

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

ALBANY, NEW YORK

July 13, 1996

1:43 a.m.

REGULAR SESSION

SENATOR JAMES W. WRIGHT, Acting President

STEPHEN F. SLOAN, Secretary

## 1 P R O C E E D I N G S

2 SENATOR BRUNO: Mr. President,  
3 it's now Saturday. Could you call us to order  
4 and proceed with the day.

5 ACTING PRESIDENT WRIGHT: The  
6 Senate will come to order. Please rise for the  
7 Pledge of Allegiance. Ask the gallery to rise.

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

10 In the absence of clergy, may we  
11 bow our heads in a moment of silence.

12 (A moment of silence was  
13 observed. )

14 Secretary will read the Journal.

15 THE SECRETARY: In Senate,  
16 Friday, July 12th. The Senate met pursuant to  
17 adjournment. The Journal of Thursday, July 11th,  
18 was read and approved. On motion, Senate  
19 adjourned.

20 ACTING PRESIDENT WRIGHT: Hearing  
21 no objections, the Journal stands approved as  
22 read.

23 Presentation of petitions.

1 Messages from the Assembly.  
2 Messages from the Governor.  
3 Reports of standing committees.  
4 Reports of select committees.  
5 Communications and reports from  
6 state officers.

7 Motions and resolutions.

8 SENATOR BRUNO: Mr. President.

9 ACTING PRESIDENT WRIGHT: Senator  
10 Bruno.

11 SENATOR BRUNO: It's my  
12 understanding that we voted on Calendar 1451  
13 yesterday within this last hour, and Senator  
14 Markowitz was not here. Had he been here, he  
15 would have been voting to abstain on that vote;  
16 so I would like the record to show that on  
17 behalf of Senator Markowitz.

18 ACTING PRESIDENT WRIGHT: The  
19 record will so reflect.

20 SENATOR BRUNO: And, Mr.  
21 President, there being no further business to  
22 come before the Senate presently, I would move  
23 that we stand at ease until 9:30 a.m.

1                   ACTING PRESIDENT WRIGHT:  Senate  
2           shall stand at ease until 9:30 a.m.

3                   SENATOR CONNOR:  Party vote in  
4           the negative.

5                   SENATOR BRUNO:  Party vote in the  
6           affirmative.

7                   ACTING PRESIDENT WRIGHT:  Call  
8           the roll.

9                                 (The Secretary called the roll. )

10                   THE SECRETARY:  Ayes 36, nays 20,  
11           party vote.

12                   ACTING PRESIDENT WRIGHT:  The  
13           Senate stands at ease until 9:30 a.m.

14                                 Senator Paterson.

15                   SENATOR PATERSON:  Mr. President  
16           -- Mr. President.

17                   ACTING PRESIDENT WRIGHT:  Senator  
18           Paterson.

19                   SENATOR PATERSON:  There will be  
20           a Minority Conference at 9:00 a.m., in the  
21           Minority Conference Room.

22                   ACTING PRESIDENT WRIGHT:  There  
23           will be a Minority Conference in the Minority

1 Conference Room at 9:00 a.m.

2 (Whereupon at 1:15 a.m., the  
3 Senate stood at ease. )

4 (The Senate reconvened at 9:36  
5 a.m.)

6 ACTING PRESIDENT SPANO: The  
7 Senate will come to order.

8 Senator Bruno.

9 SENATOR BRUNO: Since we have  
10 been standing at ease, I'd like to request that  
11 the Majority members join me in Room 332 for a  
12 Majority Conference, and for us to reconvene  
13 session at about 10:15.

14 ACTING PRESIDENT SPANO: Senator  
15 Paterson.

16 SENATOR PATERSON: Mr. President,  
17 we had a sterling Minority Conference at 9:30  
18 and we're going to have another one, and that  
19 will be immediately in the Minority Conference  
20 Room. Tickets are available.

21 ACTING PRESIDENT SPANO: Minority  
22 and Majority Conferences in the respective  
23 conference rooms. Senate will reconvene at

1 10:15.

2 (The Senate stood at ease from  
3 9:38 a.m. until 10:34 a.m.)

4 SENATOR BRUNO: Mr. President,  
5 can we at this time ask for an immediate meeting  
6 of the Finance Committee in Room 332.

7 ACTING PRESIDENT KUHL: There  
8 will be an immediate meeting of the Senate  
9 Finance Committee in the Majority Conference  
10 Room, an immediate meeting of the Senate Finance  
11 Committee in the Majority Conference Room, Room  
12 332.

13 ACTING PRESIDENT KUHL: Senate  
14 will come to order.

15 SENATOR BRUNO: Mr. President, is  
16 there anything at the desk that we should be  
17 taking care of at this time?

18 ACTING PRESIDENT KUHL: Got a  
19 couple of substitutions, Senator Bruno.

20 SENATOR BRUNO: Thank you, Mr.  
21 President.

22 ACTING PRESIDENT KUHL: Secretary  
23 will read.

1 THE SECRETARY: Senator Bruno  
2 moves to discharge from the Committee on Rules  
3 Assembly Bill Number 11326 and substitute it for  
4 the identical Third Reading Calendar 1774.

5 Senator Goodman moves to  
6 discharge from the Committee on Transportation  
7 Assembly Bill Number 3027-C and substitute it  
8 for the identical Third Reading Calendar 1146.

9 ACTING PRESIDENT KUHL:  
10 Substitutions are ordered.

11 Senator Bruno, that brings us to  
12 the calendar.

13 SENATOR BRUNO: Mr. President,  
14 can we, on today's calendar, take up Calendar  
15 572, Bill 6052-B.

16 ACTING PRESIDENT KUHL: On  
17 Calendar Number 70, regular calendar for the  
18 day, the Secretary will read Calendar Number  
19 572, by Senator DeFrancisco, Senate Print  
20 6052-B.

21 THE SECRETARY: Calendar Number  
22 572, by Senator DeFrancisco, Senate Print  
23 6052-B, an act to amend the Real Property Tax

1 Law.

2 ACTING PRESIDENT KUHL: Is there  
3 any Senator wishing to speak on the bill?  
4 Hearing none, Secretary will read the last  
5 section.

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

8 ACTING PRESIDENT KUHL: Call the  
9 roll.

10 (The Secretary called the roll. )

11 THE SECRETARY: Ayes 59.

12 ACTING PRESIDENT KUHL: The bill  
13 is passed.

14 Senator Bruno.

15 SENATOR BRUNO: Mr. President,  
16 can we at this time take up Calendar Number  
17 1607.

18 ACTING PRESIDENT KUHL: Secretary  
19 will read the title to Calendar Number 1607, by  
20 Senator Velella.

21 THE SECRETARY: Calendar Number  
22 1607, by Senator Velella, Senate Print 4714-A,  
23 an act to amend the Executive Law, in relation

1 to obtaining nationwide criminal history  
2 records.

3 SENATOR DOLLINGER: Mr.  
4 President.

5 ACTING PRESIDENT KUHL: Senator  
6 Dollinger, did you wish to be recognized?

7 SENATOR DOLLINGER: Is this  
8 before us?

9 ACTING PRESIDENT KUHL: Yes.

10 SENATOR DOLLINGER: Could I just  
11 have a quick explanation, if I can.

12 ACTING PRESIDENT KUHL: Senator  
13 Velella, an explanation of Calendar Number 1607  
14 has been asked for by Senator Dollinger.

15 SENATOR DOLLINGER: Mr.  
16 President.

17 SENATOR VELELLA: No. This will  
18 allow the city of New York to gain access to  
19 federal and other states' criminal history  
20 records when they process employees'  
21 applications. Right now they're not authorized  
22 to do anything except check the BCI reports of  
23 New York State. This will allow them to check

1 neighboring states and to check the federal  
2 records, particularly in the area of people who  
3 are employed for services that they provide to  
4 children, so it will give them access to that  
5 criminal history.

6 SENATOR DOLLINGER: Mr.  
7 President, just one question to cut to the  
8 chase. Why doesn't it apply to the entire  
9 state?

10 SENATOR VELELLA: Why does it?

11 SENATOR DOLLINGER: Why doesn't  
12 the bill apply to the entire state?

13 SENATOR VELELLA: I believe that  
14 the state now has that permission, but I know  
15 the City does not. I know the City has  
16 requested this, but my understanding is state  
17 agencies -- and, unfortunately, I don't have the  
18 file here -- state agencies can do a check with  
19 the F.B.I. and do do a check with other states.  
20 The city of New York did not have that permis  
21 sion to do that for their employees.

22 SENATOR DOLLINGER: Again through  
23 you, Mr. President, just one other quick

1 question. Is this -- does this apply to private  
2 employers that want to get this data?

3 SENATOR VELELLA: No, no. This  
4 governs the city of New York employees.

5 SENATOR DOLLINGER: All right.  
6 Thank you, Mr. President.

7 Just on the bill briefly. I  
8 think this is a good idea, and I would like to  
9 see it expanded to include private employers.

10 ACTING PRESIDENT KUHL: Is there  
11 any other Senator wishing to speak on the bill?  
12 Hearing none, the Secretary will read the last  
13 section.

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

16 ACTING PRESIDENT KUHL: Call the  
17 roll.

18 (The Secretary called the roll. )

19 THE SECRETARY: Ayes 59.

20 ACTING PRESIDENT KUHL: The bill  
21 is passed.

22 SENATOR BRUNO: Mr. President,  
23 can we at this time take up Calendar Number

1 1774.

2 ACTING PRESIDENT KUHL: Secretary  
3 will read Calendar Number 1774.

4 THE SECRETARY: Calendar Number  
5 1774, substituted earlier today, by the Assembly  
6 Committee on Rules, Assembly Print 11326, an act  
7 authorizing the creation of a state debt.

8 ACTING PRESIDENT KUHL:  
9 Substitution is ordered. Secretary will read  
10 the title.

11 Senator Marcellino, an  
12 explanation of Calendar Number 1774 has been  
13 asked for.

14 SENATOR MARCELLINO: This  
15 particular bill is an act authorizing the  
16 creation of a state debt in the amount of  
17 \$1,750,000,000 in relation to creating a Clean  
18 Air/Clean Water Bond Act for 1996.

19 This is to provide money for the  
20 preservation, enhancement, restoration,  
21 improvement of the state's environment and to  
22 provide for state assistance payments for such  
23 purpose and providing for the submission to the

1 people of a proposition or question therefor to  
2 be voted upon at the general election in  
3 November of 1996.

4 Basically this puts the bond act  
5 before the people.

6 ACTING PRESIDENT KUHL: Senator  
7 Paterson.

8 SENATOR PATERSON: Good morning,  
9 Mr. President.

10 ACTING PRESIDENT KUHL: Good  
11 morning.

12 SENATOR PATERSON: Senator  
13 Marcellino, would you yield for a question?

14 ACTING PRESIDENT KUHL: Senator  
15 Marcellino, do you yield?

16 SENATOR MARCELLINO: It will be  
17 my pleasure to, sir.

18 ACTING PRESIDENT KUHL: Senator  
19 yields.

20 SENATOR PATERSON: Senator, might  
21 I have a slightly more -- I'm sorry, Senator,  
22 what I'm really looking for is a little more of  
23 a breakdown on where some of the monies are

1 allocated?

2 SENATOR MARCELLINO: The -- this  
3 particular bill, Senator, is designed to place  
4 this before the people. This does not have the  
5 full spread of the money to be paid out. That  
6 bill is before the Finance Committee now and is  
7 on the agenda at the present time. It should be  
8 in here to take that up at a later point. I  
9 could give you a brief general synopsis in a  
10 fairly rough form of where and just what some of  
11 the projects are.

12 We have a category for safe  
13 drinking water, for example, which includes  
14 about \$355 million to do projects relative to  
15 water quality and safe drinking water.

16 We have some clean water projects  
17 designated to the Hudson River, for example, \$25  
18 million associated with that, Hudson estuary  
19 protection projects. Long Island Sound clean-up  
20 is worth about \$200 million applied to that. An  
21 awful lot of work to be done on the Sound, as  
22 you may know, as well as the Hudson River.

23 Lake Champlain improvements are

1       about \$15 million for Lake Champlain. For  
2       Onondaga Lake clean-up about \$75 million. The  
3       New York harbor estuary improvements projects  
4       come up with about \$25 million. The Great Lakes  
5       protection project is approximately \$25 million,  
6       Finger Lakes clean-up another \$25 million.

7                 Now, in some other water  
8       categories, we could have the state facilities  
9       environmental compliance, \$25 million; the  
10      Peconic estuary and South Sound estuary \$30  
11      million, waste water treatment improvement and  
12      municipal flood control projects in smaller  
13      communities. We've debated the infamous beaver  
14      growth in this chamber many, many times and  
15      there was some language in the Governor's  
16      proposed budget to relieve the problem of  
17      beavers from damming up waterways that flood  
18      farm land. Rather than go through the trapping  
19      and the killing of these animals, which the  
20      beaver, by the way, as many of you know or  
21      should know, is the state animal -- don't ask me  
22      why -- this particular amount of money, about  
23      \$50 million, will allow for alternative means to

1 help people to avoid flooding created by beavers  
2 creating dams which back up water in particular  
3 areas, so we'll have alternate means of avoiding  
4 the flood and relieving the flooding problem  
5 using duct work and maintenance action, so that  
6 we can protect roadways and farm land from  
7 flooding as a result of beaver damming. There  
8 is also some money in here which could be  
9 applied to the trapping and relocation of these  
10 animals. Some suggested locations that we've  
11 had in recent minutes was Prospect Park and  
12 Central Park where there are lakes which could  
13 hold the beavers, and we feel that would be  
14 good. However, we don't feel the beavers would  
15 be safe enough in these particular localities,  
16 but we're looking into that.

17 I'm wondering who's paying  
18 attention out there. Senator Seabrook, you  
19 should back me up on that one.

20 We have some dam safety projects,  
21 the dam that protects water, not the other kind  
22 of damn. These projects are about \$15 million  
23 because in some areas of our state, some of our

1       dams are in need of repair and work and there is  
2       monies to maintain these necessary facilities.

3               We have some small business  
4       environmental compliance assistance projects to  
5       the tune of about \$30 million dollars. This  
6       would allow those small businesses that comply  
7       or come under the compliance with, I believe,  
8       the environmental protection or the  
9       environmental -- the Clean Air Act and whatever,  
10      they can apply and receive assistance in getting  
11      that help to refit their facilities to meet  
12      emissions control standards. So this would help  
13      small businesses in a large manner all over the  
14      state.

15              We have some open space programs  
16      worth about \$250 million in this particular  
17      proposal; land acquisition approximately \$150  
18      million; state parks another \$50 million,  
19      municipal parks another \$50 million, designed to  
20      upgrade the state parks and enhance them and in  
21      some cases create them where necessary where we  
22      have the areas.

23              With respect to solid waste

1 initiatives, we allow \$175 million in this  
2 proposal. Fresh Kills we've talked about that.  
3 The Governor, the Mayor of the City, all the  
4 people on Staten Island, I'm sure, would be very  
5 pleased, and anyone who lives down wind of Fresh  
6 Kills would be very pleased to see this  
7 particular facility closed and eliminated once  
8 and for all. It also might help some of the  
9 stuff that floats across to other states which  
10 gets away.

11 There is real Adirondack landfill  
12 protection money, about 15 million -- \$50  
13 million, excuse me, to that particular area.  
14 There is some recycling capital programs,  
15 approximately \$50 million, to help and assist in  
16 developing recycling. Recycling, as you know,  
17 for those of us who are into the system and into  
18 the process, is the means, many of us believe,  
19 to help eliminate a lot of solid waste that is  
20 currently going into the waste stream. If we  
21 can recycle and reuse, we take some pressure off  
22 some natural resources. The reusing of this  
23 material, alternate uses for recycled materials

1       such as plastics which can be used for bulkhead  
2       ing, for bench creation, facilities that will  
3       not diminish. We don't have to use wood. It  
4       means we don't have to chop down trees and we're  
5       not looking to take away our forest products and  
6       stuff like that. So this can be extremely  
7       useful. There's a lot of work being done on  
8       that.

9                   Environmental restoration  
10       relative to "brownfields", we've known for a  
11       long time there's approximately \$200 million in  
12       "brownfields" protection. This is, I think, a  
13       vital project. The money will be related and  
14       the projects will be related using Superfund  
15       standards so we're going to hold them to decent  
16       standards and currently accepted standards, not  
17       less standards. I know there was some fear in  
18       the environmental community that the standards  
19       would be lessened and watered down. We're  
20       using, and we're going to hold people to  
21       Superfund standards to make sure that this is  
22       not the case. But the "brownfields" program can  
23       be very useful, my colleagues, because this will

1 take pressure off our "greenfields", the  
2 so-called pristine sites which are out there  
3 and, if we can revitalize and regenerate in an  
4 old manufacturing plant that has been lying  
5 fallow for years and been an eyesore in the  
6 community, that garbage that was left because  
7 nobody wants to deal with it which is on the  
8 corner and has a graffiti site, nothing but  
9 rubble and an eyesore in the neighborhood, and  
10 nobody wants to take it on because they're  
11 afraid of what might be below the surface and  
12 what the environmental impact to their economic  
13 well-being would be if they took over the site,  
14 if we can get them to do that in an environment  
15 ally safe way, develop a contract with these  
16 people, protect them from liability so that they  
17 don't take on more, unless they lie to us or  
18 they try to misrepresent the clean-up but get  
19 that site cleaned up and back on the tax rolls  
20 in the use that it was meant to be used or the  
21 way it was meant to be used, we've done an  
22 environmentally solid and sound thing, not to  
23 mention an economically sound thing for the

1 community because that -- that site likely had a  
2 tax certiorari, had its taxes reduced. If they  
3 hadn't been paying any taxes now once cleaned up  
4 and put back on the tax rolls it becomes a  
5 positive for the community rather than an eye  
6 sore and a negative. Too many of these sites in  
7 the community and a community goes down the tube  
8 because nobody wants to drive through a  
9 neighborhood or open up a store in a  
10 neighborhood or open up a shop or buy a home in  
11 a neighborhood where your downtown has eyesores  
12 and empty buildings and empty industrial sites.

13 So the "brownfields" proposal we  
14 think is important to propose. It is something  
15 that the Governor is very interested in. It is  
16 something that I've had legislation on. I feel  
17 very interested in this, and I think it's a very  
18 important project all over the state. We, in  
19 the northeast, have sites that are just, you  
20 know, ideal for this kind of project.

21 Air quality projects, \$230  
22 million for clean fuel, moving into the range of  
23 electric cars, alternate fuels, and the like.

1 Small business environmental compliance projects  
2 around \$30 million, school and coal conversion  
3 projects about \$125 million to help schools, and  
4 I'm sure many of them in the city of New York  
5 are still burning coal. The high school I used  
6 to teach in is still burning coal the way it did  
7 when it was built some 70 years ago. This will  
8 help them. This money can be applied to these  
9 places to turn to safer, cleaner alternate fuels  
10 and lessen the impact on the resources of an  
11 already strapped city and already strapped  
12 municipalities and school districts throughout  
13 the state of New York. This is a positive on  
14 that.

15 Senator, I've given you an  
16 extensive rundown, but it's not as complete as  
17 I'd like. The bill that will come out of  
18 Finance, if it hasn't shortly, will have more  
19 information on that and more details but I hope  
20 I've provided you with some information.

21 SENATOR PATERSON: Thank you,  
22 Senator.

23 ACTING PRESIDENT KUHL: Senator

1 Mendez, why do you rise?

2 SENATOR MENDEZ: Senator, Mr.  
3 President, I wonder if Senator Marcellino would  
4 yield for a question?

5 ACTING PRESIDENT KUHL: Senator  
6 Mendez, I did have a list running of other  
7 members who had indicated earlier they wanted to  
8 face the issue, if you don't mind take those in  
9 order.

10 Senator Dollinger.

11 SENATOR DOLLINGER: Mr.  
12 President, I'll yield to Senator Mendez.

13 ACTING PRESIDENT KUHL: Senator  
14 Waldon.

15 SENATOR WALDON: If the learned  
16 gentleman would yield to a question.

17 ACTING PRESIDENT KUHL: Senator  
18 Marcellino, would you yield to an question from  
19 Senator Waldon?

20 SENATOR MARCELLINO: Be my  
21 pleasure to, Mr. President.

22 ACTING PRESIDENT KUHL: Senator  
23 yields.

1                   SENATOR WALDON:  Senator, in your  
2                   preparation to submit this for consideration,  
3                   was there any dialogue with people in Queens  
4                   County as to the places that would be designated  
5                   to benefit from this proposal?

6                   SENATOR MARCELLINO:  I am sure  
7                   the people who prepared the bill -- this came  
8                   out of the Governor's office, as you well know,  
9                   in conjunction with the Senate Majority Leader's  
10                  office, and in conjunction with the staff of the  
11                  Environmental Conservation Committee.

12                  We reached out -- I know the  
13                  Governor reached out to many groups.  I am sure  
14                  the mayor of the city of New York was one of  
15                  those individuals reached out to and who had  
16                  input into the money that was needed and the  
17                  kind of projects that would be beneficial to the  
18                  areas throughout the state.

19                  I am not familiar with one or an  
20                  individual maybe, the borough president of  
21                  Queens, I don't know a specific person from  
22                  Queens was talked to.

23                  SENATOR WALDON:  Would the

1 gentleman yield again?

2 ACTING PRESIDENT KUHL: Senator  
3 Marcellino, do you continue to yield?

4 SENATOR MARCELLINO: Surely.

5 ACTING PRESIDENT KUHL: Senator  
6 continues to yield.

7 SENATOR WALDON: Thank you, Mr.  
8 President. Thank you, Senator Marcellino.

9 Am I to assume from the statement  
10 then that the areas of the Rockaways, Cambria  
11 Heights, Rosedale, Queens Village, Laurelton,  
12 Springfield Gardens, Rochedale Village, St.  
13 Albans, parts of Jamaica, South Jamaica, and a  
14 touch of Green Oaks are not intended to be  
15 excluded from this proposal?

16 SENATOR MARCELLINO: No, sir, you  
17 should not draw that conclusion at all. You  
18 mentioned some of the areas that I grew up in  
19 and had a lot of fun playing ball in. St.  
20 Albans and Flushing are my old stamping grounds  
21 and I grew up in the Rockaways, so I certainly  
22 would not allow those sites and those  
23 communities not to have some input. The schools,

1 for example, could be impacted with respect to  
2 conversion from coal-burning furnaces to oil,  
3 some of the older facilities in those  
4 communities.

5 The south estuaries, the south  
6 shore and north shore estuary work, the Sound  
7 work along the waterways and the beaches will  
8 apply and can apply and can be connected,  
9 especially the Rockaways, to some of the water  
10 act here. The "brownfields" approach certainly  
11 impacts that community. There are many "brown  
12 field" sites that would qualify in my estimation  
13 for monies under the "brownfield" proposals here  
14 in that community.

15 I'm very familiar with Spring  
16 field Gardens High School and the surrounding  
17 communities. They could benefit greatly from the  
18 sites and from the money here. The proposals  
19 that were raised and put in this particular bond  
20 act were done in conjunction with the Conference  
21 of Mayors and Municipal Supervisors so, no, by  
22 no means should you feel that these communities  
23 were excluded in any way, shape or form.

1                   SENATOR WALDON: Thank you, Mr.  
2                   President. Thank you, Senator.

3                   SENATOR MARCELLINO: You're  
4                   welcome.

5                   ACTING PRESIDENT KUHL: Senator  
6                   Mendez, did you wish to speak?

7                   SENATOR MENDEZ: No.

8                   ACTING PRESIDENT KUHL: Senator  
9                   Mendez waives. Senator Dollinger had indicated  
10                  a willingness to want to discuss the bill.

11                  SENATOR DOLLINGER: Mr.  
12                  President, I will waive my request.

13                  ACTING PRESIDENT KUHL: Is there  
14                  any any other Senator wishing to speak on the  
15                  bill? The bill is still high at this point, so  
16                  we'll have to lay the bill aside awaiting a  
17                  message from the second floor.

18                  Senator DeFrancisco.

19                  SENATOR DeFRANCISCO: I couldn't  
20                  have put it better, Mr. President.

21                  ACTING PRESIDENT KUHL: Senator  
22                  Paterson.

23                  SENATOR PATERSON: I think on the

1       vote on the bill. I just didn't hear what you  
2       said.

3                   ACTING PRESIDENT KUHL: I said  
4       the bill is high. We're awaiting a message from  
5       the second floor. We'll lay the bill aside  
6       awaiting that message. There is a report,  
7       Senator DeFrancisco, of the Finance Committee,  
8       if you'd like.

9                   SENATOR PATERSON: Mr. President,  
10      I was going to address that before it was left  
11      and spoken to, which I thought was being  
12      psychic. I thought the bill was substituted  
13      earlier today.

14                  ACTING PRESIDENT KUHL: We were  
15      -- we're debating the Assembly bill. The  
16      Assembly bill is high. We're awaiting the  
17      message here.

18                  SENATOR PATERSON: Mr. President,  
19      a point of order. I may be missing something.  
20      We have a message of necessity on this bill. It  
21      can't be high.

22                  ACTING PRESIDENT KUHL: We do not  
23      -- did not --            -- not have a message

1 of necessity. We're awaiting a message of  
2 necessity. The bill is laid aside awaiting the  
3 message.

4 SENATOR PATERSON: Mr. President,  
5 a point of order. This is the Assembly bill, am  
6 I not correct, and the Assembly bill had a  
7 message of necessity so, therefore, in my -- I  
8 mean you can rule on this, but it's my opinion  
9 it doesn't need a message and it's, therefore,  
10 not high.

11 ACTING PRESIDENT KUHL: Senator  
12 Paterson, I think you're very fortunate, unlike  
13 the Assembly, who have had about five or six  
14 hours sleep last night, my point being that the  
15 message we had dealing with this was yesterday's  
16 message. Today's message has not arrived, so we  
17 can not take up the bill today.

18 SENATOR PATERSON: Mr. President,  
19 maybe it's me who's high and not the bill,  
20 but -

21 ACTING PRESIDENT KUHL: I don't  
22 know what you did when you left here last night,  
23 Senator.

1                   SENATOR PATERSON: But I don't  
2                   think that we need a message because we already  
3                   have a message. That's all I'm saying, on the -  
4                   on the Assembly bill, which is the one that  
5                   we're actually debating that we already have a  
6                   message on and that's just the point of order  
7                   I'm trying to make.

8                   ACTING PRESIDENT KUHL: Senator  
9                   Paterson, I'd be happy to sit down and explain  
10                  this to you, but it is the understanding and the  
11                  ruling of the Chair that we do need a message of  
12                  necessity to take this bill up, so we do not  
13                  have one at the desk and we cannot take a vote  
14                  on the bill, so the bill will be laid aside  
15                  awaiting the message from the second floor.

16                  SENATOR PATERSON: Thank you, Mr.  
17                  President.

18                  I will -- I'd love to sit down  
19                  and talk to you, and we'll have something like a  
20                  soft drink to go along.

21                  ACTING PRESIDENT KUHL: Senator  
22                  DeFrancisco.

23                  SENATOR DeFRANCISCO: Mr.

1 President, could we return to reports of  
2 standing committees. My understanding is there  
3 is a Finance Committee report at the desk.

4 ACTING PRESIDENT KUHL: There  
5 is. We'll return to reports of standing  
6 committees and ask the Secretary to read.

7 Secretary will read.

8 THE SECRETARY: Senator Stafford,  
9 from the Committee on Finance, reports the  
10 following nomination:

11 Member of the Board of Trustees  
12 of the City University of New York, Nilda Soto  
13 Ruiz, of the Bronx.

14 ACTING PRESIDENT KUHL: Any  
15 Senator wishing to speak on the nomination?  
16 Hearing none, the question is on the nomination  
17 of Nilda Ruiz, of the Bronx, to become a member  
18 of the Board of Trustees of the City University  
19 of New York. All those in favor of the  
20 nomination signify by saying aye.

21 (Response of "Aye.")

22 Opposed nay.

23 (There was no response. )

1                   The nominee is confirmed.

2                   Secretary will continue to read.

3                   THE SECRETARY:  Senator Stafford,  
4                   from the Committee on Finance, reports the  
5                   following nomination:

6                   Member of the Board of Trustees  
7                   of the State University of New York, Nicole Yae  
8                   Kyoung Kim, of New York City.

9                   ACTING PRESIDENT KUHL:  Is there  
10                  any Senator wishing to speak on the nomination?  
11                  Hearing none, the question is on the nomination  
12                  of Nicole Kim, of New York City, to become a  
13                  member of the Board of Trustees of the State  
14                  University of New York.  All those in favor of  
15                  the nomination signify by saying aye.

16                  (Response of "Aye.")

17                  Opposed nay.

18                  (There was no response. )

19                  The nominee is confirmed.

20                  Secretary will continue to read.

21                  THE SECRETARY:  Senator Stafford,  
22                  from the Committee on Finance, reports the  
23                  following nominations:

1                   Members of the Board of Trustees  
2                   of the New York State Higher Education Services  
3                   Corporation: John R. Durso, Jr., of Massapequa  
4                   Park, and David Porter, of Saratoga Springs.

5                   ACTING PRESIDENT KUHL: Is there  
6                   any Senator wishing to speak on the nomination?  
7                   Hearing none, the question is on the nominations  
8                   of John Durso, Jr., of Massapequa Park, and  
9                   David Porter, of Saratoga Springs, to become  
10                  members of the Board of Trustees of New York  
11                  State Higher Education Services Corporation.  
12                  All those in favor of the nominations signify by  
13                  saying aye.

14                                 (Response of "Aye.")

15                                 Opposed nay.

16                                 (There was no response. )

17                                 The nominees are confirmed.

18                   Secretary will continue to read.

19                   THE SECRETARY: Senator Stafford,  
20                   from the Committee on Finance, reports the  
21                   following nomination:

22                                 Member of the Board of Trustees  
23                   of the State University of New York, College of

1 Environmental Science and Forestry, Curtis H.  
2 Bauer, of Jamestown.

3 ACTING PRESIDENT KUHL: Is there  
4 any Senator wishing to speak on the nomination?  
5 Hearing none, the question is on the nomination  
6 of Curtis H. Bauer, of Jamestown, New York, to  
7 become a member of the Board of Trustees of the  
8 State University of New York College of  
9 Environmental Science and Forestry. All those  
10 in favor of the nomination, signify by saying  
11 aye.

12 (Response of "Aye.")

13 Opposed nay.

14 (There was no response. )

15 The nominee is confirmed.

16 Secretary will continue to read.

17 THE SECRETARY: Senator Stafford,  
18 from the Committee on Finance, reports the  
19 following bill:

20 Senate Print 7948, by Senator  
21 Marcellino, an act to amend the Environmental  
22 Conservation Law and others.

23 ACTING PRESIDENT KUHL: Without

1 objection, the bill goes directly to third  
2 reading.

3 Senator DeFrancisco, we have a  
4 substitution on that bill we'd like to take at  
5 this time?

6 SENATOR DeFRANCISCO: Would you  
7 please make the substitution.

8 ACTING PRESIDENT KUHL: Secretary  
9 will read the substitution.

10 THE SECRETARY: Senator  
11 Marcellino moves to discharge from the Committee  
12 on Finance Assembly Bill Number 11332 and  
13 substitute it for the identical Third Reading  
14 Calendar 1779.

15 ACTING PRESIDENT KUHL:  
16 Substitution is ordered.

17 SENATOR DeFRANCISCO: Mr.  
18 President.

19 ACTING PRESIDENT KUHL: Senator  
20 DeFrancisco.

21 SENATOR DeFRANCISCO: Mr.  
22 President, could we take up calendar -- Bill  
23 Number 7948, please.

1                   ACTING PRESIDENT KUHL: Secretary  
2 will read the title of Calendar Number 1748.

3                   SENATOR DeFRANCISCO: Mr.  
4 President, 7948.

5                   ACTING PRESIDENT KUHL: Calendar  
6 Number 1748 -- Senate Print 7948, and it's  
7 Calendar Number 1779.

8                   THE SECRETARY: Calendar Number  
9 1779, substituted earlier today, by the Assembly  
10 Committee on Rules, Assembly Print 11332, an act  
11 to amend the Environmental Conservation Law and  
12 others.

13                  SENATOR GOLD: Last section.

14                  ACTING PRESIDENT KUHL: Secretary  
15 will read the last section. (Pause)

16                  The bill is high. The bill will  
17 be laid aside.

18                  SENATOR GOLD: Is there a message  
19 from the Governor on this, for this Assembly  
20 bill?

21                  Mr. President. Mr. President.

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

1                   SENATOR GOLD: Say good morning,  
2 Mr. President.

3                   ACTING PRESIDENT KUHL: Good  
4 morning to you too.

5                   SENATOR GOLD: Now, Mr.  
6 President, while we're at it, this bill passed  
7 the Assembly, I assume if it's high, with a  
8 message. Does that message come across with the  
9 bill?

10                  ACTING PRESIDENT KUHL: Senator  
11 Gold, we're in the same situation we were with  
12 the bill we just had before the house that we  
13 had to lay aside. We don't of a message on it.

14                  SENATOR GOLD: I want to  
15 understand, Mr. President, if I could, I just  
16 want to understand the rule. Are you ruling,  
17 sir, that we may not consider messages of  
18 necessity from the Governor unless they are  
19 dated on the date that we are considering bills;  
20 is that the rule now for all time?

21                  ACTING PRESIDENT KUHL: That's  
22 correct. That has been the practice of the  
23 house, as I'm told in many years past, and

1       you've had many more years experience than I do,  
2       Senator.

3                        SENATOR GOLD:   That's why -

4                        ACTING PRESIDENT KUHL:  I remind  
5       you sometimes when you're old, you are -- you  
6       forget more often than not.

7                        SENATOR GOLD:   That's why I  
8       asked.

9                        ACTING PRESIDENT KUHL:  Senator  
10      DeFrancisco, we now have a message of necessity  
11      at the desk on 1774 which was laid aside.

12                      SENATOR DeFRANCISCO:  Yes.  Can  
13      we return to 1774 and ask that the message be  
14      accepted.

15                      ACTING PRESIDENT KUHL:  Ask the  
16      Secretary to read the title.

17                      THE SECRETARY:  Calendar Number  
18      1774, substituted earlier today, by the Assembly  
19      Committee on Rules, Assembly Print Number 11326,  
20      an act authorizing the creation of a state debt.

21                      ACTING PRESIDENT KUHL:  Senator  
22      DeFrancisco.

23                      SENATOR DeFRANCISCO:  You say

1           there is a message at the desk.

2                    ACTING PRESIDENT KUHL:  There is.

3                    SENATOR DeFRANCISCO:  Move to  
4           accept the message.

5                    ACTING PRESIDENT KUHL:  Motion is  
6           to accept the message on Calendar Number 1774.  
7           All those in favor signify by saying aye.

8                    (Response of "Aye.")

9                    Opposed nay.

10                   (There was no response.)

11                   ACTING PRESIDENT KUHL:  Is there  
12           any other Senator wishing to speak on the bill?  
13           Hearing none, the Secretary will read the last  
14           section.

15                    SENATOR PATERSON:  Slow roll  
16           call, Mr. President.

17                    ACTING PRESIDENT KUHL:  Slow roll  
18           call has been requested on Senate Calendar  
19           Number 1774.  Secretary will ring the bells and  
20           call the roll slowly.

21                    THE SECRETARY:  Senator Abate.

22                    (There was no response. )

23                    Senator Alesi.

1 (There was no response. )  
2 Senator Babbush.  
3 SENATOR BABBUSH: No.  
4 THE SECRETARY: Senator Bruno.  
5 (Affirmative indication.)  
6 THE SECRETARY: Aye.  
7 Senator Connor.  
8 (Negative indication. )  
9 THE SECRETARY: No.  
10 Senator Cook.  
11 (There was no response. )  
12 Senator DeFrancisco.  
13 SENATOR DeFRANCISCO: Yes.  
14 THE SECRETARY: Senator DiCarlo.  
15 SENATOR DiCARLO: Aye.  
16 THE SECRETARY: Senator  
17 Dollinger.  
18 (There was no response. )  
19 Senator Espada.  
20 (There was no response. )  
21 Senator Farley.  
22 (There was no response. )  
23 Senator Gold.

1 SENATOR GOLD: No.  
2 THE SECRETARY: Senator  
3 Gonzalez.  
4 (There was no response. )  
5 Senator Goodman.  
6 (There was no response. )  
7 Senator Hannon.  
8 SENATOR HANNON: Yes.  
9 THE SECRETARY: Senator Hoblock.  
10 SENATOR HOBLOCK: Yes.  
11 THE SECRETARY: Senator  
12 Hoffmann.  
13 (There was no response. )  
14 Senator Holland.  
15 (There was no audible response. )  
16 THE SECRETARY: Senator Johnson.  
17 SENATOR JOHNSON: Aye.  
18 THE SECRETARY: Senator Kruger.  
19 SENATOR KRUGER: No.  
20 THE SECRETARY: Senator Kuhl.  
21 SENATOR KUHL: Aye.  
22 THE SECRETARY: Senator Lachman.  
23 (There was no response.)

1 Senator Lack.  
2 (There was no response. )  
3 Senator Larkin.  
4 (There was no response. )  
5 Senator Larkin.  
6 (There was no response. )  
7 Senator LaValle.  
8 SENATOR LAVALLE: Yes.  
9 THE SECRETARY: Senator Leibell.  
10 (There was no response. )  
11 Senator Leichter.  
12 (There was no response. )  
13 Senator Levy.  
14 SENATOR LEVY: Aye.  
15 THE SECRETARY: Senator Libous.  
16 SENATOR LIBOUS: Aye.  
17 THE SECRETARY: Senator Maltese.  
18 SENATOR MALTESE: Aye.  
19 THE SECRETARY: Senator  
20 Marcellino.  
21 SENATOR MARCELLINO: Aye.  
22 THE SECRETARY: Senator Marchi.  
23 SENATOR MARCHI: Aye.

1 THE SECRETARY: Senator  
2 Markowitz.  
3 SENATOR MARKOWITZ: No.  
4 THE SECRETARY: Senator Maziarz.  
5 SENATOR MAZIARZ: Aye.  
6 THE SECRETARY: Senator Mendez.  
7 SENATOR MENDEZ: No.  
8 THE SECRETARY: Senator  
9 Montgomery.  
10 (There was no response. )  
11 THE SECRETARY: Senator Nanula.  
12 SENATOR NANULA: No.  
13 THE SECRETARY: Senator  
14 Nozzolio.  
15 (There was no response. )  
16 Senator Onorato.  
17 SENATOR ONORATO: No.  
18 THE SECRETARY: Senator  
19 Oppenheimer.  
20 (There was no response. )  
21 Senator Padavan.  
22 (There was no response. )  
23 Senator Paterson.

1 SENATOR PATERSON: No.  
2 THE SECRETARY: Senator Present.  
3 SENATOR PRESENT: Aye.  
4 THE SECRETARY: Senator Rath.  
5 SENATOR RATH: Aye.  
6 THE SECRETARY: Senator Saland.  
7 (There was no response. )  
8 Senator Santiago.  
9 (There was no response. )  
10 Senator Seabrook.  
11 SENATOR SEABROOK: No.  
12 THE SECRETARY: Senator Sears  
13 excused.  
14 Senator Seward.  
15 SENATOR SEWARD: Aye.  
16 THE SECRETARY: Senator Skelos.  
17 SENATOR SKELOS: Yes.  
18 THE SECRETARY: Senator Smith.  
19 SENATOR SMITH: No.  
20 THE SECRETARY: Senator Spano.  
21 SENATOR SPANO: Aye.  
22 THE SECRETARY: Senator  
23 Stachowski.

1                   SENATOR STACHOWSKI:  No.  
2                   THE SECRETARY:  Senator  
3           Stafford.  
4                   SENATOR STAFFORD:  Aye.  
5                   THE SECRETARY:  Senator Stavisky  
6           excused.  
7                   THE SECRETARY:  Senator Trunzo.  
8                   SENATOR TRUNZO:  (Affirmative  
9           indication. )  
10                  THE SECRETARY:  Senator Tully.  
11                  SENATOR TULLY:  Aye.  
12                  THE SECRETARY:  Senator Velella.  
13                  SENATOR VELELLA:  (Affirmative  
14           indication. )  
15                  THE SECRETARY:  Senator Volker.  
16                  SENATOR VOLKER:  Yes.  
17                  THE SECRETARY:  Senator Waldon.  
18                  SENATOR WALDON:  (Negative  
19           indication. )  
20                  THE SECRETARY:  Senator Wright.  
21                  SENATOR WRIGHT:  Aye.  
22                  ACTING PRESIDENT KUHL:  Secretary  
23           will call the absentees.

1 THE SECRETARY: Senator Abate.  
2 (There was no response. )  
3 Senator Alesi.  
4 SENATOR ALESI: Yes.  
5 THE SECRETARY: Senator Cook.  
6 SENATOR COOK: No.  
7 THE SECRETARY: Senator  
8 Dollinger.  
9 SENATOR DOLLINGER: No.  
10 THE SECRETARY: Senator Espada.  
11 (There was no response. )  
12 Senator Farley.  
13 SENATOR FARLEY: Aye.  
14 THE SECRETARY: Senator  
15 Gonzalez.  
16 (There was no response. )  
17 Senator Hoffmann.  
18 SENATOR HOFFMANN: If I could  
19 explain my vote, please.  
20 ACTING PRESIDENT KUHL: Senator  
21 Hoffmann, to explain her vote.  
22 SENATOR HOFFMANN: Thank you, Mr.  
23 President.

1                   There's a temptation to simply  
2                   vote yes on this for expediency sake and join  
3                   the spirit of the hour where there's agreement  
4                   on so many things after months and months of  
5                   discord and significant ideological difference,  
6                   but the people in the central New York area who  
7                   I represent have indicated to me over and over  
8                   again that they are worried about the way the  
9                   state handles its affairs, that they feel  
10                  troubled by the propensity of the state to spend  
11                  more than it has and not meet its obligations or  
12                  to not meet its obligations on time.

13                  Well-intentioned as this measure  
14                  is from an environmentalist perspective and  
15                  beneficial as it might be to parts of the state  
16                  that would enjoy the rewards that come from  
17                  special projects, projects which would accent  
18                  tourism which we greatly need, projects which  
19                  would help stimulate local industries related to  
20                  tourism and local economic development projects  
21                  which we might tangentially say does fit nicely  
22                  with an environmental bond act, still do not  
23                  justify borrowing more than a billion dollars

1           that the state simply does not have right now.

2                     Our debt load is all too often  
3           ignored when we are addressing our financial  
4           responsibilities. We do not have the right to  
5           pass debt on to future legislatures or to future  
6           generations, and I fear that's what we would be  
7           doing.

8                     Now, it could be, would be fairly  
9           simple for me and I'm sure many of my other  
10          colleagues to say I have some philosophical  
11          differences but I will let the people of my  
12          district decide; but that's not why we're  
13          elected. We're supposed to provide leadership  
14          on these types of issues, and I don't believe  
15          that it would show leadership that is expected  
16          of us to simply pass the buck to the voters on  
17          this.

18                    My position is clear, and I  
19          believe I understand the will of the people in  
20          the 48th Senate District. Therefore, I can not  
21          support this measure.

22                    I vote in the negative.

23                    ACTING PRESIDENT KUHL:   Senator

1 Hoffmann will be recorded in the negative.

2 Secretary will continue to call the roll

3 slowly.

4 THE SECRETARY: Senator Lachman.

5 (There was no response. )

6 Senator Lack.

7 (There was no response. )

8 Senator Larkin.

9 SENATOR LARKIN: Aye.

10 THE SECRETARY: Senator Leibell.

11 SENATOR LEIBELL: Aye.

12 THE SECRETARY: Senator

13 Leichter.

14 SENATOR LEICHTER: Mr. President,

15 yes.

16 ACTING PRESIDENT KUHL: Senator

17 Leichter will be recorded in the affirmative.

18 THE SECRETARY: Senator

19 Montgomery.

20 (There was no response. )

21 Senator Nozzolio.

22 SENATOR NOZZOLIO: Aye.

23 THE SECRETARY: Senator

1 Oppenheimer.

2 SENATOR OPPENHEIMER: Yes.

3 THE SECRETARY: Senator Saland.

4 SENATOR SALAND: Aye.

5 THE SECRETARY: Senator

6 Santiago.

7 (There was no response. )

8 SENATOR GOLD: Detailed

9 statement.

10 Mr. President. Mr. President.

11 Mr. President. Is there anybody up there can

12 hear me? Mr. President. I'll give you three

13 shots.

14 ACTING PRESIDENT KUHL: Senator

15 Abate, did you want to speak? The roll call is

16 still open. How do you wish to be recorded?

17 SENATOR ABATE: Yes.

18 ACTING PRESIDENT KUHL: You wish

19 to be recorded in the affirmative. I notice

20 you, Senator Lack, will be recorded in the

21 affirmative.

22 SENATOR LACK: Yes.

23 Now, Senator Gold, why do you

1 rise?

2 SENATOR GOLD: I simply wanted a  
3 detailed statement, please.

4 ACTING PRESIDENT KUHL: The roll  
5 call -- announce the results.

6 THE SECRETARY: Ayes 38, nays  
7 16.

8 ACTING PRESIDENT KUHL: The bill  
9 is passed. Read the detailed statement.

10 THE SECRETARY: Those recorded in  
11 the affirmative on Calendar Number 1774 are:  
12 Senators Abate, Alesi, Bruno, DeFrancisco,  
13 DiCarlo, Farley, Goodman, Hannon, Hoblock,  
14 Holland, Johnson, Kuhl, Lack, Larkin, LaValle,  
15 Leibell, Leichter, Levy, Libous, Maltese,  
16 Marcellino, Marchi, Maziarz, Nozzolio,  
17 Oppenheimer, Padavan, Present, Rath, Saland,  
18 Seward, Skelos, Spano, Stafford, Trunzo, Tully,  
19 Velella, Volker and Wright.

20 Those recorded in the negative  
21 Senators Babbush, Connor, Cook, Dollinger, Gold,  
22 Hoffmann, Kruger, Markowitz, Mendez, Nanula,  
23 Onorato, Paterson, Seabrook, Smith, Stachowski

1 and Waldon.

2 Senators excused, Senators Sears  
3 and Stavisky.

4 Absent: Espada, Gonzalez,  
5 Lachman, Montgomery and Santiago.

6 SENATOR CONNOR: Mr. President.

7 ACTING PRESIDENT KUHL: Senator  
8 Bruno.

9 SENATOR CONNOR: Mr. President.

10 Would the record please note that Senator  
11 Lachman is excused for religious reasons, that  
12 he left at the start of the sabbath yesterday  
13 and, of course, could not be present because of  
14 his religious observance; did not submit to me a  
15 written request to be excused but I want the  
16 record to note that he has been excused since  
17 last night before sundown.

18 ACTING PRESIDENT KUHL: The  
19 record will reflect your remarks, Senator  
20 Connor, that Senator Lachman was excused. Thank  
21 you, Senator Connor.

22 Senator Bruno, we had previously  
23 taken up Calendar 1779. We laid the bill aside

1 since the message had not arrived. The message  
2 has arrived now, if you'd like to take that bill  
3 up.

4 SENATOR BRUNO: Could we return  
5 to that bill, Mr. President.

6 ACTING PRESIDENT KUHL: Secretary  
7 will read Calendar Number 1779 which was  
8 substituted previously.

9 THE SECRETARY: Calendar Number  
10 1779, substituted earlier today, by the Assembly  
11 Committee on Rules, Assembly Print 11332, an act  
12 to amend the Environmental Conservation Law and  
13 others.

14 ACTING PRESIDENT KUHL: Motion is  
15 to accept the message of necessity at the desk  
16 on Calendar Number 1779. All those in favor  
17 signify by saying aye.

18 (Response of "Aye.")

19 Opposed nay.

20 (There was no response. )

21 The message is accepted.

22 Any Senator wishing to speak on  
23 the bill? Hearing none -- hearing none, the

1 Secretary will read the last section.

2 THE SECRETARY: Section 34. This  
3 act shall take effect after a chapter of the  
4 laws of 1996.

5 SENATOR CONNOR: Same vote, same  
6 vote as on the last one.

7 ACTING PRESIDENT KUHL: We can do  
8 that. Secretary will record the -- if that's  
9 all right with the Majority Leader.

10 Senator Skelos, is that all right  
11 with you with exception?

12 SENATOR SKELOS: No objection.

13 ACTING PRESIDENT KUHL: The  
14 Secretary will record the same vote as was on  
15 Calendar Number 1774.

16 Announce the results.

17 Senator Marcellino.

18 SENATOR MARCELLINO: Explain my  
19 vote.

20 ACTING PRESIDENT KUHL: Senator  
21 Marcellino, to explain his vote on Calendar  
22 Number 1779.

23 SENATOR MARCELLINO: Yeah, Mr.

1 President. This -- this is an important bill  
2 because in times of -

3 ACTING PRESIDENT KUHL: Senator  
4 Marcellino, excuse me just a minute. Let's get  
5 a little order in the house. Have a little  
6 order in the house, please. Members please take  
7 their seats, staff their seats. If you have to  
8 have a conversation, please take it out of the  
9 chamber.

10 SENATOR SKELOS: Mr. President.

11 ACTING PRESIDENT KUHL: Senator  
12 Skelos.

13 SENATOR SKELOS: I'd like to join  
14 you in your effort to get a little order in the  
15 chamber so if there are meetings going on,  
16 please take them outside of the chamber. We'd  
17 like to proceed so that we can listen to the  
18 eloquence of Senator Gold and the wisdom of  
19 Senator Marcellino.

20 SENATOR MARCELLINO: I appreciate  
21 that, sir.

22 Mr. President, may I start?

23 Thank you.

1                   ACTING PRESIDENT KUHL:  Senator  
2   Marcellino, to explain his vote.

3                   SENATOR MARCELLINO:  Mr.  
4   President, certainly no one, myself included,  
5   the members who voted for this particular  
6   legislation, wants to increase debt or place any  
7   additional burdens on our already hard-pressed  
8   taxpayers, but this legislation puts forth the  
9   opportunity to do many jobs and many projects  
10  which are in need, deep need, to protect our  
11  environment, to protect our air, to protect the  
12  water, protect our daily lives, protect our  
13  population.

14                   It's most important that we do  
15  this particular bill because the projects here  
16  could not be afforded in many cases by the local  
17  municipalities on whom the responsibility would  
18  fall.

19                   They could not handle the burden  
20  individually.  This will assist them in doing  
21  some very needed landfill closures, incinerator  
22  closures, clean water closures, and so forth.  
23  It's important that this money be put forward,

1 that this money be obtained so that these  
2 particular projects can go forward and so that  
3 our environment can be protected and cleaned  
4 up.

5 So I urge and I thank those who  
6 voted in the positive and I would hope those who  
7 voted in the negative would reconsider and, at  
8 the appropriate time, urge their constituents to  
9 vote for this particular legislation. It is  
10 worthwhile.

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

13 Senator Gold, to explain his  
14 vote.

15 SENATOR GOLD: Thank you very  
16 much, Mr. President.

17 Mr. President, I -- I feel that  
18 Senator Marcellino's remarks may be very  
19 accurate from his point of view and when you say  
20 our population and our water, Senator, if it was  
21 coming out of your mouth that's accurate and I'm  
22 worried about my population and my water, and  
23 people in my district, and this bill, while you

1 say it does things that have to be done, are  
2 needed, there are a lot of things that have to  
3 be done that are needed and if the decision  
4 making is going to be political, then we're not  
5 taking care of our people, may be taking care of  
6 your people.

7 It's interesting to me how many  
8 people from around this state are ready to fund  
9 things for your people in the amount of \$1.7  
10 billion. I'm concerned about some real things.  
11 I'm concerned about lead, lead poisoning. I'm  
12 concerned very much about hazardous waste  
13 closures, and I'm concerned about Superfund  
14 money running out and areas that don't qualify  
15 for Superfund which this bill may not take care  
16 of. I'm concerned about the state's commitment  
17 to put up land and pay for it for the New York  
18 City watershed.

19 So, Senator, I don't think that  
20 you said anything that I disagree with if it was  
21 coming out of your mouth because from your point  
22 of view, I guess you're taking care of some  
23 things, but when we say "our" in this chamber,

1       it's a question of whether the arms going out  
2       embrace all or a selected few. I vote in the  
3       negative.

4                    ACTING PRESIDENT KUHL: Senator  
5       Gold will be recorded in the negative. Announce  
6       the results.

7                    THE SECRETARY: Ayes 38, nays  
8       16.

9                    ACTING PRESIDENT KUHL: The bill  
10       is passed.

11                   Senator Skelos.

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

15                   ACTING PRESIDENT KUHL: Immediate  
16       meeting of the Rules Committee. Immediate  
17       meeting of the Rules Committee in the Majority  
18       Conference Room, Room 332. Immediate meeting of  
19       the Rules Committee in the Majority Conference  
20       Room, Room 332.

21                   Senator Holland.

22                   SENATOR HOLLAND: Mr. President,  
23       can we return to the order of motions and

1 resolutions and adopt the Resolution Calendar,  
2 please.

3 ACTING PRESIDENT KUHL: We'll  
4 return to the order of motions and resolutions.  
5 Every member has a Resolution Calendar on their  
6 desk. The motion is to adopt the Resolution  
7 Calendar. All those in favor signify by saying  
8 aye.

9 (Response of "Aye.")

10 Opposed nay.

11 (There was no response.)

12 The Resolution Calendar is  
13 adopted.

14 Senator Holland.

15 SENATOR HOLLAND: Senator Maltese  
16 would like to open up his resolution regarding  
17 Medal of Honor winners, 4131, for any person in  
18 the house who would like to go on it.

19 ACTING PRESIDENT KUHL: Senator  
20 Holland, as in the past when there are openings  
21 up of resolutions which are very meritorious  
22 resolutions, we'll put everybody on the  
23 resolution with the exception of those people

1       who did not want to be on the resolution. Should  
2       we follow that same procedure with regard to  
3       this one?

4                    SENATOR HOLLAND:   Seems the right  
5       thing to do.

6                    ACTING PRESIDENT KUHL:   No  
7       objection from Senator Paterson and members of  
8       the Minority, Senator Holland, we'll put all the  
9       members of the chamber on Senator Maltese's  
10      resolution honoring the Medal of Honor winners,  
11      multi-state Medal of Honor winners, except for  
12      those people who do not wish to be on it if they  
13      would indicate that desire to the desk.

14                   Senator Holland.

15                   SENATOR HOLLAND:   Any other  
16      housekeeping, Mr. President?

17                   ACTING PRESIDENT KUHL:   There is  
18      nothing else at the desk at this time, Senator  
19      Holland.

20                   SENATOR HOLLAND:   Could we stand  
21      at ease then awaiting the report of the Rules  
22      Committee.

23                   ACTING PRESIDENT KUHL:   Senate

1 will stand at ease awaiting the report of the  
2 Rules Committee.

3 (Whereupon at 11:42 a.m., the  
4 Senate stood at ease. )

5 ACTING PRESIDENT KUHL: Senate  
6 will come to order. Chair recognizes Senator  
7 Skelos.

8 SENATOR SKELOS: Mr. President.  
9 If we can return to reports of standing  
10 committees, I believe there is a report of the  
11 Rules Committee at the desk. I ask that it be  
12 read.

13 ACTING PRESIDENT KUHL: Return to  
14 the order of reports of standing committees.

15 Secretary will read the report of  
16 the Rules Committee.

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

20 Senate Print 4880, by Senator  
21 Hoblock, an act to amend the Education Law, in  
22 relation to instruction on the subject of human  
23 rights;

1                   6955B, by Senator Holland, an act  
2                   to establish a quality incentive payment  
3                   program;

4                   7493A, by Senator Spano, an act  
5                   to amend the Labor Law, in relation to  
6                   prohibiting the use of state funds;

7                   7951, by Senator Bruno, an act to  
8                   amend the Workers' Compensation Law and others,  
9                   in relation to extending the effectiveness of  
10                  certain provisions;

11                  7954, by Senator Hannon, an act  
12                  in relation to enacting the New York Health Care  
13                  Reform Act of 1996;

14                  7955, by the Senate Committee on  
15                  Rules, an act to amend a Chapter of Laws of 1996  
16                  amending the Workers' Compensation Law;

17                  7956, by the Senate Committee on  
18                  Rules, an act to amend the Public Health Law,  
19                  the Mental Hygiene Law, and the Social Services  
20                  Law;

21                  7957, by the Senate Committee on  
22                  Rules, an act to amend the Insurance Law, in  
23                  relation to collateral; and

1                   Assembly Print 11341, by the  
2                   Assembly Committee on Rules, an act to amend the  
3                   Public Health Law, in relation to patient  
4                   services payments.

5                   All bills ordered directly for  
6                   third reading.

7                   SENATOR SKELOS: Mr. President,  
8                   move to accept the report of the Rules  
9                   Committee.

10                  ACTING PRESIDENT KUHL: The  
11                  motion is to accept the report of the Rules  
12                  Committee. All those in favor, signify by  
13                  saying aye.

14                  (Response of "Aye.")

15                  Opposed, nay.

16                  (There was no response.)

17                  The Rules Report is accepted.

18                  SENATOR SKELOS: Mr. President,  
19                  if we could take up Senate Supplemental No. 1  
20                  noncontroversial.

21                  ACTING PRESIDENT KUHL: Members  
22                  should have Supplemental Calendar No. 1 on their  
23                  desk, together with the bills that are on that

1 calendar.

2 Secretary will read the  
3 noncontroversial reading of Supplemental  
4 Calendar No. 1.

5 THE SECRETARY: Senator Hoblock  
6 moves to discharge from the Committee on  
7 Education Assembly Bill Number 6510 and  
8 substitute it for the identical Third Reading  
9 Calendar 1780.

10 ACTING PRESIDENT KUHL:  
11 Substitution is ordered. Secretary will read  
12 the title.

13 THE SECRETARY: Calendar Number  
14 1780, by Assemblyman Crowley, Assembly Print  
15 6510, an act to amend the Education Law.

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

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

20 ACTING PRESIDENT KUHL: Call the  
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 59.

1                   ACTING PRESIDENT KUHL:  The bill  
2                   is passed.

3                   THE SECRETARY:  Senator Holland  
4                   moves to discharge from the Committee on Rules  
5                   Assembly Bill Number 9798C and substitute it for  
6                   the identical Third Reading Calendar 1781.

7                   ACTING PRESIDENT KUHL:  
8                   Substitution is ordered.  Secretary will read  
9                   the title.

10                  THE SECRETARY:  Calendar Number  
11                  1781, by Member of the Assembly Harenberg,  
12                  Assembly Print 9798C, an act to establish a  
13                  quality incentive payment program.

14                  ACTING PRESIDENT KUHL:  Senator  
15                  Skelos.

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

18                  ACTING PRESIDENT KUHL:  There is.

19                  SENATOR SKELOS:  Move to accept.

20                  ACTING PRESIDENT KUHL:  The  
21                  motion is to accept the message of necessity on  
22                  Calendar Number 1781.  All those in favor,  
23                  signify by saying aye.

1 (Response of "Aye.")

2 Opposed, nay.

3 (There was no response.)

4 Message is accepted.

5 SENATOR PATERSON: Lay it aside.

6 ACTING PRESIDENT KUHL: Lay the  
7 bill aside.

8 THE SECRETARY: Senator Spano  
9 moves to discharge from the Committee on Rules  
10 Assembly Bill Number 8058A and substitute it for  
11 the identical Third Reading Calendar 1782.

12 ACTING PRESIDENT KUHL:  
13 Substitution ordered. Secretary will read the  
14 title.

15 THE SECRETARY: Calendar Number  
16 1782, by the Assembly Committee on Rules,  
17 Assembly Print 8058A, an act to amend the Labor  
18 Law.

19 ACTING PRESIDENT KUHL: Secretary  
20 will read the last section.

21 SENATOR PATERSON: Lay it aside.

22 ACTING PRESIDENT KUHL: Lay the  
23 bill aside.

1 SENATOR LEICHTER: Wrong bill.

2 ACTING PRESIDENT KUHL: Is the  
3 lay aside withdrawn, Senator Leichter?

4 Secretary will read the last  
5 section.

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

8 ACTING PRESIDENT KUHL: Call the  
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 59.

12 ACTING PRESIDENT KUHL: The bill  
13 is passed.

14 THE SECRETARY: Senator Bruno  
15 moves to discharge from the Committee on Rules  
16 Assembly Bill Number 11331 and substitute it for  
17 the identical Third Reading Calendar 1783.

18 ACTING PRESIDENT KUHL:  
19 Substitution is ordered. Secretary will read  
20 the title.

21 THE SECRETARY: Calendar Number  
22 1783, by the Assembly Committee on Rules,  
23 Assembly Bill Number 11331, an act to amend the

1 Workers' Compensation Law and others.

2 ACTING PRESIDENT KUHL: Senator  
3 Skelos.

4 SENATOR SKELOS: Is there a  
5 message at the desk?

6 ACTING PRESIDENT KUHL: There is,  
7 Senator Skelos.

8 SENATOR SKELOS: Move to accept.

9 ACTING PRESIDENT KUHL: The  
10 motion is to accept the message of necessity on  
11 Calendar Number 1783. All those in favor,  
12 signify by saying aye.

13 (Response of "Aye.")

14 Opposed, nay.

15 (There was no response.)

16 The message is accepted.

17 SENATOR LEICHTER: Lay it aside.

18 ACTING PRESIDENT KUHL: Lay the  
19 bill aside.

20 THE SECRETARY: Senator Hannon  
21 moves to discharge from the Committee on Rules  
22 Assembly Bill 11330 and substitute it for the  
23 identical Third Reading Calendar 1784.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

ACTING PRESIDENT KUHL:

Substitution is ordered. Secretary will read  
the title.

THE SECRETARY: Calendar Number  
1784, by the Assembly Committee on Rules,  
Assembly Bill Number 11330.

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 1784. All those in favor,  
signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the  
bill aside.

1 THE SECRETARY: Senator Bruno  
2 moves to discharge from the Committee on Rules  
3 Assembly Bill Number 11338 and substitute it for  
4 the identical Third Reading Calendar 1785.

5 ACTING PRESIDENT KUHL:  
6 Substitution is ordered. Secretary will read  
7 the title.

8 THE SECRETARY: Calendar Number  
9 1785, by the Assembly Committee on Rules,  
10 Assembly Print 11338, an act to amend the  
11 Chapter of the Laws of 1996.

12 ACTING PRESIDENT KUHL: Senator  
13 Skelos.

14 SENATOR SKELOS: Is there a  
15 message at the desk?

16 ACTING PRESIDENT KUHL: There is.

17 SENATOR SKELOS: Move to accept.

18 ACTING PRESIDENT KUHL: The  
19 motion is to accept the message of necessity on  
20 Calendar Number 1785. All those in favor,  
21 signify by saying aye.

22 (Response of "Aye.")

23 Opposed, nay.

1 (There was no response.)

2 Message is accepted.

3 SENATOR PATERSON: Lay it aside.

4 ACTING PRESIDENT KUHL: Lay the  
5 bill aside.

6 THE SECRETARY: Senator Bruno  
7 moves to discharge from the Committee on Rules  
8 Assembly Bill Number 11329 and substitute it for  
9 identical Third Reading Calendar 1786.

10 ACTING PRESIDENT KUHL:  
11 Substitution is ordered. The bill is high. The  
12 bill will be laid aside.

13 THE SECRETARY: Calendar Number  
14 1787, by the Senate Committee on Rules, Senate  
15 Print 7957, an act to amend the Insurance Law,  
16 in relation to collateral.

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

19 ACTING PRESIDENT KUHL: There is,  
20 Senator Skelos.

21 SENATOR SKELOS: Move to accept.

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

1 Calendar Number 1787. All those in favor,  
2 signify by saying aye.

3 (Response of "Aye.")

4 Opposed, nay.

5 (There was no response.)

6 The message is accepted.

7 Secretary will read the last  
8 section.

9 SENATOR LEICHTER: Lay it aside.

10 ACTING PRESIDENT KUHL: Lay the  
11 bill aside.

12 THE SECRETARY: Calendar Number  
13 1788, by the Assembly Committee on Rules,  
14 Assembly Print 11341, an act to amend the Public  
15 Health Law.

16 SENATOR GOLD: Lay it aside.

17 ACTING PRESIDENT KUHL: The bill  
18 is high. The bill will be laid aside.

19 Senator Skelos, that completes  
20 the reading of the noncontroversial calendar.

21 SENATOR SKELOS: Mr. President,  
22 at this time, if we could take up Calendar  
23 Number 1781.

1                   ACTING PRESIDENT KUHL: Secretary  
2 will read Calendar Number 1781, by Senator  
3 Holland.

4                   THE SECRETARY: Calendar Number  
5 1781, by Member of the Assembly Harenberg,  
6 Assembly Print A.9798C substituted earlier  
7 today, an act to establish a quality incentive  
8 payment program.

9                   ACTING PRESIDENT KUHL: Senator  
10 Holland, an explanation of Calendar Number 1781,  
11 Senate Print 6955B, which was substituted  
12 earlier today, has been asked for by Senator  
13 Leichter.

14                   SENATOR HOLLAND: This is a bill  
15 to back up approximately \$2 million in the  
16 budget to create a quality incentive payment  
17 program for adult homes in the state of New  
18 York. If the adult homes run efficiently, meet  
19 all the requirements, the clients are taken care  
20 of well, then this \$2 million will be  
21 distributed to those homes.

22                   ACTING PRESIDENT KUHL: Senator  
23 Leichter.

1                   SENATOR LEICHTER:  If Senator  
2                   Holland would yield.

3                   SENATOR HOLLAND:  Yes.

4                   ACTING PRESIDENT KUHL:  Senator  
5                   Holland, do you yield?

6                   Senator yields.

7                   SENATOR LEICHTER:  I'm sorry, you  
8                   refer to an appropriation of \$2 million.  That's  
9                   not in this bill.

10                  SENATOR HOLLAND:  No, sir.

11                  SENATOR LEICHTER:  The 2 million  
12                  has been appropriated.

13                  SENATOR HOLLAND:  Right.

14                  SENATOR LEICHTER:  This provides  
15                  as to the manner in which the money is to be -

16                  SENATOR HOLLAND:  Correct.

17                  SENATOR LEICHTER:  -- is to be  
18                  used.  If you'll continue to yield, Senator.

19                  SENATOR HOLLAND:  Yes.

20                  SENATOR LEICHTER:  Does this bill  
21                  also provide that for-profit corporations that  
22                  have publicly-traded shares may own these adult  
23                  homes?

1                   SENATOR HOLLAND: I am told it  
2 does not, Senator. No.

3                   SENATOR LEICHTER: Thank you.

4                   ACTING PRESIDENT KUHL: Secretary  
5 will read the last section.

6                   THE SECRETARY: Section 11. This  
7 act shall take effect in 30 days.

8                   ACTING PRESIDENT KUHL: Call the  
9 roll.

10                   (The Secretary called the roll.)

11                   THE SECRETARY: Ayes 59.

12                   ACTING PRESIDENT KUHL: The bill  
13 is passed.

14                   Senator Skelos.

15                   SENATOR SKELOS: Would you please  
16 take up Calendar Number 1784, by Senator Hannon.

17                   ACTING PRESIDENT KUHL: Secretary  
18 will read the Calendar 1784, by Senator Hannon.

19                   ACTING PRESIDENT KUHL: Calendar  
20 Number 1784, by the Assembly Committee on Rules,  
21 Assembly Print 11330, substituted earlier today,  
22 an act in relation to enacting the New York  
23 Health Care Reform Act of 1996.

1                   ACTING PRESIDENT KUHL:  Senator  
2           Paterson.

3                   SENATOR PATERSON:  Mr. President,  
4           there will be an immediate conference of the  
5           Minority in Room 314, the Minority Conference  
6           Room.

7                   ACTING PRESIDENT KUHL:  There  
8           will be an immediate meeting -  
9                   Senator Skelos.

10                  SENATOR SKELOS:  I believe we're  
11           on debate so if we can continue the debate.

12                  SENATOR PATERSON:  Mr. President,  
13           explanation.

14                  ACTING PRESIDENT KUHL:  Senator  
15           Hannon, an explanation of Calendar Number 1784  
16           has been requested by Senator Paterson.

17                  SENATOR HANNON:  Mr. President,  
18           this is the Health Care Reform Act of 1996.  
19           This is a measure that will take, in the main,  
20           the health care system of this state on to the  
21           brink of the 21st Century because it lasts until  
22           December 31st, 1999.

23                   It is what I believe to be

1 implementation of a very balanced, moderate  
2 approach to make sure that all of our  
3 constituents will be able to ensure quality and  
4 accessible health care.

5 As part and parcel of this, we  
6 have accompanying legislation, part of which has  
7 already passed this house in regard to the bill  
8 of rights and managed care, another bill that is  
9 further down the calendar in regard to Medicaid  
10 managed care, and this, of course, is the  
11 centerpiece which has taken a great amount of  
12 work by a great amount of talented people to  
13 bring us to a stage where a half century old  
14 system of having everything in the health care  
15 system set by the state will come to an end.

16 Effective January 1, 1997,  
17 third-party private payors will move to  
18 negotiated rates for hospital care. We will  
19 continue the current rate system for the  
20 Medicaid fee for service while the rest of  
21 Medicaid that's under managed care will move  
22 accordingly.

23 We do something in terms of going

1 to deregulation that really no other state has  
2 done, because we accompany that deregulation  
3 with a substantial commitment to what has been  
4 called the public good of this state, the  
5 commitment towards indigent care through a bad  
6 debt and charity care pool, the commitment  
7 towards a high quality graduate medical  
8 education. We do that through a separate GME  
9 pool. We do it through commitments for child  
10 health, expanding that up to the age of 18. We  
11 do it through the creation of provider service  
12 networks, all in order to offer consumers and  
13 purchasers new options for accessibility for  
14 health care.

15 We create a large number and  
16 continue a large number of initiatives for  
17 private business insurance for regional -- on a  
18 regional basis, for public hospitals,  
19 catastrophic health care expense program,  
20 ambulatory services. We continue a borrowing  
21 program for hospitals in high volume indigent  
22 care service areas. We establish a program for  
23 expansion of cancer detection and treatment

1 services in underserved areas. We take a task  
2 force on quality guidelines and expand that so  
3 that we can have measurements, measurements of  
4 HMOs, of hospitals and other provider services,  
5 to do it in conjunction with the experts in the  
6 field wherever they may be in terms of  
7 clinicians or hospitals or HMOs.

8 Making this many changes all at  
9 once would in some people's eyes seem to be too  
10 much, but this is something that has to be  
11 done. We're the last of two states in the  
12 nation to have total rate setting, and we must  
13 move on in order to make sure that the needs of  
14 the next century are addressed by this state.  
15 This is an implementation of thousands of hours  
16 by hundreds of people begun by a task force by  
17 this Governor who had the sense and I think  
18 common sense recognition that it had to be  
19 addressed, picked up by a number of people on  
20 his temporary task force. Enormous numbers of  
21 members of the Executive Branch, of the Assembly  
22 and of this house, have spent a lot of time  
23 trying to make sure that what will come about is

1 something that we can all be proud of, and I  
2 would move the bill, Mr. President.

3 ACTING PRESIDENT KUHL: Senator  
4 Paterson.

5 SENATOR PATERSON: Mr. President,  
6 if Senator Hannon would yield for a question.

7 ACTING PRESIDENT KUHL: Senator  
8 Hannon, do you yield to a question from Senator  
9 Paterson?

10 SENATOR HANNON: Yes.

11 ACTING PRESIDENT KUHL: The  
12 Senator yields.

13 SENATOR PATERSON: Senator  
14 Hannon, certainly no offense, we're conferencing  
15 the bill. We have only seen the bill in the  
16 last two hours, and I have only seen the bill in  
17 the last five minutes, so if you would yield to  
18 a question, there are just a couple of areas I  
19 want to see where we've come out on them in  
20 negotiations.

21 SENATOR HANNON: Yes, I said I  
22 would yield.

23 SENATOR PATERSON: Thank you.

1 Graduate medical education, Senator, maybe I  
2 missed that in your remarks just then. How are  
3 we on graduate medical education?

4 SENATOR HANNON: We have done it  
5 a number of ways. We create a pool which shall  
6 be in the approximate order of \$1.385 billion to  
7 finance graduate medical education in the state,  
8 both direct and indirect cost. We set aside 10  
9 percent of that to hospitals and consortia that  
10 would achieve some graduate medical education  
11 reform goals.

12 We fund the pool through  
13 contributions by private third-party payors in  
14 relation to the individuals covered for hospital  
15 care. We do it in a carefully ordered way so as  
16 to steer clear of any mileposts that the federal  
17 ERISA or provider tax system would erect and to  
18 steer clear of the mileposts that any type of  
19 other states' taxes in regard to insurance  
20 companies would erect.

21 ACTING PRESIDENT KUHL: Senator  
22 Paterson.

23 SENATOR PATERSON: And, Senator,

1 if you will continue to yield.

2 There will be no encumbrance to  
3 the geographic locations that have high rates of  
4 graduate medical education occurring inside  
5 them?

6 SENATOR HANNON: I presume by the  
7 means of encumbrance you mean that there should  
8 not be a shift in the costs born and raised in  
9 any given area. What we have tried to do is to  
10 preserve as best possible -- and probably we  
11 have done that. I believe we have done that  
12 with every assurance that the monies raised in  
13 one area are kept in that area, that there are  
14 no cost shifts, that there is no regional  
15 redistribution, and that the goods in one area  
16 stay there.

17 ACTING PRESIDENT KUHL: Senator  
18 Paterson.

19 SENATOR PATERSON: Thank you,  
20 Senator Hannon. Your interpretation of my  
21 answer is correct and your answer is quite  
22 helpful. If you would yield for another  
23 question.

1 SENATOR HANNON: Yes.

2 ACTING PRESIDENT KUHL: Senator  
3 continues to yield.

4 SENATOR PATERSON: Senator, in  
5 the area of uncompensated care, care for the  
6 indigent where the hospitals will be showing a  
7 willingness to provide that care, what  
8 assistance will they get from our budget on  
9 that?

10 SENATOR HANNON: Well, in order  
11 to really provide a reasonable transition, we as  
12 a body in the bill that we passed last night  
13 felt that the cuts that had been proposed in the  
14 budget were far too deep and we reinstated many  
15 of them. We feel that makes the rest of the  
16 hospital system very viable.

17 In this bill, we create an  
18 indigent care pool. We finance that in regard  
19 to a mechanism, in regard to procedures that are  
20 done with alternates to direct payments into  
21 pools, and we think that we have provided an  
22 adequate distribution of those funds to the  
23 various different types of hospitals throughout

1       this state, once again being quite mindful as to  
2       not upset the regional distributions that are  
3       there.

4                    ACTING PRESIDENT KUHL:    Senator  
5       Paterson.

6                    SENATOR PATERSON:    Thank you,  
7       Senator Hannon.  If you will continue to yield,  
8       just an observation first.

9                    From what we have been able to  
10       look at, that seems quite right.  The  
11       restorations are almost complete.  That's really  
12       very encouraging in that particular area since  
13       there are so many individuals that don't have  
14       any real protection in terms of health care in  
15       the state.

16                   The Child Health Plus area which  
17       you referred to earlier in your opening remarks,  
18       can you tell me a little bit more about that?

19                   SENATOR HANNON:    We expand the  
20       amount of coverage in a very substantial way and  
21       expand the amount of money available for that in  
22       a very substantial way.  We take the current age  
23       eligibility, from birth to age 14, and bring it

1 to from birth to age 19 as well as adding  
2 hospital inpatient care to the current primary  
3 and preventive care.

4 SENATOR PATERSON: Thank you, Mr.  
5 President. If Senator would continue to yield.

6 ACTING PRESIDENT KUHL: Senator  
7 Hannon, do you continue to yield?

8 SENATOR PATERSON: What about  
9 some of the services, such as eye care, dental  
10 care? I don't see them as part of the  
11 restorations, and they weren't really part of  
12 the original proposal. Is there any plan to  
13 provide those types of services to children?

14 SENATOR HANNON: This house had  
15 included that in the NYPHRM bill that we  
16 passed. Upon more detailed and focused analysis  
17 of the costs, that would have added more than we  
18 could afford in regard to the public good  
19 financing; and while we look upon that as highly  
20 desirable, the information that came to us  
21 subsequent to our passage of our NYPHRM bill  
22 points out that as we do this Health Care Reform  
23 Act, that's something, while desirable, is not

1 something we can afford.

2 SENATOR PATERSON: Senator,  
3 you're saying that was part of the original  
4 proposal from this house. But with respect to  
5 the financing, if I get this correct, when it  
6 came down to the final negotiations, we didn't  
7 have the resources to provide it?

8 SENATOR HANNON: That's correct.  
9 The provisions for dental and vision were  
10 estimated, and when we got down to the focus and  
11 had the better numbers available and the better  
12 experience rating to be in the order of \$20  
13 million, and that was not something that fit  
14 into the plan that we could come up with.

15 We have, I will tell you, made  
16 substantial commitment already, almost to the  
17 tune of an increased \$100 million to this plan,  
18 and the point was -- the judgment was made that  
19 that was what we could afford at the current  
20 time.

21 SENATOR PATERSON: Thank you,  
22 Senator. I actually did give you credit for  
23 it. The fact that we can't provide the full

1 services in such a valuable area I think is  
2 unfortunate.

3 If the Senator will continue to  
4 yield. With respect to the financing of SLIPA  
5 hospitals and the reimbursements, can you tell  
6 me how that is going to be set up?

7 SENATOR HANNON: There are two  
8 parts to the SLIPA hospitals. One is in regard  
9 to the public hospitals, and there is a separate  
10 set-aside that I think essentially hospitals  
11 such as Nassau and Erie, Westchester and HHC in  
12 New York City will continue in the first year to  
13 get their full shot. The rest of the SLIPA  
14 hospitals it turns out, interestingly, as we put  
15 a real incentive into the computation of bad  
16 debt and charity care, real incentive to only  
17 pay for actual bad debt and charity care, the  
18 SLIPA hospitals, in general, did better with the  
19 caveat that all of these numbers are not  
20 something that are truly subject to mathematical  
21 100 percent precision because needs change,  
22 populations change and federal definitions  
23 change even more.

1                   SENATOR PATERSON: Thank you,  
2                   Senator. If Senator will yield to another  
3                   question?

4                   SENATOR HANNON: Yes.

5                   SENATOR PATERSON: With all of  
6                   this, in terms of the restructuring of the  
7                   hospital economic system, would we be able to  
8                   prevent in the future at least -- the future  
9                   meaning the next fiscal year -- the downsizing  
10                  of hospitals, the laying off of workers and  
11                  specifically to that end, do we have any  
12                  provision in legislation for the retraining of  
13                  workers or certainly reevaluating the skills of  
14                  workers, putting them in other areas we may have  
15                  closed off.

16                  SENATOR HANNON: To get to your  
17                  last part of the question first -

18                  SENATOR PATERSON: Right.

19                  SENATOR HANNON: Yes, we do. We  
20                  have made some substantial commitments to worker  
21                  retraining. Interestingly, part of that is  
22                  pegged to the state's attainment of a managed  
23                  care waiver from the federal government,

1 something that is well overdue in regard to its  
2 action by Washington in a very surprising way,  
3 and we need that in order to have things to  
4 retrain people for. Doing any type of  
5 retraining without that is silly because the  
6 whole direction of our health care system is  
7 towards this managed care, so we need that in  
8 place.

9 I'm sorry, the first part of your  
10 question?

11 SENATOR PATERSON: Downsizing.

12 SENATOR HANNON: Oh, downsizing.

13 When it comes to downsizing, many people  
14 especially in the media would like to  
15 characterize it as a black or white situation.  
16 You're either going to have downsizing or not;  
17 you can keep hospitals open or not. In reality,  
18 this bill comes about because there is great  
19 changes already in health care in the United  
20 States, and the degree to which we use hospitals  
21 in this state is far out of proportion to any  
22 other states, be they comparable states in terms  
23 of our population and geographic and urban

1 situations or whether they be totally different,  
2 so that what we need to do is to focus our  
3 financial resources into different arenas, into  
4 more outpatient clinics, comprehensive health  
5 care centers, primary care; and hospitals  
6 themselves, as a practical matter, have begun  
7 that.

8                   So will there be downsizing? You  
9 can say, yes, there will be downsizing in  
10 hospitals, but it's interesting when you look at  
11 the numbers what happened just within the last  
12 12 months in this state. The hospitals had some  
13 downsizing but the rest of the health care  
14 industry had an increase. So that we do have  
15 more demand for health care. It's just a  
16 question of where it's placed. Some people will  
17 say, well, look. If you pass this, you will  
18 have hospitals closing. I would only point out  
19 two different things in that regard. One is  
20 while the current system -- while the current  
21 NYPHRM system had been in existence, we've had  
22 40 hospitals close. My point is, whether or not  
23 you have this, you will have hospitals close.

1                   Now, is this going to cause it?  
2           I don't believe whatsoever it's going to cause  
3           it. I will tell you since we passed our  
4           proposal in regard to what we call the NYPHRM -  
5           the Senate proposal -- there have been four  
6           major changes in this state. Buffalo, three  
7           hospitals have gotten together as networks. We  
8           have Beth Israel and Long Island Jewish have  
9           announced a merger. We have Mount Sinai and New  
10          York University Hospital have announced a  
11          merger, and there has been -- the first thing  
12          you do when you talk to somebody in the field is  
13          you ask what's changed today.

14                   So we have had vast changes. So  
15          I think what we're going to do is enable the  
16          natural progression and progress that health  
17          care is taking to go forward. We're not going  
18          to have artificial impediments. We're not going  
19          to have artificial incentives to go sideways or  
20          to go backwards.

21                   SENATOR PATERSON: Thank you very  
22          much, Senator.

23                   Mr. President, on the bill.

1                   ACTING PRESIDENT KUHL:  Senator  
2           Paterson, on the bill.

3                   SENATOR PATERSON:  I think  
4           Senator Hannon is correct that the structuring  
5           of health care may be changing and so the  
6           statistics with respect to hospitals may be  
7           somewhat inaccurate, because some of the health  
8           care that they provide may be antiquated by new  
9           and different procedures.  Certainly the  
10          lessening of the use of hospitals and probably  
11          the greater use of other types of health care  
12          facilities in particular areas is probably the  
13          evolution of where the industry is going.

14                   Please recognize that I represent  
15          a district, Harlem and Washington Heights and  
16          East Harlem, that has lost eight major hospitals  
17          in the last score of years, hospitals such as  
18          Flower Hospital, Fifth Avenue Hospital, Arthur  
19          Logan, Knickerbocker Hospital, Joint Center for  
20          Diseases, Mother Cabrini, and Francis Delafield  
21          Hospital, have all disappeared in terms of the  
22          service that they provide, and we are subject to  
23          different types of rumors about merging of

1 facilities between St. Luke's and Roosevelt  
2 Hospital, the possible and then canceled merger  
3 between St. Luke's Hospital and Columbia  
4 Presbyterian, the possible closure of Harlem  
5 Hospital, and a bond act that we had to secure  
6 in 1988 to save North General Hospital which is  
7 the largest employer of people in the Harlem  
8 community; and so in an area where health care  
9 is of such great need and of such great value to  
10 the constituents there, there is just a concern,  
11 not necessarily that the hospitals remain open  
12 or remain whole or even remain in the fashion  
13 that they were before but, as Senator Hannon  
14 says, that there be the type of health care  
15 provided that exists even if they come from  
16 community health centers and the like.

17 On the legislation itself, it  
18 appears that a great deal of what did not exist  
19 in the Governor's original bill on December 15  
20 now exists because of hard negotiation and firm  
21 points of view by those who really understand  
22 the necessity of health care. It may not be an  
23 excuse for the elongated process or the delay in

1 the passage of this budget, but it certainly  
2 justifies the feeling of those who couldn't go  
3 forward until there was a piece of legislation  
4 in this area that we could finally live with.

5 We are certainly feeling as if we  
6 have to congratulate all those who have hung in  
7 there to regain so many services that mean so  
8 much to so many who were deprived in the  
9 industry and deprived in the ability to receive  
10 decent and affordable health care, and it is the  
11 reason that only until now we really could feel  
12 that -- an agreement that may not represent or  
13 fulfill all the needs but will certainly be a  
14 lot better than was originally promised six  
15 months ago.

16 ACTING PRESIDENT KUHL: Senator  
17 Dollinger.

18 SENATOR DOLLINGER: Mr.  
19 President, will the sponsor yield to a couple  
20 questions?

21 ACTING PRESIDENT KUHL: Senator  
22 Hannon, do you yield?

23 SENATOR HANNON: Yes.

1                   ACTING PRESIDENT KUHL:  Senator  
2                   yields.

3                   SENATOR DOLLINGER:  First of all,  
4                   Senator, let me congratulate you.  You have  
5                   worked awful hard on this project for the better  
6                   part of I would say six months, but it's  
7                   probably double that and beyond.  Since the time  
8                   you have been chairman of the Senate Health  
9                   Committee, I know that this has been an issue  
10                  near and dear to your heart.  I congratulate you  
11                  in getting it to this point.

12                  We may disagree about aspects of  
13                  where we have finally come to and where we're  
14                  going, but certainly you and your staff deserve  
15                  a great deal of congratulations for a piece of  
16                  work that is monumental in its scope and, as you  
17                  properly point out, consumed hundreds if not  
18                  thousands of hours.  So let me start with that  
19                  background.

20                  Through you, Mr. President, one  
21                  question that I want to ask.  You mentioned  
22                  something about artificial incentives in the  
23                  system.  Aren't we really putting an artificial

1       disincentive in the system if we're going to  
2       finance this through a tax on the hospitals?

3                   And my follow-up question to  
4       that, Senator, is: Is the consequence of this,  
5       if the assessment against the hospitals that's  
6       used to finance this tool, if it's successful,  
7       it will drive down hospitals' utilization, very  
8       costly hospital utilization, but it will also  
9       result in a smaller assessment being paid into  
10      the pool each year; and then my question is if  
11      we have less going into the pool but rising  
12      need, how do we cover the gap?

13                   SENATOR HANNON: Your point is  
14      well taken in the sense that that would be the  
15      common sense approach to looking at this  
16      mechanism. In this case, however, the answer is  
17      to take you away from that intuitive approach  
18      and to point out that what we're doing by  
19      raising the money for the public goods is only  
20      to have a nominal levy on the hospitals and put  
21      that nominal levy at a very high percentage,  
22      thereby encouraging people to pay directly into  
23      pools, which we really feel is the actual

1 financing mechanism, skipping entirely the  
2 health care providers that otherwise would be  
3 subject to it.

4 SENATOR DOLLINGER: When you say  
5 people pay directly to the pools, you are  
6 talking about the insurance carriers, the Blues,  
7 employer groups, making direct payments into the  
8 pool and, therefore, not doing it through the  
9 other method which would be to simply follow the  
10 current pattern of having physicians refer to  
11 hospitals and then have the bill that the  
12 hospital charges to the insurer reflect the 8.6;  
13 and maybe just clarify for me what that final  
14 percentage was that was worked out?

15 SENATOR HANNON: In regard to the  
16 bad debt and charity care, it's approximately  
17 8.5. That hasn't been -- the point is that it  
18 would be at the payor's election to go directly  
19 into the pools, thereby skipping all of the  
20 requirements that the providers, which is an  
21 expanded base from the current, would have to  
22 pay. I would point out that any regard to an  
23 allowance or a levy that's in the law is simply

1 a continuation in that regard of what's there  
2 now. It's a continuation on a different base  
3 because the current base is a fixed rate. The  
4 new base would be a negotiated rate. But we're  
5 not enacting anything new in that regard.

6 SENATOR DOLLINGER: Again,  
7 through you, Mr. President, if the chairman of  
8 the Health Committee will yield.

9 I just want to make sure I  
10 understand. If there's fewer referrals to the  
11 hospitals, then there will be a smaller  
12 assessment paid into the pools from the  
13 hospitals. That, as I understand it, is the  
14 incentive that drives the reduction in hospital  
15 utilization which you and I have discussed  
16 before has really been the problem in this  
17 state, is the utilization number has been too  
18 high. So what we're trying to do is reduce  
19 utilization by a common method that government  
20 has used in the past, which is to tax the  
21 activity and, therefore, discourage it. We do  
22 that through the assessment, but if we work -  
23 if it succeeds and utilization declines, then

1       there would be less cash put into the pool. Is  
2       it my understanding that then as part of this  
3       process, the system having worked, we will then  
4       go to payors and say it's worked but we still  
5       have a growing need. We need you to make  
6       voluntary payments into the pool to make sure  
7       that we have enough cash to cover the growing  
8       need? And if so, how do we do that in a  
9       negotiated rate setting?

10                   SENATOR HANNON: I don't believe  
11       that will happen. Nobody here, however, has a  
12       total crystal ball but I will share with you why  
13       I don't think that will happen. We have taken  
14       the current allowances on inpatient care, and  
15       that's where they are, only expanded to not only  
16       inpatient care but also to comprehensive  
17       diagnostic and treatment centers as well as  
18       ambulatory surgical services and free-standing  
19       clinical labs, broadening the base  
20       substantially. So that as a natural progression  
21       towards the more primary care, nonhospital care,  
22       takes place that we cover those changes in order  
23       to continue driving money for the goods that we

1       feel ought to be covered.

2                   SENATOR DOLLINGER:  Again,  
3       through you, Mr. President, if the chairman will  
4       continue to yield.

5                   I understand that broadening.  I  
6       support that broadening, otherwise we would be  
7       really punishing inpatient/outpatient care in  
8       the hospital and we would see enormous growth in  
9       those ambulatory surgical centers, the  
10      diagnostic and treatment centers.

11                   My follow-up question is, what  
12      happens if given the free market's ability to  
13      find the little holes -- the loopholes that may  
14      be left in this statute -- what happens if all  
15      of a sudden doctors' offices and other types of  
16      facilities suddenly acquire some kind of  
17      surgical ability, some kind of surgical  
18      capability, and we spawn an industry that is now  
19      outside the taxed scope?  My question is, don't  
20      we still run into the risk?  Don't we still run  
21      the problem that we will have declining payments  
22      into the pool in the face of growing need?

23                   SENATOR HANNON:  As I said, our

1 crystal ball is murky, but already, within hours  
2 of the main bill, we have another one on the  
3 calendar, 1788, that is technical corrections.  
4 I don't know how to forecast what the Health  
5 Care Reform Act of 1999 will be. We just know  
6 there are enormous changes that take place.  
7 When we get to the managed care bill, Medicaid  
8 managed care bill, we simply couldn't extend  
9 what this Legislature had done just five years  
10 ago because of enormous changes in the way the  
11 delivery systems were.

12 So we may have to make  
13 adjustments, but to the extent that I believe  
14 this is reasonable and balanced and tries to be  
15 equitable in all types of the providers so we  
16 get good services for our patients, I think it's  
17 a reasonable approach. We'll just have to see  
18 what happens in the future.

19 SENATOR DOLLINGER: Okay. I can  
20 buy that.

21 Mr. President, if I can just  
22 follow up with a couple more questions.

23 Mr. Chairman, you know that I've

1 raised the issue of the pool and how the pooling  
2 arrangement works, and my concern has been that  
3 the issue of whether we have a statewide pool -  
4 that all the providers would pay into a  
5 statewide pool that would then distribute the  
6 bad debt and charity care assets on the basis of  
7 a statewide distribution. I know that in the  
8 bill this house passed, in our version, an  
9 earlier version of this bill, we had regional  
10 pooling devices that would allow communities,  
11 give an incentive to communities, to solve their  
12 own problem vis-a-vis both graduate medical  
13 education and bad debt and charity care.

14 I want to make sure I understand  
15 this. Could you tell me how that system works  
16 in this final bill? Is it a statewide pool or  
17 is it a regional pool?

18 ACTING PRESIDENT KUHL: Senator  
19 Dollinger, could I interrupt just a minute.  
20 It's getting extremely noisy in here, and  
21 regardless of whether anybody in here wants to  
22 listen to your debate, the stenographer has an  
23 obligation and a responsibility to record it,

1 and she's indicated to the desk that she can not  
2 hear the debate. The noise is too loud. So  
3 could we please keep it down. If you have  
4 conversations, take them out of the chamber.  
5 Let's let the debate continue.

6 Thank you for the interruption.  
7 Please continue, Senator Dollinger.

8 SENATOR DOLLINGER: I assume the  
9 chairman of the Health Committee understands the  
10 question. It's an issue we've discussed a  
11 number of times.

12 SENATOR HANNON: What we have  
13 done -- I don't think we call it -- I do not  
14 believe we still call it regional pools, but  
15 what we have done is to make sure that the money  
16 for bad debt and charity care that is raised  
17 upstate stays upstate, same percentages. Money  
18 that's raised in New York City stays in New York  
19 City, and money raised in Long Island stays in  
20 Long Island, and we have less in the current  
21 cost shifts between those three regions, so we  
22 have narrowed that.

23 SENATOR DOLLINGER: Through you

1           again, Mr. President.

2                           There was a provision in the  
3 earlier bill that we did that would have  
4 specifically impacted the communities that I  
5 represent, that is, would have allowed local  
6 communities to bring forth plans to deal with  
7 both the GME and the bad debt and charity care  
8 pool. Is that provision still in the final  
9 bill, Mr. President?

10                           SENATOR HANNON: It is, and  
11 refined and honed, but it is still substantially  
12 there. It's called the Regional Demonstrations  
13 for Financing Public Goods, and we allow the  
14 hospitals and payors to collaborate on regional  
15 models for public goods financing. It's subject  
16 to state approval and then the design, and it  
17 would be specifically for Monroe County, which  
18 visits to the county understand the long  
19 history, individual health care initiatives  
20 there, collaborative efforts throughout the  
21 county, and we feel that they will probably be  
22 coming forward with their own proposals and that  
23 would be something the Legislature, the

1 Executive, would be receptive to.

2 SENATOR DOLLINGER: Two final  
3 questions, Mr. President, again, through you.

4 One is the issue of the  
5 uncompensated care. I know there is about \$738  
6 to 750 million that will be taken out of the  
7 projected assessment-created pool that will be  
8 used to pay for uncompensated care. My  
9 understanding is that there have been estimates  
10 of the total uncompensated need in this state  
11 which run to the vicinity of about \$1.2 billion,  
12 leaving somewhere between \$450 million and \$500  
13 million as a current gap between what would be  
14 reimbursed to the hospitals and what the current  
15 need is; and my further understanding is that  
16 under the current system, depending on how much  
17 uncompensated care a hospital takes, they get a  
18 proportional payment, proportional dollars from  
19 the bad debt and charity care pool.

20 My question is, how does it work  
21 in a negotiated rate system if -- since you're  
22 in essence cutting the fat out of the other  
23 rates that the hospitals have had, how do you

1 pay for that additional \$500 million in  
2 uncompensated need, assuming it's there?

3 SENATOR HANNON: One doesn't know  
4 if it's there. You look at the different  
5 computations in the current system and you see  
6 enormous variations even in the same institution  
7 year to year. You do know that the current  
8 system has incentives for the financial arm of a  
9 hospital to put all sorts of costs into the  
10 outpatient clinics in creating greater bad  
11 debt. We do not know -- in fact, I have seen  
12 other estimates that's in the Governor's  
13 Temporary Task Force on the Reform Act that the  
14 total amount of uninsured is about \$4 billion.

15 The difficulty here is getting  
16 good accurate measurements, good accurate  
17 measurements which are part of the smaller task  
18 force provisions that are at the end of this  
19 bill which I hope would be forthcoming. One of  
20 the other things is that whenever you set up to  
21 pay for certain uncompensated care, you actually  
22 create incentives for people to get into that;  
23 you create incentives sometimes for employers

1 not to provide insurance coverage, thereby  
2 making that need even greater.

3 So the cost shifting that goes on  
4 is a phenomenon that we still have to contend  
5 with. The best thing I can think of is what we  
6 tried to do with this, frankly, compared to any  
7 other state, enormous amount of support in  
8 regard to uncompensated care, an enormous amount  
9 of support in regard to graduate medical  
10 education, and then looking at the rest of the  
11 financing stream to institutions is we provide a  
12 solid bedrock of support to these institutions  
13 so that, as we grapple with the rest of the  
14 questions of the uninsured that needs to be  
15 addressed and quality care that needs to be  
16 addressed, that we have a good basis for going  
17 forward.

18 SENATOR DOLLINGER: Okay. I'm  
19 willing to accept that.

20 One final question, Mr.  
21 President.

22 Senator, you know in my  
23 discussions about this bill in the whole health

1 care reform debate, one of the bottom line  
2 questions for me is, do we end up with a  
3 healthier New York? We end up with a less  
4 expensive health care system. But do we end up  
5 with a healthier New York population?

6 And it seems to me that all that  
7 we do should be tested against that measure,  
8 that ultimate measure. I believe, as I think  
9 you do, that this bill will drive our cost out  
10 of the system. The question is does it also  
11 drive out quality care?

12 And I guess my question to you,  
13 and you have been closer to this than I have -  
14 although certainly you have been good to me in  
15 giving me information, your staff has been, in  
16 helping me understand this. But someone said to  
17 you, as I say to you now, will New Yorkers be  
18 healthier after this bill passes and becomes  
19 law?

20 SENATOR HANNON: Yes.

21 SENATOR DOLLINGER: What do you  
22 believe?

23 SENATOR HANNON: I fully believe

1       that with the initiatives in the legislation  
2       here which have been a collaborative effort  
3       through all parts of this government that we  
4       will have a better health care system through  
5       this for the hospitals, through the Medicaid  
6       managed care proposal that we'll have in a few  
7       minutes, hopefully, through the general managed  
8       care provisions we have already done, and  
9       through the substantial work we did in the  
10      budget. I totally believe that the needs of  
11      this state in terms of health care are  
12      increasing, if only because the baby boomers are  
13      getting over 50.

14                    SENATOR DOLLINGER: Absolutely.

15                    SENATOR HANNON: And when that  
16      happens, the needs of -- incidences of need for  
17      medical services increases, so that whatever we,  
18      quote, "save," in health care I believe has to  
19      be put back into health care itself because  
20      we're going to have ever-expanding needs as the  
21      baby boomers age out.

22                    I would say one thing I can be  
23      certain of, though, is for the hundreds of

1 people who have worked on this bill, when we  
2 pass it, their health will be much healthier.

3 (Laughter.)

4 SENATOR DOLLINGER: On the bill,  
5 Mr. President.

6 ACTING PRESIDENT KUHL: Senator  
7 Dollinger, on the bill.

8 SENATOR DOLLINGER: This is an  
9 enormously complicated piece of legislation. I  
10 guess I now understand why President Clinton -  
11 when he tried to do it at the federal level, it  
12 was a thousand pages. It's up to 140. I know  
13 this is a very complicated issue, and Senator  
14 Hannon I think is absolutely correct. This  
15 comes down to a calculation of the future that  
16 may be very difficult for us all to predict, and  
17 that is, what happens when you put in a system  
18 that has incentives, that has disincentives,  
19 that alters the fee-for-service system, which I  
20 think we all recognize we need to abandon -- but  
21 what happens when you change those incentives  
22 and create the possibility of reducing  
23 utilization, of saving us money without

1       sacrificing quality, and while the overall  
2       impact of this is largely unknown? I think it's  
3       difficult to predict how it's going to finally  
4       all shake out. I wish in that respect we had  
5       more time, that we could establish a chain of  
6       six months. I guess we're going to have six  
7       months in coming, but a time in which we can  
8       evaluate from the providers' point of view, go  
9       back out to our constituencies and say, "Here's  
10      what we think the right thing to do is. Here's  
11      what we're prepared to embark on. What are the  
12      kinds of changes that may be necessary?"

13                    There is always a watershed  
14      moment in one of these progressions. This may  
15      be a watershed moment, but I think it's a system  
16      that we're still going to have to keep our  
17      finger on the pulse and as that pulse quickens  
18      or slows, we're going to have to tinker with  
19      this system again.

20                    I am going to end up voting for  
21      this bill. I think there's some good things in  
22      it. I think the expansion of the Child Health  
23      Plus, some initiatives that give us real

1 opportunity. But recognize, everyone, that the  
2 issues that surround health care, although this  
3 may propel them a great deal forward, I'm not  
4 quite sure we're still at our goal of making a  
5 healthier New York, and I certainly commit  
6 myself as long as I'm on the Health Committee to  
7 continue to try to progress us down that path.  
8 But I, for one, will keep a very firm finger on  
9 the pulse to see how the heart is beating in New  
10 York in the future.

11 ACTING PRESIDENT KUHL: Senator  
12 Leichter, did you wish to speak on the bill?

13 SENATOR LEICHTER: I yield to  
14 Senator Abate.

15 ACTING PRESIDENT KUHL: Before  
16 Senator Abate, Senator Saland, you indicated a  
17 desire to speak on the bill.

18 Senator Saland.

19 SENATOR SALAND: Mr. President,  
20 would Senator Hannon yield, please?

21 SENATOR HANNON: Yes.

22 ACTING PRESIDENT KUHL: Senator  
23 Hannon, do you yield to Senator Saland?

1                   The Senator yields.

2                   SENATOR SALAND: Senator Hannon,  
3 I'm looking at page 69 of your bill, the section  
4 that deals with professional education pool  
5 funding, and I apologize if you may have been  
6 asked this question. I came into the chamber  
7 near the end of your debate with Senator  
8 Paterson and sat through your exchange with  
9 Senator Dollinger. In that bill, as I  
10 understand from the comments that you had made  
11 on the floor, I believe your intention is that  
12 the respective regions shall effectively see the  
13 dollars that are raised for purposes of  
14 professional education remain in that region?

15                   SENATOR HANNON: Yes.

16                   SENATOR SALAND: Or am I  
17 misconstruing your comments?

18                   SENATOR HANNON: I believe this  
19 references an earlier letter you had sent me.

20                   SENATOR SALAND: I'm sorry?

21                   SENATOR HANNON: Are you making  
22 reference to the contents of a letter you sent  
23 me -

1                   SENATOR SALAND: Right.

2                   SENATOR HANNON: -- about the  
3 concerns about the shift. We have not had any  
4 shift by embracing a larger region. We are  
5 keeping the money that is raised within New York  
6 City in New York City. We're keeping money  
7 raised in Long Island within Long Island and  
8 then the rest of the state together, we're  
9 keeping that together.

10                  SENATOR SALAND: I noted just  
11 that there was a reference to definition of  
12 regions, and in trying to locate the appropriate  
13 subsection of the bill, I'm not quite sure that  
14 those definitions are there in this particular  
15 section. It's probably in existing law and  
16 hasn't been amended, so I take great comfort in  
17 your comments and thank you for your response.

18                  SENATOR HANNON: Thank you.

19                  ACTING PRESIDENT KUHL: Senator  
20 Abate.

21                  SENATOR ABATE: Senator Hannon  
22 yield to a question?

23                  SENATOR HANNON: Yes.

1                   ACTING PRESIDENT KUHL: The  
2           Senator yields.

3                   SENATOR ABATE: On a prior  
4           debate, I had raised some issues around the  
5           numbers of uninsured particularly in New York  
6           City that come into the New York City hospitals,  
7           and that you agreed with me that those numbers  
8           are ever increasing; and right now, throughout  
9           the state, there are approximately 2.9 million  
10          people uninsured. Give or take, I think that's  
11          the correct number.

12                   Was there any consideration given  
13          to developing a trigger mechanism? If the  
14          uninsured population in any one region increases  
15          beyond a certain percentage, there would be an  
16          availability or discussion or formula so that  
17          that region could get additional assistance?

18                   SENATOR HANNON: Well, I think  
19          that would be looking at the problem from the  
20          wrong end. I think you have to say why do  
21          people become uninsured? And the uninsurance  
22          takes place mainly because the coverage ceases  
23          to be provided by their employer, so that as we

1 see substantial increases to an employer,  
2 especially with those of 50 or less employees,  
3 they tend to not offer it because they can't  
4 afford it. Their choice is trying to run a  
5 business with no benefits or run no business at  
6 all. So that what you have to do here is have a  
7 reasonable cost to the system. You have to take  
8 away the double digit increases that have been  
9 taking place to the private employers, and I  
10 think that has been the main thrust, and we will  
11 be lessening this guaranteed flow from those  
12 people into the system.

13 We are going to allow a number of  
14 other mechanisms that would encourage these  
15 employers to provide coverage through -- one  
16 through the pilot programs in regard to health  
17 insurance; second, through the ability of the  
18 provider service networks so that the providers  
19 themselves can band together and figure out how  
20 to make efficient delivery and make direct  
21 agreements with employers, cutting out the  
22 HMOs. Believe me, we don't like that whatsoever  
23 but there, right there, you can lower the costs

1 to a substantial number; and then the final part  
2 of dealing with this is, right now the current  
3 system in regard to indigent care, in regard to  
4 money and payments from the bad debt and charity  
5 care really have been around too long. People  
6 know how to utilize them. They don't truly  
7 measure the amount of the uncompensated care, so  
8 that we have put changes in to have that so that  
9 the actual burden faced by a hospital will tend  
10 to be reimbursed to that hospital.

11 SENATOR ABATE: But how do we  
12 address the issue where an individual is  
13 uninsured, unemployed, and not Medicaid  
14 eligible? How do we address that population,  
15 if, in fact, that increases over time?

16 SENATOR HANNON: I mean,  
17 uninsured, unemployed, not covered by -  
18 Medicaid eligible, that's truly a population no  
19 one has ever described to me before, and I'm not  
20 sure it exists.

21 SENATOR ABATE: We do know it  
22 exists just with our dealings with ADAP, that  
23 there are people that were -

1                   SENATOR HANNON:  If you are  
2                   talking about special groups -

3                   SENATOR ABATE:  Yes.

4                   SENATOR HANNON:  -- in a number  
5                   of different areas where we are able to identify  
6                   people with special needs, we've tried to do  
7                   that.  With regard to ADAP, we have put in a  
8                   special program that will supplement the  
9                   additional \$9 million that is now coming to this  
10                  state from the federal government with an  
11                  additional \$12 million.  Through your efforts  
12                  and Senator Goodman's efforts, those are in  
13                  this.

14                  If you go and look in another  
15                  bill, which is not before us, but will soon be,  
16                  the Medicaid managed care bill, we have special  
17                  needs plans in regard to those who are dealing  
18                  with mental health problems or dealing with AIDS  
19                  problems, so to an extent you can do that.  
20                  Frankly, I don't think you can just pluck  
21                  something out there in vague general terms and  
22                  say, "What have you done?"

23                  Wherever there is something that

1 is identifiable and there is a rational step to  
2 get to it, I think we have addressed it.

3 SENATOR ABATE: Just briefly on  
4 the bill. I believe that this is a better bill  
5 than the original ones that we have looked at.  
6 There are a lot of very good people that worked  
7 on this bill.

8 Senator Hannon, I want to  
9 compliment you that the ADAP funding -- finally,  
10 New York State is recognizing that they need to  
11 be involved in this very important program. Up  
12 until this budget, New York State did not  
13 recognize that the AIDS Drug Assistance Program  
14 was a state responsibility. This will go a long  
15 way in helping many people who are suffering  
16 with AIDS, allow them to remain independent, and  
17 get vital drugs that will keep their -  
18 hopefully elongate and produce quality in their  
19 lives. I'm very happy there is money restored  
20 to graduate medical education, Child Health Plus  
21 was expanded, and there's continued funding for  
22 SLIPA and financially distressed hospitals.

23 But as Senator Dollinger has

1       said, I'm still concerned about the New York  
2       City hospitals. They have enormous needs, and I  
3       hope that NYPHRM will allow them to address  
4       these needs, and along with many of my  
5       colleagues we're going to be closely monitoring  
6       the impacts and effects of NYPHRM.

7                   I will be, though, supporting  
8       this bill.

9                   ACTING PRESIDENT KUHL: Senator  
10       Leichter, did you wish to speak?

11                   SENATOR LEICHTER: I will explain  
12       my vote.

13                   ACTING PRESIDENT KUHL: Secretary  
14       will read the last section.

15                   THE SECRETARY: Section 11. This  
16       act shall take effect immediately.

17                   ACTING PRESIDENT KUHL: Call the  
18       roll.

19                   (The Secretary called the roll.)

20                   ACTING PRESIDENT KUHL: Senator  
21       Leichter, to explain his vote.

22                   SENATOR LEICHTER: Mr. President,  
23       Senators Paterson and Dollinger and Abate have

1       made really the points that I wanted to make,  
2       but I think it's important to emphasize that,  
3       here again, we had to respond to what was really  
4       a "scorched earth" policy on the part of the  
5       second floor in regard to hospitals and health  
6       care and a lot of other issues where this  
7       Legislature has had to make radical changes in  
8       the Governor's program as was, of course, done  
9       in the budget.

10                   I would say out of the  
11       convoluted, sausage-making process which we call  
12       a budget-making process that this bill came out  
13       probably better than most others and shows what  
14       can be done by the Legislature working in a  
15       somewhat nonpartisan political manner, and I  
16       want to certainly acknowledge the work that was  
17       done by Senator Hannon as other members have and  
18       also by my Assemblyman, Assembly member Richard  
19       Gottfried, the chair of the Assembly Health  
20       Committee.

21                   I think what we have here is a  
22       bill we can live with, a bill that recognizes  
23       not only that the health industry is terribly

1 important for the welfare of New Yorkers but  
2 it's also incredibly important for the economy  
3 of the state of New York, and the Governor's  
4 original proposal which would have caused  
5 numerous hospitals particularly in urban areas  
6 to close would have been disastrous not only for  
7 the health care people but also for the  
8 economy. I think we have improved it.  
9 Obviously there's a lot of questions that we  
10 still have. There are a lot of concerns that we  
11 have. We'll have to see how this system works,  
12 but as we go into it, I think we can be  
13 satisfied that we did the best possible under  
14 the circumstances.

15 I vote in the affirmative.

16 ACTING PRESIDENT KUHL: Senator  
17 Leichter will be recorded in the affirmative.

18 Senator Cook to explain his vote.

19 SENATOR COOK: Mr. President, I  
20 would like to add my admiration to Senator  
21 Hannon for being able to get his arms around an  
22 immensely complicated subject and to put  
23 together a bill which I think is remarkable in

1           what it accomplishes.

2                       I try and liken it to trying to  
3           build a tower with dominoes while riding a  
4           bobsled downhill at 100 miles an hour. I just  
5           don't know quite how you do it.

6                       But my real purpose in rising is  
7           to thank him again for sensitivity to the rural  
8           health concerns. There are several provisions  
9           in here which -- and I want to emphasize this --  
10          which look toward the future. They are not an  
11          effort to preserve the status quo or keep us  
12          where we have been but to help us move forward,  
13          and I think that's the thrust of this bill. I  
14          think if we look at it in that context, we  
15          really understand the genius, if you will, of  
16          the way that it's been constructed.

17                      And I, again, want to thank  
18          Senator Hannon for all of his work and all of  
19          his receptivity for the rural providers.

20                      I vote in the affirmative.

21                      ACTING PRESIDENT KUHL: Senator  
22          Cook will be recorded in the affirmative.

23                      Senator Volker to explain his

1 vote.

2 SENATOR VOLKER: Yes, Mr.  
3 President. I just want to, first of all, say  
4 that I don't believe people realize the enormity  
5 of what is occurring here today with this bill.  
6 I don't think that when this session started or  
7 even a few months ago there were any of the  
8 senior members of this house, and I hesitate to  
9 put myself in that category, knowing the history  
10 of issues of this state who could or would have  
11 believed that a compromise would have been  
12 reached on something that is so complicated as  
13 NYPHRM.

14 Because I have a major public  
15 hospital, the Roswell Park Cancer Institute and  
16 Children's Hospital, in the Buffalo area, I had  
17 to try to learn more about health care and  
18 hospitals and all the rest of the stuff than I  
19 ever really wanted to know, and Senator Hannon  
20 and his staff was immensely helpful, and I just  
21 got to say very honestly in response to Senator  
22 Leichter -- and I understand that the process is  
23 sort of a sausage when you talk about a budget,

1 but it's something called democracy. It's a  
2 terrible system, democracy. It's lasted here  
3 for over 200 years. It's absolutely amazing  
4 that it's lasted. But I think with all that, I  
5 guess it's not been as bad a system as we  
6 think.

7 But I think New York, thanks to  
8 Senator Hannon, the Governor, and the Assembly  
9 -- and it's no secret internally that, sure,  
10 there was immense internal politics, but that  
11 the people that worked on this bill probably  
12 worked in a more bipartisan manner than in  
13 almost any other time in the history of  
14 healthcare in this state.

15 I want to immensely compliment  
16 Senator Hannon for the job that is done. As I  
17 said, I don't think -- very few people believed  
18 this could be done other than December, because  
19 the assumption around here was that this was  
20 going to be extended, and the Governor to his  
21 credit, by the way, said he wasn't going to do  
22 that.

23 But it is an amazing feat. I

1 want to especially compliment you for a piece  
2 that's in this bill on page 68 that relates to  
3 grants for children and cancer hospitals, and  
4 there's another piece that's part of this that,  
5 as I understand it, will have an immensely  
6 favorable effect on Roswell Park Cancer  
7 Institute in Buffalo, as well as Sloan  
8 Kettering, by the way, in New York City and also  
9 Children's Hospital in Buffalo, and several  
10 other specialty hospitals, and I want to thank  
11 him especially for that.

12 I think it's an admirable job.

13 ACTING PRESIDENT KUHL: Secretary  
14 will announce the results.

15 THE SECRETARY: Ayes 58.

16 ACTING PRESIDENT KUHL: The bill  
17 is passed.

18 Senator DeFrancisco.

19 SENATOR DeFRANCISCO: In an  
20 effort to help to define the length of the  
21 future debate today, I wanted everyone to know  
22 that the lemon ice is turning into lemonade  
23 presently, so I just wanted to put that on the

1 record.

2 ACTING PRESIDENT KUHL: Thank you  
3 very much, Senator DeFrancisco.

4 Senator Alesi.

5 SENATOR ALESI: Mr. President,  
6 will you place Calendar 1788 before the house,  
7 please.

8 ACTING PRESIDENT KUHL: Secretary  
9 will read the title to Calendar Number 1788.

10 THE SECRETARY: Calendar Number  
11 1788, by the Assembly Committee on Rules,  
12 Assembly Bill Number 11341, an act to amend the  
13 Public Health Law.

14 ACTING PRESIDENT KUHL: Senator  
15 Alesi.

16 SENATOR ALESI: Mr. President, is  
17 there a message of necessity?

18 ACTING PRESIDENT KUHL: There is.

19 SENATOR ALESI: I move we accept.

20 ACTING PRESIDENT KUHL: The  
21 motion is to accept the message of necessity on  
22 Calendar Number 1788 which is at the desk. All  
23 those in favor, signify by saying aye.

1 (Response of "Aye.")

2 Opposed, nay.

3 (There was no response.)

4 Message is accepted.

5 Secretary will read the last

6 section.

7 THE SECRETARY: Section 4. This

8 act shall take effect on the same date as a

9 Chapter of the Laws of 1996.

10 ACTING PRESIDENT KUHL: Call the

11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 58.

14 ACTING PRESIDENT KUHL: The bill

15 is passed.

16 Senator Santiago, why do you

17 rise?

18 SENATOR SANTIAGO: Mr. President,

19 I would like to state for the record that had I

20 been in the chamber on June 12, I would have

21 voted in the negative on Senate Bill 7532.

22 I would also like to state that

23 had I been in the chamber on the 13th, I would

1 have voted negative on Senate Bill 4413.

2 Finally, had I been in the  
3 chamber on July 11, I would have voted in the  
4 negative on Senate Bill 5235.

5 I would also like to be recorded  
6 in the affirmative on Senate Bill 7947 and 7948  
7 which just passed this morning.

8 Thank you.

9 ACTING PRESIDENT KUHL: Senator  
10 Santiago, without objection and hearing no  
11 objection, you will be recorded in the  
12 affirmative on Calendar Number 7948.

13 The record will reflect that had  
14 you been in the chamber when a slow roll call  
15 was taken on Senate Print 4947 that you would  
16 have voted -- in the negative?

17 SENATOR SANTIAGO: Yes.

18 ACTING PRESIDENT KUHL: And the  
19 record will reflect that had you been in the  
20 chamber on June 12 and June 13 and July 11 that  
21 you would you have respectively voted in the  
22 negative on Senate Print Numbers 7532, 4413 and  
23 -- I think it was 5235?

1 SENATOR SANTIAGO: Yes, sir.

2 ACTING PRESIDENT KUHL: Record  
3 will so reflect.

4 SENATOR SANTIAGO: Affirmative on  
5 7947.

6 ACTING PRESIDENT KUHL: Senator  
7 Santiago, for the record, you will be recorded  
8 in the negative on those, that's correct.

9 7947, you want to be in the  
10 affirmative?

11 SENATOR SANTIAGO: Yes, sir.

12 ACTING PRESIDENT KUHL: Okay.  
13 For the record, the record will reflect that had  
14 you been here when the slow roll call was taken  
15 on 7947 that you would have voted in the  
16 affirmative.

17 SENATOR SANTIAGO: Thank you.

18 ACTING PRESIDENT KUHL: Senator  
19 Alesi.

20 SENATOR ALESI: Mr. President,  
21 will you place Calendar 1786 before the house,  
22 please.

23 ACTING PRESIDENT KUHL: Secretary

1 will read the title to Calendar Number 1786  
2 which was substituted earlier today.

3 THE SECRETARY: Calendar Number  
4 1786, by the Assembly Committee on Rules,  
5 Assembly Bill Number 11329, an act to amend the  
6 Public Health Law and others.

7 ACTING PRESIDENT KUHL: Senator  
8 Alesi.

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

11 ACTING PRESIDENT KUHL: There is.

12 SENATOR ALESI: I move we accept.

13 ACTING PRESIDENT KUHL: The  
14 motion is to accept the message of necessity at  
15 the desk on Calendar Number 1786. All those in  
16 favor, signify by saying aye.

17 (Response of "Aye.")

18 Opposed, nay.

19 (There was no response.)

20 Message is accepted.

21 Any Senator wishing to speak on  
22 the bill?

23 SENATOR PATERSON: Explanation.

1                   SENATOR HANNON: This is the  
2 Medicaid managed care bill. This is the bill  
3 that will enable us to make changes in the  
4 existing mandatory Medicaid managed care once we  
5 get the waiver from Washington. This updates  
6 the types of service delivery components that  
7 have become necessary since we enacted mandated  
8 managed care for Medicaid recipients in 1991.

9                   It addresses questions of  
10 marketing. It addresses questions of  
11 enrollment, disenrollment, questions of auto  
12 assignment, questions of quality assurance,  
13 grievance, utilization reviews, special needs  
14 plans.

15                   Taking all of those, which are  
16 highly important but detailed and somewhat  
17 esoteric concepts, what this does is to really  
18 allow us to let the recipients of Medicaid get  
19 their health care through an orderly, rational  
20 process and not to use an emergency room as  
21 their primary care provider. This is going to  
22 result in better care for that recipient. It's  
23 going to result in a better use of the system,

1 and it's going to help the entire state besides.

2 I would move the bill, Mr.

3 President.

4 ACTING PRESIDENT KUHL: Secretary  
5 will read the last section.

6 THE SECRETARY: Section 10. This  
7 act shall take effect immediately.

8 ACTING PRESIDENT KUHL: Call the  
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 58.

12 ACTING PRESIDENT KUHL: The bill  
13 is passed.

14 Senator Alesi.

15 SENATOR ALESI: Mr. President,  
16 may we go to the original Calendar, Number 22,  
17 please.

18 ACTING PRESIDENT KUHL: On the  
19 original calendar, Calendar No. 70, Secretary  
20 will read the title of Calendar Number 22.

21 THE SECRETARY: Calendar Number  
22 22, by Member of the Assembly Eve, Assembly  
23 Print 5648C, an act to amend the Education Law.

1                   ACTING PRESIDENT KUHL: Secretary  
2 will read the last section.

3                   THE SECRETARY: Section 6. This  
4 act shall take effect in 30 days.

5                   ACTING PRESIDENT KUHL: Call the  
6 roll.

7                   (The Secretary called the roll.)

8                   THE SECRETARY: Ayes 58.

9                   ACTING PRESIDENT KUHL: The bill  
10 is passed.

11                   Senator Alesi.

12                   SENATOR ALESI: Mr. President,  
13 may we proceed with Calendar 1146, please.

14                   ACTING PRESIDENT KUHL: Secretary  
15 will read Calendar Number 1146, again on the  
16 regular calendar, Calendar No. 70, which was  
17 substituted earlier today.

18                   THE SECRETARY: Calendar Number  
19 1146, substituted earlier today, by Member of  
20 the Assembly Lafayette, Assembly Print 3027C, an  
21 act to amend the Vehicle and Traffic Law.

22                   ACTING PRESIDENT KUHL: Senator  
23 Alesi.

1                   SENATOR ALESI: Mr. President, is  
2                   there a message?

3                   ACTING PRESIDENT KUHL: There is.

4                   SENATOR ALESI: I move we accept.

5                   ACTING PRESIDENT KUHL: The  
6                   motion is to accept the message of necessity on  
7                   Calendar Number 1146. All those in favor,  
8                   signify by saying aye.

9                   (Response of "Aye.")

10                  Opposed, nay.

11                  (There was no response.)

12                  Message is accepted.

13                  Secretary will read the last  
14                  section.

15                  THE SECRETARY: Section 5. This  
16                  act shall take effect on the 120th day.

17                  ACTING PRESIDENT KUHL: Call the  
18                  roll.

19                  (The Secretary called the roll.)

20                  THE SECRETARY: Ayes 58.

21                  ACTING PRESIDENT KUHL: The bill  
22                  is passed.

23                  Senator Alesi.

1                   SENATOR ALESI: Thank you, Mr.  
2           President. On supplemental Calendar No. 1, will  
3           you place Calendar Number 1787 before the house.

4                   ACTING PRESIDENT KUHL:  
5           Supplemental No. 1, Secretary will read the  
6           title to Calendar Number 1787.

7                   THE SECRETARY: Calendar Number  
8           1787, by the Senate Committee on Rules, Senate  
9           Print 7957, an act to amend the Insurance Law.

10                   ACTING PRESIDENT KUHL: Message  
11           was previously accepted.

12                   Any Senator wishing to speak on  
13           the bill?

14                   Hearing none, Secretary will read  
15           the last section.

16                   THE SECRETARY: Section 28. This  
17           act shall take effect immediately.

18                   ACTING PRESIDENT KUHL: Call the  
19           roll.

20                   (The Secretary called the roll.)

21                   THE SECRETARY: Ayes 58.

22                   ACTING PRESIDENT KUHL: The bill  
23           is passed.

1                   SENATOR FARLEY: Mr. President,  
2                   could I be recognized, please?

3                   ACTING PRESIDENT KUHL: Senator  
4                   Farley.

5                   SENATOR FARLEY: I would like to  
6                   be recorded in the negative on Calendar Number  
7                   22.

8                   ACTING PRESIDENT KUHL: Without  
9                   objection. Senator Cook, do you object to  
10                  Senator Farley's being recorded in the negative  
11                  on Calendar Number 22?

12                  SENATOR COOK: I endorse it.

13                  ACTING PRESIDENT KUHL: Without  
14                  objection, hearing no objection, Senator Farley  
15                  will be recorded in the negative on Calendar  
16                  Number 22.

17                  Senator Cook, why do you rise?

18                  SENATOR COOK: Same question.

19                  ACTING PRESIDENT KUHL: Without  
20                  objection, Senator Cook will be recorded in the  
21                  negative on Calendar Number 22.

22                  (The Senate stood at ease.)

23                  ...At 1:23 p.m....

1                   ACTING PRESIDENT KUHL: Senate  
2 will come to order, please. Chair recognizes  
3 Senator Bruno.

4                   SENATOR BRUNO: Mr. President,  
5 can we ask for an immediate meeting of the  
6 Finance Committee in Room 332.

7                   ACTING PRESIDENT KUHL: There  
8 will be an immediate meeting of the Finance  
9 Committee, immediate meeting of the Senate  
10 Finance Committee in the Majority Conference  
11 Room, Room 332. Immediate meeting of the Senate  
12 Finance Committee in the Majority Conference  
13 Room, Room 332.

14                   (The Senate stood at ease from  
15 1:23 p.m. to 1:31 p.m.)

16                   ACTING PRESIDENT KUHL: The  
17 Senate will come to order. Ask the members to  
18 take their places, staff to take their places.

19                   Senator Bruno.

20                   SENATOR BRUNO: Mr. President,  
21 can we at this time take up Calendar Number  
22 1783.

23                   ACTING PRESIDENT KUHL: On your

1 Supplemental Calendar Number 1, Secretary will  
2 read the title of Calendar Number 1783, Senate  
3 Print Number 7951, substituted earlier today.

4 THE SECRETARY: Calendar Number  
5 1783, substituted earlier today, by the Assembly  
6 Committee on Rules, Assembly Print 11331, an act  
7 to amend the Workers' Compensation Law.

8 SENATOR ONORATO: Explanation.

9 ACTING PRESIDENT KUHL: Senator  
10 Bruno, an explanation has been asked for by  
11 Senator Onorato, the Acting Minority Leader.

12 SENATOR BRUNO: Yes, Mr.  
13 President, and Senator. What we have before us  
14 is a very comprehensive Workers' Compensation  
15 reform package for the people of this state.

16 We, in New York State, have for  
17 years, suffered by being the second highest  
18 ratepayer in all of the United States for  
19 Workers' Compensation benefits. Senator -- I'm  
20 not sure he's listening -- Mr. President, I  
21 don't know if Senator Onorato has any interest  
22 in what I'm saying, but I know that he doesn't  
23 want to miss our opening comments because he

1 will want to engage in some of the discussion  
2 relating to this.

3 But we have been paying in this,  
4 Senator, about \$5 billion in premiums in this  
5 state and we have been paying something in the  
6 neighborhood of 51 to 55 percent higher than the  
7 national average, second highest in the  
8 country.

9 While we have been doing that, we  
10 have, number one, been paying workers 47 cents  
11 on the dollar while the national average is 62  
12 cents on the dollar. Now, think of that:  
13 Second highest premium in the country, and we  
14 paid workers less than the national average.  
15 That has been a disgrace.

16 Also, we have been driving jobs  
17 out of this state. Our Workers' Comp' costs  
18 helped us in the past become 50th in this  
19 country in job creation -- 50th -- and that's  
20 something that Governor Pataki, Republican  
21 administration, with our partnering, have moved  
22 from 50th in job creation to 5th in one and a  
23 half years.

1                   We want to be number one. When  
2                   you hear about high taxes that relates to high  
3                   spending in this state, over-regulation, we're  
4                   doing something about that, today, in this  
5                   session, and last year. This is what the people  
6                   of this state have been waiting for.

7                   So this package rescinds Dole v.  
8                   Dow which we in New York State have been the  
9                   only state to have in this form. Forty-nine  
10                  other states have had a workers' program without  
11                  it. New York State will now join them, and we  
12                  have put in place of the Dole, we have put a  
13                  list of grave injuries, a very specific list  
14                  that defines grave injuries, and that will help  
15                  limit the exposure and consequently the cost to  
16                  employers and it will allow employers to invest  
17                  more in their businesses and, when they invest  
18                  in their businesses, they'll be investing in  
19                  workers' safety, and that's a big part of this  
20                  package.

21                  Employers will get credits for  
22                  their investments in a safer work place. There  
23                  will be managed care expanded through this

1 bill. All of us know that the premiums and the  
2 extravagance of those premiums relates to fraud  
3 within the system, people who are on two pay  
4 rolls, three payrolls.

5 This will eliminate people on  
6 unemployment also collecting their benefits in a  
7 double way, and it goes on. So we will be  
8 minimally reducing Workers' Comp' costs in this  
9 state in double digits over the next several  
10 years, and we expect over the next several years  
11 that New York State premiums for Workers' Comp'  
12 will be at least a third less than they are  
13 today.

14 We will be competitive with New  
15 Jersey, so we won't have to suffer the  
16 embarrassment of a team like the Giants being  
17 attracted to upstate New York in their training  
18 having to get their Workers' Comp' benefit out  
19 of New Jersey, and that is a disgrace. They  
20 were able to do that. Many other businesses  
21 can't do that. They are trapped. They are  
22 here.

23 So what have those businesses

1 done? They have limited their employment. They  
2 have not expanded. They have avoided the costs  
3 for workers' premiums by not hiring when they  
4 could, expanding in other states, and that has  
5 not been productive. We are correcting that  
6 today.

7 Governor Pataki took a leadership  
8 position on this issue. He made it part of all  
9 the good things that should happen this year in  
10 this state, and we in the Legislature are now  
11 partnering with the Governor in moving this  
12 program forward and having it become law.

13 The people out there, the workers  
14 out there, that will benefit directly as a  
15 result of what we are doing here in this  
16 chamber, we then can be proud to be partners  
17 with the Governor in doing what we're doing.  
18 This, along with the largest tax cuts in the  
19 country, in this Republican administration, with  
20 the leadership of Governor George Pataki, 2.5  
21 billion in tax cuts in two years, is helping  
22 turn the economy of this state around from the  
23 failures that we have suffered in the past to

1 the optimism and the growth that we are  
2 experiencing now and will continue to experience  
3 in the future.

4 So I want to thank my colleagues  
5 for their support. I know there are differences  
6 of opinion. I know there are things that people  
7 would have liked to have had in this bill that's  
8 not there, and I know that there are things in  
9 this bill that some people would rather not see  
10 there. But this bill was negotiated with the  
11 Assembly, with the Governor, in good faith and  
12 it represents a compromise; but the one thing  
13 that we did not compromise was that the premiums  
14 will be cut.

15 Now, next year and the year  
16 after, workers will be safer as a result of what  
17 we do in this state and jobs will be stabilized  
18 or increased as a result of what we are doing  
19 here today.

20 Thank you, Mr. President.

21 ACTING PRESIDENT KUHL: Senator  
22 Paterson.

23 SENATOR PATERSON: Mr. President,

1 if the distinguished Majority Leader would yield  
2 for a couple questions.

3 ACTING PRESIDENT KUHL: Senator  
4 Bruno, do you yield to Senator Paterson?

5 SENATOR BRUNO: Yes, Mr.  
6 President.

7 ACTING PRESIDENT KUHL: Senator  
8 yields.

9 SENATOR BRUNO: Mr. President, if  
10 Senator Paterson would just indulge me for one  
11 minute. We have a logistical problem here, Mr.  
12 President. Senator DeFrancisco has a personal  
13 problem that he has to tend to. So I would like  
14 to -- it relates to other than -- and Senator  
15 DeFrancisco as he casts his vote may want to  
16 indulge us, but that will be up to him. But I  
17 would like to read the last section -

18 ACTING PRESIDENT KUHL: Secretary  
19 will read.

20 SENATOR BRUNO: -- on this bill,  
21 allow him to vote and then we will resume the  
22 discussion.

23 ACTING PRESIDENT KUHL: Secretary

1 will read the last section.

2 THE SECRETARY: Section 90. This  
3 act shall take effect immediately.

4 ACTING PRESIDENT KUHL: Call the  
5 roll.

6 (The Secretary called the roll. )

7 ACTING PRESIDENT KUHL: Senator  
8 DeFrancisco, happy anniversary. How do you  
9 vote?

10 SENATOR DeFRANCISCO: I guess  
11 it's out of the bag, huh? I vote yes. Thank  
12 you.

13 ACTING PRESIDENT KUHL: Senator  
14 DeFrancisco will be recorded in the affirmative.  
15 We're back on debate, Senator Paterson. Senator  
16 Bruno yields.

17 SENATOR BRUNO: Mr. President,  
18 let me assure you this would have been a problem  
19 had not the good Senator been celebrating his  
20 28th wedding anniversary where there are great  
21 festivities, and for those of us who can make it  
22 we'll be there, so thank you for the open  
23 invitation, Senator. His wife can accommodate

1 another several hundred, so if we can get there,  
2 we will.

3 Thank you, Mr. President.

4 Senator Paterson, thank you for  
5 your indulgence. You have a question, and I know  
6 it's easy.

7 SENATOR PATERSON: Yes, it's an  
8 easy question.

9 SENATOR BRUNO: Right.

10 SENATOR PATERSON: Hard to ask it  
11 though of the Majority Leader.

12 The list of injuries that would  
13 qualify someone for Dole v. Dow coverage with  
14 which they could bring a suit and implead the  
15 manufacturer and try to establish that the  
16 employer violated regulations, we have severely  
17 cut the type of injuries that would make a  
18 person eligible.

19 As a matter of fact, some are  
20 estimating that three-quarters to 90 percent of  
21 the types are -- of injuries that would normally  
22 have met the threshold test for Dole v. Dow suit  
23 will not be covered as a result of this

1       legislation and some of those injuries would be  
2       the loss of a toe, the loss of a finger other  
3       than the -- other than the index finger,  
4       certainly 95 percent blindness or 95 percent  
5       deafness, the lung disease asbestosis, asbestos  
6       disease, cancer, and really a number of other  
7       chronic illnesses, including chronic and severe  
8       back pain.

9                       Why would we want to take that  
10       option away from workers who sustain some pretty  
11       serious illnesses probably as a result of the  
12       malfeasance of duty of the employer, and I know  
13       this is negotiated, and I know that the Assembly  
14       was part of it, but I wasn't. I must have been  
15       busy. Somebody forgot to send me my invitation  
16       to the negotiation because this is exactly what  
17       I would have raised as an issue with respect to  
18       workers and coverage because it's really going  
19       to wipe out the ability of an injured party to  
20       sue where the employer is probably jointly  
21       responsible or in some ways specifically  
22       responsible for the injury.

23                       SENATOR BRUNO: Thank you,

1 Senator. That is a good question.

2 The Dole piece in this state -  
3 and again recognize that we're the only state in  
4 the United States that has that in place -  
5 creates by the rating board about a 6.3 percent  
6 increase in the premiums and, if we were to  
7 repeal Dole in its entirety, you would reduce  
8 the premium by about 6.3 percent, so it's of  
9 great consequence.

10 What we are doing -- and the good  
11 Senator is right, by repealing Dole which is  
12 totally open-ended, we have substituted a list  
13 of what are considered grave injuries. He  
14 described some of them, blindness, loss of an  
15 ear, added to the list. There's a finite list.

16 Bottom line, Senator, the injured  
17 worker, as a result of our actions, will not  
18 receive one penny less as a result of our  
19 actions, not one penny will they lose in any  
20 benefit as relates to their ability to sue as a  
21 third party. Why? Because Dole allows the  
22 manufacturer who gets sued -- a worker gets  
23 hurts on a machine. That worker, through

1 Workers' Comp' and through the law, sues the  
2 manufacturer if the machine malfunctions and  
3 collects \$100,000. The worker has that money in  
4 compensation for the injury, plus the monthly  
5 payment through Workers' Comp. The worker has  
6 the money in the bank. Dole, in this state only  
7 now, allows that manufacturer to sue the  
8 employer to get back the hundred thousand that  
9 they had to pay the injured worker.

10 This is really an attorney's  
11 problem. It is the business related to the  
12 manufacturer problem. This in no way affects the  
13 injured worker, and we have to be very clear on  
14 that. So, Senator, I appreciate the question  
15 and I hope my answer clarifies because I know  
16 you're concerned about protecting the rights of  
17 the injured, and so are we, and that's why we've  
18 been very careful in the way this bill has been  
19 structured.

20 SENATOR PATERSON: Thank you, Mr.  
21 President.

22 If the leader would yield for  
23 another question?

1                   SENATOR BRUNO:  Yes, Mr.  
2    President.

3                   ACTING PRESIDENT KUHL:  Senator  
4    continues to yield.

5                   SENATOR PATERSON:  The  
6    livelihoods of the workers and also the  
7    reputations of the manufacturer, something I've  
8    never really heard mentioned here, are many  
9    times at stake because there's almost a  
10   presumption without a Dole v. Dow suit that the  
11   manufacturer may have been at fault and many  
12   times the manufacturer did exactly what they  
13   were told to do and they're just as happy to  
14   clear their name because they gave the employer  
15   some safety codes, and they were violated.

16                   Since 1982, Governor Pataki's  
17   research indicates that only one-third of one  
18   percent of the Workers' Compensation cases are  
19   actually qualifying under Dole v. Dow.  So when  
20   one considers the fact that \$300 million are  
21   being paid, that it's that kind of industry with  
22   respect to insurance, it's not the Dole v. Dow  
23   recoveries, that are really hurting the

1 premiums, in my opinion, as much as the payments  
2 to the insurance companies and no real  
3 understanding of how much of a profit they may  
4 be making.

5 And so, when we look at this  
6 particular issue -- and I left off of the list  
7 of injuries that don't qualify now, body burns  
8 from the head down that are not qualified under  
9 Dole v. Dow -- what we're really looking at, Mr.  
10 Leader, is the issue of workers still receiving  
11 their benefits under Workers' Compensation but  
12 not being able to receive damages, and these  
13 types of injuries are the type that courts  
14 usually will find that there's a greater harm  
15 than just the fact that the person can't work,  
16 that there are damages that are covering their  
17 pain and suffering and the other problems they  
18 might have.

19 So my question is, why are we  
20 focusing so much on Dole v. Dow and not enough  
21 on what may be the profit for the insurance  
22 companies as the catalyst for why those who are  
23 trying to reduce, in a sense, what would be

1       reducing payments with the premiums under the  
2       perception that it's Dole v. Dow when it may  
3       very much arise from a different source?

4                    SENATOR BRUNO: Well, Senator,  
5       again New York State is the only state in the  
6       United States that has Dole v. Dow in the form  
7       that we have it. We're the only state in the  
8       United States, and it has been determined that  
9       that is one of the reasons why we have the  
10      second highest premium in all of the United  
11      States. So I will again state that in the  
12      illustration that you give, if a person is  
13      burned, that person can still sue the employer,  
14      the manufacturer and recover whatever recovery  
15      has been determined appropriate by the courts.  
16      The prohibition would be then that that  
17      manufacturer would not presently be able to sue,  
18      as they can, the employer. The manufacturer  
19      could not sue, but the injured worker gets  
20      compensated, and what you're describing is a  
21      matter of the courts. It's a matter of  
22      attorneys litigating and courts deciding what's  
23      appropriate.

1                   ACTING PRESIDENT KUHL:  Senator  
2           Paterson.

3                   SENATOR PATERSON:  Thank you, Mr.  
4           President.

5                   If the Senator would continue to  
6           yield.

7                   SENATOR BRUNO:  Yes, Mr.  
8           President.

9                   ACTING PRESIDENT KUHL:  Senator  
10          continues to yield.

11                   SENATOR PATERSON:  If the  
12          manufacturer is not liable, then there wouldn't  
13          be a recovery from the manufacturer.  I just  
14          wanted to point that out and then go on really  
15          to a different area if the leader is willing,  
16          and that is why has our legislation not provided  
17          any -- any benefits to injured workers such as  
18          an increase in benefits or really an expansion  
19          on the concepts of what some workers' safety  
20          diseases, such as carpal tunnel syndrome, are  
21          which would have been helpful to define that and  
22          put that into the legislation and why is there  
23          really no increase in the benefits periods for

1 workers if, as we've been hearing, workers have  
2 been waiting for this legislation?

3 SENATOR BRUNO: Well, this  
4 represents a negotiated piece, Senator, and we  
5 negotiated this bill, and I will remind you,  
6 Senator, that the Senate, with the Governor,  
7 passed a workers' reform package that included  
8 substantial increases for workers in this  
9 state. We passed that bill in the Senate, and  
10 had that bill passed the Assembly in the form  
11 that we voted for it in this house, the injured  
12 workers in this state would have received a  
13 substantial increase in their benefits.

14 As a matter of negotiation, some  
15 things were dropped in trying to do something  
16 meaningful in making us more competitive in this  
17 country, and in defense of taking those out,  
18 what we did do was we gave credits to employers  
19 who encouraged increased workers' safety. We  
20 increased all the requirements for workers'  
21 safety, so you might say that if the work place  
22 is safer, people would be less likely to get  
23 hurt and they would be less likely to need any

1 compensation, and I know that we would agree  
2 that, if we had the ideal world, we would have  
3 no injuries, consequently no need for Workers'  
4 Comp' in the state; but that's not the world we  
5 live in, so we're dealing in reality.

6 SENATOR PATERSON: Thank you, Mr.  
7 President and thank you, Mr. Leader.

8 Mr. President, on the bill.

9 ACTING PRESIDENT KUHL: Senator  
10 Paterson, on the bill.

11 SENATOR PATERSON: I guess that  
12 in any succession or in any statistical  
13 comparison, somebody has to be first, and I'm  
14 very glad that New York State is first. I'm  
15 very glad that we have understood the plight of  
16 workers in a way that no other state has to this  
17 point, and I hope that we will never diminish  
18 our commitment to workers, and I hope we will  
19 never run away from our responsibilities to  
20 individuals who are injured, particularly from  
21 the malfeasance of duty of other parties when  
22 the other parties are their employers.

23 I think that we can not let

1 employers get away with this. It doesn't happen  
2 that often, as the Governor's research reveals,  
3 but when it does we should not be allowing  
4 anyone to escape their responsibility by trying  
5 to make a situation that's covered in Dole v.  
6 Dow cases appear to be so grandiose that it's  
7 actually changing the numerical value of many of  
8 the statistics and so, when we look at the -  
9 the whole workers' compensation issue, and we  
10 question as to whether or not benefits have  
11 arisen, my understanding is that the negotiation  
12 that would have allowed benefits to rise would  
13 have included many of the AMA guidelines which  
14 would have put a cap on permanent partial  
15 disability, which would have been disastrous to  
16 workers and also would have drawn no distinction  
17 between -- for recovery based on the kind of  
18 work that an individual does which are the types  
19 of negotiating -- which would have been the type  
20 of a negotiation that would have been  
21 unacceptable, and so the only compromise that  
22 could have been reached was not to have any  
23 benefits.

1 I think that's really quite  
2 unfortunate, because with all of this  
3 concentration on workers, we're forgetting that  
4 these are the taxpayers who provide the broad  
5 revenue base that the state derives its assets  
6 from in the first place. Even if we were going  
7 to make a comparison, these aren't individuals  
8 who have been in any way benefiting from the -  
9 from the public trough. If there are cases of  
10 fraud and there are cases of -- of double and  
11 triple counting, we need to ferret them out and  
12 if they're individuals who are breaking the law,  
13 we need to prosecute them.

14 We're talking about a relatively  
15 few number of the Workers' Compensation cases  
16 that need assistance, and most of this  
17 legislation is really concentrated on rate  
18 reductions which I think is unacceptable, and I  
19 respect the agreement that was reached by other  
20 legislators here. I understand that a compromise  
21 is a natural form of closure to negotiation and  
22 that everyone doesn't get what they want in com  
23 promise, but also the fact that we're debating

1       these bills gives individuals who don't believe  
2       in the inevitable compromise the opportunity to  
3       alert the public and alert their colleagues to  
4       issues that probably need to be addressed in the  
5       future, and I think that when we take a -- a  
6       next look at the whole Workers' Compensation  
7       system, we're going to have to look at this  
8       because what we've done in this legislation is  
9       give no new benefits to workers but rate  
10      reductions to employers and are probably letting  
11      90 percent of the employers who are already  
12      guilty of not following safety code violations a  
13      way out, while some serious injuries have been  
14      suffered by their employees who were working  
15      there in good faith.

16                    SENATOR LEICHTER:  Mr. President.

17                    ACTING PRESIDENT KUHL:  Senator  
18      Leichter.

19                    SENATOR LEICHTER:  Yeah, Mr.  
20      President. I believe there's an amendment at the  
21      desk.

22                    ACTING PRESIDENT KUHL:  Senator  
23      Leichter, there is an amendment at the desk. Are

1       you asking that the amendment reading be waived  
2       and you have an opportunity to explain it?

3                    SENATOR LEICHTER:  Yes, right.

4       Thank you, Mr. President.

5                    ACTING PRESIDENT KUHL:  The  
6       reading of it is waived and you are afforded  
7       that opportunity.

8                    SENATOR LEICHTER:  Mr. President,  
9       Senator Bruno, and the Majority and the Governor  
10      have presented us with a bill that gives good  
11      benefits to the insurance companies, good value  
12      to the employers and nothing -- nothing -- of  
13      meaning to the employees.

14                   The fact is that there's going to  
15      be in total, considering this bill and other  
16      action we've taken in previous years, a 49  
17      percent decrease in premiums and not one penny  
18      of that goes to the employees.

19                   I can not accept that.  Senator  
20      Bruno referred to the fact that it was  
21      unfortunate that the workers did not get some  
22      increase in benefits.  Well, Senator, it is  
23      unfortunate, and something that we ought to do,

1 something that we ought to take some action on,  
2 and that's precisely what this amendment that I  
3 offer on behalf of the Democratic Conference  
4 will do and, Senator, what we've done is that  
5 we've taken the figures that were in the Senate  
6 Majority bill and I think it's a matter of your  
7 standing as a matter of principle behind those  
8 figures saying you have a concern for the  
9 employees.

10 Let me just point out there's  
11 been no increase in the benefits that workers  
12 get under Workers' Compensation since 1990.  
13 What this bill will do, it will provide that by  
14 October 1, 1997, workers would get a maximum of  
15 520, in 1998 it would go up to 540 and then  
16 would level off or plateau out at 560.

17 Let me point out that New York -  
18 New York State's benefits are below those of  
19 many states. If we're going to have a system  
20 that's going to work, there's got to be fairness  
21 for workers, and the bill before us does not  
22 have fairness for workers. It is manifestly  
23 unfair.

1                   Mr. President, I move the  
2 amendment.

3                   ACTING PRESIDENT KUHL: Any other  
4 speaker on the amendment? Hearing none -  
5 Senator Onorato, on the amendment.

6                   Senator Onorato, on the  
7 amendment.

8                   SENATOR ONORATO: Mr. President,  
9 I join my colleague, Senator Leichter, in  
10 supporting this amendment because this current  
11 bill really doesn't do any justice at all to the  
12 working class of people who are injured on the  
13 job.

14                   As the Senator aptly pointed out  
15 there's been no increases since 1990, and  
16 workers who are injured many, many years ago are  
17 still receiving the same benefits that they  
18 received in 1975 or 1976. We've been presenting  
19 bills here day in and day out, increasing cost  
20 of living to pensioners who are receiving  
21 substantial amounts of money for their pensions  
22 on a cost of living increase. We have yet to  
23 address the injured workers to increase their

1 cost of living increases, and they need it more  
2 than anyone else because they have added costs  
3 because of the injuries that they sustained on  
4 the job, and not to include any increases at all  
5 at the request of the employers, who are willing  
6 to reap the benefits of all of this here, and we  
7 don't deny or begrudge anybody from saving some  
8 money, but we have also always believed in the  
9 American dream where everybody makes a few  
10 dollars, let's all share in the profits.

11 This way we're not sharing in the  
12 profits. We're making the rich a little bit  
13 richer and the poor a lot poorer. I really urge  
14 my colleagues to support this amendment.

15 ACTING PRESIDENT KUHL: Senator  
16 Connor, on the amendments.

17 SENATOR CONNOR: Thank you, Mr.  
18 President.

19 I would urge everyone to support  
20 this amendment. This so-called Workers' Comp'  
21 reform effort this year is truly amazing.

22 The Governor put forth his  
23 proposal, and it contained changes designed to

1 save money, but it provided enhanced benefits  
2 for workers. The Senate Majority adopted and  
3 passed the Governor's proposal as the Republican  
4 reform proposal. It did away with Dole v. Dow.  
5 It did other things, but it contained increased  
6 benefits for injured workers. The Assembly put  
7 out their proposal. It did different things  
8 than the Republican proposal. It made other  
9 changes, but it had increased benefits for  
10 workers.

11 We on this side of the aisle in  
12 this house put out a version of reform that we  
13 thought would save money. It made some  
14 modifications, but it had increased benefits for  
15 workers.

16 Then we saw a several-week highly  
17 secretive process ostensibly about the budget  
18 that was a hundred and some days overdue, but we  
19 began to read Workers' Comp' was the real  
20 issue. Workers' Comp' was the real issue, and a  
21 couple days ago emerges what we have now just  
22 seen in the last hour or two in print, the  
23 so-called compromise that resolved all of our

1 problems, that made modifications in Workers'  
2 Comp' and will save employers ostensibly 49 or  
3 50 percent of their cost of Workers' Comp', and  
4 this -- this at this eleventh hour after  
5 secretive negotiations, is missing the one  
6 feature that everyone in the light of day in  
7 public for the last month after month after  
8 month always said we wanted to change it, but we  
9 have increased benefits for workers.

10 The secretive late-at-night  
11 spring-on-us-at-the-last-minute compromise, does  
12 one thing that no other proposal in the light of  
13 day did, that no other proposal presented to  
14 editorial boards did, that no other proponent  
15 was willing to stand before their constituents  
16 and discuss before a day or two ago. It denies  
17 any increase in benefits for workers.

18 I urge that we adopt this  
19 amendment and we correct that oversight that  
20 resulted from this secretive process, three men  
21 and the budget, and the faith and safety of all  
22 of our workers in their hands in secret.

23 ACTING PRESIDENT KUHL: The

1 question is on the amendment. All those in  
2 favor of the amendment signify by saying aye.

3 SENATOR CONNOR: Party vote in  
4 the affirmative.

5 ACTING PRESIDENT KUHL: Secretary  
6 will call the roll.

7 SENATOR BRUNO: Party vote in the  
8 negative.

9 (The Secretary called the roll. )

10 ACTING PRESIDENT KUHL: Record  
11 the party line votes, announce the results.

12 THE SECRETARY: Ayes 22, nays 36,  
13 party line vote.

14 ACTING PRESIDENT KUHL: The  
15 amendment is lost.

16 Senator Dollinger, on the main  
17 bill.

18 SENATOR DOLLINGER: On the main  
19 bill. Will Senator Bruno yield just to one  
20 question?

21 ACTING PRESIDENT KUHL: Senator  
22 Bruno, do you yield to one question?

23 SENATOR BRUNO: Yes, Mr.

1 President.

2 ACTING PRESIDENT KUHL: Senator  
3 yields.

4 SENATOR DOLLINGER: Suppose a  
5 worker, Senator, goes into a situation in which  
6 he reasonably believes he's being exposed to  
7 danger at the work place, he thinks it's  
8 dangerous, and his employer nonetheless orders  
9 him to do it. If he refuses to do it, can he be  
10 fired? Is there anything in this law that  
11 affects that?

12 SENATOR BRUNO: We're not dealing  
13 in a workers' reform package with the relation  
14 ship between the employer and the employee as  
15 relates to the perception of what's dangerous  
16 and what isn't. No, we're not attempting to  
17 deal with that issue in the law.

18 SENATOR DOLLINGER: Under this -

19 SENATOR BRUNO: And by the way,  
20 Senator, the law already prohibits an employer  
21 from ordering an employee to do something that  
22 is apparently or considered extremely  
23 dangerous. You're an attorney -- you are an

1 attorney?

2 SENATOR DOLLINGER: I am.

3 SENATOR BRUNO: And you know  
4 that, I would have thought.

5 SENATOR DOLLINGER: Well, I  
6 guess, again through you, Mr. President, that  
7 raises a question.

8 ACTING PRESIDENT KUHL: Are you  
9 asking Senator Bruno now to answer a second  
10 question.

11 SENATOR DOLLINGER: I am -- well,  
12 he said something that raised a second question  
13 in my mind. I hoped he would yield.

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

17 SENATOR BRUNO: Yes, Mr.  
18 President.

19 ACTING PRESIDENT KUHL: Senator  
20 yields.

21 SENATOR DOLLINGER: Senator, the  
22 law that you refer to, is that the law of the  
23 state of New York?

1                   SENATOR BRUNO:  Senator Gold, is  
2                   that the law of the state of New York?  If you  
3                   were defending someone, would you say it's the  
4                   law of the state of New York, Senator?

5                   SENATOR GOLD:  Are you asking me  
6                   for my legal opinion?

7                   SENATOR BRUNO:  Yes.  I'm asking  
8                   you, yes, yes.

9                   SENATOR GOLD:  When I see the pay  
10                  offer, I'll tell you.

11                  SENATOR BRUNO:  Mr. President, I  
12                  am told by my learned counsels, who are on  
13                  retainer, that it is the present law of New York  
14                  State, and that it's case law and that an  
15                  employer cannot retaliate against an employee by  
16                  case law, and again you're an attorney and I'm  
17                  sure that you've studied that in law school.

18                  SENATOR DOLLINGER:  On the bill,  
19                  Mr. President.

20                  ACTING PRESIDENT KUHL:  Senator  
21                  Dollinger, on the bill.

22                  SENATOR DOLLINGER:  This bill, I  
23                  guess, like many others who've said it's a

1        compromise, it's a compromise that I'm going to  
2        support and vote in favor of, but, Senator  
3        Bruno, I just posed that example because,  
4        Senator Bruno, it just seems to me that that's  
5        the one instance that this bill does not address  
6        and that is forcing a worker to choose between  
7        his job and his enjoyment of life because, when  
8        Dole against Dow disappears there, we're going  
9        to be in a situation where an injured worker who  
10       is hurt on the job, if that is because the  
11       employer exposes him to an unreasonable risk, we  
12       may be cutting off the right of that employee to  
13       seek damages which go beyond the mere  
14       replacement of his medical benefits and his lost  
15       wages, that enjoyment of life, those things that  
16       we do every day with our children, with our  
17       families, as we pick up our children, as we hug  
18       our loved ones, all those things that are part  
19       of our enjoyment of life, may not be compensated  
20       when Dole against Dow goes by the boards, and it  
21       seems to me that some day we may revisit this  
22       issue and reopen this door because we'll  
23       recognize that, when employees are exposed by

1       their employers to reckless conduct, to a risk  
2       of severe injury, the old system of Workers'  
3       Compensation will not provide them with adequate  
4       redress.

5                       That issue, we leave to another  
6       day. I think we're retreating from that kind of  
7       approach in this bill. I understand it's a  
8       compromise. I understand there are other good  
9       things that it does with the elimination of  
10      fraud, stronger fraud provisions and other  
11      benefits that will help everyone in this state  
12      perhaps restore greater credibility in this  
13      system, but I'm afraid that we will come back to  
14      this issue of loss of enjoyment of life on your  
15      job and putting our employees in a situation  
16      where they have to choose between keeping their  
17      job and losing their enjoyment of life.

18                      ACTING PRESIDENT KUHL: Secretary  
19      will read the last section.

20                      SENATOR CONNOR: Not yet.

21                      ACTING PRESIDENT KUHL: Senator  
22      Connor.

23                      SENATOR CONNOR: Yes, to close

1 for the Minority on the bill.

2 ACTING PRESIDENT KUHL: Senator  
3 Connor, to close.

4 SENATOR CONNOR: Mr. President,  
5 we -- we've seen these last weeks, as I said  
6 before, the budget of the state of New York, at  
7 great expense to our school districts, at great  
8 risk to the credit rating of the state of New  
9 York, held up because the Governor in this state  
10 decided to wage what he described as a war of  
11 principle.

12 As a matter of principle, he  
13 wanted to do away with Dole v. Dow. He wanted  
14 to reduce costs of Workers' Comp' and indeed on  
15 a bipartisan basis every conference in this  
16 Capitol was looking for ways to reduce costs of  
17 Workers' Compensation for employers.

18 We urged the people look at the  
19 more than 50 percent of the premium that is  
20 never paid out in benefits to workers, the 50  
21 percent that seems to disappear, yet no one -  
22 no one involved in this secret negotiating  
23 process ever really bit the bullet to take on

1 the insurer, the insurance companies, and say,  
2 Well, after all, it's all about insurance. It's  
3 premiums that they charge.

4 What happens to the money? Indeed  
5 we had seen some dramatic decreases in the cost  
6 of Workers' Comp' just through actions taken by  
7 the Insurance Superintendent.

8 This bill doesn't do that. It  
9 leaves untouched the insurance companies. It  
10 assumes somehow or other that eliminating  
11 certain risks will result in a lowered cost of  
12 premiums.

13 Mr. President, I'm still in New  
14 York City waiting for lower hotel room rates  
15 after we repealed the hotel occupancy tax that  
16 was supposed to be passed on to tourists and  
17 increase business. I don't believe that the  
18 marketplace automatically reacts to actions we  
19 take. I think, if the insurers can still bring  
20 in the same premium, all we're doing here is  
21 increasing their profits above 50 percent.

22 We, in fact, are denying the  
23 workers benefit increases. We're changing Dole

1 v. Dow in a way that makes no sense. If it were  
2 a battle of principle, if it were a battle of  
3 principle, then why do we allow a Dole lawsuit  
4 if you're burned above the neck and you're a  
5 worker and you're not if you're burned below the  
6 neck? Certainly a worker can be injured by very  
7 severe burns below the neck. They can  
8 disfigure. They can affect muscle function.  
9 They can, in fact, render someone a cripple from  
10 burns, but that's different than if it ruins  
11 your profile, if it burns you above the neck.

12 That makes no sense. There's no  
13 rationale for that. It's almost as if someone  
14 flipped a coin and split the baby. Where is  
15 that battle for principle that cost the taxpayer  
16 this delay, cost the school districts the  
17 interest rates, that threatens our credit  
18 rating, that made budgeting in New York more of  
19 a joke than it was before the days of the Pataki  
20 administration, the Governor who ran on the  
21 issue of on-time budgets, of openness in the  
22 process.

23 The provision limiting Dole to

1 save what, 3.1 percent of the costs, 3.1 percent  
2 of the premium costs, as opposed to 50 percent  
3 that just disappears, 50 percent profit by the  
4 insurance industry. But this will save the  
5 expense of workers who suffer from unsafe -- who  
6 suffer serious injury because of lack of safety  
7 in the work place, such as asbestosis, such as  
8 severe burns below the neck, such as any variety  
9 of other severe injuries.

10 You know, this makes no sense.  
11 You know, if you lose one finger, you can't sue  
12 but if you lose two -- I can think of some  
13 important fingers, just one of them that could  
14 have curbed someone's ability to function or  
15 communicate if that were the finger that were  
16 lost.

17 SENATOR VELELLA: Would you like  
18 to demonstrate?

19 SENATOR CONNOR: No. I was  
20 thinking of when we vote, when we vote in the  
21 chamber.

22 SENATOR GOLD: Or like food in an  
23 Italian restaurant.

1                   SENATOR CONNOR: I wasn't  
2           thinking in Rockefelleresque terms, I would say  
3           to my colleagues over there. I was thinking of  
4           the way we vote sometimes.

5                   All right. Things like cancer,  
6           chronic disease, I mean 95 percent blindness you  
7           can't sue, but a hundred percent blindness you  
8           can. I mean, you know, injuries that affect  
9           workers for really the rest of their -- their  
10          life and their ability to work, their ability to  
11          enjoy life aren't covered and, you know, we're  
12          back to the basic philosophical question of  
13          Dole.

14                   This compromise is nothing about  
15          principle. This budget was held up and then  
16          resolved with a -- a determination that has  
17          nothing to do with principles. This is a defeat  
18          for sound principles, whether you hold the  
19          principles the Governor espoused, that Dole v.  
20          Dow wasn't appropriate in a system of limited  
21          compensation such as Workers' Compensation or  
22          you held the principles that others, including  
23          myself, believe that you had to discourage the

1 kind of willful negligent hazarding of worker  
2 safety that some employers, regrettably and not  
3 most, but some employers were guilty of. That's  
4 what the Dole cases were about, two conflicting  
5 principles.

6 And what did we end up with? What  
7 was it really about? Three percent of the money  
8 at the risk of workers. Three percent of the  
9 money in worker comp' premiums doesn't compare  
10 in dollar amounts to the amount of money lost by  
11 our localities and school districts by the delay  
12 in this budget.

13 Mr. President, it's time we stand  
14 up for values and principles and we vote  
15 consistently with them and not accept last  
16 minute hashed out in secret deals, whether it's  
17 on the budget, Workers' Comp' or anything else.

18 I would urge a no vote.

19 ACTING PRESIDENT KUHL: Secretary  
20 will read the last section.

21 THE SECRETARY: Section 90. This  
22 act shall take effect immediately.

23 SENATOR CONNOR: Party vote in

1 the negative with exceptions.

2 ACTING PRESIDENT KUHL: Call the  
3 roll.

4 (The Secretary called the roll. )

5 ACTING PRESIDENT KUHL: Record  
6 the Democrat party line vote in the negative  
7 with exceptions.

8 SENATOR HOFFMANN: Explain my  
9 vote, Mr. President.

10 ACTING PRESIDENT KUHL: Senator  
11 Hoffmann, to explain her vote.

12 SENATOR HOFFMANN: Thank you, Mr.  
13 President.

14 I have listened over the last  
15 number of years to the employers in my district  
16 complaining bitterly about the cost of doing  
17 business in New York State and, sadly, I've  
18 watched several of them pick up stakes and leave  
19 the state. As much as I would like to follow  
20 the position espoused by the AFL-CIO and protect  
21 the unique privilege that they enjoy in New York  
22 State through Dole vs. Dow not enjoyed in any  
23 other state, I recognize that for employers the

1 cost of Workers' Compensation as much as any  
2 other single cost frequently is the significant  
3 attributable factor to the loss of jobs. If we  
4 can't have the jobs, compensation is really a  
5 no-issue at all to us, so I am going to cast my  
6 vote in support of this measure.

7 I believe that it could have been  
8 handled in a very different manner. I, like  
9 Senator Connor, am offended that it came up in  
10 the middle of the night by people who have met  
11 in secret. Although there were, I think, valiant  
12 attempts by a task force in this house and a  
13 special committee or subcommittee in the other  
14 house to hold hearings and to engender some  
15 discussion, the final message once again was  
16 crafted by a couple of people who did not even  
17 elicit the input of the rest of us, as Senator  
18 Paterson had said earlier today on another  
19 matter.

20 So it is with a great deal of  
21 trust and some mixed feelings that I vote in  
22 favor of this and earnestly hope that it will  
23 fulfill the expectations so loudly boasted by

1 those who are claiming responsibility for it.

2 ACTING PRESIDENT KUHL: Senator  
3 Hoffmann will be recorded in the affirmative for  
4 it.

5 Senator Lack to explain his  
6 vote.

7 SENATOR LACK: Thank you, Mr.  
8 President.

9 To my knowledge, Senator Connor,  
10 I think the deal was struck at 4:00 o'clock in  
11 the afternoon, not in the middle of the night,  
12 but be that as it may, that's part of still  
13 probably the least understood decision by the  
14 Court of Appeals in the last 25 years and, if  
15 you listen to the floor debate, if you read the  
16 transcript of today's floor debate, it continues  
17 as the least understood decision.

18 There is nothing that is  
19 happening here today that at all changes who or  
20 how an employee can sue as a result of a  
21 Workers' Comp'-related injury. But be that as  
22 it may, probably the most important thing and  
23 why the Governor should be congratulated is that

1 by removing some of the severe onus with respect  
2 to Dole v. Dow, we can finally in this state for  
3 the first time since 1972 start looking at  
4 Workers' Compensation issues purely as matters  
5 between employees and employers and insurers,  
6 the Workers' Compensation system and everybody  
7 else who is involved in that mix, without having  
8 to worry about an outside stimulus such as Dole  
9 v. Dow.

10 Senator Connor and members of the  
11 Senate Minority, obviously one reason, if not  
12 the main reason there's not a benefit increase  
13 with respect to this package is that the  
14 negotiations with respect to a large portion of  
15 what we're talking about today in Workers' Comp'  
16 had nothing whatsoever to do with labor or  
17 employee representatives. It had to do with  
18 attorneys who were conducting litigation with  
19 respect to that, and they're not interested in  
20 benefit increases.

21 For the record, the Assembly  
22 bill, when first passed, did not have a benefit  
23 increase. The first passage of the benefit

1 increase was the Senate bill. The Assembly then  
2 added it, and I'll just leave, Mr. President,  
3 with one final word.

4 Now that we can finally look at  
5 Workers' Compensation, remember please that 42  
6 states in this country index benefits. It's not  
7 a matter of concern for the state Legislature.  
8 We, of course, are one of the eight states that  
9 do not index benefits. Senator Bruno in his  
10 comments, the Governor in his comments have  
11 indicated that they're open to further  
12 negotiations with respect to reforming the  
13 Workers' Compensation system.

14 Now that we have moved Dole  
15 aside, for the most part we can finally look at  
16 issues between employers, employees and those  
17 matters that are related thereto. Obviously the  
18 largest outstanding issue from the business  
19 point of view is the AMA guidelines. It  
20 represents 12 percent of existing premium.  
21 Wouldn't it be nice to start negotiating and  
22 discussing that with respect to indexing  
23 benefits so that we could be out of that

1 business as well and then this Legislature can  
2 finally confine itself to looking at problems of  
3 how government can always improve the Workers'  
4 Compensation system, not at collateral  
5 unnecessary issues.

6 I vote aye, Mr. President.

7 SENATOR GOLD: Mr. President.

8 ACTING PRESIDENT KUHL: Senator  
9 Saland, to explain his vote.

10 SENATOR SALAND: Thank you, Mr.  
11 President.

12 As I've indicated over the past  
13 several years, as I've spoken to one or more  
14 groups within my district, there is nothing that  
15 has acted as more of a lightning rod on the  
16 issue than has the issue of Workmen's Comp'.

17 On one occasion I've had members  
18 of the business community say, I'm certainly not  
19 pleased about the way New York taxes; I'm not  
20 happy about the way New York State relates, but  
21 if you could somehow give me one reform, if you  
22 could somehow give me one thing that would  
23 improve the position of me as an employer in New

1       York State, it would be Workers' Comp', Workers'  
2       Comp', and that's small businesses and large  
3       businesses, and one of the things I've heard  
4       here today as I've sat and listened to the  
5       debate, and I've heard the entire debate, leave  
6       me with the sense that what we're about to do is  
7       to set off alarm bells of great, great horrific  
8       things to occur in the state of New York.

9                 But let's look at this somewhat  
10       objectively and somewhat realistically. There  
11       are 50 states in the Union; 49 of them do not  
12       have Dole v. Dow. I'm not aware of these horror  
13       stories in 49 other states with people lying in  
14       the aisles and the places in which they work, of  
15       people who have somehow or other been shackled  
16       to machinery that is causing them atrocious and  
17       horrifying injuries. I'm not aware of people who  
18       are being preyed upon because they don't have  
19       Dole v. Dow, this third-party suit mechanism, in  
20       their state. It's truly nothing but a canard.  
21       We are the only one, by way of court decision,  
22       that has this and again, let's look at the  
23       reality of it.

1                   The reality of it is that this  
2           house proposed benefit increases that govern the  
3           proposed benefit increases. The Assembly in  
4           lock step with the trial bar -- had nothing to  
5           do with unions; this was the trial bar -- this  
6           was a lift for the trial bar, provided  
7           gratuitously -- oh, no, not gratuitously. I  
8           should not say -- it would definitely be a mis  
9           nomer, on the part of the Assembly Majority.  
10          They wouldn't break away. Who was going to  
11          pay? Who was going to pay for the increase? Who  
12          was going to pay for the increase once they  
13          refused to go with Dole v. Dow, once they refuse  
14          to do what 38 other states do in this Union, and  
15          again without horrific work experiences. 38  
16          other states have the AMA standards.

17                   So what I've heard certainly  
18          says, well, depending upon what constituency  
19          you're endeavoring to market in that, the  
20          reality is that this reform -- and it really  
21          should have been more extensive -- is what  
22          business wants, it's what will help to create  
23          additional dollars in the business community,

1 not to fatten the pockets of business, to  
2 stimulate business, to make business more  
3 competitive, to reduce New York's rates and to  
4 try and make New York what we've claimed that we  
5 are and really haven't been for quite some time,  
6 the Empire State, a place where businesses of  
7 all kinds, all types, can thrive, people will  
8 work and there will be certainly a far more  
9 favorable predisposition to do business in New  
10 York, to stay or to move in.

11 Thank you, Mr. President. I vote  
12 in the affirmative.

13 ACTING PRESIDENT KUHL: Senator  
14 Saland in the affirmative.

15 Senator Gold, to explain his  
16 vote.

17 SENATOR GOLD: Thank you very  
18 much. Mr. President.

19 Senator Saland said one thing  
20 which I absolutely do agree with and that is  
21 when he used the expression "alarm bell", and I  
22 want to congratulate Senator Bruno, and I want  
23 to congratulate the Governor for understanding

1 the media and understanding the public.

2 Dole v. Dow is the alarm bell out  
3 there and everybody is zeroing in on it, except  
4 it really is minimal in terms of what this bill  
5 is about and what you're all trying to do.

6 There was a proposal that was  
7 drafted by Senator Connor and by the Minority  
8 which would have been helpful in this area, and  
9 I believe the figure is something like 2.2  
10 percent as to what the premium cut would have  
11 been. Under this proposal it's 3 percent, so  
12 you go convince the public if they want to  
13 listen that the budget had to be late for  
14 eight-tenths of one percent of this premium.

15 The truth of the matter is, the  
16 truth of the matter is that the big money that  
17 could have been saved isn't being saved because  
18 you won't go after the companies. That's all,  
19 but you win the rhetoric war. Why do you win  
20 the rhetoric war? Because by throwing out that  
21 alarm bell of Dole v. Dow, Dole v. Dow, that's  
22 what you get everybody to focus in on. You get  
23 everybody hot and bothered over it, and you let

1 remain the insurance company profits, what have  
2 you. And why, in fact. Will you win this in  
3 the press? Because the bottom line is that the  
4 newspapers have an interest in this particular  
5 piece of legislation, and they can benefit by  
6 it, so they'll write their editorial. They'll  
7 write their editorials and they will tell the  
8 public that this is good, but they don't put the  
9 little hook in there that they would expect us  
10 to do when there's a conflict of interest but  
11 they have a conflict of interest so that is the  
12 bottom line.

13                   You have managed very  
14 successfully to frame this argument around Dole  
15 v. Dow, Dole v. Dow, when the fact is that it is  
16 not the major cause of premium escalation in  
17 this field, and it is not the area where you  
18 could save benefits the most, and what is worse  
19 is while you focus everybody on Dole v. Dow, you  
20 cut out the part of the bill that would have  
21 given workers something by increased benefits.

22                   I vote no.

23                   ACTING PRESIDENT KUHL: Senator

1 Gold will be recorded in the negative. Senator  
2 Marcellino.

3 SENATOR MARCELLINO: Yes, Mr.  
4 President, to explain my vote.

5 I rise to congratulate the  
6 Governor, congratulate Senator Bruno for  
7 negotiating what seems to be a great compromise  
8 on the issue of Workmen's Compensation providing  
9 a system which would allow this state to become  
10 competitive, to come back to being competitive  
11 with other states, to have a possibility of, and  
12 a chance to revise a system which by all  
13 estimates is a failed system.

14 Now, we've heard certain comments  
15 here that this debate was held in the middle of  
16 the night and that somehow these agreements were  
17 done in secret, that they were done in the  
18 middle of the night, that no one knew about it.  
19 It was my understanding that Senator Spano and  
20 the Labor Committee went all over this state and  
21 held approximately 13 hearings on just this  
22 issue, Workmen's Compensation, and how to revise  
23 it. Were they all held in the middle of the

1 night? Were they all held in closets where no  
2 one knew about it? I don't understand that.

3 This chamber provided increased  
4 benefits to workers. It was the other chamber  
5 that took them out, not this chamber, the other  
6 chamber, in the negotiations. Dole v. Dow  
7 doesn't protect workers; it protects lawyers.  
8 We all know that. To say that it inhibits a  
9 worker's right to sue is wrong, and every lawyer  
10 in the room knows it.

11 It doesn't infringe upon their  
12 right to sue at all. This bill doesn't do  
13 anything like that either. Once again, as in the  
14 bond act before, you talk the talk but you don't  
15 walk the walk. It's important. This  
16 legislation is good legislation and sound  
17 legislation.

18 To my knowledge, it's now 2:30 in  
19 the afternoon. If it wasn't cloudy outside, I'm  
20 sure the sun would be out and maybe some of my  
21 colleagues would see a little clearer.

22 I vote aye.

23 ACTING PRESIDENT KUHL: Senator

1 Marcellino will be recorded in the affirmative.

2 Senator Stachowski, to explain  
3 his vote.

4 SENATOR STACHOWSKI: Explain my  
5 vote. I -- I'm just fascinated, everybody who  
6 is for the worker, the Assembly is against the  
7 worker, they're for the trial lawyers. Two  
8 thirds of the three people involved in the  
9 negotiations were for increased benefits, but we  
10 got a bill with no increased benefits.

11 Thank God, Senator Marcellino,  
12 that we're not doing the bill that was discussed  
13 throughout the state of New York at all those  
14 wonderful hearings at which, we might add that  
15 in case you forgot and I mentioned it before,  
16 that wonderful employer, that lady that took the  
17 covers off the machine where the woman lost her  
18 two hands, came in and spoke as strongly as you  
19 just did in favor of gettin' rid of Dole v. Dow  
20 and I don't have a problem with that.

21 The fact is that I'm not a big  
22 trial lawyer supporter. That's not why I'm  
23 standing, but the fact is that that lady lost

1 her hands. This employer was going to get that  
2 machine out of there, and nobody would have  
3 known about that lady if this woman that owned  
4 that company that took the guards off didn't  
5 testify at Senator Spano's hearing, and  
6 incidentally, as I said before, the effect of it  
7 was when they put on what would be like a  
8 temporary thumb on the end of her arm, the  
9 insurance company said she could go back to work  
10 at light duty. Great system, no loss there.  
11 This woman is wonderful. If she didn't  
12 eventually happen to win the lawsuit, she would  
13 have been a great -- I don't know what she'd do  
14 with her arm, with a thing on it, but she'd be  
15 doing light duty some place but in the insurance  
16 company, I'm sure not for that woman that took  
17 the guards off the machine and said we should  
18 eliminate this.

19 I've worked with Senator Lack and  
20 Senator Spano trying to find something to  
21 replace Dole v. Dow because I'm not interested  
22 in lawsuits. I'm just interested in protecting  
23 workers. If I'm wrong then, if this proves to be

1       it, then I'm wrong in voting no today. I don't  
2       know that this is a system that's going to work  
3       mainly because of the system that says, if you  
4       burn your cheek, you can have a lawsuit but if  
5       you burn a lot more important parts of your body  
6       you get nothing. I find that truly amazing,  
7       truly amazing.

8                       Well, no, not exactly, important  
9       parts. Anyway, it's just fascinating to me that  
10      everybody was so supportive of the workers in  
11      all the cheerleading parts of this battle. We  
12      put the bills out, say we're for increased  
13      benefits. We had the hearings that say we want  
14      increased benefits, all through the negotiations  
15      which, incidentally, weren't exactly open even  
16      though whatever time of the day they took place  
17      and I know you didn't know any more what was  
18      goin' on in the Workmen's Comp' bill in those  
19      negotiations than I did. You can say you did  
20      now, but that would be -- it would really be, as  
21      Senator Saland said, a canard and I happened to  
22      read the meaning of "canard" watching "The  
23      Natural" a few years ago because it was filmed

1 in Buffalo, and it was one of the great lines in  
2 the movie.

3                   However, I hope that we're wrong,  
4 I hope you're right that this bill is going to  
5 change the system and the workers aren't going  
6 to be hurt by it, but I find it difficult when  
7 we make a big change like is in this bill and  
8 it's in the whole system, which would do nothing  
9 for the working man.

10                   I have nothing against the  
11 employers. I just happen to think that the  
12 premiums they pay are unbelievable. I can't  
13 understand how they grew to what they grew for  
14 the little benefit increase that the people got  
15 and if this does it, I'm wrong, and I  
16 congratulate you and salute you. However, I  
17 can't vote for a bill that does nothing for the  
18 working guy and only helps out to my initial  
19 glance the employers that deserve it and the  
20 insurance companies that nobody seems to want to  
21 look at.

22                   I vote no.

23                   ACTING PRESIDENT KUHL: Senator

1 Stachowski will be recorded in the negative.

2 Senator DiCarlo to explain his  
3 vote.

4 SENATOR DiCARLO: Thank you, Mr.  
5 President. I will be brief.

6 Just let me preface my remarks  
7 with my father is an attorney, my oldest brother  
8 is an attorney, my next oldest brother is an  
9 attorney. I am not, but let me say something.  
10 This has not -- this has not turned out to be a  
11 labor/worker issue. This has become a battle  
12 between lawyers and their profits. It's unfor-  
13 tunate that that's what's held this up, and the  
14 reason that I know that, or I believe I know  
15 that to be true, is a personal experience that  
16 I've had, and that was some of letters that have  
17 been circulated and sent to a lot of trial  
18 lawyers in this state attacking me and, in this  
19 letter, they talk about Workers' Comp' reform  
20 and they say please contribute money to my  
21 opponent because Senator DiCarlo is a number one  
22 opponent to the trial lawyers in the state of  
23 New York, and they do not mention the poor

1 injured worker. They did not mention the fact  
2 that workers should be compensated in a better  
3 way, but they talk about their own profits, so  
4 send us money to defeat Senator DiCarlo, an  
5 enemy to the trial lawyers in this state.

6 This is nonsense. The attacks  
7 talking about us doing bad things to injured  
8 workers are nonsense. The fact of the matter is  
9 Dole v. Dow is nothing but a trial lawyer issue  
10 -- money in their pockets, and that's why this  
11 has been held up and that's why the workers  
12 didn't get increases. That's why the workers  
13 didn't get what they deserved, and shame on the  
14 other house for making that happen.

15 I vote yes.

16 SENATOR LEICHTER: Mr.  
17 President.

18 ACTING PRESIDENT KUHL: Senator  
19 DiCarlo will be recorded in the affirmative.

20 Senator Leichter, to explain his  
21 vote.

22 SENATOR LEICHTER: Yeah, Mr.  
23 President.

1                   After hearing still a commercial  
2           that it's all trial lawyers and how much the  
3           Majority loves the working people, let's get  
4           back to reality. If you want to do something  
5           for the working people, there's nothing to  
6           prevent you from having supported the amendment  
7           that I introduced saying we will not support a  
8           bill that doesn't have increased benefits.

9                   It's not a matter of the trial  
10          lawyers. It's a matter of whether you're  
11          beholden to the insurance companies or the  
12          employers or whether you want to help the  
13          workers. It's as simple as that. Nobody is  
14          binding your hands. Suddenly this Majority is so  
15          powerless. Oh, if only we had the power, if  
16          only we could do this.

17                  Well, you had that power and you  
18          can do it, and I think we ought to get away from  
19          this fantasy. Earlier I heard the Majority  
20          Leader go on how this economic program of  
21          Governor Pataki and the tax cuts, the Workers'  
22          Compensation, is generating all this wonderful  
23          economic activity. Nonsense! Baloney!

1 Balderdash!

2 The fact is that the economy in  
3 New York State was creating more jobs in the  
4 last year of Governor Cuomo. You've given tax  
5 cuts that basically benefit the rich and you're  
6 now passing a Workers' Compensation bill that  
7 benefits employers, that benefits mainly  
8 insurance companies, and that sticks it to the  
9 working people of this state.

10 Mr. President, I vote in the  
11 negative.

12 ACTING PRESIDENT KUHL: Senator  
13 Leichter will be recorded in the negative.

14 Senator Bruno to close and  
15 explaining his vote.

16 SENATOR BRUNO: Mr. President, to  
17 explain my vote.

18 We've been listening to a lot of  
19 discussion, a lot of debate, a lot of  
20 well-intentioned statements; but I want to  
21 conclude by saying that yes, the Governor did  
22 make this a priority for all the reasons that  
23 we've talked about that are positive. The

1 bottom line was to improve the climate for  
2 workers, worker safety and workers' benefits and  
3 Workers' Compensation, and to create jobs.  
4 That's the bottom line.

5 Mr. President, I want to remind  
6 everyone in this chamber that we passed a  
7 Workers' Compensation reform bill previous to  
8 this one with the Governor's support. The  
9 Governor's program bill, that had injured worker  
10 increases in it from 400 to \$560 dollars over  
11 three years. That was negotiated out in the  
12 other house and in the other house they passed a  
13 Workers' Comp' reform package that had no  
14 benefit increases in it for workers, none other  
15 than those that might be realized through any  
16 savings that were not apparently there.

17 So let's tell it like it is. We  
18 in this house passed a bill that increased  
19 benefits for workers substantially. The bill  
20 that passed the other house had no increases in  
21 it. This was a compromise, but it's not over.  
22 Injured workers will benefit substantially from  
23 what has taken place here today, so I'm happy to

1 vote aye.

2 ACTING PRESIDENT KUHL: Senator  
3 Bruno, in the affirmative.

4 Announce the negatives and the  
5 results.

6 THE SECRETARY: Ayes 39, nays 19,  
7 party vote with exceptions.

8 ACTING PRESIDENT KUHL: The bill  
9 is passed.

10 Senator Bruno.

11 SENATOR BRUNO: Can we at this  
12 time ask for an immediate meeting of the Rules  
13 Committee in Room 332.

14 ACTING PRESIDENT KUHL: There  
15 will be an immediate meeting of the Rules  
16 Committee, immediate meeting of the Rules  
17 Committee in the Majority Conference Room, Room  
18 332. Immediate meeting of the Rules Committee  
19 in the Majority Conference Room, Room 332.

20 Senator Dollinger, why do you  
21 rise?

22 SENATOR DOLLINGER: Mr.  
23 President, earlier there was a bill that was

1 approved by a party vote with exceptions. I  
2 didn't quite understand that. It was on  
3 Calendar Number 1779. I'd ask that my vote be  
4 changed from the negative to the affirmative on  
5 that and ask unanimous consent to have my vote  
6 changed on that calendar number.

7 ACTING PRESIDENT KUHL: Senator  
8 Paterson, do you have any objection to Senator  
9 Dollinger changing his vote from negative to  
10 affirmative on the Calendar Number 1779?

11 SENATOR PATERSON: Not at all,  
12 Senator.

13 ACTING PRESIDENT KUHL: Senator  
14 Bruno, did you have any objection?

15 SENATOR DOLLINGER: Thank you,  
16 Mr. President. I wasn't aware of that.

17 ACTING PRESIDENT KUHL: Senator  
18 Bruno.

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

22 ACTING PRESIDENT KUHL: There  
23 will be an immediate meeting of the Rules

1 Committee in Room 332. An immediate meeting of  
2 the Rules Committee in Room 332.

3 Senator Paterson, do you have any  
4 objection to Senator Dollinger changing his vote  
5 from the negative to the affirmative on Calendar  
6 Number 1779?

7 Hearing no other objections,  
8 Senator Dollinger.

9 SENATOR DOLLINGER: Thank you,  
10 Mr. President. I believe just for clarity, I  
11 believe that was a repeat of a prior vote that I  
12 had voted in the negative on, and I wasn't aware  
13 of that.

14 ACTING PRESIDENT KUHL: You're  
15 absolutely correct, Senator Dollinger. The  
16 prior vote was a slow roll call. Okay.

17 SENATOR DOLLINGER: Correct.

18 ACTING PRESIDENT KUHL: And then  
19 the Majority Leader -- I believe there was a  
20 slow roll call. The Majority Leader then -- the  
21 Minority Leader and the Majority Leader agreed  
22 to the same vote on the subsequent bill on which  
23 you were recorded in the negative. You will be

1 recorded in the affirmative with the consent of  
2 the Minority Leader and the Majority Leader.

3 SENATOR DOLLINGER: Thank you,  
4 Mr. President.

5 ACTING PRESIDENT KUHL: Senator  
6 Bruno.

7 SENATOR BRUNO: Mr. President,  
8 can we at this time take up Calendar Number  
9 1785.

10 ACTING PRESIDENT KUHL: Secretary  
11 will read the title to Calendar Number 1785.  
12 It's on Supplemental Calendar No. 1.

13 THE SECRETARY: Calendar Number  
14 1785, substituted earlier today, by the Assembly  
15 Committee on Rules, Assembly Print 11338, an act  
16 to amend a chapter of the laws of 1996.

17 SENATOR HOFFMANN: Explanation.

18 ACTING PRESIDENT KUHL: The  
19 message was previously adopted.

20 Senator Bruno, an explanation of  
21 Calendar Number 1785 has been requested by  
22 Senator Hoffmann.

23 SENATOR BRUNO: Mr. President,

1        what this legislation does, it frees up about  
2        \$98 million out of the reserves as a result of  
3        the legislation that we just passed. Because we  
4        are limiting the exposure and limiting the  
5        consequent expense, we are freeing up by  
6        agreement in both houses and with the Governor,  
7        actuarially, \$98 million that will be used on  
8        behalf of all of the people of this state.

9                    SENATOR LEICHTER: Mr. President.

10                    ACTING PRESIDENT KUHL: Senator  
11        Hoffmann had the floor, Senator Leichter.

12                    Senator Hoffmann.

13                    SENATOR HOFFMANN: Thank you, Mr.  
14        President. I have some great misgivings about  
15        this measure and really don't feel that it is  
16        appropriate to support this because this does  
17        something that we have been criticized so many  
18        times before for doing.

19                    It permits some other entity or  
20        organization in this state to act as our revenue  
21        agent. As a means of raising \$98 million for  
22        the General Fund, we would be putting in effect  
23        a special surcharge on the Workers' Comp'

1 insurance carriers.

2 Mr. President, I will suspend  
3 debate while we have a distinguished visitor on  
4 the floor, if that's the will of the chair,  
5 while we take time to welcome the Governor.

6 ACTING PRESIDENT KUHL: Well, we  
7 allow former colleagues as we have in the past,  
8 Senator Hoffmann, to have the opportunity of the  
9 floor, but we don't usually suspend debate, so  
10 the floor is still yours, Senator Hoffmann.

11 SENATOR HOFFMANN: Happy to  
12 welcome our distinguished former colleague back  
13 to the Senate chamber.

14 Much as we would all like to have  
15 \$98 million mysteriously appear for the General  
16 Fund to do many greatly needed services around  
17 this state, I think there is a significant  
18 question. Based upon the debate that we have  
19 already had and some of the sketchy information  
20 available from actuaries or anybody else who is  
21 involved in this, this is purely speculative.  
22 We really can't be sure that the insurance  
23 carriers will realize a savings in that amount

1           -- can we? -- nor is it appropriate for us to  
2           create a new form of taxation on them simply as  
3           a budget balancing gimmick. But that is all too  
4           often the case especially in the closing days of  
5           session.

6                           I did not want to let this  
7           measure go by unnoted because it sticks out like  
8           a sore thumb. While we may have done something  
9           noble and, in fact, a real compromise in  
10          creating a workers' comp solution, while the  
11          NYPHRM measure is the result of considerable  
12          work and is probably one that we will receive  
13          great recognition for, this unfortunately sets  
14          the clock back and harkens to an era where this  
15          Legislature has been criticized roundly for  
16          fiscal gimmickry, back-door borrowing and  
17          forcing businesses in this state to act as  
18          revenue agents for the State of New York.

19                          It is the type of nuisance  
20          taxation that drives employers out of the State  
21          of New York; therefore, I will be registering a  
22          no vote on 1785, Mr. President.

23                          Thank you.

1                   ACTING PRESIDENT KUHL: Any other  
2 Senators wishing to speak on Calendar Number  
3 1785?

4                   Senator Leichter.

5                   SENATOR LEICHTER: Mr. President,  
6 this is -- this is really pure Albany chutzpah.  
7 Here we just said we've got to reduce the burden  
8 on the employers and we need -- we're not in a  
9 position to help the workers. Then we say look  
10 at the wonderful thing we've done in freeing up  
11 money, so we raid that \$98 million that could  
12 have gone to give more benefits to workers, \$98  
13 million, which I understand is just about equal  
14 with what the projected savings are in making  
15 the changes in Dole versus Dow.

16                   I realize it's a little hard to  
17 discuss this. We have our distinguished former  
18 colleague here, the Governor, and all I can say  
19 when he was here as a state Senator, he used to  
20 vote against these gimmicks. He spoke against  
21 them. He thought they were wrong. I guess  
22 things change when you get to the second floor,  
23 but if there's ever an example of playing

1 sleight of hand, this is really it. This is  
2 worse than the three-card monte people that you  
3 find on Fifth Avenue.

4 We have just done, by the  
5 previous bill, all these wonderful things, so  
6 Senator Bruno tells us, and then with the next  
7 bill we grab this money, one shot, put it into  
8 general revenue, and I hear Senator Bruno say  
9 what a wonderful thing we're doing for the  
10 taxpayers. We have just stolen this money.  
11 It's terrible.

12 SENATOR DOLLINGER: Can we have  
13 some order, Mr. President?

14 ACTING PRESIDENT KUHL: Senator  
15 Dollinger, do you want to speak on this bill?

16 SENATOR DOLLINGER: Can we have  
17 some order?

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

20 Hearing none, the Secretary will  
21 read the last section.

22 THE SECRETARY: Section 3. This  
23 act shall take effect on the same date as a

1 chapter of the laws of 1996.

2 ACTING PRESIDENT KUHL: Call the  
3 roll.

4 (The Secretary called the roll.)

5 SENATOR PATERSON: Party vote in  
6 the negative.

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

9 ACTING PRESIDENT KUHL: Senator  
10 Paterson, did you wish to record -- Senator  
11 Paterson, did you wish to record a party line  
12 vote in the negative?

13 SENATOR PATERSON: Yes, Mr.  
14 President, a party line vote in the negative.

15 SENATOR DOLLINGER: To explain my  
16 vote.

17 ACTING PRESIDENT KUHL: Secretary  
18 will record the Democrat party line vote in the  
19 negative.

20 Chair recognizes Senator  
21 Dollinger to explain his vote.

22 SENATOR DOLLINGER: Mr.  
23 President, I welcome our distinguished guest, as

1 well. I think he and I were the only guys, with  
2 Senator Jones, who voted against a whole series  
3 of budgets that were laden with one-shots just  
4 like this one.

5 I would extend him the invitation  
6 since he's in the chamber to come back one more  
7 time, take that seat across from me and boldly  
8 do what he did when he was here: Vote against  
9 all these one-shots just like this raiding these  
10 funds created by other people's money to use for  
11 the state of New York.

12 I'd invite the Governor -- he's  
13 got his chance -- veto this bill. Do what you  
14 would have done sitting in that chair in this  
15 chamber. I extend him that option. I extend  
16 him that choice now. I know he would be joining  
17 with the Minority on this vote in this case.

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

20 Senator Paterson, why do you  
21 rise?

22 SENATOR PATERSON: Mr. President,  
23 I am also recorded in the negative. I don't

1 even know who I'm talking to now, Mr. President,  
2 but as long as you are hearing me I want to be  
3 recorded in the negative. This \$98 million  
4 return to the General Fund which expires in  
5 March of 1997 is really one last drink before we  
6 leave this process, and so how we could offer a  
7 piece of legislation and then in a sense  
8 diminish it by this amendment is just beyond me,  
9 because we're stating policy on one hand and  
10 then taking the teeth out of it in another.

11 There is a total of \$120 million  
12 that would be returned from the Dole v. Dow  
13 changes, which I opposed in the first place.  
14 Ninety-eight million of it will go to the  
15 General Fund, not proportionally but based on  
16 the reserves the employers get from Dole v.  
17 Dow. So the employers aren't even going to  
18 benefit in this first year. It's one last raid.

19 It's one last perpetuation of  
20 something that we got up here today and said  
21 that we opposed, and I'm opposed to it.

22 I vote no, Mr. President.

23 ACTING PRESIDENT KUHL: Announce

1 the results.

2 THE SECRETARY: Ayes 26, nays 22,  
3 party vote.

4 ACTING PRESIDENT KUHL: The bill  
5 is passed.

6 Senator Present.

7 SENATOR PRESENT: Mr. President,  
8 may we return to reports of standing committees.  
9 I believe you have one from the Finance  
10 Committee at the desk.

11 ACTING PRESIDENT KUHL: We do,  
12 Senator Present.

13 We will return to the order of  
14 standing committees, and ask that the Secretary  
15 read the report of the Senate Finance Committee.

16 THE SECRETARY: Senator Stafford,  
17 from the Committee on Finance, reports the  
18 following bills:

19 Senate Print 6832B, by Senator  
20 Rath, an act to amend the Tax Law;

21 7953, by the Senate Committee on  
22 Rules, an act to amend the Environmental  
23 Conservation Law;

1                   Assembly Print 11335, by the  
2           Assembly Committee on Rules, an act to amend the  
3           Education Law;

4                   Assembly 11336A, by the Assembly  
5           Committee on Rules, an act to amend the  
6           Transportation Law; and

7                   Assembly Print 11340, by the  
8           Assembly Committee on Rules, an act to amend the  
9           Public Authorities Law.

10                   All bills ordered directly for  
11           third reading.

12                   ACTING PRESIDENT KUHL:   Senator  
13           Present.

14                   (There was no response.)

15                   Without objection, the report of  
16           the Senate Finance Committee bills are reported  
17           directly to third reading.

18                   Senator Present.

19                   SENATOR PRESENT:   Mr. President,  
20           can we take up Supplemental Calendar No. 2  
21           noncontroversial.

22                   ACTING PRESIDENT KUHL:   Secretary  
23           will read the noncontroversial reading of

1 Supplemental Calendar No. 2, which is on all of  
2 the members' desks as are all of the bills that  
3 are included on the calendar.

4 Secretary will read.

5 THE SECRETARY: Calendar Number  
6 1789, by Senator Rath, Senate Print 6832B, an  
7 act to amend the Tax Law.

8 ACTING PRESIDENT KUHL: Senator  
9 Present.

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

12 ACTING PRESIDENT KUHL: There is.

13 SENATOR PRESENT: I move we  
14 accept it.

15 ACTING PRESIDENT KUHL: Motion is  
16 to accept the message of necessity at the desk  
17 on Calendar Number 1789. All those in favor,  
18 signify by saying aye.

19 (Response of "Aye.")

20 Opposed, nay.

21 (There was no response.)

22 Message is accepted.

23 The Secretary will read the last

1 section.

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

4 ACTING PRESIDENT KUHL: Call the  
5 roll.

6 (The Secretary called the roll.)  
7 Announce the results when  
8 tabulated.

9 THE SECRETARY: Ayes 57, nays 1,  
10 Senator Leichter recorded in the negative.

11 ACTING PRESIDENT KUHL: The bill  
12 is passed.

13 THE SECRETARY: Senator Bruno  
14 moves to discharge from the Committee on Finance  
15 Assembly Bill Number 11337 and substitute it for  
16 the identical Third Reading Calendar 1790.

17 ACTING PRESIDENT KUHL:  
18 Substitution is ordered.

19 Secretary will read the title.

20 THE SECRETARY: Calendar Number  
21 1790, by the Assembly Committee on Rules,  
22 Assembly Print 11337, an act to amend the  
23 Environmental Conservation Law.

1                   ACTING PRESIDENT KUHL:  Senator  
2           Present.

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

5                   ACTING PRESIDENT KUHL:  There is.

6                   SENATOR PRESENT:  I move we  
7           accept the message.

8                   ACTING PRESIDENT KUHL:  Motion is  
9           to accept the message of necessity at the desk  
10          on Calendar Number 1790.  All those in favor,  
11          signify by saying aye.

12                               (Response of "Aye.")

13                               Opposed, nay.

14                               (There was no response.)

15                               The message is accepted.

16                               The Secretary will read the last  
17          section.

18                   THE SECRETARY:  Section 2.  This  
19          act shall take effect on the same date as a  
20          chapter of the laws of 1996.

21                   ACTING PRESIDENT KUHL:  Call the  
22          roll.

23                               (The Secretary called the roll.)

1                   Announce the results when  
2           tabulated.

3                   THE SECRETARY:   Ayes 57, nays 1,  
4           Senator Leichter recorded in the negative.

5                   ACTING PRESIDENT KUHL:   Bill is  
6           passed.

7                   Secretary will continue to read.

8                   THE SECRETARY:   Calendar Number  
9           1791, by the Assembly Committee on Rules,  
10          Assembly Print 11335, an act to amend the  
11          Education Law.

12                   ACTING PRESIDENT KUHL:   Senator  
13          Present.

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

16                   ACTING PRESIDENT KUHL:   There is.

17                   SENATOR PRESENT:   I move that we  
18          accept the message.

19                   ACTING PRESIDENT KUHL:   The  
20          motion is to accept the message of necessity at  
21          the desk on Calendar Number 1791.  All those in  
22          favor, signify by saying aye.

23                                   (Response of "Aye.")

1                   Opposed, nay.  
2                   (There was no response.)  
3                   Message is accepted.  
4                   Secretary will read the last  
5 section.  
6                   THE SECRETARY: Section 2. This  
7 act shall take effect immediately.  
8                   SENATOR PATERSON: Lay it aside.  
9                   ACTING PRESIDENT KUHL: Lay the  
10 bill aside.  
11                   Secretary will continue to read.  
12                   THE SECRETARY: Calendar Number  
13 1792, by the Assembly Committee on Rules,  
14 Assembly Print 11336A, an act to amend the  
15 Transportation Law.  
16                   ACTING PRESIDENT KUHL: Senator  
17 Present.  
18                   SENATOR PRESENT: Mr. President,  
19 is there a message of necessity at the desk?  
20                   ACTING PRESIDENT KUHL: There is.  
21                   SENATOR PRESENT: I move that we  
22 accept the message.  
23                   ACTING PRESIDENT KUHL: The

1 motion is to accept the message of necessity on  
2 Calendar Number 1792 which is at the desk. All  
3 those in favor, signify by saying aye.

4 (Response of "Aye.")

5 Opposed, nay.

6 (There was no response.)

7 Message is accepted.

8 The Secretary will read the last  
9 section.

10 THE SECRETARY: Section 17. This  
11 act shall take effect immediately.

12 ACTING PRESIDENT KUHL: Call the  
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 58.

16 ACTING PRESIDENT KUHL: The bill  
17 is passed.

18 Secretary will continue to read.

19 THE SECRETARY: Calendar Number  
20 1793, by the Assembly Committee on Rules,  
21 Assembly Print 11340, an act to amend the Public  
22 Authorities Law.

23 ACTING PRESIDENT KUHL: Senator

1 Present.

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

4 ACTING PRESIDENT KUHL: There is.

5 SENATOR PRESENT: I move that we  
6 accept the message.

7 ACTING PRESIDENT KUHL: The  
8 motion is to accept the message of necessity on  
9 Calendar Number 1793 which is at the desk. All  
10 those in favor, signify by saying aye.

11 (Response of "Aye.")

12 Opposed, nay.

13 (There was no response.)

14 The message is accepted.

15 The Secretary will read the last  
16 section.

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

19 ACTING PRESIDENT KUHL: Call the  
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 58.

23 ACTING PRESIDENT KUHL: The bill

1 is passed.

2 Senator Present.

3 SENATOR PRESENT: Mr. President,  
4 I believe you have a nomination at the desk. I  
5 move that we move the nomination of Michael  
6 Axelrod.

7 ACTING PRESIDENT KUHL: We do  
8 have a report of the Finance Committee at the  
9 desk.

10 We'll ask the Secretary to read.

11 THE SECRETARY: Senator Stafford,  
12 from the Committee on Finance, reports the  
13 following nomination:

14 Member of the Waterfront  
15 Commission of New York Harbor, Michael Axelrod,  
16 of Roslyn.

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

19 SENATOR TULLY: Thank you, Mr.  
20 President.

21 I am pleased to second the  
22 nomination of Michael Axelrod as a member of the  
23 Waterfront Commission of New York Harbor. He is

1 a constituent of mine with fine academic  
2 credentials. He's the former editor of the Law  
3 Review in his law school. He's an active trial  
4 attorney who has been involved both as a  
5 prosecutor and defense attorney, serving as a  
6 member of the Legal Aid Society as well as a  
7 former assistant district attorney.

8 He will be a fine addition to the  
9 Waterfront Commission. I'm pleased to second  
10 his nomination.

11 ACTING PRESIDENT KUHL: The  
12 question is on the nomination. All those in  
13 favor, signify by saying aye.

14 (Response of "Aye.")

15 Opposed, nay.

16 (There was no response.)

17 The nominee is confirmed.

18 SENATOR SKELOS: Mr. President.

19 ACTING PRESIDENT KUHL: Senator  
20 Skelos.

21 SENATOR SKELOS: Would you call  
22 up Calendar Number 1791.

23 ACTING PRESIDENT KUHL: Secretary

1 will read Calendar Number 1791, page 1,  
2 Supplemental Calendar 2.

3 THE SECRETARY: Calendar Number  
4 1791, by the Assembly Committee on Rules,  
5 Assembly Print 11335.

6 ACTING PRESIDENT KUHL: The  
7 message was previously accepted.

8 Senator Connor.

9 SENATOR CONNOR: I'm sorry.

10 ACTING PRESIDENT KUHL: Senator  
11 Mendez, why do you rise?

12 SENATOR MENDEZ: Mr. President,  
13 there's going to be a Democratic Minority  
14 conference in Room 3-1-4, 314, now.

15 ACTING PRESIDENT KUHL: Immediate  
16 meeting of the Minority Conference in the  
17 Minority Conference Room 314. That means now.

18 SENATOR JOHNSON: Mr. President.

19 ACTING PRESIDENT KUHL: Senator  
20 Johnson, why do you rise?

21 SENATOR JOHNSON: Mr. President,  
22 I would like unanimous consent to be recorded in  
23 the negative on Calendar Number 22.

1                   ACTING PRESIDENT KUHL:  Senator  
2           Johnson, we're on a bill on debate right this  
3           moment.  If you'll hold on while we decide what  
4           we're going to do with that bill.

5                   SENATOR JOHNSON:  Okay.  I'll  
6           wait, Mr. President.

7                   ACTING PRESIDENT KUHL:  Senator  
8           Bruno, did you wish us to lay Calendar Number  
9           1791 aside for the time being?

10                   Calendar Number 1791 will be laid  
11           aside temporarily.

12                   Senator Johnson.

13                   SENATOR JOHNSON:  Mr. President,  
14           I would like unanimous consent to be recorded in  
15           the negative on Calendar Number 22 which passed  
16           earlier today.

17                   ACTING PRESIDENT KUHL:  Without  
18           objection, hearing no objection, Senator Johnson  
19           will be recorded in the negative on Calendar  
20           Number 22.

21                   Senator Bruno.

22                   SENATOR BRUNO:  Mr. President,  
23           can we recognize Senator Montgomery?

1                   ACTING PRESIDENT KUHL:  Senator  
2           Montgomery.

3                   SENATOR MONTGOMERY:  Yes, Mr.  
4           President.  I would like unanimous consent to be  
5           recorded in the negative on Calendar 1607.

6                   ACTING PRESIDENT KUHL:  Without  
7           objection, hearing no objection, Senator  
8           Montgomery will be recorded in the negative on  
9           Calendar Number 1607.

10                   Return to the order of motions  
11           and resolutions.  There is a privileged  
12           resolution at the desk, Senator Bruno, we could  
13           take up at this time if you so desire.

14                   SENATOR BRUNO:  Mr. President,  
15           can we read the title of the resolution by  
16           Senator Lachman and move its adoption.

17                   ACTING PRESIDENT KUHL:  I ask the  
18           Secretary to read the title of the privileged  
19           resolution by Senator Lachman.

20                   THE SECRETARY:  By Senator  
21           Lachman, Legislative Resolution commemorating  
22           the 35th wedding anniversary of Dr. Martin and  
23           Alma Genzler.

1                   ACTING PRESIDENT KUHL: Question  
2                   is on the resolution. All those in favor of the  
3                   resolution, signify by saying aye.

4                   (Response of "Aye.")

5                   Opposed nay.

6                   (There was no response.)

7                   The resolution is adopted.

8                   Senator Bruno, we do have a  
9                   report of the Rules Committee if you would like  
10                  to take that up at this time.

11                  SENATOR BRUNO: Can we do that at  
12                  this time, Mr. President.

13                  Thank you.

14                  ACTING PRESIDENT KUHL: Return to  
15                  the order of reports of standing committees.

16                  I'll ask the Secretary to read  
17                  the report of the Rules Committee.

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

21                  Senate Print 2445B, by Senator  
22                  Volker, an act to amend the Civil Practice Law  
23                  and Rules;

1                   7738, by Senator Hoblock, an act  
2 to amend the Civil Service Law;  
3                   2439B, by Senator Stavisky, an  
4 act to amend the Social Services Law;  
5                   6335A, by Senator Seward,  
6 Volunteer Firemen's Benefit Law;  
7                   7864A, by Senator Trunzo, an act  
8 to amend the Chapter of the Laws of 1996;  
9                   7890A, by the Senate Committee on  
10 Rules, an act to amend the Real Property Tax  
11 Law;  
12                   7959, by Senator Libous, an act  
13 to amend the Tax Law;  
14                   7960, by Senator Lack, an act to  
15 amend the Civil Practice Law and Rules;  
16                   7961, by Senator Cook, an act to  
17 provide for the intercept of state aid;  
18                   7962, by the Senate Committee on  
19 Rules, an act to amend the Workers' Compensation  
20 Law and the Insurance Law;  
21                   7963, by the Senate Committee on  
22 Rules, an act to amend the Retirement and Social  
23 Security Law;

1                   Assembly Print 11271, by the  
2           Assembly Committee on Rules, an act to allow  
3           members of New York State employee retirement  
4           system; and

5                   Assembly Print 11308A, by the  
6           Assembly Committee on Rules, an act to amend the  
7           Civil Practice Law and Rules.

8                   All bills ordered directly for  
9           third reading.

10                   ACTING PRESIDENT KUHL: The  
11           motion is to accept the report of the Rules  
12           Committee. All those in favor, signify by  
13           saying aye.

14                   (Response of "Aye.")

15                   Opposed, nay.

16                   (There was no response.)

17                   The Rules report is accepted.

18           All bills are ordered directly to third  
19           reading.

20                   (Whereupon, at 3:15 p.m., the  
21           Senate recessed until 3:35 p.m.)

22                   ACTING PRESIDENT KUHL: Senate  
23           will come to order. Ask the members to find

1 their places.

2 SENATOR BRUNO: Can we at this  
3 time take up Calendar Number -- we were voting  
4 on Calendar 1791. Can we resume discussion on  
5 1791.

6 ACTING PRESIDENT KUHL: We need  
7 to put the bill before the house, Senator Bruno,  
8 first.

9 SENATOR SKELOS: Thank you.

10 ACTING PRESIDENT KUHL: Secretary  
11 will read the title to Calendar 1791.

12 THE SECRETARY: Calendar Number  
13 1791, by the Assembly Committee on Rules,  
14 Assembly Print Number 11335, an act to amend the  
15 Education Law.

16 ACTING PRESIDENT KUHL: Message  
17 was previously accepted.

18 SENATOR CONNOR: Last section.

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

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

23 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 58.

4 ACTING PRESIDENT KUHL: The bill  
5 is passed.

6 Senator Bruno.

7 SENATOR BRUNO: Mr. President,  
8 can we now take up Supplemental Calendar No. 3,  
9 noncontroversial.

10 ACTING PRESIDENT KUHL:  
11 Supplemental Calendar No. 3 is on the members'  
12 desks together with the bills reported earlier  
13 from the Rules Committee which are contained  
14 therein.

15 Secretary will read the  
16 noncontroversial reading of Supplemental  
17 Calendar No. 3, commencing with Calendar Number  
18 434, by Senator Volker.

19 THE SECRETARY: Senator Volker  
20 moves to discharge from the Committee on Rules  
21 Assembly Bill Number 4000B and substitute it for  
22 the identical Third Reading Calendar 434.

23 ACTING PRESIDENT KUHL:

1 Substitution is ordered.

2 Secretary will read the title.

3 THE SECRETARY: Calendar Number  
4 434, by Member of the Assembly Canestrari,  
5 Assembly Print 4000B, an act to amend the Civil  
6 Practice Law and Rules.

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

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

11 ACTING PRESIDENT KUHL: Call the  
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 58.

15 ACTING PRESIDENT KUHL: The bill  
16 is passed.

17 THE SECRETARY: Senator Hoblock  
18 moves to discharge from the Committee on Rules  
19 Assembly Bill Number 11031 and substitute it for  
20 the identical Third Reading Calendar 1544.

21 ACTING PRESIDENT KUHL:

22 Substitution is ordered.

23 Secretary will read the title.

1 THE SECRETARY: Calendar Number  
2 1544, by the Assembly Committee on Rules,  
3 Assembly Print 11031, an act to amend the Civil  
4 Service Law.

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

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

9 ACTING PRESIDENT KUHL: Call the  
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 58.

13 ACTING PRESIDENT KUHL: The bill  
14 is passed.

15 THE SECRETARY: Senator Stavisky  
16 moves to discharge from the Committee on Social  
17 Services Assembly Bill Number 4011B and  
18 substitute it for the identical Third Reading  
19 Calendar 1794.

20 ACTING PRESIDENT KUHL:  
21 Substitution is ordered.

22 SENATOR LIBOUS: Lay it aside.

23 ACTING PRESIDENT KUHL: Lay the

1 bill aside.

2 THE SECRETARY: Senator Seward  
3 moves to discharge from the Committee on Local  
4 Government Assembly Bill Number 9218A and  
5 substitute it for the identical Third Reading  
6 Calendar 1795.

7 ACTING PRESIDENT KUHL:  
8 Substitution is ordered.

9 Secretary will read the title.

10 THE SECRETARY: Calendar Number  
11 1795, by Member of the Assembly Magee, Assembly  
12 Print 9218A, an act to amend the Volunteer  
13 Firefighters' Benefit Law.

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

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

18 ACTING PRESIDENT KUHL: Call the  
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes 58.

22 ACTING PRESIDENT KUHL: The bill  
23 is passed.

1 THE SECRETARY: Senator Trunzo  
2 moves to discharge from the Committee on Rules  
3 Assembly Bill Number 11159 and substitute it for  
4 the identical Third Reading Calendar 1796.

5 ACTING PRESIDENT KUHL:  
6 Substitution is ordered.

7 Secretary will read the title.

8 THE SECRETARY: Calendar Number  
9 1796, by the Assembly Committee on Rules,  
10 Assembly Print 11159, an act to amend a Chapter  
11 of the Laws of 1996.

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

14 THE SECRETARY: Section 5. This  
15 act shall take effect on the same day as a  
16 chapter of the laws of 1996.

17 ACTING PRESIDENT KUHL: Call the  
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 58.

21 ACTING PRESIDENT KUHL: The bill  
22 is passed.

23 THE SECRETARY: Senator Bruno

1 moves to discharge from the Committee on Rules  
2 Assembly Bill Number 11254A and substitute it  
3 for the identical Third Reading Calendar 1797.

4 ACTING PRESIDENT KUHL:  
5 Substitution is ordered. Secretary will read  
6 the title.

7 THE SECRETARY: Calendar Number  
8 1797, by the Assembly Committee on Rules,  
9 Assembly Bill Number 11254A, an act to amend  
10 Real Property Tax Law.

11 SENATOR LEICHTER: Lay it aside.

12 ACTING PRESIDENT KUHL: Lay the  
13 bill aside.

14 THE SECRETARY: Senator Libous  
15 moves to discharge from the Committee on Rules  
16 Assembly Bill Number 11225 and substitute it for  
17 the identical Third Reading Calendar 1798.

18 ACTING PRESIDENT KUHL:  
19 Substitution is ordered.  
20 Secretary will read the title.

21 SENATOR MONTGOMERY: Lay it  
22 aside.

23 ACTING PRESIDENT KUHL: Secretary

1 will read the title.

2 THE SECRETARY: Calendar Number  
3 1798, by the Assembly Committee on Rules,  
4 Assembly Print 11225, an act to amend the Tax  
5 Law.

6 ACTING PRESIDENT KUHL: Lay the  
7 bill aside.

8 THE SECRETARY: Calendar Number  
9 1799, by Senator Lack, Senate Print 7960, an act  
10 to amend the Civil Practice Law and Rules.

11 SENATOR BRUNO: Is there a  
12 message at the desk, Mr. President?

13 ACTING PRESIDENT KUHL: There is.

14 SENATOR BRUNO: Move we accept  
15 the message.

16 ACTING PRESIDENT KUHL: The  
17 motion is to accept the message of necessity at  
18 the desk on Calendar Number 1799. All those in  
19 favor, signify by saying aye.

20 (Response of "Aye.")

21 Opposed nay.

22 (There was no response.)

23 Message is accepted.

1 Secretary will read the last  
2 section.

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

5 ACTING PRESIDENT KUHL: Call the  
6 roll.

7 (The Secretary called the roll.)  
8 Announce the results when  
9 tabulated.

10 THE SECRETARY: Ayes 57, nays 1,  
11 Senator DiCarlo recorded in the negative.

12 ACTING PRESIDENT KUHL: Bill is  
13 passed.

14 THE SECRETARY: Calendar Number  
15 1800, by Senator Cook, Senate Print 7961, an act  
16 to provide for the intercept of state aid.

17 SENATOR WALDON: Lay it aside.

18 SENATOR LEICHTER: Lay it aside.

19 ACTING PRESIDENT KUHL: Senator  
20 Bruno.

21 SENATOR SKELOS: Is there a  
22 message at the desk?

23 ACTING PRESIDENT KUHL: There is.

1                   SENATOR BRUNO:  Move we accept  
2                   the message.

3                   ACTING PRESIDENT KUHL:  The  
4                   motion is to accept the message of necessity on  
5                   Calendar Number 1800.  All those in favor,  
6                   signify by saying aye.

7                   (Response of "Aye.")

8                   Opposed, nay.

9                   (There was no response.)

10                  Message is accepted.

11                  Lay the bill aside.

12                  THE SECRETARY:  Calendar Number  
13                  1801, by the Senate Committee on Rules, Senate  
14                  Print 7962, an act to amend the Workers'  
15                  Compensation Law and the Insurance Law.

16                  ACTING PRESIDENT KUHL:  Senator  
17                  Bruno.

18                  SENATOR BRUNO:  Is there a  
19                  message at the desk?

20                  ACTING PRESIDENT KUHL:  There is.

21                  SENATOR BRUNO:  Move we accept  
22                  the message.

23                  ACTING PRESIDENT KUHL:  The

1 motion is to accept the message of necessity on  
2 Calendar Number 1901. All those in favor,  
3 signify by saying aye.

4 (Response of "Aye.")

5 Opposed, nay.

6 (There was no response.)

7 Message is accepted.

8 Secretary will read the last  
9 section.

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

12 ACTING PRESIDENT KUHL: Call the  
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 58.

16 ACTING PRESIDENT KUHL: The bill  
17 is passed.

18 THE SECRETARY: Calendar Number  
19 1802, by the Senate Committee on Rules, Senate  
20 Print 7963, an act to amend the Retirement and  
21 Social Security Law.

22 ACTING PRESIDENT KUHL: Senator  
23 Bruno.

1                   SENATOR BRUNO: Is there a  
2 message at the desk, Mr. President?

3                   ACTING PRESIDENT KUHL: There is.

4                   SENATOR BRUNO: Move we accept  
5 the message.

6                   ACTING PRESIDENT KUHL: The  
7 motion is to accept the message of necessity on  
8 Calendar Number 1802. All those in favor,  
9 signify by saying aye.

10                   (Response of "Aye.")

11                   Opposed, nay.

12                   (There was no response.)

13                   The message is accepted.

14                   The Secretary will read the last  
15 section.

16                   THE SECRETARY: Section 7. This  
17 act shall take effect immediately.

18                   ACTING PRESIDENT KUHL: Call the  
19 roll.

20                   (The Secretary called the roll.)

21                   THE SECRETARY: Ayes 58.

22                   ACTING PRESIDENT KUHL: The bill  
23 is passed.

1 THE SECRETARY: Calendar Number  
2 1803, by the Assembly Committee on Rules,  
3 Assembly Print 11271, an act to allow members of  
4 the New York State Employees Retirement System.

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

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

9 ACTING PRESIDENT KUHL: Call the  
10 roll.

11 (The Secretary called the roll.)

12 SENATOR LEICHTER: Mr.  
13 President. I'm sorry, Mr. President. Would you  
14 hold -

15 ACTING PRESIDENT KUHL: Senator  
16 Leichter, we're on a roll call. We're in the  
17 middle of a roll call.

18 SENATOR LEICHTER: First of all,  
19 I want that bill laid aside, 1803.

20 ACTING PRESIDENT KUHL: 1803.

21 SENATOR LEICHTER: I ask that it  
22 be laid aside.

23 ACTING PRESIDENT KUHL: Okay.

1                   SENATOR LEICHTER:  And then, Mr.  
2           President, Calendar 1802, would you please  
3           reconsider the vote by which that bill passed.

4                   ACTING PRESIDENT KUHL:  Do you  
5           have some desire with regard to Calendar Number  
6           1802, Senator Leichter?

7                   SENATOR LEICHTER:  Would you lay  
8           that bill aside after we reconsider the vote.  
9           Have we reconsidered the vote?

10                  ACTING PRESIDENT KUHL:  The  
11           motion is to reconsider the vote by which  
12           Calendar Number 1802 passed the house.

13                  The Secretary will call the roll  
14           on reconsideration.

15                  THE SECRETARY:  Calendar Number  
16           1802, by the Senate Committee on Rules, Senate  
17           Print 7963, an act to amend the Retirement and  
18           Social Security law.

19                  SENATOR LEICHTER:  Lay the bill  
20           aside, please.

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

23                  (The Secretary called the roll on

1 reconsideration.)

2 THE SECRETARY: Ayes 58.

3 ACTING PRESIDENT KUHL: Lay the  
4 bill aside.

5 SENATOR LEICHTER: 1803 has been  
6 laid aside, Mr. President?

7 ACTING PRESIDENT KUHL: That's  
8 correct.

9 SENATOR LEICHTER: Thank you.

10 ACTING PRESIDENT KUHL: Secretary  
11 will continue to call the noncontroversial  
12 calendar.

13 THE SECRETARY: Calendar Number  
14 1804, by the Assembly Committee on Rules,  
15 Assembly Print 11308A, an act to amend the Civil  
16 Practice Law and Rules.

17 ACTING PRESIDENT KUHL: Senator  
18 Bruno.

19 SENATOR BRUNO: Is there a  
20 message at the desk, Mr. President?

21 ACTING PRESIDENT KUHL: There is.

22 SENATOR BRUNO: Move we accept  
23 the message.

1                   ACTING PRESIDENT KUHL: The  
2 motion is to accept the message of necessity at  
3 the desk on Calendar Number 1804. All those in  
4 favor, signify by saying aye.

5                   (Response of "Aye.")

6                   Opposed, nay.

7                   (There was no response.)

8                   The message is accepted.

9                   The Secretary will read the last  
10 section.

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

13                  ACTING PRESIDENT KUHL: Call the  
14 roll.

15                  (The Secretary called the roll.)

16                  THE SECRETARY: Ayes 57, nays 1,  
17 Senator DiCarlo recorded in the negative.

18                  ACTING PRESIDENT KUHL: The bill  
19 is passed.

20                  (The Senate stood at ease from  
21 3:45 p.m. to 4:00 p.m.)

22                  ACTING PRESIDENT KUHL: A little  
23 order in the house, please. Coming close to the

1 end here. Let's make sure we can all hear it.

2 Senator Bruno.

3 SENATOR BRUNO: Mr. President,  
4 can we at this time ask that we have the last  
5 Rules Committee in Room 332.

6 ACTING PRESIDENT KUHL: There  
7 will be an immediate meeting of the Rules  
8 Committee, immediate meeting of the Rules  
9 Committee, the last one for today, in Room 332,  
10 the Majority Conference Room. Immediate meeting  
11 of the Rules Committee, Majority Conference  
12 Room, Room 332.

13 Order in the house, please.

14 Senator Bruno.

15 SENATOR BRUNO: Mr. President.  
16 Can we now go to the controversial calendar and  
17 take up Calendar 1798.

18 ACTING PRESIDENT KUHL: Secretary  
19 will read the title to Calendar Number 1798,  
20 controversial reading of the bill.

21 THE SECRETARY: Calendar Number  
22 1798, by the Assembly Committee on Rules,  
23 Assembly Print 11225, an act to amend the Tax

1 Law.

2 ACTING PRESIDENT KUHL: Senator  
3 Paterson.

4 SENATOR PATERSON: Mr. President,  
5 might we hold that bill for a couple of minutes  
6 for -

7 (It was indicated Senator  
8 Oppenheimer was present.)

9 Yes, but Senator Leichter  
10 specifically asked that it be held, and he is  
11 not here.

12 ACTING PRESIDENT KUHL: Senator  
13 Paterson, do you want Senator Oppenheimer to  
14 share the cheese with you while she's talking?

15 SENATOR PATERSON: Well, if we  
16 can have an explanation, I'll think about that.

17 ACTING PRESIDENT KUHL: Senator  
18 Libous, an explanation of Calendar Number 1798  
19 has been asked for by Senator Paterson.

20 SENATOR LIBOUS: Thank you, Mr.  
21 President.

22 Basically what this bill will do  
23 is it will provide a \$75 tax credit per ton for

1 the beneficial use of newly generated waste  
2 tires, and also will generate \$100 tax credit  
3 per ton for the beneficial use of stockpiled  
4 waste tires. There is a facility that now  
5 presently exists in my district that would  
6 probably be closed by the end of the year and  
7 that would have a negative effect on about 40  
8 people who have jobs there, and this bill is  
9 definitely needed. It passed the Assembly  
10 earlier this morning to keep that facility  
11 running.

12 ACTING PRESIDENT KUHL: Senator  
13 Oppenheimer.

14 SENATOR OPPENHEIMER: If the  
15 sponsor would yield for a few questions?

16 ACTING PRESIDENT KUHL: Senator  
17 Libous, do you yield?

18 SENATOR LIBOUS: I would be happy  
19 to, Mr. President.

20 ACTING PRESIDENT KUHL: Senator  
21 is happy to yield.

22 SENATOR OPPENHEIMER: Actually,  
23 you and I were talking earlier about the

1 environmental impact, but I have a question  
2 concerning -- isn't this a fairly large utility  
3 company that runs this plant?

4 SENATOR LIBOUS: That's correct,  
5 Mr. President. The plant is run by NYSEG, New  
6 York State Electric and Gas.

7 SENATOR OPPENHEIMER: If you will  
8 continue to yield. What is the problem here?  
9 They have been doing this you say for years?

10 SENATOR LIBOUS: One of the  
11 problems is -

12 SENATOR OPPENHEIMER: Why is  
13 there a need to do this?

14 SENATOR LIBOUS: Certainly.  
15 There are two facilities in the state like this  
16 that do a good job at burning tires to generate  
17 this into energy, okay, and it's done  
18 environmentally sound because they have gotten  
19 excellent ratings from OSHA and DEC as far as  
20 the process that's taking place.

21 The problem is it is a very  
22 costly process and it's very hard to stay  
23 competitive. In order to keep this facility

1 open, they need this opportunity especially with  
2 the number of tires that are coming in and the  
3 disposal of these tires in turning it into  
4 energy.

5 SENATOR OPPENHEIMER: So then if  
6 I'm hearing correctly, you are saying that the  
7 plant is losing money and that is why we must -  
8 and that sending an increased number of tires  
9 would make them lose more money?

10 SENATOR LIBOUS: Mr. President,  
11 I'm having a difficult time hearing the  
12 Senator's questions because of the little bit of  
13 background noise.

14 ACTING PRESIDENT KUHL: Let's  
15 keep the noise down. Let's keep the noise down.

16 SENATOR LIBOUS: Senator, would  
17 you please ask that question again?

18 SENATOR OPPENHEIMER: Okay.  
19 Thanks, Senator Libous. I'm trying to  
20 understand. You are saying sending increased  
21 numbers of tires would make them lose more  
22 money.

23 SENATOR LIBOUS: No, no. I'm not

1 saying that.

2 SENATOR OPPENHEIMER: I'm not  
3 understanding the economics here.

4 SENATOR LIBOUS: I'm saying it's  
5 very expensive to take these tires -- which  
6 right now are being stockpiled and posing a  
7 problem to the environment -- and turning them  
8 into energy, so there is a tremendous cost  
9 that's involved in this.

10 It's environmentally sound. It's  
11 doing good things for the environment, but it's  
12 just too costly to keep this operation going.  
13 So there's a tax credit that's needed to keep  
14 this going so we don't have tires being burned  
15 in fields and stockpiled in streams and thrown  
16 on the roadside, and this is why we're doing  
17 this bill.

18 SENATOR OPPENHEIMER: Then the  
19 next question would be -

20 ACTING PRESIDENT KUHL: Do you  
21 continue to yield, Senator Libous?

22 SENATOR LIBOUS: Absolutely.

23 SENATOR OPPENHEIMER: If you will

1 yield.

2 ACTING PRESIDENT KUHL: Senator  
3 continues to yield.

4 SENATOR OPPENHEIMER: The next  
5 question would be, aren't tax credits usually  
6 used for something new, not for something that  
7 is up and running? This is not a new facility.  
8 You mentioned it's been open for several years.  
9 This is not a new usage for the tax credits.

10 SENATOR LIBOUS: That's correct.  
11 We want to keep the facility open because the  
12 type of service that is being provided there is  
13 environmentally sound, and it's good for the  
14 environment.

15 SENATOR OPPENHEIMER: That is  
16 questionable.

17 I know that this bill went  
18 through Ways and Means in the other house. Why  
19 did it not go through Finance in this house,  
20 because it does have financial implications; and  
21 the second part of the question is, how much is  
22 it going to cost the state?

23 SENATOR LIBOUS: There is an

1 estimate of approximately two million dollars.

2 SENATOR OPPENHEIMER: Well, I  
3 think I would like to talk briefly, if I may, on  
4 the subject.

5 ACTING PRESIDENT KUHL: Senator  
6 Oppenheimer, on the bill.

7 SENATOR OPPENHEIMER: Actually  
8 not on the bill. I would like Senator Libous to  
9 yield now to a few environmental questions, if  
10 he would.

11 SENATOR LIBOUS: I'm sorry.

12 ACTING PRESIDENT KUHL: Senator  
13 is asking you to yield to a question, Senator  
14 Libous. Do you yield?

15 SENATOR LIBOUS: Absolutely. I  
16 have nowhere to go, Mr. President.

17 ACTING PRESIDENT KUHL: Senator  
18 Libous will yield.

19 SENATOR OPPENHEIMER: You have  
20 nowhere else to go; right?

21 SENATOR LIBOUS: Nowhere else to  
22 go.

23 SENATOR OPPENHEIMER: The

1 environmental questions that we were discussing  
2 earlier are still with me. I just got off on  
3 another track with the economic issue, because I  
4 was wondering why this was happening.

5 Do you know how many facilities  
6 currently are applying for this tax credit? Is  
7 it singularly this one plant, or is there more?

8 SENATOR LIBOUS: Mr. President,  
9 there are presently two facilities in the state,  
10 one here and one in the metropolis of Corning, I  
11 believe.

12 SENATOR OPPENHEIMER: Do you have  
13 any idea what air pollutants are released into  
14 the air with the burning of these tires?

15 SENATOR LIBOUS: Mr. President,  
16 this particular piece of legislation deals with  
17 the tax benefit for this facility as it pertains  
18 to the usage per ton. Any environmental  
19 questions -- the facility has been open for a  
20 number of years, as I said. I am told and I  
21 have no reason not to believe those agencies  
22 that are telling me that they are running a good  
23 facility. Both of these facilities are running

1 environmentally sound.

2 So to get into the specifics of  
3 carcinogens and all that kind of thing, this  
4 bill does not deal with that. If there were  
5 problems, I'm sure the DEC would have closed  
6 this facility down years ago. But, obviously,  
7 they have not.

8 What this is dealing with is  
9 financial impact.

10 SENATOR OPPENHEIMER: The  
11 question is really -- through you, Mr.  
12 President. Who certifies that this is  
13 environmentally sound? Because in most places  
14 in this country, it is seen as not sound to burn  
15 tires and, indeed, other usages -- new usages  
16 have been found that are felt to be very  
17 beneficial environmentally. For example, in  
18 California, in Texas, in Florida, they chip up  
19 the rubber tires and use them as part of road  
20 beds. That is considered environmentally  
21 sound. I would like to know who is suggesting  
22 that burning tires -

23 SENATOR LIBOUS: Mr. President,

1 this has been DEC approved. The DEC, Department  
2 of Environmental Conservation of New York State,  
3 are -- I believe they would have closed the  
4 facility if there has been a problem.

5 SENATOR OPPENHEIMER: Well, I am  
6 concerned. On the bill.

7 ACTING PRESIDENT KUHL: Senator  
8 Oppenheimer, on the bill.

9 SENATOR OPPENHEIMER: Thank you  
10 for answering my questions, Senator Libous.

11 I guess the bottom line is that,  
12 number one, I feel that the tax credits should  
13 be used to find new usages that are  
14 environmentally sound for new businesses, and  
15 there certainly is an answer because we know  
16 that tires have many usages and they can be  
17 recycled and they can be reused, and that is  
18 considered very environmentally sound.

19 And so to continue a usage that  
20 is questionable at best I think is not sound and  
21 the environmental community thinks is not sound,  
22 and so I will not be supporting this, and I urge  
23 those who feel as I do that this is not

1 appropriate usage of our state money.

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

4 Senator Cook.

5 SENATOR COOK: This facility that  
6 is being addressed in this bill, Senator, we  
7 had, as do many areas, immense problems with  
8 waste tires all over the place. Nobody knew  
9 what to do with them. County landfill was  
10 getting filled up with them. They were along  
11 the roadsides. This plant has cleaned up that  
12 problem.

13 We don't have all the stuff going  
14 into the landfill. The countryside has been  
15 cleaned up. It is a textbook operation, an  
16 excellent, excellent operation but it loses  
17 money.

18 Now, we have the alternative. We  
19 can close it down, put those tires back in the  
20 landfill, and pay for it there or we can have a  
21 credit which enables this facility to keep  
22 operating, and I think considering the record  
23 that we have for an environmentally clean

1 operation which has been monitored constantly by  
2 the Department of Environmental Conservation,  
3 this is an excellent program, and I think it is  
4 a good investment.

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

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

9 ACTING PRESIDENT KUHL: Call the  
10 roll.

11 (The Secretary called the roll.)

12 Record the negatives. Announce  
13 the results.

14 Chair recognizes Senator  
15 Oppenheimer to explain her vote.

16 SENATOR OPPENHEIMER: Thank you.  
17 I understand what you are saying, Senator Cook,  
18 and what you are saying, Senator Libous. I, of  
19 course, do not want the tires in the landfill.  
20 Who does? What I am saying is there is a vast  
21 industry that is growing in the recycling reuse  
22 field. This is a multi-billion dollar industry  
23 that we should be drawing to our state as much

1 as possible and, therefore, what should be  
2 created is a plant that will turn these tires  
3 into chips to be used for roadbeds and many  
4 other uses, and it should not be buried and it  
5 should not be burned.

6 And so I will be voting no.

7 ACTING PRESIDENT KUHL: Senator  
8 Oppenheimer will be recorded in the negative.

9 Results.

10 THE SECRETARY: Those recorded in  
11 the negative on Calendar Number 1798 are  
12 Senators Connor, Gold, Goodman, Hoblock,  
13 Hoffmann, LaValle, Leibell, Leichter, Levy,  
14 Markowitz, Nanula, Onorato, Oppenheimer,  
15 Padavan, Paterson, Seabrook, Smith, Stachowski,  
16 Tully, Waldon, also Senator Montgomery. Ayes  
17 37, nays 21.

18 ACTING PRESIDENT KUHL: The bill  
19 is passed.

20 Senator Bruno.

21 (There was a pause in the  
22 proceedings.)

23 Senator Bruno.

1                   SENATOR BRUNO: Mr. President.

2           Can we at this time take up Calendar Number  
3           1800.

4                   ACTING PRESIDENT KUHL: Secretary  
5           will read the title to Calendar Number 1800, by  
6           Senator Cook.

7                   THE SECRETARY: Calendar Number  
8           1800, by Senator Cook, Senate Print 7961, an act  
9           to provide for the intercept of state aid.

10                   ACTING PRESIDENT KUHL: The  
11           message was previously accepted.

12                   Senator Leichter.

13                   SENATOR LEICHTER: Yeah, I'm not  
14           going to spend much time asking questions of  
15           Senator Cook. I've just got a comment on the  
16           bill, although, Senator, if you want to make any  
17           explanatory comments on it, I will yield to you.

18                   SENATOR COOK: Mr. President, let  
19           me just put this in context.

20                   Under federal law, the city of  
21           New York was ordered to filter its water system,  
22           and the cost was going to be in the magnitude  
23           variously estimated at 4- to \$8 billion which

1 was something, of course, the City was quite  
2 concerned about. They asked for a waiver from  
3 EPA, and as a condition of that waiver there  
4 were various provisions of land use control,  
5 land acquisition, et cetera.

6 Resulting from those efforts  
7 there was some litigation. The Governor has  
8 been attempting to mediate that lawsuit, in  
9 effect, and we are reaching the point now where  
10 a consent agreement appears to be in the  
11 offering. As a part of that consent agreement in  
12 which the City would make certain payments in  
13 mitigation of some of the damage that they are  
14 doing to the economy of the region, the City has  
15 agreed to this mechanism of intercept which is,  
16 in effect, a guarantee.

17 I won't go into the litany of our  
18 experience with the City because you have heard  
19 it on other occasions, but on previous  
20 agreements that they have made with us, they  
21 have not fulfilled their commitments. One  
22 administration makes commitments and the next  
23 administration simply does not fulfill them.

1                   This is an effort by which it can  
2                   be guaranteed to the people in the watershed  
3                   that the agreement will be fulfilled. The City  
4                   has, as I said, their agreement with this  
5                   mechanism and it will enable, hopefully, all the  
6                   parties in this lawsuit to now sign a consent  
7                   agreement which will get EPA off the City's back  
8                   and enable this whole issue to be brought to a  
9                   conclusion.

10                   SENATOR LEICHTER: Mr. President.

11                   ACTING PRESIDENT KUHL: Senator  
12                   Leichter.

13                   SENATOR LEICHTER: Mr. President,  
14                   from my understanding of the whole issue of  
15                   clean water for the city of New York and it's  
16                   also for Westchester and, frankly, it's for your  
17                   communities, too, I think you gave us somewhat  
18                   incomplete and skewed information, Senator  
19                   Cook.

20                   As we know, EPA has stated that  
21                   the city of New York needs to filter its water  
22                   unless it does a better job of managing the  
23                   watershed. The City came up with certain ideas

1 and proposals for that better management, and  
2 one of the aspects of it was, as you know,  
3 because EPA required that the City go ahead and  
4 acquire more land; secondly, that it does a  
5 better job in seeing that there aren't runoffs  
6 into the water system.

7 If the City had to filter its  
8 water and the water of Westchester and your  
9 community, it would be an enormous burden not  
10 just for the taxpayers of the city of New York  
11 but for the whole state. It's a problem that we  
12 need to solve as all residents of New York.  
13 It's not like a New York City problem and shame  
14 on you, New York City, and ha-ha, because it's  
15 going to affect every single resident of New  
16 York State.

17 In that connection, and I thought  
18 to his credit, the Governor stepped in, and I  
19 think the Governor's counsel from all reports,  
20 Michael Finnegan, really did a good job in  
21 bringing people together, and there seemed to be  
22 some agreement in principle which is still being  
23 worked out.

1                   Now, that agreement has not been  
2                   worked out, and I can not believe -- although I  
3                   question your statement in principle -- that the  
4                   city of New York is supporting this bill because  
5                   it is a very one-sided bill, and until you have  
6                   a final agreement to provide, as this bill does,  
7                   that you can intercept City monies and utilize  
8                   it and take it to fulfill what you consider  
9                   certain obligations or requirements by the city  
10                  of New York -- I think until you have the whole  
11                  agreement, until the City says, "Yes, you can do  
12                  that," -- I don't think it has done that -- I  
13                  think this bill is, at most, premature and I  
14                  think at this time -- frankly, I think it's  
15                  somewhat harmful to the process of reaching an  
16                  agreement.

17                   SENATOR COOK: Mr. President, if  
18                   I may, on the bill.

19                   ACTING PRESIDENT KUHL: Senator  
20                   Cook.

21                   SENATOR COOK: Mr. President, one  
22                   of the bleary-eyed people sitting to my right is  
23                   my counsel who spent all night writing this bill

1 not because he was enjoying the process but  
2 because he had been requested by Michael  
3 Finnegan, by the representatives of the city of  
4 New York, by the other people who were in the  
5 process of negotiating this agreement that you  
6 are discussing, that we put this mechanism in  
7 place. As you will note, it only takes effect  
8 at the point when the City signs a consent  
9 agreement. So it is -- and it really only  
10 applies to the things that the City agrees in  
11 the consent agreement that it is going to do.  
12 So it is something that we're doing in order to  
13 facilitate the signing of this consent  
14 agreement.

15 Now, if we -- you know, if we  
16 want this litigation to go on another three and  
17 four years, the litigation can, I guess, go on  
18 three or four more years; but if people want to  
19 bring it to a conclusion, which is what all  
20 these discussions are attempting to do, then  
21 we've got to get the pieces in place so that can  
22 happen.

23 I have to tell you, Senator, this

1 is being done in an atmosphere of cooperation.  
2 It is not being done in a punitive manner, but  
3 it is being done in a way so one of the elements  
4 of a very complicated agreement can fall into  
5 place so that we can proceed and get the rest of  
6 it put together.

7 I have to tell you, Senator,  
8 without this bill, the probability of that  
9 agreement coming together is very minimal.  
10 Without this piece, it is improbable that all  
11 the parties will agree to the conditions of the  
12 consent agreement which is being drafted.  
13 That's why it's crucial.

14 Agreed, if we were going to be  
15 here a month from now, maybe we could do it a  
16 month from now. We're not going to be here.  
17 That's why this is important.

18 SENATOR LEICHTER: Senator, if  
19 you would be so good as to yield?

20 SENATOR COOK: Certainly.

21 SENATOR LEICHTER: Am I not  
22 correct, this is a one-house bill? The Assembly  
23 hasn't passed it. It's gone home. It's not

1 going to become law in any event.

2 SENATOR COOK: Senator, that's  
3 not -- that's not necessarily true.

4 SENATOR LEICHTER: Well, is it -  
5 Senator, with all due respect, if Senator Cook  
6 will yield, please, through you Mr. -

7 The Senate is here. The Assembly  
8 has gone home. The Assembly has not passed the  
9 bill. Is that correct?

10 SENATOR COOK: Mr. President.  
11 That is correct, Senator. However, I can also  
12 tell you -- I can't obviously tell you that  
13 Speaker Silver was addressed on this, simply  
14 because he was not available last night, but  
15 there have been discussions with the Assembly on  
16 this issue. It is the hope and expectation that  
17 at some point the Assembly will be in session  
18 and be able to put this together. I think they  
19 will do so at the urging of the city of New York  
20 because the city of New York wants to have this  
21 done, and I think that it -- as I indicated,  
22 they are anxious to get this consent agreement  
23 put together and this is simply just one piece

1 of that whole process.

2 SENATOR LEICHTER: Senator Cook,  
3 and maybe I'm wrong. You can respond to this,  
4 if you will. I have sort of the sense listening  
5 to what you are saying that this is sort of  
6 meant to be partly a club over the city of New  
7 York to get them to come to an agreement and, as  
8 we know, that agreement which was announced with  
9 much fanfare in principle is having some  
10 difficulty working out the details. That often  
11 happens, and I don't say that critically, but I  
12 want to tell you that before I and, I think,  
13 other residents of the city of New York could  
14 vote for a bill that would authorize the  
15 intercept of money at a time that the City signs  
16 an agreement without our having seen that  
17 agreement, without the comptroller of the city  
18 of New York, who has been very much involved in  
19 all of the watershed issues, saying that this is  
20 the responsible thing to do -- we're talking  
21 about millions and millions of dollars of City's  
22 money here. And without knowing -- I would like  
23 to see, at the very least, a memorandum by the

1 city of New York, has a representative here, and  
2 I don't hold you responsible for that. It's not  
3 the only issue where I think we ought to have  
4 seen a memo and we haven't seen it or should  
5 have explained to us that this is something that  
6 the mayor presently endorses.

7 So I really think, Senator, that  
8 this is very, very premature and while I'm not  
9 part of the negotiations whatsoever, I really  
10 think, Senator, that this is not going to help  
11 those negotiations. I think you are trying to  
12 put a club over the city of New York, and I  
13 think that's a mistake.

14 SENATOR COOK: Mr. President, one  
15 final word. Senator, the law does not take  
16 effect until a local law is passed by the City  
17 Council of the city of New York, and it is being  
18 done -- far from being a club against the City,  
19 it is frankly being done as a -- as one of the  
20 things that will be necessary for all the  
21 parties to agree to this thing. It is an effort  
22 to help the City and help everybody bring this  
23 thing to a conclusion and, frankly, if we don't

1 do this, we're going to be in litigation for a  
2 long time.

3 SENATOR LEICHTER: Mr. President,  
4 if Senator Cook would yield one more moment,  
5 please. Just one more question.

6 ACTING PRESIDENT KUHL: Senator  
7 Cook, do you continue to yield?

8 SENATOR LEICHTER: Senator, at  
9 the time that that agreement is finalized, it  
10 will probably still take some time to do that,  
11 and it's a very complex agreement. I suspect  
12 it's going to need a fair amount of legislation.  
13 It's certainly going to need action within the  
14 city of New York. As you say, it's going to  
15 need action by the City Council. There are some  
16 of those who, like me, will insist that we know  
17 what the position of the comptroller of the city  
18 of New York is. Why not do it at that time?

19 Senator, why pass this bill now,  
20 sort of, "Well, in the future if this and this  
21 and this happens, then it goes into effect" and  
22 without even providing for all the eventualities  
23 that we would like to see, even the very fact

1           that you and I as representatives of our  
2           districts and of the state of New York, we would  
3           like to know what that final agreement is.

4                         Why should I vote now for  
5           something that's going to allow the intercept of  
6           City money when I don't know what that agreement  
7           is?

8                         SENATOR COOK:  Mr. President, i  
9           can only give you the final answer, Senator,  
10          that there is litigation under way that is  
11          attempting to be resolved by a consent  
12          agreement.  That consent agreement will not be  
13          signed without this piece, and if we ever want  
14          to bring this thing to a conclusion, this bill  
15          has to be passed.

16                        ACTING PRESIDENT KUHL:  Senator  
17          Padavan.

18                        SENATOR PADAVAN:  Thank you, Mr.  
19          President.

20                        Senator Leichter, my initial  
21          reaction to this bill was very similar to  
22          yours.  However, I did take the time to seek out  
23          the mayor's representative here in Albany to

1 request directly from him as to what the mayor's  
2 position was. I will share that response with  
3 you.

4 It was that the mayor would like  
5 this bill to be passed. He considers it an  
6 integral part of the negotiations that have been  
7 referred to by you and Senator Cook. He feels  
8 that the safeguard in here of local law enacted  
9 by the City Council enables -- provides for a  
10 level of protection, if you will, against  
11 anything being done in regard to the flow of  
12 these funds in a manner that would be  
13 detrimental to the City.

14 Now, obviously, that's not going  
15 to satisfy everything you had to say, but,  
16 nevertheless, I thought you should be aware of  
17 that fact.

18 SENATOR LEICHTER: Mr. President,  
19 just briefly responding to Senator Padavan.

20 Senator Padavan, I thank you for  
21 that, and I want to tell you that at least it  
22 soothes the curious doubt that I had about this  
23 bill and sort of replaces it now with a healthy

1           skepticism.

2                           I would still feel a lot more  
3 comfortable if that bill came before us when we  
4 had a signed agreement; we knew the terms of the  
5 agreement; we had a home rule message; the  
6 comptroller of the city of New York said to us,  
7 "This is City money. I've got a responsibility  
8 over City money and I'll tell you, yes, this is  
9 a good bill to pass."

10                           Let's do it at that time. Let's  
11 not jump ahead and do it and particularly since  
12 at the present time it's definitely a one-house  
13 bill.

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

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

18                           ACTING PRESIDENT KUHL: Call the  
19 roll.

20                           (The Secretary called the roll.)  
21 Record the negatives and announce  
22 the results.

23                           SENATOR STACHOWSKI: Mr.

1 President, explain my vote.

2 ACTING PRESIDENT KUHL: Senator  
3 Stachowski, to explain his vote.

4 SENATOR STACHOWSKI: I'm going to  
5 vote along with Senator Cook on this because I  
6 happen to believe he and Senator Padavan. I  
7 just find it amazing, though, that there's been  
8 a captive audience for three days and,  
9 apparently, the representative of the city of  
10 New York didn't have any idea where to find the  
11 20-some members that represent the city of New  
12 York that are on the Democrat side. I think he  
13 could have avoided this debate, and everybody in  
14 this chamber would have felt much better, but  
15 obviously he was too busy sitting some place  
16 else than to walk down the hall and grab one of  
17 these people and explain the bill to them.

18 I vote yes.

19 ACTING PRESIDENT KUHL: Senator  
20 Stachowski will be recorded in the affirmative.

21 Announce the results.

22 THE SECRETARY: Those recorded in  
23 the negative on Calendar Number 1800 are

1 Senators Connor, Gold, Leichter, Markowitz,  
2 Mendez, Montgomery, Onorato, Paterson, Seabrook,  
3 Smith and Waldon. Ayes 47. Nays 11.

4 ACTING PRESIDENT KUHL: The bill  
5 is passed.

6 Senator Bruno.

7 SENATOR BRUNO: Mr. President,  
8 can we at this time take up Calendar Number  
9 1802.

10 ACTING PRESIDENT KUHL: Secretary  
11 will read Calendar Number 1802.

12 THE SECRETARY: Calendar Number  
13 1802, by the Senate Committee on Rules, Senate  
14 Print 7963, an act to amend the Retirement and  
15 Social Security Law.

16 ACTING PRESIDENT KUHL: Secretary  
17 will read the last section.

18 SENATOR LEICHTER: Mr.  
19 President.

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

22 SENATOR LEICHTER: Explanation.

23 ACTING PRESIDENT KUHL: Senator

1           Stafford, explanation.

2                           SENATOR STAFFORD:  Mr. President,  
3           I will yield to Senator Hannon for a brief  
4           explanation of a portion and we also have a  
5           portion of another portion -- excuse me,  
6           Senator, by all means -- excuse me, Senator  
7           Nozzolio, for additional parts of the bill.  I'm  
8           sure that either one could proceed, Senator  
9           Hannon and then Senator Nozzolio.  That will be  
10          wonderful.

11                           ACTING PRESIDENT KUHL:  May we  
12          have a little order in the house so we can hear  
13          the explanation that's been requested?

14                           Senator Nozzolio.

15                           SENATOR NOZZOLIO:  Mr. President,  
16          thank you, Senator Stafford.

17                           The measure before us renews our  
18          commitment, continues our commitment to the  
19          brave men and women who work in our correctional  
20          facilities across this state.  We are trying to,  
21          through this legislation, remedy an inequity  
22          that exists in the law where members of earlier  
23          tiers have different compensation for if they're

1 injured on the job than those in the tiers that  
2 follow.

3 This legislation removes that  
4 inequity. It serves our commitment to those  
5 brave men and women who work in our correctional  
6 facilities, and I particularly want to thank  
7 those members, especially Senator Stafford, who  
8 worked so hard in bringing this matter to the  
9 floor today.

10 SENATOR GOLD: Mr. President.

11 ACTING PRESIDENT KUHL: Senator  
12 Gold.

13 SENATOR GOLD: Will the gentleman  
14 formerly from Ithaca yield to a question?

15 ACTING PRESIDENT KUHL: Senator  
16 Nozzolio, do you yield?

17 SENATOR NOZZOLIO: Yes, Mr.  
18 President.

19 SENATOR GOLD: Senator, I heard  
20 your explanation of the bill, and I'm just  
21 curious. The explanation that you gave, was  
22 that -- this is 7963, am I correct? It's a 40 -  
23 wait a minute, 47-page bill, am I correct? Am I

1 on the right bill?

2 Your explanation, I think, was  
3 the first two pages, am I correct?

4 SENATOR HANNON: You want to -

5 SENATOR GOLD: Am I correct?

6 SENATOR NOZZOLIO: My portion,  
7 Senator Gold and Mr. President, through you, was  
8 the portion which dealt with those correction  
9 officers.

10 SENATOR GOLD: O.K. I thank you  
11 very much, Senator, so if I understand it  
12 properly in other words, there is a lot more to  
13 this bill than the first two pages which you've  
14 explained and now Senator Hannon is going to  
15 explain the rest of the bill.

16 SENATOR HANNON: Yes.

17 SENATOR GOLD: Then I would  
18 certainly yield to Senator Hannon.

19 SENATOR HANNON: Section 6 of the  
20 bill would provide that in Westchester and in  
21 Nassau there be respective public benefit  
22 corporations set up to provide for the health  
23 care of -- from the public health hospitals of

1       those counties.

2                   SENATOR GOLD:  Mr. President,  
3       will the Senator yield to a question?

4                   ACTING PRESIDENT KUHL:  Senator  
5       Hannon, do you yield to a question from Senator  
6       Gold?

7                   SENATOR HANNON:  Yes.

8                   ACTING PRESIDENT KUHL:  Senator  
9       yields.

10                  SENATOR GOLD:  Senator Hannon, I  
11       don't want to be so presumptuous to say that  
12       this is the first time I've seen anything like  
13       this because there may have been something, and  
14       it's not that relevant, but my understanding is  
15       that there was a bill that I think even passed  
16       the Assembly which dealt with the subject matter  
17       as described by Senator Nozzolio, and that took  
18       about two and a half pages.  This document which  
19       I have in my hand is dated July 13th, and my  
20       watch seems to tell me it's July 13th, so  
21       apparently it didn't exist on July 12th,  
22       yesterday, and I don't know whether it was  
23       printed after the Assembly left or as they were

1 leaving, but what does the -- what does page 3  
2 through page 47 have to do with pages 1 and 2,  
3 if anything?

4 SENATOR HANNON: They follow in  
5 numerical order, and they deal with tiering and  
6 they deal with -

7 SENATOR GOLD: I couldn't have  
8 asked for a better answer. That is a fabulous  
9 answer because that's about all they do have in  
10 common, is that correct?

11 SENATOR HANNON: I didn't finish  
12 my answer, Senator.

13 SENATOR GOLD: Oh, I'm sorry.

14 SENATOR HANNON: And they deal  
15 with the care of some of the people of the state  
16 of New York, as do -

17 SENATOR GOLD: I'm sorry,  
18 Senator.

19 SENATOR HANNON: They deal with  
20 the care of some of the people of the state of  
21 New York, as does the preliminary portion of the  
22 bill.

23 SENATOR GOLD: They deal with

1 care. They take care of people.

2 SENATOR HANNON: Yes.

3 SENATOR GOLD: Well, will Senator  
4 Hannon yield to a question?

5 ACTING PRESIDENT KUHL: You  
6 continue to yield?

7 SENATOR HANNON: Yes.

8 SENATOR GOLD: Aside from that -

9 ACTING PRESIDENT KUHL: Senator  
10 continues to yield.

11 SENATOR GOLD: Aside from the  
12 fact that every single bill that we ever deal  
13 with takes care of somebody or something in the  
14 state of New York, in terms of germaneness, and  
15 I know, Senator, that once you put a piece of  
16 paper together I'm not going to say, I don't  
17 know whether technically we have an objection,  
18 but you being a scholar, isn't it a fact that  
19 when you get past page two and a half, the rest  
20 of this bill has no germaneness to the first two  
21 and a half pages?

22 SENATOR HANNON: No.

23 SENATOR GOLD: O.K. Mr.

1 President.

2 ACTING PRESIDENT KUHL: Senator  
3 Gold, on the bill.

4 SENATOR GOLD: Yeah, I'm not  
5 going to spar with Senator Hannon. It's  
6 ridiculous.

7 Senator -- I don't want to put  
8 Senator Hannon into a position where he has to  
9 spar. I respect Senator Hannon for trying to do  
10 something for his community and he certainly  
11 doesn't have to apologize to me or anybody else  
12 for trying to do something for his community,  
13 but I do resent this bill for a number of  
14 reasons.

15 The Majority Leader of this house  
16 is a good businessman, and when he came into his  
17 leadership position, he made a strong effort to  
18 make this house take on some of the better types  
19 of operations that a business would do. We start  
20 on time, et cetera, et cetera. We don't work  
21 quite as late into the night as the other house,  
22 although last night was not exactly early, but  
23 in the spirit of doing things in a businesslike

1 way and in a fair way, we have gone through a  
2 budget process and people have signed off on a  
3 budget, and then after the Assembly has  
4 basically gone from us, to put out a bill which  
5 has these kinds of numbers in them and a bill  
6 which is 47 pages long, and I will vote no for  
7 -- for many reasons, but one reason surely is  
8 that if the shoe is on the other foot, no bright  
9 businessman like Joe Bruno would put his stamp  
10 of approval on 47 legal pages, and you take a  
11 look at these pages. I'm not -- I'm not  
12 suggesting a page that changes a word so that  
13 somebody says, Well, you know, you've got to  
14 print the whole section because it's got to be  
15 in context, or you have to do the whole section  
16 in order to change the one word.

17 This looks to me like 47 pages of  
18 new language, and I guarantee you that once you  
19 get past the word "trust" and if you want to say  
20 we trust our counsel, so let's vote on it  
21 because the counsels told me it did something,  
22 there isn't one member aside from perhaps  
23 Senator Hannon who may have drafted or proposed

1       this kind of legislation which comes before us  
2       only introduced today, I don't think anybody  
3       really knows what this does or the implications  
4       of it.

5                       This is the kind of thing where  
6       years ago you would have a bill in the bottom  
7       drawer of the Leader's desk and say, My God, we  
8       haven't introduced that yet. He says, Don't  
9       worry about it, last day of session, we'll get  
10      it printed pretty quick.

11                      I really don't believe that this  
12      is the way to do this. I think it's an  
13      imposition on the chamber and, as I say, I  
14      certainly don't resent Senator Hannon for trying  
15      for his constituents. We all do it, but it is  
16      clear that the first part of this bill  
17      represents something that has been discussed and  
18      something that should be done and, in fact,  
19      Senator Bruno, I believe there's an Assembly  
20      bill that could be handed down that could take  
21      care of Senator Nozzolio's problem and  
22      explanation, and I would support you, Senator  
23      Nozzolio.

1                   Over the years, we've had a lot  
2                   of coupling and over the years we have had bills  
3                   that say 60 or 80 things, many of the budget  
4                   bills, one bill does hundreds of things, and you  
5                   are placed in the position where, if you want to  
6                   do some of those things, you may have to take  
7                   some of the good with the bad, but this is  
8                   really, really way out of line.

9                   This is suggesting that if we  
10                  want to do something for the people who are very  
11                  deserving and who deal with pages two and three,  
12                  we have to give away an awful lot of money to  
13                  two communities without any real opportunity for  
14                  most of us to be able to deal with the merits of  
15                  these proposals.

16                  I think it's the wrong thing to  
17                  do. I think that from the point of view of  
18                  Senator Bruno who has tried for two years -- and  
19                  I don't agree with everything he's done and  
20                  that's for sure, but who has tried for two years  
21                  to get words like "change" and words like  
22                  "reform" and words like "businesslike" into the  
23                  vocabulary of how this house operates, I think

1       this is a step backwards and I don't think it  
2       ought to be one of the final things that we do  
3       in this legislative chamber.

4                   I don't think, Senator Bruno, in  
5       justice to what you tried to do you want people  
6       leaving this chamber saying, Uh-uh, when all was  
7       said and done, you see that last 47 pages that  
8       came flying out of Rules at the last minute?

9                   So I think it's a mistake. I  
10      think that it's a step backward and we shouldn't  
11      be doing it.

12                   SENATOR CONNOR: Mr. President.

13                   ACTING PRESIDENT KUHL: Senator  
14      Connor.

15                   SENATOR CONNOR: Yes, to close  
16      for the Minority, just let me say, I think this  
17      bill epitomizes what the people of this state  
18      are fed up with. That's the secrecy, the  
19      spending, the sausage-making that goes into the  
20      budget, and this year we have a new feature, the  
21      hostage-taking and even as we are about to free  
22      the hostages of last night and the past week or  
23      two, the loft tenants, it seems we're compelled

1 to take new hostages, the correction officers.  
2 Moreover, the Assembly passed a straightforward  
3 bill dealing with them and their issue which is  
4 now being sent over here and put into a new bill  
5 by the Majority to create a new set of hostages,  
6 the correction officers.

7 Now, they won't get their need  
8 for retirement benefits addressed until the  
9 Westchester and Nassau County Medical Centers  
10 get their millions of dollars, and I'm not  
11 making any judgment about those individual  
12 needs, but gee whiz, funding medical centers  
13 somehow is now germane to providing pension  
14 benefits for correction officers? And I suppose  
15 next year we'll see even more hostage-taking as  
16 this process hopelessly breaks down.

17 I look forward shortly to freeing  
18 some of the hostages, some of whom have been  
19 here with us this past week or two, but I  
20 shudder to think that legislation that  
21 representative government in the state of New  
22 York has turned into the kind of secrecy and  
23 hostage-taking under the guise of legislation

1 that we're seeing here today, that we've seen in  
2 these last couple weeks.

3 It's time to end that and have  
4 open representative government that's not so  
5 partisan that we have to take hostages, because  
6 if we keep taking hostages I shudder to think  
7 we're going to start shooting hostages by the  
8 next year's session and doing in the needs of  
9 the people of the state of New York in  
10 retribution for not having some other perceived  
11 need satisfied.

12 So, Mr. President, I intend to  
13 vote against this because I don't want to be  
14 party to creating a new set of hostages in this  
15 Capitol.

16 ACTING PRESIDENT KUHL: Senator  
17 Hannon.

18 SENATOR HANNON: Mr. President,  
19 just a couple of comments.

20 First of all, for the edification  
21 of Senator Gold who probably has learned some of  
22 the lessons that Senator Bruno has introduced  
23 but not all of them, one of those lessons is

1       that we don't always hear everything that is  
2       said. I think it's that we don't hear 30 per  
3       cent of what is said. If he had been listening  
4       the other day to the extensive debate between  
5       myself and Senator Leichter, he would have heard  
6       this bill debated extensively, so it didn't come  
7       out of anywhere. It is there and it has been  
8       merged in order to achieve the aim of helping  
9       people who need help.

10               Second, this bill does not give  
11       money. This bill saves money, doesn't create  
12       any new appropriation and it saves money in  
13       order to deliver services to some needy people  
14       in both counties.

15               I would say that instead of the  
16       standard of double -- or instead of this hostage  
17       being the standard, as Senator Connor would  
18       suggest, we are faced with the introduction,  
19       however, of a double standard. The Assembly  
20       always thinks that they can help their constit  
21       uents, but we can't help our constituents. I  
22       would say that's a double standard that ought  
23       not to be continued. We are all here to do the

1 business of the people of the state of New York  
2 and this bill is an attempt to do that.

3 Thank you, Mr. President.

4 ACTING PRESIDENT KUHL: Secretary  
5 will read the last section.

6 THE SECRETARY: Section 7. This  
7 act shall take effect immediately.

8 ACTING PRESIDENT KUHL: Call the  
9 roll.

10 (The Secretary called the roll. )

11 ACTING PRESIDENT KUHL: Record  
12 the negatives; announce the result.

13 Senator Paterson, to explain his  
14 vote.

15 SENATOR PATERSON: Mr. President,  
16 I'm voting in the negative, and we are most  
17 anxious to pass legislation that will benefit  
18 those members of the Corrections Department and  
19 particularly those correction officers, partic  
20 ularly those whose unions have fought for them  
21 and are behind them, and we're not opposed to  
22 anyone else benefiting or anyone else's  
23 constituents, whoever they might be, because I

1 thought correction officers were all of our  
2 constituents.

3 What I'm saying is we need to  
4 address these in separate bills and not be  
5 taking legislation that was really categorized  
6 to go in one particular area and tainting it in  
7 the actual process.

8 The issue may have been discussed  
9 before, but it was just the manner in which it  
10 was constructed that was of concern to us and  
11 that's why I'm voting no.

12 SENATOR OPPENHEIMER: Explain my  
13 vote, Mr. President.

14 ACTING PRESIDENT KUHL: Senator  
15 Paterson will be recorded in the negative.

16 Senator Oppenheimer, to explain  
17 her vote.

18 SENATOR OPPENHEIMER: I will be  
19 voting in the affirmative, but I am very  
20 distressed that this is not a real bill. It's a  
21 one-house bill because the needs of Westchester  
22 County's medical center are so severe and need  
23 tending to so immediately that it is really

1       appalling to me that this all got so convoluted  
2       and got thrown together with other issues.

3               I only hope and pray that we will  
4       at some point in the near future have a clean  
5       Westchester Medical County -- Medical Center  
6       bill and that we will pass it expeditiously  
7       because it is desperately needed.

8               ACTING PRESIDENT KUHL:   Senator  
9       Oppenheimer in the affirmative.

10              Announce the results.

11              THE SECRETARY:   Those recorded in  
12       the negative on Calendar Number 1802 are  
13       Senators Connor, Gold, Leichter, Montgomery,  
14       Onorato, Paterson, Seabrook, Smith and  
15       Stachowski.   Ayes 49, nays 9.

16              ACTING PRESIDENT KUHL:   The bill  
17       is passed.

18              Senator Bruno.

19              SENATOR BRUNO:   Mr. President,  
20       can we at this time take up Calendar Number  
21       1803.

22              ACTING PRESIDENT KUHL:   Secretary  
23       will read Calendar Number 1803.

1 SENATOR WALDON: Explanation.

2 THE SECRETARY: Calendar Number  
3 1803, by the Assembly Committee on Rules,  
4 Assembly Print 11271, an act to allow members of  
5 the New York State Retirement System.

6 SENATOR LEICHTER: Mr.  
7 President.

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

10 SENATOR LEICHTER: Because I have  
11 a certain interest in this bill that I'd like to  
12 explore.

13 ACTING PRESIDENT KUHL: Senator  
14 Leichter, I was not being facetious nor was I  
15 meaning to be showing any lack of respect, but  
16 you rose after Senator Waldon had asked for an  
17 explanation.

18 SENATOR LEICHTER: Oh, I'm sorry.

19 ACTING PRESIDENT KUHL: So I was  
20 just trying to maintain some order and decorum  
21 in the chamber which is the responsibility of  
22 the Chair, so if you have no objection I'll ask  
23 for an explanation on behalf of Senator Waldon.

1                   SENATOR LEICHTER: Not only that,  
2                   you do an excellent job. I didn't hear Senator  
3                   Waldon ask for an explanation. I have some  
4                   comments, but let's hear the explanation.

5                   ACTING PRESIDENT KUHL: Senator  
6                   Bruno, who is going to be providing the  
7                   explanation on Calendar 1803?

8                   SENATOR BRUNO: Mr. President, I  
9                   believe that Senator Lack was designated to do  
10                  this. I believe he is in the Law Library now  
11                  doing some research and he will be here very  
12                  shortly and if you will just give us a moment, I  
13                  think you will be amazed by what he has to  
14                  recite in relation to it.

15                  Please get Senator Lack on the  
16                  phone. (Pause).

17                  Mr. President, it's my  
18                  understanding that this may take a little more  
19                  research than we may be able to accomplish in a  
20                  short time frame, so if we may temporarily lay  
21                  this bill aside.

22                  ACTING PRESIDENT KUHL: Lay the  
23                  bill aside temporarily.

1                   SENATOR BRUNO:  Mr. President,  
2           Senator Trunzo apparently had been studying this  
3           without my knowledge for weeks and he is now  
4           rising to this occasion, so I would ask that you  
5           recognize him for a full explanation.

6                   Thank you.

7                   ACTING PRESIDENT KUHL:  We won't  
8           lay the bill aside temporarily.  The Chair  
9           recognizes Senator Trunzo for an explanation.

10                   SENATOR TRUNZO:  It's a very  
11           simple explanation.  Evidently has to do with  
12           some woman who used to work for Ways and Means  
13           in the Assembly who, on January 6th of 1969, for  
14           reasons -- for whatever reasons, just failed to  
15           elect to participate in what we all had as the  
16           reopener of '88, and so that basically that's  
17           what it is, it's to reopen it for one individual  
18           to get into the 80-A system.  I have no idea who  
19           she is or what it's all about but that basically  
20           is what the bill does.

21                   ACTING PRESIDENT KUHL:  Senator  
22           Waldon.

23                   SENATOR WALDON:  Thank you very

1 much, Mr. President.

2           Senator Trunzo, would you be kind  
3 enough to edify me a bit? I did read this and  
4 there's a portion of this bill which speaks to  
5 service time being folded into, meaning military  
6 service time being folded into the overall time  
7 of the employee if he or she qualifies, and I  
8 was wondering, is that your understanding of the  
9 bill that someone who put four years, good  
10 years, I think it's three years but not more  
11 than three, and that that could be folded into  
12 the time?

13           SENATOR TRUNZO: My understanding  
14 is she works for the Assembly, had a lapse in  
15 service and did not choose at the time. She  
16 thought she was accepted into the 80-A and  
17 apparently was not and it recently has been  
18 discovered, and she was told by Ways and Means  
19 back in those days that she didn't have to do  
20 anything and there she was in 80-A, and then it  
21 was found out she was not.

22           I mean it's a simple explanation,  
23 you know, but done by the Assembly Ways and

1 Means Committee. Even the fiscal note is done  
2 by them.

3 ACTING PRESIDENT KUHL: Senator  
4 Waldon.

5 SENATOR WALDON: I have one more  
6 question.

7 ACTING PRESIDENT KUHL: Senator  
8 Trunzo yield to one more question?

9 SENATOR TRUNZO: Yes.

10 ACTING PRESIDENT KUHL: Senator  
11 yields.

12 SENATOR WALDON: Senator Trunzo,  
13 I apologize if in any way I put you on the spot  
14 with this explanation, but if it was more than  
15 just one employee who had qualified under this  
16 explanation, but it was another employee. Could  
17 that person then qualify under this equation,  
18 under this proposal?

19 SENATOR TRUNZO: Well, as I  
20 understand this was a unique proposal in itself  
21 and I'm sure if something else happened, someone  
22 else, that another piece of legislation would  
23 have been appropriate.

1                   SENATOR WALDON: All right. What  
2 you're saying that would have to be a separate  
3 act, could not be this act?

4                   SENATOR TRUNZO: Can't open up  
5 for you. Sorry.

6                   ACTING PRESIDENT KUHL: Secretary  
7 will read the last section.

8                   Senator Leichter.

9                   SENATOR LEICHTER: Mr. President,  
10 I'm sorry but this is garbage time and I guess  
11 it's the end of the session and we're really  
12 seeing the sort of bills that shouldn't be  
13 before us, and I don't know who this particular  
14 individual is. I'm at least glad to know that  
15 we've identified her in some ways because I  
16 asked Senator Trunzo before.

17                   I've been here a number of years  
18 and others have, you have, and we've had many  
19 instances where we've been embarrassed by  
20 finding out that we voted pension benefits for  
21 people who really were not deserving. I mean to  
22 put somebody into 80-A, because of his or her  
23 negligence they failed to apply when they should

1       have and so on, I mean either we're going to  
2       have a pension system that's going to work in a  
3       fair, unbiased, uniform manner, or we're going  
4       to try to have all of these special benefit  
5       bills that we pass.

6                       Now, some years ago Senator Gold  
7       took the lead on this, to try to set up a system  
8       whereby we as legislators did not have to pass  
9       on these and to turn this over to the  
10       comptroller and Senator Trunzo was extremely  
11       helpful in trying to do this. We did it in  
12       part, we didn't do it fully, but I must say I  
13       feel very uncomfortable in voting on these sort  
14       of bills, particularly when you put somebody  
15       into that sort of a pension system and one  
16       hundred percent of the cost is now going to have  
17       to be borne by the people of the state of New  
18       York.

19                      ACTING PRESIDENT KUHL:  Senator  
20       Gold.

21                      SENATOR GOLD:  Yeah, Mr.  
22       President.  Thank you very much.

23                      For -- when it comes to this

1 issue, I have been, I hope, a proud partner of  
2 Senator Leichter, but at this point I'm going to  
3 differ with him on this particular bill, and the  
4 reason is that I would be less than candid with  
5 my colleagues in this house if I didn't say that  
6 there was a time back in the 1960s where I  
7 worked as a counsel, I sat at my desk, and if it  
8 wasn't for Joe O'Connor, may he rest in peace, I  
9 wouldn't even realize what was going on. People  
10 were running around and I was lucky, I was a  
11 counsel, somebody was concerned about me. They  
12 came, they explained the system and I signed  
13 up.

14 My understanding of this  
15 situation is that the person involved was -- who  
16 is -- was not informed properly, was specific  
17 ally told that she did not have to do something  
18 which under the law she would have had to do and  
19 the cost in this, I do not think is an  
20 outrageous cost. It's within reason and I'm  
21 going to support it. I think that Senator  
22 Leichter is right that we should have a system.  
23 I think Senator Trunzo is right, I supported his

1 bill, but as Senator Trunzo and all of us have  
2 found, even though we have done the right thing,  
3 there have been people who have fallen through  
4 the cracks because every bill we pass is not  
5 perfect. I think this is one of those people  
6 and I'm going to vote for it.

7 ACTING PRESIDENT KUHL: Read the  
8 last section.

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

11 ACTING PRESIDENT KUHL: Call the  
12 roll.

13 (The Secretary called the roll. )

14 ACTING PRESIDENT KUHL: Call the  
15 negatives. Announce the results.

16 THE SECRETARY: Ayes 57, nays  
17 one, Senator Leichter recorded in the negative.

18 ACTING PRESIDENT KUHL: The bill  
19 is passed.

20 Senator Bruno.

21 SENATOR BRUNO: Mr. President,  
22 can we at this time take up Calendar Number  
23 1794.

1                   ACTING PRESIDENT KUHL: The  
2                   Secretary will read the Calendar 1794 which is  
3                   on Supplemental Calendar Number 3, page 1.

4                   Secretary will read.

5                   THE SECRETARY: Calendar Number  
6                   1794, substituted earlier today, by member of  
7                   the Assembly McLaughlin, Assembly Print 4011-B,  
8                   an act to amend the Social Services law.

9                   ACTING PRESIDENT KUHL: Secretary  
10                  will read the last section.

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

13                  ACTING PRESIDENT KUHL: Call the  
14                  roll.

15                  (The Secretary called the roll. )

16                  THE SECRETARY: Ayes 58.

17                  ACTING PRESIDENT KUHL: The bill  
18                  is passed.

19                  Senator Bruno.

20                  SENATOR BRUNO: Mr. President,  
21                  can we at this time take up Calendar Number  
22                  1777.

23                  ACTING PRESIDENT KUHL: On the

1 regular calendar, Calendar Number 70, in yellow,  
2 the bronze tint, page 4, the Secretary will read  
3 Calendar Number 1777.

4 THE SECRETARY: On page 4,  
5 Senator Stafford moves to discharge from the  
6 Committee on Finance Assembly Bill Number 11319  
7 and substitute it for the identical Third  
8 Reading 1777.

9 ACTING PRESIDENT KUHL: It's  
10 substituted. Secretary will read the title.

11 THE SECRETARY: Calendar Number  
12 1777, by the Assembly Committee on Rules,  
13 Assembly Print Number 11319, an act to amend the  
14 Real Property Tax Law.

15 ACTING PRESIDENT KUHL: Senator  
16 Bruno.

17 SENATOR BRUNO: Is there a  
18 message at the desk, Mr. President?

19 ACTING PRESIDENT KUHL: There is.

20 SENATOR BRUNO: Move we accept  
21 the message.

22 ACTING PRESIDENT KUHL: Motion is  
23 to accept the message of necessity at the desk

1 on Calendar Number 1777. All those in favor  
2 signify by saying aye.

3 (Response of "Aye.")

4 Opposed nay.

5 (There was no response. )

6 The message is accepted.

7 Secretary will read the last  
8 section.

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

11 ACTING PRESIDENT KUHL: Call the  
12 roll.

13 (The Secretary called the roll. )

14 THE SECRETARY: Ayes 58 -

15 ACTING PRESIDENT KUHL: Senator  
16 Leichter, to explain his vote.

17 SENATOR LEICHTER: Yes, to  
18 explain my vote.

19 Mr. President, this is a very  
20 comprehensive bill which is very fondly called  
21 "the big ugly", has many provisions in it, some  
22 tax decreases but one important feature of it is  
23 that it finally frees the loft tenants, and I

1 certainly want to congratulate them. They've  
2 been held hostage far too long. It's been  
3 really most unfortunate, even disgraceful, that  
4 they've been treated in this way, thousands of  
5 tenants in New York whose rights were played  
6 with as our convoluted budget process and end of  
7 the year process played out, so I'm going to  
8 have to vote for it. As I dislike at least some  
9 of the tax reduction provisions, particularly  
10 the one that eliminates the mansion tax, I see  
11 no reason, no justification for doing that.  
12 That's going to cost 60, \$70 million, and I just  
13 want to warn all of you, we're going to be back  
14 next year with a whopping deficit because of  
15 these tax cuts that we both willy-nilly without  
16 having the revenue for, and next year as you  
17 worry about what you're going to do for your  
18 local school districts and you worry about what  
19 you're going to do for transportation and you  
20 worry about how you're going to avoid tuition  
21 increases in SUNY and CUNY and take care of  
22 elderly people and so on, just think about all  
23 of these tax cuts that you have voted for which

1 have helped us create that enormous deficit.

2 We had one this year. We'll have  
3 a bigger one next year, but thank God we freed  
4 the loft hostages.

5 I vote in the affirmative.

6 ACTING PRESIDENT KUHL: Senator  
7 Leichter will be recorded in the affirmative.

8 Senator Gold, to explain his  
9 vote.

10 SENATOR GOLD: Yeah, just as a  
11 matter of order, Mr. President. I think that  
12 you would -- should inform people that we do not  
13 allow demonstrations or anything along those  
14 lines so that when we finally hear the words  
15 that this bill is passed, we don't hear the  
16 people in the balcony saying, Free at last, free  
17 at last. Thank God Almighty, we're free at  
18 last.

19 I vote yes.

20 ACTING PRESIDENT KUHL: Senator  
21 Gold will be recorded in the affirmative.

22 Senator Marchi to explain his  
23 vote.

1                   SENATOR MARCHI: Mr. Chairman, I  
2                   was chairman of Finance many years ago when this  
3                   bill was put into place and I had a major role  
4                   at that time and I was very happy to have done  
5                   it. I'm happy that this result is being  
6                   achieved now and that we're doing what's about  
7                   to happen. It was just a question of time but  
8                   you've been patient, and I know that you've made  
9                   substantial investments in the improvement of  
10                  that property so it inures to the benefit of  
11                  that area of the city of New York and the state  
12                  of New York.

13                         So we rejoice in your -- in your  
14                         realization and the hope that we would validate  
15                         this procedure today.

16                         ACTING PRESIDENT KUHL: Senator  
17                         Marchi will be recorded in the affirmative.

18                         Announce the results.

19                         SENATOR DOLLINGER: Mr.  
20                         President. Mr. President.

21                         ACTING PRESIDENT KUHL: Senator  
22                         Dollinger.

23                         SENATOR DOLLINGER: Just to

1 explain my vote, Mr. President.

2 ACTING PRESIDENT KUHL: Explain  
3 your vote.

4 SENATOR DOLLINGER: I echo the  
5 remarks of Senator Leichter, Senator Gold and  
6 Senator Marchi, about the patience of people up  
7 above me. I think what we ought to do is rename  
8 our gallery up above, the Loft and have the  
9 tenants move in and improve it.

10 ACTING PRESIDENT KUHL: Senator  
11 Montgomery to explain her vote.

12 SENATOR MONTGOMERY: Yes, Mr.  
13 President.

14 I rise too to say on behalf of my  
15 constituents and all the residents of the city  
16 of New York my apology and our apology for the  
17 process, and I can certainly say for them that  
18 it is at times as frustrating and disappointing  
19 to me as it must have been to them to see how we  
20 have used them for purposes of negotiating this  
21 or that, and many times we don't know what the  
22 this or that is, but we just know that we're in  
23 the -- we're being used as pawns, but that is

1 the process and fortunately somehow in some way  
2 it comes together at times like this.

3 I would also say that for those  
4 of you who think that it is -- it most  
5 improbable that I would have lofts in my own  
6 district, I do and the residents of those lofts  
7 are extremely important constituents, not only  
8 to my district but to New York State and, as we  
9 have debated in this chamber in -- on prior  
10 occasions, the arts play a very important role  
11 for New York State citizens and citizens from  
12 around the world, both in terms of our economy  
13 as well as the aesthetics and the significance  
14 that it gives New York City and New York State.  
15 So it really is a wonderful opportunity to be  
16 able to vote yes for the residents.

17 Although I may disagree with some  
18 parts of the tax cut I certainly am proud that  
19 we have finally resolved this issue on behalf of  
20 the thousands of people, many of whom are  
21 artists, who reside in lofts in the city of New  
22 York and throughout the state.

23 ACTING PRESIDENT KUHL: Senator

1 Montgomery will be recorded in the affirmative.

2 Announce the results.

3 THE SECRETARY: Ayes 58.

4 ACTING PRESIDENT KUHL: The bill  
5 is passed.

6 (Applause from the gallery.)

7 ACTING PRESIDENT KUHL: Senator  
8 Bruno. Senator Bruno.

9 SENATOR BRUNO: Mr. President,  
10 can we at this time take up Calendar Number  
11 1797.

12 ACTING PRESIDENT KUHL: Have a  
13 little order in the house, please. We'll return  
14 to Supplemental Calendar Number 3, page 1, ask  
15 the Secretary to read the title of Calendar  
16 Number 1797.

17 THE SECRETARY: Calendar Number  
18 1797, substituted earlier today, by the Assembly  
19 Committee on Rules, Assembly Print 11254-A, an  
20 act to amend the Real Property Tax Law.

21 ACTING PRESIDENT KUHL: Secretary  
22 will read the last section.

23 THE SECRETARY: Section 11. This

1 act shall take effect July 1.

2 SENATOR LEICHTER: Mr. President,  
3 Mr. President.

4 ACTING PRESIDENT KUHL: Senator  
5 Leichter, on the bill.

6 SENATOR LEICHTER: Yes, Mr.  
7 President.

8 This is a bill that enhances tax  
9 benefits given for real estate development and  
10 renovations in lower Manhattan. It's really a  
11 giveaway to the real estate industry, and I  
12 appreciate saying that to some of you that's  
13 like putting red meat before a tiger. That's  
14 probably all you need to do to be strongly in  
15 support of the bill, but the fact is that  
16 there's no justification for that.

17 We voted a special lower  
18 Manhattan district last year. I think I was the  
19 only one who voted against it. I said that it  
20 wasn't going to work, that really what this was  
21 going to do with that lower Manhattan district  
22 and the benefits we were providing was going to  
23 do is to subsidize luxury housing, conversion of

1 commercial buildings in lower Manhattan to  
2 luxury housing paid for by the taxpayers.

3 That's precisely what has  
4 happened and while we were told at that time  
5 that there was going to be a commercial renewal,  
6 that hasn't occurred. What this bill does now  
7 is to enhance and to increase the benefits that  
8 go for the commercial development because, as I  
9 pointed out last year, there were absolutely no  
10 credible studies that the benefits that we were  
11 providing were going to do anything for  
12 commercial renewal in lower Manhattan.

13 The fact is that New York City  
14 has a surplus of commercial real estate, of  
15 office space; much of it is midtown. Much of it  
16 is in lower Manhattan, and these sort of bene  
17 fits, we're not going to bring new businesses  
18 into New York City and into Manhattan, so I hate  
19 to say it. I think I was shown to be correct,  
20 there's no justification to give even further  
21 benefits now. It is a giveaway to the real  
22 estate industry, and I would urge you to vote  
23 against that.

1                   ACTING PRESIDENT KUHL: Read the  
2 last section.

3                   THE SECRETARY: Section 11. This  
4 act shall take effect July 1.

5                   ACTING PRESIDENT KUHL: Call the  
6 roll.

7                   (The Secretary called the roll. )

8                   ACTING PRESIDENT KUHL: Record  
9 the negatives. Announce the results.

10                  THE SECRETARY: Ayes 57, nays  
11 one, Senator Leichter recorded in the negative.

12                  ACTING PRESIDENT KUHL: The bill  
13 is passed.

14                  Senator Bruno.

15                  SENATOR BRUNO: Mr. President,  
16 can we at this time return to reports of  
17 standing committees and I believe there's a  
18 report from the Rules Committee at the desk. I  
19 would ask it be read at this time.

20                  ACTING PRESIDENT KUHL: Return to  
21 reports of standing committees, ask the  
22 Secretary to read the Rules report.

23                  THE SECRETARY: Senator Bruno,

1 from the Committee on Rules, reports the  
2 following bill directly to third reading:

3 Senate Print 5097-C, by Senator  
4 Spano, an act to amend the Retirement and Social  
5 Security Law.

6 ACTING PRESIDENT KUHL: Motion to  
7 accept the report of the Rules committee. All  
8 those in favor signify by saying aye.

9 (Response of "Aye.")

10 Opposed nay.

11 (There was no response. )

12 The Rules report is accepted.

13 Senator Bruno.

14 SENATOR BRUNO: Mr. President,  
15 can we at this time take up Calendar Number  
16 1805.

17 ACTING PRESIDENT KUHL: Secretary  
18 will read.

19 THE SECRETARY: Calendar Number  
20 1805, by Senator Spano, Senate Print 5097-C, an  
21 act to amend the Retirement and Social Security  
22 Law.

23 ACTING PRESIDENT KUHL: Secretary

1 will read the last section.

2 SENATOR LEICHTER: Mr. President.

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

5 ACTING PRESIDENT KUHL: Senator  
6 Leichter.

7 SENATOR LEICHTER: Senator here  
8 to respond?

9 SENATOR VELELLA: I believe  
10 Senator Spano is assisting Senator Lack in his  
11 research and, in his absence, I will try to  
12 answer any questions as well as I can do.

13 ACTING PRESIDENT KUHL: Senator  
14 Velella will yield, Senator Leichter.

15 SENATOR LEICHTER: Yes, Senator,  
16 as I read this bill, it makes certain  
17 presumptions as to disability of firemen in the  
18 city of New York or maybe firemen throughout the  
19 state of New York, I don't know. Both firemen  
20 and police, is that right? Is that correct?

21 SENATOR VELELLA: Yes, Senator.

22 SENATOR LEICHTER: And one of the  
23 presumptions is that on disability if that

1 policeman or that fireman is found to be  
2 suffering from melanoma or prostate cancer and  
3 he was healthy at the time that he entered the  
4 service, then it's deemed to be service-related  
5 and upon retirement that police officer or that  
6 fireman would get the pension benefits of -  
7 that are -- that goes with disability yet, is  
8 that correct? Is that correct?

9 SENATOR VELELLA: No, it is not.

10 SENATOR LEICHTER: Would you  
11 explain that.

12 SENATOR VELELLA: You said deemed  
13 to be. It was a presumption, and being the  
14 scholarly attorney that you are, you know if  
15 it's a presumption it is rebuttable.

16 SENATOR LEICHTER: O.K. Senator,  
17 it is my understanding that you get melanoma  
18 ordinarily from being in the sun. Is there  
19 something about being a fireman who spends a  
20 good deal of the time in the firehouse that  
21 subjects him to melanoma more than other people,  
22 people who are not serving as firemen?

23 SENATOR VELELLA: I would answer

1           that by saying that, if we knew what caused  
2           cancer, we would all be a lot better off. There  
3           are a lot of theories and a lot of  
4           possibilities. Certainly the firefighters and  
5           the people who deal with emergency situations  
6           inhale a great deal of carcinogenics, are  
7           exposed to a lot of problems that the average  
8           person are not exposed to, and I believe that  
9           that justifies the presumption that their injury  
10          or their malady may have been job-related.  
11          However, if someone can show that there are  
12          other factors such as heavy smoking, that also  
13          might be a problem. A lot of other factors that  
14          can be competitive to the presumption and rebut  
15          that presumption, but the board would make the  
16          determination.

17                         SENATOR LEICHTER: Right. Mr.  
18          President, if Senator Velella continues to  
19          yield.

20                         ACTING PRESIDENT KUHL: Senator  
21          Velella, will you continue to yield?

22                         SENATOR LEICHTER: Senator, I  
23          think you said there is no scientific proof

1           whatsoever, and really my question is to you in  
2           the absence of scientific proof, how can we make  
3           that presumption?

4                         SENATOR VELELLA:  I guess,  
5           Senator, that's why we're saying it's a  
6           presumption and not as you have stated deeming  
7           it to be related.  We'll let the board make the  
8           medical analysis, take a look at the facts,  
9           examine the facts and make a decision.  All  
10          those facts will be before the board, the  
11          pension board that makes that decision, the  
12          medical evidence, the testimony, the history of  
13          the person, the predisposition, all of these  
14          things are weighed very carefully, by these very  
15          responsible members of this board.

16                        SENATOR LEICHTER:  Mr. President,  
17          if Senator Velella will continue to yield.  
18          Senator, I was going to suggest that you join  
19          Senator Lack in doing the research, but -

20                        SENATOR VELELLA:  I'm trying to  
21          pinch-hit for one Senator that's very knowledge  
22          able on this and I may not be doing as good a  
23          job as if he were here to do it himself.

1                   SENATOR LEICHTER:  Senator, I'm  
2                   particularly interested in, if you'd be good  
3                   enough to yield, what relationship there  
4                   possibly is to being a fire officer or being a  
5                   police officer and prostate cancer.  Who has  
6                   ever shown that there is any connection?

7                   SENATOR VELELLA:  Senator, if -  
8                   if we could only identify what it is that causes  
9                   that, we'd all be better off.  Certainly you and  
10                  I would love to see the definite answers as to  
11                  what caused these problems.  However, best we  
12                  can do is evaluate the medical knowledge that we  
13                  have available, make a decision based on the  
14                  facts, the medical testimony, and then we can  
15                  make a decision.  That board can make that  
16                  decision.

17                  What causes it?  Nobody knows,  
18                  but there are some good medical presumptions  
19                  that have to be weighed and evaluated.

20                  SENATOR LEICHTER:  Senator  
21                  Velella, I was under the presumption that we who  
22                  now spend a good deal of our time sitting in  
23                  chairs would be subject to that terrible -

1 SENATOR VELELLA: Yes.

2 SENATOR LEICHTER: -- condition,  
3 rather than a fire officer. Are you going to  
4 put in a bill to deal with that presumption that  
5 if we get prostate cancer some time, that it's  
6 subject to our work?

7 SENATOR VELELLA: I may not think  
8 that sitting -- yes, Senator, I may not think  
9 sitting in a chair in an inactive mode as much  
10 as you do would cause that type of cancer.  
11 However, I do think, when you're out on these  
12 emergency situations where you're exposed to not  
13 just gases but contaminants, cleaning up  
14 pollution problems, all of the things that our  
15 emergency medical service people are exposed to,  
16 I think there's a pretty good presumption  
17 there.

18 Thank you, Senator.

19 SENATOR LEICHTER: Senator, just  
20 one more question.

21 ACTING PRESIDENT KUHL: Senator  
22 Velella yield to one more question?

23 SENATOR LEICHTER: Senator, one

1 more question.

2 ACTING PRESIDENT KUHL: Senator  
3 Velella.

4 SENATOR VELELLA: Yes, Senator.

5 SENATOR LEICHTER: Can you tell  
6 me what it is that the nature of being a police  
7 officer that would cause or maybe some causal  
8 connection between being a police officer and  
9 urinary problems which you also happen to make a  
10 presumption?

11 SENATOR VELELLA: Well, Senator,  
12 in the words of one of our colleagues, Senator  
13 Oppenheimer, where there's smoke there's fire  
14 and maybe members of the campaign can remember  
15 that.

16 ACTING PRESIDENT KUHL: Secretary  
17 will read the last section.

18 SENATOR VELELLA: And, Senator,  
19 when the fact is that our New York State Police  
20 have the highest incidence of urinary tract  
21 cancers because of the job that they do when  
22 there's an emergency, they're right there  
23 whether it be toxic spills, whether it be fires,

1           whether it be buildings burning, plastics,  
2           whatever those kinds of problems are, the  
3           contaminants that they're exposed to, it is  
4           reasonable to believe cause those cancers.

5                           Thank you, Senator.

6                           SENATOR LEICHTER: I want to  
7           thank you. My colleague answering that question  
8           says you get a lot of free coffee, and that may  
9           be the cause.

10                          SENATOR VELELLA: Well, they take  
11           anything free, maybe.

12                          ACTING PRESIDENT KUHL: Have a  
13           little order in the house.

14                          Senator Leichter.

15                          SENATOR LEICHTER: Mr. President,  
16           I -- I think this session has clearly run its  
17           course and, as I said, I mean this is obviously  
18           garbage time, and I'm sorry that I maybe take  
19           this -- these sort of bills too seriously in  
20           order to have the jocular and casual approach  
21           that my friend here has, but we are voting on  
22           bills where we're responsible on it. I mean we  
23           are providing millions of dollars in benefits,

1 disability benefits, that may cost the city of  
2 New York a great deal of money. The very least  
3 I think we have some obligation to show that  
4 there's a causal relationship between the work  
5 that these people do and the disability.

6 Let me say I think the  
7 firefighters are wonderful. They're terrific  
8 people. If we want to say that a firefighter  
9 has loss of hair that is related to his job and  
10 we're going to compensate him or if they get  
11 wrinkles after 20, 25 years for worrying about  
12 their jobs, we're going to compensate them, then  
13 let's put it on the -- let's do it openly and  
14 let's just say we're going to increase their  
15 pensions because these are very valuable members  
16 of the public service, but to do it in this  
17 underhanded way, I don't think does any credit  
18 to them or does any credit to us.

19 I don't think it's a serious  
20 bill, Mr. President.

21 ACTING PRESIDENT KUHL: Secretary

22 will-

23 SENATOR GOLD: Mr. President.

1                   ACTING PRESIDENT KUHL:  Senator  
2                   Gold.

3                   SENATOR GOLD:  Yeah, Mr.  
4                   President.  I won't be more than 25 seconds,  
5                   but, Senator Leichter, I appreciate your  
6                   position, seriously, but in the world that we  
7                   live in today where the press is always looking  
8                   for sound bites or whatever, you made one  
9                   comment, and I know at least one member of the  
10                  press who picked it up and I think it should be  
11                  dealt with, and you said that -- are you saying,  
12                  Senator Velella, that firefighters who spend  
13                  most of their day sitting around the firehouse  
14                  and in all fairness I understand how you used  
15                  it, I don't appreciate the way some pressmen use  
16                  it.  Whether you are one way or another on this  
17                  bill, I mean fire fighting is one of the most  
18                  dangerous occupations.

19                  We all owe these people a great  
20                  deal of gratitude, and it is very simplistic for  
21                  anybody in the press to write that these people  
22                  just sit around the firehouse all day, and I  
23                  know, Senator Leichter, you respect them, I

1 respect them. I hope the press does also.

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

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

6 ACTING PRESIDENT KUHL: Call the  
7 roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT KUHL: Record  
10 the negative votes. Announce the results.

11 THE SECRETARY: Those recorded in  
12 the negative on Calendar Number 1805 are  
13 Senators Leichter, Montgomery, Rath and Wright.  
14 Ayes 54, nays 4.

15 ACTING PRESIDENT KUHL: The bill  
16 is passed.

17 Senator Bruno.

18 SENATOR BRUNO: Mr. Bruno, can we  
19 at this time return to the order of messages  
20 from the Assembly. I believe there is an  
21 Assembly hand-down.

22 ACTING PRESIDENT KUHL: There is  
23 a message from the Assembly. Ask the Secretary

1 to read.

2 THE SECRETARY: Calendar Number  
3 1806, by the Assembly Committee on Rules,  
4 Assembly Print 11226, an act to amend the  
5 Retirement and Social Security Law.

6 ACTING PRESIDENT KUHL: On motion  
7 of Senator Bruno and with unanimous consent, the  
8 rules are suspended and the bill is ordered to  
9 third reading.

10 Ask the Secretary to read the  
11 title.

12 THE SECRETARY: An act to amend  
13 the Retirement and Social Security Law.

14 ACTING PRESIDENT KUHL: Read the  
15 last section.

16 THE SECRETARY: Section 2.

17 SENATOR LEICHTER: Just hold a  
18 minute.

19 THE SECRETARY: This act shall  
20 take effect immediately.

21 ACTING PRESIDENT KUHL: Before we  
22 read the last section, there is a home rule  
23 message at the desk. I'll ask the Secretary to

1 read the last section.

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

4 ACTING PRESIDENT KUHL: Call the  
5 roll.

6 (The Secretary called the roll. )

7 THE SECRETARY: Ayes 58.

8 ACTING PRESIDENT KUHL: The bill  
9 is passed.

10 The Chair recognizes Senator  
11 Connor.

12 SENATOR CONNOR: Thank you, Mr.  
13 President. I rise to make a closing statement.  
14 It seems a little bit like deja vu. About a  
15 month ago when we did this, I'm glad we're doing  
16 it again, Senator Bruno, because I forgot to say  
17 some things this time and no, you can make up  
18 for it, although I don't know how much interest  
19 there is. I noticed not even the loft tenants  
20 are here to hear this any more.

21 But this has indeed been a  
22 curious session. We were presented in December  
23 with a Newt Gingrich-like budget by the

1 Governor, cuts to health care, cuts to  
2 education, cuts to programs to help workers,  
3 children and, by the way, the timing of it, as  
4 it's July 12th, I'm really happy he submitted it  
5 early. If he hadn't submitted it on December  
6 15th, I can't imagine when we would have  
7 finished work on it. Today is the 13th, that's  
8 right. Today was the beginning of my family  
9 vacation. My wife sends you our greetings from  
10 the hurricane seashore.

11 But the -- we've now seen that  
12 transformed in all seriousness, and we've had  
13 our partisan differences, but I think on the  
14 part of the Legislature there was a real  
15 bipartisan effort to make that a realistic  
16 moderate budget, to walk away from the extremist  
17 type of Republicans in Washington and to provide  
18 a budget that met the needs of the people of the  
19 state of New York, and I congratulate all my  
20 colleagues in both parties in both houses for  
21 doing that.

22 In doing that, of course, this  
23 house passed a budget, its own version, which

1 repudiated the Governor by spending \$800 million  
2 more. The Assembly passed its version, both  
3 passed it unanimously, passed it unanimously,  
4 people in both parties voted for that, that  
5 spent more than the Governor because we had real  
6 needs.

7 Earlier in this session, my  
8 friends in the Democratic Conference called for  
9 a value-based budget that recognized values, the  
10 future, education, job development, worker  
11 retraining, providing for the elderly,  
12 maintaining a first class health care system and  
13 meeting our governmental responsibilities. In  
14 every one of these categories, this budget and  
15 the actions in this last week have reflected  
16 that.

17 In the last category, reforming  
18 our government, we have a long way to go. We've  
19 taken many steps backwards in the secrecy and  
20 lack of openness in this budget process. On the  
21 other hand, with respect to ballot access we've  
22 taken, in all fairness, a pretty decent step  
23 forward in providing for democracy with a small

1 "d".

2 In the other categories, we've  
3 done a NYPHRM bill. We've done Medicaid  
4 restorations which recognize that health care is  
5 important to all New Yorkers. We've provided  
6 more funds for education and higher education,  
7 and we've certainly provided for our children's  
8 future.

9 I want to thank all my colleagues  
10 in the Democratic Conference. I want to thank  
11 those members who held the hearings we held  
12 earlier on the criminal justice system and the  
13 criminal justice proposals that the Governor  
14 made, all of which have been soundly rejected by  
15 the Legislature.

16 I want to thank those who held  
17 the higher education hearings. Senator Stavisky  
18 who has been ill much of this session, and all  
19 the rest of my colleagues here who filled in for  
20 him in some of these -- most of these hearings  
21 around the state. I think the budget reflects  
22 the kind of need that these hearings came up  
23 with.

1                   As we enter into a -- of course,  
2           I want to once again thank Senator David  
3           Paterson, my more than able deputy, whose humor,  
4           wit and intellect is just superb, and I think  
5           we've all enjoyed. He's ably assisted, of  
6           course, by Senator Stachowski and as we now  
7           complete the budget, I can now say thanks to  
8           Senator Gold, our ranking on Finance, who has  
9           been of great assistance to me both personally  
10          as leader and, of course, the chair of our  
11          Conference, Senator Mendez, and the rest of the  
12          members of the Senate Democratic Conference.

13                   What I for got to say last time  
14          because I wanted to keep them working is I want  
15          to thank my staff, my counsel, Michael Boxley,  
16          John Ewashko, Secretary of Finance, Amy Solomon,  
17          chief of staff, my secretary and all the rest of  
18          my staff, all of whom function under these last  
19          few days with no sleep, all right, and, of  
20          course, Peter Slocum, my press secretary, and  
21          policy adviser.

22                   All the staff functioned on both  
23          sides, I think, with very little sleep, had very

1 little time certainly on our side to analyze  
2 legislation, and did a great job.

3 As we enter into now the very  
4 political silly season, I want to wish all of  
5 you a -- of course, want to thank Senator Bruno  
6 for once again these -- these absolute  
7 courtesies, and I enjoyed working with him. The  
8 -- I do want to thank all of my colleagues here  
9 and wish you all a great summer. I wish all of  
10 you great health for the rest of the year. I  
11 wish all of you success in your outside  
12 endeavors. And I wish some of you great luck in  
13 November.

14 But -- so look at him, huh? But  
15 unfortunately, we set some records this year,  
16 the latest budget ever. That's something we  
17 don't, as part of this system I'm certainly not  
18 proud and I think we must do much, much better  
19 in the future. We must heed the call of  
20 Governor Pataki in his first State of the State  
21 address and in his campaign that we have an open  
22 budget process, that we open it up to all the  
23 members of the Legislature and more importantly

1 to public scrutiny so the public can be heard.

2 I'm disappointed that the  
3 Governor in his "Sophomore slump" year not only  
4 didn't accomplish those goals he set for himself  
5 but, in fact, ended up taking part in a highly  
6 secretive process which resulted in record  
7 lateness, record disappointment on the part of  
8 the public and all those who were concerned  
9 about certainly our localities and certainly all  
10 those others concerned about New York's fiscal  
11 situation.

12 Mr. President, thank you very  
13 much for your courtesies. I hope you all have a  
14 great summer.

15 ACTING PRESIDENT KUHL: Senator  
16 Bruno, to close.

17 SENATOR BRUNO: Thank you very  
18 much, Mr. President. Thank you, Senator Connor,  
19 for your very gracious remarks.

20 I think many of us that have  
21 experienced this year would -- could categorize  
22 it in any number of ways. Certainly curious, as  
23 the Senator does, would fit. I'd like to

1 categorize what we have done this year as out  
2 standing, productive and people will focus on  
3 that this is a late budget, but it's much better  
4 to focus on what is in the budget than when it  
5 passes.

6 What is in this budget? It  
7 continues the growth, continues the prosperity  
8 for the people of this state that started last  
9 year with the leadership of Governor George  
10 Pataki, with we in the Legislature as partners,  
11 and this state is turning around, and we are  
12 headed in the right direction. All of us here  
13 can be proud of what we've done. We don't have  
14 to apologize for anything.

15 Is this a perfect system that we  
16 are involved in? It certainly is not. Will we  
17 all work continually to improve it? I hope so  
18 and I'd pray so, because that's what our  
19 business is all about. Continual re  
20 adjustment, improvement, and we're doing that.  
21 We are getting there.

22 We have a budget that cuts  
23 spending second year in a row. First time in 51

1 years spending less than the previous year in  
2 the general fund. Cut taxes, second year in a  
3 row, most massive tax cuts in the history of  
4 this state, and the largest tax cuts throughout  
5 the United States last year, continued this  
6 year. Rescinding the property tax that got to  
7 be, for better or worse, called "the Cuomo tax"  
8 on properties primarily in New York City, that  
9 is being rescinded in this budget and that will  
10 be one of the most productive things that will  
11 happen to the people of this state. That would  
12 be the flagship of what has happened in tax cuts  
13 throughout this country.

14 So we can be proud of what we've  
15 done, not of the whole process because, again,  
16 there are flaws, there are flaws in the budget  
17 process. We'll work together trying to fix  
18 that. We'll work together so that we don't  
19 repeat some of our mistakes next year.

20 We don't do anything in this  
21 chamber by ourselves. I know that. I can't  
22 function without my colleagues here in the  
23 Majority; I can't function without my colleagues

1 in the Minority, so we in the Majority will do  
2 our best to keep you in the Minority, but we  
3 will do that in a good-natured way as we go  
4 really and leave the chamber to another phase of  
5 all of our lives that hopefully will be  
6 productive for all of us as we relate to the  
7 people that we represent, and this is a good  
8 season. It's time for us to get out and talk to  
9 the people that send us here to represent them  
10 to do the serious work of government, and all of  
11 us can be proud of what we've done, and I do  
12 want to say thank you to many of the people who  
13 are in this chamber, many that aren't here for  
14 helping me function and helping us in the  
15 process, and sitting in front of me Chairman of  
16 Finance Ron Stafford who spends days, nights,  
17 week ends in this process helping make it  
18 happen, ably assisted by Abe Lackman that is  
19 getting to be legendary around here and in this  
20 state. I didn't say "infamous", I said  
21 legendary, and all of his staff that assists him  
22 so well, and when I realize the hours that  
23 people put in, the days and going through week

1 ends, believe me, the people of this state, we  
2 are well served. So I say thank you.

3 My Deputy Majority Leader on my  
4 right who sits here and functions and helps us  
5 in every way that he does and can: Dean, I  
6 thank you very, very much for that, and for all  
7 of my colleagues here that chair committees and  
8 just work so hard to make us as productive as we  
9 have been this year in serving the people of the  
10 state, and Owen Johnson, who is in the high  
11 leadership position, in assisting us in more  
12 ways than I can relate, and Tim Collins, Dave  
13 Dudley, our executive counsels, who again just  
14 make it work and they make it work efficiently  
15 and effectively, and I could go on at great  
16 length, and I don't want to embarrass them or  
17 any of the others like my chief of staff Steve  
18 Boggess who just has been with me and in my life  
19 for more years than he wants to remember, but  
20 it's about 20, and that's as long as I have been  
21 in the Legislature, so I thank him for that.  
22 Pat Stackrow, my executive assistant, that works  
23 so hard to make everything run smoothly in the

1 office and John McArdle, our director of  
2 communications, who helps us all communicate as  
3 well as we do with our publics, and Marcia  
4 White, my press secretary, I thank her for  
5 putting up with me, putting up with you and  
6 putting up with the press.

7 Dean, who did I forget in  
8 assisting me? If I forgot anyone, it is my  
9 deputy's fault and he'll take full  
10 responsibility for that. And Senator Randy  
11 Kuhl, who has presided, as you all know, with  
12 such great diligence and diplomacy, Randy, we  
13 all thank you in this chamber for helping us  
14 function so smoothly.

15 (Applause)

16 ACTING PRESIDENT KUHL: There  
17 will be no demonstrations in the chamber.

18 SENATOR BRUNO: Please bring the  
19 chamber back to order, Mr. President. Bill  
20 Dougherty has been with us for so many years and  
21 he has just helped us in so many ways. He is  
22 leaving us this year and taking early retirement  
23 and we're going to miss Bill. Where is Bill?

1 We're going to miss Bill, and we appreciate your  
2 long service here, and thank you very, very  
3 much.

4 You all know all of the rest of  
5 the things that we have done like restructuring  
6 the hospital reimbursement rates, the bond  
7 issue, managing managed care, managing Medicaid  
8 through managed care. We've done a lot of good  
9 things. As we go forward, we'll talk about  
10 those good things and we'll meet the people out  
11 there, and I know we're all anxious to do that  
12 and I want to, as I close, thank Governor George  
13 Pataki for his leadership, for his cooperation,  
14 and his staff that surrounds him, all of them,  
15 for all of the work that they have done to help  
16 us in this process and in getting us to where we  
17 are.

18 Some things are difficult, some  
19 things are contentious, some things are  
20 confrontational, but when it's all said and done  
21 we debate and we do it sometimes good-naturedly,  
22 sometimes we do it more strenuously, more  
23 seriously, but we get there, and we recognize

1       that we are colleagues. We are colleagues in  
2       every way, and while we have differences we all  
3       share the opportunities that are out there to  
4       serve our constituency and we all want to do it  
5       as well as we can, and I recognize that and I  
6       think the people in this state recognize that.

7                So I thank you all in the chamber  
8       and I join Senator Connor in just wishing you  
9       happiness, health throughout the summer, stay  
10      safe and with all of us that will leave here,  
11      the mode of our lives will change as we will go  
12      from this camaraderie to some others that are  
13      out there who are watching us and eyeing us and  
14      thinking that they foolishly could do a better  
15      job than we and we will prove that between now  
16      and then, and we will be here, most of us, back  
17      in this chamber. And I want to thank you,  
18      Dean. Bill Sears, Senator Sears is not here, he  
19      is ill and Bill Sears is retiring at the  
20      conclusion of this session. He will not rejoin  
21      us, and I thank you for reminding me. Bill has  
22      served the people of this state and his district  
23      lots of years again in an outstanding way, so we

1 are all indebted and we all consider him a  
2 friend and hopefully he will visit when he gets  
3 well and we'll have a chance to say some things  
4 about Bill and his service again.

5 So have a safe summer. Have a  
6 happy summer, and I'm going to ask that all  
7 bills, Mr. President, be recommitted to Rules  
8 and -

9 ACTING PRESIDENT KUHL: All bills  
10 recommitted.

11 SENATOR BRUNO: -- there being no  
12 further business to come before the Senate, I  
13 would ask that we adjourn subject to the call of  
14 the Majority Leader and that intervening days to  
15 be legislative days. Thank you, Mr. President.

16 ACTING PRESIDENT KUHL: All bills  
17 will be directly recommitted.

18 (Applause)

19 Without objection, Senate stands  
20 adjourned subject to the call of the Majority  
21 Leader, intervening days to be legislative  
22 days.

23 (Whereupon at 5:30 p.m., the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

Senate adjourned. )