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ALBANY, NEW YORK

May 27, 1997

3:11 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

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P R O C E E D I N G S

THE PRESIDENT: The Senate will
come to order.

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

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

The invocation today will be
given by Reverend Peter G. Young from the
Blessed Sacrament Church in Bolton Landing.

Reverend Young.

REVEREND PETER G. YOUNG: Let us
pray. We pray then today for all New York State
people, now that we have enjoyed the opportunity
of having the Memorial Day behind us. We think
of the wealth and the power that might then
become a force for peace rather than conflict, a
source of hope rather than discontent, and be an
agent of friendship rather than enmity. May the
actions of the Senate then be that example. Now
and forever. Amen.

THE PRESIDENT: Amen.

The reading of the Journal,
please.

THE SECRETARY: In Senate,

1 Saturday, May 24th. The Senate met pursuant to
2 adjournment, Senator Farley in the Chair upon
3 designation of the Temporary President. The
4 Journal of Friday, May 23rd, was read and
5 approved. On motion, Senate adjourned.

6 THE PRESIDENT: Without
7 objection, the Journal stands approved as read.
8 Presentation of petitions.
9 Messages from the Assembly.
10 Messages from the Governor.
11 Reports of standing committees.
12 Reports of select committees.
13 Communications and reports from
14 state officers.
15 Motions and resolutions.
16 Senator Tully.

17 SENATOR TULLY: Yes, Madam
18 President. On behalf of Senator Trunzo, I wish
19 to call up Calendar Number 792, Assembly Print
20 Number 7594.

21 THE PRESIDENT: The Secretary
22 will read.

23 THE SECRETARY: Calendar Number
24 792, by the Assembly Committee on Rules,
25 Assembly Print Number 7594, an act to provide

1 for the adjustment of stipends of certain
2 incumbents.

3 SENATOR TULLY: Madam President,
4 I now move to reconsider the vote by which this
5 Assembly bill was substituted for Senator
6 Trunzo's bill, Senate Print Number 5237 on May
7 7th, 1997.

8 THE PRESIDENT: The Secretary
9 will call the roll on reconsideration.

10 (The Secretary called the roll on
11 reconsideration.)

12 THE SECRETARY: Ayes 42.

13 SENATOR TULLY: Madam President,
14 I now move that the Assembly Bill Number 7594 be
15 committed to the Committee on Rules and Senator
16 Trunzo's bill be restored to the order of the
17 Third Reading Calendar.

18 THE PRESIDENT: The Senate bill
19 is restored to the Third Reading Calendar.

20 SENATOR TULLY: Madam President,
21 I now offer the following amendments.

22 THE PRESIDENT: Amendments
23 received.

24 SENATOR TULLY: And adopted. No?
25 No. O.K.

1 Madam President, on behalf of
2 Senator Levy, please place a sponsor's star on
3 Calendar Number 993.

4 THE PRESIDENT: So ordered.

5 SENATOR TULLY: Madam President,
6 on behalf of Senator Volker, please place a
7 sponsor's star on Calendar Number 656.

8 THE PRESIDENT: So ordered.

9 SENATOR TULLY: Madam President,
10 amendments are offered to the following Third
11 Reading Calendar bills:

12 Senator Tully, page 7, Calendar
13 Number 184, Senate Print 2567-B;

14 Senator Johnson, page 11,
15 Calendar Number 342, Senate Print 2684-A;

16 Senator Nozzolio, page 13,
17 Calendar Number 377, Senate Print Number 177-B;

18 Senator Hannon, page 17, Calendar
19 Number 493, Senate Print Number 1736;

20 Senator Hannon, on page 30,
21 Calendar Number 770, Senate Print Number 4361;

22 Senator Hannon, page 30, Calendar
23 Number 774, Senate Print Number 4959;

24 Senator Stafford, page 33,
25 Calendar Number 801, Senate Print Number 5178;

1 Senator Alesi, page 33, Calendar
2 Number 813, Senate Print Number 5122; and

3 Senator Holland, page 35,
4 Calendar Number 841, Senate Print Number 4483.

5 THE PRESIDENT: Amendments
6 received.

7 SENATOR TULLY: Madam President,
8 I now move that these bills retain their place
9 on the order of third reading.

10 THE PRESIDENT: So ordered.
11 Secretary will read.

12 THE SECRETARY: On page 28,
13 Senator Saland moves to discharge from the
14 Committee on Rules Assembly Bill Number 7029 and
15 substitute it for the identical Third Reading
16 Calendar 748.

17 THE PRESIDENT: Substitution
18 ordered.

19 Senator Skelos.

20 SENATOR SKELOS: Madam President,
21 there will be an immediate meeting of the Labor
22 Committee in the Majority Conference Room.

23 THE PRESIDENT: There will be an
24 immediate meeting of the Labor Committee in the
25 Majority Conference Room.

1 Senator Tully. Oh.

2 Senator Skelos. Oh, I'm sorry,
3 Senator Paterson.

4 SENATOR PATERSON: Thank you.
5 Madam President, on behalf of Senator Connor and
6 Senator Smith, both of whom have two privileged
7 resolutions at the desk, I would like to read
8 the titles and move those resolutions at this
9 time.

10 THE PRESIDENT: Secretary will
11 read. The Secretary will read the resolution by
12 Senator Connor.

13 THE SECRETARY: By Senator
14 Connor, Legislative Resolution 1461,
15 commemorating the 30th Anniversary of the South
16 Street Seaport Museum.

17 THE PRESIDENT: On the
18 resolution, all those in favor please signify by
19 saying aye.

20 (Response of "Aye.")

21 Those opposed, nay.

22 (There was no response.)

23 The resolution is adopted.

24 The Secretary will read.

25 THE SECRETARY: Legislative

1 Resolution, by Senator Smith, commending Yvonne
2 H. Davis upon the occasion of her designation as
3 recipient of the Civil Servant Award by the
4 African-American Customs Organization, Inc., on
5 June 14, 1997.

6 THE PRESIDENT: On the
7 resolution, all those in favor please signify by
8 saying aye.

9 (Response of "Aye.")

10 Those opposed nay.

11 (There was no response.)

12 The resolution is adopted.

13 SENATOR SKELOS: Madam President.

14 THE PRESIDENT: Senator Skelos.

15 SENATOR SKELOS: I believe
16 there's a resolution at the desk sponsored by
17 Senator Holland. I ask that it be read in its
18 entirety and move for its immediate adoption.

19 THE PRESIDENT: Secretary will
20 read. Senator Skelos, we have one more
21 resolution by Senator Smith.

22 SENATOR SKELOS: O.K.

23 THE SECRETARY: By Senator Smith,
24 Legislative Resolution commending Barbara Faison
25 upon the occasion of her designation as

1 recipient of the Community Service Award by the
2 African-American Customs Organization Inc., on
3 June 14, 1997.

4 THE PRESIDENT: On the
5 resolution, all those in favor please signify by
6 saying aye.

7 (Response of "Aye.")

8 Those opposed nay.

9 (There was no response.)

10 The resolution is adopted.

11 Secretary will read.

12 THE SECRETARY: Legislative
13 Resolution, by Senator Holland: Legislative
14 Resolution 1459 memorializing Governor George E.
15 Pataki to proclaim May 26th through 31st, 1997
16 as Bone Marrow Donor Awareness Week.

17 WHEREAS, this legislative body is
18 justly proud to memorialize Governor George E.
19 Pataki to proclaim May 26 through 31, 1997 as
20 Bone Marrow Donor Awareness Week, and

21 WHEREAS, bone marrow transplants
22 now give people dying of blood-related diseases
23 such as leukemia and aplastic anemia a chance to
24 be cured if a donor can be found whose bone
25 marrow matches their own; and

1 WHEREAS, an individual has only a
2 30 percent chance of finding a donor among his
3 or her own family members; once family members
4 have been tested and a match is not found, an
5 individual is faced with only about a one in
6 20,000 unrelated people who will match closely
7 enough to allow the opportunity for a bone
8 marrow donation;

9 The National Donor Registry was
10 begun in 1987 to assist finding suitable donors
11 from a pool of "typed" readily available
12 volunteers. To date over two and a half million
13 volunteers are in the registry but more are
14 needed;

15 Many people in the United States
16 have died because their desperate searches have
17 not produced a matching donor in time; it is
18 vital, therefore, that every effort be made to
19 assure that the donor pool is as large and
20 diverse as possible;

21 Marrow transplants require
22 matching tissue types which are characterized by
23 complex genetic traits often unique to a
24 particular race, and currently about 80 percent
25 of the volunteer donors are Caucasian;

1 It is of critical importance that
2 African-Americans, Hispanics, Asians and Native
3 Americans, who are presently underrepresented on
4 the registry, become volunteers so that the same
5 hope can be offered to all Americans in need;
6 and

7 WHEREAS, in observance of Bone
8 Marrow Donor Awareness Week, several New York
9 race car drivers will participate in a One Lap
10 of America Road Race which will be held from May
11 31st through June 7th, 1997 and cover 5,725
12 miles;

13 A 1997 reincarnation of the famed
14 "Cannonball Run" cross-country car race is a
15 most unlikely setting for a Bone Marrow Donor
16 Registration Drive, yet road racers Bob
17 Kleinman, Gary Gerson and Cheryl Carl of the
18 Dancing Bears Racing Team from Somers, New York,
19 are embarking on a 5,725-mile high speed bone
20 marrow registration drive while competing in the
21 One Lap of America; starting at legendary
22 Watkins Glen International Racetrack, 95 race
23 teams will compete in the grueling seven-day One
24 Lap with 12 competitive segments at racetracks
25 throughout the United States;

1 Driving a state of the art Derek
2 Daly Volkswagen race car, the racers have
3 rallied to the cause of Project Share Life, a
4 joint effort of the Leukemia Society of America
5 and the National Marrow Donor Program; with
6 1-800-MARROW-2 emblazoned across the hood and
7 rear bumper of their high speed billboard and
8 the Leukemia Society of America logo along the
9 sides, the team is running a high tech mobile
10 media campaign to rally potential bone marrow
11 donors to register with the National Marrow
12 Donor Program registry;

13 This legislative body is proud to
14 acknowledge the efforts of Bob Kleinman and the
15 Dancing Bears Racing Team for their unique
16 effort to raise awareness and solicit donors in
17 participating in the race; and

18 WHEREAS, in memory of the late
19 Senator Eugene Levy it is the intent of this
20 legislative body to designate May 26th through
21 31, 1997 as Bone Marrow Donor Awareness Week in
22 New York State, recognizing and honoring all of
23 those who have selflessly donated marrow or have
24 been tested as a potential donor, and to enhance
25 public awareness of the desperate need for bone

1 marrow donors, particularly minority donors;

2 During Bone Marrow Donor
3 Awareness Week, the Bone Marrow Resource
4 Foundation will distribute educational material
5 and conduct a donor drive to test individuals as
6 potential donors on Tuesday, May 27th and
7 Wednesday, May 28th on the third floor terrace
8 of the Legislative Office Building; donors will
9 be registered with the National Marrow Donor
10 Program through a local donor center at the
11 American Red Cross in Syracuse;

12 Funds to test individuals as
13 potential donors during Bone Marrow Donor
14 Awareness Week are to be raised through a
15 Legislative Bowl-a-Thon on May 28th, 1997;

16 To date at least 1200 individuals
17 have been tested and added to the registry as a
18 result of funds raised through the Legislative
19 Bowl-a-Thon and eight of these individuals have
20 actually been matched with patients in need and
21 donated their marrow to save a life; and

22 WHEREAS, everyone has the ability
23 to give the gift of life by donating bone marrow
24 to someone who faces imminent death from a
25 blood-related disease;

1 Through its commitment to the
2 preservation and enhancement of human life, Bone
3 Marrow Donor Awareness Week so clearly advances
4 that spirit of united purpose and shared concern
5 which is the unalterable manifestation of our
6 American experience.

7 NOW, THEREFORE BE IT RESOLVED
8 that this legislative body pause in its
9 deliberations to memorialize Governor George E.
10 Pataki to proclaim May 26 through 31, 1997 as
11 Bone Marrow Donor Awareness Week in New York
12 State; and

13 BE IT FURTHER RESOLVED that
14 copies of this resolution, suitably engrossed,
15 be transmitted to the Bone Marrow Resource
16 Foundation, the National Marrow Donor Program,
17 the New York State American Red Cross of
18 Syracuse, and the Dancing Bears Racing Team in
19 recognition of their efforts in educating the
20 public and assisting those in need of a bone
21 marrow donation.

22 ACTING PRESIDENT MARCELLINO: The
23 Chair recognizes Senator Holland.

24 SENATOR HOLLAND: Mr. President,
25 I would like to thank everybody who has been

1 associated with bone marrow transplant and
2 anybody who has had their blood tested and gone
3 into the data bank. You have saved lives
4 because of this data bank, and we are doing
5 blood testing today and tomorrow on the third
6 floor terrace. Anybody under 60 years of age
7 who hasn't put their blood type in, we would
8 appreciate you going down and being tested. You
9 may save a life.

10 Also the Bowl-a-Thon that we have
11 each year to raise money in order to pay for
12 this, this year had to move because the Playdium
13 was struck by lightning. We will return to that
14 next year, but this year the Bowl-a-Thon will be
15 at the Albany Bowling Center on Watervliet
16 Avenue tomorrow night starting at 6:00 p.m., and
17 I'd like to thank those Senators who were
18 involved and have teams bowling and contributed
19 money: Senators DeFrancisco, Johnson, Kuhl,
20 Maltese, Maziarz, Rath, Skelos, Spano, and yours
21 truly.

22 Thank you very much.

23 Senator, if anyone else would
24 like to go on the resolution, the resolution is
25 open.

1 ACTING PRESIDENT MEIER: Any
2 other Senator like to be heard on the
3 resolution?

4 We will open the resolution for
5 the entire house, unless anyone does not wish
6 to be on the resolution. All those in favor of
7 the resolution, signify by saying aye.

8 (Response of "Aye.")

9 Opposed nay.

10 (There was no response.)

11 The resolution is adopted.

12 SENATOR SKELOS: Mr. President, I
13 believe there is another resolution at the desk
14 sponsored by Senator Holland. May we please have
15 the title read and move for its immediate
16 adoption.

17 ACTING PRESIDENT MEIER:
18 Secretary will read.

19 THE SECRETARY: Resolution Number
20 1460, by Senator Holland, paying tribute to Neil
21 and Ruth Luther for their generosity in donating
22 their Playdium Bowling Center for the past
23 annual Legislative Bone Marrow Bowl-a-Thons.

24 ACTING PRESIDENT MEIER: Question
25 is on the resolution. All in favor signify by

1 saying aye.

2 (Response of "Aye.")

3 Opposed nay.

4 (There was no response.)

5 The resolution is adopted.

6 Senator Skelos.

7 SENATOR SKELOS: Mr. President, I
8 believe there's a privileged resolution at the
9 desk, by Senator Connor. I ask that the title
10 be read and move for its immediate adoption.

11 ACTING PRESIDENT MEIER:

12 Secretary will read.

13 THE SECRETARY: By Senator
14 Connor, Legislative Resolution honoring Paul
15 O'Dwyer, President and Founder of the Mayo
16 Foundation, upon the occasion of his designation
17 for special commendation at a celebration to be
18 held May 30th, 1997.

19 ACTING PRESIDENT MEIER: The
20 question of is on the resolution. All in favor
21 signify by saying aye.

22 (Response of "Aye.")

23 Opposed nay.

24 (There was no response.)

25 The resolution is adopted.

1 Senator Skelos.

2 SENATOR SKELOS: Mr. President,
3 at this time, if we could have the reading of
4 the non-controversial calendar.

5 ACTING PRESIDENT MEIER: The
6 Secretary will read.

7 THE SECRETARY: Calendar Number
8 75, by Senator Skelos, Senate Print Number 179
9 A, an act to authorize the payment of
10 transportation aid to the Baldwin Union Free
11 School District.

12 SENATOR PATERSON: Lay it aside,
13 please.

14 ACTING PRESIDENT MEIER: Lay the
15 bill aside.

16 THE SECRETARY: Calendar Number
17 87, by Senator Velella, Senate Print 133, an act
18 to amend the Insurance Law, in relation to
19 expanding other expenses.

20 ACTING PRESIDENT MEIER: Read the
21 last section.

22 THE SECRETARY: Section 2. This
23 act shall take effect on the 180th day.

24 ACTING PRESIDENT MEIER: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes 53.

3 ACTING PRESIDENT MEIER: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 126, by Senator Cook, Senate Print 1373, an act
7 to amend the Executive Law, in relation to the
8 task force on school-community collaboration.

9 ACTING PRESIDENT MEIER: Read the
10 last section.

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

13 SENATOR PATERSON: Lay aside.

14 ACTING PRESIDENT MEIER: Lay the
15 bill aside.

16 THE SECRETARY: Calendar Number
17 312, by Senator Tully, Senate Print 2625-A, an
18 act to amend Chapter 693 of the Laws of 1996,
19 amending the Social Services Law.

20 ACTING PRESIDENT MEIER: Read the
21 last section.

22 SENATOR PATERSON: Lay aside.

23 ACTING PRESIDENT MEIER: Lay the
24 bill aside.

25 THE SECRETARY: Calendar Number

1 349, by Senator Volker, Senate Print 3358-A, an
2 act to amend the Alcoholic Beverage Control Law
3 and others, in relation to the enforcement of
4 the prohibition on the sale of alcohol.

5 SENATOR PATERSON: Lay aside.

6 ACTING PRESIDENT MEIER: Lay the
7 bill aside.

8 THE SECRETARY: Calendar Number
9 456, by Senator Marcellino, Senate Print 3679-A,
10 an act to amend the Environmental Conservation
11 Law, in relation to Scup and black sea bass.

12 SENATOR PATERSON: Lay that bill
13 aside.

14 ACTING PRESIDENT MEIER: Lay the
15 bill aside.

16 THE SECRETARY: Calendar Number
17 487, by Senator Holland, Senate Print 3029, an
18 act to create the Piermont Library District in a
19 portion of the town of Orangetown.

20 SENATOR PATERSON: Lay it aside.

21 ACTING PRESIDENT MEIER: Lay the
22 bill aside.

23 THE SECRETARY: Calendar Number
24 576, by member of the Assembly Morelle, Assembly
25 Print 937, an act to amend the Education Law, in

1 relation to the practice of speech-language
2 pathology.

3 ACTING PRESIDENT MEIER: Read the
4 last section.

5 SENATOR PATERSON: Lay the bill
6 aside.

7 ACTING PRESIDENT MEIER: Lay the
8 bill aside.

9 THE SECRETARY: Calendar Number
10 620, by Senator Stafford, Senate Print 3765, an
11 act to amend the Executive Law, in relation to
12 standardizing and improving state agency permit
13 applications.

14 ACTING PRESIDENT MEIER: Read the
15 last section.

16 SENATOR PATERSON: Lay it aside.

17 ACTING PRESIDENT MEIER: Senator
18 Paterson, did you say something? Read the last
19 section.

20 SENATOR PATERSON: Lay the bill
21 aside, please.

22 ACTING PRESIDENT MEIER: Lay the
23 bill aside.

24 THE SECRETARY: Calendar Number
25 686, by Senator Kuhl, Senate Print 4176, an act

1 to amend the Agriculture and Markets Law, in
2 relation to payment.

3 ACTING PRESIDENT MEIER: Read the
4 last section.

5 SENATOR PATERSON: Lay it aside,
6 please.

7 ACTING PRESIDENT MEIER: Lay the
8 bill aside.

9 THE SECRETARY: Calendar Number
10 741, by Senator Stafford, Senate Print 1342-A.

11 SENATOR PATERSON: Lay aside.

12 ACTING PRESIDENT MEIER: Lay the
13 bill aside.

14 THE SECRETARY: Calendar Number
15 753, by Senator Meier, Senate Print 4110-A,
16 concurrent resolution of the Senate and
17 Assembly.

18 SENATOR PATERSON: Lay aside,
19 please.

20 ACTING PRESIDENT MEIER: Lay the
21 bill aside.

22 THE SECRETARY: Calendar Number
23 778, by the Assembly Committee on Rules,
24 Assembly Print 7700, an act to amend the Public
25 Health Law.

1 SENATOR PATERSON: Lay aside.

2 ACTING PRESIDENT MEIER: Lay the
3 bill aside.

4 THE SECRETARY: Calendar Number
5 796, by Senator Saland, Senate Print 3939, an
6 act to establish a public library district.

7 ACTING PRESIDENT MEIER: Read the
8 last section.

9 SENATOR PATERSON: Lay aside,
10 please.

11 ACTING PRESIDENT MEIER: Lay the
12 bill aside.

13 THE SECRETARY: Calendar Number
14 816, by Senator LaValle, Senate Print 3062, an
15 act to amend Chapter 246 of the Laws of 1916.

16 SENATOR PATERSON: Lay aside.

17 ACTING PRESIDENT MEIER: Lay it
18 aside.

19 Senator Skelos.

20 SENATOR SKELOS: Lay aside for
21 the day.

22 ACTING PRESIDENT MEIER: The bill
23 is laid aside for the day.

24 THE SECRETARY: 848, by Senator
25 Rath, Senate Print 4852.

1 SENATOR VOLKER: Lay aside.

2 SENATOR PATERSON: Lay aside.

3 ACTING PRESIDENT MEIER: Bill is
4 laid aside.

5 THE SECRETARY: Calendar Number
6 862, by Senator Volker, Senate Print 4478, an
7 act to amend the Criminal Procedure Law, in
8 relation to permitting certain electronically
9 transmitted statements.

10 ACTING PRESIDENT MEIER: Read the
11 last section.

12 SENATOR PATERSON: Lay aside.

13 ACTING PRESIDENT MEIER: Lay the
14 bill aside.

15 THE SECRETARY: Calendar Number
16 869, by Senator Tully, Senate Print 5141, an act
17 to amend the Penal Law, in relation to
18 increasing the criminal penalties.

19 SENATOR PATERSON: Lay that bill
20 aside, please.

21 ACTING PRESIDENT MEIER: Lay the
22 bill aside.

23 THE SECRETARY: Calendar Number
24 870, by Senator Volker, Senate Print 5180, an
25 act to amend the Penal Law, in relation to

1 establishing.

2 SENATOR PATERSON: Lay it aside,
3 please.

4 ACTING PRESIDENT MEIER: Lay it
5 aside.

6 THE SECRETARY: Calendar Number
7 886, by Senator Goodman, Senate Print 3651, an
8 act to amend the Alcoholic Beverage Control Law,
9 in relation to permitting.

10 SENATOR PATERSON: Lay aside.

11 ACTING PRESIDENT MEIER: Lay the
12 bill aside.

13 THE SECRETARY: Calendar Number
14 901, by Senator Cook, Senate Print 4568, an act
15 to amend the Arts and Cultural Affairs Law.

16 ACTING PRESIDENT MEIER: Read the
17 last section.

18 SENATOR PATERSON: Lay aside.

19 ACTING PRESIDENT MEIER: Lay the
20 bill aside.

21 THE SECRETARY: Calendar Number
22 910, by Senator Marchi, Senate Print 4015-A, an
23 act to amend the Navigation Law, in relation to
24 the establishment.

25 SENATOR PATERSON: Lay aside,

1 please.

2 ACTING PRESIDENT MEIER: Lay the
3 bill aside.

4 THE SECRETARY: Calendar Number
5 913, by Senator Nozzolio, Senate Print 1965, an
6 act to amend the Executive Law, in relation to
7 appeals.

8 SENATOR PATERSON: Lay it aside.

9 ACTING PRESIDENT MEIER: Lay the
10 bill aside.

11 THE SECRETARY: Calendar Number
12 915, by Senator Nozzolio, Senate Print 2779, an
13 act to amend the Correction Law, in relation to
14 charging taxes on sales.

15 ACTING PRESIDENT MEIER: Read the
16 last -

17 SENATOR PATERSON: Lay the bill
18 aside.

19 ACTING PRESIDENT MEIER: The bill
20 is laid aside.

21 THE SECRETARY: Calendar Number
22 920, by Senator Nozzolio, Senate Print 3429, an
23 act to amend the Correction Law, in relation to
24 requiring.

25 ACTING PRESIDENT MEIER: Read the

1 last -

2 SENATOR PATERSON: Lay aside.

3 ACTING PRESIDENT MEIER: Lay the
4 bill aside.

5 THE SECRETARY: Calendar Number
6 993, by Senator Levy, Senate Print 4308, an act
7 to amend the Public Authorities Law, in relation
8 to authorizing the Metropolitan Transportation
9 Authority.

10 SENATOR PATERSON: Lay it aside.

11 ACTING PRESIDENT MEIER: Lay the
12 bill aside.

13 THE SECRETARY: Calendar Number
14 1041, by Senator Marchi, Senate Print 3356, an
15 act to amend the Not-For-Profit Corporation Law,
16 in relation to the resale.

17 ACTING PRESIDENT MEIER: Bill is
18 laid aside at the sponsor's request.

19 SENATOR PATERSON: Lay aside.

20 SENATOR SKELOS: Lay that aside.
21 Lay it aside for the day, and also lay aside for
22 the day Senate 1042.

23 ACTING PRESIDENT MEIER: Senate
24 1042 will also be laid aside at the sponsor's
25 request for the day.

1 THE SECRETARY: Calendar Number
2 1055, by Senator LaValle, Senate Print 4431, an
3 act to amend the Education Law, in relation to
4 the sharing of information.

5 SENATOR PATERSON: Lay aside,
6 please.

7 ACTING PRESIDENT MEIER: Lay the
8 bill aside.

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

11 SENATOR SKELOS: Mr. President,
12 now that Senator Paterson is exhausted, could we
13 take up the controversial calendar.

14 ACTING PRESIDENT MEIER: The
15 Secretary will read.

16 THE SECRETARY: Calendar Number
17 75, by Senator Skelos, Senate Print 179-A, an
18 act to authorize the payment of transportation
19 aid to the Baldwin Union Free School District.

20 SENATOR PATERSON: Explanation.

21 SENATOR SKELOS: Lay it aside for
22 the moment.

23 ACTING PRESIDENT MEIER: Lay
24 aside for the moment.

25 THE SECRETARY: Calendar Number

1 126, by Senator Cook, Senate Print 1373, an act
2 to amend the Executive Law, in relation to the
3 task force on school-community collaboration.

4 SENATOR PATERSON: Explanation.

5 ACTING PRESIDENT MEIER:
6 Explanation is requested, Senator Cook.

7 SENATOR COOK: Mr. President,
8 last summer New York State was one of, I think,
9 four states that successfully bid for a Danforth
10 Foundation grant to go to St. Lawrence and talk
11 about how to deal with problems of school
12 community collaboration in a manner of trying to
13 make the most efficient use of community human
14 services programs to address some of the
15 problems of youth that are showing up in our
16 schools and to try to develop a preventive
17 strategy so that, hopefully, we can help young
18 people before they get into serious problems
19 later on in life, by having concentrated human
20 services counsel being available within the
21 schools, both for the students and for the
22 families.

23 The bill which is before us is
24 the bill that was developed by that task force.
25 The task force consisted of members of the

1 Assembly, Assemblywoman Clark was an active
2 participant in this -- in that discussion. It
3 is a joint Assembly-Senate bill. It's also -
4 the task force had members from the Governor's
5 office and also from the state Education
6 Department who are involved.

7 This bill tries to -- actually
8 uses the existing task force rather than
9 creating a new one, but it does enlarge their
10 mission. Then the effort is to try to get state
11 agencies to get their policies lined up so that
12 they will enhance the ability of localities
13 which, in many cases, are already doing many of
14 these collaborative efforts by changing the
15 regulations in places where it is necessary so
16 that the local agencies who are trying to work
17 together will have an easier way of doing it.

18 Much of the time we find that the
19 accountability requirements of the various state
20 agencies actually get in the way of local people
21 who are trying their best to do a good job with
22 limited resources, and we have had in New York
23 State a history over the past three or four
24 years of many local agencies, many local
25 counties, most of these regions which have

1 cooperated and done some very, very good things
2 in this area of having social workers available
3 in schools, of having schools who are talking
4 with human services agencies who, in turn, are
5 working with the families, and we've -- we've
6 really made some good progress.

7 But again we still have that
8 problem that the agencies are prohibited in some
9 instances from talking among themselves about
10 certain cases that need to get discussed where
11 there need to be common understandings, and the
12 requirement that narrowly focused agency
13 policies and programs have to be complied with
14 in order for this collaborative effort to take
15 place.

16 Hopefully, this task force will
17 be able to overcome some of those problems and
18 we hope that New York State will move forward.
19 I'm very proud of what we've done so far, but
20 this bill will make it possible for us to do
21 more and, incidentally, Mr. President, up to
22 this point -- and I say this with some regret -
23 most of the progress we've made in this area has
24 been in the smaller school districts and many of
25 the very serious problems in the urban areas

1 have not been addressed as well as they should
2 have because of some of the very barriers which
3 exist and one of the things that we hope this
4 bill will do will be to get the entire state
5 involved in this type of program.

6 SENATOR PATERSON: That's fine.
7 Thank you, Mr. President.

8 ACTING PRESIDENT MEIER: Read the
9 last section.

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

12 ACTING PRESIDENT MEIER: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 60.

16 ACTING PRESIDENT MEIER: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 312, by Senator Tully, Senate Print 2625-A, an
20 act to amend Chapter 693 of the Laws of 1996,
21 amending the Social Services Law.

22 SENATOR PATERSON: Explanation,
23 please.

24 ACTING PRESIDENT MEIER: Senator
25 Tully, an explanation has been asked for.

1 SENATOR TULLY: Thank you, Mr.
2 President.

3 In 1996, this house passed the
4 current Medical Assistance Presumptive Eligi
5 bility program to permit ALC patients who are
6 transferred to residential health care facili
7 ties or hospices to be deemed presumptively
8 eligible for Medicaid for 60 days. The Governor,
9 in his approval message, raised some concerns
10 about the fiscal impact of this legislation. In
11 order to give patients, providers and the state
12 an opportunity to see what happens, we agreed to
13 a sunset which is the gravamen of the bill
14 before us for two years.

15 ACTING PRESIDENT MEIER: Senator
16 Paterson.

17 SENATOR PATERSON: Thank you very
18 much, Mr. President. If Senator Tully would
19 yield for a question.

20 SENATOR TULLY: I will, Mr.
21 President.

22 ACTING PRESIDENT MEIER: Senator
23 Tully, will you yield?

24 SENATOR PATERSON: Senator Tully,
25 I understand there was a concern, even one that

1 the Governor might have shared, but I don't want
2 to put words in the Governor's mouth, but at
3 least there was a concern about those patients
4 that would not necessarily be Medicare-eligible
5 who would then be discharged from nursing homes
6 and then the state would be left with the bill.
7 Is that accurate and, if so, how does the
8 legislation you are proposing cure this?

9 SENATOR TULLY: Mr. President,
10 the answer to your first question is yes, that
11 is accurate and this would give the Governor an
12 opportunity, it will give the state an
13 opportunity over a two-year program to assess
14 what happens as these patients are transferred
15 from the hospital setting to a hospice or to a
16 nursing home and these are really dealing with
17 the ALC situations which sometimes change from
18 day to day. You may have a patient who is ALC
19 for one hour and two minutes later he becomes
20 acute, so it becomes a difficult problem to
21 assess, and that's the reason for this legisla
22 tion, to give them an opportunity to study it.

23 SENATOR PATERSON: Thank you, Mr.
24 President.

25 If Senator Tully would continue

1 to yield.

2 ACTING PRESIDENT MEIER: Senator
3 Tully, do you continue to yield?

4 SENATOR TULLY: Yes, I will.

5 ACTING PRESIDENT MEIER: Senator
6 Tully yields.

7 SENATOR PATERSON: Senator, I'm
8 actually quite impressed with this piece of
9 legislation, and no one knows exactly what it
10 does and do you think two years will be
11 sufficient enough to get an idea of what the
12 potential loss to the state might be and, of
13 course, if there is none that I guess we would
14 come back and try to do something about it, but
15 do you think two years is enough of a period of
16 time to make that assessment?

17 SENATOR TULLY: I think that's an
18 excellent question, Mr. President. I wish that
19 it could be for a longer period of time, but the
20 need is now and this is the recommendation of
21 the Governor, when he did approve it initially
22 and that's the reason we're going with the
23 two-year period.

24 SENATOR PATERSON: Thank you, Mr.
25 President. On the bill.

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

3 SENATOR PATERSON: This is a need
4 that probably is overdue, but there was a
5 reasonable concern that was raised in this
6 particular area. I agree with Senator Tully
7 perhaps a little bit longer period of time would
8 be better, allowing us to assess what the
9 potential loss might be, but the again is
10 undeniable, and I want to congratulate Senator
11 Tully for introducing the legislation.

12 ACTING PRESIDENT MEIER: Read the
13 last section.

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

16 ACTING PRESIDENT MEIER: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes 60.

20 ACTING PRESIDENT MEIER: The bill
21 is passed.

22 Secretary will read Calendar
23 Number 75.

24 THE SECRETARY: Calendar Number
25 75, by Senator Skelos, Senate Print 179-A, an

1 act to authorize the payment of transportation
2 aid to the Baldwin Union Free School District.

3 ACTING PRESIDENT MEIER: There is
4 a local fiscal impact note at the desk. Read the
5 last section.

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

8 SENATOR PATERSON: Explanation,
9 please.

10 SENATOR SKELOS: Mr. President,
11 this legislation, the original print passed
12 earlier this year unanimously. The bill also
13 passed last year unanimously. All the amendment
14 does to this bill is change a date in the
15 legislation which was incorrectly printed the
16 first time and would authorize the state
17 Education Department to apportion '93-94
18 transportation aid to the Baldwin Union Free
19 School District for certain contracts which were
20 not filed in a timely fashion, although the
21 school district does indicate that the contracts
22 were mailed in a timely fashion and the state
23 Education Department is saying they did not
24 receive the contracts.

25 ACTING PRESIDENT MEIER: Senator

1 Paterson.

2 SENATOR PATERSON: If Senator
3 Tully would yield for a question.

4 SENATOR SKELOS: I'm Senator
5 Skelos.

6 SENATOR PATERSON: Sorry.

7 ACTING PRESIDENT MEIER: Does the
8 Senator yield?

9 SENATOR SKELOS: Do you want
10 Senator Tully to yield?

11 SENATOR PATERSON: No, no.

12 ACTING PRESIDENT MEIER: Senator
13 Skelos, do you yield for a question?

14 SENATOR SKELOS: Yes.

15 SENATOR PATERSON: Oh, Senator
16 Skelos. I didn't know Senator Skelos' name, so
17 I believed that I was Senator Skelos.

18 Senator, other than the fact that
19 there is really kind of a ministerial problem
20 between the Department of Education and the
21 school board, I mean, and between the school
22 district, is it clear what would be put in place
23 so that we wouldn't have this problem with the
24 date occurring again? What I'm really saying is
25 the fact that the information came late was

1 ministerial, you said, didn't really change the
2 outcome of anything, did it?

3 SENATOR SKELOS: No.

4 SENATOR PATERSON: And so what
5 I'm just asking is there any discussion, other
6 than the two sides blaming each other, of what
7 might facilitate a solution where the situation
8 might arise?

9 SENATOR SKELOS: Well, the school
10 district now is sending it return receipt
11 requested. There are a number of these bills,
12 Senator Paterson, that you will see move through
13 the process this year. I remember a couple of
14 years ago when I was on the Education Committee,
15 Senator Oppenheimer had a couple of bills, I
16 believe, for the Mount Vernon School District,
17 so when these errors occur, we're not looking to
18 penalize the school district for the money that
19 they deserve.

20 SENATOR PATERSON: Thank you very
21 much, Mr. President and Senator Ski-los? .

22 SENATOR SKELOS: Skelos.

23 SENATOR PATERSON: Skelos. Thank
24 you. Senator Skelos.

25 ACTING PRESIDENT MEIER: Senator

1 Oppenheimer.

2 SENATOR OPPENHEIMER: I would
3 just like the record to show that I appreciate
4 the reference made but I do not represent Mount
5 Vernon.

6 ACTING PRESIDENT MEIER: Senator
7 Dollinger.

8 SENATOR DOLLINGER: Does the
9 sponsor yield to a question?

10 ACTING PRESIDENT MEIER: Does the
11 sponsor yield for a question? The sponsor
12 yields.

13 SENATOR DOLLINGER: One of the
14 issues that we dealt with when I first came here
15 dealt with a number of pension bills which gave
16 people the opportunity to buy back into the
17 pension system and then I can't recall, maybe
18 Senator Trunzo was the sponsor, we did a bill
19 that said that the pension system can accept and
20 resolve on its own the decisions of who is able
21 to show through good cause that they're entitled
22 to back pension benefits. We do a number of
23 these bills each year. I know that both the
24 Majority and Minority members carry these
25 bills. Ours tend to get done later rather than

1 sooner, but nonetheless they get done.

2 My question is, has any
3 consideration been given to setting up a system
4 under which these types of bills don't have to
5 come back to us that we could give the
6 Commissioner of Education the ability for good
7 cause shown to relieve school districts from
8 default, very similar -- I know this school
9 district says we sent it but you didn't get it.
10 Is there any way we can put this in an
11 administrative process or some other process so
12 we don't have to do these bills in the future?

13 SENATOR SKELOS: Great
14 suggestion. I'll suggest it to Senator Bruno;
15 he can then suggest it to the Governor.

16 SENATOR DOLLINGER: Again through
17 you, Mr. President, it just seems to me to make
18 good sense. We do a lot of these bills. We take
19 up our time doing them. It seems to me that
20 Baldwin -- Baldwin Union Free School District
21 has shown this was an inadvertent omission on
22 its part in the delivery of the document and for
23 the Department of Education to put in an
24 absolute cutoff just means that we're spending
25 extra time doing this stuff when they should be

1 able to resolve this administratively.

2 SENATOR SKELOS: Again, it's a
3 suggestion I will convey to Senator Bruno.

4 SENATOR DOLLINGER: Thank you.
5 No further questions.

6 ACTING PRESIDENT MEIER: Read the
7 last section.

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

10 ACTING PRESIDENT MEIER: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 60.

14 ACTING PRESIDENT MEIER: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 349, by Senator Volker, Senate Print 3358-A.

18 SENATOR LEICHTER: Explanation.

19 THE SECRETARY: An act to amend
20 the -

21 SENATOR SKELOS: Lay it aside
22 temporarily.

23 ACTING PRESIDENT MEIER: Lay
24 aside temporarily.

25 THE SECRETARY: Calendar Number

1 456, by Senator Marcellino, Senate Print 3679-A,
2 an act to amend the Environmental Conservation
3 Law, in relation to scup and black sea bass.

4 SENATOR SKELOS: Lay aside
5 temporarily.

6 ACTING PRESIDENT MEIER: Lay the
7 bill aside temporarily.

8 THE SECRETARY: Calendar Number
9 487, by Senator Holland, Senate Print 3029, an
10 act to create the Piermont Library District.

11 ACTING PRESIDENT MEIER: Senator
12 Holland, an explanation has been requested by
13 Senator Paterson.

14 SENATOR HOLLAND: Yes, Mr.
15 President. This bill creates the Piermont
16 Library District and provides for its management
17 and operation, and what it does basically is it
18 allows the people of the village of Piermont to
19 separate the budget of the library from the
20 village budget to a separate budget when they
21 vote in November, should the bill pass here and
22 the Assembly. There is no additional cost to
23 the taxpayers of the village, state, nation, et
24 cetera.

25 ACTING PRESIDENT MEIER: Senator

1 Paterson.

2 SENATOR PATERSON: Mr. President,
3 if Senator Holland would yield to a question.
4 I'd ask if Senator Holland would do me a favor.
5 I missed the last part of what he said. Would
6 you mind restating it for me?

7 SENATOR HOLLAND: There is no
8 additional taxes.

9 SENATOR PATERSON: I got that
10 part.

11 SENATOR HOLLAND: To the village,
12 county, state, nation, et cetera.

13 SENATOR PATERSON: Mr. President,
14 I'm relieved. Thank you, Mr. President.

15 ACTING PRESIDENT MEIER: Read the
16 last section.

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

19 ACTING PRESIDENT MEIER: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes 60.

23 ACTING PRESIDENT MEIER: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 576, by member of the Assembly Morelle, Assembly
2 Print 937, an act to amend the Education Law, in
3 relation to the practice of speech-language
4 pathology.

5 ACTING PRESIDENT MEIER: Read the
6 last section.

7 SENATOR PATERSON: Explanation.

8 SENATOR JOHNSON: Mr. President,
9 I understand someone asked for an explanation.
10 This bill would add one word to the practice of
11 speech-language pathology; that is, the word
12 "swallowing". Speech pathologists have long
13 treated this type of disorder because they have
14 the expertise in that field. They've done it in
15 hospitals, nursing homes, and so on, and this is
16 going to upgrade the statute to the current
17 practice as it is across the nation. It will be
18 covered by health insurance plans, malpractice
19 coverage. Everything seems to be in order for
20 this to pass as they've already done in the
21 Assembly. If anyone has a question they would
22 like to address?

23 ACTING PRESIDENT MEIER: Senator
24 Paterson.

25 SENATOR PATERSON: Mr. President,

1 if Senator Johnson would yield for a question.

2 ACTING PRESIDENT MEIER: Senator
3 Johnson, do you yield for a question? Senator
4 yields.

5 SENATOR PATERSON: Senator, I was
6 just hoping that you would relieve my concern.
7 I never knew that swallowing disorder was
8 associated with speech pathology even though
9 speech pathologists have treated it. I always
10 thought it was more related to an ear, nose and
11 throat problem, known as TMJ. Could you explain
12 to me where I'm in error?

13 SENATOR JOHNSON: Well, speech
14 language pathology, one of the -- they -- how
15 will I say this? They're not surgeons, they're
16 not doctors. They don't give pills. They teach
17 a person how to use the muscles of their throat.

18 SENATOR PATERSON: Excuse me, Mr.
19 President. Is Senator Johnson using a cellular
20 phone?

21 SENATOR JOHNSON: Well, the door
22 is open here, and there is a little noise.

23 ACTING PRESIDENT MEIER: Senator
24 Johnson.

25 SENATOR JOHNSON: I will talk to

1 the microphone instead of to you, Senator. I
2 hope you can hear it that way. I tried to look
3 at you when I did. The speech-language patholo
4 gists are more or less therapists. They're not
5 surgeons. They're not pill pushers; they teach a
6 person how to use their throat muscles, their
7 neck muscles, in their speech.

8 ACTING PRESIDENT MEIER: Will you
9 just hold for a minute.

10 SENATOR JOHNSON: Can you hear me
11 now?

12 ACTING PRESIDENT MEIER: Senator
13 Johnson.

14 SENATOR JOHNSON: Senator, I
15 don't know how much you heard of what I said
16 except that these are not eye, ear, nose and
17 throat people. These are people who teach
18 people how to speak after they've had drugs or
19 other diseases or removal of their vocal chords
20 or voice box, and so on. These people already
21 do that, and what we're saying is that the same
22 muscles and the same activity takes place when
23 you shorten your neck to swallow as when you
24 speak because when you teach them how to speak
25 you teach them how to swallow and we're only

1 legitimatizing, we're only doing what they're
2 already trained to do and capable of doing in
3 connection with speech disorders.

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

7 ACTING PRESIDENT MEIER: Do you
8 continue? Senator yields.

9 SENATOR JOHNSON: Yes.

10 SENATOR PATERSON: Senator, how
11 was the disorder originally omitted from the
12 delineation of what was actually treatable?

13 SENATOR JOHNSON: Senator, I
14 wasn't here when this went into effect. I
15 couldn't tell you that. Maybe a lot of progress
16 has been made in this field where people were
17 not formerly treated at all and some of these
18 disorders were merely left mute or left unable
19 to swallow.

20 ACTING PRESIDENT MEIER: Senator
21 Paterson.

22 SENATOR PATERSON: Thank you, Mr.
23 President.

24 ACTING PRESIDENT MEIER: Read the
25 last section.

1 THE SECRETARY: Section 2. This
2 act shall take -

3 ACTING PRESIDENT MEIER: I'm
4 sorry. Senator Oppenheimer.

5 SENATOR OPPENHEIMER: Explain my
6 vote.

7 ACTING PRESIDENT MEIER: Well, we
8 have to read the last section. Secretary will
9 read the last section.

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

12 ACTING PRESIDENT MEIER: Call the
13 roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT MEIER: Senator
16 Oppenheimer, to explain her vote.

17 SENATOR OPPENHEIMER: I would say
18 that this is probably a new area of speech
19 pathology, and one in which myself and my
20 youngest child had some -- has had really the
21 new area defined because of her problems, and
22 she spent about three and a half years with
23 speech pathologists trying to correct what
24 Senator Johnson is discussing is a swallowing
25 and a fright disorder of the muscles of the

1 throat and actually in time there was developed
2 a procedure, an operation which did give her the
3 gift of speech overnight. Because they have
4 moved ahead with this area called velopharyngeal
5 insufficiency, there is now a considerable
6 cross-over in the last ten years, in six years
7 of speech pathologists and people who actually
8 do surgery and deal with the musculature of the
9 throat. So this is a very good bill, and I'm
10 very happy to vote against it.

11 ACTING PRESIDENT MEIER: The bill
12 is passed.

13 SENATOR LEICHTER: Happy to vote
14 against it?

15 SENATOR OPPENHEIMER: I'm voting
16 for it.

17 ACTING PRESIDENT MEIER: Senator
18 Oppenheimer voting in the positive. The
19 Secretary will read.

20 THE SECRETARY: Calendar Number
21 620, by Senator Stafford, Senate Print 3765, an
22 act to amend the Executive Law, in relation to
23 standardizing and improving.

24 SENATOR GOLD: Explanation.

25 ACTING PRESIDENT MEIER:

1 Explanation has been requested by Senator Gold.

2 Senator Cook.

3 SENATOR COOK: Point of order.

4 Was the vote announced on the previous bill?

5 SENATOR GOLD: I can't hear you.

6 SENATOR COOK: I was just asking
7 whether the vote was actually announced on the
8 previous bill?

9 ACTING PRESIDENT MEIER: No, it
10 was not. Announce the results. Secretary will
11 announce the results on Calendar 576.

12 THE SECRETARY: Ayes 60.

13 ACTING PRESIDENT MEIER: The bill
14 is passed.

15 The Secretary will resume the
16 calendar. A request was made for an explanation
17 by the sponsor.

18 SENATOR STAFFORD: Thank you, Mr.
19 President.

20 Mr. President, this bill is a
21 bill that the people who are working on
22 regulatory reform have suggested. I didn't just
23 take the bill without looking at it. I do think
24 at times we say, let's do this, let's do that.
25 Let's change this, let's change that. You know,

1 sometimes people say, let's have no taxes at
2 all, and then I say, Well, let's do it. We'll
3 just have no taxes. And how much sense does
4 that make?

5 On the other hand, I do know that
6 all of us have constituents and all of us at
7 times get permits for various functions, busi-
8 ness and otherwise, and this would standardize,
9 I was going to use the word "uniformity" but my
10 counsel says "standardize", so I'll use the word
11 "standardize".

12 Also what I like in this day when
13 I'm in the dark ages, when it comes to FAXes,
14 computers and the like, this will also make it
15 possible to use technology to submit your
16 applications and you will get it back by
17 technology which I think does make sense. I'm
18 even becoming a believer, Mr. President, in some
19 of this.

20 I do have to point out, my -- one
21 of my -- one of my sons noticed that I didn't
22 have an address for my computer address when
23 they put us up on the computer. I now have one,
24 so I guess it's time that we all get into the,
25 whatever century we're in, and I think this is a

1 good suggestion.

2 ACTING PRESIDENT MEIER: Senator
3 Gold.

4 SENATOR GOLD: Yes. Will my
5 distinguished colleague yield to a question?

6 SENATOR STAFFORD: By all means.

7 ACTING PRESIDENT MEIER: Senator
8 yields.

9 SENATOR GOLD: Senator, I don't
10 think that anybody is arguing with the
11 generalization you gave. Now I'd be very
12 grateful if you could tell us what the bill does
13 and with some specificity, because generally
14 speaking, if you just say, you know, we want to
15 do something, standardize or whatever, it
16 doesn't tell me anything.

17 What does the bill do, if you
18 don't mind?

19 SENATOR STAFFORD: Very, very
20 valid point because I do tend to take sort of
21 broad strokes with the conceptual brush, and I
22 think sometimes very candidly more people should
23 do that in here. I don't think sometimes we
24 need some of the specifics that we get into, but
25 I think Senator Gold has every right to ask

1 that, and I think it's a very fair question.

2 Apparently there's 38 state
3 agencies that have jurisdiction over more than
4 1100 business permits. The application for
5 these permits vary in color, size and composi
6 tion, therefore, special printing, manuals,
7 collating -- and, by the way, I looked up
8 "collating". That means nothing more than
9 putting things in order. I found that
10 interesting in this new day and age. Varied
11 filing; mailing systems are required to process
12 and store applications.

13 This legislation would allow
14 businesses to submit an application in the form
15 of a photocopy that generally or in computer
16 form is almost substantially identical to the
17 original application. This would reduce
18 paperwork, simplify the permitting work without
19 changing any substantive criteria in the
20 issuance of a permit. Further, it will reduce
21 the cost for permit applications for both the
22 state and the applicant.

23 ACTING PRESIDENT MEIER: Senator
24 Gold.

25 SENATOR GOLD: Yeah. Will the

1 gentleman yield to a question, please?

2 SENATOR STAFFORD: Sure.

3 ACTING PRESIDENT MEIER: Senator
4 Stafford, do you yield? He yields.

5 SENATOR GOLD: Senator, at the
6 present time, the various agencies responsible
7 for preparing applications at various times use
8 differences of color or size or shape or things
9 of that nature. I thought it would make it
10 easier administratively for them to do the
11 processing so that sometimes from the point of
12 view of their employees or personnel, they know
13 when things come in, for example, to the mail
14 room or whatever, that something goes to a
15 particular department. For example, I don't
16 know whether it's a good example or not,
17 Senator, but Fish and Wildlife, for example,
18 they may have different departments that deal
19 with hunting and with gun hunting versus long
20 bow hunting or fishing licenses for in-state or
21 out-of-state, et cetera, et cetera, and they may
22 or may not be done in different ways to make it
23 easier for them to handle them
24 administratively.

25 I don't know, but are we now

1 perhaps going to be adding costs rather than
2 saving costs if we make it more difficult for
3 the agency to deal with the paperwork?

4 SENATOR STAFFORD: Well, Mr.
5 President, I do not support Senator Gold's
6 position, but let me give you an argument in
7 support of what he's suggesting. I have been
8 here long enough that it won't be long before
9 when we have everything the same, we'll be
10 passing a law to make it different so that we
11 can differentiate. I know exactly what you're
12 saying.

13 On the other hand, I too come
14 down on the side of simplifying and making all
15 applications the same and being able to send it
16 by way of a computer and through technology. I
17 get the gist of your argument and your concerns
18 whenever this -- the role of this agency comes
19 forth, but I think it is a step in the right
20 direction.

21 I do think, when you see the
22 various applications that have to be filled out,
23 I think standardization to save paperwork
24 requirements relating to permit applications
25 will result in long-term savings to the state

1 including eliminating the need to purchase
2 specialty paper as we were just talking, color,
3 sizes and bonds, and unique size envelopes and
4 we will minimize printing, postage and storage
5 costs. I think it makes sense. Businesses will
6 likely save significant time and expenses in
7 obtaining and preparing permit applications and
8 reduce the expenses associated with professional
9 services for preparation of the many forms.

10 Simplifying a permitting process
11 will encourage entrepreneurial activity and
12 provide greater productivity. As agencies
13 maintain increased numbers of applications on
14 computer systems rather than paper copies this
15 will reduce the cost of storing such records.
16 It will also encourage networking and sharing
17 information among permitting agencies and
18 achieve greater efficiencies in the permitting
19 process and, Senator Gold, if this just does one
20 thing, how many times have you and I -- and
21 we're in the Legislature, we both have law
22 degrees. How many times do you pick up an
23 application, they ask you a question and there
24 isn't even room to put the answer. How many
25 times do you see that? And you say to yourself,

1 what, you know, it doesn't even make sense and,
2 you know, the person who isn't maybe in the loop
3 -- of course, I'm not convinced we're that much
4 in the loop sometimes, including me and both of
5 us -- but those of us who are in the loop if we
6 can start getting some of these applications and
7 some of these papers uniform and make some sense
8 out of some them, I want to try to do it.

9 SENATOR GOLD: Will the gentleman
10 yield to a question?

11 SENATOR STAFFORD: Sure.

12 ACTING PRESIDENT MEIER: Senator
13 yields.

14 SENATOR GOLD: Senator, three
15 questions based on what you just said. First of
16 all, Senator -

17 SENATOR STAFFORD: Not going to
18 use any of that against me.

19 SENATOR GOLD: First of all,
20 Senator, when you say that some applications
21 don't give you room for an answer, why doesn't
22 this bill which deals with standardization not
23 deal with that at all?

24 SENATOR STAFFORD: Because -

25 SENATOR GOLD: Excuse me, excuse

1 me.

2 The bill, as I understand it,
3 Senator, doesn't tell the agencies they have got
4 to change the question. It doesn't tell them
5 that they've got to change the space for the
6 answer. You're just talking about, as I
7 understand it, the color of the paper, the size
8 of the paper. I don't know what it's going to
9 do.

10 SENATOR STAFFORD: Many times you
11 ask questions that are very penetrating and it's
12 difficult to have an answer. This one is not.

13 SENATOR GOLD: Good.

14 SENATOR STAFFORD: What I like is
15 it says right in here you can put the
16 application in computer form and answer it. In
17 other words, you more or less make your own
18 form, that's what I like, and you don't have a
19 form that you have to fill out and you have
20 three paragraphs with a little slot to put them
21 in. That's really what I was driving at. I've
22 found that, and sometimes it confuses me -- of
23 course, that's not difficult.

24 SENATOR GOLD: Will the Senator
25 yield to a question?

1 ACTING PRESIDENT MEIER: Senator
2 Stafford, do you yield?

3 SENATOR STAFFORD: By all means.

4 ACTING PRESIDENT MEIER: Senator
5 yields.

6 SENATOR GOLD: Senator, now
7 you've really confused me on an issue. I
8 thought that, when you -- when you were talking
9 about standardization it was to help the process
10 get a little easier. You now said that people
11 can create their own form. Are you saying that
12 if I wanted to apply for a certain license that
13 as long as the information was in there that I
14 FAXed over, even if it was in a different form,
15 it would have to be acceptable?

16 SENATOR STAFFORD: No, I have the
17 answer. I have the answer there. Now, you've
18 often heard me say that one man's floor is
19 another man's ceiling.

20 SENATOR GOLD: I remember often
21 you've said that.

22 SENATOR STAFFORD: Now, the point
23 here is that, when they provide the information
24 in answering or sending in for this permit, they
25 can put it in a form that is substantially

1 identical, and I like that and I think it gives
2 them -- what's the word, leeway -- no, leeway is
3 an upstate word; got to have a downstate word
4 for him -- a flexibility that I think makes some
5 sense.

6 SENATOR GOLD: Will the Senator
7 yield to a question?

8 ACTING PRESIDENT MEIER: Senator
9 Stafford, do you continue to yield?

10 SENATOR STAFFORD: By all means.

11 ACTING PRESIDENT MEIER: The
12 Senator yields.

13 SENATOR GOLD: Senator, I think
14 that it's getting more confusing, not clearer,
15 because you started out by saying this is a bill
16 that's going to make things easier because of
17 the standardization. Now you're telling me that
18 the bill makes it easier to be more flexible.
19 Flexible takes it away from standardization.
20 Flexible means that when the paper gets to the
21 agency or the department, the person examining
22 it is now going to see something which may be,
23 quote, "substantially" similar to the other
24 application forms but not identical to that form
25 and, therefore, I would imagine they'll take

1 more time for the civil servant or the person
2 dealing with it to have to deal with it because
3 now it's a new form. It's a flexible Stafford
4 form rather than a standardized form.

5 SENATOR STAFFORD: I'd rather you
6 didn't put any surname with it. On the other
7 hand, Mr. President, excuse me, through the
8 Chair, I don't think -- but I would say -- let
9 me say this. You know, don't -- you know, it's
10 the trouble sometimes with our minds. For
11 instance, if I say I like my hot dogs cooked,
12 that doesn't mean I like 'em burned.

13 ACTING PRESIDENT MEIER: Senator
14 Gold.

15 SENATOR GOLD: That's the answer?
16 That's the answer?

17 ACTING PRESIDENT MEIER: Senator
18 Gold, are you asking the Senator to yield?

19 SENATOR GOLD: Yes, one more
20 question.

21 SENATOR STAFFORD: By all means.

22 SENATOR GOLD: My question on
23 flexibility only gets a hot dog as a response?

24 SENATOR STAFFORD: Hot dogs
25 started in Brooklyn.

1 SENATOR GOLD: Yeah, but I'm from
2 Queens, Senator.

3 SENATOR STAFFORD: Yeah, I know
4 it; that's why I said it.

5 SENATOR GOLD: Will the Senator
6 yield to a question?

7 SENATOR STAFFORD: Nathan's.

8 SENATOR GOLD: Yeah. Reading
9 from your memo in support, you have made
10 reference to, on page 3, where it says
11 simplifying the permitting process will
12 encourage entrepreneurial activity. Are you
13 saying, Senator, that if we allow somebody to
14 FAX in an application that is black and white
15 rather than -- God bless you! -- black and
16 white rather than on a green form, somebody
17 might decide to do business in New York whereas
18 otherwise they'll take their \$5 million plant
19 and put it in another state?

20 SENATOR STAFFORD: We're almost
21 there, Senator. You are helping me. Now, with
22 that, you're getting to the crux of it. Good
23 for you! Yes.

24 SENATOR GOLD: Yes. If the
25 Senator will yield to one more question?

1 ACTING PRESIDENT MEIER: Will the
2 Senator yield to one more question?

3 SENATOR GOLD: Well, one more
4 until the next one. On page 3, again it says
5 this will reduce the cost of storing such
6 records.

7 Senator, isn't it a fact that
8 what reduces the cost of storing records is a
9 process that almost all of the agencies are
10 trying to get involved with now and that is
11 scanning these records into computer disks and
12 into computer materials, and that's where the
13 real cost saving is, and if you're going to do
14 that, it doesn't matter whether you scan
15 something that's 8 x 10, 8 x 12 or 5 x 7.

16 SENATOR STAFFORD: Let me help
17 you with something, Senator.

18 SENATOR GOLD: I wish you would.

19 SENATOR STAFFORD: Have you ever
20 heard how many angels can dance on the head of a
21 pin?

22 SENATOR GOLD: I have that
23 answer. Yes, I've heard that, Senator.

24 SENATOR STAFFORD: Do you know
25 that they can take some kind of a chip, a thing

1 -- do you know they can take a chip -- I read
2 this in both TIME and NEWSWEEK, so it must be
3 true -- and they can take a medium-sized law
4 office and take a storage room and not fill up a
5 -- what do you call it? No, a chip.

6 ACTING PRESIDENT MEIER: Senator
7 Gold.

8 SENATOR GOLD: Yeah. Will the
9 Senator yield to a question?

10 SENATOR STAFFORD: Yes.

11 ACTING PRESIDENT MEIER: Senator
12 yields.

13 SENATOR GOLD: Senator, you're
14 doin' great. We're getting there. That's my
15 point, Senator. I assume you're agreeing with
16 me. If we could take a medium-sized law office
17 and put all the information in that law office
18 in one little chip -- and, by the way, Senator,
19 you know, we all are used to computerized
20 mechanisms and I know you win the day when it
21 comes to small phones -- yours is about half the
22 size of mine -- but, Senator, do you realize
23 that the reason that your phone is the size it
24 is is because of the human hand? If it wasn't
25 for the human hand being so big, that telephone

1 could be the size of -- a hundredth the size of
2 your nail?

3 SENATOR STAFFORD: Will the
4 Senator yield to one question?

5 SENATOR GOLD: Oh, my pleasure.

6 SENATOR STAFFORD: Do you know
7 why the hand is so important? Because you can
8 touch this finger (indicating the index finger)
9 to the thumb. That makes all the difference.

10 ACTING PRESIDENT MEIER: Senator
11 Gold.

12 SENATOR GOLD: I'm writing that
13 down. Wait a minute. Yeah, that separates us
14 from apes, I understand, right. But Senator,
15 the point is -

16 ACTING PRESIDENT MEIER: Senator
17 Gold, are you asking the Senator to yield?

18 SENATOR GOLD: Yes, I was in the
19 middle of my question; thank you.

20 ACTING PRESIDENT MEIER: Senator
21 Stafford, do you continue to yield?

22 SENATOR GOLD: But the point is,
23 Senator, and what I'm getting at and you stated
24 it so beautifully in the articulate way you
25 always answer me, a chip -- an entire little

1 chip can do an entire law office, it's
2 incredible, and the only reason our computer
3 equipment, as I was saying, is the size that it
4 is, is because of the size of our fingers. If
5 we could get -- if our fingers were smaller, the
6 chip capacity is extraordinary and much smaller;
7 however, if that is true, Senator, and we all
8 know that to be true, and we all know that
9 throughout the court system and throughout the
10 agencies, there are huge amounts of money that
11 this Legislature has authorized for the specific
12 purpose of computerizing our recordkeeping, so,
13 Senator, all I'm saying to you is, I know that
14 as much as you like to kid, Senator, you are a
15 very successful businessman and a very sophisti
16 cated citizen who the computer age has not left
17 behind, and I know that. So, Senator, I'm sure
18 you know that, if you take today's scanning
19 devices -- and I'm not talking about very, very
20 sophisticated and very expensive scanning
21 devices, I'm talking about going to -- I don't
22 want to give a store a plug, but any of the
23 local electronic stores and for a few hundred
24 dollars you can buy scanning equipment which
25 will take your wallet-sized photograph, it will

1 take an 8 x 12 photograph, it will take an 8 x
2 10 page, an 8 x 12 page and that is basically
3 the way recordkeeping is done.

4 So it seems to me, Senator, that
5 if it's a question as you say here, of reducing
6 the costs of storing records, that's what's
7 going to reduce the cost of storing records on
8 computerization, not whether or not we
9 standardize a sheet of paper.

10 SENATOR STAFFORD: Well, I think
11 that if we're better organized and it's
12 standardized and it's methodical, I think it
13 goes without saying that it also will make the
14 storage simpler and more efficient. I would
15 suggest that -

16 SENATOR GOLD: Well, will the
17 Senator yield to one more question? We're down
18 near the end now.

19 ACTING PRESIDENT MEIER: Senator,
20 do you yield to one more question? The Senator
21 yields.

22 SENATOR STAFFORD: Senator Marchi
23 said *res ipsa loquitur*. That's a local thing.

24 SENATOR GOLD: *Sic utere tuo ut*
25 *alienum non laedas*, Senator.

1 Senator, we -- I know we don't do
2 things for no reason, and you were very, very
3 smart to point out something, and I don't know
4 whether it's smart as much as you and I have
5 been around long enough to see these curves go
6 up and down, Senator, so as you said we'll pass
7 this law and then Gus will still be around in a
8 few years when we pass the new law that says
9 it's got to be green, red, yellow, back again.

10 But, Senator, do we have any idea
11 what we're really talking about in money here?
12 In other words, you as a businessman know that
13 when it comes to buying in quantity, that
14 there's still a bottom line, and if you're
15 buying bulk, whether it's bulk green paper and
16 red paper and white paper, when you get to a
17 certain amount of that bulk, it's all the same
18 price, whether it's red, green or white.
19 There's no -- there's no cost savings. The only
20 cost savings may be if you're dealing with
21 limited quantities, so that's not a cost
22 saving.

23 SENATOR STAFFORD: Senator, could
24 I ask?

25 SENATOR GOLD: Yeah, go ahead.

1 SENATOR STAFFORD: I would just
2 point out that you follow this type of thing, I
3 don't know whether they're still the wealthiest
4 or not, but there was the wealthiest on the list
5 and then they divided it up four ways and there
6 was still the wealthiest, what business they
7 were in -- yeah, what business they were in was
8 buying in bulk.

9 SENATOR GOLD: Right.

10 SENATOR STAFFORD: And
11 interestingly enough, when you do that, it's
12 saving, handling, negotiating, and, of course,
13 that's been a secret of -- of that company and
14 you look at some of these other companies that
15 are booming, you look at the mergers, that's
16 really what it's all about, and I would say it's
17 indeed suggested that if -- when you get into
18 buying more bulk, you save even more. That's
19 what's the word ex... Go ahead, David. What is
20 it? Expert...

21 SENATOR GOLD: Ex post facto.

22 SENATOR STAFFORD: No, no.

23 SENATOR GOLD: That's what he
24 said.

25 SENATOR STAFFORD: Exponential,

1 in other words it multiplies.

2 SENATOR PATERSON: Oh,
3 exponential.

4 SENATOR STAFFORD: Yes, all
5 right.

6 SENATOR GOLD: Well, Senator, the
7 last question really -- I'll come back to that
8 paper stuff, but the last question I'd like to
9 ask you, sir.

10 ACTING PRESIDENT MEIER: Senator,
11 are you asking the Senator to yield?

12 SENATOR GOLD: Yeah, yes.

13 SENATOR STAFFORD: By all means.

14 SENATOR GOLD: When all is said
15 and done, Senator -- when all is said and done,
16 what is the state really talking about in saving
17 money for this 1.8 million applications that
18 we're talking about where we are actually just
19 changing this whole process, and do you have any
20 idea what we're talking about in cost savings?

21 SENATOR STAFFORD: I would -- I
22 would say that it's going to be large because of
23 just the principle again of buying in bulk when
24 one department buys, another division buys,
25 another department.

1 SENATOR GOLD: Is the savings in
2 the paper costs, is that what you're talking
3 about?

4 SENATOR STAFFORD: This will make
5 a savings in everything. You can borrow from
6 the permit and it will be personnel savings. I
7 just think, Senator Marchi mentioned this -- now
8 I'll use it, thank you, Senator -- but I believe
9 res ipsa loquitur means the thing speaks for
10 itself, is that correct? Well, it speaks for
11 itself, that if you streamline things, buy in
12 bulk, have the same people working on forms for
13 every agency, have it centralized, have cost
14 controls, have savings, I think it makes a great
15 deal of sense, inventory control, that type of
16 thing, and this is the type of activity that
17 government has started to get into now, because
18 again, they're finding that the people are
19 demanding it for various reasons that we won't
20 go into today.

21 SENATOR GOLD: Well, Mr.
22 President, I hate to do this, but that answer
23 did raise another question because I don't
24 understand that answer. Senator Stafford -

25 ACTING PRESIDENT MEIER: Senator

1 Stafford, do you yield for one more question?

2 SENATOR STAFFORD: Sure.

3 SENATOR GOLD: Yes, Senator
4 Stafford, when you're talking to me about bulk
5 purchases, to me that's paper. But you also
6 mentioned to me inventory control, I don't know
7 what that has to do with anything, and you also
8 mentioned personnel savings. Senator, it would
9 seem to me that if the forms that are coming in
10 to the various agencies now are different than
11 what they're used to dealing with and they're
12 not separated by color, it seems to me that
13 you're going to have a slowdown of personnel,
14 not because they are doing anything wrong and
15 they would do anything wrong, but just in the
16 natural course and flow of it and when you say
17 standardization, Senator, the wording has to be
18 different, that somebody applying for an
19 exemption under a pollution code, it's not the
20 same information as the guy that wants a fishing
21 license or the same information as someone who
22 wants to get copies of a birth record, so the
23 information on all these forms is obviously
24 totally different, and the only thing I've heard
25 you talk about so far, Senator, is buying paper

1 in bulk. Other than that, I don't know what
2 we're talking about.

3 SENATOR STAFFORD: Well, I've
4 tried to say more. I'm sorry that I haven't
5 gotten it across better. Let me try again.
6 I'll start over. Maybe we're getting off base
7 here by talking about saving funds which I think
8 is something we're trying to do, but let's take
9 this tack of being user friendly. That's
10 something -- a term now that's used often like
11 win/win.

12 Now, I think "user friendly"
13 means, we want -- we want the state to be
14 treating their people in a way that, as you
15 mentioned, and by the way, you were getting
16 right into the swing of things here when you -
17 you know, you were saying it better than I, when
18 people would want to do business here in the
19 state if our permit system was organized,
20 standardized, computerized and made -- set up in
21 a way that made some sense, and then people
22 could be entrepreneurial.

23 SENATOR GOLD: Thank you. Mr.
24 President, on the bill.

25 ACTING PRESIDENT MEIER: Senator

1 Gold, on the bill.

2 SENATOR GOLD: I want to, first
3 of all, thank Senator Stafford, who is not only
4 bright but has his own way and really clarified
5 this issue for me in a way that few others
6 could.

7 I do have some questions about
8 the bill. First of all, Mr. President, the
9 agencies are run by the appointed representa
10 tives of our former distinguished colleague,
11 Governor George Pataki, and it seems to me, Mr.
12 President, that it is not in the law that a
13 particular application is green or pink or red
14 or white or whatever. There are some places in
15 the law where we require certain kinds of
16 information but we do not tell any agency the
17 size and shape or color of this applications or
18 its permits.

19 It seems to me that for less
20 money than the printing of this bill, Governor
21 Pataki could call each agency head -- as a
22 matter of fact, I don't suggest the Governor do
23 it. He has more important things to do. We
24 still don't have a budget. We're not supposed
25 to talk about that but we don't, but it seems to

1 me somebody from the Governor's office could
2 call each agency head and say, Look, guys.
3 We're in the 20th Century, almost the 21st
4 Century, and if somebody FAXes in an
5 application, as long as they don't FAX in a
6 check and the check is for real, you ought to
7 really consider the application and we ought to
8 make everything user friendly, and I would think
9 that in terms of cutting the costs of
10 government, that would have been one way to cut
11 the cost of government rather than spend the
12 government's money to print this bill. A simple
13 phone call. All of those agency heads are
14 controlled by the Governor.

15 As far as the issue of specialty
16 paper and bulk purchases, Senator Stafford, as
17 usual, when it comes to business issues, you are
18 correct and, if I wanted to buy a ream of paper
19 and you wanted to buy 1,000 reams of paper,
20 you're going to get a good price but, Senator,
21 you know as a businessman that that bottom -
22 that paper company has a bottom line. That
23 bottom line may be at 1,000 reams, it may be
24 2,000 reams. Whatever it is, the state of New
25 York is well past those bottom lines. So that

1 if you placed an order for paper for the state
2 of New York and you made it all white paper or
3 you made it white, green, pink and zinc or
4 whatever colors you wanted, the price wouldn't
5 vary one iota because you've already reached
6 that huge purchase allotment. So that is rather
7 unpersuasive.

8 I am concerned, Senator, with the
9 argument that we will, in fact, be helping
10 personnel. It seems to me, Senator, that the
11 Civil Service force in this state, extremely
12 competent work force, has a tough job and as we
13 consistently cut personnel, as we consistently
14 have cutbacks, our job shouldn't be to make
15 their jobs harder, and it seems to me right now
16 they are used to dealing with certain documents.
17 The documents are readily available. It's not
18 like they are not readily available and those
19 documents are handled in a way which seems to
20 run very smoothly.

21 Now, you take somebody in Fish
22 and Wildlife and you explain to them that they
23 can't deal with the paperwork that they have
24 been dealing with for a year or two because
25 people over in the Health Department are used to

1 dealing with a different kind of paper and
2 they'll look at all of us like we're a bit
3 meshugge and David will explain what that means
4 later, but they'll think we're nuts. Each
5 department already has its paperwork.

6 Now, Senator, if the only thing
7 your bill did was to say that if somebody has
8 the form of the agency and they FAX it in, you
9 don't need an original, I don't see anything
10 wrong with that. I don't think anybody here
11 would see anything wrong with that.

12 If your bill said, Senator, that
13 you should be able to call up an agency and have
14 them FAX an application to you and you could
15 fill it out and FAX it back and they would,
16 let's say, work some way that you could pay them
17 so that they were comfortable with that, I don't
18 see anything wrong with that either, but the
19 "standardization" word, I think is just way out
20 of proportion to what is necessary to handle a
21 problem and, as I indicated to you, Senator,
22 this is an interesting situation when you talk
23 about storage costs and things like that because
24 this -- that argument flies in contradiction to
25 the way agencies are now being encouraged to

1 operate.

2 As far as the standardization
3 versus flexibility, I just think, Senator, we
4 have to know which way you're going. If
5 standardization means that everybody uses the
6 same form but you can FAX it in or not FAX it
7 in, that's one thing. If it means that it's
8 standardized to the point where you can be
9 flexible, well, flexible is not standardization
10 and I must tell you, Senator, I liked what you
11 said about flexibility because obviously if an
12 agency needs information it's more important
13 that they get the information than the
14 particular little itemization as to how they get
15 it but, Senator, there comes a point where I
16 know I've got to make a decision on this bill
17 because we just can't spend the valuable time in
18 this Legislature, you know, any more on this
19 particular bill -- although I would like to
20 because it's a fascinating subject and I have
21 become riveted to it -- I know I've got to make
22 up my mind as to which way to vote, and I say to
23 myself, Senator Stafford, few times -- and you
24 have never heard me say that -- that's your
25 line, you have never heard me say this again

1 but, Senator, there are few times when members
2 have gotten up on a piece of legislation with
3 the degree of sincerity, the degree of clarity,
4 the degree of desire for accomplishment as you
5 have on this bill.

6 So I'm going to give you my vote.

7 SENATOR STAFFORD: Thank you.

8 ACTING PRESIDENT MEIER: Read the
9 last section.

10 THE SECRETARY: Section 2. This
11 act shall take effect on the 365th day.

12 ACTING PRESIDENT MEIER: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 60.

16 ACTING PRESIDENT MEIER: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 686, by Senator Kuhl, Senate Print 4176, an act
20 to amend the Agriculture and Markets Law, in
21 relation to payment by milk dealers.

22 SENATOR PATERSON: Explanation.

23 ACTING PRESIDENT MEIER: Senator
24 Kuhl, an explanation has been requested by
25 Senator Paterson.

1 SENATOR KUHL: Yes, Mr.
2 President. As many of the members here may
3 remember, over the years we have tried to
4 provide protections for our dairy farmers and
5 particularly by establishing certain protection
6 accounts which will guarantee the fact that
7 there are fundings -- funds available to pay
8 them and also we've tried to help them from a
9 business standpoint by requiring that payments
10 made to them by the purchasers of their milk at
11 the farm level pay within a certain period of
12 time.

13 What we're finding now is that
14 there is a small community out in the western
15 part of the state, mainly the Amish, who have
16 been forced because of the criteria that we make
17 a requirement for the sale of certain types of
18 milk and for the payments, that are being forced
19 to either sell their milk illegally under the
20 system that we currently have or not sell it at
21 all.

22 This is a very simple bill that
23 would allow for the sale of what's called
24 non-Grade A milk to be extended rather than
25 being paid by the tenth of the month or by the

1 end of the month to have an extension of, I
2 believe it's 90 days thereafter at the end of
3 the month to have that payment made to them.

4 This is essentially a request
5 coming from that segment of the agricultural
6 community who envisions no market for the milk
7 and being forced out of this business if this
8 particular change is not made.

9 ACTING PRESIDENT MEIER: Senator
10 Paterson.

11 SENATOR PATERSON: Thank you, Mr.
12 President.

13 If Senator Kuhl would yield for a
14 question.

15 ACTING PRESIDENT MEIER: Senator
16 Kuhl, will you yield for a question?

17 SENATOR KUHL: Absolutely.

18 ACTING PRESIDENT MEIER: Senator,
19 am I correct in assuming that since the milk is
20 non-Grade A, therefore, the time in which it
21 must be sold is extended to such an extent that
22 it would accommodate what you're trying to
23 accomplish in this bill?

24 SENATOR KUHL: I don't think I
25 understood the question, Senator.

1 ACTING PRESIDENT MEIER: Senator
2 Paterson.

3 SENATOR PATERSON: Thank you.

4 Since -- Senator, what I'm saying
5 is that since there is -- there are not the
6 constraints that there would be if this was
7 Grade A milk being sold and this is a small
8 amount of the milk that's actually sold in New
9 York State, therefore, that would make it
10 feasible for this legislation to actually be
11 passed and for this accommodation to be made to
12 the Amish, the individuals who are most closely
13 affected by the fact that the delay in paying
14 the dealer is something that they need?

15 SENATOR KUHL: Senator, the
16 statistics I have is -- are that this is
17 essentially an insignificant portion of the
18 overall sale of milk in the state. It's less
19 than two-tenths -- yeah, two-tenths of one
20 percent of all the milk that's sold or
21 purchased, however you want to look at it, in
22 the state of New York. So it's a relatively
23 small group of individuals. I think it's
24 roughly 180 dairy farmers out of thousands that
25 exist in the state.

1 SENATOR PATERSON: Thank you, Mr.
2 President.

3 If Senator Kuhl would continue to
4 yield.

5 ACTING PRESIDENT MEIER: Senator,
6 do you continue to yield?

7 SENATOR KUHL: Yes.

8 ACTING PRESIDENT MEIER: The
9 Senator yields.

10 Senator Paterson.

11 SENATOR PATERSON: Senator, who
12 are the dealers that would actually be affected
13 by this? You said there would be 180 farmers
14 but -

15 SENATOR KUHL: Primarily these
16 are what we call the manufactured milk dealers;
17 in other words, people who produce cheese.

18 SENATOR PATERSON: If the Senator
19 would continue to yield, Mr. President.

20 ACTING PRESIDENT MEIER: Does the
21 Senator continue to yield?

22 SENATOR KUHL: Yes.

23 ACTING PRESIDENT MEIER: The
24 Senator continues to yield.

25 SENATOR PATERSON: Then, Senator,

1 are they on the record in terms of what they
2 would consider this delay in the payment to be?

3 SENATOR KUHL: I don't have any
4 memo but they're kind of put in a position that
5 either they purchase the milk illegally under
6 the current requirements relative to payment,
7 which means they cannot provide payment because
8 what they're doing is they're buying the milk
9 currently on contract. The law of the state of
10 New York requires a payment within a very short
11 period of time, yet they're not able to sell
12 their product because of the length of time for
13 production of the cheese, so they don't have the
14 revenues to pay the farmers. What the farmers
15 are saying is that we don't mind waiting that
16 60, 90, 120 days for them to get the money to be
17 able to pay us for the milk because if we don't
18 do that, then we won't be able to sell our milk
19 and we will be totally out of business.

20 SENATOR PATERSON: Senator -- Mr.
21 President, now I understand exactly what it is
22 you're trying to accomplish, the point being
23 that the real reason that they can't pay is that
24 unless there was some great surplus that
25 obviously from your explanation does not exist,

1 there are no resources to actually make those
2 payments, rendering them in a position of -
3 being in a position of not being able to pay and
4 so that's the reason for the legislation?

5 SENATOR KUHL: That's the reason
6 for the legislation, Senator.

7 SENATOR PATERSON: Senator, now I
8 have understanding.

9 SENATOR KUHL: Thank you.

10 ACTING PRESIDENT MEIER: Read the
11 last section.

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

14 ACTING PRESIDENT MEIER: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 60.

18 ACTING PRESIDENT MEIER: The bill
19 is passed.

20 The Secretary will read Calendar
21 349.

22 THE SECRETARY: Calendar Number
23 349, by Senator Volker, Senate Print 3358-A, an
24 act to amend the Alcoholic Beverage Control Law
25 and others, in relation to the enforcement of

1 the prohibition.

2 SENATOR VOLKER: Mr. -

3 ACTING PRESIDENT MEIER: Read the
4 last section.

5 SENATOR VOLKER: Hold it. Hold
6 it. Are we waiting for somebody or -- Franz?
7 Okay.

8 ACTING PRESIDENT MEIER: Senator
9 Volker.

10 SENATOR VOLKER: Mr. President,
11 let me explain the bill. Do you want me to
12 explain it?

13 SENATOR PATERSON: With Senator
14 Volker's permission, could we hold this just for
15 a moment? Senator Leichter had a question on
16 it.

17 ACTING PRESIDENT MEIER: Senator
18 Volker.

19 SENATOR VOLKER: Mr. President,
20 this bill would increase the penalties for
21 persons under the age of 21 who purchase
22 alcoholic beverages and basically who have
23 previously been convicted.

24 There is presently in the law a
25 statute that speaks of the use of false or

1 fraudulent identification and allows the
2 possibility of the use of suspension of
3 licenses. This would broaden that use upon a
4 second offense of illegal purchase of alcoholic
5 beverages and additionally for a third or
6 subsequent violation, the offender, which would
7 be the person who bought under 21, would have to
8 submit to an evaluation to determine whether the
9 person is suffering from alcoholism. In other
10 words, following the manner in which we deal
11 with DWI statutes, this would further deal with
12 people who, on a number of occasions, purchase
13 alcohol illegally under the age of 21.

14 Finally, the bill would authorize
15 the State Liquor Authority to develop and
16 establish a minimum criteria for a training
17 awareness program which would give employees of
18 these establishments, of the people who sell on
19 and off premises an opportunity to have their
20 employees trained to -- as far as alcoholic
21 beverage sales are concerned and the completion
22 of the program could provide an affirmative
23 defense by the licensee in a proceeding, revoke
24 his license or suspend it. Of course, if there
25 was a showing of deliberation or that the owner

1 even or the person involved deliberately sold it
2 to a person under age and knew that they did,
3 then they could still be -- the Liquor Authority
4 would still proceed under the Alcoholic Beverage
5 Control Law.

6 SENATOR LEICHTER: Mr. President.

7 ACTING PRESIDENT MEIER: Senator
8 Leichter.

9 SENATOR LEICHTER: Mr. President,
10 if Senator Volker would please yield, please.

11 ACTING PRESIDENT MEIER: The
12 Senator yields.

13 SENATOR LEICHTER: Senator, let
14 me say that I certainly applaud your effort to
15 try to deal with the problem of under age
16 drinking, and I'm sure that all of us are
17 grateful for an effort to try to deal with what
18 is a serious problem. I'm just concerned about
19 certain of the provisions here and I wanted to
20 ask you a couple of questions, if I may, about
21 them.

22 One concern I have is you provide
23 for an evaluation for a third offense.

24 SENATOR VOLKER: M-m h-m-m.

25 SENATOR LEICHTER: And that

1 evaluation is to be paid for by the offender, is
2 that correct?

3 SENATOR VOLKER: M-m h-m-m.

4 SENATOR LEICHTER: Now, what
5 happens if the offender is incapable of paying
6 for the evaluation?

7 SENATOR VOLKER: Senator, what
8 normally happens in any of these is, as you
9 know, if the person is unable to pay for
10 something, then the court would order the
11 evaluation to be done at the expense of the -
12 of the county, basically, because that's a
13 system now that would be considered a poor
14 defendant and, therefore, they would be
15 considered -- by the way, this happens very
16 infrequently because the numbers of these
17 multiple offenses are fairly infrequent because
18 they only obviously go to the person that is
19 under 21. So when they become 21, then the
20 whole system changes, but it is presumed that
21 what would happen is that then any evaluation
22 would be paid for by the local jurisdiction.

23 SENATOR LEICHTER: Again, if
24 Senator Volker would be good enough to continue
25 to yield.

1 SENATOR VOLKER: Certainly.

2 SENATOR LEICHTER: Senator,
3 that's certainly a perfectly reasonable way of
4 doing it, but while you infer that or imply
5 that, it's certainly not stated in your bill and
6 I don't know whether necessarily the courts or
7 the counties would accept your interpretation in
8 the absence of the bill being silent as to the
9 procedures that would be applied where somebody
10 is incapable of paying.

11 SENATOR VOLKER: Senator, I think
12 under -- I would accept that except for the fact
13 that we generally -- there's other areas of the
14 law where we don't do that either because the
15 so-called poor persons provisions of both the
16 County Law and I believe of the State Law
17 provide that where you are unable to pay for not
18 only just an attorney but are unable to pay for
19 some services, that the local jurisdiction has
20 to foot the bill if it's part of a penalty that
21 is pursuant to a -- to a statute.

22 SENATOR LEICHTER: Mr. President.

23 ACTING PRESIDENT MEIER: Senator,
24 do you continue to yield?

25 SENATOR VOLKER: Sure.

1 ACTING PRESIDENT MEIER: The
2 Senator yields.

3 SENATOR LEICHTER: Senator, I
4 think the instances which you're referring to
5 are services that are rendered by the county.
6 Here it could well be argued that this is a
7 service or, if you will, a requirement of the
8 state. At the very least, I think you'll have
9 to agree with me that it's an unfunded mandate
10 to put this cost on the -- on the counties and
11 I'm concerned that we may find ourselves in a
12 situation where these evaluations -- that are
13 not inexpensive, by the way, Senator -- are
14 going to be required to be done. Counties are
15 going to refuse to do it or certainly is going
16 to refuse to bear the costs, and I think that
17 you would have a better bill if you provided
18 that this was going to be a state charge.

19 SENATOR VOLKER: I don't know.
20 We can certainly look into that. I think that
21 the reason that we really haven't gotten into
22 that is the numbers of people, as I understand
23 it, that are in this sort of a position are so
24 small that we're really talking about
25 comparatively a handful of people, as I

1 understand it.

2 I think you're aware probably,
3 Senator, that the numbers of people who are even
4 charged under the previous section, what is it,
5 65, I think, of the -- I forget the number. I
6 think it was 65 of the -- S. 65(b) of the
7 Alcoholic Beverage Control Law are, I believe
8 less than 50, if I'm not mistaken, but they're
9 very, very small and one of the things I think
10 there's hope for is that there will be a little
11 more diligence by the local authorities in
12 dealing with these kinds of cases if we upgrade
13 and improve the law, but the chances of getting
14 very many three-time violators that will be
15 subject to this evaluation, frankly, is very,
16 very slim and -- but that's something certainly,
17 Senator, that we can look at in terms of whether
18 just to be safe, and I certainly would address
19 that if you think it is a problem.

20 SENATOR LEICHTER: Mr. President,
21 if Senator Volker would continue to yield.

22 SENATOR VOLKER: Sure.

23 ACTING PRESIDENT MEIER: The
24 Senator yields.

25 SENATOR LEICHTER: Senator,

1 you're absolutely right that the number of
2 three-time offenders is fairly low now but the
3 reason is we have very poor enforcement of the
4 under age drinking law. I think I've seen
5 statistics that 75 to 80 percent of the people
6 under the age of 21 do drink on occasion. I
7 don't suggest that they're alcoholics. I don't
8 believe they are, but I think we know that on
9 colleges and high schools in our communities, we
10 have a terrific amount of under age drinking
11 that the authorities either are incapable of
12 dealing with or haven't really paid that much
13 attention, and I imagine one of the purposes of
14 your bill is to make people more conscious of it
15 to increase enforcement so those 50, if we
16 started enforcing the law, are going to become
17 500, 5,000 and conceivably even more.

18 So I would suggest to you that I
19 think some procedure whereby we provide for
20 payment of these evaluations for those people
21 who are indigent and I think a number of them,
22 considering the fact that young children don't
23 have -- young children -- youths don't have this
24 amount of money, that I think this does present
25 a problem.

1 Senator, if I may continue to ask
2 you about other features of the bill.

3 SENATOR VOLKER: Sure.

4 ACTING PRESIDENT MEIER: The
5 Senator yields.

6 SENATOR LEICHTER: I know you
7 provide that for a first violation, there's an
8 automatic three-month suspension of a driver's
9 license.

10 Now, I understand we want to be
11 very firm. On the other hand, it seems to me a
12 question whether or not being in a certain sense
13 counterproductive, and I frankly just raise a
14 question. I don't know how I feel. On the one
15 hand, I certainly want to discourage under age
16 drinking. On the other hand, there's a lot of
17 20-year-olds who have jobs, who need their cars,
18 who may stop off and have a beer. Are we now
19 going to take away their driver's license? Are
20 we going to make it impossible for them to earn
21 a living? I think you sort of have to weigh the
22 alternatives here and maybe, you know, this sort
23 of tough love approach maybe may have more
24 toughness in it than love.

25 SENATOR VOLKER: Yeah. I think

1 -- I think -- by the way, you probably have
2 noticed that under the subdivision that's
3 involved here, the subdivision of the Vehicle
4 and Traffic Law, that the commissioner is
5 allowed to issue restricted licenses even though
6 there's a mandatory situation as far as the
7 suspension is concerned. So you could have the
8 same situation as you have with a first offense
9 versus -- as far as DWI is concerned and that is
10 that the commissioner could issue a restricted
11 license to that person and when it gets to the
12 second offense, of course, it gets into a little
13 different situation, but that could happen.

14 I think the issue that you have
15 to deal with, I guess, is whether you're either
16 going to deal with this kind of an issue on a
17 firm and yet not overly tough way or, I guess,
18 whether you're going to leave such flexibility
19 that what continues to happen is what's happened
20 in the past and then you and I, I think, know,
21 Senator, that there's virtually no enforcement
22 now of the alcohol beverage laws for young
23 people other than suspending your license -
24 suspending or revoking the license of the
25 establishment. Almost no one is ever charged or

1 convicted -- much less convicted of youthful
2 violations of this statute, and I think the
3 attempt is being made here to set up some sort
4 of standards that will be useful in enforcing
5 this statute.

6 SENATOR LEICHTER: Senator, if
7 you continue to yield.

8 ACTING PRESIDENT KUHL: Senator
9 Volker, do you continue to yield? Senator
10 Volker, do you continue to yield?

11 SENATOR VOLKER: Certainly.

12 ACTING PRESIDENT KUHL: The
13 Senator continues to yield.

14 SENATOR LEICHTER: Senator, one
15 approach that I don't see in your bill and some
16 efforts have been made at it and maybe your
17 bill, frankly, would be a more effective
18 approach to dealing with under age drinking, if
19 it also addressed the problem of education,
20 provided some money for schools to give courses
21 or have instruction on the pitfalls of drinking,
22 alcoholism, and so on.

23 I mean, one of the difficulties
24 we have, we have a society where young people,
25 they're watching a football game. They'll see

1 advertisements about beer, drinking and the good
2 life if you drink beer and they see commercials
3 or they see billboards. They see their parents,
4 their friends who are over age drinking.

5 There's an awful lot of temptations and maybe
6 what we need to do besides saying to them, We're
7 going to wrap your knuckles if you drink, is
8 also to give them a greater incentive and a
9 greater awareness of what responsible drinking
10 is about and the importance of obeying the law.
11 Have you considered that approach?

12 SENATOR VOLKER: Senator, the
13 problem with that approach is we are already
14 spending a great deal of money, frankly, in the
15 DWI area and, as you well know, there is
16 enormous advertising in the DWI area and, in
17 fact, we are developing a number of courses at
18 different schools, specifically and admittedly
19 designed to DWI but it's primarily designed -
20 aimed at young people and the problem of
21 drinking and driving, but I think the problem
22 is, Senator, that if we try to develop a program
23 on under age drinking on alcohol itself, we
24 could expend a tremendous amount of money on
25 such a program and it may be something we can

1 think about, but I suspect strongly if you
2 talked to any local authorities, they will tell
3 you that we already have one of the most
4 effective education programs around, which is
5 the programs that deal with youthful drinking as
6 far as driving is concerned and I just don't
7 think that at this point that we would be very
8 successful with a bill of this nature if we
9 tried to fund it thoroughly as far as an
10 education program is concerned.

11 SENATOR LEICHTER: Mr. President.

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

14 SENATOR VOLKER: Yep.

15 ACTING PRESIDENT KUHL: The
16 Senator continues to yield.

17 SENATOR LEICHTER: Senator, I'm
18 not sure that you would have to spend a great
19 deal of money. You would have to spend some
20 money but, as you know, the costs of alcoholism
21 in our society are enormous and an investment in
22 better education might make a great deal of
23 difference and end up saving us large sums of
24 money and all of the costs that are associated
25 with alcoholism, all the damage that alcoholism

1 does.

2 Senator, you referred to programs
3 that are being developed by some schools but do
4 you know whether there's a statewide program to
5 deal with alcoholism in the schools and all of
6 the high schools maybe have one or two courses
7 or lectures during the course of the year, show
8 pictures, not just the DWI because the DWI,
9 obviously it affects young people but it affects
10 all people and that program is not one that's
11 specifically geared to young people and deals
12 with under age drinking.

13 SENATOR VOLKER: Yeah. I think,
14 though, Senator, that you'll find, as far as the
15 State University is concerned, there are
16 programs that are aimed at under age drinking.
17 As a matter of fact, most of the state
18 universities now have been looking at some of
19 the drinking problems on their campuses and not
20 only the public campuses but also the private
21 campuses have been doing a lot of soul searching
22 as far as such programs because of problems that
23 have occurred because of drinking.

24 As far as high schools are
25 concerned, I think you're right that, although

1 the programs are not being provided in general
2 but virtually every school that I'm aware of,
3 certainly in my district, provides some sort of
4 program that deals with the dangers of drinking
5 and driving and youthful drinking in general. I
6 think the Commissioner of Education, in fact, is
7 looking at such programs right now.

8 SENATOR LEICHTER: Mr. President,
9 on the bill.

10 I think this is a very, very
11 tough bill and let me say we're dealing with a
12 very serious problem. On the other hand,
13 there's -- and I'm not suggesting this in one
14 moment on the part of Senator Volker but I think
15 more on part of our society, there's a little
16 hypocrisy because, you know, we say, Oh, my
17 goodness. We have under age drinking and at the
18 same time we provide so many stimulants to young
19 people and so many examples that leads them to
20 drink and the real problem of alcoholism is
21 really throughout our society. It's not limited
22 to people who are under the age of 21. The
23 problem of DWI is not limited to people under
24 the age of 21.

25 So while we crack down very hard

1 on the under age drinkers, we ought to realize
2 that it's a societalwide problem that I don't
3 believe can be dealt with just by saying to
4 young people, We're going to take away your
5 license. We're going to have you evaluated.
6 We're going to be really tough, but once you
7 reach the age of 21, and so on, you know, in our
8 society, drinking is quite celebrated.

9 So while I'm going to support the
10 bill, I think it could be made a much better
11 bill if it also dealt with the whole problem of
12 education, if we maybe provided incentives to
13 young people not to drink, if we made them
14 understand some of the risks of starting
15 drinking at an early age, the risks of
16 alcoholism, how to distinguish between what is
17 really recreational drinking and what becomes a
18 dangerous form of alcoholism.

19 I also pointed out I think some
20 ways that Senator Volker can improve the bill,
21 certainly as far as the evaluation is concerned
22 because, while providing that evaluation,
23 Senator, it's not clear to me who's going to do
24 it, who's going to pay for it. I think if it's
25 a worthwhile effort, than we ought to make sure

1 that it's done in a responsible, effective way.
2 It should be paid for by the state. We
3 shouldn't have an unfunded mandate. There's a
4 lot of talk in this chamber about unfunded
5 mandates, but every week I see one or two or
6 sometimes more bills coming -- sponsored by the
7 very same people who talk about we've got to get
8 rid of unfunded mandates.

9 So, Senator, I think you've
10 addressed an important problem, a very serious
11 problem, and I want to support you in that
12 effort. I think there's provisions in there
13 that are good but tough love is fine as long as
14 there isn't just toughness, there's also love,
15 and I don't find that sort of support and that
16 sort of direction and that sort of aid that we
17 want to give young people that I think is going
18 to make for a more effective program to reduce
19 under age drinking.

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

22 (There was no response.)

23 Hearing none, the Secretary will
24 read the last section.

25 THE SECRETARY: Section 9. This

1 act shall take effect on the first day of
2 January.

3 ACTING PRESIDENT KUHL: Call the
4 roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT KUHL: Record
7 the negatives.

8 Senator DeFrancisco to explain
9 his vote.

10 SENATOR DeFRANCISCO: I'm going
11 to vote in the negative. Senator Leichter
12 mentioned about the hypocrisy of this particular
13 bill. In one respect, I think it's a bill that
14 has a lot of hypocrisy in it for another
15 reason. You know, yesterday we were at a lot of
16 events for Memorial Day, many of whom -- many of
17 which dealt with young people who died for their
18 country. If we have an alcohol problem in this
19 country or in this state, we should have laws
20 that apply to everybody across the board. If
21 you vote and if you're 18 years of age, you
22 should be able to do the same things as anyone
23 else in that -- of this society and to suggest
24 that because there's a huge alcohol problem in
25 this state, that we're going to penalize a young

1 person who's between 18 and 21 years old by not
2 only fining them but also taking away their
3 driver's privileges for one drink, I think is a
4 little bit overboard, to say the least and if
5 it's a great idea, and if it's a wonderful idea
6 that we want to embrace in this conference, in
7 this body, then why don't we make it across the
8 board so it deals with everyone of all ages if
9 it's such a great problem.

10 So for those reasons, I'm going
11 to vote no on this bill.

12 ACTING PRESIDENT KUHL: Senator
13 DeFrancisco will be recorded in the negative.
14 Announce the results when tabulated.

15 THE SECRETARY: Those recorded in
16 the negative on Calendar Number 349 are Senators
17 Cook, DeFrancisco, Montgomery and Stavisky.
18 Ayes 56, nays 4.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 Senator Skelos.

22 SENATOR SKELOS: Mr. President,
23 Calendar Number 456, would you lay that aside
24 for the day.

25 ACTING PRESIDENT KUHL: Calendar

1 Number 456, laid aside for the day at the
2 request of the sponsor.

3 SENATOR SKELOS: And also at the
4 request of the sponsor, if you would lay aside
5 for the day Calendar Number 869.

6 ACTING PRESIDENT KUHL: Calendar
7 Number 869 will be laid aside at the request of
8 the sponsor.

9 Senator Skelos.

10 SENATOR SKELOS: We're waiting
11 for -- Senator Stafford's bill is next.

12 ACTING PRESIDENT KUHL: The
13 Secretary will call the controversial calendar,
14 regular order, Calendar Number 741.

15 THE SECRETARY: Calendar Number
16 741, by Senator Stafford, Senate Print 1342-A,
17 an act to amend the Family Court Act, in
18 relation to providing for a Family Court judge
19 in Clinton County.

20 SENATOR DOLLINGER: Explanation.

21 SENATOR SKELOS: Lay that aside
22 temporarily. Would you please take up Senator
23 Meier's bill, Calendar Number 753.

24 ACTING PRESIDENT KUHL: Calendar
25 Number 741 is laid aside temporarily. The

1 Secretary will read Calendar Number 753 by
2 Senator Meier.

3 THE SECRETARY: Calendar Number
4 753, by Senator Meier, Senate Print 4110-A,
5 concurrent resolution of the Senate and
6 Assembly, proposing an amendment to Section 6 of
7 Article V.

8 SENATOR PATERSON: Explanation.

9 ACTING PRESIDENT KUHL: Senator
10 Meier for an explanation.

11 SENATOR MEIER: Mr. President, as
12 you know, the Constitution, in setting up the
13 Civil Service system in this state, provides for
14 additional credit to be given to people who have
15 been discharged honorably from the Armed Forces
16 after serving during a time of war.

17 This resolution proposes a
18 constitutional amendment which basically
19 clarifies at what point those qualifications
20 must be possessed.

21 The present provisions of the
22 Constitution are unclear as to whether a veteran
23 must qualify at the time of taking the
24 examination or at the time of receiving the
25 appointment or promotion.

1 If we read the Constitution to
2 require that the qualifications must attach at
3 the time of taking the examination, then the
4 effect of that is to deny to people who are
5 presently in the Armed Forces but preparing for
6 a post-military service career the opportunity
7 to have the benefit of those additional
8 credits.

9 The amendment would make it clear
10 that all of the qualifications mentioned in the
11 Constitution and in the Civil Service Law must
12 be possessed at the time of actually receiving
13 the appointment which then assists those people
14 in the Armed Forces preparing to leave for a
15 civilian life. It assists them by permitting
16 them to take the examination and to have the
17 benefit of those additional credits.

18 This is particularly useful at a
19 time when we are experiencing military
20 downsizing.

21 ACTING PRESIDENT KUHL: Senator
22 Paterson.

23 SENATOR PATERSON: Thank you, Mr.
24 President.

25 If Senator Meier would yield for

1 a question.

2 ACTING PRESIDENT KUHL: Senator
3 Meier, do you yield to a question from Senator
4 Paterson?

5 SENATOR MEIER: Yes, I do.

6 ACTING PRESIDENT KUHL: The
7 Senator yields.

8 SENATOR PATERSON: Thank you,
9 Senator.

10 In amending the Constitution, I
11 note that there's a -- well, maybe I'll just ask
12 you. Is there any proposal to make the
13 appropriate amendments to the Civil Service
14 Law?

15 SENATOR MEIER: Mr. President,
16 the -- this would, if it were to be passed,
17 would require amendments to the Civil Service
18 Law. So this would then require, of course,
19 passage by the voters and at that time it would
20 be appropriate for the Legislature to continue
21 -- or to consider, rather, amendments to the
22 Civil Service Law. Such amendments prior to the
23 constitutional amendment being passed would not
24 be constitutional.

25 ACTING PRESIDENT KUHL: Senator

1 Paterson.

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

4 If Senator Meier would yield for
5 another question.

6 SENATOR MEIER: Of course.

7 ACTING PRESIDENT KUHL: The
8 Senator continues to yield.

9 SENATOR PATERSON: Actually, one
10 final question, Senator. Specifically, an
11 individual who is currently in service to this
12 country is eligible now for what while they are
13 still serving this country prior to leaving to
14 take the Civil Service exam? In other words, at
15 the point that they leave, there would be almost
16 automatically the ability to transfer that
17 service credit right into the Civil Service
18 process.

19 SENATOR MEIER: Well, if you're
20 talking about additional credits in terms of
21 competitive exams for purposes of appointment or
22 promotion, the problem is exactly, Mr.
23 President, that it is unclear at what point the
24 right to receive those credits attaches. It is
25 beyond dispute, as Senator Paterson suggests,

1 that one earns those credits by serving during
2 time of war, by being honorably discharged, by
3 being a citizen or a person otherwise lawfully
4 in the country. That's not under dispute and
5 those rights attach.

6 The question that this amendment
7 seeks to address is at what point do they attach
8 and it is in that sense really clarifying
9 language rather than something that opens new
10 ground.

11 SENATOR PATERSON: Thank you,
12 Senator, and at this juncture, at what point
13 does it attach?

14 SENATOR MEIER: Mr. President, as
15 I believe I've stated a couple of times earlier,
16 it is unclear at this point at what point it
17 attaches and so, therefore, most civil service
18 authorities around the state will err on the
19 side of caution and take the position that it
20 attaches at the point of administering the
21 examination which, as I said, has the effect of
22 foreclosing the ability of people currently
23 serving in the Armed Forces but preparing for
24 discharge, to take the exam and have the credits
25 attach at that point when they go forward.

1 ACTING PRESIDENT KUHL: Senator
2 Paterson.

3 SENATOR PATERSON: Thank you.

4 Senator Meier, I'm sorry. It
5 must have been my error. What I'm really asking
6 you is, as a result of the passage of this
7 legislation, we've now clarified it to what
8 extent? In other words, at what point does two
9 attach, assuming we pass this constitutional
10 amendment in two consecutive sessions, put it
11 before the voters and we make this law?

12 SENATOR MEIER: Mr. President,
13 should this constitutional amendment pass, the
14 right to receive the credits would attach at the
15 time of -- would attach at the time of -- will
16 attach at the time of receiving appointment or
17 the promotion.

18 ACTING PRESIDENT KUHL: Senator
19 Paterson.

20 SENATOR PATERSON: Okay. Thank
21 you, Senator.

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

24 (There was no response.)

25 Hearing none, the Secretary will

1 read the last section -- excuse me. This is a
2 resolution. The Secretary will call the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 60.

5 ACTING PRESIDENT KUHL: The
6 resolution is adopted.

7 Senator Skelos.

8 SENATOR SKELOS: Mr. President,
9 would you lay aside Calendar Number 778 by
10 Senator Hannon for the day.

11 ACTING PRESIDENT KUHL: Calendar
12 Number 778 is laid aside for the day.

13 SENATOR SKELOS: And if you would
14 take up Calendar Number 741 by Senator Stafford.

15 ACTING PRESIDENT KUHL: The
16 Secretary will read Calendar Number 741, Senate
17 Print 1342-A, by Senator Stafford.

18 SENATOR DOLLINGER: Explanation.

19 THE SECRETARY: Calendar Number
20 741, by Senator Stafford, Senate Print 1342-A,
21 an act to amend the Family Court Act, in
22 relation to providing for a Family Court judge
23 in Clinton County.

24 ACTING PRESIDENT KUHL: Senator
25 Stafford, an explanation of Calendar Number 741

1 has been requested by Senator Dollinger.

2 SENATOR STAFFORD: Thank you, Mr.
3 President.

4 This legislation would provide
5 for a Family Court judge in Clinton County. The
6 county has grown. It's one of the counties that
7 has increased in population.

8 From firsthand knowledge, I can
9 share with you that OCA is correct that an
10 additional judge is necessary. They have to
11 call in judges from other areas now and I think
12 also this work is very difficult. It's very
13 challenging, and I think the work would be
14 served better by having a person who would be
15 responsible for this work.

16 I reviewed the matter completely
17 before we supported this legislation. As I say,
18 it has the support of the Office of Court
19 Administration and the support of the Clinton
20 County Legislature.

21 Thank you.

22 SENATOR DOLLINGER: Mr.
23 President, would the sponsor yield to a couple
24 questions.

25 SENATOR STAFFORD: Yes.

1 ACTING PRESIDENT KUHL: Senator
2 Stafford, do you yield to Senator Dollinger?
3 The Senator yields.

4 SENATOR DOLLINGER: Senator, this
5 bill seeks to amend Section 131 of the Family
6 Court Act, is that correct?

7 SENATOR STAFFORD: Read it.

8 SENATOR DOLLINGER: Okay. My
9 understanding is that it does.

10 SENATOR STAFFORD: Good.

11 SENATOR DOLLINGER: Okay. Are
12 you familiar with Section 131 of the Family
13 Court Act?

14 SENATOR STAFFORD: Yes.

15 SENATOR DOLLINGER: Does that -
16 that includes a listing of all the subdivisions
17 of the Family Court judges that are created in
18 each county, isn't that correct?

19 SENATOR STAFFORD: Right.

20 SENATOR DOLLINGER: Okay. What
21 is the propo... again through you, Mr.
22 President, if the sponsor would continue to
23 yield.

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

1 SENATOR STAFFORD: Yeah.

2 ACTING PRESIDENT KUHL: The
3 Senator continues to yield.

4 SENATOR DOLLINGER: What's the
5 total cost of the addition of the Family Court
6 judge in Clinton County? Do you know what the
7 cost would be?

8 SENATOR STAFFORD: The cost, of
9 course, would be picked up by the Office of
10 Court Administration. I can get that for you.
11 I will just have to add it up. It will be the
12 salary, the secretary, personnel. I can get
13 that for you.

14 SENATOR DOLLINGER: Again through
15 you, Mr. President, since we're on the floor in
16 this debate. Is it fair to say that that cost
17 is somewhere between -- with all the amenities
18 and the courtroom space and everything is
19 somewhere between 350- and \$500,000?

20 SENATOR STAFFORD: I think you're
21 high.

22 SENATOR DOLLINGER: Okay. Again,
23 Mr. President, if the sponsor would yield for a
24 question. My understanding is that this judge
25 ship -

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

3 (Senator Stafford nods head.)

4 ACTING PRESIDENT KUHL: The
5 Senator continues to yield.

6 SENATOR DOLLINGER: My
7 understanding is that this judgeship in Clinton
8 County -- and you explained the reason why it's
9 needed -- that this judgeship is also included
10 in the list of Family Court and other judgeships
11 that OCA believes are needed in this state this
12 year.

13 SENATOR STAFFORD: I believe I
14 said that.

15 SENATOR DOLLINGER: Yes. Okay.

16 Mr. President, I believe there's
17 an amendment at the desk to Senator Stafford's
18 bill. I would ask that the amendment be waived
19 -- the reading of the amendment be waived and
20 that it be considered now at this time.

21 SENATOR SKELOS: Mr. President.

22 ACTING PRESIDENT KUHL: There is
23 an amendment to Senator Stafford's bill at the
24 desk, Senator Dollinger, but, Senator Skelos,
25 why do you rise?

1 SENATOR SKELOS: Mr. President, I
2 have had the opportunity to review the
3 amendment. I would ask the Chair to rule that
4 under Rule 6, Section 4(b), this amendment is
5 not germane.

6 SENATOR DOLLINGER: Mr.
7 President.

8 ACTING PRESIDENT KUHL: Did you
9 wish to be heard on that?

10 SENATOR DOLLINGER: Yes, I do,
11 Mr. President, and I am not sure the Deputy
12 Majority Leader -- I believe that the discussion
13 about whether it's germane would precede a
14 ruling of the Chair and then the ruling of the
15 Chair would follow.

16 On the ruling of the Chair, Mr.
17 President, I would point out that this amendment
18 amends the exact same section of the Family
19 Court Act of the laws of the state of New York.
20 I would point out that the cost of a Family
21 Court judge, since that's set by statute, is
22 exactly the same in Monroe County as it is in
23 Clinton County.

24 I would point out that the reason
25 that Senator Stafford gave for adding a judge in

1 Clinton County is exactly the same reason, Mr.
2 Chairman, that I would propose an additional
3 Family Court judge is needed in Monroe County,
4 that is, the number of complaints have grown. I
5 have a statement here from the administrative
6 judge of the Family Court in Monroe County which
7 says that their case load was up 11 percent in a
8 single year. He describes this court -- and he
9 provides the same rationale and explanation that
10 Senator Stafford does. He says "This court is
11 already strained to the limits by complex and
12 emotionally charged cases which require
13 considerable time and effort. Unfortunately,
14 given the enormous volume of cases, it is not
15 always possible to give sufficient time to a
16 particular matter. This often results in
17 repeated appearances on the part of the
18 litigants and delayed justice. It must be
19 remembered that the necessity for appearances in
20 Family Court are usually the result of family
21 discord or malfunction and, therefore, have a
22 widespread effect on the family and children of
23 the community."

24 I would point out that that's the
25 exact same justification that Senator Stafford

1 put in and finally, Mr. Chairman, I would point
2 out that consistent with the bill that I
3 submitted which this amendment incorporates,
4 this is also one of the judges that OCA has
5 agreed is on the list of judges that need to be
6 created in New York State.

7 So, Mr. President, with all due
8 respect, I understand Senator Skelos' motion but
9 this couldn't be more germane. This is exactly
10 the same section of law, the exact same
11 rationale, the exact same costs and it amends
12 the exact same section.

13 Finally, Mr. President, I would
14 point out the last time I was able to get an
15 amendment on the floor because it was determined
16 to be germane, it was because it amended the
17 exact same section of the Penal Law as the
18 proposed bill before, that the rationale was
19 exactly the same. It was exactly the same kind
20 of situation. I would ask the President, for
21 purposes of consistency, to remember that
22 decision and to ask the President, the very same
23 Senator in the Chair, that consistency would
24 require that since this is the exact same
25 section of the law, the exact same

1 justification, this amendment ought to be heard
2 by the chamber today.

3 ACTING PRESIDENT KUHL: Thank
4 you, Senator Dollinger, and that's one of the
5 reasons I am here is so that we can provide some
6 consistency to the chamber.

7 SENATOR DOLLINGER: Mr.
8 President, nobody appreciates that more than I.

9 ACTING PRESIDENT KUHL: If you
10 were, Senator Dollinger, to talk today to my
11 children, you would find out that they know that
12 I'm consistent and being consistent, you would
13 also know that the rules, of course, have
14 changed. They were significantly adopted last
15 year in alteration of what the previous rules of
16 this chamber were, which changed the methodology
17 by which we proceed in this chamber.

18 Under the former rules of the
19 house, Senator Dollinger, you would be correct,
20 and the ruling of the Chair would be that the
21 issue -- the amendment is germane but under the
22 current rules of the house, it's the
23 determination of this Chair that the specific
24 and original object of Senator Stafford's bill
25 is to create one position to the Judiciary in

1 Clinton County. It has nothing to do with
2 Monroe County, even though it's contained in the
3 same section of the law. That's where an
4 amendment would have to occur.

5 So I will rule that your
6 amendment is out of order and not germane.

7 SENATOR DOLLINGER: Mr.
8 President.

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

11 SENATOR PATERSON: Mr. President,
12 I'm not sure where we are in the discussion. I
13 would like to appeal the ruling of the Chair.

14 ACTING PRESIDENT KUHL: The Chair
15 recognizes you, Senator Paterson, on an appeal
16 of the ruling of the Chair.

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

19 The germaneness of a topic is not
20 one that involves geography. It involves
21 thought. It involves really what the thrust of
22 the legislation addresses and, in this
23 particular case, there is a need for a Family
24 Court judge in Clinton County and there's
25 certainly no disputing that.

1 There's also a need, according to
2 the Office of Court Administration for a long
3 period of time -- it's on the 14 issues that
4 they feel must be addressed immediately. It's
5 certainly one of them -- for a Family Court
6 judge to be implanted in Monroe County and both
7 of these counties are important. In fact,
8 Monroe and Clinton were both Presidents. In
9 fact, Monroe came before Clinton.

10 So what we are trying to suggest
11 here, Mr. President, is that the citizens of
12 these different counties have the same needs.
13 So when Senator Dollinger, who otherwise might
14 go through a committee process and not see his
15 bill out here because I don't see any Dollinger
16 bills on this current calendar, nor do I see any
17 of my own -- not to in any way diminish Senator
18 Dollinger, but he seems to be suffering from the
19 same affliction that I am -- the point really is
20 that while we may have these somewhat
21 intemperate differences here in Albany, that the
22 residents of these different neighborhoods in
23 our state, of which we're all one people that
24 live in New York, are having the similar problem
25 and, therefore, it is the similarity of

1 circumstance, not the contrasting geography,
2 which I think would be the preferred issue and,
3 Mr. Chairman -- Mr. President, if you would
4 review the issue, I would feel that you should
5 favor the value of need which is really what
6 government's credo is, over the delineation of
7 lines of demarcation that separate counties.

8 With that, Mr. President, that
9 concludes my appeal. I'm sure you not only
10 found it interesting but persuasive, and if you
11 would be so kind as to change your ruling, you
12 would spare us all from hearing Senator
13 Dollinger's appeal.

14 ACTING PRESIDENT KUHL: Senator
15 Nozzolio, did you wish to be heard on the appeal
16 of the ruling of the Chair?

17 SENATOR NOZZOLIO: Yes, Mr.
18 President.

19 ACTING PRESIDENT KUHL: Senator
20 Nozzolio.

21 SENATOR NOZZOLIO: Mr. President,
22 I wish to indicate that this measure is not only
23 not germane under the rules of this house, it is
24 also not appropriately connected to a measure
25 that is brought forth by a sponsor of the main

1 bill who has done his homework.

2 Senator Stafford has
3 appropriately taken steps in presenting this
4 bill before us that appropriately recognizes not
5 some oblique Office of Court Administration but
6 the county -- the county government and elected
7 leaders locally who are entrusted with bringing
8 these types of measures before their appropriate
9 state representatives.

10 Senator Dollinger, the author of
11 the amendment, whatever his intentions, has
12 neither checked with the local legislature or
13 the local county executive of Monroe. The
14 county legislature has no support or
15 documentation for this amendment, and I want to
16 point out to you, Mr. President, and to my
17 colleagues, that neither has the county
18 executive or county legislature of Monroe
19 supported this amendment.

20 SENATOR GOLD: Mr. President.

21 ACTING PRESIDENT KUHL: Why do
22 you rise?

23 SENATOR GOLD: Would the
24 gentleman yield to a question?

25 SENATOR NOZZOLIO: I have, Mr.

1 President, no desire to yield to Senator Gold on
2 this matter.

3 ACTING PRESIDENT KUHL: The
4 Senator refuses to yield, Senator Gold.

5 SENATOR NOZZOLIO: Senator
6 Dollinger has not done his homework, purely and
7 simply, and has tried to use the parliamentary
8 machinations to present a measure before us -

9 SENATOR LEICHTER: Mr. President.

10 SENATOR NOZZOLIO: -- that has no
11 legitimacy presented.

12 SENATOR LEICHTER: Mr. President.

13 SENATOR NOZZOLIO: -- under -
14 Mr. President, if I may continue my comments. I
15 wish not to yield.

16 ACTING PRESIDENT KUHL: Excuse me
17 just a minute.

18 SENATOR LEICHTER: Mr. President,
19 I realize -

20 ACTING PRESIDENT KUHL: Senator,
21 why do you rise?

22 SENATOR LEICHTER: I realize
23 Senator Nozzolio is talking very loudly and you
24 obviously had trouble in hearing me, but I did
25 seek the floor on a point of order, Mr.

1 President. I wanted to know whether we are now
2 debating the merits of Senator Dollinger's
3 amendment or we're debating the issue of a
4 ruling of the Chair.

5 ACTING PRESIDENT KUHL: We're
6 debating the issue of the ruling of the Chair at
7 this moment.

8 SENATOR LEICHTER: May I suggest
9 then, Senator -

10 ACTING PRESIDENT KUHL: Yes.

11 SENATOR LEICHTER: -- I mean, Mr.
12 President, that Senator Nozzolio is out of order
13 since he's clearly addressing the merits of
14 Senator Dollinger's amendment.

15 ACTING PRESIDENT KUHL: Well,
16 Senator Leichter, I was having a hard time
17 trying to gauge in or cue in your conversation
18 because you were interpreting him and he wasn't
19 able to complete his thoughts. So I wasn't sure
20 whether he was leading to the appeal of the
21 ruling of the Chair or what. I would so prefer
22 to let Senator Nozzolio at least complete his
23 thought, until I find if, in fact, you have
24 objections not relevant, you can raise the issue
25 then.

1 SENATOR LEICHTER: But, Mr.
2 President, I'm delighted that Senator Nozzolio
3 had a thought but I don't think that's really
4 the issue. I believe under our rules if a
5 member gets up, he is entitled or she is
6 entitled to be recognized. I don't think that
7 we have to wait until some member finishes his
8 or her thought.

9 ACTING PRESIDENT KUHL: Senator
10 Leichter.

11 SENATOR LEICHTER: Unless I'm
12 wrong on that.

13 ACTING PRESIDENT KUHL: Senator
14 Leichter, I think that's up to the discretion of
15 the Chair as to when to intercede and recognize
16 a person or not and certainly without some sort
17 of orchestration and some organization and some
18 control, there would be chaos, which it appears
19 by your jumping up on the heels of Senator Gold
20 without even Senator Nozzolio having a chance to
21 think, that that may be the purpose behind your
22 standing.

23 So the Chair now gives the floor
24 back to Senator Nozzolio and I would ask you for
25 the common sense and decency of maintaining some

1 kind of control of this chamber that you would
2 just sit down and wait your turn, sir.

3 Senator Nozzolio.

4 SENATOR LEICHTER: Have you ruled
5 on my point of order, Mr. President? Excuse me,
6 Mr. President. I suggested that Senator
7 Nozzolio -- and I certainly don't want to
8 prevent him from thinking as you suggest but,
9 Mr. President, I made a point of order
10 suggesting that Senator Nozzolio was out of
11 order based on your ruling that we're not
12 discussing the merits of Senator Dollinger's -

13 ACTING PRESIDENT KUHL: Your
14 point is not well taken, Senator.

15 SENATOR LEICHTER: Not well
16 taken.

17 ACTING PRESIDENT KUHL: Not well
18 taken.

19 SENATOR NOZZOLIO: Thank you, Mr.
20 President.

21 If I may conclude. This measure
22 -- this amendment is not germane for the
23 reasons I suggested and I wish that this house,
24 when Senator Dollinger characterizes this
25 amendment as being requested from appropriate

1 representatives in Monroe, that the record is
2 set straight, that the legislature has not
3 spoken from the county of Monroe on this issue,
4 nor has the county executive.

5 Thank you, Mr. President.

6 ACTING PRESIDENT KUHL: The Chair
7 recognizes Senator Dollinger.

8 SENATOR DOLLINGER: Would Senator
9 Nozzolio yield to a question?

10 ACTING PRESIDENT KUHL: Senator
11 Nozzolio, do you yield to a question from
12 Senator Dollinger?

13 SENATOR NOZZOLIO: From the
14 sponsor, yes, Mr. President.

15 ACTING PRESIDENT KUHL: The
16 Senator yields.

17 SENATOR DOLLINGER: Is it your
18 position, Senator -- through you, Mr.
19 President. Is it your position, Senator
20 Nozzolio, that in order to create a judgeship,
21 that we are going to pay for entirely with our
22 tax dollars, that we need a local home rule
23 message from a county executive and a county
24 legislature in which that county occurs? Is
25 that your opinion? Is that the rule of this

1 house, as you understand it?

2 SENATOR NOZZOLIO: As I
3 understand it, Senator Dollinger, the cost of
4 the judgeship may be borne totally by the New
5 York State taxpayers. However, there are many
6 other costs entailed in running a Family Court
7 judge, additional court attendants, additional
8 office space, additional other support that's
9 necessary for that judge and that support is
10 paid for by the taxpayers of Monroe, just as the
11 bill before us, that additional support would be
12 paid for by the appropriate counties impacted by
13 Senator Stafford's bill. The county legislature
14 needs to address -- if we're talking about
15 judicial adds, Senator, I would think that at
16 the very least you should follow the proper
17 procedure of getting the support of the county
18 legislature because they are going to have to
19 bear additional costs as a result of this
20 measure -- of your amendment.

21 SENATOR DOLLINGER: Just so I
22 understand, Mr. President, if Senator Nozzolio
23 would yield to another question.

24 ACTING PRESIDENT KUHL: Senator
25 Nozzolio, do you yield to another question? The

1 Senator yields.

2 SENATOR DOLLINGER: Do you
3 understand the rules of this house to require a
4 home rule message before we create this
5 judgeship?

6 SENATOR NOZZOLIO: I didn't
7 suggest, Senator, that a home rule message was
8 necessary. That -- I never said that. I only
9 said Senator Stafford did his homework, that I
10 wish that you, in presenting this amendment,
11 would also do your homework.

12 SENATOR DOLLINGER: Let me just
13 ask one final question, Mr. President.

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

16 SENATOR DOLLINGER: Senator
17 Nozzolio, do you support the -

18 ACTING PRESIDENT KUHL: Senator
19 Dollinger -- Senator Dollinger.

20 SENATOR DOLLINGER: Excuse me.

21 ACTING PRESIDENT KUHL: Just let
22 me find out if the Senator continues to yield
23 first.

24 SENATOR NOZZOLIO: Yes, Mr.
25 President.

1 ACTING PRESIDENT KUHL: The
2 Senator yields.

3 SENATOR DOLLINGER: Senator
4 Nozzolio, in your position as a member of the
5 state Senate, do you support the creation of a
6 sixth judge in the Family Court in Monroe
7 County? Do you do it?

8 SENATOR NOZZOLIO: Not at this
9 time, Senator. That is an issue -

10 SENATOR DOLLINGER: No final
11 questions, Mr. President.

12 SENATOR NOZZOLIO: If I may
13 finish my answer, Senator.

14 SENATOR DOLLINGER: That's fine.

15 SENATOR NOZZOLIO: Senator, I am
16 waiting for appropriate guidance from the county
17 of Monroe, from the duly elected representatives
18 at the county legislative level, as well as the
19 county executive, to decide the appropriateness
20 of this issue and to bring it before us as is, I
21 believe, the proper procedure.

22 SENATOR DOLLINGER: On the issue
23 of germaneness, Mr. President.

24 ACTING PRESIDENT KUHL: Senator
25 Dollinger.

1 SENATOR DOLLINGER: I expressed
2 my concern about the germaneness issue. I
3 appreciate the update. I sometimes wish, I
4 guess, that consistent with Senator Paterson's
5 argument, maybe we could add a Family Court
6 judge in Jefferson and Madison County and we
7 would cover all the Presidents and we could do
8 it that way but, frankly, your Honor, I reject
9 the notion that we haven't done our homework on
10 this motion.

11 I filed this amendment when I
12 became aware of Senator Stafford putting the
13 amendment in for Clinton County. His
14 justification for Clinton County is exactly the
15 same justification for Monroe County. It's been
16 on the table and talked about in Monroe County
17 for the better part of the decade. One reason
18 why it isn't done is because this chamber hasn't
19 been willing to do it. Here is the chance for
20 this chamber to stand up and say let's overrule
21 the decision of the Chairman -- of the President
22 of the issue of germaneness. Let's put the
23 amendment before and let's analyze the
24 objectives that this amendment seeks to achieve
25 and why this would be a good thing for the

1 people of the state of New York.

2 ACTING PRESIDENT KUHL: Senator
3 Dollinger.

4 SENATOR DOLLINGER: My
5 understanding is -

6 ACTING PRESIDENT KUHL: Excuse me
7 just a minute.

8 Senator Nozzolio, why do you
9 rise?

10 SENATOR NOZZOLIO: Mr. President,
11 would Senator Dollinger yield?

12 ACTING PRESIDENT KUHL: Senator
13 Dollinger, do you yield to a question from
14 Senator Nozzolio?

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

17 ACTING PRESIDENT KUHL: The
18 Senator yields.

19 SENATOR DOLLINGER: I'm willing
20 to yield most all of the time.

21 SENATOR NOZZOLIO: Thank you, Mr.
22 President.

23 Senator, do you have in your
24 records a resolution passed by the Monroe County
25 Legislature requesting this judgeship?

1 SENATOR DOLLINGER: I don't, but
2 I have the authority, the same authority that
3 Senator Stafford does, that OCA believes that
4 this job is necessary. This job has been talked
5 about in the Family Court judges. I've got a
6 letter from every single member of the Family
7 Court suggesting that this job is necessary. I
8 think that I was given the responsibility by the
9 people that live in my district to appropriate
10 state monies where they are needed to pay for
11 judicial appointments. This is one.

12 SENATOR NOZZOLIO: Mr. President.

13 SENATOR DOLLINGER: I agree with
14 Senator Stafford. This is entirely appropriate
15 that we create one in Clinton County. This is
16 my vehicle to create one in Monroe County, part
17 of which I know, Senator Nozzolio, you
18 represent. So that the people in Webster, just
19 like the people in Brighton and Greece, can get
20 the same kind of Family Court attention that
21 they need. That's what this amendment is all
22 about. We have the authority to do it. We
23 don't need a family -- we don't need a home rule
24 message from the county of Monroe in order to do
25 it. We can do it ourselves. That's what the

1 people elected us to do, to find out what the
2 need was, to address the need and to spend the
3 peoples' money if -- in our judgment which
4 should be spent there. We've got that
5 opportunity now. Overrule the Chair and we'll
6 have a debate about it. It's that simple.

7 ACTING PRESIDENT KUHL: Senator
8 Nozzolio, why do you rise?

9 SENATOR NOZZOLIO: Will Senator
10 Dollinger continue to yield?

11 ACTING PRESIDENT KUHL: Senator
12 Dollinger, do you yield?

13 SENATOR DOLLINGER: I will, Mr.
14 President.

15 ACTING PRESIDENT KUHL: The
16 Senator yields.

17 SENATOR NOZZOLIO: Senator, the
18 sum and substance of your amendment, as I see
19 it, does not reimburse the county of Monroe for
20 any additional costs that may be incurred as a
21 result of the creation of this judgeship.

22 Senator, I think it's in error
23 for you to say that the state is picking up the
24 total cost to Monroe County to afford this new
25 additional Family Court judgeship as sponsored

1 by your amendment.

2 My question to you is how can
3 your amendment -- how can you say that your
4 amendment picks up the total cost of this
5 judgeship when it, in fact, does not?

6 SENATOR DOLLINGER: Mr.
7 President, through you, to respond. All of the
8 personnel that would be hired with the Family
9 Court judge are all paid for by the state of New
10 York. They're employees of the Office of Court
11 Administration. The judge is paid. His
12 secretary is paid by us. The court personnel
13 are all paid by us. They're all state
14 employees. They're not county employees. The
15 only cost to the county -- the only possible
16 cost to the county would be a facility's cost to
17 find a courtroom. They've got a building
18 there. They're building a new Family Court
19 right next door. They're building a courtroom
20 in anticipation of another judge and all we have
21 to do is create the judgeship and we'll fill it
22 and they've got the courtroom ready to go.

23 The county, in its planning, my
24 understanding is, has already anticipated that
25 there will some day be a sixth Family Court

1 judge. They've already built the cost in. All
2 we have to agree to do -- and this is where
3 Senator Stafford -- our costs may be slightly
4 higher in Monroe County but when we cost out
5 this, the total cost to the state of New York
6 for benefits, for salaries, for staff is about
7 \$425,000 a year.

8 My request is if we overrule the
9 ruling of the Chair in this instance, we can
10 allocate \$425,000 for the people of Clinton
11 County who need a Family Court judge and we can
12 take \$425,000 for the people of Monroe County
13 who have been waiting for a decade to get a
14 Family Court judge.

15 I know Senator Lack has been
16 dealing with this issue. He knows it's on the
17 OCA list. Here's our chance to create it.
18 Let's stop the politics and let's just get down
19 to business. This has been talked about in
20 Monroe County for a decade. This is the only
21 tool that I can find to bring it to the floor.
22 I can't get it out of committee. I understand
23 why I can't. It's my only opportunity to put it
24 on the floor.

25 The Chairman now rules it out of

1 order even though under my view of the
2 definition of "germaneness", there is nothing
3 that is germane any more unless I pick apart the
4 specific language of this amendment.

5 I regret those are our rules, Mr.
6 Chairman, but I've got to play by them. I'm
7 simply playing by your rules.

8 ACTING PRESIDENT KUHL: Senator
9 Stafford, why do you rise?

10 SENATOR STAFFORD: Mr. President,
11 to discuss your ruling.

12 ACTING PRESIDENT KUHL: Senator
13 Stafford, on the appeal of the ruling of the
14 Chair.

15 SENATOR STAFFORD: I think a
16 great deal of you, Senator Dollinger. I
17 mentioned the other day we're friends. We're
18 going to remain friends. I don't think I would
19 be doing my job, though, if I didn't share this
20 with you today.

21 Everybody does their job
22 differently here. I compliment you for
23 whatever, but I also want to share this with
24 you. I think it's understood and I think we all
25 realize and whether it's tradition or whatever,

1 I think what Senator Nozzolio, the point he
2 raised -- and I think I should say this, that
3 obviously the local government should pass a
4 resolution supporting this. I don't want to
5 interrupt you. Go ahead. Finish and then I'll
6 finish speaking.

7 I think that to introduce an
8 amendment to a bill that has been requested by
9 the county -- I had various words I was going to
10 use that I'm not because I think it would be
11 better not to, but I think, yes, let's take the
12 politics out of it. I can argue that it is not
13 being taken out of it by the way you are doing,
14 but I would be less than candid, Mr. President,
15 if I didn't say that no matter what we do in
16 this chamber, we have to have some sensitivity
17 and this goes to exactly what you're going to be
18 ruling on and we all know, as Senator Skelos so
19 -- pointed out so well, that this piece of
20 legislation that's been requested by the local
21 government that Senator Nozzolio has pointed
22 out, is something -- yes, it is on the OCA list
23 but together with the OCA, we always do look to
24 the local governments.

25 I could argue, Mr. President,

1 that this is something that is less than what
2 should be done in this house and the reason I'm
3 not going to say any more is because I don't
4 think Senator Dollinger intends it to be taken
5 the way it can be taken when you're in my
6 position here, but I'd leave it at that, Mr.
7 President, that we support your ruling and I
8 think we should get on with it.

9 ACTING PRESIDENT KUHL: Senator
10 Paterson.

11 SENATOR PATERSON: Mr. President,
12 when we opened session today, there were a
13 number of amendments offered up from the floor
14 to pieces of legislation and having taken a look
15 at some of those amendments, what some of those
16 amendments did was actually to expand the
17 jurisdiction of the legislation from one area to
18 another. That's exactly what Senator Dollinger
19 did later on.

20 Now, there's no prerequisite that
21 Senator Dollinger get any home rule message or
22 home rule approval from his particular area
23 since by the nature of his representation, he's
24 entitled to introduce the legislation. So since
25 you were kind enough and gracious enough to

1 listen to an appeal of a ruling that you already
2 made, obviously you were inviting those of us
3 who are members of the Senate to give
4 information that would perhaps persuade you that
5 your original ruling might be better served by
6 another ruling.

7 Senator Nozzolio, with all due
8 respect, never debated the issue of
9 germaneness. He debated the amendment. So if
10 all else is lost, we've debated the amendment
11 here today. He never discussed one issue that
12 related to germaneness. He just didn't like the
13 bill, which he would be invited to vote against
14 the amendment.

15 Senator Stafford's point was more
16 relative to the issue of germaneness but where I
17 respectfully disagree with Senator Stafford, who
18 has been here for a much longer time and has a
19 much greater understanding of this chamber and
20 its workings than I, is just my assertion that
21 the issue of germaneness is not one that relates
22 to many of the legislative issues that we debate
23 every day.

24 If Senator Dollinger got up and
25 offered an amendment to this legislation that

1 called for -- let me think of something -- like
2 a ban of assault weapons or something, if he did
3 that, that would not be germane under the new
4 rules of -- that we adopted in 1995 through
5 Majority Leader Senator Bruno, but since what
6 the Senator was introducing was an amendment to
7 a piece of legislation which calls for the exact
8 same action and is buttressed by the same type
9 of research, it was, in my opinion, within the
10 threshold of what would be considered
11 germaneness and exactly the same thing that the
12 Chair accepted earlier in this session when it
13 accepted a variety of amendments from
14 legislators that wanted to expand the
15 jurisdiction of the legislation.

16 So with all due respect, Mr.
17 President, I would ask you to reconsider your
18 previous ruling.

19 ACTING PRESIDENT KUHL: Does
20 Senator Dollinger wish to be heard further?

21 SENATOR DOLLINGER: On the issue
22 of germaneness, Mr. President. I appreciate the
23 words of Senator Stafford in his restraint. He
24 has a long tenure in this chamber and one that I
25 respect but, quite frankly, I don't write the

1 rules. In fact, I think every year I vote
2 against the rules when we do the rules and all I
3 can do, Senator, as a member of the Minority -
4 my bills don't come out of the committee. I've
5 carried the bill for a sixth Family Court
6 judge. I swear if I changed my party
7 affiliation, there would probably be a Family
8 Court judge in 20 minutes in Monroe County. I
9 won't change my party registration to do that.
10 I don't think that's any way to do the business
11 of government.

12 So I sit here on the Minority
13 side. I don't write the rules. I don't
14 interpret the rules. I don't have the votes to
15 overturn the interpretation of the rules but
16 when I look at a rule like germaneness and I
17 look at the needs of my community as the people
18 elected me to determine them, I try to do
19 whatever I can.

20 I apologize, Senator Stafford, if
21 that seems like too aggressive. I apologize if
22 that seems like it's not in the tradition of
23 this house but, unfortunately, not one of my 60
24 colleagues votes for me. 300,000 people do.
25 They sent me here to do a job and sometimes

1 doing that job means that I'm going to disagree
2 sharply with you, Senator Stafford. I may
3 disagree sharply with Senator Nozzolio. I may
4 disagree sharply with anyone, but I look at that
5 as my job in coming here.

6 I'm proud to be here. I'm proud
7 to stand up and ask that this ruling of the
8 Chair be overturned because I believe that a
9 Family Court judge in Monroe County is germane
10 to the creation of a Family Court judge in
11 Clinton County and more importantly, it's the
12 right thing to do for the people in both
13 counties. That's what the business of
14 government ought to be about. It shouldn't be
15 about silly parliamentary rules. I understand
16 why they're necessary, why a chamber can't run
17 without rules but sometimes we've got to sweep
18 away all the rules to do the right thing.
19 That's all I'm trying to do.

20 ACTING PRESIDENT KUHL: The
21 question is on the appeal of the ruling of the
22 Chair. A vote in the affirmative is a vote to
23 overturn the ruling of the Chair as to
24 germaneness. A vote in the negative is a vote
25 to sustain the ruling of the Chair.

1 The Secretary will call the
2 roll.

3 SENATOR SKELOS: Party vote in
4 the negative.

5 SENATOR PATERSON: Slow roll
6 call.

7 ACTING PRESIDENT KUHL: Are there
8 five Senators in the chamber requesting a slow
9 roll call? I see five standing.

10 The Secretary will call the roll
11 slowly. Ring the bells.

12 THE SECRETARY: Senator Abate.

13 SENATOR ABATE: Yes.

14 THE SECRETARY: Senator Alesi.

15 SENATOR ALESI: No.

16 THE SECRETARY: Senator Breslin.

17 SENATOR BRESLIN: Yes.

18 THE SECRETARY: Senator Bruno.

19 SENATOR SKELOS: No.

20 THE SECRETARY: Senator Connor.

21 (There was no audible response.)

22 THE SECRETARY: Aye.

23 Senator Cook.

24 (There was no response.)

25 Senator DeFrancisco.

1 SENATOR DeFRANCISCO: No.

2 THE SECRETARY: Senator

3 Dollinger.

4 SENATOR DOLLINGER: Yes.

5 THE SECRETARY: Senator Farley.

6 SENATOR FARLEY: No.

7 THE SECRETARY: Senator Gentile.

8 SENATOR GENTILE: Yes.

9 THE SECRETARY: Senator Gold.

10 SENATOR GOLD: Mr. President.

11 ACTING PRESIDENT KUHL: Senator

12 Gold to explain his vote in two minutes.

13 SENATOR GOLD: Thank you, Mr.

14 President.

15 Does the "Thank you, Mr.

16 President" come off the two minutes? Yeah.

17 Mr. President, I think that it's

18 unfortunate that we have these situations,

19 except I find something interesting.

20 For years we've made points on

21 this floor and I read the newspapers and it

22 seems to be above the heads of most people that

23 write for the papers except that we maybe are

24 getting a new crop because all of -- I didn't

25 say "crook". I said "crop" -- because all of a

1 sudden I start to see some of this creeping into
2 the newspapers. Now, I'm telling my very
3 distinguished Republican colleagues, the press
4 is starting to understand.

5 Now, Senator Nozzolio spoke about
6 procedures but what I get out of it is that
7 Senator Nozzolio believes that there is not the
8 need for a Family Court judge in Monroe County.
9 Now, he may or may not be right. He has the
10 right to have that opinion and I respect it, but
11 the press is starting to understand that the
12 procedural business is just -

13 SENATOR SKELOS: Excuse me,
14 Senator Gold. Could we have some order, please.

15 ACTING PRESIDENT KUHL: Your
16 point is very well taken, Senator Skelos.

17 SENATOR GOLD: This isn't out of
18 my two minutes.

19 ACTING PRESIDENT KUHL: You're on
20 pause, today's world. Can we take the
21 conversations out of the chamber.

22 Senator Larkin, Senator Cook,
23 Senator Dollinger, shhh! Senator Nozzolio. Just
24 please take your chairs. Senator Lack.

25 Senator Gold.

1 SENATOR GOLD: Thank you.

2 ACTING PRESIDENT KUHL: You have
3 three seconds left.

4 SENATOR GOLD: How much? So, Mr.
5 President -- as I was saying, Mr. President,
6 everything is procedure. Procedure gets things
7 to the floor. Procedures are how we operate.
8 So offering an amendment is as legitimate as
9 anything else. If Senator Nozzolio is opposed
10 to the judgeship, I respect that. I think his
11 constituents will give that whatever value it
12 is.

13 I believe that since we are
14 dealing in this fantasy land -- because I will
15 remind you that I vote against judgeships unless
16 they come through the Office of Court
17 Administration and unless they are funded
18 because I think it is a fraud on the public if
19 we put these things out there and they're only
20 one-house situations, but I will support the
21 fact that the Chair, while being a much better
22 putter than I am and much better out of sand
23 traps than I am, is wrong on this issue.

24 So on the issue before us, I will
25 vote yes.

1 ACTING PRESIDENT KUHL: Senator
2 Gold will be recorded in the affirmative.
3 Continue to call the slow roll call.
4 THE SECRETARY: Senator Gonzalez.
5 (There was no response.)
6 Senator Goodman.
7 SENATOR GOODMAN: No.
8 THE SECRETARY: Senator Hannon.
9 SENATOR HANNON: No.
10 THE SECRETARY: Senator Hoffmann,
11 excused.
12 Senator Holland.
13 SENATOR HOLLAND: No.
14 THE SECRETARY: Senator Johnson.
15 SENATOR JOHNSON: No.
16 THE SECRETARY: Senator Kruger.
17 (There was no response.)
18 Senator Kuhl.
19 SENATOR KUHL: No.
20 THE SECRETARY: Senator Lachman.
21 SENATOR LACHMAN: Yes.
22 THE SECRETARY: Senator Lack.
23 SENATOR LACK: No.
24 THE SECRETARY: Senator Larkin.
25 SENATOR LARKIN: No.

1 THE SECRETARY: Senator LaValle.

2 SENATOR LAVALLE: No.

3 THE SECRETARY: Senator Leibell.

4 SENATOR LEIBELL: No.

5 THE SECRETARY: Senator Leichter.

6 SENATOR LEICHTER: Mr. President,
7 to explain my vote.

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

10 SENATOR LEICHTER: It's important
11 that issues affecting people in this state,
12 counties, have an opportunity to come to this
13 floor. You bottle up the bills and now you
14 interpret the rules in such a twisted manner
15 that you make it impossible to bring matters
16 that are important to this state to the floor.

17 Mr. President, you would be the
18 last person I would accuse of partisanship, but
19 I question and I have to ask you, that when you
20 take that chair, there's got to be a certain
21 impartiality, and I certainly hope that nothing
22 will be done that whoever is up there, whether
23 it's the Lieutenant Governor or somebody who
24 takes her place, that debases the chair by
25 making blatantly partisan rulings.

1 Take a look at the rules. The
2 rules say that "no amendments shall be allowed
3 to any bill which is not germane to the original
4 object or purpose." What could be more germane
5 than in the bill creating a judgeship in one
6 county to have an amendment which creates a
7 judgeship in another? I'm afraid what we're
8 seeing here -- and I want to say, you know,
9 there's a certain jocular quality to this and we
10 are all old friends, but there are some
11 important principles and the important principle
12 is democracy, which I realize is of a very
13 scarce quality in this house, but I think to
14 shut off debate in this fashion -- and, Mr.
15 President, it almost seems that maybe you're
16 following a precedent that any Dollinger
17 amendment is not germane. I would ask you to
18 give a more considerate attention to the rules
19 of this house than you have.

20 I vote yes.

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

23 Continue to call the slow roll
24 call.

25 THE SECRETARY: Senator Levy.

1 SENATOR LEVY: No.
2 THE SECRETARY: Senator Libous.
3 SENATOR LIBOUS: No.
4 THE SECRETARY: Senator Maltese.
5 (There was no response.)
6 Senator Marcellino.
7 (There was no response.)
8 Senator Marchi.
9 SENATOR MARCHI: No.
10 THE SECRETARY: Senator
11 Markowitz.
12 (Affirmative indication)
13 THE SECRETARY: Senator Maziarz.
14 (There was no response.)
15 Senator Meier.
16 SENATOR MEIER: No.
17 THE SECRETARY: Senator Mendez.
18 SENATOR MENDEZ: Yes.
19 THE SECRETARY: Senator
20 Montgomery.
21 SENATOR MONTGOMERY: Yes.
22 THE SECRETARY: Senator Nanula.
23 SENATOR NANULA: Yes.
24 THE SECRETARY: Senator Nozzolio.
25 SENATOR NOZZOLIO: No.

1 THE SECRETARY: Senator Onorato.
2 SENATOR ONORATO: Yes.
3 THE SECRETARY: Senator
4 Oppenheimer.
5 (There was no response.)
6 Senator Padavan.
7 (There was no response.)
8 Senator Paterson.
9 SENATOR PATERSON: Yes.
10 THE SECRETARY: Senator Present.
11 SENATOR PRESENT: No.
12 THE SECRETARY: Senator Rath.
13 SENATOR RATH: No.
14 THE SECRETARY: Senator Rosado.
15 (There was no response.)
16 Senator Saland.
17 (There was no response.)
18 Senator Sampson.
19 (There was no response.)
20 Senator Santiago.
21 SENATOR SANTIAGO: Yes.
22 THE SECRETARY: Senator Seabrook.
23 SENATOR SEABROOK: Yes.
24 THE SECRETARY: Senator Seward.
25 SENATOR SEWARD: No.

1 THE SECRETARY: Senator Skelos.
2 SENATOR SKELOS: No.
3 THE SECRETARY: Senator Smith.
4 SENATOR SMITH: Yes.
5 THE SECRETARY: Senator Spano.
6 SENATOR SPANO: No.
7 THE SECRETARY: Senator
8 Stachowski.
9 SENATOR STACHOWSKI: Yes.
10 THE SECRETARY: Senator Stafford.
11 SENATOR STAFFORD: No.
12 THE SECRETARY: Senator Stavisky.
13 SENATOR STAVISKY: Aye.
14 THE SECRETARY: Senator Trunzo.
15 SENATOR TRUNZO: No.
16 THE SECRETARY: Senator Tully.
17 SENATOR TULLY: Nope.
18 THE SECRETARY: Senator Velella.
19 (There was no response.)
20 Senator Volker.
21 SENATOR VOLKER: No.
22 THE SECRETARY: Senator Waldon.
23 (There was no audible response.)
24 THE SECRETARY: Senator Wright.
25 SENATOR WRIGHT: No.

1 ACTING PRESIDENT KUHL: Call the
2 absentees.
3 THE SECRETARY: Senator Cook.
4 SENATOR COOK: No.
5 THE SECRETARY: Senator Gonzalez.
6 (There was no response.)
7 Senator Kruger.
8 (There was no response.)
9 Senator Maltese.
10 (There was no response.)
11 Senator Marcellino.
12 SENATOR MARCELLINO: No.
13 THE SECRETARY: Senator Gonzalez.
14 SENATOR GONZALEZ: Yes.
15 THE SECRETARY: Senator Maziarz.
16 (There was no response.)
17 Senator Oppenheimer.
18 (There was no response.)
19 Senator Padavan.
20 (There was no response.)
21 Senator Rosado.
22 SENATOR ROSADO: Yes.
23 THE SECRETARY: Senator Saland.
24 SENATOR SALAND: No.
25 THE SECRETARY: Senator Sampson.

1 (There was no response.)

2 Senator Velella.

3 (There was no response.)

4 ACTING PRESIDENT KUHL: Announce
5 the results.

6 THE SECRETARY: Ayes 22, nays 31.

7 ACTING PRESIDENT KUHL: The
8 appeal of the ruling of the Chair is lost and
9 the ruling of the Chair is sustained.

10 SENATOR STAFFORD: Last section,
11 please.

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

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

16 ACTING PRESIDENT KUHL: Call the
17 roll.

18 THE SECRETARY: Ayes -

19 SENATOR DOLLINGER: Mr.
20 President, to explain my vote.

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

23 SENATOR DOLLINGER: Mr.
24 President, my temptation would be to vote no on
25 this as a form of protest, but I'm not going to

1 do that because I believe that Senator Stafford
2 has established a case for the creation of a
3 judgeship in Clinton County.

4 What I'm disappointed at is that
5 having established the same case for Monroe
6 County, the people that I represent won't get
7 one as a result of the shenanigans in today's
8 debate.

9 ACTING PRESIDENT KUHL: Senator
10 Dollinger will be recorded in the affirmative.
11 Announce the results.

12 THE SECRETARY: Ayes 59, nays 1,
13 Senator Gold recorded in the negative.

14 ACTING PRESIDENT KUHL: The bill
15 is passed.

16 The Secretary will continue to
17 call the regular order of the controversial
18 calendar.

19 THE SECRETARY: Calendar Number
20 796, by Senator Saland, Senate Print 3939, an
21 act to establish a public library district to be
22 known as Blodgett Memorial Library.

23 SENATOR PATERSON: Explanation,
24 please.

25 ACTING PRESIDENT KUHL: Senator

1 Saland, an explanation of Calendar Number 796,
2 Senate Print 3939, has been requested.

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

5 Mr. President, this is a bill
6 which has been requested by the village of
7 Fishkill and the town of Fishkill which would
8 permit the creation of the Blodgett Memorial
9 Library which would be a public library -- I'm
10 sorry -- the Blodgett Memorial Library District
11 would be a library as distinguished -

12 ACTING PRESIDENT KUHL: Excuse
13 me, Senator Saland. It's getting awful noisy
14 again, awful noisy.

15 Senator Gold, take the
16 conversations outside, please. The staff, take
17 their places.

18 Senator Saland, pardon the
19 interruption but I think it's now a little
20 quieter so they can hear the explanation.

21 SENATOR SALAND: Thank you, Mr.
22 President.

23 Again, what this bill would do
24 would be permit these two municipalities to
25 create this public library district which would

1 be defined by the boundaries of the two
2 municipalities exclusive of the city of Beacon
3 School District.

4 ACTING PRESIDENT KUHL: The
5 Secretary will read the last section -- excuse
6 me. Senator Paterson.

7 SENATOR PATERSON: Mr. President,
8 I'm sorry. I'm still a little hurt over that
9 last ruling of the Chair, but -

10 ACTING PRESIDENT KUHL: You'll
11 get over it, Senator.

12 SENATOR PATERSON: Thank you. I
13 always do.

14 If Senator Saland would yield for
15 a question.

16 ACTING PRESIDENT KUHL: Senator
17 Saland, do you yield to a question?

18 SENATOR SALAND: I certainly
19 would. He sounds as if he's in pain and anguish
20 and I wouldn't want to be responsible for
21 somehow or other expanding that hurt.

22 ACTING PRESIDENT KUHL: The
23 Senator yields.

24 SENATOR PATERSON: Well, I just
25 have one question, Senator, and it pertains to

1 whether or not there would be any additional tax
2 to the local counties as a result of passage of
3 this legislation.

4 SENATOR SALAND: I don't believe
5 there will be any additional tax to the county.
6 What this would enable to occur would be the
7 creation of a district which would have the
8 authority to raise its funds by way of a tax as
9 would any other improvement district. I would
10 not imagine there would be any great difference
11 in its budget or the types of dollars that would
12 be raised.

13 However, the people in the
14 district would first have to agree that this
15 would be appropriate to create the district and
16 then would have the ability to vote on those
17 budgets.

18 ACTING PRESIDENT KUHL: Senator
19 Paterson.

20 SENATOR PATERSON: Mr. President,
21 if Senator Stafford would continue -- I'm sorry
22 -- if Senator Saland would continue to yield.

23 Senator, in the event there is
24 not a tax, could it still be said that there
25 would be an increase in the budget that would be

1 required to execute this?

2 SENATOR SALAND: I could not say
3 that with certainty, although it certainly is a
4 possibility. Right now the library is receiving
5 funds by budget lines from each of the
6 municipalities, both the village and the town
7 and in addition raises monies privately. I'm
8 assuming it will continue to raise monies
9 privately.

10 ACTING PRESIDENT KUHL: Senator
11 Paterson.

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

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

16 SENATOR SALAND: Yes, Mr.
17 President.

18 ACTING PRESIDENT KUHL: Senator
19 Paterson, any further questions?

20 (There was no response.)

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

23 THE SECRETARY: Section -

24 ACTING PRESIDENT KUHL: Senator
25 Dollinger.

1 SENATOR DOLLINGER: Mr.
2 President, just -- I apologize. I didn't listen
3 to Senator Paterson, but if Senator Saland would
4 just yield to one question. Is there a home
5 rule message on this bill?

6 SENATOR SALAND: This bill does
7 not require a home rule message. I have
8 resolutions passed -- copies of resolutions
9 passed by each of the two municipalities
10 endorsing and supporting this bill by bill
11 number.

12 SENATOR DOLLINGER: Thank you.

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

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

17 ACTING PRESIDENT KUHL: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 60.

21 ACTING PRESIDENT KUHL: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 848, by Senator Rath, Senate Print 4852, an act
25 to amend the State Administrative Procedure Act,

1 in relation to public hearings on proposed
2 rules.

3 SENATOR GOLD: Explanation.

4 SENATOR DeFRANCISCO: Lay it
5 aside temporarily, please.

6 ACTING PRESIDENT KUHL: Lay the
7 bill aside.

8 THE SECRETARY: Calendar Number
9 860, by Senator Volker, Senate Print 4307, an
10 act to amend the Penal Law and the Criminal
11 Procedure Law, in relation to criminal
12 diversion.

13 SENATOR PATERSON: Explanation.

14 ACTING PRESIDENT KUHL: Senator
15 Volker, an explanation of Calendar Number 860
16 has been requested.

17 SENATOR VOLKER: Mr. President,
18 this is a bill that was sent to us by the
19 Attorney General's office that is a second of a
20 bill -- we did a bill last week that related to
21 possession of stolen prescription medications.
22 What this bill involves is what they call a
23 criminal diversion. It's actually the sale of
24 prescription medication or medication devices
25 and what the prime part of the bill says is that

1 the value for purposes of criminal conduct is
2 the value -- the actual value, street value of
3 the prescription rather than the discounted
4 value.

5 In other words, the -- when this
6 -- these prescriptions are stolen, they're
7 usually stolen in bulk and sold off in pieces.
8 For instance, the value of the prescription may
9 be \$100 and the person who is -- has stolen the
10 property and is selling it off sells it for \$20
11 because it's a discounted value. The result of
12 that is that the degree of larceny that's
13 involved or the degree of criminal conduct
14 that's involved is lessened by the fact that it
15 is sold for a lesser value, street value than
16 the actual value that it was when it was -- when
17 it was stolen.

18 The second part of the bill
19 involves the specific authorization for the
20 Attorney General to have enforcement
21 jurisdiction and one of the reasons for this -
22 this bill really is primarily involved in the
23 issue of Medicaid fraud and the prosecution of
24 Medicaid fraud for illegal transactions
25 involving medical prescriptions and devices.

1 Thirdly -- and I suppose this is
2 the area that has gotten some notice -- this
3 would add another section to the RICO section
4 because, whether we realize it or not, in the
5 area of Medicaid fraud, the major criminal
6 elements have moved into Medicaid fraud and
7 there are millions and millions of dollars in
8 prescriptions and prescription devices being
9 sold out on the street and on the market that
10 are costing the state of New York and various
11 individuals huge amounts of money. So this
12 would include this sort of action as criminal
13 action that would be part of the so-called
14 enterprise criminal acts or RICO acts under
15 Article 700 of the Penal Law.

16 ACTING PRESIDENT KUHL: Senator
17 Paterson.

18 SENATOR PATERSON: Thank you, Mr.
19 President.

20 If Senator Volker would yield.

21 ACTING PRESIDENT KUHL: Does
22 Senator Volker yield?

23 SENATOR VOLKER: Certainly.

24 ACTING PRESIDENT KUHL: The
25 Senator yields.

1 SENATOR PATERSON: Senator, the
2 companies that distribute a lot of these
3 prescription medications report that they are
4 losing millions of dollars as a result of this
5 theft and resale.

6 My question is, in some ways, are
7 not we as the state subsidizing the effort that
8 the companies should be making themselves in
9 fighting what is often a careless handling of
10 these medications that allows them to be
11 pilfered in the first place? Isn't it in many
12 ways allowing them to relax the standards and in
13 many ways diminish the resources that they are
14 putting forth in order to try to fight it and if
15 we were going to pass this legislation, would it
16 not be better served if we were to insist that
17 the drug companies and the companies that market
18 these products were a lot more strenuous in
19 their stand against the criminal element and in
20 many ways exacted more protections against
21 theft?

22 SENATOR VOLKER: Senator, I think
23 you're absolutely right, although I don't
24 exactly see where this legislation would do
25 that. The companies stand at the present time

1 to lose an enormous amount of money in many
2 cases, and I don't think making the penalty for
3 sale of these prescriptions and these devices, I
4 don't see where that would make the companies
5 any less diligent in attempting to make sure
6 that this sort of activity doesn't happen
7 because they're still liable in a number of
8 cases for the losses that occur when these
9 prescriptions and these prescription devices are
10 stolen or somehow fall into the hands of people
11 who sell them.

12 It just seems to me that this
13 would not at all lessen their desire to continue
14 to attempt to save themselves enormous amounts
15 of money because although the state, in some
16 cases, if these -- if this material has been
17 turned over to the state or to the individuals
18 that are involved, obviously the state could be
19 held liable but in some cases the company itself
20 could be held liable if it is previous to
21 getting to the ultimate people who are to sell
22 it on the open market.

23 ACTING PRESIDENT KUHL: Senator
24 Paterson.

25 SENATOR PATERSON: The point is

1 well taken, Senator Volker, if you would
2 continue to yield.

3 That brings me to the second part
4 of my question. There's obviously an expansion
5 in the powers vested in the Attorney General's
6 office, I guess through Article 700 of the
7 Criminal Procedure Law and at that, what we're
8 really doing, I would imagine, is the Attorney
9 General is making the argument that there's a
10 compelling state interest vis-a-vis the theft
11 and resale of these types of medications and
12 their danger to the public and so the Attorney
13 General, in a kind of broad way, probably
14 through -- including sections of the -- 63 of
15 the Executive Law, would come in at this point
16 and perhaps supervise these types of
17 prosecutions.

18 Number one, do you see this as a
19 power grab on the part of the Attorney General's
20 office and then suddenly, does this also, the
21 fact that this is included in the legislation,
22 in many ways relieve the drug company of their
23 responsibility in allowing for the continually
24 larger numbers of medications to fall into the
25 wrong hands?

1 SENATOR VOLKER: Senator Calandra
2 once said "No. No. Yes. Yes. No. No."
3 Anyways, let me just say, first of all, that the
4 Attorney General is already involved in this
5 area because a great deal of the problems that
6 are involved here are Medicaid fraud problems
7 and one of the difficulties is that local
8 prosecutors, although they are already involved
9 in prosecuting Medicaid fraud and are very
10 concerned about it because there are millions of
11 dollars in counties, state and in local money
12 that is involved, the trouble that many of the
13 prosecutors have is sometimes difficult to
14 determine the difference between Medicaid
15 prescriptions that are sold and other
16 prescriptions that are sold and the Attorney
17 General's office has the competency in their
18 prosecutorial operation to be able to determine
19 where they came from and who was involved and
20 has the expertise to do that.

21 I think it's one of the reasons
22 why the local prosecutors are more than happy in
23 this area, not always in other areas, to have
24 the Attorney General's office doing many of
25 these prosecutions because some of them are

1 across county lines and all the rest of the type
2 things and this seems to be a perfect area for
3 the Attorney General to get even more greater
4 ability to do so.

5 As far as a power grab is
6 concerned, there's a lot of money involved in
7 the conversion of prescriptions now. I think
8 there's probably enough trafficking in this
9 area, unfortunately, so that all the prosecutors
10 that wanted could get in, plus the Attorney
11 General, but I think overall in the big numbers,
12 it's important for the Attorney General to be
13 involved.

14 Once again, let me just say,
15 though, that when you talk about the drug
16 companies here, actually the prosecution of
17 these cases by the Attorney General, it seems to
18 me, would put more pressure on the drug
19 companies and the companies that are involved to
20 be more careful in dealing with these sorts of
21 things because the Attorney General's office has
22 the ability to put direct pressure on the drug
23 companies much more so than, for instance, a
24 district attorney would have.

25 SENATOR PATERSON: Thank you, Mr.

1 President.

2 ACTING PRESIDENT KUHL: Senator
3 Paterson.

4 SENATOR PATERSON: If Senator
5 Volker would yield for one last question.

6 ACTING PRESIDENT KUHL: Senator
7 Volker, do you yield for one last question?

8 SENATOR VOLKER: Why certainly.

9 ACTING PRESIDENT KUHL: The
10 Senator yields.

11 SENATOR PATERSON: Senator
12 Volker, would it be all right with you if
13 Senator Gold asked you a few questions?

14 SENATOR GOLD: Mr. President.

15 ACTING PRESIDENT KUHL: Senator
16 Gold.

17 SENATOR GOLD: Yeah. Would the
18 gentleman yield to a couple of questions?

19 ACTING PRESIDENT KUHL: Senator
20 Volker, do you yield to Senator Gold?

21 SENATOR VOLKER: Sure.

22 ACTING PRESIDENT KUHL: The
23 Senator yields.

24 SENATOR GOLD: Senator, when I -
25 first of all, on page 3 of the bill where it

1 talks about third degree, second degree and all
2 of that, that's all new classifications, am I
3 right or am I -

4 SENATOR VOLKER: Yeah, I believe
5 it is because it sets up separate classifi
6 cations for prosecution. Although some of the
7 sections, although these are new sections now,
8 they're actually second and third degree
9 sections under the old law but we're changing it
10 to apply to these new sorts of criminal
11 diversion language rather than the old larceny
12 language.

13 SENATOR GOLD: All right. Well,
14 Senator, if you would yield to one more
15 question.

16 SENATOR VOLKER: Sure.

17 SENATOR GOLD: Just so we know
18 what we're talking about, I have the memo in
19 front of me and I'm not trying to be difficult,
20 but the memo does not explain. I mean, what is
21 the difference of the third degree and the
22 second degree and first degree? What is the
23 difference, because we're voting to create this
24 and make a reference but there's nothing in the
25 bill or the memo that tells me.

1 SENATOR VOLKER: The degrees
2 relate to the value of the prescriptions sold
3 and then to multiple sales after a person has
4 been convicted of a previous criminal diversion.

5 SENATOR GOLD: All right. Mr.
6 President, if the Senator will yield to another
7 question.

8 ACTING PRESIDENT KUHL: Senator
9 Volker, do you continue to yield? The Senator
10 continues to yield.

11 SENATOR GOLD: The Senator, the
12 valuation question is a question that I think is
13 very important here. For example -

14 SENATOR VOLKER: Yes.

15 SENATOR GOLD: For example,
16 there's something called wholesale and retail.
17 If somebody is selling a prescription medication
18 and it was stolen from a manufacturer, do you
19 value it at the cost from the manufacturer and
20 if somebody stole it from a pharmacy, is it
21 valued at the cost that the pharmacist would
22 sell it on the open market, or is the loss to
23 the pharmacist what he paid the manufacturer? I
24 mean, how are these values determined?

25 SENATOR VOLKER: As I understand,

1 the value would be determined basically and, of
2 course, obviously you know that any defense
3 attorney, I suppose would be able to challenge
4 such a determination but it would be basically
5 what the product is sold at from the place where
6 it was stolen from. In other words, if it was
7 stolen from a pharmacy and the value of the
8 property would be -- on the open market would be
9 \$100, then that presumably would be the value
10 that it would be valued at as far as the larceny
11 is concerned, even though it was sold,
12 discounted out on the street for \$20, and I
13 think that's the difference.

14 SENATOR GOLD: Well, Senator, if
15 you would yield to another question.

16 SENATOR VOLKER: Sure.

17 ACTING PRESIDENT KUHL: The
18 Senator continues to yield.

19 SENATOR GOLD: And after all,
20 Senator, I have no sympathy with the people who
21 are selling illegal prescriptions. That's not
22 the issue here, but I think that you and I both
23 agree, Senator, that if we're going to clamp
24 down -- and I'm proud of you that you're trying
25 to clamp down -- at least let's have a section

1 that, you know, we don't wind up having problems
2 with in the courts.

3 If for the sake of argument,
4 Senator, somebody has something stolen from them
5 that is of a -- what should I say? It's a work
6 product of somebody. Let's say it's an artist.
7 I don't know how those valuations get done.
8 Let's say you steal something in a raw materials
9 stage. What I'm concerned about is that the
10 pharmacist may have a prescription which the
11 pharmacist will sell for \$100 but let's say it
12 costs the pharmacist \$60. The loss to the
13 pharmacist at that point is \$60. That's what
14 his loss is. His loss is not \$100, but what I'm
15 getting from you is that -- and by the way, if
16 it's stolen from the pharmacist, he paid \$60 for
17 it and it's sold on the street for \$30, I agree
18 with you that the value of the theft should not
19 be \$30. I think that's foolishness, but I don't
20 have a problem if it's \$60. I do have a problem
21 if you're going to say that the value is now
22 \$100 because it was never \$100. The guy who had
23 the loss, the pharmacist or the company who had
24 the loss is not out \$100. They're out \$60. Why
25 do we want to make that inflation and perhaps

1 open up the question of the constitutionality of
2 the statute?

3 SENATOR VOLKER: I don't think it
4 would be the constitutionality of the statute,
5 Senator. You can make that argument if you
6 want, but the plain language of the statute says
7 the value of the medication or the device is
8 what it would be if purchased lawfully, and I
9 think the argument would be that that would be
10 the value that it is -- what it would be sold on
11 the street at the time, and I think that seems
12 to be the plain language of the statute. I think
13 a defense attorney could probably argue
14 otherwise, and I suppose that would be an
15 interesting issue at some trial, but I think the
16 language of the statute does suggest what I just
17 said and I think that would be the price.

18 SENATOR GOLD: Fine. Will the
19 Senator yield to one more question?

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

22 SENATOR VOLKER: Yes.

23 ACTING PRESIDENT KUHL: The
24 Senator continues to yield.

25 SENATOR GOLD: Senator, if you

1 had, as the test, the cost to the pharmacist
2 from whoever it's stolen, nobody can argue that
3 particular valuation.

4 On the other hand, you can have
5 something that's sold at a certain cost to five
6 different pharmacies and they have different
7 pricings. They have different coverages. They
8 have different values to what these medications
9 are and that's why I'm raising the question.

10 If you are trying to find a value
11 based upon an open market which is a varying
12 open market, I think that's harder to deal with
13 than if you deal by the valuation of what the
14 individual lost out of pocket and, by the way,
15 I'm agreeing with you, Senator. You're
16 absolutely on target that the value should not
17 be what the criminal got for it, which is way
18 under value, but it seems to me that if you deal
19 with the pharmacist's costs, you have a
20 receipt. You know what the individual's loss is
21 and they're out of pocket. If you're trying to
22 deal with a market value, I think it's something
23 which opens up the statute and causes a problem.

24 For example -- let me just go one
25 step further. You're being very patient. This

1 is a long question, but let me say this. The
2 pharmacist sells the prescription for \$100
3 except if you're part of a union, you get it -
4 the cost is 95 because you pay 8 and your union
5 makes up the other, but if you're a state
6 worker, the total cost is \$90. I mean, it just
7 seems to me that it opens it up to a situation
8 where it's harder to deal with than if it was
9 the out-of-pocket cost.

10 SENATOR VOLKER: Senator, I think
11 you probably make a point. I think what -- as
12 you know, the prosecutor would have to prove
13 value and the proof of value would presumably
14 come in an affidavit by the person who intended
15 to sell the product, and I assume that that
16 person would have to truthfully say what the
17 value would be if it was sold from the pharmacy
18 itself and that would be the proof that would be
19 used. I think the defense attorney might argue
20 that he only paid \$60 for it and I guess that
21 would be a proof problem, but I think -- I think
22 this statute clearly states what the actual
23 proof needs to be. I think the prosecutor could
24 use that and get an affidavit from the person
25 and then go on from there.

1 SENATOR GOLD: Mr. President, one
2 last question.

3 ACTING PRESIDENT KUHL: Senator
4 Gold.

5 SENATOR GOLD: Senator, this is
6 the last question and I'm -

7 SENATOR VOLKER: Okay. Last
8 question.

9 SENATOR GOLD: -- I'm giving
10 Senator LaValle my word on that and I would hope
11 that -- I give you my marker. I know you don't
12 go back on a marker, right?

13 Senator, the -- I know what
14 you're saying, it's a matter of proof, but I'm
15 trying to think from the prosecutor's point of
16 view now. A prosecutor has an easy situation.
17 The medications were stolen. They're all
18 marked. They identify the source of the theft.
19 They call the pharmacist in and in front of a
20 grand jury, the pharmacist can show his
21 receipt. You've got a valuation. It seems to
22 me that the way the statute is drawn now, a
23 pharmacist at a trial, forget the grand jury
24 now, in the one case that I'm presenting to you,
25 he presents his receipt. In the case that

1 you're talking about, you hope that pharmacist
2 could have all of his records subpoenaed on the
3 basis of challenging -- and this is a valid
4 challenge -- to challenge the valuation because
5 the valuation might take the crime from one
6 level to another and, therefore, the
7 pharmacist's entire records are opened up and
8 that could be two weeks of trial while they're
9 trying to determine the value because, from the
10 point of view of the criminal, who we want to
11 get rid of anyway, it might make a difference as
12 far as the valuation and that two weeks or a
13 week or two days or whatever it is, of testimony
14 and subpoenas, is not even an issue if you had
15 one small amendment to this which said the cost
16 to the pharmacist is the real value and,
17 Senator, you and I both know that with
18 pharmaceutical markups, which are probably not
19 that big because they're not the ones that make
20 it all, the value as set forth in the receipt is
21 probably enough for the -- for the prosecution.

22 SENATOR VOLKER: Senator, I
23 appreciate your input and I certainly will talk
24 to the Attorney General about it. I strongly
25 suspect that this is probably the best language

1 they could come up with, and I think very
2 possibly hopefully this will be the language
3 that will be enacted into law.

4 Thank you.

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

7 THE SECRETARY: Section 6. This
8 act shall take effect on the first day of
9 November.

10 ACTING PRESIDENT KUHL: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 60.

14 ACTING PRESIDENT KUHL: The bill
15 is passed.

16 Senator Skelos.

17 SENATOR SKELOS: The balance of
18 the calendar will be laid aside at the request
19 of Senator Gold.

20 SENATOR GOLD: No. That's not
21 so.

22 SENATOR SKELOS: And Senator
23 Paterson.

24 SENATOR GOLD: Mr. President.

25 ACTING PRESIDENT KUHL: Senator

1 Tully -- we'll move to the general order of
2 motions and resolutions.

3 The Chair recognizes Senator
4 Tully.

5 SENATOR TULLY: Thank you, Mr.
6 President.

7 On behalf of Senator Alesi, on
8 page 21, I offer the following amendments to
9 Calendar Number 610, Senate Print Number 4060,
10 and ask that said bill retain its place on the
11 Third Reading Calendar.

12 ACTING PRESIDENT KUHL: The
13 amendments to Calendar Number 610 are received
14 and adopted. The bill will retain its place on
15 the Third Reading Calendar.

16 Senator Tully.

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

19 On behalf of Senator Trunzo, on
20 page 28, I offer the following amendments to
21 Calendar Number 742, Senate Print Number 1523-A,
22 and ask that said bill retain its place on the
23 Third Reading Calendar.

24 ACTING PRESIDENT KUHL: The
25 amendments are received and adopted. The bill

1 will retain its place on the Third Reading
2 Calendar.

3 SENATOR TULLY: On behalf of
4 Senator Maziarz, Mr. President, on page number
5 41, I offer the following amendments to Calendar
6 Number 930, Senate Print Number 4709-A, and ask
7 that said bill retain its place on the Third
8 Reading Calendar.

9 ACTING PRESIDENT KUHL: The
10 amendments to Calendar Number 930 are received
11 and adopted. The bill will retain its place on
12 the Third Reading Calendar.

13 Senator Tully.

14 SENATOR TULLY: Mr. President, on
15 behalf of Senator Alesi, I wish to call up his
16 bill, Print Number 3525, recalled from the
17 Assembly, which is now at the desk.

18 ACTING PRESIDENT KUHL: The
19 Secretary will read.

20 THE SECRETARY: Calendar Number
21 405, by Senator Alesi, Senate Print 3525, an act
22 to amend the General Business Law.

23 ACTING PRESIDENT KUHL: Senator
24 Tully.

25 SENATOR TULLY: Mr. President, I

1 now move to reconsider the vote by which this
2 bill was passed.

3 ACTING PRESIDENT KUHL: The
4 motion is to reconsider the vote by which the
5 bill passed the house.

6 The Secretary will call the roll
7 on reconsideration.

8 (The Secretary called the roll on
9 reconsideration.)

10 THE SECRETARY: Ayes 60.

11 ACTING PRESIDENT KUHL: Senator
12 Tully.

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

15 ACTING PRESIDENT KUHL: The
16 amendments are received and adopted.

17 Senator Tully.

18 SENATOR TULLY: Mr. President, on
19 behalf of Senator Lack, I wish to call up
20 Calendar 739, Assembly Print Number 1069.

21 ACTING PRESIDENT KUHL: The
22 Secretary will read.

23 THE SECRETARY: Calendar Number
24 739, by member of the Assembly Sidikman,
25 Assembly Print 1069, an act to amend the Real

1 Property Tax Law.

2 ACTING PRESIDENT KUHL: Senator
3 Tully.

4 SENATOR TULLY: Mr. President, I
5 now move to reconsider the vote by which this
6 Assembly bill was substituted for Senator Lack's
7 bill, Senate Print Number 586 on May 7th, 1997.

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

11 (The Secretary called the roll on
12 reconsideration.)

13 THE SECRETARY: Ayes 60.

14 ACTING PRESIDENT KUHL: Senator
15 Tully.

16 SENATOR TULLY: Mr. President, I
17 now move that Assembly Bill Number 1069 be
18 committed to the Committee on Rules and Senator
19 Lack's bill be restored to the order of the
20 Third Reading Calendar.

21 ACTING PRESIDENT KUHL: The
22 Assembly bill will be committed and the Senate
23 bill is restored to the calendar.

24 SENATOR TULLY: Yes, Mr.
25 President. I now offer the following

1 amendments.

2 ACTING PRESIDENT KUHL: The
3 amendments are received and adopted.

4 SENATOR SKELOS: Mr. President,
5 are there any substitutions at the desk?

6 ACTING PRESIDENT KUHL: There
7 are.

8 SENATOR SKELOS: Could you make
9 them, please.

10 ACTING PRESIDENT KUHL: The
11 Secretary will read the substitutions.

12 THE SECRETARY: On page 52,
13 Senator LaValle moves to discharge from the
14 Committee on Rules Assembly Bill Number 89-A and
15 substitute it for the identical Third Reading
16 Calendar 1058.

17 On page 5, Senator Goodman moves
18 to discharge from the Committee on Rules
19 Assembly Bill Number 1552 and substitute it for
20 the identical Third Reading Calendar 113.

21 On page 18, Senator Volker moves
22 to discharge from the Committee on Rules
23 Assembly Bill Number 4848 and substitute it for
24 the identical Third Reading Calendar 522.

25 On page 45, Senator Maltese moves

1 to discharge from the Committee on Rules
2 Assembly Bill Number 1124 and substitute it for
3 the identical Third Reading Calendar 971.

4 On page 32, Senator Leibell moves
5 to discharge from the Committee on Rules
6 Assembly Bill Number 6890 and substitute it for
7 the identical Third Reading Calendar 797.

8 On page 48, Senator Levy moves to
9 discharge from the Committee on Rules Assembly
10 Bill Number 7694 and substitute it for the
11 identical Third Reading Calendar 1010.

12 On page 49, Senator Kuhl moves to
13 discharge from the Committee on Rules Assembly
14 Bill Number 7033-A and substitute it for the
15 identical Third Reading Calendar 1023.

16 On page 50, Senator Maltese moves
17 to discharge from the Committee on Rules
18 Assembly Bill Number 5635 and substitute it for
19 the identical Third Reading Calendar 1030.

20 And on page 52, Senator Meier
21 moves to discharge from the Committee on Rules
22 Assembly Bill Number 4552 and substitute it for
23 the identical Third Reading Calendar 1057.

24 ACTING PRESIDENT KUHL: The
25 substitutions are ordered.

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Senator Skelos.

SENATOR SKELOS: Mr. President,
there being no further business, I move we
adjourn until Wednesday, May 28th, at 3:00 p.m.

ACTING PRESIDENT KUHL: Without
objection, hearing no objection, the Senate
stands adjourned until tomorrow, Wednesday, May
28, 3:00 p.m.

(Whereupon, at 6:29 p.m., the
Senate adjourned.)