ALBANY, NEW YORK

March 26, 1997

11:00 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to find their chairs, staff to find their places. I'd ask everybody in the chamber to rise with me and join me in saying the Pledge of Allegiance to the Flag.

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

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

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, March 25th. The Senate met pursuant to adjournment. The Journal of Monday, March 24th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. On page number 27, on behalf of Senator Volker, I offer the following amendments to Calendar Number 441, Senate Print Number 1467, and ask that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 441 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there are five privileged resolutions by Senator Tully at the desk. May we please have the titles read and move for their immediate adoption.

ACTING PRESIDENT KUHL: Secretary will read the titles to the five resolutions. We'll adopt them at one time.

THE SECRETARY: By Senator Tully, Legislative Resolution paying tribute to the members of Senior Troop 973 upon the occasion of their designation for special commendation on March 26th, 1997;

By Senator Tully, Legislative Resolution paying tribute to the members of Cadet Troop 1022 upon the occasion of their designation for special commendation on March 26th, 1997;

By Senator Tully, Legislative Resolution paying tribute to the members of Cadet Troop 1052, upon the occasion of their designation for special commendation on March 26th, 1997;

By Senator Tully, Legislative Resolution paying tribute to members of Cadet Troop 1737, upon the occasion of their designation for special commendation March 26th, 1997; and

By Senator Tully, Legislative Resolution paying tribute to members of Junior Troop 1859, upon the occasion of their designation for special commendation on March 26th, 1997.

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

SENATOR TULLY: Thank you, Mr. President.

I rise and ask that we pause in our daily deliberations to recognize the cadets and -

ACTING PRESIDENT KUHL: Senator Tully, excuse me for an interruption just a minute. It's a little noisy in the chamber. Can we get some order in the house, please. Have a number of guests, and I'm sure they would like to hear what Senator Tully is about to say.

Senator Tully.

SENATOR TULLY: Thank you, Mr. President.

I rise and ask that we pause in our daily deliberations to recognize the cadets and senior Girl Scouts from the hamlets of Williston Park, Albertson, Roslyn and Mineola to my rear and up above me. We're privileged to have with us representatives of the Senior Troop 973, Cadet Troop 1737, Cadet Troop 1052 -- 1022 and Junior Troop 1859. They join us today in

celebration of this, the 85th Anniversary of the Girl Scouts.

When many of us think about Girl Scouts, one of the first things that pops into our heads are the infamous Girl Scout cookies. However, the Girl Scouts are a lot more than that.

Founded in 1812 by Juliet Gordon in Savannah, Georgia, Girl Scouts are an organization with a proud past and a bright future helping girls to become tomorrow's leaders in a fun and healthy atmosphere.

There are over 3 million Girl Scouts nationwide and 17,000 in the great county of Nassau, including 36 associations and 1200 troops.

Throughout all of our district, the Girl Scouts are known and respected for their unparalleled commitment to their community. The spirit of the Girl Scouts promotes the development and growth of young women.

Today the Girl Scouts of Nassau County offer a broad range of programs dealing with many contemporary challenges such as

choices and "Challenges", a program dealing with drug and alcohol abuse prevention.

We all thank you for making our communities better places to live. The Girl Scouts certainly represent a perfect example in citizenry which all of us should follow. Again congratulations on your 85th Anniversary. I thank each and every one of you for joining us today and wish you the best of luck and future success in all that you do.

Thank you.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the resolutions? Hearing none, the question is on the resolutions prepared and presented by Senator Tully. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolutions are adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, with the consent of the Minority, I just want to notify the members that there is a Calendar

Number 457, S. 3864, by Senator Marcellino, concerning the management of sea bass, which has been added to the live calendar and if we could at this time take up the non-controversial calendar.

Make substitutions first? If we could have the substitutions made first.

ACTING PRESIDENT KUHL: For the benefit of the members, the Acting Majority Leader just announced that the active list has been amended by adding Calendar Number 457, so add Calendar Number 457 to your active list. We do have some substitutions at the desk and a standing committee report that we can take up too.

I'll ask the Secretary to read the substitutions.

THE SECRETARY: On page 25 Senator Stafford moves to discharge from the Committee on Finance Assembly Bill Number 1301-A and substitute it for the identical Third Reading Calendar 412.

On page 25, Senator Stafford moves to discharge from the Committee on Finance Assembly Bill Number 6551 and substitute it for

the identical Third Reading Calendar 415.

On page 27, Senator Present moves to discharge from the Committee on Local Government Assembly Bill Number 6329 and substitute it for the identical Third Reading Calendar 436.

And on page 29, Senator LaValle moves to discharge from the Committee on Environmental Conservation Assembly Bill Number 5299 and substitute it for the identical Third Reading Calendar 455.

ACTING PRESIDENT KUHL: The substitutions are ordered.

Senator Skelos, we do have that report of a standing committee, the Higher Education Committee, that we could read in. We'll return to the order of standing -- reports of standing committees. I'll ask the Secretary to read the report.

THE SECRETARY: Senator LaValle, from the Committee on Higher Education, reports the following bill direct to third reading:

Senate Print 3511, by Senator Lack, an act authorizing the State University of New York to lease and contract for the design

and construction of an Asian cultural and studies center.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, the bill is ordered directly to third reading. Senator Skelos, that brings us to the calendar.

SENATOR SKELOS: Non-controversial please, Mr. President.

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

THE SECRETARY: Calendar Number 182, by Senator Velella, Senate Print Number 2076-A, an act to amend the General Business Law, in relation to establishing additional restrictions.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 235, by Senator Cook, Senate Print 1418-A, an act to amend the Insurance Law, in relation to motor vehicle liability insurance rates.

SENATOR DOLLINGER: Lay that aside.

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

THE SECRETARY: Calendar Number 289, by Senator Libous, Senate Print 1924, an act to amend the Penal Law, in relation to authorizing an additional term of imprisonment.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

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

SENATOR PATERSON: Lay aside.

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

THE SECRETARY: Calendar Number 325, by Senator Levy, Senate Print 927-A, an act to amend the Vehicle and Traffic Law and the Public Authorities Law, in relation to authorizing cities.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill the passed.

THE SECRETARY: Calendar Number 359, by Senator Padavan, Senate Print Number 3080, an act to amend the General Municipal Law, in relation to powers of municipalities.

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

SENATOR PADAVAN: Lay that bill aside for the day pending receipt of amendments.

ACTING PRESIDENT KUHL: Calendar Number 359 will be laid aside at the request of the sponsor.

THE SECRETARY: Calendar Number 369, by Senator Holland, Senate Print 204, an acted to amend the Highway Law, in relation to increasing bonded indebtedness.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 392, by Senator LaValle, Senate Print 2804, an

act to amend Chapter 31 of the Laws of 1985, amending the Education Law.

ACTING PRESIDENT KUHL: 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 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 412, substituted earlier today, Budget Bill, Assembly Print 1301-A, an act making appropriations for the legal requirements of the state debt service.

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

THE SECRETARY: Calendar Number 415, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 6551, an act to amend the Public Authorities Law, in relation to powers of the Dormitory Authority.

ACTING PRESIDENT KUHL: The bill

is high. The bill will be laid aside.

THE SECRETARY: Calendar Number 416, by the Senate Committee on Rules, Senate Print 3865, an act to amend the State Finance Law, in relation to monies available.

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

THE SECRETARY: Calendar Number 417, by the Senate Committee on Rules, Senate Print 3867, an act to amend the State Finance Law, in relation to monies available.

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

THE SECRETARY: Calendar Number 427, by the Senate Committee on Rules, Senate Print 3863, an act to amend Chapter 329 of the Laws of 1991, amending the State Finance Law.

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

THE SECRETARY: Calendar Number 428, by the Senate Committee on Rules, Senate Print 3866, an act to amend the Transportation Law, in relation to fees paid to defray the operating expenses.

ACTING PRESIDENT KUHL: The bill

is high. The bill will be laid aside.

THE SECRETARY: Calendar Number 435, by Senator Rath, Senate Print 3754, an act to amend Chapter 708 of the Laws of 1992, amending the General Municipal Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 436, by member of the Assembly Ramirez, Assembly Print 6329, substituted earlier today, an act to amend Chapter 540 of the Laws of 1992.

ACTING PRESIDENT KUHL: The Senate bill is high, but the Assembly substitute is live. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 457, by Senator Marcellino, Senate Print 3834, an act to amend the Environmental Conservation Law.

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

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

SENATOR SKELOS: Mr. President, if we could take up the controversial calendar starting with Senator DeFrancisco's bill, Calendar Number 311.

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

SENATOR DOLLINGER: A motion to discharge pending. Is that motion in order at this time? Can we take that?

ACTING PRESIDENT KUHL: No, it's not, Senator.

SENATOR DOLLINGER: It is not?

ACTING PRESIDENT KUHL: No, the calendar specifically provides that the motions to discharge will be taken up at the end of the day, so after we're done with the calendar, then and at the end of the day you'll be recognized for that purpose.

SENATOR DOLLINGER: Is that -

ACTING PRESIDENT KUHL: Senator Skelos, did you wish to speak to that?

SENATOR SKELOS: I believe that's Rule V. And would you please recognize Senator Seward.

ACTING PRESIDENT KUHL: Senator Seward.

SENATOR SEWARD: Mr. President, if I could interrupt the proceedings briefly to place a sponsor's star on Calendar Number 270, 270.

ACTING PRESIDENT KUHL: The bill will be starred at the request of the sponsor.

SENATOR SEWARD: Thank you.

ACTING PRESIDENT KUHL: Senator Dollinger, does that explain to you?

SENATOR DOLLINGER: Just a point of order, Mr. President. Does that mean that we

go through the controversial calendar and there are bills that are either laid aside or for some other purpose, and the Rules Committee meets that it's after that, or the reading of the controversial calendar.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: It is the last order of business of the day.

If we could take up Senator DeFrancisco's bill, Calendar Number 311.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 311.

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 PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator DeFrancisco, an explanation of Calendar Number 311 has been requested by the Acting Minority Leader, Senator Paterson.

SENATOR DeFRANCISCO: This bill

is to require that, if an individual is seeking transportation and it's paid for my Medicaid or social services in some fashion, that if the person is physically and mentally capable of using a fixed route public transportation system, then that the individual would be scheduled on that rather than an alternative type of transportation.

The reason for this bill is, number one, if someone is capable and able bodied and able to use public transportation just like anyone else who is not on social services, they should be suitable for -- the public transportation should be suitable for those individuals.

Secondly, it has a second benefit, not only to cut costs in social services, but every year we in the Senate and the Assembly, provide support for public transportation by way of grants to various public transportation facilities such as CENTRO in my district. By having this requirement, not only will it save money in social services, but it will also provide for increased ridership of public transportation and, therefore, reduce the

need for subsidies to allow public transporta tion which is needed by all, especially low income workers, a reliable public transportation system is essential, so it will increase ridership and help those type of organizations as well.

That's the purpose for the bill, and it did pass last year.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If Senator DeFrancisco would yield for a few questions.

SENATOR DeFRANCISCO: I will.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator, related to this particular bill there have been a number of complaints that I have heard about and received from seniors who may not be totally incapacitated but certainly suffer from a number of physical challenges, and what this bill will effectively do in many cases is force, in New York City, seniors onto the subway, and I'm

wondering, in spite of the fact that it may have some -- it may have some cost reductions, whether or not you think this is a good idea, where you have such a subjective standard of what incapacity would be and prior approval.

The point just is that it seems pretty clear to most of the senior groups and the seniors that I have spoken to that it's going to cause an encumbrance and an inconvenience for those who really do need the care. It's not that -- that they're just taking advantage of taxpayer dollars, and their trip to receive that care is going to be made that much more difficult by the passage of -- of what you're proposing.

SENATOR DeFRANCISCO: Well, you know, if we were in a perfect world, we could pay for everything for anybody, whatever their needs might be, but unfortunately we're not in that situation.

What the bill says specifically is that public transportation shall be required when that transportation is available and the nature and severity of the recipient's illness does not necessitate a mode of transportation.

If the senior or the junior or anybody else can prove that -- establish that their illness is such that other type of transportation is required, then they wouldn't be subject to the requirements of this particular bill.

So I think there's people who aren't on public assistance that are old too that go on public transportation. There are people that are in low income jobs that also go on public transportation, and when we keep cutting routes in public transportation because we don't have enough ridership, that requires us to fund in the public transportation area as well.

I think the bill strikes a good balance because those cases that compel other types of transportation would be permitted under the bill.

ACTING PRESIDENT KUHL: Senator Paterson.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Thank you, Mr. President.

Senator, how do you distinguish between "disability" and "illness" under the legislation? It seems as if individuals who are disabled but not ill would still be required to use these methods of transportation.

SENATOR DeFRANCISCO: Well, whether you call it illness or disability, if public transportation is something that is inappropriate for that particular individual, then public transportation is not required.

You know, in the law, we've been interpreting "reasonable man" or woman for many, many years, most recently women, but it always used to be the "reasonable man" standard and that standard has been interpreted by the courts and has been interpreted by administrators for years and years. There's no precise definition that you can give, but the intent is clear that obviously if an individual has a condition such that public transportation is inappropriate, then that -- then they would not be required to use public transportation and certain disabilities, by the way, at least in our

district, there are CENTRO buses that do have ramps that allow for individuals with certain handicapped conditions to use public transportation. In fact, the groups demanded it and got it so that they could travel like everybody else can, and so by using the word "disability", there's some people with disabilities that not only travel on public transportation but also wanted to travel on public transportation, and that's why the buses were modified and new buses have these particular ramps.

ACTING PRESIDENT KUHL: Senator Paterson.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Senator, since it is not a perfect world and we are using a reasonable standard test, my question simply is, since we already require prior approval, what is really going to be enhanced by passing this

bill? I mean in other words we have a standard right now that makes -- that not only delineates between whether a person is able or not able to sponsor themselves to get to this medical care, and my question is, if that's already the case, why would we want to tinker with it when the individuals who are affected are pretty much going to be people who have been taxpayer dollars, their tax dollars have provided the broad revenue base for our standard of living and for our economy here in this state.

It just seems to me this is the wrong crowd to really pick on if we want to cut costs, and increase ridership on the subway or whatever it is that we're trying to accomplish. It's just my opinion that we are splitting hairs but since we already have the prior approval, why would we not just remain on that standard?

SENATOR DeFRANCISCO: Because it depends on where you happen to live in the state of New York whether or not -- how that prior approval is being interpreted, and here is an objective standard that would apply statewide for prior approval.

Secondly, I'm not trying to pick

on anybody. No one's trying to pick on anybody, but it's similar to other bills that we pass. It's wonderful to provide things for people, but if you look at that next step, that next level of individuals who may have the same disabilities or may have the same illnesses that can't afford public transportation but they're not on social services, they have to -- they have to find a way to do it as well.

It's just putting, I think, the individuals who are on social services in the same position as any other individual who may not be, in an effort to increase ridership and in an effort so that there is a viable public transportation system for those who need it, especially people with low income trying to maintain a job and not be required to go on social services.

ACTING PRESIDENT KUHL: Senator Paterson.

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

Mr. President, on the bill. It really did take me a moment to try to figure out

what Senator DeFrancisco was getting at, and his explanation was -- was quite fulfilling in the sense that I understand now what he's saying about the problem in the current law as it's applied in different areas around the state.

My response is simply that, if there is a problem with the current law, I don't think that we necessarily have to pass legislation that is going to exact the encumbrances on individuals who need this kind of assistance as much as we might be able to go through DSS or New York City HRA and accomplish that through what I think would be some administrative changes that might level the playing field all over the state; but I just think that as a means to increase ridership on the subway as was mentioned or because of the fact that perhaps a few people that probably could get there by an alternative means of transportation probably aren't, in my opinion, it's so de minimus in terms of what its effect is or even what its cost is that it doesn't, in my opinion, augur well for us as a state to be exacting this kind of inconvenience on many of our citizens.

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

Senator Waldon.

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

Would the learned gentleman from Syracuse, great area of Syracuse yield to a question or two?

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

Senator yields.

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

Senator DeFrancisco, were any studies conducted before you wrote this legislation, this proposal, in regard to the locations of bus lines in the city of New York versus the homes of many of the seniors in that area, meaning the distance as a rule of thumb from home to accessing the bus lines?

SENATOR DeFRANCISCO: There's no studies that I know of. The way the bill came to my attention is that every year since I've been in the Senate, our local bus company, CENTRO, keeps coming to my office for additional

revenues in order to balance their budget or else they're going to cut lines, so there will be less convenient lines for everybody and, at some point in time, they had mentioned that their organization had a similar situation occur throughout at least upstate New York and central New York where they were learning that many individuals who would be physically capable to take their bus service were being given alternate means of transportation.

So the idea came actually from them that this would be a win/win situation. Number one, it would allow us to keep the more bus routes that we had if we had increased ridership and it would save money in the Social Services Department, so I guess what I'm saying no study but without something like this, there's a risk at least in my area of reduced number of bus lines because of reduced revenues.

SENATOR WALDON: Would the gentleman yield to one more question?

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

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

By the way, Senator Paterson, can you hear me now? Yesterday we discussed whether or not this microphone works sufficiently well. Are you able to hear me?

SENATOR DeFRANCISCO: Will the Senator yield?

SENATOR WALDON: He could have just nodded. But anyway, Senator DeFrancisco, the question is, are there any elevated lines in Syracuse, New York?

SENATOR DeFRANCISCO: There's none off the ground, no.

SENATOR WALDON: Thank you very much. Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Waldon, on the bill.

SENATOR WALDON: Mr. President, I think that this may be very appropriate, what Senator DeFrancisco has proposed, for the city of Syracuse, New York, but it is very inappro priate for the city of New York.

One, many of the seniors who may be infirm or suffering disability, be it severe or very light, have to negotiate from their homes to the bus lines which are not so close by. An example, the Q4, which goes up and down Linden Boulevard which is just one block from my house, but if you go over towards the cemetery or Francis Lewis Boulevard -- and there are many, many homes of constituents there -- people in snowy times and wet weather times, be they seniors or otherwise, have to walk that great distance six or seven blocks just to get to that bus line. When it's snow and ice on the ground, it becomes an extreme difficulty for them. Those who have to go to the elevated line would have to negotiate those steps by themselves and I don't think the standard as described in this proposal is sufficiently sensitive to having someone at DSS say, Well, you know, if you can walk you can get there. They would not necessarily say, If you can walk but with some difficulty you will not have to use the public transportation.

And so, for those reasons, I will have to vote no.

SENATOR DeFRANCISCO: Would the Senator yield to one question?

ACTING PRESIDENT KUHL: Senator Waldon, do you yield to a question from Senator DeFrancisco?

SENATOR WALDON: Absolutely.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DeFRANCISCO: How do those same seniors and the same individuals get to the various means of public transportation that are not on social services?

SENATOR WALDON: Well, for the most part, the organization that I helped to create, the Jamaica Service Program for Older Adults, which has been in existence for about a quarter of a century and which services about 400,000 seniors in the southeast Queens areas, they have bus services; they have van services. They have the ability for the seniors to -- they have the service where the seniors can call and say, "I have to go to my doctor. I have to go shopping for food," and someone is provided to take them, so that's not an issue at this moment.

SENATOR DeFRANCISCO: O.K. Thank you.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 311 are Senators Abate, Connor, Gentile, Gold, Kruger, Lachman, Markowitz, Mendez, Paterson, Rosado, Santiago, Seabrook, Smith and Waldon, also Senator Sampson. Ayes 37, nays 15. Also Senator Oppenheimer. Ayes 36, nays 18*(16?).

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, where would you like to go next on the active list?

SENATOR SKELOS: Please take up Calendar Number 235, by Senator Cook.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 235, Senate Print 1418-A, by Senator Cook.

THE SECRETARY: Calendar Number 235, by Senator Cook, Senate Print 1418-A, an act to amend the Insurance Law, in relation to motor vehicle liability insurance rates.

SENATOR DOLLINGER: Could we have an explanation of that bill.

ACTING PRESIDENT KUHL: Senator Cook, an explanation of Calendar Number 235 has been requested by Senator Dollinger.

SENATOR COOK: Mr. President, a short answer is this simply makes permanent a provision that is currently in the law that has a sunset date on it.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I didn't hear that. I apologize.

SENATOR COOK: Senator, this simply makes permanent a provision of law that's already in there with a sunset date in it.

SENATOR DOLLINGER: Mr. President, is this 235?

ACTING PRESIDENT KUHL: This is Calendar Number 235, Senator Dollinger.

SENATOR COOK: Yes.

The wording, Senator, has been changed somewhat because the Insurance Committee felt that, if we were going to make it permanent, it would be a good idea to make the language a little more clear, but it's currently the provision that's in the law.

SENATOR DOLLINGER: O.K. That answers my question, Mr. President.

SENATOR SKELOS: Last section.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, where would you like to go next?

SENATOR SKELOS: Mr. President, we'll stand at ease.

ACTING PRESIDENT KUHL: The Senate will stand at ease.

SENATOR DOLLINGER: Is my motion in order at this point? Mr. President, the calendar is done. While we're waiting for bills, I assume action from other committees, why wouldn't it be -

ACTING PRESIDENT KUHL: Senator Dollinger, we're still on the order of the calendar. We have not gone any farther than that in the order, and the rules specifically -

SENATOR SKELOS: Mr. President, I believe we're at ease.

ACTING PRESIDENT KUHL: We are. We are.

SENATOR DOLLINGER: Mr. President, can I ask a point of order while we're at ease? Can I get a point of order at ease or not? No? Unbelievable!

(The Senate stood at ease from 11:36 a.m., to 12:06 p.m.)

SENATOR VELELLA: Mr. President.

ACTING PRESIDENT KUHL: Senator

Velella.

SENATOR VELELLA: Mr. President, there will be a Majority Conference in the Majority Conference Room at 12:15, and the Senate will stand at ease in the interim.

ACTING PRESIDENT NOZZOLIO: Republican conference, Majority Conference in the Majority Conference Room at 12:15.

Senate stands at ease.

(The Senate was at ease from 12:07 p.m., until 1:15 p.m.)

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senate will come to order.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Montgomery.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Thank you, Mr. President.

I'd like to have unanimous consent to be recorded in the negative on Calendar 311.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 311.

Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Stavisky.

ACTING PRESIDENT KUHL: Senator Stavisky.

SENATOR STAVISKY: I also would like to have unanimous consent to be recorded in the negative on Calendar Number 311.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Stavisky will be recorded in the negative on Calendar Number 311.

Senator Skelos.

SENATOR SKELOS: Senator Bruno would like the membership informed that the Senate will stand in recess until 3:15 and would suggest that you call each one's respective leader to find out if we will be starting

exactly at 3:15.

ACTING PRESIDENT KUHL: Senate stands in recess until 3:15.

(Whereupon at 1:18 p.m., the Senate recessed until 5:09 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Finance Committee in Room 332 of the Capitol and the Senate will stand at ease awaiting the report of the Finance Committee.

ACTING PRESIDENT KUHL: There will be a immediate meeting of the Senate Finance Committee, immediate meeting of the Senate Finance Committee in the Majority Conference Room, Room 332, and we'll stand at ease awaiting the report from that committee meeting, and which Senator Gold is on his way anxiously and hurriedly out of the chamber to attend.

(Whereupon, the Senate stood at ease from 5:10 p.m. until 5:20 p.m.)

ACTING PRESIDENT KUHL: The

Senate will come to order. Members please take their chairs.

Senator Skelos.

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

ACTING PRESIDENT KUHL: We'll return to the order of standing -- reports of standing committees.

I'll ask the Secretary to read the report of the Finance Committee.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following bills:

Senate Print 3428-A, by Senator Velella, an act to amend the Education Law, in relation to transportation services;

3977, by the Senate Committee on Rules, an act making appropriations for the support of government;

3979, by the Senate Committee on Rules, an act making appropriations for the support of government; and

3978, by the Senate Committee on Rules, an act making appropriations for the support of government.

All bills ordered direct for third reading.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, at this time if we could go back to the regular calendar and take up Calendar Number 412, Senate 701-A.

ACTING PRESIDENT KUHL: Without objection, all bills reported from the Finance Committee are ordered directly to third reading. We'll return to the calendar, the active list.

The Secretary will read Calendar Number 412.

THE SECRETARY: Calendar Number 412, Assembly Budget Bill, Assembly Print 1301-A, substituted earlier today, an act making appropriations for the legal requirements of the state debt service.

ACTING PRESIDENT KUHL: Senator Skelos.

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

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 412. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you take up Calendar Number 415, Senate

3857.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 415, substituted earlier today by the Assembly Committee on Rules, Assembly Print 6551, an act to amend the Public Authorities Law, in relation to powers of the Dormitory Authority.

ACTING PRESIDENT KUHL: Senator Skelos.

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

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 415. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you take up Calendar Number 457, Senate 3864.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 457, by Senator Marcellino, Senate Print 3834, an act to amend the Environmental Conservation Law, in relation to extending authority to regulate the management of scup and black sea bass.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 457. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in Room 332 of the Capitol and the Senate will stand at ease pending the report of the Rules Committee.

ACTING PRESIDENT KUHL: There

will be an immediate meeting of the Rules Committee in the Senate Majority Conference Room, Room 332, an immediate meeting in the Senate Majority Conference Room for the Rules Committee and the Senate stands at ease.

(Whereupon, the Senate stood at ease from 5:24 p.m. until 5:29 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order again.

Senator Skelos.

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

ACTING PRESIDENT KUHL: We'll return to the order of reports of standing committees.

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

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

Senate Print 3779, by Senator Trunzo, an act to amend the Civil Service Law,

in relation to providing for payments to certain public employees; and

Senate Print 3980, by the Senate Committee on Rules, an act to amend the Environmental Conservation Law, in relation to centrally fueled fleets.

All bills ordered direct for third reading.

ACTING PRESIDENT KUHL: Without objection, all bills are ordered directly to third reading.

Senator Skelos, we have a motion we would like to take care of if that's okay at this time. We'll return to motions and resolutions.

The Chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. On behalf of Senator Goodman, on page number 20, I offer the following amendments to Calendar Number 379, Senate Print Number 753 and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 379 are received

and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Senate 3428-A, which was reported from the Finance Committee.

ACTING PRESIDENT KUHL: We have a substitution on that bill we would like to read first, Senator Skelos, to put it before the house.

The Secretary will read the substitution.

THE SECRETARY: Senator Velella moves to discharge from the Committee on Education Assembly Bill Number 6298-A and substitute it for the identical Third Reading Calendar 459.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number

459, by member of the Assembly Sanders, Assembly Print 6298-A, an act to amend the Education Law, in relation to transportation services.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you take up Senate 3977 which was just reported from the Finance Committee.

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number -- excuse me -- Senate Print 3977, Calendar Number 460.

THE SECRETARY: Calendar Number 460, by the Senate Committee on Rules, Senate Print 3977, an act making appropriations for the

support of government.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is a message of necessity on Calendar Number 460 at the desk, Senator Skelos.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 460. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect April 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: If we could just stand at ease for a moment.

ACTING PRESIDENT KUHL: Senator Skelos, we do have a message from the Assembly, if you would like to take that, concerning a bill we put to third reading. It's Assembly Print 6545.

SENATOR SKELOS: Move to accept the message from the Assembly.

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

I'll ask the Secretary to read.

THE SECRETARY: On motion of Senator Bruno, the rules were suspended on said bill, Assembly 6545, by the Assembly Committee on Rules, ordered to third reading.

ACTING PRESIDENT KUHL: Without objection, the bill is ordered directly to third reading.

SENATOR SKELOS: Stand at ease now.

ACTING PRESIDENT KUHL: The Senate will stand at ease.

(Whereupon, the Senate stood at ease from 5:35 p.m. until 6:00 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Would you please call up Calendar Number 462.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 462, by the Senate Committee on Rules, Senate Print 3978, an act making appropriations for the support of government.

ACTING PRESIDENT KUHL: Senator Skelos.

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

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 462, Senate Print 3978. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect April 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when recorded.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 463, Senate Bill Number 3980.

THE SECRETARY: Those recorded in the negative on Calendar Number 462 are Senators Abate, Breslin, Dollinger, Hoffmann, Nanula, Oppenheimer, Rosado. Senator Abate recorded in the affirmative. Ayes 54, nays 6.

SENATOR GOLD: Mr. President, how did I vote?

ACTING PRESIDENT KUHL: Senator Gold, you were recorded in the affirmative.

Senator Seabrook, you wish to be recorded in the negative on Calendar Number 462? Okay.

The Secretary will read the results again.

THE SECRETARY: Ayes 53, nays 7.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will read Calendar Number 463.

THE SECRETARY: Calendar Number 463, by the Senate Committee on Rules, Senate Print 3980, an act to amend the Environmental Conservation Law, in relation to centrally fueled fleets.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 463. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

SENATOR OPPENHEIMER: Explanation.

ACTING PRESIDENT KUHL: Senator Marcellino, an explanation of Calendar Number 463 has been requested by Senator Oppenheimer.

SENATOR MARCELLINO: Yeah. The Governor has proposed in his emergency budget a plan to repeal the clean fuel fleet mandate on owners of heavy -

SENATOR GOLD: I'm sorry, Senator, I don't mean to be impolite but it's hard to hear you.

SENATOR MARCELLINO: I apologize.

ACTING PRESIDENT KUHL: Can we have a little order in the house, please? Senators please take their seats, the staff take their seats. Conversation taken out of the chamber. Thank you.

Senator Marcellino, for an explanation.

SENATOR MARCELLINO: This bill is basically a repeal -- well, not a budget repeal

but a postponement of the clean fuel fleet mandate on owners of heavy duty vehicle fleets in the downstate region. If this mandate is not postponed, the DEC is required to issue regulations by May 13th to finalize the whole process by mid-August of going to clean fuel and have all municipalities, school districts, park districts and businesses with trucks that qualify -- that are over 6,000 tons or 6500 tons that qualify, have them converted over to clean fuel.

The cost estimated by the Council of School Superintendents, for example, predicts that the law would cost school districts upwards of $200 million per year, a 17 percent increase in statewide expenditures on school district transportation. This would more than consume the Governor's entire proposed school aid increase for the effective reasons.

The School Boards Association estimates an initial cost of $400 million for school districts to pay for the necessary infrastructure improvements, that is, fueling stations which currently don't exist.

We are asking that in this

legislation that we postpone the target date two years. In the interim, we will do a study and a report will be issued to determine the availability of -- let's see. Let's use the exact language in the bill -- "the availability of fuels, vehicles and infrastructure necessary to implement the program, the cost of complying with the program for municipalities, schools, businesses and other potentially affected fleet owners and fuel providers and emission benefits in contribution to attainment of any applicable health standards."

The program was initially indicated as part of the state's Clean Air Act which was a duplicate of the federal Clean Air Act program.

The federal program has been basically withdrawn and the state's still on the books forced to implement this program by - almost immediately by 1998. The districts involved -- I can give you some specifics on it. I have a thing from the Association of Towns -- a memo that came from the Association of Towns.

For example, it says here that

the state legislation is required to revise the -- New York's SIP. Absent state legislation, the DEC is required to implement the CFFP effective with vehicle model year 1998. Current DEC regulations promulgated to implement the CFFP requires 50 percent of new heavy duty vehicles to be clean fuel vehicles. Compliance with this regulation will be costly to 44 towns located in the affected area.

For example, the town of Hempstead, which is the largest town in the United States populationwise, has 519 vehicles affected -- in the affected weight class. The town purchases 35 new vehicles each year. Under this law, it would have to purchase, you know, over 250 new vehicles this year. The town of Hempstead estimates that the cost to the taxpayers would be $3.2 million to convert their fleet and fueling stations to compressed natural gas in order to comply with the proposed regulations.

Similarly, the taxpayers in the town of Eastchester in Westchester County will be affected by the cost of implementation of this program. The taxpayers of the town of

Eastchester will spend more than $150,000 to comply with this regulation.

The town of Huntington in Suffolk County, which I represent, has 63 vehicles in the targeted weight class and purchases five new vehicles annually. The town estimates that it will cost the taxpayers 1.2 million to convert their fueling stations and 315 million to convert the 63 targeted vehicles.

The town of Ramapo has 36 targeted vehicles and purchases seven new vehicles each year. It estimates in excess of $200,000 to convert their fleet and fueling facility to compressed natural gas.

The key thing is it is extremely expensive. Benefits to clean air are minimal and not tossed aside. We're not throwing aside the Clean Air Act. The bill is a means to the end, not the end. The plan of the clean fuel act was a method, a direction to go. It isn't the only way to go. There are many other methods to attain this act. The study proposed will determine some of them and their viability rather than engaging in a super expensive program for what could be considered

questionable benefit.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: Would the sponsor yield for a question or two?

ACTING PRESIDENT KUHL: Senator Marcellino, do you yield to a question?

SENATOR MARCELLINO: Sure, absolutely.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR OPPENHEIMER: Senator, what value do you think -- what will come out of the study for a program that we knew this mandate existed from six years ago. What more do you think a study would produce?

SENATOR MARCELLINO: Senator, the study will, one, let us know if there are facilities available to do this. I understand the law has been out there and the requirement to meet these standards has been there but the fact of life is budgetarywise, these municipalities are not prepared to deal with this. The fact is your school districts are not prepared to deal with this. Your park

districts, your sewer districts, anybody or any district that is required to maintain fleets, they're not prepared to deal with this. The infrastructure doesn't exist. Pumping stations, transfer fuel stations don't exist except in very few locations.

So practically speaking, those school districts, for example, that would be planning their budgets now for a May vote would immediately have to kick in and take into consideration the needs and the necessity of converting their fleet that exists now, whatever percentages come in immediately, plus building a fueling station if one doesn't exist for them in a nearby area, cost prohibitive. Increasing property taxes on our residents. The cost could be disastrous.

A study might be a smart way to go and it might be the way to buy some time so that we can begin to analyze it, know the problems, know where we want to go and how we want to get there and, if possible, get to that goal of clean air which we all desire. Nobody is looking to foul the air. No one is looking to lessen the quality of our air by doing this.

We're trying to give our municipalities and our districts an opportunity to plan properly.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: If you would yield again.

SENATOR MARCELLINO: Sure.

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

SENATOR MARCELLINO: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR OPPENHEIMER: It just seems that having had six years to do this in, we -- we probably could have done a study in that period of time and at this juncture, would it not be wiser to move ahead with the program phased in over a long period of time, a slower phase-in? What would a study produce? I think you're looking for a phase-in, a period of time.

SENATOR MARCELLINO: I think you just asked me that question two seconds ago, if I'm not mistaken.

SENATOR OPPENHEIMER: About how about phasing it in over a longer period of

time? Starting now, we were -

SENATOR MARCELLINO: We are doing exactly what you're saying. We're giving them two more years. We're saying look at it for two years. You know it's coming in two years. You've got to come up with a proposal. We're going to look at the proposal from the state basis. We're going to ask the DEC to take a long hard look at this proposal and say, is this effective? Is it cost-effective? We're going to spends hundreds of millions of dollars to make this happen.

According to the School Boards Association, as I said -- as I read to you in my very lengthy opening statement, upwards of $200 million a year for the school districts, 17 percent increase in property taxes. I don't think anybody can handle that. I know the districts in my area that I represent, I'm sure the districts that you represent, could not impact and absorb that kind of an expenditure at this point in time. If you're saying, should they have prepared and done this a long time ago? I can't argue with that, but the fact is they didn't and we have to live with the reality

now.

SENATOR OPPENHEIMER: I would like to ask another question and that is, was this not the purpose of the bond act that we passed in November to help us with cleaner air and was this not the purpose of the petroleum overcharge funds to help us? Why are we not utilizing those funds?

SENATOR MARCELLINO: One, the bond act -- yes, the bond act could be used to offset some of the costs but it's only some, not all, and we're not sure what those costs exactly would be at this point in time, anyway. That's part of the problem. We may have some facilities out there that would impact some districts positively. We may not have in most districts that have to construct. The cost of construction in various areas is different. We would have to know. To try to use bond act money and just say, Yeah, we're going to apply bond money off to it would be great but we would be committing money. We don't know how much and we don't know how -- you know, when.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR MARCELLINO: That, frankly, would be -- as my good colleague down here just reminded me, that would be part of the study and should be part of the study to determine exactly what we need and how much we have to spend and when.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Senator.

On the bond, if I may, please. To opt out of the clean air program which man dates upon us a cleaner environment, particular ly in the Senator and my area which is severe, severe non-attainment area, one of the worst areas in the United States, to opt us out of the requirements of the Clean Air Act for our heavy duty vehicles which are spewing pollutants and particulates into the air seems just foolish, foolhardy and I strongly, strongly intend to oppose this.

We have had a long enough time to look at this. We have been mandated for six years now and we haven't done it now and we are only postponing it two years more because it's a

costly thing -- cleaning up our environment is costly because we have messed it up, and I don't think we ought to be looking at ways of circumventing what is the clean air law for this state.

So I will be voting against this and I know the Environmental Planning Lobby is very unhappy with this also.

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

Senator Marcellino.

SENATOR MARCELLINO: Without prolonging this unnecessarily-- but I would like to just comment.

ACTING PRESIDENT KUHL: Senator Hoffmann -

SENATOR MARCELLINO: We're not opting out of anything. This is not an opt out of the Clean Air Act. We couldn't do that anyway if we tried. This is a reasonable, responsible approach. It's all well and good to tell a school district that comprises umpteen thousand families, Well, you know, shame on you. You didn't do what you were supposed to do six years ago and we're going to punish you for

it and we're going to increase your taxes and raise your fees and cost your district millions of dollars because you were bad people.

Now, I don't know about you, Senator, but I can't do that to districts. I don't think we have a right to do that to the districts. We're not fouling the air. We're cleaning the air up. We didn't have the California LEV program in place six years ago. We do now which improves emissions standards. We're working on that system and that's doing better. Our air is getting cleaner down here and we haven't gone to clean air fuel -- clean fuel vehicles. We are not -- and please don't repeat that because it's wrong. It's a flat out misstatement. We are not opting out of the Clean Air Act requirements. We're asking that we do this in an intelligent way and spend some time and some money to study the problem and look at it and give these districts a chance to react in a proper way.

You're talking about school districts, towns, cities, businesses, all throughout the state of New York and -- all throughout the state of New York that have to

comply and, if we don't do it correctly, we could impact them in a tremendously negative manner and take this very nice upturn we have in our economy and blow it right out the window.

ACTING PRESIDENT KUHL: Senator Hoffmann.

SENATOR HOFFMANN: Yes. This is a very interesting issue and I -- I had one or two questions for the sponsor. I wonder if Senator Marcellino would be so kind as to yield.

ACTING PRESIDENT KUHL: Senator Marcellino, do you yield to a question from Senator Hoffmann?

SENATOR MARCELLINO: My pleasure.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HOFFMANN: Senator Marcellino, I know that you chair the Environmental Conservation Committee in this chamber with great passion and your commitment to this particular piece of legislation is commendable, and I too frequently find myself in a position where I recognize that people in my portion of the state or even in some minute segment of the Senate District I represent may

differ from a larger mandate imposed upon them, but generally I expect our Environmental Conservation Committee to give us an opportunity to air such an issue in a thoughtful way, and I'm just wondering if you could explain to me the timing with which this measure has been introduced and brought to the floor. I'm a little confused by this. When was this bill first introduced, Senator Marcellino?

SENATOR MARCELLINO: This particular bill, it's my understanding, was introduced today. It's been part of the negotiations between the Senate and the Assembly and the Governor on the continuing budget resolution that we're doing today. This is part of that program. This is language to implement it. However, as a member, you, of course, know, that there is a bill in committee that I sponsor to do very much the same thing and repeal this act and it's been there for some time.

SENATOR HOFFMANN: Mr. -- Mr. President, I wonder if Senator Marcellino would yield for another question.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR HOFFMANN: Senator Marcellino, you have piqued my curiosity. You say there is a bill in the committee which you chair and I would know this and it's been there for some time. Why would I know this, Senator Marcellino? Has this ever been brought before the Committee? I see Senator Marcellino is conferring with counsel.

SENATOR MARCELLINO: We'll get you the bill number, Senator, and we'll make sure you know that the bill was put into the Committee and it's been submitted. It has sponsors and perhaps if you would like to read it, I'll send it to you.

SENATOR HOFFMANN: It has sponsors?

SENATOR MARCELLINO: Oh, yeah.

SENATOR HOFFMANN: Big-time sponsors?

SENATOR MARCELLINO: Well, heavy weights, anyway.

SENATOR HOFFMANN: Would Senator Marcellino add one more bit of clarification in the form of an answer?

ACTING PRESIDENT KUHL: Senator

Marcellino, do you want to disclose what the heavyweight means? No, I'm just -

SENATOR HOFFMANN: Besides yourself, Senator Marcellino, to whom was this bill offered for sponsorship? Could you explain that to those other members of the Environmental Conservation Committee who might have enjoyed supporting you in this effort?

SENATOR MARCELLINO: I don't recall, quite frankly, Senator.

SENATOR HOFFMANN: Thank you, Senator Marcellino. I appreciate that.

Mr. President, I realize that Senator Marcellino is attempting to clarify on relatively short notice a very complex issue and the fact that he is an excellent reader and was able to carefully digest and articulate the words on a piece of paper handed to him just moments ago, I think is commendable. It is, however, not the mark of good legislation and it is not a sufficient reason for those of us who care about the environment to want to vote for this measure.

I have been a member of the Environmental Conservation Committee in the New

York State Senate for some 13 years, and I am appalled that a matter of this significance is not even being discussed, much less brought to a vote, within the confines of that committee.

Surely we could have sat and had some reasonable understanding of what this measure means but to be forced tonight as we're about to adjourn for several days for religious holidays to be confronted with a measure with so little information is really an affront to our intelligence and to the dignity of the people in this state, and I would hope that Senator Marcellino and the Majority in this house would consider laying this measure aside so that it can be reviewed and voted on in a more thoughtful way.

Absent that choice, I will have no alternative, regardless of how meritorious the measure may be, except to vote in the negative on it and I would hope that many of my colleagues would do the same, but that type of action is not what we should be here for. We should be here for an intelligent analysis of what is a tremendously significant environmental question so that we can go home with a clear

conscience and say that we have arrived at an appropriate, rather than a political solution.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yeah. Mr. President, I'll be very brief, but what is happening here now is symptomatic of something that's been going on in the last couple of years to an extent which we ought to say something about.

I do not believe that it is a world of black and white. I think that there are a lot of gray areas and in finding those gray areas, dealing with them, intelligent people have to draw lines and this Legislature has always dealt with some linkage between issues and in most years in our history, the linkage has made some sense.

We are now getting into an area with this Governor, who I like, where he makes linkage and this house makes linkage of issues which have nothing to do with one another and this is considered now a good political bargain. You want something, so today we're going to make a linkage because you want

something and I need something, whether they make any sense or not.

We came into session today at 11:00 o'clock. Everybody in this building knew more or less what the agendas were going to be. We wound up standing at ease for a good part of the day while there were negotiations and bickering over things which really don't deal with the major issues that we came to session today to deal with and this is a perfect example.

Senator Hoffmann's remarks are right on target. Senator Oppenheimer's remarks are right on target and this is an issue which we should deal with. It's a question of whether there's a delay, how much of a delay, what time delay and that is a significant issue to deal with but it shouldn't be something that gets thrown at us because three men spent most of the day today behind closed doors -- because I don't think there was any open meeting -- discussing what should or should not be part of a debate on budget issues, and I think that the only way we're going to maintain our own sense of dignity -- because every day it's going to be something

that affects every one of us on both sides of this aisle -- we have to stand up and say that there are legitimate issues before this Legislature. Let's deal with them without linking in -- and I'm using that in the politest sense -- other issues which are done so in an inappropriate manner.

I intend to vote to support Senator Oppenheimer and the comments made by Senator Hoffmann and I will vote in the negative.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, will the sponsor yield just to one question?

ACTING PRESIDENT KUHL: Senator Marcellino, do you yield to one question? The Senator yields.

SENATOR DOLLINGER: I agree with many of the comments made by my colleagues, Senator Hoffmann, Senator Oppenheimer and Senator Gold but, Senator, could you tell me what the current status of compliance is so that I can make some kind of evaluation based on what

you tell me that they've made some good faith effort to comply with this deadline and what we're doing is extending a period of time in order to give them greater time so that their good faith effort can reach its conclusion?

SENATOR MARCELLINO: It's my understanding, Senator, the compliance is slim and none and slim just left town.

SENATOR DOLLINGER: So they've done nothing to comply knowing that there was a six-year deadline and now we're going to extend it for two years when they haven't shown any good faith to comply with this.

ACTING PRESIDENT KUHL: Senator Dollinger, are you asking Senator Marcellino to yield to a second question?

SENATOR DOLLINGER: I am, indeed, Mr. President. I apologize.

SENATOR MARCELLINO: That's okay because, Senator -

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MARCELLINO: -- if we were talking about your child or my child who was misbehaving, we would go over and say, You

know, you did something wrong and you've got to pay a penalty and maybe you go to your room without television for two hours or you get a little pop on the bottom and you say, Look, don't do it again. That's a bad thing. You can't do that to a school district. You can't do that to a municipality. There's millions of people who are innocent people who have nothing to do with this decision to comply or not to comply. It's bigger than that and I'm sure you understand that. I'm sure Senator Gold under stands that and Senator Oppenheimer understands that, and Senator Hoffmann understands that.

I apologize if I was flip before. I didn't mean to be, but the idea is these districts have not got the fiscal ability to comply at the present time. That's why you have a list here, the New York State School Boards Association, the Private School Bus Contractors, the Public -- Car Public Affair, New York Association of Pupil Transporters, the National Association of Pupil Transporters, Petroleum Council, the Association of Towns, New York State Council of School Superintendents, New York Association of Counties, the Empire

State Petroleum Association, the Coalition of the Big Five Schools, New York City Legislative Office, all are for this repealer because they don't have the ability, the localities, municipalities and businesses involved do not have the ability to do it now.

SENATOR DOLLINGER: Can I just ask one other -- will Senator Marcellino yield?

ACTING PRESIDENT KUHL: Senator Marcellino, do you yield to another question?

SENATOR MARCELLINO: Sure, if it would help.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator Marcellino, if they don't have the money now, where are they going to find it two years from now to do all this?

SENATOR MARCELLINO: That's what the study is designed to help do, Senator. Quite frankly, that's the honest way to answer. This should have been done some time ago. I agree with you. If we're talking about reforming the negotiation process, this chamber passed the reform bill. The Majority over here

-- and maybe we were joined by some of you, I don't remember -- but we passed the reform message which would change the process of negotiating budgets. We haven't heard anything from the other chamber. They haven't proposed a thing. I don't mean to be partisan, far be it for me, but the name of the game here is we need the time to look at this thing effectively, efficiently and appropriately to do this right. If you toss it on them, you're going to have a whole bunch of districts and businesses that are going to go, some out of business. Some are going to pick up and move. Some districts are going to be raising property taxes. You're going to have to go home and answer to that and I don't think we want to.

SENATOR DOLLINGER: Thank you, Mr. President.

Just on the bill, briefly.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I understand Senator Marcellino's passionate argument for an extension of time but it seems to me there are elected bodies that have chosen not to comply,

chosen not to start the process of compliance and let's not forget, as Senator Oppenheimer pointed out, why this was done.

This is done because there are people who have health problems related to unclear air. That's why this was done. This has been talked about for 20 years and every time we sit down to do something, it's "We need more time. We need more time." It's not just a question of government spending more money. They may have to do that, but think about all of those people who are inhaling dirty air. Think about areas in our ozone that are being depleted. It seems to me that's the reason why it's in place in the first place. To turn our back on it and postpone it again for two years when there's been no effort at good faith - Senator, if you came to me and said they already started to spend the money. They're on their way, I would be more sympathetic to that argument. To say that they've done nothing and now we're going to give them two more years, even though it doesn't affect my region of the state, I think is bad policy.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Paterson, do you wish to explain your vote?

SENATOR PATERSON: Mr. President, we would like a slow roll call on this.

ACTING PRESIDENT KUHL: Are there five members in chamber who would like to? Please signify by standing. I'm counting five.

The Secretary will call the slow roll call.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Breslin.

(There was no response.)

Senator Bruno.

(Affirmative indication)

Senator Connor.

(Negative indication)

Senator Cook.
(There was no response.)
Senator DeFrancisco.
SENATOR DeFRANCISCO: Yes.
THE SECRETARY: Senator Dollinger.
SENATOR DOLLINGER: No.
THE SECRETARY: Senator Farley.
(There was no response.)
Senator Gentile.
SENATOR GENTILE: No.
THE SECRETARY: Senator Gold.
(There was no response.)
Senator Gonzalez, excused.
Senator Goodman.
(There was no response.)
Senator Hannon.
SENATOR HANNON: Yes.
THE SECRETARY: Senator Hoffmann.
SENATOR HOFFMANN: No.
THE SECRETARY: Senator Holland.
SENATOR HOLLAND: Yes.
THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Kruger.

(There was no response.)
Senator Kuhl.
SENATOR KUHL: Aye.
THE SECRETARY: Senator Lachman.
(There was no response.)
Senator Lack.
SENATOR LACK: Aye.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Here.
THE SECRETARY: Senator LaValle.
(There was no response.)
Senator Leibell.
SENATOR LEIBELL: Aye.
THE SECRETARY: Senator Leichter.
(There was no response.)
Senator Levy.
SENATOR LEVY: Aye.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
(There was no response.)
Senator Marcellino.
SENATOR MARCELLINO: Aye.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

(There was no response.)

Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Yes.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: No.

THE SECRETARY: Senator Montgomery.

(There was no response.)

Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Mr. President.

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

SENATOR ONORATO: Mr. President, I'm going to vote against this bill because I represent a district in New York City that's very, very heavily affected by this bill. I have one of the highest emphysema- and

lung-related diseases in the entire city of New York in my district and any further delay in implementing a Clean Air Act on our part is unconscionable.

We are now in the process of suing the tobacco industry which we know causes cancer. We certainly know that the emissions are causing lung-related diseases to all of the residents of the cities that are affected by the Clean Air Act and any further delay perhaps may wind up with the state of New York being the recipient of lawsuits claiming the health bills that may have to be paid because of the fact that we have not implemented the Clean Air Act and I am, therefore, voting no.

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

Continue the slow roll call.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

THE SECRETARY: Senator Padavan.

(There was no response.)

Senator Paterson.

SENATOR PATERSON: Mr. President.

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

SENATOR PATERSON: Only to explain that for the reasons stated by Senator Onorato in his explanation and by Senator Oppenheimer in her debate and by the Environmental Planning Lobby which strongly opposes this bill, I vote no.

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

Continue the slow roll call.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Yes.

THE SECRETARY: Senator Rosado.

SENATOR ROSADO: Yes.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: No.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Seabrook.

SENATOR SEABROOK: No.

THE SECRETARY: Senator Seward.
SENATOR SEWARD: Aye.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
SENATOR SMITH: No.
THE SECRETARY: Senator Spano.
SENATOR SPANO: Aye.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: No.
THE SECRETARY: Senator Stafford.
SENATOR STAFFORD: Aye.
THE SECRETARY: Senator Stavisky.
(There was no response.)
Senator Trunzo.
SENATOR TRUNZO: Yes.
THE SECRETARY: Senator Tully.
SENATOR TULLY: Aye.
THE SECRETARY: Senator Velella.
SENATOR VELELLA: Yes.
THE SECRETARY: Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
SENATOR WALDON: Mr. President,

briefly to explain my vote.

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

SENATOR WALDON: This is a money issue. We're talking about the bottom line of the business community in some form or fashion, and when I read on a daily basis about the warming of the planet and what the ozone layer -- what is happening to the ozone layer, I have to believe that my grandchildren and my great grandchildren deserve a better shake than what we will give them if we were to pass this legislation and it were to become law in this state.

So this vote is against the bottom line but for the children, and I vote no.

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

Continue the slow roll call.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT KUHL: Call the absentees.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: No.

THE SECRETARY: Senator Farley.
(There was no response.)
Senator Gold.
SENATOR GOLD: No.
THE SECRETARY: Senator Goodman.
(There was no response.)
Senator Kruger.
(There was no response.)
Senator Lachman.
(There was no response.)
Senator LaValle.
(There was no response.)
Senator Leichter.
(There was no response.)
Senator Maltese.
SENATOR MALTESE: Aye.
THE SECRETARY: Senator Markowitz.
(There was no response.)
Senator Montgomery.
(There was no response.)
Senator Padavan.
(There was no response.)
Senator Stavisky.
(There was no response.)

Ayes 31, nays 18.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Would you call up Calendar Number 464.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 464.

THE SECRETARY: Calendar Number 464, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 6545, an act -

ACTING PRESIDENT KUHL: Senator Skelos.

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

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 464. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 461.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 461.

THE SECRETARY: Calendar Number 461, by the Senate Committee on Rules, Senate Print 3979, an act making appropriations for the support of government.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is

a message.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 461. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 45. This act shall take effect April 1.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: How about Calendar 465.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 465.

THE SECRETARY: Calendar Number 465, by Senator Trunzo, Senate Print 3779, an act to amend the Civil Service Law, in relation to providing payments to certain public employees.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 465. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR GOLD: Explanation.

SENATOR SKELOS: Explanation has been asked.

ACTING PRESIDENT KUHL: Senator Trunzo, an explanation of Calendar Number 465, Senate Print 3779, has been requested by Senator Gold.

SENATOR TRUNZO: Mr. President, this legislation is a post-negotiated agreement between the Public Employees Federation and the Governor's office regarding the agreement between the Governor and PEF regarding the employees of the professional, scientific and technical unit of the state work force to elect to cash in on up to two days pay or two days leave for the fiscal year 1997-98 and also for fiscal year 1988-89.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

SENATOR GOLD: Hold on one second. I'm sorry.

Thank you, Mr. President.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SKELOS: Mr. President, would you please lay aside Calendars Number 416, 417, 427 and 428.

ACTING PRESIDENT KUHL: Calendars Number 416, 417, 428 and 428 are laid aside for the day.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: There is no housekeeping. That completes the calendar for the day, Senator Skelos.

SENATOR SKELOS: Mr. President, would you please recognize Senator Dollinger.

ACTING PRESIDENT KUHL: We'll

move to the order of motions to discharge.

The Chair recognizes Senator Dollinger.

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

I have a motion to discharge at the desk. I would waive its reading and ask that I be heard on the motion.

ACTING PRESIDENT KUHL: Senator Dollinger, we'll ask the Secretary to read the title of the motion to discharge to put it on the floor.

The Secretary will read.

THE SECRETARY: By Senator Dollinger, Senate Print 3318, an act enacting the Assault Weapon Prohibition and Licensing Act of 1997.

ACTING PRESIDENT KUHL: The motion is before -- the discharge is before the house.

The Chair recognizes Senator Dollinger to explain the motion.

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

I also thank the Deputy Majority

Leader -

ACTING PRESIDENT KUHL: Excuse me just a minute, Senator Dollinger. It's a little noisy in here. We have a lot of members moving around, a lot of staff moving around. Could we settle down and then I think we'll have the appropriate silence for your discussion of the motion.

SENATOR DOLLINGER: I would just caution the President. I can remember the - wielding the gavel on this debate on other occasions has proved to be costly to the gavel.

ACTING PRESIDENT KUHL: Senator Dollinger, I have a new gavel at the desk, one that I'm informed is unbreakable.

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

I'll be very brief. I know the hour is late. I understand the rules of the Senate and appreciate those rules which require that this motion come before us today, this day before we leave for religious holidays when we've completed our business but, Mr. President, this is a critical moment. This is a critical moment for the people of this state. This is an

opportunity to make law, to make history, to make a landmark decision that will protect the people of this state.

We already have before us a bill that is the Senate version of a bill that has passed the Assembly to create a state ban on semiautomatic assault weapons and it seems to me that in this pivotal moment, this moment when we've got a chance to make law, we ought to take it. We ought to approve this motion to discharge so that the bill can come before us for debate.

I want to tell everyone here, you've heard my arguments in favor of this ban and this motion to discharge before, but let me tell you something that I learned today and something that I'm promising you today I will do.

Today I listened to a man describe the death of his daughter on the Long Island Rail Road. Her name was Amy Locicero Federico, and I watched a man put a picture out of his daughter about age 22 to 25 and tell the story of her death, and I promise you one thing. I'm going to find a bill in every single

bill that I can find that I can attach this as an amendment to and every opportunity I have to bring this motion before this house.

I vow that I will find a way to not only get a debate on the merits of this if this motion fails, but I promise you I am going to find a bill to put this on. I'm going to come back time and time again. I will not let the voice of Jake Locicero still be still in my mind. It's a powerful voice. It's a voice that requires action. He asked for that action today and I will not rest until I can find a way to make this bill law.

I urge you to support this motion to discharge. I urge you to vote in favor of the motion because this is the chance -- and don't make any bones about it. I know everyone's thinking, this is just another one of those motions. I'll be able to explain it to everyone. I'm not going to give you that opportunity. I'm going to tell people that this is the chance. The hour is today. The chance is now. It's our time. This is the time to do the right thing. Now is the time to do the right thing. Put this ban in place. Take the

streets of this state and make them safer. The police want it. Your constituents want it. They want it done now. Vote for this motion and we can do it now and we can stop the bloodshed on our streets.

Please vote in favor of this motion for Amy Locicero Federico.

ACTING PRESIDENT KUHL: Is there any other member wishing to speak on the motion?

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, just briefly on this motion.

I certainly want to compliment and applaud my colleague from Rochester for bringing forth this motion and I'm sure, if we could just have the opportunity to debate this -- we have enough members in this house who feel like he does, like I do, like many of us do about the problem that he is addressing -- he wishes to address through this legislation and that is we want to reduce crime. We want to save our young people. We know that having guns in the hands of children is the most dangerous thing to people in this state and the

availability and the accessibility of these weapons for youngsters, for people who are prone to participate in criminal activities, is what drives the problem and we know that we are going to be faced -- if we don't do something to stem this tide and to correct this problem, we're going to be faced with a burden, a fiscal burden that the state will not be able to withstand in terms of the attempt to expand and create enough beds so that everyone who is caught with a weapon, everyone who attempts to use a weapon eventually ends up needing a prison cell. We cannot afford that, plus the lives of people are at stake.

So let's, for one time, end the history of this wonderful body. Let's have an opportunity to debate the one piece of legislation that will, in fact, without question and without any reservation, will address the issue of crime on our streets and will save lives. We know that this is an attempt to save lives of citizens in our state.

So, Senator Dollinger, I support this resolution. I only hope that we are now at the brink at this hour, even though it is late,

I'm sure that it's not too late and there's still plenty of time left in this day that we could discuss and debate this legislation if we all agree on this motion to discharge.

So I support it and thank you, Mr. President, for allowing me to speak on this motion.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, would you note the time for me?

ACTING PRESIDENT KUHL: I believe it's about 7:54 -- excuse me -- 6:54.

SENATOR PATERSON: Well, the President is always ahead.

ACTING PRESIDENT KUHL: My vision is a little distorted because my stomach is telling me something, Mr. President.

SENATOR PATERSON: Because I think it would be a good time to note in the record that I would like to thank -- in addition to Senator Dollinger who's fought for this legislation for a number of years and has been very vigorous in his advocacy and made a very fine presentation, I would like to thank the

Majority. I would like to thank the Majority for allowing this motion to come before the floor today under the Senate rules. We're also going to have some motions on April 1st and April 2nd which relate to a number of state issues that we feel are critical and policies we would like to be changed.

So in this spirit of the holidays and spirit of good will and with greatest brevity, especially with respect to Mr. President's problem, I would like to just thank the Majority. That's really all I have to say. I'm not going to talk for the rest of the session.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yeah. I would just ask if Senator Dollinger would yield to a question.

ACTING PRESIDENT KUHL: Senator Dollinger, do you yield to a question From Senator gold?

SENATOR DOLLINGER: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GOLD: Senator Dollinger, I don't really understand the purpose of this bill. As we stand here now, I have no training, Senator Dollinger, in firearms. I have never taken a course. I have never fired an assault weapon but, Senator Dollinger, I can leave here in my car right now and within ten minutes find a place and another ten minutes own an assault weapon and ammunition and walk out on the street with it, even if I wasn't sober. Are you telling me that if this bill passes, I can't do that?

SENATOR DOLLINGER: That's - well, assuming, Senator, that we have a chance to debate it and the Majority of this house passed it -- the Assembly has already passed it -- I'll carry it down to Governor Pataki's desk. He can sign it right there and that's, in fact, the case. If that happens tonight, as all those other bills are making their way down tonight, Senator, by 8:00 o'clock -- by 8:00 o'clock, we could actually be in a position where at some time in the future it would be

against the law do that. That's correct.

SENATOR GOLD: Will the Senator yield to a question?

SENATOR DOLLINGER: I would be glad to, Mr. President.

SENATOR GOLD: Senator, I don't like to admit this in public but, I mean, I don't even have any money in my money clip, but I do have a credit card and if your bill doesn't pass, I think I can take my credit card, my lack of experience, my no knowledge, drive ten minutes and buy an assault weapon. You want to stop me from doing that?

SENATOR DOLLINGER: That's exactly correct, Mr. President. I want to stop that.

SENATOR GOLD: One last question, Mr. President.

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

SENATOR DOLLINGER: I will continue to yield.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR GOLD: Senator Dollinger,

I and many others have heard you and other members of this house debating this terrible disease called one-house bills this year, last year. Did you say that this bill that you're moving to discharge has actually passed the Assembly so that if we handled it and passed it, it would not be a one-house bill; it would not be a showman's piece. It would be something that actually could become law?

SENATOR DOLLINGER: Through you, Mr. President. This bill has passed the Assembly. This bill, with 31 votes from this chamber, goes down to the Governor. The Governor of this state -- I would just point out to you, Senator, the Governor of this state has promised to sign a bill banning assault weapons in New York State. So I assume, like all those other promises he made in 1994, he'll keep this promise, sign that bill.

Senator Gold, as I said, we could probably be down in his office at quarter after 7:00 to have the bill signed.

SENATOR GOLD: Senator, if we don't do that, I would be shocked.

ACTING PRESIDENT KUHL: Is there

any other Senator wishing to speak?

Senator Abate.

SENATOR ABATE: Very briefly. I also stand in support of this motion to discharge. I can't think of a better reason to support this motion than to keep weapons such as these out of the hands of Senator Gold.

(Laughter)

For that reason, I think Republican and Democrats alike should support this motion to discharge, but seriously -

SENATOR GOLD: I thought you were serious.

SENATOR ABATE: And even more seriously, these weapons are weapons of choice for drug traffickers and street gangs and paramilitary extremist groups. These weapons are capable of rapid fire. They don't even need to be aimed. They can be sprayed and innocent people are killed. They're not for sporting. These are weapons designed to effectively kill as many people as efficiently as possible.

So we have to ask ourselves, Republicans and Democrats alike, what are we afraid of when we keep this bill in committee,

not allowing it to be debated? Aren't we letting down our constituents?

If you look at the polls, nine out of ten people support sensible gun control. Police and law enforcement throughout this state are begging us to do the responsible thing because they're being outnumbered. They are risking their lives. They can't protect citizens throughout this state because there is not a ban on assault weapons. We talk all the time about being tough and smart about crime. How can we even pretend to be tough about crime if we're allowing proliferation of assault weapons on our street?

Let's do the right thing. Let's join together. Let's save other lives by supporting this motion to discharge. If we do that, we will take a giant step forward to making our streets safer.

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

Senator Skelos, why do you rise?

SENATOR SKELOS: Mr. President, on this procedural motion, I'm going to ask for a slow roll call.

ACTING PRESIDENT KUHL: Are there five members in the chamber who are requesting a slow roll call? Please stand. There are five.

The Secretary will call the roll slowly.

ACTING PRESIDENT KUHL: Senator Abate.

SENATOR ABATE: Yes.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: No.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: Yes.

THE SECRETARY: Senator Bruno.

(Negative indication)

Senator Connor.

(Affirmative indication)

Senator Cook, excused.

Senator DeFrancisco.

(There was no response.)

Senator Dollinger.

SENATOR DOLLINGER: To explain my vote.

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

SENATOR DOLLINGER: The

opportunity to debate this bill is one we should not pass up. It's one that we have an opportunity now to do. We can make law. Don't -- no bones about it. Here's the chance. Step right up, one for a quarter, your chance to make law.

There may be others who want to characterize this in a particular fashion but this is the only chance that we have today to make this bill into law, and I would strongly suggest that everyone vote in favor of this motion to discharge.

Thank you, Mr. President. I'm voting in the affirmative.

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

Continue to call the roll slowly.

THE SECRETARY: Senator Farley.

(There was no response.)

Senator Gentile.

SENATOR GENTILE: Yes.

THE SECRETARY: Senator Gold.

SENATOR GOLD: Mr. President, just to explain my vote.

ACTING PRESIDENT KUHL: Senator

Gold, to explain his vote.

SENATOR GOLD: I want to express my admiration for this to Senator Skelos and, Senator Dollinger, don't feel badly. The reason I'm expressing my admiration for Senator Skelos is because he is a skilled, bright, intelligent leader who knows how to kill an issue in a way which perhaps will be less embarrassing for his party but, Senator, I don't know what we accomplished by that. It is really silliness.

If this is an issue where the members of your party believe that they are reflecting their constituencies by voting against this or by holding back the bill, then let them be here and let them put the bill out, proudly cast a vote in the negative, but this is not a nonsense issue. This is one of the serious issues of our time.

Senator, I won't go through the history of my buying an AK 47 within ten minutes of the Capitol or buying a Tech 9 in Florida and bringing it to New York and what is going on with guns in America, and I know all the nonsense arguments about guns don't kill people, criminals do, et cetera, et cetera, but if your

people believe that, Senator Skelos, let them come to the floor. Let them put this bill out and let's vote it.

The one thing I can say for the people on my side who are here and who have stayed, even though everybody knew that at some point today we would handle this motion and some people have left, the only thing I can say to the people who are here and who are supporting it is, God bless you. You understand the seriousness of this issue and you are here to put your money where your mouth is.

I vote absolutely in support of this motion.

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

Continue to call the slow roll call.

THE SECRETARY: Senator Gonzalez, excused.

Senator Goodman.

(There was no response.)

Senator Hannon.

(There was no response.)

Senator Hoffmann.

(There was no response.)
Senator Holland.
(There was no response.)
Senator Johnson.
(There was no response.)
Senator Kruger.
(There was no response.)
Senator Kuhl.
SENATOR KUHL: No.
THE SECRETARY: Senator Lachman.
(There was no response.)
Senator Lack.
(There was no response.)
Senator Larkin.
(There was no response.)
Senator LaValle.
(There was no response.)
Senator Leibell.
(There was no response.)
Senator Leichter.
(There was no response.)
Senator Levy.
(There was no response.)
Senator Libous.
(There was no response.)

Senator Maltese.

(There was no response.)

Senator Marcellino.

(There was no response.)

Senator Marchi.

(There was no response.)

Senator Markowitz.

(There was no response.)

Senator Maziarz.

SENATOR MAZIARZ: No.

THE SECRETARY: Senator Meier.

SENATOR MEIER: No.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: Yes.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: Yes.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: Aye.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: No.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Explain my vote.

ACTING PRESIDENT KUHL: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I must be a simpleton because I really can't understand what we're doing here or why anybody would want to put in a civil society such as a non-military society these weapons. I -- it just boggles my mind. It was created for war. It made sense in war. It mowed down the maximum people in the minimum time. I guess I'm not in favor of war but at least that seems to have some usage.

I cannot understand what these weapons are -- what purpose they serve in our society and I cannot understand why the other side of the aisle feels so strongly to protect this.

We know that the vast majority of the population of the state feels very strongly about banning assault weapons. It's something like 85 or 90 percent. So it can't be political. We know that the police are very strongly supportive of banning these assault weapons. We know that if there is a collector

out there who collects assault weapons, that that's -- God bless him. Let him keep them. If he uses them for marksmanship, fine. We know that he ought to be able to keep them but -- as you can see, I'm at a loss for words. I really can't understand what these weapons are doing in a civilian society.

I'm voting yes.

ACTING PRESIDENT KUHL: Senator Oppenheimer recorded in the affirmative.

Continue to call the slow roll call.

THE SECRETARY: Senator Padavan.

(There was no response.)

Senator Paterson.

SENATOR PATERSON: Yes.

THE SECRETARY: Senator Present.

SENATOR PRESENT: No.

THE SECRETARY: Senator Rath.

(There was no response.)

Senator Rosado.

SENATOR ROSADO: Yes.

THE SECRETARY: Senator Saland.

(There was no response.)

Senator Sampson.

SENATOR SAMPSON: Yes.
THE SECRETARY: Senator Santiago.
SENATOR SANTIAGO: Yes.
THE SECRETARY: Senator Seabrook.
SENATOR SEABROOK: Yes.
THE SECRETARY: Senator Seward.
(There was no response.)
Senator Skelos.
SENATOR SKELOS: No.
THE SECRETARY: Senator Smith.
SENATOR SMITH: Yes.
THE SECRETARY: Senator Spano.
(There was no response.)
Senator Stachowski.
SENATOR STACHOWSKI: No.
THE SECRETARY: Senator Stafford.
(There was no response.)
Senator Stavisky.
(There was no response.)
Senator Trunzo.
(There was no response.)
Senator Tully.
(There was no response.)
Senator Velella.
(There was no response.)

Senator Volker.

(There was no response.)

Senator Waldon.

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

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

My colleagues, some of you may have seen a film called The Killing Fields and in that film, weapons that we're talking about banning with Senator Dollinger's proposal, were everywhere. These weapons are really not for target practice. I know better than most because I spent many hours of my life at the pistol range, Throgs Neck in the Bronx, at the pistol range, 69th Regiment Armory in New York City. I traveled around the east participating in pistol matches because I had a keen eye and a steady hand, and I know what these weapons will do.

These are not recreational devices. These are killing weapons. They are made to kill and to maim and, if you read anything in the newspapers and magazines which report the incidents of injuries and deaths

resulting from having weapons in the home, you see all too often that 75 percent of the people who die are not the burglars but the people who live in those homes, that people who have these devices of havoc sometimes lose their children because they play with these weapons of destruction and we're playing with life when we bend to the will of the National Rifle Association in somebody's bottom line.

I hate to revisit this time and time again, but it is somebody's bottom line which is driving this issue in our chamber. These weapons are very costly. Somebody makes lots of money each time one is sold, even those which are sold illegally. It's interesting that on such an important issue, on such a life and death issue, there are so few of us in the chamber.

We often talk about our respect for life and we argue abortion issues and when we argue the positions that we take respective to abortion in this state. Why are not all of the members of the Senate here to talk about this issue which also results in death? I think it is a sin and a shame that we are so two-faced

about something that is so destructive as these weapons.

I would encourage everyone to recognize the genius of Senator Dollinger this time and to support what he's trying to do.

I think the moral imperative is that we must vote yes on his proposal, and I vote aye, Mr. President.

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

Continue to call the slow roll call.

THE SECRETARY: Senator Wright.

(There was no response.)

ACTING PRESIDENT KUHL: Call the absentees.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: No.

THE SECRETARY: Senator Farley.

(There was no response.)

Senator Goodman.

(There was no response.)

Senator Hannon.

(There was no response.)

Senator Hoffmann.
(There was no response.)
Senator Holland.
(There was no response.)
Senator Johnson.
(There was no response.)
Senator Kruger.
(There was no response.)
Senator Lachman.
(There was no response.)
Senator Lack.
(There was no response.)
Senator Larkin.
(There was no response.)
Senator LaValle.
(There was no response.)
Senator Leibell.
(There was no response.)
Senator Leichter.
(There was no response.)
Senator Levy.
(There was no response.)
Senator Libous.
(There was no response.)
Senator Maltese.

SENATOR MALTESE: Explain my vote, Mr. President.

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

SENATOR MALTESE: I would just like to comment for a moment on the statement of my good colleague, Senator Waldon, referring to the genius of my colleague, Senator Dollinger.

I think he bemoaned the fact correctly that the chamber is empty, but I question the genius of putting in a motion to discharge on the Wednesday before Holy Thursday and Good Friday at approximately 7:00 o'clock in the evening and ensuring the attendance of all the Senators who had previously made plans and are on their way home.

Mr. President, I vote nay.

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

Continue to call the slow roll call.

THE SECRETARY: Senator Marcellino.

ACTING PRESIDENT KUHL: Senator Dollinger, you're out of order. Please sit

down.

SENATOR DOLLINGER: I understand that, Mr. President. So was the other comment.

THE SECRETARY: Senator Marchi.

(There was no response.)

Senator Markowitz.

(There was no response.)

Senator Padavan.

(There was no response.)

Senator Rath.

(There was no response.)

Senator Saland.

(There was no response.)

Senator Seward.

(There was no response.)

Senator Spano.

(There was no response.)

Senator Stafford.

(There was no response.)

Senator Stavisky.

(There was no response.)

Senator Trunzo.

(There was no response.)

Senator Tully.

(There was no response.)

Senator Velella.

(There was no response.)

Senator Waldon -- excuse me - Senator Volker.

(There was no response.)

Senator Wright.

(There was no response.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 18, nays 11.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: The motion is defeated.

Senator Waldon, why do you rise?

SENATOR WALDON: Mr. President, I wish to have my name called to see how my vote was recorded. I believe that's in keeping with procedures of the house.

ACTING PRESIDENT KUHL: Senator Waldon is recorded in the affirmative.

SENATOR WALDON: Which allows me to speak at this moment.

ACTING PRESIDENT KUHL: That's not correct, Senator Waldon. You're not given the -

SENATOR WALDON: That's not correct?

ACTING PRESIDENT KUHL: You're not given the floor. Did you wish to change your vote? With unanimous consent, you can do that.

SENATOR WALDON: No, I do not wish to do that, Mr. President.

SENATOR SKELOS: Mr. President, there being no further business, I move we adjourn until Tuesday, April 1st, at 3:00 p.m. sharp -

ACTING PRESIDENT KUHL: The motion is to adjourn. Without objection -

SENATOR SKELOS: -- intervening days to be legislative days, Mr. President.

ACTING PRESIDENT KUHL: -- the Senate stands adjourned.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson, do you have an announcement?

SENATOR PATERSON: Yes. I would like to announce that on Tuesday, April 1st and Wednesday, April 2nd, we will offer the other motions for discharge as is in keeping with the

Senate rules as it was just now.

The motion for discharge offered by Senator Dollinger was pursuant to the rules of the Senate. It was not Senator Dollinger's choice to raise this now. It was our rule. It comes after the calendar and we will take note of that in the future.

ACTING PRESIDENT KUHL: Thank you for your announcement, Senator Paterson.

The Senate stands adjourned.

(Whereupon, at 7:19 p.m., the Senate adjourned.)