be staying there. I'm not judging on the merits of whether or not people in the Comptroller's office should be paid with money that we are saying is being used to audit Empire Blue Cross/Blue Shield when in fact that is not the case.

Secondly, at this moment, while we're doing this budget and for the foreseeable future until some kind of court battles are resolved way down the road, the law of this state is that the Comptroller does not have the authority to conduct these audits. It doesn't make sense to appropriate money for something the Comptroller doesn't have the power to do.

We ought to defeat the amendment.

ACTING PRESIDENT KUHL: 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 by saying aye.

SENATOR STACHOWSKI: Party vote in the affirmative.

SENATOR MARCELLINO: Party vote in the negative.

ACTING PRESIDENT KUHL: Secretary will call the roll.

(The Secretary called the roll.)

Record the party line vote. Announce the results.

THE SECRETARY: Ayes 22, nays 36, party vote.

ACTING PRESIDENT KUHL: The amendment is defeated.

Any Senator wishing to speak on the main bill?

(There was no response.)

Hearing none, 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.)

Record the negative votes.

Announce the results.

THE SECRETARY: Ayes 56, nays 2, Senators Dollinger and Hoblock recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we take up Calendar Number 1742.

ACTING PRESIDENT KUHL: Secretary will read the title to Calendar Number 1742. The bill is on the members' desks just reported from the Senate Finance Committee.

Secretary will read.

THE SECRETARY: Calendar Number 1742, by the Committee on Rules, Senate Print 7939, an act in relation to certain provisions which impact upon the expenditure of certain appropriations.

ACTING PRESIDENT KUHL: Senator

Marcellino.

SENATOR MARCELLINO: Is there a message at the desk, sir?

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: Approve that.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1742. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

Any Senator wishing to speak on the bill? Hearing none, Secretary will read the last section.

THE SECRETARY: Section 38. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Leichter, why do you rise?

SENATOR LEICHTER: May I have unanimous consent to be recorded in the negative on Calendar Number 1171.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Leichter will be recorded in the negative on Calendar Number 1171.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, I was in a discussion with Senator Velella, and I missed the recording of the negative on the language portion of the bill we just did. If I could be recorded in the negative on that bill.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Dollinger will be recorded in the negative on Calendar Number 1742.

Senator Marcellino, why do you rise?

SENATOR MARCELLINO: Mr. President, can we return to the main calendar for Calendar Number 1724, please.

ACTING PRESIDENT KUHL: We'll return to the main calendar, Calendar No. 69, page 5, Calendar Number 1724, by Senator Present.

Secretary will read the title.

THE SECRETARY: Calendar Number 1724, by Senator Present, Senate Print 7919, an act to amend the Tax Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: No housekeeping at the desk, Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we stand at ease for a moment, please.

ACTING PRESIDENT KUHL: Senate will stand at ease for a moment.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, we will call an immediate conference of the Majority in Room 332, and the Senate will stand at ease until 8:00 p.m. this evening.

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

Senator Stachowski.

SENATOR STACHOWSKI: I think we're supposed to have a conference also in our Minority Conference Room. Yes, I got the affirmation. Immediate conference of the Minority in the Minority Conference Room.

ACTING PRESIDENT KUHL: Immediate conference of the Minority in the Minority Conference Room, Room 314. Immediate conference of the Minority in the Minority Conference Room, Room 314, and the Senate will stand at ease until 8:00 p.m.

(Whereupon, at 4:30 p.m., the Senate recessed.)

(The Senate reconvened at 10:13 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to find their place, the staff find their places. Have a little order in the chamber.

The Chair recognizes -- the Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President,

can we at this time return to messages from the Assembly.

ACTING PRESIDENT KUHL: We'll return to the order of messages from the Assembly.

I'll ask the Secretary to read.

THE SECRETARY: The Assembly returns for concurrence Senate Bill 5590-A, Budget Bill, with a 30011 reprint.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I move that the Senate not concur in said amendments and move to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr.

President, I now offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

SENATOR MARCELLINO: Thank you.

ACTING PRESIDENT KUHL: Senator Cook.

SENATOR COOK: Mr. President, on behalf of Senator Libous, I wish to call up Senate Print 6932, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read the title.

THE SECRETARY: By Senator Libous, Senate Print 6932, an act to amend the County Law.

SENATOR COOK: Mr. President, I move to reconsider the vote by which the 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 59.

ACTING PRESIDENT KUHL: Senator Cook.

SENATOR COOK: Mr. President, I now move to recommit the bill -- no, I'm sorry. I move to -

ACTING PRESIDENT KUHL: We'll recommit, Senator Cook -

SENATOR COOK: Senator Libous' bill (laughter). I offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call for an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee, an 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.

The Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, can we stand at ease awaiting the report of the Rules Committee.

ACTING PRESIDENT KUHL: The Senate will stand at ease awaiting the report of the Rules Committee.

(Whereupon, the Senate stood at ease from 10:16 p.m. until 10:45 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order.

Senator Dollinger, would you put your coat on, please.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk. I ask that it be read.

ACTING PRESIDENT KUHL: We'll return to the order of reports of standing committees. There is a report of the Rules Committee at the desk.

I'll ask the Secretary to read.

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

By Senator Holland, Senate Print 6509-A, an act to amend the Social Services Law;

By Senator Goodman, 6344-A, an act to amend the Vehicle and Traffic Law;

By Senator Marchi, 7535-A, an act to amend the Real Property Tax Law;

By Senator Velella, 7113-A, an act to amend Chapter 403 of the Laws of 1983;

By Senator Cook, Senate Print 264, an act to amend the Judiciary Law;

By Senator Trunzo, Senate Print 584, an act to amend the Real Property Tax Law;

By Senator LaValle, Senate Print 1649-A, an act to amend the Real Property Tax Law;

By Senator Johnson, Senate Print 3111-A, an act to amend the Environmental Conservation Law;

By Senator Holland, Senate Print 5981-A, an act to amend the Real Property Tax Law;

By Senator Tully, 6139-A, an act to amend the Public Health Law;

By Senator Trunzo, 6180, an act to appropriate funds to provide payment of supplemental funds;

By Senator Cook, 6261, an act to amend the Labor Law;

By Senator Leibell, 6358-B, an act to amend the Public Health Law;

By Senator Marchi, 6407, an act to amend the Navigation Law;

By Senator Alesi, 6612-A, an act to amend the Vehicle and Traffic Law;

By Senator Nozzolio, 6667, an act to amend the Penal Law;

By Senator Marcellino, 6829-A, an act to amend the Public Service Law;

By Senator Leibell, 6908, an act to amend the Public Service Law;

By Senator Leibell, 7022, an act to amend the Civil Practice Law and Rules;

By Senator Spano, 7436-A, an act to amend the Executive Law;

By Senator Alesi, 7620, an act to amend the Civil Service Law;

By Senator Stavisky, 7632, an act authorizing the city of New York;

By Senator Maziarz, Senate Print 7682-A, an act to amend the General Business Law;

By Senator Trunzo, Senate Print 7799-A, an act to create a temporary veterans health care planning council;

By Senator Trunzo, Senate Print 7800, an act to direct that the state of New York make payments;

By Senator Velella, Senate Print 7846-A, an act in relation to establishing;

By Senator Velella, Senate Print 7847-A, an act to amend Chapter 104 of the Laws

of 1996;

By Senator Padavan, Senate Print 7906, an act to amend the Penal Law;

By the Committee on Rules, Senate Print 7910, an act to amend the Tax Law;

By Senator Seward, Senate Print 7914, an act to amend the Public Health Law;

By Senator LaValle, Senate Print 7918, an act to amend the Education Law;

By the Committee on Rules, 7921, an act to amend the Administrative Code of the city of New York;

By Senator LaValle, Senate Print 7927, an act to amend the Domestic Relations Law;

By the Committee on Rules, 7941, an act to amend the Environmental Conservation Law;

By Senator DiCarlo, 7943, an act to amend the Executive Law;

By the Committee on Rules, Senate Print 7947, an act authorizing the creation of a state debt;

Assembly Print 1933-A, by Assemblyman Faso, an act to amend the Vehicle and Traffic Law;

Assembly Print 11208, by the Assembly Committee on Rules, an act to amend a chapter of the Laws of 1996.

All bills directly for third reading.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: 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 Rules Committee report is accepted.

All bills are ordered directly to third reading.

Senator Skelos.

SENATOR SKELOS: Mr. President.

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

SENATOR SMITH: Thank you, Mr. President.

I request unanimous consent to be recorded in the negative on Calendar Number 201.

ACTING PRESIDENT KUHL: Without objection.

SENATOR SMITH: Thank you.

ACTING PRESIDENT KUHL: Hearing no objection, Senator Smith will be recorded in the negative on Calendar Number 201.

Senator Seabrook, why do you rise?

SENATOR SEABROOK: Thank you, Mr. President.

I would like to be recorded in the negative on Calendar 201 and Calendar 1352.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Seabrook will be recorded in the negative on

Calendar Number 201 and Calendar Number 1352.

For the benefit of the members, Supplemental Calendar Number 1 -- all the bills on Supplemental Calendar Number 1 are on your desk. We're in rather limited supply, trying to save money, state cutbacks. So we would hope that you would leave the bills on your desks so that they will be recorded and put into your book so they will be there tomorrow should you need them.

Thank you very much.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Could we return to motions and resolutions.

ACTING PRESIDENT KUHL: We'll return to the order of motions and resolutions.

The Chair recognizes Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Stafford, I offer the following amendments to Calendar Number 1351, Senate Print Number 5590-B, and I ask that that bill retain its place on the Third Reading Calendar.

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

Senator Waldon.

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

I respectfully request unanimous consent to be recorded in the negative on Calendar Number 201, 1352 and 1353.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Waldon will be recorded in the negative on Calendar Number 201, Calendar Number 1352 and Calendar Number 1353.

The Chair recognizes Senator Stafford.

SENATOR STAFFORD: Thank you, Mr.

President.

May we please announce an immediate meeting of the Committee on Finance, Room 332.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Supplemental Calendar Number 1, non-controversial.

ACTING PRESIDENT KUHL: Can we have a little order in the house, please? The members have now departed for the Rules Committee meeting.

The Secretary will read the non-controversial reading of Supplemental Calendar Number -

SENATOR SKELOS: Before we start, there will be an immediate meeting of the

Finance Committee in the Majority Conference Room.

ACTING PRESIDENT KUHL: Immediate meeting of the Finance Committee. Immediate meeting of the Finance Committee in the Majority Conference Room, Room 332.

Now that we have some order, the Secretary will read the non-controversial reading of Senate Supplemental Calendar Number 1, beginning with Calendar Number 771 by Senator Holland.

THE SECRETARY: Senator Holland moves to discharge from the Committee on Rules Assembly Bill Number 9508-A and substitute it for the identical Senate Bill 6509-A.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 771, by Member of the Assembly Jacobs, Assembly Print 9508-A, an act to amend the Social Services 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Goodman moves to discharge from the Committee on Rules Assembly Bill Number 9339-A and substitute it for the identical Senate Bill 6344-A.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 831, by Member of the Assembly Lafayette, Assembly Print 9339-A, an act to amend the Vehicle and Traffic 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Marchi moves to discharge from the Committee on Rules Assembly Bill Number 9334-A and substitute it for the identical Senate Bill 7535-A.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1397, by Member of the Assembly Abbate, Assembly Print 9334-A, 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1451, by Senator Velella, Senate Print 7113-A, an act to amend Chapter 403 of the Laws of 1983.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Cook moves to discharge from the Committee on Rules

Assembly Bill Number 271 and substitute it for the identical Senate Bill 264.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the last section.

THE SECRETARY: Calendar Number 1743, by Member of the Assembly Gunther, Assembly Print 271, an act to amend the Judiciary 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1744, by Senator Trunzo, Senate Print 584, an act to amend the Real Property Tax Law.

SENATOR ABATE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Senator LaValle moves to discharge from the Committee on Rules Assembly Bill Number 2468-A and substitute it for the identical Senate Bill 1649-A.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1745, by Member of the Assembly Harenberg, Assembly Print 2468-A, 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Johnson moves to discharge from the Committee on Rules Assembly Bill Number 5257-A and substitute it for the identical Senate Bill 3111-A.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1746, by Member of the Assembly Tokasz, Assembly Print 5257-A, an act to amend the Environmental Conservation 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 59.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Senator Holland moves to discharge from the Committee on Rules Assembly Bill Number 8678-A and substitute it for the identical Senate Bill 5981-A.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1747, by Member of the Assembly Gromack, Assembly Print 8678-A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT KUHL: 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Tully moves to discharge from the Committee on Rules Assembly Bill Number 8857 and substitute it for the identical Senate Bill 6139-A.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1748, by Member of the Assembly DiNapoli, Assembly Print 8857-A, 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1749, by Senator Trunzo, Senate Print 6180, an act to appropriate funds to provide payment of supplemental funds.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Cook moves to discharge from the Committee on Rules Assembly Bill Number 10447 and substitute it for the identical Senate Bill 6261.

ACTING PRESIDENT KUHL: The substitution is -

SENATOR ABATE: Lay it aside.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the

title.

THE SECRETARY: Calendar Number 1750, by the Assembly Committee on Rules, Assembly Print 10447, an act to amend the Labor Law.

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

THE SECRETARY: Senator Leibell moves to discharge from the Committee on Rules Assembly Bill Number 9337-B and substitute it for the identical Senate Bill 6358-B.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the last -- excuse me -- read the title.

THE SECRETARY: Calendar Number 1751, by Member of the Assembly Tonko, Senate Print 9337-B, 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Marchi moves to discharge from the Committee on Rules Assembly Bill Number 9304 and substitute it for the identical senate bill 6407.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1752, by Member of the Assembly Connelly, Assembly Print 9304, an act to amend the Navigation 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Alesi moves to discharge from the Committee on Rules Assembly Bill Number 9631-B and substitute it for the identical Senate Bill 6612-A.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1753, by Member of the Assembly Robach, Assembly Print Number 9631-B, an act to amend the Vehicle and Traffic Law.

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

THE SECRETARY: Section 3. 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Nozzolio moves to discharge from the Committee on Rules Assembly Bill Number 1766 and substitute it for the identical Senate Bill 6667.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1754, by Member of the Assembly Bragman, Assembly Print 1766, an act to amend the Penal Law.

SENATOR ABATE: Lay it aside.

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

THE SECRETARY: Senator

Marcellino moves to discharge from the Committee on Rules Assembly Bill Number 9570-B and substitute it for the identical Senate Bill 6829-A.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1755, by Member of the Assembly Englebright, Assembly Print 9570-B, an act to amend the Public Service 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1756, by Senator Leibell, Senate Print 6908, an act to amend the Public Service 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Leibell moves to discharge from the Committee on Rules Assembly Bill Number 10455 and substitute it for the identical Senate Bill 7022.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1757, by the Assembly Committee on Rules, Assembly Print 10455, an act to amend the Civil

Practice Law and Rules.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Spano moves to discharge from the Committee on Rules Assembly Bill Number 10441-A and substitute it for the identical Senate Bill 7436-A.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1758, by the Assembly Committee on Rules, Assembly Print Number 10441-A, 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 -

ACTING PRESIDENT KUHL: Announce the results when recorded.

THE SECRETARY: Ayes 58, nays 1, Senator Maziarz recorded in the negative. Also, Senator Wright. Ayes 57, nays 2.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Alesi moves to discharge from the Committee on Rules Assembly Bill Number 10878 and substitute it for the identical Senate Bill 7620.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1759, by the Assembly Committee on Rules, Assembly Print 108...

SENATOR ABATE: Lay it aside.

THE SECRETARY: ...78, an act to amend the Civil Service Law.

ACTING PRESIDENT KUHL: Lay the bill aside at the request of the lady in red.

THE SECRETARY: Senator Stavisky moves to discharge from the Committee on Rules Assembly Bill Number 10805 and substitute it for the identical Senate Bill 7632.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1760, by the Assembly Committee on Rules, Assembly Print Number 10805, an act authorizing the city of New York.

ACTING PRESIDENT KUHL: There's 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.

SENATOR GOLD: Go ahead.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1761, by Senator Maziarz, Senate Print 7682-A, an act to amend the General Business 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 59.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1762, by Senator Trunzo, Senate Print 7799-A, an act to create a temporary veterans health care planning council.

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

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.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Trunzo moves to discharge from the Committee on Rules Assembly Bill Number 11034 and substitute it for the identical Senate Bill 7800.

ACTING PRESIDENT KUHL: The

substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1763, by the Assembly Committee on Rules, Assembly Print Number 11034, an act to direct the state of New York.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1764, by Senator Velella, Senate Print 7846-A, an act in relation to establishing the Bronx Development Corporation.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Velella moves to discharge from the Committee on Rules Assembly Bill Number 11099-A and substitute it for the identical Senate Bill 7847-A.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1765, by the Assembly Committee on Rules, Assembly Print Number 11099-A, an act to amend Chapter 104 of the Laws of 1996.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR ABATE: Lay it aside.

ACTING PRESIDENT KUHL: The motion is to reconsider the vote by which Calendar Number 1765 passed the house.

The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Senator Padavan moves to discharge from the Committee on Rules Assembly Bill Number 11162-A and substitute it

for the identical Senate Bill 7906.

SENATOR ABATE: Lay it aside.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1766, by the Assembly Committee on Rules, Assembly Print Number 11162-A, an act to amend the Penal Law.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Senator Bruno moves to discharge from the Committee on Rules Assembly Bill Number 11264 and substitute it for the identical Senate Bill 7910.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

SENATOR ABATE: Lay it aside.

THE SECRETARY: Calendar Number 1767, by the Assembly Committee on Rules,

Assembly Print Number 11264, an act to amend the Tax Law.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1768, by Senator Seward, Senate Print 7914, an act to amend the Public Health Law.

ACTING PRESIDENT KUHL: As soon as everybody is ready to listen, we're ready to proceed, but it's awful noisy in here and difficult for us to even hear each other think. So could we have a little quiet in the house, please. Members take their seats, the staff take their seats. If there are conversations to be had, take them out of the chamber. It is now 11:12 in the evening, a Friday evening. We have a great deal of business to do. We'd like to do it expeditiously and we can do it if it's quiet.

Thank you.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1768, by Senator Seward, Senate Print 7914, 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1769, by Senator LaValle, Senate Print 7918, an act to amend the Education Law.

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

THE SECRETARY: Section 33. This act shall take effect on the 180th day.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1770, by the Committee on Rules, Senate Print

7921, an act to amend the Administrative Code of the city of New York.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

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

SENATOR SKELOS: I move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1770. 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 17. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1771, by Senator LaValle, Senate Print 7927, an act to amend the Domestic Relations 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 to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1771. 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 on the same date as a chapter of the Laws of 1996.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1772, by the Committee on Rules, Senate Print 7941, an act to amend the Environmental Conservation 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 to accept.

ACTING PRESIDENT KUHL: The

motion is to accept the message of necessity on Calendar Number 1772. 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 on the same date as Section 2 of Chapter 279 of the Laws of 1996.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1773, by Senator DiCarlo, Senate Print 7943, an act to amend the Executive Law.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator

Gold.

SENATOR GOLD: Yeah. Is there a message at the desk?

ACTING PRESIDENT KUHL: Did you rise?

Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

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

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1773. 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1774, by the Committee on Rules, Senate Print 7947, an act authorizing the creation of a state debt.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: I move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1774. 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.

SENATOR ABATE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1775, by Member of the Assembly Faso, Assembly Print 1933, an act to amend the Vehicle and Traffic 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 April.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1776, by the Assembly Committee on Rules,

Assembly Print 11208, an act to amend a chapter of the Laws of 1996.

SENATOR ABATE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Skelos, that completes the reading of the non-controversial calendar on Supplemental Calendar Number 1.

Senator Cook, why do you rise?

SENATOR COOK: Mr. President, could I be in the negative on Calendar 1746.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Cook will be recorded in the negative on Calendar Number 1746, by Senator Johnson, Senate Print 3111-A.

Senator Seward, why do you rise?

SENATOR SEWARD: Yeah. Mr. President, I was out of the chamber at the Finance meeting at the time 1755 passed, and I'd like to be recorded in the negative.

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

will be recorded in the negative on Calendar Number 1755 by Senator Marcellino.

Senator Present.

SENATOR PRESENT: Mr. President, may I be recorded on 1746 in the negative.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Present will be recorded in the negative on Calendar Number 1746.

Any other Senator wishing to register a vote at this point?

(There was no response.)

Hearing none, Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Supplemental Calendar Number 1, controversial.

ACTING PRESIDENT KUHL: The Secretary will read the controversial reading of Supplemental Calendar Number 1, beginning with Calendar Number 1744, Senate Print 584, by Senator Trunzo.

THE SECRETARY: Calendar Number 1744, by Senator Trunzo, Senate Print 584, an

act to amend the Real Property Tax Law.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT KUHL: Senator Trunzo, an explanation of Calendar Number 1744 has been requested by the Acting Minority Leader, Senator Paterson.

SENATOR TRUNZO: Mr. President, this bill amends Paragraph A of Subdivision 1 of Section 536 of the Real Property Tax Law to include the Connetquot School District among the other school districts in the state that have lands located therein which are subject to taxation.

The Connetquot School District has some 25 acres of lands which is made up of the Connetquot State Park, which has been in existence for many, many years and they've been trying to get this bill passed for many years, and if you look at the history on the memo, it says remained a community back since 1983, and so I'm very happy to see that the Assembly was able to pass the bill today in order to try to

get this injustice done to the Connetquot School District corrected.

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

ACTING PRESIDENT KUHL: Senator Leichter, could you hold just a minute. Let me get a little order in the house, please, first of all.

ACTING PRESIDENT KUHL: Thank you for the interruption, Senator Leichter.

We were just trying to check out the status of the bill that is before the house. It is a Senate bill that is before the house. The Assembly bill is on third reading in the Assembly chamber. So it has not passed that chamber yet. We thought that information would be helpful to you, Senator.

SENATOR TRUNZO: I was left with the impression that it passed today, Mr. President.

ACTING PRESIDENT KUHL: Okay. Senator Leichter, you have the floor.

SENATOR LEICHTER: Yes, Mr.

President. Just very briefly on the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: Some people here will remember many years ago when we enacted a bill to provide that the state would pay for all of the state-owned property or make a payment in lieu of taxes to the localities. Then we realized that that was an impossible burden on the state of New York, and I think there was also a recognition that the localities benefited and gained by having state facilities, state lands owned within their communities and we eventually, after some effort, had to repeal that bill.

Now slowly we're beginning to get communities saying, Well, my community should be reimbursed by the state because the state owns so much property in my community. If you do it for Senator Trunzo's community, then you got to do it for other communities and every year you're going to see more and more of these bills, and we're going to be back in that same

intolerable situation.

If we have a system in which we want to deal with what the contribution of the state should be for state-owned facilities, state-owned land, they really ought to apply statewide.

I'd like to help Senator Trunzo's community, and I understand he's working with Assemblyman Harenberg, but I can think of some help that I could find for the city of New York.

It really doesn't work to do it on this sort of an ad hoc basis, and for that reason I'm going to vote against the bill.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negative votes. Announce the results when tabulated.

THE SECRETARY: Ayes 58, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1750, by the Assembly Committee on Rules, Assembly Print 10447, an act to amend the Labor Law.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR LEICHTER: Can I have an explanation?

ACTING PRESIDENT KUHL: Senator Cook, an explanation of Calendar Number 1750 has been asked for by Senator Leichter.

SENATOR COOK: Mr. President, the summer camps typically hire a lot of high school students or at times college students as workers in the camps. These folks don't work enough hours, enough weeks to be eligible for any unemployment insurance benefits and yet under existing law, the employers who in this case are non-profit camps -- they may be 4-H camps. They may be scout camps. They may be religious camps of one sort of another. They may be municipal camps -- in some cases have to pay premiums, unemployment insurance premiums for people who never could possibly collect any benefits, and this bill says that in those cases which are clearly defined in the bill, that the employer is not required to pay the premium for unemployment insurance.

ACTING PRESIDENT KUHL: Any Senator wishing to speak on the bill?

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1754, by Member of the Assembly Bragman, Assembly Print 1766, an act to amend the Penal Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Nozzolio, an explanation of Calendar Number 1754 has been asked for by the Acting Minority Leader, Senator Paterson.

SENATOR NOZZOLIO: Mr. President,

my colleagues, the measure before us amends the Penal Law in relation to the possession of what's normally called a BB gun.

In February of this year, I received a letter from Nick Clark in Phelps, New York, who asked me -- and Nick is ten years old. Nick says that if the law says that he couldn't own or shoot a BB gun until the age of 16, why could he get a hunting license and shoot more powerful guns at the age of 14? Wouldn't it be better, according to Nick, for him to learn hunter safety, the respect for this use of firearms before he shoots a more powerful gun?

Nick made all the sense in the world to me, and that's why we introduced this bill that says that an individual, a young boy or girl, could use an air rifle at the age - prior to the age of one who could get a hunting license. It made no sense to have it the other way around.

ACTING PRESIDENT KUHL: Is there 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 first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1759, by the Assembly Committee on Rules, Assembly Print 10878, an act to amend the Civil Service Law.

ACTING PRESIDENT KUHL: Senator Paterson, were you asking for an explanation?

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

ACTING PRESIDENT KUHL: Senator Alesi, an explanation of Calendar Number 1759, Senate Print 7620, has been ask for by the Acting Minority Leader, Senator Paterson.

SENATOR ALESI: Thank you, Mr. President.

This bill would protect certain disabled employees who would otherwise have been hired under civil service -

ACTING PRESIDENT KUHL: Senator Alesi, excuse me just a minute. There is just a little too much noise in here for my level of hearing, and I know it isn't Senator Goodman. Could we please have the members take their seats, the staff take their seats. If you have to have a conversation, please take it out of the chamber.

Thank you for the interruption, Senator Alesi.

SENATOR ALESI: Thank you, Mr. President.

This bill would protect certain state employees who are not hired under civil service regulations but who are in jobs that otherwise would have been filled had they performed the civil service requirements. These people are disabled and this program was

established over 20 years ago to accommodate people in these circumstances.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Paterson.

SENATOR PATERSON: Would Senator Alesi yield for a question?

ACTING PRESIDENT KUHL: Senator Alesi, do you yield to a question?

SENATOR ALESI: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, would you ask the Secretary to read the last section, please.

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 59.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1765, by the Assembly Committee on Rules, Assembly Print 11099-A, an act to amend Chapter 104 of the Laws of 1996.

SENATOR PATERSON: Read the last section.

ACTING PRESIDENT KUHL: There was a home rule message at the desk previously announced.

The Secretary will read the last section.

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

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

SENATOR LEICHTER: I'm just trying to see, Mr. President, what bill we have. Is this 1765?

Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yes, Mr.

President. After Senator Velella explained the bill to me, now I know I want to vote against it. So if you'd just call the last section, I'll cast my vote.

ACTING PRESIDENT KUHL: The Secretary will read the last section on Calendar Number 1765.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives. Announce the results.

THE SECRETARY: Ayes 58, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to call the controversial calendar.

ACTING PRESIDENT KUHL: Calendar Number 1766, by the Assembly Committee on Rules, Assembly Print 11162-A, an act to amend the

Penal Law.

ACTING PRESIDENT KUHL: The Secretary -- did I hear an explanation requested?

SENATOR STACHOWSKI: Explanation, please.

ACTING PRESIDENT KUHL: Senator Padavan, an explanation has been asked by Senator Leichter, I believe, of Calendar Number 1766, Senate Print 7906.

SENATOR PADAVAN: Thank you, Mr. President.

This bill would require the potential imposition of an additional mandatory consecutive sentence of five years to the minimum term for a Class B violent felony where the person convicted of such a crime displayed a loaded weapon in the course of that action.

ACTING PRESIDENT KUHL: Senator Leichter.

Senator Leichter yields to Senator Abate.

Senator Abate.

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

ACTING PRESIDENT KUHL: Senator Abate, he'll yield when we have some order in the chamber but not until.

Now he'll yield.

SENATOR ABATE: Yes, Senator Padavan. I have not had an opportunity to study the bill, but my understanding is that you want to increase the minimum or is it the maximum for a sentence of possession of a weapon.

SENATOR PADAVAN: It would add an additional five-year consecutive sentence to the minimum sentence.

SENATOR ABATE: Under what conditions would someone receive an additional five years?

SENATOR PADAVAN: Well, the conditions are outlined in the bill, as I said in the course of my explanation, which I guess you didn't hear.

If someone commits a crime and displays a loaded weapon in the course of that

crime, then an additional five years could be added -- and I emphasize the word "could" -- to the minimum term of an indeterminate sentence.

SENATOR ABATE: That's what I - then you did clarify. This would be an additional five years added to the minimum.

SENATOR PADAVAN: Correct.

SENATOR ABATE: So if someone - let me just clarify it in my mind. If someone committed a robbery and in the course of that robbery possessed a weapon, the minimum -

SENATOR PADAVAN: They actually have to display it.

SENATOR ABATE: Actually displayed it, that individual, if they were found guilty of the robbery, could be sentenced to five years more on the minimum.

SENATOR PADAVAN: That is correct.

SENATOR ABATE: How would that work, though, in a robbery case where someone would be charged with robbery in the second degree because they used a weapon? Are we now

saying there's an elevation already because it's an advanced count because the weapon is used or displayed?

SENATOR PADAVAN: That would be a Class B felony?

SENATOR ABATE: That would be - I believe it's Class C felony.

SENATOR PADAVAN: This relates to a Class B felony.

SENATOR ABATE: So these are only when the underlying -

SENATOR PADAVAN: It's right in the bill.

SENATOR ABATE: -- charge is a B felony.

SENATOR PADAVAN: Senator, I draw your attention to lines 4 and 5 on the first page of the bill.

SENATOR ABATE: And then my last question then, this would be discretionary.

SENATOR PADAVAN: Yes. And again, I draw your attention to lines 21 and 22 where it says, in effect, that the court under

certain circumstances in its judgment need not apply this additional five years of consecutive sentencing.

SENATOR ABATE: Is there anything in the bill that requires the judge to put on the record why they're not giving the additional five-year sentence?

SENATOR PADAVAN: Not that I know of. I think if you read it -- obviously in the course of his determination, he might choose to articulate the basis of that action. That's not precluded.

SENATOR ABATE: Right.

SENATOR PADAVAN: But there's nothing here that says he must specifically state it.

SENATOR ABATE: So my last question, if in a crime, a violent B felony, part of that crime is the display of a weapon or the use of a weapon -- and we're talking about a loaded weapon, a loaded gun -- we're also saying even though that person will be facing more penalties because that's part of the crime, the

underlying charges, you're saying in addition to that, that individual could be facing another five years.

SENATOR PADAVAN: That is correct.

SENATOR ABATE: And that in terms of -- also the person can be charged separately with a loaded weapon, possession of a loaded gun -

SENATOR PADAVAN: I presume that's the case.

SENATOR ABATE: -- in addition to that.

SENATOR PADAVAN: I assume so.

SENATOR ABATE: My last question is, Senator, I mean, we all feel that possession of a weapon, display of firearms is a heinous crime, but in this case, why is there a need to elevate the crime when you have a B violent felony -

SENATOR PADAVAN: I think we -

SENATOR ABATE: -- for which someone could be facing an enormous time plus

could be facing an additional charge and consecutive time for possession of a weapon?

SENATOR PADAVAN: I think the answer to that question, Senator, is simply that when someone has a loaded weapon in their hand, obviously the potential for deadly violence exists. We have to send a clear message to that criminal that, when he chooses that option, he places himself in the potential circumstance of an additional five years. Obviously the goal here is deterrence, and that's the reason.

SENATOR ABATE: And do you contemplate that this statute will be effected for second-time violent felons?

As you know, last year we passed a law that went to a determinate sentencing scheme that doubled the minimums for violent felons, eliminated discretionary parole and reduced good time from one-third to one-seventh. Would you apply this statutory scheme also for these second offenders?

SENATOR PADAVAN: Senator, you have me at a disadvantage. I only refer you to

the specific section of the law that we are amending and its applicability in the case of a Class B felony.

SENATOR ABATE: I would read it, Senator, that you would apply it to both first time offenders and second-time offenders.

SENATOR PADAVAN: I think you're probably right but, again, I have to refer you to the statute that we are amending.

SENATOR ABATE: Thank you.

SENATOR GOLD: Mr. President, I think Senator Leichter was next.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leichter.

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

SENATOR PADAVAN: Yeah.

SENATOR LEICHTER: Senator, I don't read the bill as you describe it that this is discretionary with the court because it says -- you use the word on line 16 "the court shall impose."

SENATOR PADAVAN: Well, the

sentence -- let me answer you, Senator. If you go down to line 21 -- and I draw your attention to that -- it says "provided, however, that such additional sentence shall not be imposed if the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such additional consecutive sentence would be unduly harsh and that not imposing such sentence would be consistent with the public safety and would not deprecate the seriousness of the crime."

SENATOR LEICHTER: You've answered my question, I guess also a question that Senator Abate asked as far as putting it on the record.

I'm also concerned, Senator, with the provision on the next page that there shall be no parole which, as I read it, applies only -- well, let me ask the question. I'm not sure what it provides. You say that parole shall not be -

SENATOR PADAVAN: There will be a

new aggregate minimum -- there will be a new aggregate minimum sentence, meaning the five years-plus, right?

SENATOR LEICHTER: Plus, and that parole will not apply for the entire period.

SENATOR PADAVAN: Exactly, Senator.

SENATOR LEICHTER: Okay. Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: On the bill, please.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: I think we all agree with Senator Padavan that we want to certainly deter the use of dangerous weapons such as firearms, loaded or unloaded, but I think as has been pointed out by Senator Abate, we already punished this very, very severely, and I don't believe that imposing an additional five years is going to make any difference

whatsoever in deterrence. I think that a Class B felony -- and I don't know what the minimum and the maximum are, but I think it's 15 -- it's 25 years. That's the maximum -- that's not a soft sentence.

I mean, I think we can reach the point where we say that anybody who uses a gun will be put in jail for life without possibility of parole. I'm sure there's many people in the state of New York that would support that sort of legislation.

I feel that it is harsh, and I think also in this particular instance, providing that there will be no parole when, frankly, you can have Class B felonies, that, in many respects, could be more dangerous or more heinous than a Class B felony committed with a loaded firearm and we still provide parole as to that.

Listen, it's very popular to increase penalties and we do a lot of that. We did much of it yesterday, but I think this really doesn't have a sound basis. I think it

goes too far. I'm not going to support it.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yeah. Would Senator Padavan yield to a question?

ACTING PRESIDENT KUHL: Senator Padavan, do you yield to a question from Senator Gold?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GOLD: Senator, this deals with a loaded firearm, is that correct?

SENATOR PADAVAN: Yes.

SENATOR GOLD: Well, Senator, in a situation where someone does not actually fire a shot or is not caught in the commission of the crime, I assume then this would not apply as there would be no way of establishing the gun was loaded, is that correct?

SENATOR PADAVAN: Obviously -- on line 7 being the operative -- part of the

operative definition, "possesses a deadly weapon, if the weapon is loaded, a loaded weapon from which a shot readily capable of producing death or other serious injury may be discharged." Now, obviously if your question is that you have not been able to make that determination, it would not be applicable.

SENATOR GOLD: So that we understand it -

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR GOLD: Senator, the other question that I have -- and I want to follow up on something Senator Leichter said. I believe that unintentionally -- I don't think you would intentionally mislead the chamber, but I think an answer you gave was misleading.

You indicated in the Finance Committee and also to Senator Leichter that, while it wasn't mandatory, a judge didn't have

to do it.

I think, Senator, that's kind of simplistic in terms of whether the judge can or cannot do it. Isn't it a fact that under the law as you're proposing it, a judge must do it unless -- unless the judge makes an affirmative finding on the record that there are reasons not to do it as you set forth?

SENATOR PADAVAN: Senator, I was not misleading at all. I read the words on line 21 and 22 verbatim. I don't know how you can interpret that as being misleading and, as Senator Leichter acknowledged, I answered his question. He read it along with me. It is - it is subject to a judgment that the judge can make under the conditions specified, and that's what I said in committee. I'm not quite sure what your question is. Maybe I didn't hear you right.

SENATOR GOLD: Well, Mr. President, I think there's quite -- thank you, Senator Padavan.

I think there's quite a bit of

difference between saying that a person -- a judge has a choice and a situation where a judge is mandated to do something unless the judge makes an affirmative finding that is not exactly the same, and I believe that under this language as it's stated by Senator Padavan, it absolutely is a mandate and the judge is hard pressed to have to explain it if he doesn't go along with it.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the bill? Hearing none, 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.)

ACTING PRESIDENT KUHL: Record the negative votes. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1766, Senators

Abate, Connor, Leichter, Montgomery, Paterson, Smith and Waldon. Ayes 52, nays 7.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

The Secretary will continue to call the controversial calendar.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, there will be an immediate meeting of the Minority in the Minority Conference Room, Room 314, immediate meeting of the Minority.

SENATOR GOODMAN: Senator Paterson, may I be permitted to record a negative vote?

Mr. President.

ACTING PRESIDENT KUHL: Senator Goodman.

SENATOR GOODMAN: Yes. May I be recorded in the negative on Calendar 1765, please.

ACTING PRESIDENT KUHL: Without

objection, hearing no objection, Senator Goodman will be recorded in the negative on Calendar Number 1765.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 1769.

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number 1769.

THE SECRETARY: Calendar Number 1769, by Senator LaValle, Senate Print 7918, an act to amend the Education Law.

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

THE SECRETARY: Section 33. This act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President,

would you call up Calendar Number 1776.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1776.

THE SECRETARY: Calendar Number 1776, by the Assembly Committee on Rules, Assembly Print 11208, an act to amend a chapter of the Laws of 1996.

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

THE SECRETARY: Section 4. This act shall take effect on the same date as a chapter of the Laws of 1996.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 1767.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1767.

THE SECRETARY: Calendar Number 1767, by the Assembly Committee on Rules, Assembly Print 11264, an act to amend the Tax Law.

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

THE SECRETARY: Section 3. This act shall take effect on the same date and within the same qualifications.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, stand at ease.

ACTING PRESIDENT KUHL: Can we have some order in the house, please. Order in the house, please. Staff take their seats, members take their seats.

Senator Skelos.

SENATOR SKELOS: Mr. President, the Senate will stand at ease for a few moments.

ACTING PRESIDENT KUHL: The Senate will stand at ease.

(Whereupon, the Senate stood at ease from 12:00 a.m. until 12:20 a.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Would you please call up Calendar Number 1351, Senate 5590-C.

ACTING PRESIDENT WRIGHT: Calendar 1351, the Secretary will read.

THE SECRETARY: Calendar Number 1351, Budget Bill, Senate Print 5590-C, an act making appropriations for the support of government, Education, Labor and Social Services budget.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT WRIGHT: There is a message at the desk.

SENATOR SKELOS: Move to accept.

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

(Response of "Aye".)

Those opposed, nay.

(There was no response.)

The message is accepted.

Senator Skelos.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT WRIGHT: Senator Stafford on an explanation.

SENATOR STAFFORD: Thank you.

Mr. President, moving right along, this as has been mentioned is the education, labor and the social -- can you people hear me over there?

ACTING PRESIDENT WRIGHT: Thank you, Senator Stafford.

The Sergeant-at-arms, please close the door and escort the staff out so we can have some -

Thank you for your patience, Senator Stafford.

SENATOR STAFFORD: Thank you for yours, Mr. President.

On the bill. I will go over the various subjects that are covered together with the appropriation. This is one of the most important bills. I don't want to rush through it. On the other hand, I don't want to go into any more detail than is necessary, but I think this does require some detail.

Mr. President, I'll go over the highlights, and I think I should start with total spending.

This budget appropriates $15.2 billion. This is an increase and it's due primarily to the addition of 346 million in education, primary and secondary, and it's a total addition of 164 million in higher education and 55 million in income maintenance restoration which, of course, is in social services.

The arts are covered. It covers the children's and families. Higher education obviously is the State University and the City

University. It's a lump sum appropriation of 30 million -- $30 million for the City University senior colleges. It's 2.3 million and additional assistance for community college aid. The additional support increases base aid per full-time equivalent student from $1800 to $1850.

The Higher Education Assistance -- Services Corporation is included, of course and we should point out -- and this is very, very important as my counsel has pointed out very astutely, there is a full restoration as far as any reductions there were in the TAP program.

The State University, this provides $51 million in operating assistance for the SUNY state operated campus -- for the campuses.

There's 5 -- well, $6 million in community college base aid. This additional support increases base aid from, as I mentioned earlier, again, in the State University also from $1800 to $1850 per full-time equivalent.

Obviously, there are other areas here, and I would be glad to answer any other questions, but I'll move in -- Senator, go ahead. Go ahead. All right. I'll just do the state aid.

Total state aid for education for primary and secondary is $10.2 billion. That, obviously, is one of the major parts of any budget that we pass in any year.

I'll say, Mr. President, again that there have been restorations in the various areas, both in education, labor and in social services. We feel this is a responsive budget. We feel that this meets the needs of our people, and I would be glad to answer any questions as we discuss -

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

SENATOR GOLD: Mr. President, if my distinguished chairman would be kind enough to yield to a question.

ACTING PRESIDENT WRIGHT: Senator Stafford yields to Senator Gold's question.

SENATOR GOLD: Senator, to begin with, just so we get some numbers straightened out, the Governor presented us with a budget suggestion in December of last year, and can you tell me now that we're actually passing a budget how much more or less are we putting into elementary and secondary education than the Governor had suggested?

SENATOR STAFFORD: As you mentioned, the -- there was a proposal and now we're carrying through and, in effect, disposing. 200 -- approximately 290 million.

SENATOR GOLD: 290 million more than the original December budget suggestion of the Governor, and this is what we traditionally call the school aid when we're talking about elementary, secondary, is that correct?

SENATOR STAFFORD: Right. 293.97, if you want to be completely -

SENATOR GOLD: 293. ...

SENATOR STAFFORD: ...97. I call it 294.

SENATOR GOLD: Is that the fiscal

year or the calendar year, the school year?

SENATOR STAFFORD: It would be a school year -

SENATOR GOLD: All right.

SENATOR STAFFORD: -- as you know.

SENATOR GOLD: Senator, can you tell me how much of the 293.97 increase goes to the New York City school district?

SENATOR STAFFORD: About 40 percent, 41 percent.

SENATOR GOLD: So, Senator -- I'm trying to do the math quickly -- about 116-, 120 million, something like that?

SENATOR STAFFORD: Well, let's do it. 40 times -- yeah, that's about it.

SENATOR GOLD: Yeah. That's about it.

Senator, if you'd yield to a question.

SENATOR STAFFORD: Yes.

SENATOR GOLD: We indicate in here, Senator, that -- well, going back, the -

in December the Governor offered us a budget suggestion and to his great credit, Senator Leonard Stavisky of Queens was so outraged and upset at what the suggestions for CUNY and SUNY were that he thought that he ought to at least find out whether those involved in the system were as upset, and he scheduled some hearings around the state, and the testimony that was elicited was very, very shocking, in some respects, enlightening in other respects, and I understand, Senator, that now we are, in fact, adding money to the CUNY and SUNY system that will be able to hold tuition at the levels that they have been, is that correct?

SENATOR STAFFORD: Yes.

SENATOR GOLD: I like that. Now, Senator, the Governor had recommended that certain programs such as the Green Teams program and Educational Opportunity Centers be transferred into DOL. Was that proposal carried into the present legislation?

SENATOR STAFFORD: No.

SENATOR GOLD: So the Governor -

SENATOR STAFFORD: Excuse me. Wait a minute. Let me be accurate. I'm sorry.

SENATOR GOLD: Yeah.

SENATOR STAFFORD: Yes. Green Teams was transferred. I'm sorry. The others were not.

SENATOR GOLD: Green Teams was, in fact, transferred -

SENATOR STAFFORD: Right.

SENATOR GOLD: -- into DOL? Educational Opportunity Centers, was that transferred?

SENATOR STAFFORD: No.

SENATOR GOLD: And migrant child care programs?

SENATOR STAFFORD: No.

SENATOR GOLD: Can you tell me, is there a specific reference that you can lead me to in the bill as far as the Green Teams program? The reason I ask, Senator, is not to give you a hard time. My notes question whether or not that was done.

SENATOR STAFFORD: I understand.

SENATOR STAFFORD: You're not confused with Green Thumb, are you? That will happen.

SENATOR GOLD: Well, if you spell "thumb" t-e-a-m-s, I would be confused, but if you spell Green Teams that way, that's what I'm understanding.

SENATOR STAFFORD: We'll get it right. Page 178.

SENATOR GOLD: 178?

SENATOR STAFFORD: Right. Lines 17, 18 and 19.

SENATOR GOLD: Thank you very much.

Mr. President, if I may -- thank you, Senator -- on the bill.

ACTING PRESIDENT WRIGHT: Senator Gold, on the bill.

SENATOR GOLD: Mr. President, as I said earlier today when we were debating - excuse me. (Telephone rings) Hello.

Mr. President, as I said earlier today, many of us who find that being in

politics makes us very often the butt of jokes and, you know, you go to a cocktail party and I guess they laugh at the politicians and they laugh at the lawyers and they get to the doctors, but while we are very often the butt of jokes, particularly with the press, I wonder if they realize how when we sit down and have a cup of coffee we laugh at some of their antics and you read in the paper about this one says this one won, this one lost, and the next paper says this one won and this one lost, and I guess depending upon who's advertising in what papers and where their leanings are they'll tell you who won and who lost; but I can't help but have the feeling that many of us in the Legislature are the real winners in terms of the politics, although I think that in all fairness the people eventually won, and that's the way it ought to be. I know one reporter wrote that the people were among the losers. We had a late budget.

I certainly don't think that the students who go to City University of New York were the losers when we have been able to fight

off Governor Pataki's attempt to increase their tuition. I certainly don't think that they are losers. I think that the students at SUNY, many of whom came out to our hearings and who told us stories, success stories, I don't think they are the losers, and interestingly enough, as Senator Stafford and our Finance Committee held hearings throughout this session, on various nominees of the Governor, I would notice how many of those people graduated from City University or State University and I said to myself, how important those institutions are not only to the individual, not only to the individuals who were before us with the degrees but to everybody in the state who would now benefit from their contribution to this state.

At any rate, Mr. President, I have other comments that I may have to make depending upon the extent of Senator Paterson's questions, but I understand that he has some very vital questions, and I'd like to yield to Senator Paterson.

ACTING PRESIDENT WRIGHT: Senator

Paterson, why do you rise?

SENATOR PATERSON: Well, you know, Mr. President, as the day has gone on and I've listened to Senator Gold, I never really - I never really listened before but, as the day has gone on, I have been more and more impressed with his insight, his dynamic, his articulation, his perceptiveness, courageousness and out spoken character and it has led me to ask if Senator Stafford would yield for a question.

ACTING PRESIDENT WRIGHT: Senator Stafford, will you yield to Senator Paterson for a question?

SENATOR STAFFORD: By all means.

SENATOR PATERSON: Senator Gold's remarks were the catalyst for this, and it just made me focus on the income maintenance part of the legislation. This $55 million is approp riated, but the Governor's social service directors were -- are not in the legislation, so that led me to wonder where the $55 million dollars would be earmarked.

SENATOR STAFFORD: There is

completely full restoration of the proposed reduction and that includes the $55 million, includes 60-day limit on home relief, 26.5 percent grant reduction from home relief, 15 - 7 percent grant reduction for aid to families with dependent children, ADF recipients -- ADFC, change in the income disregard, eliminates the special needs payment, establishes block grant benefit structure, establishes the needy block grant, sets up drug testing for public assistance, sets up block grant program for home relief and establishes the spending cap.

SENATOR PATERSON: Thank you, Senator.

Mr. President.

ACTING PRESIDENT WRIGHT: Senator Paterson.

SENATOR PATERSON: Do I have an amendment at the desk?

ACTING PRESIDENT WRIGHT: Yes, we do have an amendment here.

SENATOR PATERSON: Thank you. I would waive its reading and perhaps I could

explain the amendment.

ACTING PRESIDENT WRIGHT: Senator Paterson to explain the amendment.

SENATOR PATERSON: Mr. President, there are approximately 43 percent of our school districts, approximately 400 out of 700 school districts which had to borrow this year due to the lateness of this budget, causing them to run up interest rates which will inure to their detriment based on cost that they will have to provide in order to pay back these loans.

What this amendment simply does is to provide the resources to the amount of $5 million which we feel would cover the added interest payments that would accrue to these school districts. The -- it isn't specifically stated in the legislation, but it would follow with language as the actual bill does, and so in the amendment, the way we have phrased it is for the general support of school aid.

The fact is that the state is holding the money that otherwise would have been the money that would have provided for the

school aid, and the state has drawn interest from that particular money so it would be unfair for the state to hold that interest when it really should go to the schools, and so what this amendment proposes is that we provide the resources to pay for these 417 school districts who are now going to be in debt for the interest for the additional borrowing that they had to undertake in order to meet all their obligations.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Gold, on the amendment?

SENATOR GOLD: Thank you, Mr. President.

Mr. President, just very briefly on this. I'd like to point out that what Senator Paterson is suggesting is nothing more nor less than what is done in business all of the time. Very often in business if money is held back or placed in escrow, it is placed in a situation where you earn interest on it and then depending upon who gets the money, you give that

person the interest that has been earned on it.

The budget process this year particularly has received a lot of criticism in terms of its lateness. A lot of that criticism was aimed at the costs that we are forcing upon localities and on school districts. The key element here is that we have had the money. We may not have had a budget but as a result of not having a budget, we didn't transfer the money, but we've had the money.

The equity in this system as being suggested by Senator Paterson, is that with the money, we will make the individuals whole with the interest. If we do not do that, we have basically then stolen because we have delayed the school districts, forced them to borrow and held their money back and earned money on their money and that is compounding the situation with the late budget.

So this is not -- it should not be looked at by this house as increasing the spending. It is not increasing the spending. It is passing along to the districts the

interest that their money has earned and should pay them back for the interest that they've had to pay by our not sending the money through.

ACTING PRESIDENT WRIGHT: Senator Dollinger, on the amendment.

SENATOR DOLLINGER: Mr. President, I know the hour is late, but I've stood here in this chamber and debated a number of times with my colleagues from the other side of the aisle the concept of unfunded mandates. We've passed bills -- I think we passed them every year -- that say we will stop the practice in this state of putting an unfunded mandate on our school districts, on our other levels of government, all kinds of governments. We're going to stop unfunded mandates.

It seems to me that, through our delay of a month, we passed an unfunded mandate on to our school districts. We have required them to go out and borrow money. They're the innocent victims of this budget war. They should be paid the reparations. Senator Gold is absolutely correct. We held the money in our

account; we accumulated the interest. Why not give them the interest that has otherwise accrued to us.

Stop this unfunded mandate. Vote for this amendment. We'll send a clear sign to our school districts that we're serious about ending unfunded mandates.

ACTING PRESIDENT WRIGHT: The question is on the amendment. All in favor say aye.

(Response of "Aye.")

Opposed nay.

SENATOR PATERSON: Party vote in the affirmative.

SENATOR BRUNO: Party vote in the negative.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 26, nays 33, party vote.

ACTING PRESIDENT WRIGHT: The amendment is defeated. Read the last section.

SENATOR LEICHTER: Mr. President.

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

SENATOR LEICHTER: Mr. President, to speak on the bill.

Mr. President, it's regrettable that a bill of this significance and importance and -- comes before us at this late hour. The bill was in print a relatively short period of time, a few hours for us to look at it.

Senator Stafford certainly tried manfully to explain some aspects of it, but the fact certainly is that we're legislating without basically knowing what we're doing, and when you take a look at what's happening, it's really interesting: The more things change in Albany the more they remain the same.

We have a Governor who says we're going to have an on-time budget. We're going to have an open process. We have a majority loader who pledges himself to an open process. He and the Speaker say we're going to have conference

committees, and here we are the same old way of doing business except this year it's even worse. I can't remember so much secrecy, such a lack of information, such a reliance on three people getting together behind closed doors.

Senator Gold is correct, papers like to speak in terms of winners and losers, but I must agree with those people who say, Yes, there are losers and the losers, I think, are the people of the state of New York, not just because we have such a late budget. That in itself certainly is serious and it's bad and, as pointed out, it's cost our school districts, we tried to rectify that with the amendment, but it's also bad because I think that we've seen the continual diminution of services. We've seen the hemorrhaging of services and, while it's true that this budget is light years better than what was given by the Governor, and a lot of credit goes to a number of people - certainly the Speaker, the Assembly Majority, also members of the Majority in this house and certainly my Conference that sought and fought

very hard to get in order restorations to see that we didn't dismantle SUNY and CUNY, that we didn't put homeless people or mentally ill people out on the streets to become homeless and many other things, and many of these improvements are in this bill before us.

But the overall effect is still, I think, a budget that doesn't serve the needs of the people of New York, and I just want to say that much of this goes back to the fact that we enacted last year a tax cut. We didn't have the money for it. The promises that were made, the assumptions by the Governor and the others who pushed that tax cut that we were going to see such an economic resurgence of money, and revenues were going to increase has proven to be totally false and that's why we have this large deficit. That's why we have these very severe cutbacks in so many areas.

How are -- how are we funding the restorations? I'm happy to see the restorations but we also ought to recognize that by and large the funding is being done by funny money. It's

one-shots; it's gimmicks; it's expectations of greater revenues flowing into the state treasury if we have this sort of a deficit.

What do we do? We say, well, next year is going to be better and, therefore, we can spend the money. We didn't do what we should have done which is to address the tax cut and in a realistic and fair manner and a responsible manner address the need for more revenue. So what we end up is a very political budget, maybe the most political budget that I've ever seen. It lacks vision; it lacks a program for the future, the growth of New York; it lacks the sort of help that our school districts need, the help for mentally ill, help for a lot of different sectors of our society, so I don't think any of us can congratulate our selves on this budget, and I just wanted to finally say, the only time we're ever going to change this system and this process if the members of this house, the members of the Assembly, both Majority and Minority say, This is just not the way to address a budget.

Let me say that almost no other Legislature in this country does it in this haphazard way that we do it here in New York State, and it's really time to say that we don't have a system that works. We don't have a process that serves democratic purposes and goals and ends up being a benefit and coming together, a consensus on a budget, that helps the people that we're elected by and that we're pledged to serve.

So I just call on all of us to finally say in our Conference or however, let's put a stop to this. It doesn't have to be done this way. I know that we've had bills earlier today and other days where people say, Well, 48 states do it another way, so we ought to do it. Well, if that's your guide, then take a look at what other states do in passing a budget and you won't see one that does it in this particular way and ends up with a budget that's 103 or 104 days late.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58, nays one, Senator Leichter recorded in the negative.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we return to reports of standing committees so that we can receive the report of the Finance Committee.

ACTING PRESIDENT WRIGHT: Return to reports of standing committees. Secretary will read the report of the Finance Committee.

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

Senate Print 7946, by the Committee on Rules, an act to amend the Real Property Tax Law;

Senate 7949, by the Senate Committee on Rules, an act in relation to certain provisions.

Both bills directly for third reading.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT WRIGHT: Without objection, bills are reported directly to third reading.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1778.

ACTING PRESIDENT WRIGHT: Calendar Number 1778, Secretary will read.

THE SECRETARY: Calendar Number 1778, by the Committee on Rules, Senate Print 7949, an act in relation to certain provisions.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT WRIGHT: There's a message at the desk.

SENATOR BRUNO: Move we accept the message.

ACTING PRESIDENT WRIGHT: Motion to accept the message.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The Secretary will read. Last section.

THE SECRETARY: Section 68. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Bruno.

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

ACTING PRESIDENT WRIGHT: There's

no housekeeping, Senator Bruno.

SENATOR BRUNO: Is there any housekeeping on the floor?

SENATOR LEICHTER: Yeah, Mr. President. Mr. President.

SENATOR BRUNO: There is, Mr. President.

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

SENATOR LEICHTER: May I have unanimous consent to be recorded in the negative on calendar -- I'm sorry it's not calendar, I don't have a calendar number. I think it's 7949, I think it's the last bill that just passed.

ACTING PRESIDENT WRIGHT: Without objection, so noted.

Senator Bruno.

SENATOR BRUNO: Mr. President, there being no further business to come before the Senate, I would move that we stand adjourned until Saturday.

SENATOR CONNOR: Party vote in

the negative.

SENATOR BRUNO: Party vote in the affirmative.

ACTING PRESIDENT WRIGHT: Call the roll on a motion to adjourn.

(The Secretary called the roll.)

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

ACTING PRESIDENT WRIGHT: Motion passes. Senate is adjourned.

(Whereupon at 1:13 a.m., July 13, 1996, the Senate adjourned.)