ALBANY, NEW YORK

March 25, 1997

3:05 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. Would you please rise and join with me in the Pledge of Allegiance.

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

May we bow our heads in a moment of silence.

(A moment of silence was observed.)

The reading of the Journal, please.

THE SECRETARY: In Senate, Monday, March 24th. The Senate met pursuant to adjournment. The Journal of Sunday, March 23rd, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Tully,

from the Committee on Water Resources Commissions, offers up the following bills:

Senate Print 1465-A, by Senator Tully, an act to amend the Environmental Conservation Law;

2733, by Senator Cook, an act to amend the Soil and Water Conservation Districts Law.

Senator Alesi, from the Committee on Consumer Protection, offers up the following bills:

Senate 2951, by Senator Seward, an act to amend the General Business Law, in relation to willfully installing a fire protection system;

3525, by Senator Alesi, an act to amend the General Business Law, in relation to telephone services.

Senator Lack, from the Committee on Judiciary, offers up the following bills:

Senate Print 3001, by Senator Lack, concurrent resolution of the Senate and Assembly, proposing an amendment to Article VI of the Constitution;

3304, by Senator Leibell,

concurrent resolution of the Senate and Assembly, proposing an amendment to Section 1 Article VI of the Constitution;

3444, by Senator Saland, an act to amend the Domestic Relations Law, the Public Health Law and others, in relation to fees charged for the issuance of a marriage license;

Senator Padavan, from the Committee on Cities, offers up the following bills:

Senate Print 3187, by Senator Seward, an act authorizing and directing the city of Ithaca to establish a photo radar monitoring demonstration.

Senator Spano, from the Committee on Labor, offers up the following bills:

Senate Print 1384-A, by Senator Spano, an act to amend the Labor Law and the Public Health Law;

1560, by Senator Maltese, an act amend the Labor Law, in relation to certain employment of minors under 16 years of age;

3483, by Senator Spano, an act to amend the Labor Law, in relation to liability for non-payment of wages in the apparel

industry.

Senator Stafford, from the Committee on Finance, offers up the following bills:

Senate Print 2-A, by Senator Bruno, an act to amend the Tax Law and the Public Services Law, in relation to a reduction in the rate of tax;

701-A, Budget Bill, an act making appropriation for the legal requirements of the state debt service;

2496, by Senator Johnson, an act to amend the State Finance Law and the Vehicle and Traffic Law;

3083, by Senator Padavan, an act to amend the State Finance Law, in relation to contracts;

3857, by the Committee on Rules, an act to amend the Public Authorities Law;

3865, by the Committee on Rules, an act to amend the State Finance Law;

3867, by the Committee on Rules, an act to amend the State Finance Law.

Senator Volker, from the Committee on Codes, offers up the following

bills:

Senate Print 212-A, by Senator Nozzolio, an act to amend the Penal Law, in relation to registration of firearms;

341, by Senator Skelos, an act to amend the Penal Law, in relation to monetary standards;

589, by Senator Skelos, an act to amend the Penal Law and the Criminal Procedure Law;

1143, by Senator Saland, an act to amend the Penal Law;

1467, by Senator Volker, an act to amend the Criminal Procedure Law, the Family Court Act and the Penal Law;

1556, by Senator Leibell, an act to amend the Penal Law, the County Law and the Executive Law;

1593, by Senator Johnson, an act to amend the Penal Law, in relation to including court officer;

1957, by Senator Holland, an act to amend the Penal Law, in relation to fixing sentences;

1977, by Senator Kuhl, an act to

amend the Penal Law, in relation to criminal possession of a weapon in the third degree;

2643, by Senator Skelos, an act to amend the Penal Law;

3070, by Senator Padavan, an act to amend the Penal Law, in relation to possession of gambling devices;

3407, by Senator Volker, an act to amend the Criminal Procedure Law, in relation to the authority of police officers;

3456, by Senator Volker, an act to enact the Criminal Procedure Law Reformed Act of 1997.

Senator Rath, from the Committee on Local Governments, offers up the following bills:

Senate Print 2670, by Senator LaValle, an act to amend the Town Law, in relation to fire districts;

2843, by Senator Tully, an act to amend the Nassau Civil Divisions Act;

3133-A, by Senator Lack, an act to amend the Real Property Tax Law, in relation to duties of the director of real property tax services;

3139, by Senator LaValle, an act to amend the Town Law;

3140, by Senator LaValle, an act to amend the Town Law;

3267, by Senator Seward, an act to amend the Town Law, in relation to non resident volunteer firefighters;

3754, by Senator Rath, an act to amend Chapter 708 of the Laws of 1992;

3864, by Senator Present, an act to amend Chapter 540 of the Laws of 1992.

Senator Levy, from the Committee on Transportation, offers up the following bills:

Senate Print 99, by Senator Levy, an act in relation to authorizing a review of current drug impaired driving education;

272, by Senator Volker, an act to amend the Vehicle and Traffic Law;

475-A, by Senator Nozzolio, an act to amend the Vehicle and Traffic Law;

748, by Senator Present, an act to amend the Vehicle and Traffic Law, in relation to refunds of registration fees;

917, by Senator Levy, an act to

amend the Public Authorities Law;

1344, by Senator Levy, an act to amend the Vehicle and Traffic Law, in relation to a requirement to mandate full resident addresses;

2601, by Senator Velella, an act to amend the Public Authorities Law;

3421, by Senator Spano, an act to amend the Public Authorities Law;

3553, by Senator Levy, an act to amend the Vehicle and Traffic Law;

3863, by the Committee on Rules, an act to amend Chapter 329 of the Laws of 1991;

3866, by the Committee on Rules, an act to amend the Transportation Law.

Senator Marcellino, from the Committee on Environmental Conservation, offers up the following bills:

Senate Print 933, by Senator Maziarz, an act to amend the Environmental Conservation Law;

3103, by Senator LaValle, an act to amend the Environmental Conservation Law;

3679, by Senator Marcellino, an act to amend Chapter 471 of the Laws of 1996;

2921, with amendments, by Senator Marchi, an act to amend Chapter 395 of the Laws of 1978;

3834, by Senator Marcellino, an act to amend the Environmental Conservation Law.

All bills directly for third reading.

THE PRESIDENT: All bills direct to third reading.

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, offers up the following nominations: As judge of the New York State Court of Claims, Dora L. Irizarry, of New York County.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise to move the nomination of Dora L. Irizarry as a judge of the New York State Court of Claims. Judge Irizarry appeared before the Committee this morning, was unanimously moved to the floor. Prior to that, she had been investigated by members of my staff and found to be eminently satisfactory and was

sent before the entire Committee.

Judge Irizarry was appointed to the Criminal Court of the city of New York by Mayor Giuliani in 19... in December 1995. She currently sits in New York County Criminal Court.

Prior to her appointment to the bench, she was a prosecutor for 16 years, beginning in 1979 when she became an assistant district attorney in the Appeals Bureau of the Bronx District Attorney's office.

In 1981, Judge Irizarry was assigned to the office of the New York City Special Narcotics Prosecutor and was a prosecutor for the remaining time until she became a judge by appointment of Mayor Giuliani.

She attended the Bronx High School of Science, graduated from Yale University with honors and distinction in political sociology and then from Columbia University School of Law.

The Governor is certainly to be congratulated on an outstanding appointment to the New York State Court of Claims and, Madam

President, I would respectfully move the nomination and ask for you to congratulate Judge Irizarry as well as her son Justin who is accompanying her in our west -- east gallery.

Thank you.

THE PRESIDENT: Do any other members wish to speak on the nomination?

(There was no response.)

The question is on the confirmation of Dora L. Irizarry as judge of the New York State Court of Claims. All in favor please signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Dora L. Irizarry is hereby confirmed as judge of the New York State Court of Claims.

(Applause)

In the gallery are the judge's son, Justin Irizarry, several friends of the judge's. We welcome you all.

The Secretary will read.

THE SECRETARY: As a justice of the Supreme Court for the Tenth Judicial

District, Burton S. Joseph, of Nassau County.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise to move the nomination of Burton S. Joseph of Nassau County as a justice of the New York State Supreme Court. Judge Joseph appeared before the Committee this morning, was unanimously endorsed and sent to the floor for consideration this afternoon, and I would proudly yield to Senator Hannon for purposes of a second.

THE PRESIDENT: Senator Hannon.

SENATOR HANNON: Madam President, I am delighted to be able to move the nomination of Burton S. Joseph to be a justice of the Supreme Court.

Judge Joseph currently serves on the Nassau County Family Court where he has been since 1984. Prior to that, he had been a District Court judge, 1977 to 1984, and before that he had been senior deputy county attorney in the county attorney's office in Nassau County, where I had the distinct pleasure of serving with him for three years and really

getting tutored -- one of the people who tutored me in the law. So you're partially responsible, Judge.

I must say that having had a chance to watch him on the bench over the years, that he will make a distinct positive addition to the Supreme Court bench. He has the intelligence and wisdom that are needed and more importantly, he has the patience.

I have seen him take the time with litigants in a landlord/tenant dispute or the people involved in a complicated Family Court matter, to take the time, to cut through the law that was applicable so that they would understand what they were facing. They would understand the implications of what was being proposed, I think leading to a far better understanding and sense of justice than would otherwise be present.

I think that we are lucky that he is going to be serving on this bench and, therefore, I very proudly move his nomination.

THE PRESIDENT: Thank you.

Does anyone else wish to speak on the nomination?

(There was no response.)

The question is on the confirmation of Burton S. Joseph as justice of the Supreme Court for the Tenth Judicial District. All in favor please signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

Burton S. Joseph is hereby confirmed as justice of the Supreme Court for the Tenth Judicial District, and in the gallery is the judge's wife Rene and several guests. Congratulations.

(Applause)

The Secretary will read.

THE SECRETARY: As a justice of the Supreme Court for the Second Judicial District, Robert S. Kreindler, of Kings County.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise once again to move the nomination of Robert S. Kreindler as a justice of the Supreme Court to serve in the Second

Judicial District in Brooklyn.

Judge Kreindler began his career as a judge of the New York City Civil Court by appointment of Mayor Lindsay to an interim term in September 1966. Subsequently, he was appointed to a full ten-year term as a judge of the Criminal Court of the city of New York and has thereafter been reappointed twice to ten-year terms in December of 1978 and in December 1988.

For 20 years, Judge Kreindler has been serving as an acting New York State Supreme Court justice in Kings County. For my colleagues out of the City, that's pursuant to the special designation in the Constitution allowing for such appointments and one of the subjects of the restructuring bill which we have received from OCA and which shall be in further consideration in years to come. That is by designation of the presiding justices of the Appellate Divisions in the First and Second Department. In fact, although not a Supreme Court justice, Judge Kreindler has been serving longer in the criminal term of the Supreme Court than any justice in Brooklyn, elected or

appointed.

He attended Brooklyn College and Brooklyn Law School, received his L.L.B. in June of 1950. He has also served in the United States Attorney's office for approximately five years. He appeared before the Committee this morning, was unanimously endorsed by the members of the Committee and sent to the floor for consideration this afternoon.

Mr. President, I would most respectfully congratulate the Governor on his appointment and move his confirmation at this time.

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

(There was no response.)

Hearing none, the question is on the nomination of Robert S. Kreindler of Kings County to become a justice of the Supreme Court. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The justice is unanimously confirmed.

We're very, very pleased to have Judge Kreindler in the gallery with us, along with his wife Vivian. Congratulations. Good luck.

(Applause)

Senator Tully.

SENATOR TULLY: Thank you, Mr. President.

I regret that I was outside the chamber at the time the nomination of Judge Burton Joseph came before us and he was confirmed. Had I been in the chamber, I would have indicated something along the lines of what I indicated at the meeting of the Judiciary Committee today, and that's that I've known Judge Joseph for over 30 years and tried cases against him over 30 years ago and Senator Lack asked at the Judiciary Committee meeting who won when we tried those cases, and I guess we both won because we each learned a little something from each other, but I learned one thing, that Burt Joseph is a gentleman. He's a fine attorney. He's extremely well qualified, and I

think the citizens of the Tenth Judicial District will be well served and I wish those remarks to go on the record.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Thank you, Senator Tully.

Motions and resolutions.

The Chair recognizes Senator Larkin.

SENATOR LARKIN: Mr. President, I wish to call my bill, Print Number 2309, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: By Senator Larkin, Senate Print 2309, an act to amend the General Municipal Law.

ACTING PRESIDENT KUHL: Senator Larkin.

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

ACTING PRESIDENT KUHL: The motion is to reconsider the vote by which the

bill passed the house.

The Secretary will call the roll.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: Senator Larkin.

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

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Holland.

SENATOR HOLLAND: Mr. President, on behalf of Senator Johnson, please place a sponsor's star on Calendar Number 307.

ACTING PRESIDENT KUHL: Calendar Number 207 is starred at the request of the sponsor.

Senator Holland.

SENATOR HOLLAND: Mr. President, for Senator Goodman, on page 9, I offer the following amendments to Calendar Number 164, Senate Print Number 423, and ask that the said bill retain its place on the Third Reading

Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 164 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Holland.

SENATOR HOLLAND: On behalf of Senator Lack, on page 12, I offer the follow amendments to Calendar Number 259, Senate Print Number 2918, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 259 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Holland.

SENATOR HOLLAND: On behalf of Senator Lack again, on page 12, I after the following amendments to Calendar Number 260, Senate Print Number 2997, and I ask that the said bill retain its place on the Third Reading Calendar.

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

Calendar.

Senator Holland.

SENATOR HOLLAND: On behalf of Senator Present, on page 16, I offer the following amendments to Calendar Number 322, Senate Print Number 749, and I ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 322 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Holland.

SENATOR HOLLAND: Finally, on behalf of Senator Skelos, on page 19, I offer the following amendments to Calendar Number 354, Senate Print Number 2484, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 354 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President,

at this time may we please adopt the Resolution Calendar in its entirety.

ACTING PRESIDENT KUHL: The motion is to accept the Resolution Calendar which is on the desks of all of the members. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, Resolution J-00729, by Senator Bruno, he wishes to make that available for co-sponsorship to any member who so indicates to the desk.

ACTING PRESIDENT KUHL: Are there several members who would like to be on Calendar -- Resolution Number 729?

Senator Skelos, shall we put everybody on it, reverse the process and keep those -

SENATOR SKELOS: I think it would be if the person wants to go on -- the Senator wishes to sponsor the resolution, they should

indicate to the desk.

ACTING PRESIDENT KUHL: Okay. Members will indicate to the desk that they want to be on.

Senator Skelos, that brings us to the reading of the calendar.

SENATOR SKELOS: Yes. Could we have the reading of the non-controversial calendar.

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

THE SECRETARY: Calendar Number 12, by Senator Volker, Senate Print 270-B, an act to amend the Penal Law, in relation to the crime of false personation.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside at the request of the Acting Minority Leader.

THE SECRETARY: Calendar Number 61, by Senator DeFrancisco, Senate Print 477-A, an act to amend the Real Property Tax Law, in relation to authorizing infrastructure exemption in certain instances.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside at the request of the Acting Minority Leader.

THE SECRETARY: Calendar Number 114, by Senator Volker, Senate Print 98, an act to amend the Domestic Relations Law and the Family Court Act, in relation to the granting of custody of a minor.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 119, by Senator Saland, Senate Print 817, an act to amend the Family Court Act, in relation to extensions of child placement.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 120, by Senator Spano, Senate Print 1483, an act to amend the Social Services Law, in relation to requiring an investigation of all reports of child abuse.

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

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 254, by member of the Assembly Ramirez, Assembly

Print 1836, an act establishing the chronic care management demonstration program.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 257, by Senator Marchi, Senate Print 2581-A, an act to amend the Real Property Law, in relation to designation of Secretary of State.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 288, by Senator Libous, Senate Print 1918, an act to amend the Penal Law, in relation to increasing the penalties for repeat convictions.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 304, by Senator Seward, Senate Print 2577, an act to ratify, legalize and validate certain acts and proceedings of the Board of Education of the Little Falls City School District.

ACTING PRESIDENT KUHL: There is a local fiscal impact note at the desk. The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 308, by Senator Saland, Senate Print 2726, an act to amend the Social Services Law and the Education Law, in relation to protection of pupils.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 311, by Senator DeFrancisco, Senate Print 480, an act to amend the Social Services Law, in relation to the transportation of certain persons.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 330, by Senator Maltese, Senate Print 1440, an act to amend the Election Law, in relation to political committees.

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

THE SECRETARY: Section 2. This

act shall take effect on the first day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 331, by Senator Maltese, Senate Print 1474, an act to amend the Election Law, in relation to cancellation of registration.

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

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 333, by Senator Farley, Senate Print 2651, an act to amend the Election Law and the State Finance Law, in relation to requiring proposition authorizing the creation of a state debt.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 350, by member of the Assembly Schimminger, Assembly Print 1666, an act to amend the Local Finance Law, in relation to the sale of bonds and notes for the city of Buffalo.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 351, by Senator LaValle, Senate Print 1295, an act to amend the General Municipal Law, in relation to creating the town of Southampton Industrial Development Agency.

ACTING PRESIDENT KUHL: There's a

home rule message at the desk. The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

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

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 352, by Senator Seward, Senate Print 1379, an act to amend the Town Law, in relation to the exclusion of the Pyramid Mall water district.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 355, by Senator Skelos, Senate Print 2485, an act authorizing the assessor of the county of Nassau to accept an application.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the reading of the non-controversial calendar.

SENATOR SKELOS: May we have the controversial reading of the calendar.

ACTING PRESIDENT KUHL: The Secretary will read the controversial calendar, beginning on page 6, Calendar Number 12, by

Senator Volker, Senate Print 270-B.

SENATOR VOLKER: Mr. President, it seems like this is -

ACTING PRESIDENT KUHL: Senator Volker, can we read the bill and get the title -- get the bill before the house before we get into a debate on it.

The Secretary will read.

THE SECRETARY: Calendar Number 12, by Senator Volker, Senate Print 270-B, an act to amend the Penal Law, in relation to crime of false personation.

ACTING PRESIDENT KUHL: Senator Volker, an explanation has been asked for by Senator Montgomery.

SENATOR VOLKER: Mr. President, this is a bill that is designed to plug a hole in the law that has come up over a series of time. The bill came from some law enforcement organizations in New York City and Long Island.

The issue involves the fact that there has been developed what is known as a hole in the law of criminal impersonation. It is a crime right now and it's a misdemeanor to impersonate a police officer or impersonate a

public official, whatever, and it's punishable by -- as a Class A misdemeanor in certain cases and can be even more severe, but what has happened is that, where a person provides false information and false -- and falsely gives a false name or whatever, there is no -- there is no crime for that, even though if that person impersonated a police officer or a person -- a public official, it would be a crime.

What this bill says is that that could be a crime known as criminal personation and because of the fact that they are seeking to deceive law enforcement officers. Some people have said, Well, you don't have to make a response and, therefore, this is wrong. The problem is that's true. You don't have to make a response, but when you lie and give someone else's name and use someone else's name or give false information, when you think about it, in a -- in connection with a criminal investigation, there should be some way to penalize these people, and that's where the bill comes from. It is called a crime of personation -- false personation, which is a misdemeanor.

ACTING PRESIDENT KUHL: Senator

Montgomery.

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

SENATOR VOLKER: Sure.

ACTING PRESIDENT KUHL: The sponsor yields.

SENATOR MONTGOMERY: Senator Volker, my records show that we voted on this and my recollection is that we voted on this before. Is there anything different? Did you do anything different with this bill?

SENATOR VOLKER: Not basically different. It -- the -- it's, I believe, basically the same bill as last year, which I do believe that you voted against.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, I just want to remind my colleagues that there were three votes in opposition to this legislation. I believe the issue certainly that I raised when I debated the last time and my sentiments remain that the bill, while it certainly is well intended and I think it does

carry the language here that it says "after being informed of the consequences of such act", but despite that safeguard in the bill, the probability that some people, especially young people, might be particularly prone to being affected by this legislation without really understanding the full consequence of having a Class A misdemeanor on their record, I'm going to vote against this legislation again.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 12, Senator Leichter and Montgomery. Ayes 52, nays 2.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 61, by Senator DeFrancisco, Senate Print 477-A, an act to amend the Real Property Tax Law, in relation to authorizing an infrastructure exemption in certain instances.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator DeFrancisco, an explanation of Calendar Number 61 has been requested by the Acting Minority Leader, Senator Paterson.

SENATOR DeFRANCISCO: Yes. This was a bill that passed 58 to zero last year and it's a bill that did not go through the Assembly. This year they wanted me to eliminate the legislative intent which basically didn't add much and Assemblyman Schimminger indicated that he thought then he could move the bill this year, but basically it's a bill that would give the localities an option to exempt infrastructure improvements by a residential home builder until such time as a certificate of

occupancy is granted by the town or the village in order to occupy the premises and it applies to -- it gives the local option to all cities other than cities over a million in the state of New York, namely New York City.

It's a local option, but the reason for it is there's a very difficult new home market in the Central New York area, and I'm sure in other areas of the state, that there are builders who have made these improvements to the property and are holding these lots and holding the homes that are partially built without certificate of occupancies and paying taxes for improvements which ultimately will be dedicated to the village or the town anyway once this house is actually occupied.

So it provides an exemption just as if an individual was holding another type of product and wouldn't have to pay sales tax until they actually sold the product. This happens to be a product which has not been sold yet and we're trying to give the home builders a break in view of the depressed market in Central New York and other areas of the state.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Mr. President, if Senator DeFrancisco would yield to a question.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, I recognize in this legislation that it creates an option for the local governments and so, therefore, that would be a decision that the local government would make but why, in your opinion, would the local government allow for a tax shift from the developer to other entities in a situation where even after the development is completed, there are going to be certain maintenances in which the local government is going to have to pay sewage removal, different types of public services to the entity that's constructed and so what would be the reason to create almost a zoning bonus and allow for the developer not to have to pay any taxes when probably other citizens in the -- in the area

that's covered by the local government are going to have to pick up those costs?

SENATOR DeFRANCISCO: It's the same as any other local option for an exemption, whether it be a senior citizen exemption, a veteran's exemption or an exemption for any other reason that a government may have a local option on and it's a question of whether some of these businesses are going to be able to continue doing business in view of the depressed home building market.

Some towns may think this is a good idea. They may feel that it's -- in the long term, it's better to give a little at this point so that these builders can sell these homes in the long term and give this break because ultimately there's going to be a much more substantial amount of taxes that are going to be collected from an occupied home and to encourage builders to continue making the improvements in the situation where they're not selling houses right now.

If these don't -- if something like this didn't happen, a locality may say, well -- a builder may say to the locality, we're

not going to make the improvements that are ultimately going to be yours. We're going to wait until such time as we actually have everything sold and the municipality may say, let's get the improvements done and when the house is sold, we'll take over the improvements and we'll raise the taxes at that time as an occupied premise.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, I want to thank Senator DeFrancisco for his response.

On the bill, Mr. President, I was impressed by Senator DeFrancisco's assertion that with the market as it stands right now, this probably would be a good stimulant, but I would like to point out that the New York Conference of Mayors and the School Boards Association oppose it.

In some respects, we have to look at whether or not the market really can -- will really afford this kind of expansion when we think about the fact that this will certainly create opportunities for developers, where had

they been taxed, they might not be as frugal in their attempt to develop, we certainly can understand the need at any point, whether it's senior citizen prescription discounts or whether it's legislation designed to energize development in a particular area, that we as a government would want to be of assistance, but the question is whether or not the expansion of the market, in this case, would actually be what would be the most suggested thing to do in these situations.

It's really a very close call. The bill has a great deal of merit, but I wanted to raise those concerns.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53, nays 1,

Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 308, by Senator Saland, Senate Print 2726, an act to amend the Social Service Law and the Education Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Saland, an explanation of Calendar Number 308 has been requested by Senator Paterson.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this bill would create statutorily a means for the reporting and investigation of allegations of child abuse or child sexual abuse in a school setting.

Currently, the law is totally void of any procedure or standardized process to deal with this issue. Certainly there have been enough reports from various areas of the state of these situations occurring in school settings with no coordinated response.

Now, we place our children in school settings with the understanding that

there is an element of security and trust associated with being in those settings and my assumption is that that is why, when this bill was considered last year, it passed 59 to nothing.

What we do here is create that mechanism, requires school personnel, school building superintendents to respond to these allegations, to make sure that they're handled appropriately and turned over to law enforcement for investigation and what it does particularly is to make void as against public policy the idea of the so-called silent resignation. And what is a silent resignation?

What that is is, when there is an incident that occurs involving abuse or sexual abuse, the offending person is permitted to resign in lieu of any procedure being brought, whether it's civil or criminal, and that person can then go on to another jurisdiction where he or she may commit the very same acts that led to the resignation in the first place. No consequences, no follow up, no trail.

This bill is an effort to deal with that problem. This bill is one of the

focuses of the Children and Families committee this year and this bill is a bill which affords protection to our children and I would assume would be embraced by everybody in the process for basically endeavoring to keep the educational institutions, places, as I said earlier, that are intended to be safe and protective of our children and not places where they can be abused with little or no consequence or little or no ability for any kind of effective response.

ACTING PRESIDENT KUHL: Senator Paterson.

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

If Senator Saland would yield for a question.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, I was

especially impressed in 1996 with your remarks concerning the statewide legislation that we passed concerning domestic violence and some of your admonitions to this body about the false accusations and often -- and I think it was you that pointed it out -- the fact that the accusation of child abuse is made almost regularly in custody battles and so, therefore, I would pretty much assume that in offering this piece of legislation, that your concerns were extended such that you would have some idea of how to protect an individual who is just simply accused and then goes on hopefully for a career in education and is not an abuser of children or an abuser of anyone but simply because of some litigation, had the charge made against him to enhance the opponent -- the opponent's bargaining position during some sort of civil action.

I was wondering if you would share with us how you feel a person who would be falsely accused in this way would still be protected while at the same time you accomplish the goal that you just stated that's in your legislation?

SENATOR SALAND: Let me see - I'm glad that you asked that question and let me see if I can respond to your satisfaction, and I think the genesis of your question may well come from the NYSUT memo in opposition, and I think there are two weaknesses in the underlying premises for the NYSUT memo.

In the first instance, they refer to the Prealta case. Now, the Prealta case, as you're aware, basically says that where you have an employer request, the fact that the standard of mere credible evidence is what is used for the reports that are submitted to the registry and where the basis of whether they were founded or unfounded is not good enough and the court said in that particular case that the standard has to be a preponderance of the evidence.

This does not change that because what happens -- what would happen in this situation would be, were there, in fact, an employer request, a request by a school district to access the central registry as is provided under this bill, where there would be a hit, the registry would be required to provide the respondent the opportunity for an expungement

hearing. The burden of proof would be on DSS to show by a preponderance of the evidence that the allegations in question were correct or true by a preponderance of the evidence. So the position raised by NYSUT is absolutely abjectly erroneous and incorrect if the implication was that somehow there was no protection there.

Secondly, the question of unfounded reports, something we should -- as you know, I had great concern about when we dealt with the issue of Elisa, there would not be the bill under this proposal to access those fundamental reports. Only CPS workers under the definitions provided under Elisa's Law can access those reports, that an employer pursuant to a screen seeks to access those reports, it's just not doable. There cannot be employer access or a response to an employer inquiry to access those reports.

So I think, while the concerns perhaps were legitimate, I think that had they reflected a little longer and dug a little deeper, they would have realized that there really was no, in fact, foundation for them.

ACTING PRESIDENT KUHL: Senator

Paterson, is that sufficient?

SENATOR PATERSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Waldon.

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

Would the gentleman yield to a question?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields, Senator Waldon.

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

Senator Saland, I was trying to carefully listen to what you were saying in response to Senator Paterson's inquiries, but I did not recall your saying anything in regard to the silent resignations. Was that accurate because I was distracted for a moment?

SENATOR SALAND: Could I ask you to speak up, Senator Waldon.

SENATOR WALDON: I apologize. Did you make any statements in regard to silent

resignations when you responded to the inquiry of Senator Paterson?

SENATOR SALAND: No, I didn't think that the focus of his questions dealt with that issue.

SENATOR WALDON: Okay. I apologize for not hearing the thrust of his question fully. My concern of the moment is, is there any data regarding these silent resignations? Is there a number that you know of or does anyone know of?

SENATOR SALAND: The information is anecdotal at this point, but in all candor, were there merely one of them, it would trouble me vitally and the anecdotal information would indicate that there's been more than one instance in which this has occurred.

I certainly would not want to, in effect, continue a practice that puts young people at risk, keeping in mind that we've told our children that there are certain authority figures whom they're supposed to respond to, respect and effectively obey and if somebody in that position of trust, be it a teacher or a school administrator, takes advantage of that

position of trust to cause abuse or violence to a child, the resolution should not be a silent resignation. There should be the full impact of the law brought to bear on that person.

SENATOR WALDON: If I may continue, Mr. President.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR WALDON: Senator Saland, I don't think that I nor any of our colleagues would disagree with you in regard to, in fact, anecdotal studies which evidence that people have been using their positions of authority to abuse our children. My concern is are there really enough cases to warrant this action? Now, what you said was very commendable, that if there's one -- but one -- we should do something about that -- and I would agree with that, but I wanted to know, was there any real evidence?

I have one other concern, if I may continue, and this is a question. Once -

I'm sorry.

SENATOR SALAND: There have been media accounts here in New York State of the occurrence of this type of an event.

SENATOR WALDON: May I continue, Mr. President? Would the gentleman continue to yield?

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

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

Senator Saland, do you have any information -- never mind. I'll withdraw the question.

Thank you very much, Senator Saland.

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

Senator Montgomery wishes to speak.

SENATOR MONTGOMERY: Yes, Mr.

President. I would like to ask if Senator Saland would yield to a question of clarification.

ACTING PRESIDENT KUHL: Senator Saland, do you yield to a question from Senator Montgomery?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: Senator Saland, the legislation seems to allow for a telephone call and/or a child's accusation to trigger the process of reporting a case of child abuse or mistreatment -- maltreatment.

SENATOR SALAND: I'm sorry, Senator. You said something about a telephone call.

SENATOR MONTGOMERY: A telephone call and/or a child's reporting to someone in the school that someone else has maltreated or abused that child. I'm just looking at the first page, line 15.

SENATOR SALAND: I'm sorry, Mr. President. Is there a question that's been

posed for me?

SENATOR MONTGOMERY: My question is does the legislation as it appears based on what I read here, is this process triggered by a simple telephone call from a parent or a person and/or a child's reporting to someone in that school?

SENATOR SALAND: The section to which you refer is the section of the Social Services Law that deals with the workings of the central registry and if you read that section, it basically talks about the receipt of a telephone call and how the central registry shall respond and what we've merely done here at the conclusion of that paragraph is add language to this already existing provision that says, where you receive such a call -- where such call is received by the central registry, the department will notify the superintendent of schools in which that child attends.

SENATOR MONTGOMERY: Based on the telephone call to the registry by the -- by someone or a child in the school that something has occurred in the school? You're adding the educational setting to that.

SENATOR SALAND: Yes, and there is also a process that you may well be familiar with in which a number of these things are handled at a local level in which there are, as you know, investigations. A number of these situations are ones in which the calls are received and in which no action is taken because there's a question as to whether or not, in fact, there is the requisite activities or illegal acts that require the department to respond.

SENATOR MONTGOMERY: Okay. Now, Senator, if you will continue to yield, I just want to -

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR MONTGOMERY: The bill has a number of people who are notified immediately upon a -- upon a report of child abuse by a person in the school setting, i.e. the superintendent, the district attorney, the

police chief, the sheriff or whomever, the Board of Ed' and the child's parent and whomever else and, at the same time, the person who is being accused.

My question to you is -- and then in -- at somewhere in here there's language that says any breach of confidentiality is a Class A misdemeanor for the person who is assumed, I suppose, i.e. the superintendent, the principal or wherever that breach takes place but, in fact, there are a number of ways in which that confidentiality can be breached, is it not, based on this process, and I guess my question is how do we protect a principal or a superintendent or someone else from being charged with a Class A misdemeanor for a breach of confidentiality over which they have no control, actually?

SENATOR SALAND: Well, the building principal or building superintendent, once they have done what's required of them in this bill, whether it's to notify the parent, to notify the school superintendent, whether it's to notify the district attorney, they have done what is required of them. Were they, in fact,

to notify some person who is not provided for in this particular proposal, then they would have breached confidentiality. The law is clear as to whom should be notified and if, in fact, one of those entities then goes further, that is not obviously something that was done by or was intended to be done by a school principal or whomever might have lodged the report on behalf of the school district.

SENATOR MONTGOMERY: All right. I guess -- last question, Mr. -- last question, if you would yield, Senator Saland.

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR MONTGOMERY: You mentioned the expungement hearings and how they work, and my question to you in relationship to the central registry, do we have any idea how many cases have actually been expunged that were unfounded in the registry?

SENATOR SALAND: Well, as you know, there -- I couldn't quantify the number of cases in the central registry that were

previously expunged but with the change that occurred in the law when we did Elisa's Law, expungement at this point in New York State's life, so to speak, is something that's historical. There is not a procedure for that.

SENATOR MONTGOMERY: All right. Thank you, Senator Saland.

Mr. President, briefly on the bill. I think there are a lot of -- there's a lot of merit in the intent of this legislation. Certainly we want to protect children and we want to, as quickly as possible, remove from any school setting a person who is abusing children, but I think the bill here leaves an opening for a number of glitches along the way that could, in fact, essentially destroy a person's career in the area of whatever they're doing in the school and if they're a school psychologist or a teacher or whoever may be involved in such an accusation and certainly if we are using the central registry at all and if anyone's name is, for whatever reason, inadvertently or not, placed in that registry, as Senator Saland admits and as our law now states, they will basically -- could be in there for at least a

good portion of what would be their career life.

So I think the bill, as it is written, without some specific safeguards to protect people from becoming -- being one accused of a crime of confidentiality, a breaching of confidentiality, from the level of the school right on down to the parent or from having people who may have a very good and legitimate argument or who may have absolutely mistakenly been accused but nonetheless being thrown into a process where they could have their careers damaged for life, I would certainly urge a vote in the negative on this legislation and I would hope that Senator Saland could, in fact, figure out ways in which we could tighten this up so that we don't do the unintended and, Mr. President, I have been to expungement hearings when we were supposedly able to do them and I can tell you in no uncertain terms, those expungement hearings do not result -- or did not result even when it was possible they did not result in expungement and very often people are in the registry and they don't even know that they're in there.

So I think there is a very good and legitimate reason why NYSUT opposes this legislation, and I'm going to vote in the negative in support of that as well as other issues, as I have raised.

Thank you.

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

Senator Leichter.

SENATOR LEICHTER: If Senator Saland would yield.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: I think the nature of the bill has somewhat been clarified for me, but I'm not quite sure about some aspects of it. I thank you and Senator Montgomery for your discussion, and also Senator Paterson.

I don't think anybody is raising any issue or question of where there was a

conviction of an employee of a school system and certainly that information should be known to a prospective employing school district.

I think the concern is where there was an allegation of child abuse that's been reported and is now in the central registry -- and I want to focus on that -- and my question is that records of alleged child abuse in the registry that did not result in any criminal action that are part of the record of the registry will be made available to a prospective employer, is that correct?

SENATOR SALAND: Let me see if I understand your question. Are you saying where there has not been -- what you will find in the central registry are Article X cases which are basically family offense/household type of cases. You are asking me, I believe, where there is an unfounded abuse allegation; is that the thrust of your question?

SENATOR LEICHTER: Well, where there is -- an allegation is made that's in the central registry where no criminal action was taken. It was never referred to the D.A. or the D.A. didn't take any action on it. Now, there

could be a record of that allegation in the central registry. Would that record be made available to a prospective employing school district?

SENATOR SALAND: There are two parallel tracks here. One is fingerprinting which goes to criminal records, and I believe that's currently the practice in the city of New York. When you become a school employee, you are fingerprinted. School bus drivers are fingerprinted. That deals with the criminal side of the equation.

Where there has been a central registry complaint or allegation and where it is founded, there would be what I've termed a hit; where it is unfounded, you would not have the ability to access that information under this bill because the allegation has to do with something that occurred in a school setting and not the traditional child abuse or child neglect situation that you will find deposited or reposited in the central registry.

SENATOR LEICHTER: Senator, what happens in the instance where there was an allegation of abuse in a school setting that's

sent to the central register and, as you and I know, the central register is often months behind, thousands of cases where no finding has been made either one way or the other. What happens under your bill? Now there's a requirement. I want to find out about Steve Saland. He's applied for a job in my school district. There's this allegation on the record that's neither been founded or not founded nor indicated. It's not been acted upon.

SENATOR SALAND: Understand that this is not the only way these complaints come into the system. You're describing one way in which a complaint could come into this system and what this bill case says is if somebody contacts the central registry to report an abuse situation, the central registry shall communicate with the local school district by notifying the superintendent of schools and then this procedure begins where the superintendent would notify the parents, would notify the district attorney and there would be an appropriate law enforcement investigation.

Again, if there was an unfounded report, we no longer get involved with issues of

expungement per se in the registry. You are - you would, however, where it is an employer request as distinguished from a CPS request, under the case which I referred to earlier, you would have the ability and you would have to be notified of that ability in the name of due process to have an expungement hearing. It's an employer search, in this case, by the school district. It's not a search by some social service agency or some law enforcement agency. I don't want to confuse apples and oranges here.

SENATOR LEICHTER: If Senator Saland would continue to yield.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR LEICHTER: Senator, for my clarification, let's take this case. A child comes homes and says, "My teacher, Steve Saland, hit me today." . The mother is very upset. The next day goes to the principal and says, "My son

claims he was hit by this teacher", and so on. I assume that's a complaint as to which all of the forms that are provided for in your bill need to be made.

SENATOR SALAND: You have to look at the definition of what constitutes child abuse, and if you look at -- on page 2, beginning at line 37, it defines -- and child abuse means "physical injury to a child caused by other than accidental means or creating substantial risk of death or serious or protracted disfigurement to a child or protracted impairment of physical health or protracted loss or impairment to the function of any bodily organ of a child or any child's sexual abuse." So the mere fact that a teacher might be accused, whether it be Steve Saland or somebody else who would be the teacher of having slapped a child, there would be definitional questions here as to whether or not that constitutes child abuse.

SENATOR LEICHTER: Hitting somebody creates a physical injury. I was slapped by my teacher, Steve Saland. That's a physical injury, isn't it?

SENATOR SALAND: I'm not quite sure that each and every contact with another person's body results in a physical injury.

SENATOR LEICHTER: Well, I see Senator Marcellino and he was a teacher and maybe he was engaged in -- or saw these things happening, so -- or maybe he just doesn't think he can hit hard enough, but I would imagine a physical injury, as you define it -- I mean, you define physical injury to a child caused by other than accidental means. Then you go on and you have other definitions like leaving a mark or protracted impairment, and so on, but as I read this, striking somebody is a physical injury. I've never heard striking somebody not being a physical injury. As you and I know, under the law of assault, you know, whether you're hit by Sonny Liston or whether you're hit by Franz Leichter is some difference but it's a physical injury.

SENATOR SALAND: I would beg to differ with you. What you're saying is that any time there's bodily contact between two people, that that ipso facto constitutes physical injury, and I think that certainly is a

stretch.

SENATOR LEICHTER: Well, Senator, with all due respect -

ACTING PRESIDENT KUHL: Senator Leichter, are you asking Senator Saland to yield to a question?

SENATOR LEICHTER: Yes. Senator, with all due respect -

ACTING PRESIDENT KUHL: Senator Leichter, excuse me. Are you asking Senator Saland to yield to a question?

SENATOR LEICHTER: I am, indeed.

ACTING PRESIDENT KUHL: Okay. Senator Saland, do you yield to a question?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: Senator, with all due respect, if I might point out, I would certainly tighten up the definitions because I think that any school principal, school official would really be at risk, considering that you provide penalties -- criminal penalties if you fail to file a report. If he comes and says,

Well, he just slapped a kid, I don't think it's a physical injury. It really is not clear at all, and I think that's -- with all due respect, I think that's a definitional flaw, but if I could just proceed and continue.

Suppose it's -- she brings the child in and there's a bruise. Would you agree that that's a physical injury?

SENATOR SALAND: I would say that certainly would appear to be a physical injury.

SENATOR LEICHTER: Okay. And whereupon a report is written up, is that right?

SENATOR SALAND: Correct.

SENATOR LEICHTER: And I assume the principal calls in the teacher, Steve Saland, and says, "Did you hit this kid", and he says, "Absolutely not. He was in a fight with another kid and I didn't do it", but as I read the bill, the principal is still required to file a report, is he not?

SENATOR SALAND: Correct.

SENATOR LEICHTER: And does that the report not get sent to the central registry?

SENATOR SALAND: That report - that report, I believe, winds up being submitted to the district attorney.

SENATOR LEICHTER: Senator Saland, if you would be so good as to continue to yield.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR LEICHTER: I understand it goes to the district attorney but doesn't it also get sent to the central registry, or are you saying that it does not get sent to the central registry if the district attorney takes no action on it, because my understanding is it must be sent to the central registry.

SENATOR SALAND: There's notification to the district attorney. The central registry, again at the beginning of the bill, is a -- is a means by which -- a report which they have received becomes an object for investigation. The central registry is searched

as part of a screening process to determine if, in fact, somebody has a -- has previously engaged in conduct for which a founded report was made. Once the report of child abuse or child sexual abuse is made, the people who are in the loop are people whom are school authorities, parents and the district attorney.

The state Department of Education gets into this loop where, in fact, there is a conviction because then there is a notation on a teacher's certificate of a conviction. If, in fact, there is an appeal or a dismissal, that notation is expunged. That notation is available to nobody but a party who is a prospective employer of that person. It is not available to the general public. It is not available to anybody else.

SENATOR LEICHTER: Senator, I understand what you're -- what you're trying to do, and I have no problem if all we're dealing with is an instance where there has, indeed, been a conviction, but I'm not sure that you achieve that because I -- as I read this bill, I think that the report has to be sent to the central register, and I refer you to -- let me

just see. I had it here a moment ago. It's on page 4 where -- line 12, that the report of abuse in our example where teacher Steve Saland has allegedly slapped a kid. There's a bruise. The teacher says "I didn't do it. He was a fight" because you said, if you look at line 12, "forward such a report to appropriate law enforcement authorities." You don't just say to the district attorney. I read that to mean that you've got to send this to the central registry.

SENATOR SALAND: The central registry is not a law enforcement authority. The central registry is a repository for complaints which are ultimately, in some instances, referred to law enforcement authorities.

SENATOR LEICHTER: But, Senator -- again, if you would yield.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR LEICHTER: You're right. I think that one can certainly say that the central registry is not a law enforcement body as such but you're giving them certain functions and duties in relation to keeping records so that it would be so easy, frankly, to clarify this -- and I think both Senator Montgomery and Senator Paterson had the same concern and maybe the NYSUT would not have an objection if it was clear that the only allegations or the only record that is kept by the central registry is if there has been, in fact, a conviction. I think at that point -

SENATOR SALAND: Excuse me. I'm sorry. Let me let you continue and I'll respond.

SENATOR LEICHTER: No, please go ahead.

SENATOR SALAND: Where the conviction occurs, the repository for that information is not the central registry. It's the state Education Department and there would be a notation that would go with the teacher's certification, again confidential, available only to someone who's doing an employment search

with respect to that particular person.

SENATOR LEICHTER: Again, if you would continue to yield -- and I appreciate your answer, but that -- that, again puts the focus on the central registry. Then what does the central registry do? If our intent is to get instances of convictions, that, you say, is going to be kept -- that information is going to be kept by the Board of Education -- I don't mean by the Board of Education -- by the Education Department. Now, what does the central registry keep?

SENATOR SALAND: The central registry is involved here in two ways. In the first instance because many people, rightfully, assume that if there is an allegation of neglect or abuse, they should contact the central registry hot line. They -- somebody, a parent, perhaps, may take it upon themselves -- a parent or guardian -- to contact the central registry hot line and what we've provided for is not that the central registry respond, as they would typically do in contacting the local social service department to do an investigation. We've provided that the central registry will

serve, in effect, as a referral agency to refer this matter to the local school superintendent of the local school district. That's one role of the central registry.

The second role is, as part of an employment screen, in order to determine if the individual who is making application for a position has either a criminal record or has ever been found to have committed child abuse, there is the ability to do a central registry search. There is not the ability, as I explained earlier, to go into unfounded allegations. That is not within the parameters of this bill and there's nothing in here that amends or attempts to amend what occurred when we adopted Elisa's Law to make this an additional access means to those records. That's not my intent and it's nothing that occurs under this law.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Mr. President, if you would continue to yield.

Senator Saland, thank you. I think you've certainly clarified something for

me and maybe everybody here understood it before, but I think now you're -- at least in my viewpoint, you're in the soup. That's precisely what Senator Montgomery and Senator Paterson were concerned about and that's precisely what I was trying to get to.

There's an allegation -- so taking my example where there's a charge that teacher Steve Saland hit this kid. So what the mother does, the first thing she does is she calls the central registry and says there's child abuse at the local school. The next day she sees the principal. The principal makes out the form. That goes to the D.A. The D.A. looks at it, investigates, finds out sure enough, the kid was in a fight. Other kids testify to that and no record whatsoever is ever generated against Steve Saland, the teacher, but in the meantime you've got that complaint hanging out in the central registry.

Now, it's true, your bill says that it's only where the complaint is indicated, which is the language that's used in regard to the central registry, but indicated, the central registry doesn't conduct a careful criminal

investigation. They may -- they may just call up the kid and say what happened and the kid says, Oh, this teacher, he lost his temper and he hit me, and so on. You can end up with an indicated report.

So under this example, teacher Saland who is -- the D.A. has cleared it and said, Oh, the kid just made that charge because he didn't want his mother to know he was in a fight in school, now the central registry has an indicated child abuse finding and their standard, Senator, as you know, is not beyond a reasonable doubt. It's not even the preponderance of the evidence. It's the sheerest, merest evidence whatever and Teacher Saland now applies to another school district. He's never going to get another job within the school district -- within the school system. Isn't that the case?

SENATOR SALAND: I would respectfully beg to differ with you because, number one, the indicated standard certainly is not as abused as you would indicate that it is. When you look at the sheer number of cases and see the way they are received by the central

registry and see the way they funneled the way through the process, the number of indicated cases, I would guess -- and I just don't have a recollection of all of them -- of the data - would probably be somewhere in the area of no more than about 20 percent, but let me come back to what I said before in response to the inquiry by Senator Paterson.

Where there is -- this screening occurs when the teacher makes application for his or her license. If, in fact, an indicated comes up with the central registry, under the existing regulations or practice, since the 1995 Prealta case, that person who would be the respondent in that proceeding has the ability to have that -- to have an expungement hearing where the burden is on the department to show not by merely credible evidence but by the standard established in Prealta, which is a fair preponderance of the evidence that, in fact, there was an incident of child abuse. That's the standard. It's not mere credible evidence.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Senator Saland, maybe one more question, I hope.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR LEICHTER: Senator -- and I don't know the answer to this.

SENATOR SALAND: I hope I do.

SENATOR LEICHTER: When an allegation of child abuse is made -- let's deal just with the record of the central registry - whether it's in the home or in school, and so on, and a finding of indicated is made, does the central registry call or notify the person who is alleged to have committed this abuse that an indicated allegation or an indicated charge -- a charge has been made against that person that's indicated, because my concern is you may not know -- in my example, you may not know. You're Steve Saland. You have been charged with this. The D.A. looks at this and says "Absurd. Never did it." In the meantime, if you have been

indicated by the child registry, you may not know until eight or nine years, unless you're notified, and I don't know whether they notify you, but I just want to play out what happens if you're not officially notified. It's ten years later. Now you find out that crazy charge was made against you that happened ten years ago. Go ahead. Now establish the evidence that it was unfounded.

SENATOR SALAND: Senator Leichter, there is a notification procedure. If it's purely a matter of a social service investigation, there is notification. If the matter is one in which there is some kind of petition that results in which there is a Family Court proceeding, there certainly is that additional notification as well.

SENATOR LEICHTER: Excuse me, one -- if I may, with your indulgence, Senator, one more. Are you 100 percent sure, because I looked -- I did some work on the central registry some years ago, and I must tell you, it works quite poorly. You can't have much faith either in their findings of unfounded or in their findings of indicated, but my belief at

that time for -- and there was some good policy reasons for it -- that they do not notify somebody that allegations have been made or that there is an indicated finding. That's my recollection but it's somewhat dim. So I just ask you to be 100 percent sure because it really would otherwise impose an impossible burden, in some cases, where there was an indicated finding if you're never told about it.

SENATOR SALAND: Under the law that -- well, let me say I handled a number of these cases in a prior life when I did work for my local county Social Service Department, and there certainly were a number of ability -- a number of ways in which notice was provided.

Under the law that existed until we did Elisa's Law, there was a notification procedure which required you to be notified of the availability of an expungement hearing.

Now, I would like to be able to say unequivocally and with absolute certainty that there is a social service notification mechanism. My belief is, Senator Leichter, that there is one. It certainly would seem to be virtually impossible where there is an indicated

finding as distinguished from an unfounded - where there is an indicated finding, it would be beyond the pale of anything that would remotely approach due process not to provide notice to that individual to give them the opportunity to contest that finding.

SENATOR LEICHTER: I may just say counsel advised me that you're absolutely correct then. My memory seems to be getting worse and worse because -

SENATOR SALAND: I have the same problem, and I thank your counsel.

SENATOR LEICHTER: But I want to thank you very much for your patience, Senator Saland, and your answers.

Just very briefly on the bill, I don't think any of us have any problem in setting up a system whereby somebody who works in the school system who had a been convicted of an offense involving a child or, for that matter, probably involving even if it's a financial offense, certainly other school districts where that person applies to certainly should know that to set up a central registry, that's fine. We ought to do that and I commend

Senator Saland for doing it.

I just am concerned that there is an over-reaching here because you have this parallel system, if you will, whereby allegations can be sent to the central registry in the very case where a district attorney may say there is absolutely no basis for any charges against that school district employee. There may be an allegation in the central registry. It may end up being indicated. You're right. You can say, well, you can go through expunging proceedings but that puts a burden on you to come to at least initiate the proceeding, to take this action. You've described it and you said that it provides full due process. I don't know why that aspect of it really has to be part of your bill because if in every instance, as your bill provides, where there is an allegation, it goes to the D.A., why shouldn't that be enough? We are concerned here, allegations within the school system.

I guess one of the things you're trying to do is also to reach out. Maybe there were allegations in the home and that's why you refer to the central registry. I can see some

reason or justification for it, but I think that you're opening up really the search so widely that I think that information may well come in which is going to be damming. It's utterly fatal to the employee. You know no school system is going to hire somebody if there's an indicated finding when, in point of fact, knowing how the central registry works, it really may not amount to anything whatsoever, and I think it's that aspect of it that's worrisome. I also -- as you and I were discussing it, I think that your definition of "physical injury" needs to be, in some respects, tightened up because I think it is too vague.

I wish you would make those changes in the bill because I think that it's much more likely to become law, and I think it would be a much better law. It would really cover the areas that we're truly concerned about, which is some sort of criminal conviction of somebody in the school system who now seeks another job, certainly the employer should know that.

ACTING PRESIDENT KUHL: Senator

Dollinger.

SENATOR DOLLINGER: Mr. President, will Senator Saland yield to just a couple of questions?

ACTING PRESIDENT KUHL: Senator Saland, do you yield to a couple of questions from Senator Dollinger? The Senator yields.

SENATOR DOLLINGER: Senator, I have been through this bill and there's something that is just -- must have been left out of the bill. Where is the appropriation to pay the school districts and the Department of Education for all the extra administrative time that it's going to take to administer this?

SENATOR SALAND: I believe the memo indicates that we feel this could be accomplished with existing appropriations. We don't believe that there are a flood or plethora of these cases. It's fairly -- it can be handled fairly routinely. The burden on the school district is primarily a matter of a notice procedure. After they've done their notice procedure, to the district attorney, to the respective people required, they're pretty much out of the loop. SED has to be a

repository for receipt of the information and, again, quite candidly, I don't think we're talking hundreds of cases here and even if there were hundreds -- and I say quite candidly, I don't think it's anywhere near that kind of number -- you're not talking about a major fiscal impact.

SENATOR DOLLINGER: Again through you, Mr. President, do you have anything from any school district anywhere in the state that agrees with the statements you just made? Is there anything from the school district where they agree with you that they've got plenty -

SENATOR SALAND: The school districts have been silent on this issue. In my earlier remarks, I mentioned that there was certain anecdotal information of media accounts where these type of situations have occurred. There's one situation in my own district in which something like this has occurred. I'm not quite sure what we will see if and when this bill were to become enacted but there's nothing here that I can remotely believe would constitute any kind of a burden on either a school district or the SED.

SENATOR DOLLINGER: Again through you, Mr. President, just one other question. Is there anything in state law currently that prohibits the school districts from doing exactly what your bill requires other than maintaining the registry at the Department of Education?

SENATOR SALAND: There is absolutely nothing in state law that provides by way of regulation or statute any guidance to any school districts and the problem is that in any number of instance, whether for the best of reasons or the worst of reasons, school districts have chosen not to deal with this issue. In some instances, they may have believed, whether for the best of reasons or for the worst of reasons, that they were assisting the child by not subjecting the child to additional trauma, by bringing some type of a proceeding on. In other instance, they may have thought that they were limiting their liability and perhaps their exposure or not letting the general community know that something like this had happened within their midst.

So the reality is that there is

nothing on any record anywhere that's going to indicate a mechanism for school districts to follow. We believe this is reasonable. We believe it accomplishes what we think it should accomplish and, as I mentioned in my earlier remarks, we're already requiring fingerprinting of school bus drivers. The city of New York, I believe fingerprints all of its school employees.

SENATOR DOLLINGER: Again through you, Mr. President. So you've never circulated this bill to any school district and asked them what the cost associated with the administrative and criminal penalties that you now attached to failure to process the administrative requirements in this bill. No school district is made in on that issue?

SENATOR SALAND: Quite honestly, Senator, I think that is pure bunk. I mean, I think you're reaching for an issue where none exists. You're beating something to death. If you're going to tell me -- if it's your sense that there are a number of cases out there, that there are hundreds if not thousands of these cases, tell me about it. The fact is this bill

has been out there for two or three years. The School Boards Association has never uttered a peep. NYSUT found us. They provided a memo. We've heard nothing from the School Boards Association and that may well be part of the problem.

SENATOR DOLLINGER: Again through you, Mr. President, just on the bill.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: This is a bill I think we've done in the past. I understand Senator Saland's position, but every time I get up here and talk about mandates, I'm always reminded -- I think, Senator Saland, you carried the massive mandate relief bill. Remember the mandate relief in which we're telling another level of government to do something that we think is right, that we think is the right thing to do and they come back to us and say, Great. If you think it's such a great thing to do, why don't you give us the money to pay for it and, you know, the response I've gotten every year I have been here is three-fold:

First of all, everybody says, It's not that big a problem. It won't cost that much money, to which I say, well, then why do we need to do the bill if it isn't that big of a problem.

The second response is, Oh, they're already doing it, they're already out there doing it. This bill just codifies it. Well, if they're already doing it, why do we need to tell them to do it?

And then the lsat thing I'm always told, Listen, Senator, it's worth the cost. No matter how much it costs, if we're going to protect children, it's by far worth the cost. We've told that to the school districts for a century and every time they come it here, they say, Give us some mandate relief, will you? Is there some way you could stop telling us what to do without paying for it? Put your money where your mouth is. Stick a little $5 million appropriation in this bill. Make it real. Give them a way to pay for it and they will gladly welcome the ability to follow this stringent outline that you've talked about, Senator; but instead, we want to sit here and

talk about mandate relief out of one corner of our mouth and out of telling them wjat to do, and how to prevent child abuse out of the other one.

I voted for this bill in the past. I'm probably commited to vote for it again, Senator, but it seems to me, if you want to make real sense, you want to really solve the problem, tell them to do something. Give them the funds to enable them to do it an do it right and then we may really have a solution to this problem and we can stop talking about these massive bills at other times of the year when mandate relief is the fashion instead of pre venting child abuse.

I think this bill has got a huge cost associated with it. Look at the computer technology; look at the administrative time. I think if we were honest and realistic with ourselves, there would be an appropriation on this bill and it might really mean something.

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

(There was no response.)

The Secretary will read the last

section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: Mr. President, I was listening to this debate and I did vote for this in the past, and I just want it understood that having heard the debate, I'm going to vote in the negative on the arguments I heard from Senator Montgomery and Senator Leichter.

Senator Dollinger's arguments may have been interesting, but since they don't cause him enough grief to vote no, my no vote is a reflection of the arguments of Senator Leichter.

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

THE SECRETARY: Those recorded in

the negative on Calendar Number 308: Senator Connor, Gold, Kruger, Leichter, Montgomery, Paterson, Sampson, Santiago, Smith, Stavisky and Waldon, also Senator Markowitz. Ayes 49, nays 12.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 331, by Senator Maltese, Senate Print 1474, an act to amend the Election Law, in relation to cancellation of registration.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Senator Maltese, an explanation has been asked for by Senator Leichter.

SENATOR MALTESE: Mr. President, the bill is to amend the Election Law, in relation to the cancellation of registration.

This bill would remove the requirement that a Board of Elections send a notice to a person whose voter registration is cancelled because the voter died.

Now, this would apply where New

York City and New York State Boards of Health are required to send notifications to the county boards. It's one of the few times that bureaucracies have resulted in the elimination of some bureaucratic steps. I appreciate the opportunity for a request for an explanation because it gives me the opportunity at this time to use a Cook County, Chicago, Illinois statute which I believe read something like dying is not a sufficient reason to avoid the civic duty of voting.

I was hoping that Senator Oppenheimer would be here, and I want to give her an opportunity because she has a little adage something quite like it.

I think the sections are very clear. What happened here apparently is that, when they deleted the requirement of notification, they deleted the requirements and did not specifically refer to the dying of a registered voter.

So this was at the request of the state Board of Elections, and we attempted to comply.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yes. Senator Maltese, you certainly are interfering with a traditional right and certainly there are places, I've heard it said, there are some politicians who have said, I want to be buried in Chicago because I want to remain active in politics.

The truth of the matter is, Senator, when I laid this bill aside, I thought we were dealing with 330, and obviously I don't think anybody objects to removing the name of a registrant who has died, but I just want to make this comment, Senator, and maybe if you bring up 330, we'll have an opportunity.

Our campaign finance law, our Election Law, is a disgrace, utter absolute disgrace. Now, I'm glad that you're addressing a burning issue, but I say with all respect to you as chair of the Election Law Committee, that there are things that we desperately need to do as far as campaign financing is concerned because, with all the abuses that we've seen reported on the national level, we have a sewer

here in New York State, and I'm not charging one particular party or the other.

I've issued reports that shows that your party, Senator Maltese, has been highly imaginative in doing end runs around our campaign finance law, but I say to you there's a real obligation to take some action and I would hope that when this session ends, that we as a Legislature, if we're asked, What did you do about the Election Law and campaign financing, that we get up very proudly and say, Oh, you know, we said that, when somebody has died, their name has to be removed from the registry.

Senator, we need to do more than that. Important as the step you're taking today, let's go much, much further.

Thank you.

SENATOR SKELOS: Will Senator Maltese yield?

ACTING PRESIDENT KUHL: Senator Maltese, do you yield to Senator Skelos?

SENATOR MALTESE: Yes.

SENATOR SKELOS: Did you ever have the opportunity to visit the Lincoln bedroom in the White House?

SENATOR MALTESE: No, I haven't, Senator Skelos, but I want to use this opportunity, since I'm on my feet to berate Senator Leichter, because he used Senator Oppenheimer's joke that this supposedly took place in Mamaroneck.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 333, by Senator Farley, Senate Print 2651, an act to amend the Election Law and State Finance Law, in relation to requiring a proposition authorizing the creation of a state debt.

SENATOR PATERSON: Explanation.

SENATOR FARLEY: Thank you very much.

ACTING PRESIDENT KUHL: Senator Farley, an explanation has been asked for.

SENATOR FARLEY: Let me begin by thanking Senator Dollinger for supporting this bill last year.

This bill amends the Election Law and it requires that the bond issue -- a bond issue proposition that goes on the ballot contain an estimate of the total amount to be repaid by the taxpayers, both principal and interest. At present, only the principal is listed. This is kind of a truth in borrowing law, and it also provides that any descriptive documents prepared by the state relating to the bond issue list both principal and interest.

This passed the Senate unanimously last year, and actually what this does, this is similar to consumer borrowing that requires disclosure of the total expected costs.

Now, somebody might ask, as you would ask, is how do you know what the interest rate will be? Well, you really don't. The Comptroller will have to estimate what the

interest rate would be with his -- with his best guess, I guess you could say, and it would be reflected in that total amount and, again, until those bonds go out, you wouldn't know for sure.

It's designed to reflect the administrative reality by providing an estimate of the total cost insomuch as the actual rate of interest at which obligations can be determined in advance.

Also, this bill calls for disclosure to be printed in the largest type which is practicable for the different documents involved, recognizing administrative realities of varying documents on the ballot.

Basically, that's the -- I guess that's it.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I don't need to question Senator Farley. I'm just going to repeat history.

I did support this bill, Senator. I'm not going to support it this time, because, as you may recall, last year when we did the Environmental Bond issue, I stood up and

proposed an amendment which would require that when we submitted the environmental bond to voters, we stated exactly what the interest accrual would be on that bond over 30 years, which would have transformed a $1.75 billion bond issue into the true cost to voters, which is about 3.1 billion.

At that time I came before this house. I proposed an amendment that we dis close the interest, that we actually take this bill and take the principle which you and I share and put it into place. We had the opportunity to do that. We didn't do it, and now we're going to pass a bill, with all due respect to Senator Farley -- this is a good bill -- I just can't support the idea of doing it in form but not doing it in practice. We had an opportunity to do it; the Majority of this house voted it down, and I can only assume, Senator, that they're not committed to this principle when it really means something.

We had an opportunity to do it last time. I came up with an amendment. The Majority all voted against it, so I can assume that this bill has some poster meaning but no

real meaning, Senator.

I appreciate it. I support the concept. I can't do it anymore. I'm accused of hypocrisy at other times. Today I'm going to try, on this vote anyway, try to be consistent and say I supported you in the past. I wanted to do it when you had a chance to make it real, to tell the people of this state that what they were sold for 1.75 billion actually cost about 3.2 billion over 30 years.

We had a chance to do it. We didn't do it. It doesn't seem to me to make sense to go back to this bill when we weren't committed to do it then and it doesn't seem to me that we're committed to it now.

I'm going to vote no.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

SENATOR SKELOS: Mr. President, is there any housekeeping at the desk?

THE SECRETARY: Ayes 60, nays 1, Senator Dollinger recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

To answer your question, Senator Skelos, there is one substitution we would like to take up, if we can. I would ask the Secretary to read.

THE SECRETARY: Senator Marchi moves to discharge from the Committee on Environmental Conservation Assembly Bill Number 2101 and substitute it for the identical Senate Bill 2921-A.

ACTING PRESIDENT KUHL: The substitution is ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business, I move we adjourn until Wednesday, March 26th, at 11:00 a.m., sharp.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, the Senate stands adjourned until tomorrow, Wednesday,

March 26th, at the regular time, 11:00 a.m.

(Whereupon, at 4:52 p.m., the Senate adjourned.)