ALBANY, NEW YORK

June 16, 1997

3:05 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

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

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

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

Reverend Young.

REVEREND PETER G. YOUNG: Dear God, as we gather in Your name on this beautiful mid-June afternoon, we turn to You for Your guidance and merciful understanding. We acknowledge You as our Father in heaven and we honor our fathers here on earth for their dedication to their children and family values. May we here in this Senate chamber pray that their example will instill parenting skills in all of our parents of New York State. Amen.

THE PRESIDENT: Amen.

The reading of the Journal, please.

THE SECRETARY: In Senate, Saturday, June 14th. The Senate met pursuant to

adjournment. The Journal of Friday, June 13th, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Rath.

SENATOR RATH: Madam President, I wish to call up my bill, Print Number 4852, recalled from the Assembly which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Rath, Senate Print 4852, an act to amend the State Administrative Procedure Act.

SENATOR RATH: Madam President, I now move to reconsider the vote by which the

bill was passed.

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 44.

SENATOR RATH: Madam President, would you please star the bill.

THE PRESIDENT: So ordered.

SENATOR RATH: Yes, Madam President. I would please like to have my Bill Number 1216 have a sponsor's star on it, Calendar Number 1216.

THE PRESIDENT: The bill will be starred at the sponsor's request.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Madam President. Amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Cook, on page 8, Calendar Number 224, Assembly Print Number 1476;

By Senator Alesi, page number 9, Calendar Number 265, Senate Print Number 2872-A;

By Senator LaValle, page number

13, Calendar Number 393, Senate Print Number 3200;

By Senator Levy, page number 14, Calendar Number 426, Senate Print Number 3553;

By Senator Wright, on page number 25, Calendar Number 737, Senate Print Number 4779;

By Senator Kuhl, on page number 37, Calendar Number 983, Senate Print Number 3214;

By Senator Levy, on page number 39, Calendar Number 1013, Senate Print Number 4818;

By Senator Stafford, on page 46, Calendar Number 1217, Senate Print Number 4999;

By Senator Levy, on page 47, Calendar Number 376, Senate Print Number 3481-C;

By Senator Levy, on page number 49, Calendar Number 993, Senate Print Number 4308;

By Senator Volker, on page 48, Calendar Number 702, Senate Print Number 3431-A.

THE PRESIDENT: The amendments are received.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

I wish to call up Senator DeFrancisco's bill, Print Number 479-A, which was recalled from the Assembly which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Senate Print 479-A, an act to amend the Public Health Law.

SENATOR FARLEY: Thank you.

I'll hand this over to him if he needs it.

Madam President, I now move to reconsider the vote by which this bill passed.

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 47.

SENATOR FARLEY: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received.

The Secretary has some substitutions to read.

THE SECRETARY: On page 25, Senator Lack moves to discharge from the Committee on Rules Assembly Print 1069-A and substitute it for the identical Senate bill, Third Reading 739.

On page 43, Senator Velella moves to discharge from the Committee on Rules Assembly Print 1612 and substitute it for the identical Senate bill, Third Reading 1189.

On page 43, Senator Volker moves to discharge from the Committee on Rules Assembly Print 2959 and substitute it for the identical Senate bill, Third Reading 1192.

On page 44, Senator Kuhl moves to discharge from the Committee on Rules Assembly Bill 4548 and substitute it for the identical Senate bill, Third Reading 1198.

On page 44, Senator LaValle moves to discharge from the Committee on Rules Assembly Print 5361 and substitute it for the identical Senate bill, Third Reading 2101.

On page 45, Senator Volker moves to discharge from the Committee on Rules

Assembly Print 6795-A and substitute it for the identical Senate bill, Third Reading 1212.

On page 45, Senator Trunzo moves to discharge from the Committee on Rules Assembly Print 7546-A and substitute it for the identical Senate bill, Third Reading 1213.

THE PRESIDENT: The substitutions are ordered.

Senator Skelos.

SENATOR SKELOS: May we take up the non-controversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 342, by Senator Johnson, Senate Print 2684-B, an act to amend the Insurance Law, in relation to authorizing civil penalties.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: The

bill is passed.

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 572, by Senator Marcellino, Senate Print 4130-A, an act to amend the Environmental Conservation Law, in relation to eliminating the requirement that transported or relayed shellfish are tagged.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 598, by Senator Spano, Senate Print 4218, an act to amend the Workers' Compensation Law, in relation to the uninsured -

SENATOR STACHOWSKI: Lay it

aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside, please.

THE SECRETARY: Calendar Number 618, by Senator Cook, Senate Print 2827-A, an act to create a program for the humanities within the state library.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 665, by member of the Assembly Lafayette, Assembly Print 5811, an act to amend the Real Property Tax Law, in relation to tax exemption for buildings.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 670, by Senator LaValle, Senate Print 2467-A, an act in relation to the Long Island suburban highway improvement program.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 759, by Senator Lack, Senate Print 5049-A, an act to amend the General Obligations Law, in relation to the continuity of contract.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 778, by the Assembly Committee on Rules, Assembly Print 7700, Senate Print -- Reprint 21000, an act to amend the Public Health Law, in relation to notification.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

782, by Senator Hannon, Senate Print 5042, an act to amend the Public Health Law, in relation to establishing a program to promote preventive and wellness care health care.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 799, by Senator Holland, Senate Print 4338-A, an act to amend Chapter 672 of the Laws of 1993.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 813, by Senator Alesi, Senate Print 5122-B, an act to amend the General Business Law and the Executive Law, in relation to providing for the regulation and licensing of non-bank coin processors.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 6. This act shall take effect January 1st, 1998.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 815, by Senator Libous, Senate Print 1951-A, an act to amend the County Law, in relation to establishing the Chenango County emergency communication system.

THE PRESIDENT: There is a home rule message at the desk. Read the last section, please.

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

January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 822, by Senator Libous, Senate Print 3721, an act to authorize the county of Chenango to convey certain lands.

THE PRESIDENT: Read the last section, please. There's a home rule message at the desk.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 843, by Senator Maziarz, Senate Print 2760-A, an act to amend the State Administrative Procedure Act, in relation to the priority review of existing rules.

SENATOR STACHOWSKI: Lay it aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 934, by Senator Johnson, Senate Print 1279, an act to amend the Domestic Relations Law, in relation to visitation rights to infant grandchildren.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 936, by Senator Marcellino, Senate Print 3105, an act to amend the Social Services Law, in relation to child day care.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 5. This

act shall take effect in 120 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 960, by Senator Larkin, Senate Print 470-A, an act to amend the Public Authorities Law, in relation to discount tolls for four-wheel pickup trucks and vans.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1050, by Senator Marchi, Senate Print 4085, an act to repeal Section 630 of the Business Corporation -

SENATOR STACHOWSKI: Lay it

aside.

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 1051, by Senator Padavan, Senate Print 2206, an act to amend the Education Law, in relation to the exclusion of illegal aliens.

THE PRESIDENT: Read the last section, please.

SENATOR STACHOWSKI: Lay it aside.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 1052, by Senator Skelos, Senate Print 3984, an act to amend the Education Law, in relation to mandatory continuing education.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 2. This act shall take effect January 1st.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1173, by Senator Marchi, Senate Print 3355, an act to amend the Not-for-Profit Corporation Law, in relation to granting exclusive rights to cemetery corporations.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1189, substituted earlier today by member of the Assembly Rivera, Assembly Print 1612, an act to amend Chapter 383 of the Laws of 1991.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1190, by Senator Wright, Senate Print 1417, an act to amend the Workers' Compensation Law, in relation to appeals for premium increases.

SENATOR STACHOWSKI: Lay it aside.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 1192, substituted earlier today by member of the Assembly Tonko, Assembly Print 2959, an act to amend the Public Health Law and the Penal Law.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1194, by Senator Kuhl, Senate Print 2061, an act

to amend the Real Property Tax Law, in relation to appointments.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1195, by Senator Wright, Senate Print 2167, an act to amend the Real Property Tax Law, in relation to subjects the lands within the Tug Hill region to taxation.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1196, by Senator Larkin, Senate Print 2305, an act to amend the Real Property Tax Law, in relation to certain lands in Orange County.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1197, by Senator Breslin -

SENATOR SKELOS: Lay it aside.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 1198, substituted earlier today by member of the Assembly Parment, Assembly Print 4548, an act to amend the Education Law, in relation to certain veterinarian medical services.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1199, by Senator Spano, Senate Print 3003-A, an act to amend Chapter 511 of the Laws of 1995.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1200, by Senator Padavan, Senate Print 3035, an act to amend the Real Property Law, in relation to the occupation of premises for unlawful purpose.

THE PRESIDENT: Read the last section, please.

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 1202, by Senator Maltese, Senate Print 3564, an act to amend the Penal Law, in relation to placing a false bomb.

THE PRESIDENT: Read the last section, please.

SENATOR GOLD: Lay it aside for Senator Dollinger, please.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 1204, by Senator Stafford, Senate Print 3593, an act in relation to allowing the payment of certain retirement benefits.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1205, by Senator Seward, Senate Print 3742-A, an act to amend the Judiciary Law, in relation to establishing a second County Court judgeship in the county of Cortland.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: This act shall take effect January 1st, 1998.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1207, by Senator Nozzolio, Senate Print 3835, an act to amend the Judiciary Law, in relation to the appointment of stenographers.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1208, by Senator Skelos, Senate Print 3862, an act authorizing the assessor of the county of Nassau to accept an application.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53, nays 2, Senators Cook and Dollinger recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1209, by Senator Present, Senate Print 4007, an act to amend the Penal Law, in relation to the unlawful taking of trees.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1213, substituted earlier today by the Assembly Committee on Rules, Assembly Print 7546-A, an act to amend the General Municipal Law and the Retirement and Social Security Law.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1215, by Senator DeFrancisco, Senate Print 4448, an act in relation to authorizing the county of Onondaga to lease certain park property.

THE PRESIDENT: There's a home rule message at the desk. Read the last

section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1218, by Senator Bruno, Senate Print 5260, an act in relation to the timeliness of the election of the village of Castleton-on-the Hudson to provide a retirement incentive.

THE PRESIDENT: There's a home rule message at the desk. Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1219, by Senator Larkin, Senate Print 5390, an

act to amend the General Municipal Law, in relation to making technical amendments.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: Senator Skelos, that -- the bill is passed.

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

SENATOR SKELOS: Thank you, Madam President.

If we could take up the controversial calendar at this time.

THE PRESIDENT: The Secretary will -

SENATOR GOLD: Madam President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Before you start the non-controversial calendar, I just want the record clear on one thing. I have in front of me four notice of motions to suspend the rules

by Senator Connor dealing with various bills.

One is Senate Bill Number 3281 which deals with the Emergency Housing Rent Control Law. One of them deals with Senate Bill 5493, continuation of protections provided by law relating to the control of rents and regulations, one dealing with Senate Bill 5494, again relating to the control of stabilization of rents and the last one, 5495 which, again, deals with emergency housing, and my understanding is that these notices, Madam President, were properly filed and that at some appropriate time in the calendar today, before we adjourn, these may be called up and taken up by the Minority Leader.

THE PRESIDENT: Thank you, Senator Gold.

SENATOR SKELOS: Could we have the controversial calendar, please.

THE PRESIDENT: Yes. The Secretary will read.

THE SECRETARY: Calendar Number 598, by Senator Spano, Senate Print 4218, an act to amend the Workers' Compensation Law, in relation to the Uninsured Employers' Fund.

SENATOR STACHOWSKI: Explanation.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Thank you, Madam President.

This bill transfers the responsibility for represented -- representing the Uninsured Employers' Fund to a representative outside of the Workers' Compensation Board.

The Workers' Compensation Board asked that we introduce this bill because they feel that to have an employee handling a dispute, an employee who is an employee of the Workers' Compensation Board, would place an unavoidable conflict of interest in the process.

The second part of this bill includes the Uninsured Employers' Fund to require to make -- currently in the current law there's a list of insurance companies, special disability funds, the special fund for reopened cases that would be required to make payments to a claimant in cases of a controversy and the liability. It would also add the unemployer - Uninsured Employers' Fund to that list.

THE PRESIDENT: Senator.

SENATOR STACHOWSKI: Madam President, will Senator Spano yield for a question?

SENATOR SPANO: Yes.

THE PRESIDENT: Senator Spano.

SENATOR STACHOWSKI: Senator, all this time, the other attorneys in-house have done this type of work without any conflict of interest. Why suddenly would it alleviate a conflict of interest?

SENATOR SPANO: The -- the members -- I'm not sure, Senator, if this bill -- as far as I know, I think this is a new bill given to us by the Workers' Compensation Board.

As you are aware, we have new members of the board. We have a new chairman of the Workers' Comp' Board who has been taking a look at the proceedings of the board, as well as looking at streamlining the process and feel that this is one way of making sure that the claimants are paid in a timely basis and at the same time, we avoid any type of potential conflict of interest that this board feels exists under the current statute.

Apparently the chairs of the

Workers' Compensation boards previously didn't feel that there was a conflict.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, if Senator Spano would continue to yield.

SENATOR SPANO: Yes.

SENATOR STACHOWSKI: Do we know whether this will become more costly to the system by having outside attorneys do this work or will it save money? Just so I can carry it a little bit farther with my question. It would seem to me if you're hiring outside attorneys that the fee would probably go up because I don't see people in private practice charging less of a fee than a public employee. It's just some impression I have. I may be off base.

SENATOR SPANO: We asked the representatives of the Workers' Comp' Board that question. They indicate to us that there would be no sizeable increase in any costs to the Workers' Comp' Board. As a matter of fact, they may be able to handle additional cases but at the same time, we asked the question about the

current employees who are the attorneys for the Workers' Comp' Board who are handling these cases and they indicated to me that there are other duties for them within the Comp' Board so that we would not cause those individuals to lose their jobs. I think we're talking about five attorneys of the Workers' Comp' Board that would be affected.

SENATOR STACHOWSKI: One last question.

THE PRESIDENT: Senator.

SENATOR STACHOWSKI: I know you just kind of answered what I'm going to ask, saying they would do other jobs. So wouldn't we be looking to maybe decrease their salaries since this is one less thing they have to do? I don't know that there would be any new -- they would be doing other jobs, but I don't know that it would be new work and since they're not doing the main thing they used to do, I really don't know why we would be keeping them.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Honestly, Senator, I didn't ask the question of the chairman of the Workers' Comp' Board as to

whether or not the salaries would, in fact, be decreased. We did ask about the employment of these five individuals and we're told that their employment would be protected.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 598 are Senators Connor and Mendez. Ayes 56, nays 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 843, by Senator Maziarz, Senate Print 2760-A, an act to amend the State Administrative Procedure Act, in relation to priority review of existing rules.

SENATOR STACHOWSKI: Explanation.

THE PRESIDENT: Senator Maziarz.

SENATOR MAZIARZ: Thank you, Madam President.

Madam President, this bill would

allow at least 25 small businesses to petition an agency to review existing rules which are unduly burdening such business.

If proven burdensome, such agency is authorized to suspend the application of such rule for a period of not less than three months nor more than one year and direct an agency, the agency imposing the rule, to review the regulation and decide whether it should be modified, rescinded or fully restored. Such rule has to have been in effect for at least 18 months.

So let's say that 25 small businesses in the city of Buffalo did not like a particular rule that was promulgated by an agency, Senator Stachowski, they would be able to petition to that agency for relief.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, would Senator Maziarz yield for a question?

THE PRESIDENT: Senator?

SENATOR MAZIARZ: Surely, Madam President.

SENATOR STACHOWSKI: Senator, the EPL has a two-chimney memo against this particular piece of legislation even as it is amended. For those that have voted against a couple one-chimney bills, this would be a chance to pick up a couple chimneys but other than that, they say that changes you've made are superficial and by doing this piece of legislation, that the bill would drastically undermine the process by allowing a state agency to unilaterally suspend a properly instituted rule and the effect of that suspension could very well be an expense to the general public as far as their public health and safety and the safety and public health of the environment would be concerned.

So their concern is dealing mainly in the area of environmental rules, mainly in the area that if you suspend some environmental rules because 25 businesses happen to get together because possibly it may be a costly rule but it is one that protects the health and environment of the general public, can we -- can we afford to do that at that cost for that length of time to find out whether this

rule is actually a good rule or not a good rule?

THE PRESIDENT: Senator Maziarz.

SENATOR MAZIARZ: The answer to your question, Senator Stachowski, is yes. I don't think that 3 months and 18 months is all that unreasonable.

Regarding the memorandum of opposition that you quote, I did amend the bill to take care of their first two objections, that is, they objected going to the Governor's Office of Regulatory Reform. We took that out, made it go directly to the agency that promulgated the rule. We went from two small businesses to 25.

SENATOR STACHOWSKI: On the bill.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Senator, I appreciate your explanation. I knew that that was the change that you made. Apparently it didn't satisfy the EPL. I think their major concern is in the area of public health and safety and also the protection of the environment.

Unfortunately, I know that

sometimes small businesses have undue regulations and we would like to do anything we can to help them with that but maybe there's a better way of doing this than -- that wouldn't bring up this kind of opposition, and I wish that we could work this situation out. I don't know -- I don't know if you could. I mean, I'm not sure that anything you do would satisfy the EPL in this situation but because of their opposition, I'm going to recommend that people vote against this bill.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, will the sponsor yield to one question?

THE PRESIDENT: Senator Maziarz.

SENATOR MAZIARZ: Yes, Madam President.

SENATOR DOLLINGER: Senator, if the state Legislature unanimously passed a bill that was signed into law by the Governor that said a specific regulation was to be issued and authorized and commanded the agency to issue that regulation, would your legislation

nonetheless give the Office of Regulatory Reform the ability to suspend that for up to 12 months?

SENATOR MAZIARZ: No.

THE PRESIDENT: Senator Maziarz.

SENATOR MAZIARZ: No.

SENATOR DOLLINGER: What would it do in that instance then, Senator?

SENATOR MAZIARZ: This bill doesn't cover the -- I don't know if you've read the A version of this bill or not but it takes the power -- it does not even mention the Governor's Office of Regulatory Reform. In the original print, this procedure would have gone through the Governor's Office of Regulatory Reform. Now it would go through each specific agency that the 25 businesses petitioned to.

SENATOR DOLLINGER: But under those circumstances, the agency would still have the power then to overrule the expressed will of the Legislature, expressed command of the Legislature and the Governor in conjunction.

SENATOR MAZIARZ: Yes, on a temporary basis anywhere from 3 months to 18 months.

SENATOR DOLLINGER: Again, Mr. President, on the bill.

ACTING PRESIDENT MARCELLINO: Senator Dollinger on the bill.

SENATOR DOLLINGER: I'm not sure if this Legislature and this Governor signed a bill that said to the agency "Do this" and there was a petition from a group of businesses that said that would be a very un... very burdensome to do, that nonetheless the agency could voluntarily suspend the effect of the regulation that had been commanded to be put into place by this Legislature and by the Governor. I don't know why we would ever give the agency that kind of power. Unbeknown to me.

ACTING PRESIDENT MARCELLINO: Senator Abate.

SENATOR ABATE: Yes. Would Senator Maziarz yield to a question?

ACTING PRESIDENT MARCELLINO: Senator Maziarz, do you yield to a question?

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR ABATE: I read your bill and I liken it to summary judgment. Basically without any process, a business or a number of businesses can go to the agency and say unilaterally suspend the rules. Is that, in essence, what this bill does?

SENATOR MAZIARZ: They could do it. That doesn't necessarily mean that the agency would have to do it.

SENATOR ABATE: No, but it gives the authority -

SENATOR MAZIARZ: It gives the agency the authority to do it, yes.

SENATOR ABATE: And what do the businesses have to demonstrate before the suspension is allowed? What is the burden of coming forward? What do they have to argue?

SENATOR MAZIARZ: A cost burden, for instance.

SENATOR ABATE: Do they have to allege irreparable harm or just a cost burden?

SENATOR MAZIARZ: I would say they could do both.

SENATOR ABATE: But at a minimum they have to -

SENATOR MAZIARZ: I don't know that they're required to do either one.

SENATOR ABATE: Right. Can you conceive of a situation where a business would not be in a situation to argue that the regulation doesn't have some impact -

SENATOR MAZIARZ: Not a business, Senator.

SENATOR ABATE: -- the way they do -

SENATOR MAZIARZ: Not a business, 25 businesses.

SENATOR ABATE: Or 25 businesses. Obviously you're talking about an industry, a number of businesses that share a common goal. To find 25 would not be difficult and most regulations have some economic impact on businesses. So this would cover just about every regulation conceivably. Would that be fair to say?

SENATOR MAZIARZ: Yes, yes.

SENATOR ABATE: All right. What about the public review process now that's so onerous that we have to go to what I call a summary suspension system? What's so onerous

today about the public review process?

SENATOR MAZIARZ: That remains intact, but most of that public review system is prior to the rule being implemented. The problems generally pop up after the rule has been implemented, Senator.

SENATOR ABATE: Well, Senator, educate me. Is there an ability now for a business or group of businesses that feel regulation is so onerous that the weighing of the interests, the inability for businesses to operate outweigh any good the regulation could have and -

SENATOR MAZIARZ: Generally - I'm sorry.

SENATOR ABATE: Is there a process now for a judicial review for the agency now to review that regulation?

SENATOR MAZIARZ: Generally they can call the Governor's Office of Regulatory Reform or call your office or my office, Senator.

SENATOR ABATE: So what about that system is not working? The Governor is not responding quickly enough?

SENATOR MAZIARZ: Or -- excuse me, Senator Abate.

ACTING PRESIDENT MARCELLINO: Excuse me, Senator. I'm assuming Senator Abate is still asking you to yield. Senator Maziarz, you do yield?

SENATOR MAZIARZ: Yes.

SENATOR ABATE: Yes, Mr. President. Would the Senator continue to yield?

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR MAZIARZ: I'm still answering your last question.

SENATOR ABATE: Okay.

SENATOR MAZIARZ: Or they could file for -- very expensively file for a judicial review.

SENATOR ABATE: Right. Well, what about the system that's not working that we're going to a system that could be fraught with some real risks? What about the current system that's not working? Why are we doing this?

SENATOR MAZIARZ: Why are we

doing this?

SENATOR ABATE: Yes.

SENATOR MAZIARZ: To give those small independent businesses the opportunity to have their voice heard, to have -- to give them the opportunity to change an onerous regulation, a regulation that is costing them money and perhaps even closing down their businesses.

SENATOR ABATE: Thank you, Senator.

SENATOR MAZIARZ: Thank you.

SENATOR ABATE: On the bill. We all know that there's some -

ACTING PRESIDENT MARCELLINO: Senator Abate, on the bill.

SENATOR ABATE: -- there are some regulations that were put in place a number of years ago that no longer make sense but the process that's being delineated in this bill also does not make sense because there is a procedure for businesses to complain. There should be a timely and -- whether it's through judicial or administrative review where all the parties can be heard and regulations should be reviewed and those that are onerous should

either be modified and repealed, but to suspend just because 25 businesses complain without high standards for that suspension does not represent the public interests of the state and I think makes little sense for the business community as well as the larger community of New York State. I think this bill goes too far. It's a summary suspension of rules and regulations that could affect not only environmental issues but health issues, safety issues.

If there's something wrong now with the administrative process where the agencies and the Governor are not responding timely, the procedure should be expedited, that's one thing. Let's look at how we do business differently and better but to put in place what this bill is intending to do is fraught with too many risks and will jeopardize the public interests of this state.

I, therefore, oppose this bill.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 843, Senators Abate, Breslin, Connor, Dollinger, Gold, Gonzalez, Goodman, Hannon, Hoffmann, Kruger, Leibell, Levy, Markowitz, Onorato, Oppenheimer, Paterson, Rosado, Sampson, Seabrook, Smith, Spano, Stachowski, Stavisky and Tully.

ACTING PRESIDENT MARCELLINO:

Results?

THE SECRETARY: Ayes 32, nays 28.

THE PRESIDENT: The bill is passed.

SENATOR LEICHTER: Madam President.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: Yeah. Can we have a detailed report on this? I know it was a close vote. I didn't hear my name called, other names. Can we have a detailed statement, please.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: Those recorded in the negative on Calendar Number 843, Senators Abate, Breslin, Connor, Dollinger, Gold, Gonzalez, Goodman, Hannon, Hoffmann, Kruger, Lachman, LaValle, Leibell, Leichter, Levy, Marcellino, Markowitz, Montgomery, Onorato, Oppenheimer, Paterson, Rosado, Sampson, Seabrook, Smith, Spano, Stachowski, Stavisky and Tully. Ayes -- nays 29.

Those recorded in the affirmative, Senator Alesi -

THE PRESIDENT: Senator Paterson -- excuse me, Mr. Secretary.

SENATOR PATERSON: Madam President, since we had 28 negatives in the original call and now we have 29 negatives -

THE PRESIDENT: That's correct.

SENATOR PATERSON: -- I would ask for a slow roll call because I think that would be the best way to find out what the vote actually is.

THE PRESIDENT: Is there any objection to a slow roll call?

SENATOR SKELOS: Yes, there is.

There's an objection to the slow roll call. A detailed statement was asked for. The vote was taken. If we could read the detailed statement.

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: That's the reason I'm calling for a slow roll call. We read the detailed statement. It wasn't consistent with the original vote and, therefore -

SENATOR SKELOS: Please read the detailed statement.

THE PRESIDENT: Just a moment, Senator.

Senator Paterson, I would like to explain that the reason that Senator Marcellino's vote was not originally counted is that he was in the Chair replacing me for a moment and his vote went unnoticed. So the detailed statement is now showing 29 votes in the negative.

SENATOR PATERSON: Madam President, we have a right to a slow roll call

vote. The President is in the Chair -- when you're not in the Chair, Madam President, the President in the Chair votes on every roll call we have and I'm not saying that it's anyone's fault that that happened. We're just saying we don't think the votes exist to pass this bill and, as a matter of fact, if we have a slow roll call, I guarantee you this bill won't pass because the votes aren't there. I just counted them.

THE PRESIDENT: Just a moment, please. Just one moment, Senator Paterson. I'm going to consult the rules.

SENATOR SKELOS: Would you please complete the detailed statement.

THE PRESIDENT: Order. Just a moment.

Continue the detailed statement and then we'll see if we need a slow roll call.

Senator Paterson, I have not said we can't have a slow roll call, but I would like to finish the detailed statement first.

Go ahead.

SENATOR PATERSON: Madam President, the detailed statement will show that

there were votes listed in the affirmative that we already know these votes are in the negative. So we don't have to read the detailed statement.

What we want to know is how every member of this chamber would like to vote. That's why we're having the vote on this particular vote -- on this particular bill and that's why I'm calling for a slow roll call.

SENATOR SKELOS: Madam President, it's very nice for Senator Paterson to be calling for a slow roll call but we do have certain procedures.

Senator Leichter asked for a detailed statement. If Senator Paterson would extend the courtesy to Senator Leichter, we'll complete the detailed statement. If not, we will have the results. We are on a roll call.

SENATOR LEICHTER: Madam President.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: To make it simpler, I withdraw the call for a detailed statement.

SENATOR SKELOS: Please announce

the results then.

THE PRESIDENT: No. We're not going to do that. Senator Paterson has said he's entitled to a slow roll call.

Senator Paterson, if you'll be patient just a moment, I'll have an answer for you.

According to Rule 9.1, "A Senator must be in his regular seat in order to be recorded." In light of the failure to do that, I'm calling a slow roll call on this vote.

Call the roll, please. Would every Senator who wishes to vote be in his regular seat.

SENATOR SKELOS: Madam President, I would like to appeal the ruling of the Chair. A detailed statement was read. The roll call was taken. The results are being announced. If you feel there should be a slow roll call taken, then we will appeal the ruling of the Chair.

THE PRESIDENT: Is there any reason, Senator Skelos, why you don't want an accurate vote -- accurate count on this vote?

SENATOR SKELOS: We had an accurate -

SENATOR LACK: Point of order. Thank you.

I believe there is an appeal on the floor, Madam President, not a discussion.

THE PRESIDENT: There is an appeal on the floor.

Senator Paterson, would you like to speak on this matter?

SENATOR PATERSON: Mr. President -- Madam President, I'm sorry. I was just shocked over the unfortunate display of emotion and we've asked for a -- we've asked for a slow roll call on this particular bill. We had a right to a slow roll call. There's always a right to reconsideration of the vote. We do that every day here. There was some confusion about what the results of the slow roll call were. Senator Leichter asked for a detailed statement before I -

THE PRESIDENT: Just a moment. Senator Paterson will finish speaking, Senator Skelos.

SENATOR SKELOS: Point of order.

SENATOR PATERSON: Madam President, a point of personal privilege. I

have the floor right now.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: I believe, Senator Paterson, that an appeal of the ruling -

THE PRESIDENT: Senator Paterson has the floor, Senator Skelos. Would you please wait a moment. We all have a turn to speak.

Go ahead, Senator Paterson.

SENATOR PATERSON: Madam President, I have the floor right now. I was the one that asked for a slow roll call. The issue of the detailed statement was withdrawn by Senator Leichter. He said he didn't want to hear the rest of the detailed statement.

I have asked for a slow roll call. There are five Senators standing. We didn't even reconsider this vote. We're still on the first vote and I must suggest strongly at this point, Madam President, that we go to the slow roll call and then we'll find out what the actual feeling of this body is and that will also give us the answer for why we have so much discomfort in the chamber right now.

THE PRESIDENT: Thank you,

Senator Paterson.

SENATOR SKELOS: Madam President, I believe there's an appeal.

THE PRESIDENT: Can we have order for one moment.

SENATOR MAZIARZ: Madam President.

THE PRESIDENT: One moment, Senator Maziarz, and I will recognize you.

I'm sorry, Senator Waldon. I didn't see you.

Senator Maziarz.

SENATOR MAZIARZ: Madam President, could I request that the bill be laid aside for the day.

THE PRESIDENT: Yes, you can, Senator Maziarz. Thank you.

SENATOR MAZIARZ: Thank you.

THE PRESIDENT: Withdraw the roll call, please, and lay the bill aside.

THE SECRETARY: Calendar Number 1050, by Senator Marchi, Senate Print 4085, an act to repeal Section 630 of the Business Corporation Law.

SENATOR STACHOWSKI: Explanation.

THE PRESIDENT: Read the last section -- oh, explanation.

SENATOR MARCHI: Star the bill.

THE PRESIDENT: Star the bill at the request of the sponsor.

THE SECRETARY: Calendar Number 1051, by Senator Padavan, Senate Print 2206, an act to amend the Education Law, in relation to the exclusion of illegal aliens from attending public post-secondary education institutions.

SENATOR GOLD: Explanation.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: Thank you, Madam President.

The members will recall discussion of this bill last year. It precludes the enrollment in City and State University of illegal aliens.

During the discussion of the bill in the prior session, one of our members asked whether or not we had any specific information relative to the numbers of illegal immigrants who attend State and City University.

I gave a response to that question by citing a general statement and

report that had been rendered by a member of the City University administration. At our request and by their own direction, the Board of Trustees of City University since then have done a detailed study of each of the 21 four-year colleges and community colleges within City University and have provided us with a detailed report, school by school, of the numbers of illegal immigrants that attend those educational institutions. The aggregate number is 4003 and if anyone wishes to know, I will be glad to provide specific numbers in each of the schools in question.

So now we have before us specific documented information as to the simple fact that within the City University, we have this number of illegal immigrants paying resident tuition being subsidized at approximately $7,000 per year per pupil. The survey also indicated that the average length of time such students attend those universities is five years and so we have a subsidy of $35,000 per illegal immigrant over that period of time.

I believe this is wrong. I think it is an affront to students who attend those

schools, both citizens and non-citizens from all over the world but do so legally.

That is the essence of the bill.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Padavan would yield for a question.

SENATOR PADAVAN: Yes.

THE PRESIDENT: Senator Padavan.

SENATOR PATERSON: Senator, what is it -- just a point of clarification -- that you feel that we are aware of now that we weren't aware of last year when you and I discussed the bill?

SENATOR PADAVAN: I thought that I just said that, Senator. Rather than repeat everything I just said -

SENATOR PATERSON: No, I was going to ask you -

SENATOR PADAVAN: I told the body that last year we did not have the benefit of a school by school survey done by the Board of Trustees at City University. We have that information now which I think I just shared with everybody. That's the difference.

SENATOR PATERSON: Was that for

you, Senator?

SENATOR PADAVAN: I'm not sure, Senator. Perhaps it's somebody giving us a message. It came from on high but beyond that, I can't comment.

SENATOR PATERSON: Senator, let me be more specific. What I'm interested in asking is what were your estimates? In other words, you wrote the bill before the study last year. So what I'm asking you is what was your information last year? How much money did you think it cost the state?

SENATOR PADAVAN: In a report that we published on the overall issue of immigration two years ago, '95, where we dealt with the cost of education, both elementary and secondary, we indicated the cost was in excess of 28 million. That's now verifiable. It's even more, actually.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Now, moving to a different area, Senator Padavan, if you'll continue to yield.

SENATOR PADAVAN: Sure.

SENATOR PATERSON: The primary

use of our higher educational institutions is pedagogic. We're actually trying to promote learning and teaching. The issue of immigration is more of a federal responsibility. Are you saying that this is our last best chance to catch up to these individuals? In other words, if this is the -- an issue -- and I guess your study bears out that it is one -- but the fact still remains is that we have agencies that are prescribed to actually meet these situations where we have people coming into the country who are illegal and my question to you is, how much can you assess the ben... how much can you assess the benefit of what this would accomplish if at the same time we're turning our higher educational institutions into more policing agencies? In other words, you've told us how much we save but you haven't told us how much we would lose.

SENATOR PADAVAN: Senator, I don't believe we lose a thing. Let me just clarify that answer. I have in front of me the application for City University and it's almost identical to the application for State University and there's an entire section that

deals with non-U.S. citizen. It begins "Where is your country of birth, country of citizenship? Are you a permanent resident? If you're not, have you applied for permanent resident status? If you're a permanent resident, indicate your visa type" and as you know, there are 13 different categories, "your visa expiration date and the number of years you have been in the United States." This information is currently required -- sounds good, Senator. This information is currently required.

What we are asking and directing, if this proposal were to become law, is that it be enforced, namely that non-legal immigrants who do not fall in these categories not be permitted to attend our higher -- our schools of higher learning.

Now, Senator, it's very ironic that if someone comes from New Jersey across the Brook... the George Washington Bridge and attends City College, they pay a non-resident tuition which is, I think $6800 but if they come from one of the 15 countries, by the way, that this survey I mentioned earlier identified, they

pay a resident tuition. Doesn't that strike you as being somewhat bizarre?

So, Senator, to answer your question directly, we lose nothing by seeing that what is already a part of the application is appropriately enforced and we gain some $35 million per illegal immigrant, money that, in my view, and I'm sure you would agree, is very much needed by City University as we deal with budget problems which continue to this point in time.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, thank you very much.

If Senator Padavan would continue to yield.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: Yes, Senator, I would yield.

SENATOR PATERSON: Senator, the savings that you project and what was at the - was that your first perusal of the subject an estimate and what was verified by your research is something that I am not -

SENATOR PADAVAN: Let me correct you, Senator. It was not my research. It was a

survey done by the Board of Trustees of City University where their college presidents in all of the senior colleges and community colleges identified specifically the numbers of illegal immigrants attending their schools. It's not my survey. It was City University's survey.

SENATOR PATERSON: Thank you, Senator, for the clarification, but that's exactly my point. When they were doing this survey, I wonder what they would have been doing if they weren't conducting this survey.

In other words, my whole point about this whole situation is that we're talking about thousands, tens of thousands of taxpayer dollars that went to do a research survey about immigration when we have a federal agency whose job it is to do that kind of research and you just told us a moment ago that it cost us nothing and now you've just documented that it did cost us something.

SENATOR PADAVAN: Senator, then I misunderstood your earlier question. I don't know what this survey costs, actually. I'll take your word for it. Let's say it cost $10,000. The fact remain, I think we have an

obligation to the people of this state and the taxpayers and those who attend City University and those who run the University to ensure that those attending the University are doing so legally. I believe that's our obligation, and I think that obligation should be exercised and it's not being and so by this law, if it were to become so, we would be doing what I believe is not only right and proper and appropriate but certainly morally defensible.

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: I am not in disagreement with anything that Senator Padavan said. If this is costing us the rate of revenues that he describes and it was borne out by a study, then I wholeheartedly agree. This is not an attempt to in any way excuse or in any way encourage any illegal residents from making use of facilities or taking benefits away from legal residents or permanent citizens in this country, but the point that I am making is that for the officials at our institutions of higher learning, to be engaging in this kind of

research -- if Senator Padavan would yield for a question.

SENATOR PADAVAN: Yes.

SENATOR PATERSON: Senator Padavan, between the community college, per se, or the United States Immigration and Naturalization Service, who do you presume to be the better authority on assessing whether or not a person is a legal resident or a citizen?

SENATOR PADAVAN: Well, that's an easy question to answer, Senator. The application that I referred to earlier -- by the way, I, having filled out these applications for my youngsters, they are very similar to that in the private colleges and universities as well. The same questions are asked.

Since this application doesn't go to INS, it goes to City University, they are in a better position to read it and to act upon it and if the appropriate information is not provided, to reject that student as not being legally admissible, not INS. They don't get this document. It's not sent to INS. It's in the admissions office of every college and community college and city university.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, on the bill.

Senator Padavan, I feel, while having a good issue and identifying an area of great loss to our society in resources, has given the criteria in his argument for what, in my feeling and hopefully the feeling of this membership, makes my case.

The ability to determine whether or not individuals are being truthful on their applications, the whole issue of identifying who is or is not a citizen should not be done by people who are not trained in the field, don't necessarily know the subject, certainly are availed to the common stereotypes and prejudices that all individuals have and, in many respects, may in an attempt to follow the edict of this law, actually put a number of citizens who happen to speak a different language, have the accent of the fact that they speak a second language, have the appearance that is similar to that of those who were not necessarily born on the soil in this country and, in many ways, may presume that there is a situation where there is

not one.

There's no funding in this legislation to provide the training that people in these institutions would require in order to become more adept in requiring this process and in my opinion what it really is going to do is going to make it very difficult for a lot of Americans whose taxpayer dollars are lost just as much as anyone else's tax dollars on the fraudulent conduct of the illegal immigrant but at the same time will suffer really the prejudice of being associated with him and until it's more specific and until it perhaps underlines a way that the federal government and the Immigration Naturalization Service might be able to come on the campuses and conduct their own study or do whatever is within their purview to enforce the law without interfering with the higher educational institutions, I can't support this legislation. It is something that you would probably have to go through yourself and which I haven't personally gone through but it's been described to me by people who have, the feeling of being a citizen in a country and being treated like for some reason you are

falsifying information only because you are seeking education in an institution in this country.

I recommend that -- a no vote. I understand what Senator Padavan is trying to accomplish. There's no need to restate it any further. I agree with it completely but the process by which we're going about accomplishing it, in my opinion, is not fulfilled by the author of this legislation.

THE PRESIDENT: Thank you, Senator Padavan.

Senator Waldon was next.

SENATOR WALDON: Thank you very much, Madam President.

Would the gentleman yield to a question or two, Senator Padavan?

SENATOR PADAVAN: Yes.

SENATOR WALDON: Senator Padavan, reading on page 2 of the bill, starting with line 10, number 3 says "No later than 45 days after the admissions officer of a public post-secondary educational institution becomes aware of the application, enrollment or attendance of a person determined to be or whose

under reasonable suspicion of being in the United States in violation of federal immigration laws, that officer shall provide such information to the commissioner, the attorney general and the United States Immigration and Naturalization Service. Such information shall also be provided to the applicant, enrollee or person admitted."

Question -- part one of the question, how is this notification made? Is it on a form or is there a phone call and if the officer of the school fails to make such notification, is he or she under some possibility of penalty?

SENATOR PADAVAN: Senator, the method of communication can be anything they wish. We don't proscribe it. If they wish to use a form, if they wish to use a phone call, we're not, frankly, concerned about that, nor do we specify that.

Secondly, is there any penalty? No, there's no penalty in the bill for that.

SENATOR WALDON: Would the gentleman continue to yield, Madam President?

THE PRESIDENT: Senator Padavan,

do you continue to yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: Senator Waldon.

SENATOR WALDON: Senator, for my personal edification, in your preparation for pulling this together and submitting it to our -

SENATOR PADAVAN: Could you speak a little louder, Senator? I'm having trouble hearing you.

SENATOR WALDON: I apologize for that. It's up, Madam President. You know, sometimes long days dealing with difficult issues like rent control, you get tired.

Senator, in your preparation to present this for our consideration, was any information uncovered which showed to you and then you can show to us how many people in the position of these immigrants attending our schools eventually become citizens and of those who become citizens, how many actually pay what I am told is a normal tax revenue generation by such people who work after a college education of $500,000 over the course -

SENATOR PADAVAN: To answer your

question, no.

SENATOR WALDON: Thank you very much, Senator Padavan.

Madam President, on the bill. I disagree with Senator Padavan for this proposal and I disagree with Senator Paterson who says that he understands what he's trying to do.

I don't understand what he's trying to do and most regrettably, I wish I did, but what I think is most important about this great country, America, home of the free, land of the brave, that everybody ought to be given a chance to come here and to become a productive citizen, and I would submit that most of the people who attend our universities, once exposed to our educational system, will eventually become citizens. That's my belief, but even if not, they will become better taxpayers because they have a higher education and will earn more.

I think it's being penny-wise and pound-foolish to be exclusive in any way but to exclude those who are seeking the potential to better their condition, to have better jobs, to raise better children, to be more a part of this fabric of America some people call the feltwork,

patchwork, whatever you want to call it, the rainbow, whatever you want to call it, but I believe if they are given the opportunity, they will be just like the sons and daughters who sit in this chamber, some generations removed, of immigrants who came here and made their mark by working hard, working jobs that were very difficult, very laborious, very demanding to ensure that their children had a right to be all that they can be.

I think we ought to give these people a chance. The history of America is that we have always given people a chance, and I don't see why we have to start excluding them in 1997.

Thank you very much, Madam President.

THE PRESIDENT: Thank you, Senator Waldon.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Rules Committee in Room 328, that's the small conference room, not the normal conference room.

THE PRESIDENT: There will be an immediate meeting of the Rules Committee in Room 328.

SENATOR LEICHTER: Madam - Senator -

THE PRESIDENT: Senator Stachowski.

SENATOR STAVISKY: Senator Stavisky.

THE PRESIDENT: I mean Stavisky. Sorry.

SENATOR STAVISKY: We always get our correspondence mixed up.

THE PRESIDENT: Well, I have three people standing, but I have recognized Senator Stavisky.

SENATOR LEICHTER: Madam President, on a point of order. Since there's a meeting of the Rules Committee and some of us wish to be recorded on this -

THE PRESIDENT: Yes.

SENATOR LEICHTER: -- bill, would you be so kind as -- with the consent of the Acting Majority Leader, read the last section so those of us going to the Rules Committee could

be recorded on the bill, please.

THE PRESIDENT: Mr. Secretary, will you read the last section, please.

Senator Holland.

SENATOR HOLLAND: No objection.

THE PRESIDENT: Thank you.

THE SECRETARY: This act shall take effect in 180 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: Yes. Would you please record me in the negative.

THE PRESIDENT: Senator Santiago.

SENATOR SANTIAGO: I would like to be recorded in the negative.

THE PRESIDENT: Thank you.

Anyone else at this time?

Okay. Senator Stavisky, are you standing to speak or to be recorded in the negative?

SENATOR HOLLAND: Committee members.

THE PRESIDENT: Senator Mendez.

SENATOR MENDEZ: Madam President,

I would like to be recorded in the negative. However, I have a couple of questions that I want to ask Senator Padavan before I go to the Rules Committee meeting.

THE PRESIDENT: Yes, she has Rules. Just a moment, please.

SENATOR HOLLAND: Are they all Rules Committee members? That's what we were talking about.

THE PRESIDENT: Yes.

SENATOR HOLLAND: They are all Rules Committee members.

THE PRESIDENT: Senator Mendez is a Rules Committee member.

Senator Stavisky, are you also a Rules Committee member?

SENATOR STAVISKY: No, I am not asking to be recorded. I am asking to speak.

THE PRESIDENT: I will recognize you in just a moment.

SENATOR MENDEZ: I believe that I went -

THE PRESIDENT: Are you going to record in the negative first so I can withdraw the roll, please?

SENATOR MENDEZ: I want to ask two questions to Senator Padavan prior to going.

SENATOR PADAVAN: Madam President.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: You had a request made earlier. The last section was read and a roll call. So I can't answer a question now, Senator. There's a roll call. You have to either vote after the roll call.

THE PRESIDENT: After the roll call you can ask your questions.

SENATOR MENDEZ: After?

THE PRESIDENT: Would you care to record your vote in the negative?

SENATOR MENDEZ: Yes.

THE PRESIDENT: Yes. Withdraw the roll call, please.

Senator Paterson.

SENATOR PATERSON: Madam President, I'm really glad I came in today because we're going to have chaos in this chamber and the problem is that we're calling these committee meetings off the floor and in many respects they're interfering with the roll

call.

Now, Senator Mendez, I think is right. If you stop to think about it, why would she ask questions after she voted and what should happen is we should withdraw the roll call, let Senator Mendez ask her questions. When she's finished, we invoke the roll call to let her vote and she can go to the Rules Committee.

THE PRESIDENT: We could do that. We just can't have the debate during the roll call.

What is your preference, Senator Mendez? Do you want to be recorded in the negative before or afterwards?

SENATOR MENDEZ: I want to be recorded in the negative but it is equally important to me to ask Senator Padavan a couple of questions.

THE PRESIDENT: That's fine. We're going to close the roll call. Withdraw it and now, Senator Mendez -- Senator Stavisky, would you please let Mrs. -

SENATOR STAVISKY: I would waive -

THE PRESIDENT: Thank you.

SENATOR STAVISKY: -- with the proviso that I would be recognized immediately.

THE PRESIDENT: You will be.

Senator Mendez.

SENATOR MENDEZ: Thank you, Madam President.

Thank you, Senator Stavisky.

I wonder, Madam President, if Senator Padavan would yield for just a couple of questions.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: Yes, Senator.

SENATOR MENDEZ: Senator Padavan, are you aware that the United States Supreme Court unequivocally placed the power to regulate immigration into the hands of the federal government?

SENATOR PADAVAN: Fundamentally, you're correct. However, in the recent Immigration Reform Act that was adopted, there's many, many provisions that require states to cooperate in a variety of ways. However, fundamentally, immigration is a federal matter, yes.

SENATOR MENDEZ: Are you aware then, in New York State, if we all vote for your bill, wouldn't you say that this bill of yours will end up being unconstituional because -

SENATOR PADAVAN: Oh, no, no. Senator, quite to the contrary.

SENATOR MENDEZ: Why not?

SENATOR PADAVAN: I don't know if you were in the chamber earlier when I shared with the members the City University and State University application form which deals specifically and always has, as far as I can remember, with the issue of citizenship or non-citizenship and legal resident. That's always been the case.

So what we're saying here very directly is if someone does not meet what is already a requirement, that that person should be denied admission.

So, therefore, it is not unconstituional. It is very much constitutional. We have -- we certainly have a right to ensure that people who either are attending City University, receiving public assistance, a variety of programs that are

either directly subsidized or partially subsidized by the state are provided to people who are legal residents. That is well within our constitutional authority.

SENATOR MENDEZ: In this instance -

THE PRESIDENT: Senator Mendez.

SENATOR MENDEZ: Thank you, Madam President.

In this instance, the main point that I want to make is that a bill such as this would -- could be declared unconstituional because -- because the State University employee personnel shouldn't be in charge of finding out who is illegal and who is not illegal. That function of finding out who is in the country, whether illegal or not, that is a federal function and, therefore, by us passing bills like this, we are in a sense interfering with federal government and we shouldn't. Really, Senator Padavan, you are a great Senator but you're behaving in this instance -

SENATOR PADAVAN: I said I would yield to a question. What is it?

SENATOR MENDEZ: Yes. I finished

the question. I'm making a statement. I don't know why this bill -- your insistence and persistence in going after the illegal aliens reminds me of that famous character in Les Miserables. Remember the police officer that kept persistently after Jean Valjean, Madam President, he is doing exactly the same thing as that character in that novel.

I vote no.

THE PRESIDENT: Thank you, Senator Mendez.

Senator Stavisky, thank you for your waiting.

SENATOR STAVISKY: Madam President, I will ask no questions of the sponsor. I will speak on the bill and prefer to do it that way.

Why does NYSUT, New York State United Teachers oppose this legislation and those of us who have had a close relationship with NYSUT should read their memo in opposition when they say this bill would turn admissions officers into, in essence, immigration officers by requiring them to investigate all students enrolled in the University to determine whether

or not they are illegal immigrants.

This is not the role of the admissions officers nor is it the role of the institution of higher education. It is the role of the admissions officer to determine whether the applicant will be able to successfully complete the educational requirements that would lead to obtaining a degree. If the applicant fulfills this criteria, then he or she should not be denied access, and I conclude by saying New York State United Teachers strongly, strongly urges the defeat of this bill.

What Senator Mendez was referring to a few moments ago was the 1982 Supreme Court decision which struck down a Texas law that barred the children of illegal immigrants of attending public school. They ruled that all children residing in the U.S. are entitled to public education and that denying such children an education would irreparably harm them.

SENATOR PADAVAN: Madam President, will the Senator yield?

SENATOR STAVISKY: Not at this point. Congress, in its desire to tighten up on immigration, did not bar even illegal immigrants

from applying to or enrolling or attending a publicly supported institution of higher education, and I think that that is the important issue.

Even in the desire to cut down on illegal immigration, Congress did not go so far as Senator Padavan is seeking to do with regard to this legislation.

I think that there is a confusion of roles. If he dislikes immigrants, he should say so. If he wants them to be kept in a cubbyhole or in confinement, he should make that point but do not deny them the opportunity to improve their lot, to become better paying taxpayers and to make a contribution, a real contribution to the state and to the nation, and that is the basis on which this issue should be addressed. It is not a question of who's on first, what's on second and I don't know who's on third but that reminds me of Senator Padavan's bill. Who's on first? What's on second, and I don't know who's on third.

This is not an Abbott and Costello routine. This is the opportunity to provide the one avenue of upward mobility to

people who are in need of education.

I don't know why Senator Padavan -- and I forgive him for my use of the word, Senator Padavan. I do not know why he has this fetish to restrict immigrants in this manner, why he would erode the whole purpose of the law, why he would make the admissions application - which may itself be unconstituional -- why he would make the admissions application an opportunity to deny educational opportunities for people.

I do not believe we are right in restricting the role of the admissions officer to that of a super-duper detective and to force that admissions officer to take positions that are not in keeping with the requirement. The admissions officer has enough to do in determining whether or not the individual is qualified, is ready for an education. We know the difficulty in coming from another part of the world. It is no fun to come to a place where you do not know the language.

I would ask anyone, including the sponsor of this bill, how far he would get if he was suddenly transported to a country where

English is not the primary language. Would he pass a second grade reading test? Maybe not. Maybe he would be able to fake it or proceed on the basis of trying to cope, but that is not what the State University, the City University should be doing. It is not the function of any university to preempt the role of the federal government in the question of immigration.

Having said that, I will now yield to whatever question the sponsor has.

THE PRESIDENT: Thank you.

Senator Padavan.

SENATOR PADAVAN: You indicated the constitutional mandate relevant to a primary and secondary education must be afforded irrespective of any immigration status. Did I hear you correctly?

SENATOR STAVISKY: I said that was the Texas case.

SENATOR PADAVAN: Yes. Any Supreme Court decision, any congressional law, anything that relates to secondary education - higher education -- not secondary -- higher education?

SENATOR STAVISKY: Senator

Padavan, if Congress wanted to restrict this access, they would have done so, through federal legislation.

SENATOR PADAVAN: That's not the question. You cited a specific federal mandate given by the Supreme Court of the United States where they more accurately mandated that education should be provided in the elementary and secondary schools irrespective of immigration status.

Now, my question to you is, did the court or the Congress make a similar mandate for higher education? The answer can either be yes or no.

SENATOR STAVISKY: The answer is no.

SENATOR PADAVAN: Thank you, Senator.

SENATOR STAVISKY: Because no way would anyone be silly enough to presume that a bill like this would be presented in the New York State Legislature. This is not the place for us to play Robocop with immigration which is truly a federal responsibility, and there is nothing in the court, nothing in the

Constitution to say that we, a priori, should take this ill-conceived mean-spirited approach to legislation affecting immigrants.

We have enough to do to try to make the colleges better. We do not accomplish that by turning off the faucet of opportunity based on what the sponsor of this bill would like to preoccupy the admissions officer's time with, and so, for these reasons, I'm going to vote no.

For those of you who feel that NYSUT regrets your judgment on educational issues, I would ask you to join in a no vote on this bill. Thank you.

THE PRESIDENT: Does anyone else wish to speak on this bill? Read the last section, please.

THE SECRETARY: This act shall take effect in 180 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR STAVISKY: May I request a slow roll call on this?

THE PRESIDENT: Slow roll call.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.
THE SECRETARY: Senator Alesi.
(There was no response.)
Senator Breslin.
SENATOR BRESLIN: No.
THE SECRETARY: Senator Bruno.
(Affirmative indication.)
THE SECRETARY: Yes.
Senator Connor.
(Negative indication.)
THE SECRETARY: Senator Cook.
SENATOR COOK: Yes.
THE SECRETARY: Senator DeFrancisco.
(There was no response.)
Senator Dollinger.
SENATOR DOLLINGER: No.
THE SECRETARY: Senator Farley.
(There was no response.)
Senator Gentile.
SENATOR GENTILE: No.
THE SECRETARY: Senator Gold.
SENATOR GOLD: No.
THE SECRETARY: Senator Gonzalez.

SENATOR GONZALEZ: No.
THE SECRETARY: Senator Goodman.
SENATOR GOODMAN: Yes.
THE SECRETARY: Senator Hannon.
(There was no response.)
Senator Hoffmann.
SENATOR HOFFMANN: Yes.
THE SECRETARY: Senator Holland.
SENATOR HOLLAND: Yes.
THE SECRETARY: Senator Johnson.
(There was no response.)
Senator Kruger.
SENATOR KRUGER: No.
THE SECRETARY: Senator Kuhl.
SENATOR KUHL: Aye.
THE SECRETARY: Senator Lachman.
SENATOR LACHMAN: Nay.
THE SECRETARY: Senator Lack.
(There was no response.)
Senator Larkin.
(There was no response.)
Senator LaValle.
(There was no response.)
Senator Leibell.
SENATOR LEIBELL: Aye.

THE SECRETARY: Senator Leichter voting in the affirmative earlier.

Senator Levy.

SENATOR LEVY: Aye.

THE SECRETARY: Senator Libous.

(There was no response.)

Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Aye.

THE SECRETARY: Senator Marchi.

(There was no response.)

Senator Markowitz.

SENATOR MARKOWITZ: No.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Yes.

THE SECRETARY: Senator Mendez voting in the negative earlier.

Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

(There was no response.)

Senator Onorato.

(There was no response.)

Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Aye.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Rosado.

SENATOR ROSADO: No.

THE SECRETARY: Senator Saland.

(There was no response.)

Senator Sampson.

SENATOR SAMPSON: No.

THE SECRETARY: Senator Santiago voting in the negative earlier.

Senator Seabrook.

SENATOR SEABROOK: No.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: Yes.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
SENATOR SMITH: No.
THE SECRETARY: Senator Spano.
SENATOR SPANO: Aye.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: Yes.
THE SECRETARY: Senator Stafford.
SENATOR STAFFORD: Aye.
THE SECRETARY: Senator Stavisky.
SENATOR STAVISKY: No.
THE SECRETARY: Senator Trunzo.
SENATOR TRUNZO: Yes.
THE SECRETARY: Senator Tully.
SENATOR TULLY: AYE.
THE SECRETARY: Senator Velella.
SENATOR VELELLA: Yes.
THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
(Negative indication.)
THE SECRETARY: No.
Senator Wright.
SENATOR WRIGHT: AYE.
THE PRESIDENT: Absentees, please.
THE SECRETARY: Senator Alesi.
SENATOR ALESI: Yes.
THE SECRETARY: Senator DeFrancisco.
SENATOR DeFRANCISCO: Yes.
THE SECRETARY: Senator Farley.
SENATOR FARLEY: Aye.
THE SECRETARY: Senator Hannon.
SENATOR HANNON: Yes.
THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Lack.
SENATOR LACK: Aye.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Aye.
THE SECRETARY: Senator LaValle.
SENATOR LAVALLE: Aye.

THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Marchi.
SENATOR MARCHI: Aye.
THE SECRETARY: Senator Nozzolio.
SENATOR NOZZOLIO: Aye.
THE SECRETARY: Senator Onorato.
SENATOR ONORATO: No.
THE SECRETARY: Senator Saland.
(There was no response.)
THE PRESIDENT: Results, please.
THE SECRETARY: Ayes 37, nays 23.
THE PRESIDENT: The bill is passed.
SENATOR HOLLAND: Mr. President.
THE PRESIDENT: Yes, Senator Holland.
SENATOR HOLLAND: Could we move on to Calendar Number 1200, please.
THE PRESIDENT: Yes. Secretary will read.
THE SECRETARY: Calendar Number 1200, by Senator Padavan, Senate Print 3035, an

act to amend the Real Property Law, in relation to occupation of premises for unlawful purpose.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

SENATOR GOLD: I believe an explanation was called for by Senator Leichter.

THE PRESIDENT: I'm sorry. There was so much noise in here.

SENATOR GOLD: Wasn't your fault, Madam President. I know you're doing your best.

Speak up.

THE PRESIDENT: An explanation was requested, Mr. Secretary.

SENATOR GOLD: On the other hand, he decided the explanation is satisfactory.

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

THE PRESIDENT: The bill is passed.

Senator Levy. I'm sorry.

SENATOR LEVY: Yes, thank you very much. There will be an immediate meeting of the Committee on Transportation.

THE PRESIDENT: Where?

SENATOR LEVY: That's a pretty good question. We'll have it in 332. We'll have it in 332.

THE PRESIDENT: Senator Levy.

SENATOR LEVY: Yes, in 332.

THE PRESIDENT: In Room 332 there will be an immediate meeting of the Transporta tion Committee in Room 332.

The Secretary will read.

THE SECRETARY: Calendar Number 1202, by Senator Maltese, Senate Print 3564, an act to amend the Penal Law, in relation to placing a false bomb.

THE PRESIDENT: An explanation is requested.

SENATOR MALTESE: Madam President.

THE PRESIDENT: Senator Maltese.

SENATOR MALTESE: The purpose of this bill is to create the crime of placing a false bomb in the first and second degree. The existing law makes the placing of the false bomb a Class A misdemeanor. This bill would amend that law to create the crime of placing a false bomb in the second degree, a Class A misdemeanor, in addition to creating the crime of placing a false bomb in the first degree. A person is guilty of falsely placing a bomb in the first degree when he or she commits the crime of placing the bomb and has been previously convicted of such, or commits the crime of placing a false bomb and an emergency service member or similar governmental person responding or at the scene or leaving the scene of that site is either killed or suffers serious injury.

This particular legislation is a New York City program bill. The reason for the legislation is that reporting a false bomb was previously a -- not a crime. It was made a crime in approximately 1990. Then the crime was added to in that either responding to it or leaving from the scene if someone was seriously

hurt or killed, that was made a more serious crime and at the time that was made a class E felony, there was not -

THE PRESIDENT: Could we have a little quiet so we can hear Senator Maltese.

SENATOR MALTESE: There was not a similar statute enacted to placing a false bomb so you had an inequity or an inconsistency where reporting it was a misdemeanor, having a person suffer serious injury or being killed was a Class E felony, and if the same thing happened for actually placing the bomb, that would not be a Class E felony.

Much of this legislation arose from actual situations where persons were killed, in one case a person in Nassau County when they -- an emergency vehicle was reaching the scene of the placing -- the reporting of a false bomb.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Mr. President -- Madam President, I'm sorry. If the sponsor would yield for a question.

THE PRESIDENT: Senator Maltese,

would you please yield for a question?

SENATOR MALTESE: Yes.

SENATOR PATERSON: Senator, are you offering us in this legislation the opportunity to convict someone based on the fact that they have already committed the second degree of this crime and then the replication of that creates the first degree, or is there a way that a person can be found guilty of this offense -- we're speaking about Calendar Number 1202, and then we'll do the one -- simply through one action.

SENATOR MALTESE: Madam President, I think I lost the syntax, but the answer is yes. In other words, we are adding to the prior misdemeanor, Class A misdemeanor, an additional class E felony if one of the categories is that the person has been previously convicted of the Class A misdemeanor of either placing, in other words placing a false bomb.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President.

Senator Maltese, would you further clarify what you referred to earlier as involving the intervention of emergency personnel and injuries resulting from that intervention?

SENATOR MALTESE: I was hoping you'd ask that, Senator Paterson, yes.

The Penal Law specifically defines "emergency vehicle" as shall include any vehicle operated by any employee or member of any official or quasi-official agency having the function of dealing with emergencies involving danger to life or property and shall include but not necessarily be limited to an emergency vehicle which is operated by a volunteer firefighter with a fire department, fire company or any unit thereof as defined in the Volunteer Firefighters Benefit Law, or by a voluntary ambulance worker with a volunteer ambulance corporation or any unit thereof as defined in the Volunteer Ambulance Workers Benefit Law.

SENATOR PATERSON: Thank you. If the sponsor would yield for one last question.

THE PRESIDENT: Senator Maltese, would you continue to yield?

SENATOR MALTESE: Yes.

THE PRESIDENT: Senator does.

SENATOR PATERSON: Senator Maltese, are there any other questions you'd like me to ask you?

SENATOR MALTESE: No. Thank you very much, Senator Paterson.

SENATOR PATERSON: I'm Senator Maltese's foil. Horatio was Hamlet's foil, and I am his. No further questions.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, I believe there's an amendments at the desk.

THE PRESIDENT: Yes.

SENATOR DOLLINGER: I'd waive its reading and ask that I be heard on it briefly.

THE PRESIDENT: Yes, yes.

SENATOR DOLLINGER: Madam Presi dent, this amendment that I propose actually encapsulates a bill that I believe I've forwarded a copy of this bill to Senator Maltese, because it deals with the same problem as Senator Maltese's deals with. His bill

deals, as I understand it, with leaving a false bomb, creating appearances that lead to anxiety, confusion, stress, in some cases panic which have the exact kinds of consequences of people fleeing buildings and trying to remove themselves to buildings that lead to stampedes and trampling, but what my bill attempts to do, and the reason I offered this amendment is because it deals with the other side of the problem.

The problem is what happens when someone calls in a false bomb threat? Currently there's an anomaly in the law depending on where you call the threat in to. If you call the threat in to the federal building in Albany, it's punishable as a federal offense. If you call in the same bomb threat to a state building it's punished as a state offense, and there's a significant difference in the penalties attached in both instances.

Under the federal law, calling in a false bomb threat is punishable by up to five years imprisonment. If it's state law, it's only a misdemeanor punishable by up to two years imprisonment. This bill -- what this amendment

seeks to do is remove that anomaly between the federal law and what the federal offense is, so what this amends the bill to do is to make it a felony to call in both to the federal system and in the state system, to call in a false bomb threat.

SENATOR GOLD: Senator, would the Senator yield to a question?

THE PRESIDENT: Senator, would you yield?

SENATOR DOLLINGER: Yes, sir.

SENATOR GOLD: Madam President, if I understand this amendment, it makes it stricter for those who violate the law.

SENATOR DOLLINGER: That's correct, Senator Gold. What try to do by this amendment is alleviate the disparity between calling in a bomb threat to a federal building which is a felony, and calling the same threat in to a state building which is a misdemeanor. Seems to me the amendment makes good sense. It would establish a parity between the state and the federal system, and it would send a message to everybody that calling in a false bomb threat is not a hoax. It's not a hoax; it's not

something you do willy-nilly. It's a crime and it's something that deserves to be severely punished.

I offer the amendment, Madam President.

THE PRESIDENT: The question is on the amendment. All those in favor, please signify by saying Aye.

(Response of "Aye.")

Those opposed nay.

(Response of "Nay. ")

THE PRESIDENT: The amendment is defeated.

Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

THE PRESIDENT: The bill is passed.

The Secretary will read, please.

THE SECRETARY: Calendar Number 1190, by Senator Wright, Senate Print 1417, an

act to amend the Workers' Compensation Law, in relation to appeals of premium increases for workers' compensation insurance.

SENATOR LEICHTER: Explanation.

THE PRESIDENT: Senator Wright.

SENATOR WRIGHT: Thank you, Madam President.

The bill provides a new section to the Workers' Compensation Law. The section establishes an administrative appeals process for employers who wish to challenge a change in the experience rating issue under a Workers' Comp. policy.

At the present time, there is no procedure.

SENATOR STACHOWSKI: Madam President.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Would Senator Wright yield?

THE PRESIDENT: Senator Wright?

SENATOR WRIGHT: Yes, I will.

SENATOR STACHOWSKI: Senator, first off, why would this bill authorize -- why

would the bill authorize the Workmen's Comp. Board to determine the appeals rather than the Insurance Department? The Insurance Department approves rate increases and, therefore, seems better prepared? Why would they pass this other obligation on to the Workers' Comp. Board who doesn't have any experience in this area?

SENATOR WRIGHT: Well, in terms of the Comp. Board itself, they're involved in the experience rating on the claims and the claims process are inherent in the experience rating establishment.

SENATOR STACHOWSKI: I can't hear you.

THE PRESIDENT: Senator Wright.

SENATOR STACHOWSKI: Will you repeat that? I'm sorry. I couldn't hear you.

SENATOR WRIGHT: Yes, we're talking about changes in experience ratings which are driven by claims which are the responsibility of the Workers' Comp. Board.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Senator continue to yield?

Currently the Insurance Department would grant approval of deviations from approved rates. I think they do that now.

SENATOR WRIGHT: Would you clarify the question, please?

SENATOR STACHOWSKI: This deviation in the approved rate that is now going to be given to the Workers' Comp. Board, currently when the rates are set, the state Insurance Department does that currently. Why are we moving that on to another area?

SENATOR WRIGHT: Well, we're not. What we're doing is dealing with the experience rating portion which is driven by claims. That's the purview of the Workers' Comp. Board. At the present time, when one has difficulties with the change in experience rating, you are not provided an explanation or a detail from the Comp. Board, so we're trying to put in place a mechanism that would provide that explanation.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: In this bill, Senator, there's -- is there any cost for

the training of the judges and the attorneys or would it be less expensive to continue to have the Insurance Department hear appeals?

SENATOR WRIGHT: Actually, we don't see any costs being incurred here. They are currently completing the experience rating. Based on those claims, we're simply asking for a justification when it's changed, and a justification. That's information that's readily available to them.

SENATOR STACHOWSKI: Thank you. Thank you.

SENATOR WRIGHT: Thank you.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

THE PRESIDENT: The bill is passed.

SENATOR SKELOS: Madam President, if we could just stand at ease.

THE PRESIDENT: Yes, the Senate

will stand at ease.

(Whereupon at 5:03 p.m., the Senate stood at ease until 5:39 p.m.)

THE PRESIDENT: The Senate will come to order.

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

THE PRESIDENT: The Secretary will read.

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

Senate Print 140, by Senator Waldon, an act to amend the Criminal Procedure Law;

316, by Senator Skelos, an act to amend the County Law and the General Municipal Law;

1346, by Senator Larkin, an act to amend the Vehicle and Traffic Law;

1854, by Senator Padavan, an act to amend the Public Authorities Law;

2334-A, by Senator Velella, an act to amend the Penal Law;

2340, by Senator Kuhl, an act to amend the Environmental Conservation Law;

2618-A, by Senator Lachman, an act to amend the Public Authorities Law;

3658, by Senator Goodman, an act to amend the Alcoholic Beverage Control Law;

4004, by Senator Present, an act to amend the Environmental Conservation Law;

4435, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

4526-A, by Senator Skelos, an act to amend the Real Property Tax Law;

4553-A, by Senator Volker, an act to amend the Civil Practice Law and Rules;

4716-A, by Senator Libous, an act to authorize the village of Johnson City;

4726, by Senator Trunzo, an act to amend the Civil Service Law;

4734-A, by Senator Farley, an act to amend the General Obligations Law;

4839, by Senator Velella, an act authorizing the city of New York;

4858, by Senator Spano, an act to

amend the Local Finance Law;

5065-A, by Senator Marcellino, an act to amend the General Business Law;

5206, by Senator Hannon, an act to amend the Facilities Development Corporation Act;.

5253, by Senator Maziarz, an act to amend the State Finance Law;

5259, by Senator Skelos, an act to amend the Correction Law;

5262-A, by Senator Padavan, an act to amend the New York City charter;

5269-A, by Senator Stafford, an act authorizing the town of Schroon;

5270, by Senator Rosado, an act authorizing the city of New York to reconvey;

5282, by Senator Hannon, an act to amend the New York State Medical Care Facilities Finance Agency Act;

5300, by Senator Larkin, an act to amend the General Municipal Law;

5306, by Senator Holland, an act to amend the Social Services Law;

5330, by Senator Goodman, an act to amend Chapter 587 of the Laws of 1995;

5331, by Senator Farley, an act to Richard C. Healy to file;

5347, by Senator Larkin, an act to amend the Navigation Law;

5353, by Senator Volker, an act to amend the Criminal Procedure Law;

5359, by Senator Padavan, an act to amend the Tax Law and the Administrative Code of the city of New York;

5386, by Senator Rath, an act to amend the Penal Law;

5398, by Senator DeFrancisco, an act to amend Chapter 515 of the Laws of 1995;

5402, by Senator Nozzolio, an act to amend the Executive Law;

5405, by Senator Spano, an act to amend the Retirement and Social Security Law;

5409, by Senator Meier, an act to amend the Environmental Conservation Law;

5417, by Senator Maziarz, an act to amend the Town Law;

5418, by Senator Meier, an act to amend the Family Court Act;

5266, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

5271, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

5476, by Senator Trunzo, an act to amend the Retirement and Social Security Law.

All bills directly for third reading.

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

THE PRESIDENT: Yes.

Without objection, all bills moved directly to third reading.

SENATOR SKELOS: Is there any housekeeping at the desk?

PRESIDENT: Yes. Senator Tully.

SENATOR TULLY: Yes, if we could return to motions and resolutions. On behalf of Senator Velella, on page 12, I offer the following amendments to Calendar Number 343, Senate Print 3102, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: Amendments received.

SENATOR TULLY: On behalf of Senator Velella, on page 16, I offer the

following amendments to Calendar Number 467, Senate Print 3204, and ask that said bill retain its place on the Third Reading Calendar, and Madam President, on behalf of myself, on page 42 I offer the following amendments to Calendar Number 1100, Senate Print 5005 and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: Amendments received.

The Secretary will read substitutions.

THE SECRETARY: On page 11, Senator Johnson moves to discharge from the Committee on Rules Assembly Print 3221 and substitute it for the identical Senate bill, Third Reading 332.

On page 12, Senator Goodman moves to discharge from the Committee on Rules Assembly Print 5036-A and substitute it for the identical Senate bill, Third Reading 371.

On page 16, Senator Volker moves to discharge from the Committee on Rules Assembly Print 6103 and substitute it for the identical Senate bill, Third Reading 489.

On page 20, Senator Nozzolio moves to discharge from the Committee on Rules Assembly Print 4808 and substitute it for the identical Senate bill, Third Reading 608.

On page 24, Senator Liebell moves to discharge from the Committee on Rules Assembly Print 7640 and substitute it for the identical Senate bill, Third Reading 710.

On page 26, Senator Velella moves to discharge from the Committee on Rules Assembly Print 1816-A and substitute it for the identical Senate bill, Third Reading 745.

On page 39, Senator Maltese moves to discharge from the Committee on Rules Assembly Print 5974-A and substitute it for the identical Senate Print 1027.

THE PRESIDENT: Substitutions received and ordered.

Thank you, Senator Tully.

SENATOR SKELOS: Stand at ease, Madam President.

THE PRESIDENT: The Senate will stand at ease.

(Whereupon at 5:46 p.m., the Senate stood at ease until 5:50 p.m.)

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: On behalf of Senator Bruno, there will be an immediate conference of the Majority in the Majority Conference Room, and the Senate will stand in recess to the call of the Majority Leader.

THE PRESIDENT: There will be an immediate conference of the Majority in the Majority Conference Room and the Senate will stand at ease to the call of the Majority Leader.

SENATOR PATERSON: Madam President, could we have some clarification. We have no idea when to come back here to continue business. We have a bill on the calendar that isn't done.

THE PRESIDENT: I agree. When I have some information, Senator Paterson, you'll have it immediately.

Thank you very much, Madam President.

SENATOR PATERSON: There will be an immediate meeting of the Minority in the Minority Conference Room.

(Whereupon, at 5:51 p.m., the Senate stood at ease until 6:26 p.m.)

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, I would move that we stand adjourned until tomorrow morning at 10:00 a.m.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow at 10:00 a.m.

(Whereupon at 6:27 p.m., the Senate adjourned.)