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ALBANY, NEW YORK

August 4, 1997

12:28 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

1                   ACTING PRESIDENT KUHL: The  
2                   Senate will come to order.

3                   SENATOR BRUNO: Can we convene  
4                   the Senate on Monday at 12:28 a.m.

5                   ACTING PRESIDENT KUHL: The  
6                   Senate is in order.

7                   Ask the members to please rise  
8                   and join me in saying the Pledge of Allegiance  
9                   to the Flag.

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

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

14                  (A moment of silence was  
15                  observed. )

16                  Reading of the Journal.

17                  THE SECRETARY: In Senate,  
18                  Sunday, August 3rd. The Senate met pursuant to  
19                  adjournment. The Journal of Saturday, August  
20                  2nd, was read and approved. On motion, Senate  
21                  adjourned.

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

25                  Presentation of petitions.

1 Messages from the Assembly.

2 Messages from the Governor.

3 Reports of standing committees.

4 Senator Bruno.

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

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

13 A VOICE: But do we need it?

14 ACTING PRESIDENT KUHL: Messages  
15 from the Governor.

16 Reports of standing committees.

17 Reports of select committees.

18 Communications and reports from  
19 state officers.

20 Motions and resolutions.

21 (Long pause)

22 SENATOR BRUNO: Can the Senate  
23 presently stand at ease awaiting a report from  
24 the Rules Committee and then I would recommend  
25 an immediate conference of the Majority in Room

1 332, and I believe that the Minority plans on  
2 conferencing at the same time, is that correct?

3 SENATOR PATERSON: That's  
4 correct, Mr. President. That's correct, Mr.  
5 Majority Leader.

6 ACTING PRESIDENT KUHL: The  
7 Senate will stand at ease awaiting a report of  
8 the Rules Committee. Upon receipt of the Rules  
9 Committee, there will be an immediate Minority  
10 Conference in the Minority Conference Room.  
11 There will be an immediate Majority Conference  
12 in the Majority Conference Room.

13 Senate stands at ease.

14 (The Senate stood at ease from  
15 12:36 a.m., until 12:53 a.m.)

16 The Senate will come to order.  
17 Senator Larkin.

18 SENATOR LARKIN: Can we return to  
19 reports of standing committees. We have a  
20 report from the Rules Committee.

21 ACTING PRESIDENT KUHL: We'll  
22 return to the order of reports of standing  
23 committees. There is a Rules report at the  
24 desk. I'll ask the Secretary to read.

25 THE SECRETARY: Senator Bruno,

1 from the Committee on Rules, offers up the  
2 following bills directly for third reading:

3 3512-A, by Senator Spano, an act  
4 to amend the Civil Practice Law and Rules;

5 5644-A, by Senator Volker, an act  
6 to amend the Public Authorities Law;

7 5759, by the Committee on Rules,  
8 an act to amend the Racing, Pari-Mutuel Wagering  
9 and Breeding Law;

10 5787, by Senator Holland, an act  
11 to amend Chapter 462 of the Laws of 1996.

12 All bills directly for third  
13 reading.

14 ACTING PRESIDENT KUHL: Senator  
15 Larkin.

16 SENATOR LARKIN: Move to accept  
17 the report, Mr. President.

18 ACTING PRESIDENT KUHL: Motion is  
19 to accept the report of the Rules Committee.

20 All those in favor signify by saying aye.

21 (Response of "Aye.")

22 Opposed nay.

23 (There was no response. )

24 The Rules report is accepted.

25 The bills are ordered directly to third

1 reading.

2 Senator Larkin.

3 SENATOR LARKIN: Mr. President,  
4 can we now stand at ease until the conferences  
5 of the respective caucuses have been completed.

6 ACTING PRESIDENT KUHL: O.K.

7 There are -- there's a conference of the  
8 Minority immediately. There's a conference of  
9 the Majority in their respective conference  
10 rooms, and the Senate will stand at ease.

11 Senator Paterson, did you wish to  
12 be recognized?

13 SENATOR PATERSON: I wanted to  
14 verify the current date, Mr. President.

15 ACTING PRESIDENT KUHL: Last I  
16 knew, it was August 4th.

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

19 (The Senate stood at ease from  
20 12:55 until 1:52 a.m.)

21 ACTING PRESIDENT KUHL: The  
22 Senate will come to order. Members please take  
23 their chairs, staff their spots.

24 Senator Holland.

25 SENATOR HOLLAND: Mr. President,

1 can we go to Senate Calendar Number 66 of  
2 Monday, August the 4th, and do Calendar Number  
3 1645, please.

4 ACTING PRESIDENT KUHL: For the  
5 benefit of the members, we'll be taking up the  
6 new calendar on your desk. It's Calendar Number  
7 66 for Monday, August the 4th, and you should  
8 know that the bills that are listed are a  
9 composite of the bills that have not passed on  
10 various calendars of the last two days. With  
11 that, on page 6 of the new calendar, Secretary  
12 will read Calendar Number 1645.

13 THE SECRETARY: Calendar Number  
14 1645, by the Committee on Rules, Senate Print  
15 5759, an act to amend the Racing, Pari-Mutuel  
16 Wagering and Breeding Law.

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

19 THE SECRETARY: Section 25. This  
20 act shall take effect immediately.

21 ACTING PRESIDENT KUHL: Call the  
22 roll.

23 (The Secretary called the roll. )

24 ACTING PRESIDENT KUHL: Record  
25 the negatives and announce the results.

1 THE SECRETARY: Those recorded in  
2 the negative on Calendar Number 1645 are  
3 Senators Dollinger, Leichter, Spano, Tully and  
4 Velella. Ayes 52, also Senator Stavisky,  
5 Senator Oppenheimer. Ayes 50, nays 7.

6 (Senator Oppenheimer indicated an  
7 affirmative vote.)

8 ACTING PRESIDENT KUHL: Announce  
9 the results. Read the negatives again, please.

10 THE SECRETARY: Senators  
11 Dollinger, Leichter, Spano, Stavisky, Tully and  
12 Velella. Also Senator -

13 (Senator Oppenheimer indicated a  
14 negative vote.)

15 ACTING PRESIDENT KUHL: Senator  
16 Oppenheimer, you only get a chance to vote  
17 once. Now, we have to make up our mind whether  
18 it's in the affirmative or in the negative.

19 SENATOR OPPENHEIMER: (Inaudible  
20 comment-laughter) In the negative.

21 ACTING PRESIDENT KUHL: Senator  
22 Oppenheimer will be recorded in the negative.

23 SENATOR GOLD: Close the roll  
24 quick.

25 THE SECRETARY: Ayes 50, nays 7.

1                   ACTING PRESIDENT KUHL:  The bill  
2           is passed.

3                   Senator Holland.

4                   SENATOR HOLLAND:  Mr. President,  
5           we're waiting for some messages of necessity.  
6           We'll have to stand at ease until we get some of  
7           those unless there are some.

8                   ACTING PRESIDENT KUHL:  We have  
9           some housekeeping, Senator Holland.

10                  SENATOR HOLLAND:  Please.

11                  ACTING PRESIDENT KUHL:  If we  
12           could return to the order of motions and  
13           resolutions, I'd like to recognize Senator  
14           Marcellino for the purpose of motions.

15                  Senator Marcellino.

16                  SENATOR MARCELLINO:  Simulcast,  
17           did you tell -- excuse me.

18                  Mr. President, I wish to call up  
19           Senator Saland's bill, Print Number 5,356  
20           recalled from the Assembly which is now at the  
21           desk.

22                  ACTING PRESIDENT KUHL:  Secretary  
23           will read.

24                  THE SECRETARY:  By Senator  
25           Saland, Senate Print 5356, an act to amend the

1 Penal Law.

2 ACTING PRESIDENT KUHL: Senator  
3 Marcellino.

4 SENATOR MARCELLINO: Mr.  
5 President, I now move to reconsider the vote by  
6 which this bill was passed.

7 ACTING PRESIDENT KUHL: Secretary  
8 will call the roll on reconsideration.

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

11 THE SECRETARY: Ayes 57.

12 ACTING PRESIDENT KUHL: Bill is  
13 before the house. Senator Marcellino.

14 SENATOR MARCELLINO: Mr.  
15 President, I now offer the following  
16 amendments.

17 ACTING PRESIDENT KUHL:  
18 Amendments are received and adopted.

19 SENATOR MARCELLINO: Thank you.  
20 The Senate will stand at ease  
21 awaiting -

22 SENATOR PADAVAN: Mr. President.

23 ACTING PRESIDENT KUHL: Senator  
24 Padavan.

25 SENATOR PADAVAN: I'd like to be

1 recorded in the negative on Calendar Number  
2 1645.

3 ACTING PRESIDENT KUHL: Without  
4 objection, hearing no objection, Senator Padavan  
5 will be recorded in the negative on Calendar  
6 Number 1645.

7 (The Senate stood at ease from  
8 1:56 to 2:07 a.m.)

9 ACTING PRESIDENT KUHL: Senate  
10 will come to order.

11 SENATOR STAVISKY: Mr.  
12 President.

13 ACTING PRESIDENT KUHL: Senator  
14 Stavisky.

15 SENATOR STAVISKY: Mr. President,  
16 has Calendar Number 1586 been passed? On page  
17 5.

18 ACTING PRESIDENT KUHL: No, no,  
19 that's on the calendar. It has not passed.

20 SENATOR STAVISKY: Thank you.

21 ACTING PRESIDENT KUHL: Senator  
22 Holland.

23 SENATOR HOLLAND: You ready? Mr.  
24 President, can we take up Calendar Number 1643,  
25 please.

1                   ACTING PRESIDENT KUHL: Secretary  
2 will read Calendar Number 1633 on the calendar  
3 on your desk, Calendar Number 66.

4                   THE SECRETARY: Calendar Number  
5 1643, by Senator Spano, Senate Print Number  
6 3512-A, an act to amend the Civil Practice Law  
7 and Rules.

8                   SENATOR HOLLAND: Is there a  
9 message at the desk, Mr. President?

10                  ACTING PRESIDENT KUHL: There  
11 is.

12                  SENATOR HOLLAND: Move we accept  
13 the message.

14                  ACTING PRESIDENT KUHL: Motion is  
15 to accept the message on Calendar Number 1643.  
16 All those in favor signify by saying aye.

17                                 (Response of "Aye.")

18                                 Opposed nay.

19                                 (There was no response. )

20                                 The message is accepted.

21 Secretary will read the last section.

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

24                   ACTING PRESIDENT KUHL: Call the  
25 roll.

1 (The Secretary called the roll. )

2 THE SECRETARY: Ayes 47.

3 ACTING PRESIDENT KUHL: The bill  
4 is passed.

5 Senator Holland.

6 SENATOR HOLLAND: Yeah. Why  
7 don't we do Calendar Number 1646, please.

8 ACTING PRESIDENT KUHL: Secretary  
9 will read the title to Calendar Number 1646.

10 THE SECRETARY: Calendar Number  
11 1646, by Senator Holland, Senate Print 5787, an  
12 act to amend Chapter 462 of the Laws of 1996.

13 ACTING PRESIDENT KUHL: Senator  
14 Holland.

15 SENATOR HOLLAND: Is there a  
16 message?

17 ACTING PRESIDENT KUHL: There  
18 is.

19 SENATOR HOLLAND: Move we accept  
20 the message.

21 ACTING PRESIDENT KUHL: Motion is  
22 to accept the message of necessity on Calendar  
23 Number 1646. All those in favor signify by  
24 saying aye.

25 (Response of "Aye.")

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Opposed nay.

(There was no response. )

The message is accepted. Bill is  
before the house.

Secretary will read the last  
section.

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

ACTING PRESIDENT KUHL: Call the  
roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill  
is passed.

Senator Holland.

SENATOR HOLLAND: Can we do 1644,  
please.

ACTING PRESIDENT KUHL: Secretary  
will read the title to Calendar Number 1644.

THE SECRETARY: Calendar Number  
1644, by Senator Volker, Senate Print 5644-A, an  
act to amend the Public Authorities Law.

ACTING PRESIDENT KUHL: Senator  
Holland.

SENATOR HOLLAND: Is there a

1 message of necessity at the desk?

2 ACTING PRESIDENT KUHL: There  
3 is.

4 SENATOR HOLLAND: Move we accept  
5 the message.

6 ACTING PRESIDENT KUHL: The  
7 motion is to accept the message of necessity on  
8 Calendar Number 1644. All those in favor  
9 signify by saying aye.

10 (Response of "Aye.")

11 Opposed nay.

12 (There was no response. )

13 The message is accepted. Bill is  
14 before the house.

15 SENATOR DOLLINGER: Explanation.

16 ACTING PRESIDENT KUHL: Senator  
17 Volker, an explanation has been requested by  
18 Senator Dollinger.

19 SENATOR VOLKER: Mr. President,  
20 let me first of all say that this bill  
21 represents an agreement between the both houses  
22 of the Legislature and the Governor and with the  
23 help, frankly, of all leaders here, I'd like to  
24 first certainly thank the Governor for his help  
25 in this, the Majority Leader, the Speaker, and

1 I'd also like to say, and I'll say it to start  
2 with that this bill which, as I think you can  
3 see, has all the members of our delegation on  
4 it, frankly, on both sides, is a bill that  
5 represents an answer to a problem for one of the  
6 major hospitals in this country, the Roswell  
7 Park Cancer Institute.

8 It was worked on, let me say, by  
9 the way, very ably and I'm going to read these  
10 because I think it's important, by a number of  
11 staff people here who did an excellent job, Mary  
12 Louise Mallick, and Abe Lackman, of course, Mary  
13 Louise who works for Abe, Kathy Bryan, from  
14 Senate staff, Jane Preston from Senator Hannon's  
15 office and Senator Hannon was very important to  
16 us, and Donna Montalto and Jeff Buley from  
17 Senator Bruno's staff, as well as a number of  
18 people certainly in the Governor's office.

19 The reason this is important  
20 because to us in Western New York we have had a  
21 number of difficult issues over the last several  
22 years. One of these has been the declining  
23 financial structure of Roswell Park. What this  
24 bill represents is a plan to restructure the  
25 Roswell Park hospital, to make sure that it is

1       viable, by setting up a public benefit  
2       corporation.

3               The budget provides additional  
4       funding for Roswell Park to give it what could  
5       be called bridge funding, I suppose, as it moves  
6       off into the future. One of the biggest  
7       problems with many of the public hospitals, and  
8       we have already seen legislation in this house  
9       and in both houses, on public hospitals, is  
10      governance and what this bill does is it changes  
11      the governance, the ability of this hospital to  
12      manage itself. We have -- Roswell is hiring one  
13      of the top people in the country, in Dr. Hoehn  
14      from one of the major hospitals in the country  
15      from Texas, so we are very, very hopeful that  
16      what this bill will do is to set up a process  
17      that would put Roswell back in a financially  
18      strong position and allow it to become totally  
19      viable.

20             It's a very important part of the  
21      Western New York fabric. It's not been easy.  
22      In all honesty, we've had our problems back in  
23      Buffalo recently, as more frankly with negative  
24      ness in the community. The business community  
25      is extremely negative, and the media has been

1           pretty negative on this issue.

2                         There were many who said, Well,  
3           what you just do with this hospital is privatize  
4           it. The problem is that some people don't  
5           realize that privatization is not always the  
6           answer, and what we're trying to do here is  
7           develop a rational process for making sure that  
8           this hospital succeeds and also that people's  
9           jobs are protected wherever possible.

10                        ACTING PRESIDENT KUHL: Senator  
11           Dollinger.

12                        SENATOR DOLLINGER: On the bill,  
13           Mr. President.

14                        ACTING PRESIDENT KUHL: Senator  
15           Dollinger, on the bill.

16                        SENATOR DOLLINGER: I've had an  
17           opportunity to speak with Senator Volker briefly  
18           about this bill before it came to the floor, and  
19           I want to commend him for his leadership, and  
20           the Buffalo delegation. I'm pleased to see that  
21           this is an obviously important bill for my  
22           colleagues from Buffalo; and how do I know it's  
23           very important? I, frankly, not only see all  
24           the members of the Republican delegation from  
25           the Buffalo community, but I see the Democratic

1 members as well.

2 Senator Volker, while voting for  
3 this, I just have one caveat which I think is  
4 important to my community 90 miles down the road  
5 from Buffalo, and that is that, as we devise a  
6 health care system that is based on a free  
7 market series of principles, government  
8 intervention in that market place, whether it's  
9 either changing assessments for certain groups  
10 or providing public funds for certain entities,  
11 has the net impact of occasionally skewering  
12 that free market and we end up with a  
13 displacement which no longer represents a true  
14 free market, but ends up in a market that is  
15 tinkered with in certain areas.

16 I know I've heard from lots of  
17 people at CSEA about the importance of Roswell  
18 Park, and I know and I agree with you, Senator,  
19 that it's an important part of the Western New  
20 York fabric, but as we model that fabric, in a  
21 free market notion, and as we create competition  
22 between our health care providers in an effort  
23 to drive down costs, I just think we have to pay  
24 attention to the fact that government  
25 intervention in that free marketplace can have

1 the effect of skewering the free market and  
2 ending up in a situation where it's no longer  
3 free market principles that control but instead  
4 government is dictating the future course.

5 When the advertisements for  
6 Roswell Park show up in Rochester, New York, to  
7 the disadvantage to Strong Memorial Hospital,  
8 Rochester General Hospital, and our private  
9 sector not-for-profit hospitals, then there's a  
10 danger that that kind of skewing can occur.

11 So, Senator, I'm going to vote  
12 for this. I understand how important this is to  
13 the Buffalo delegation. I can see it on the  
14 face of this bill, but I just think it's one of  
15 these things that we have to monitor carefully  
16 to make sure, if we're going to go down the road  
17 to a free market system, we're fully aware of  
18 how we preserve that system and if we do any  
19 tinkering of it, we do it for the public  
20 benefit.

21 I understand it's being done for  
22 that reason, and for that reason alone I'm going  
23 to support it.

24 ACTING PRESIDENT KUHL: Senator  
25 Nanula.

1                   SENATOR NANULA: Thank you, Mr.  
2           President. Very briefly, on the bill.  
3                   I want to start by firstly  
4           thanking you, Senator Volker, for ensuring that  
5           this effort was, in fact, a bipartisan effort in  
6           regard to the listing of both Democrats and  
7           Republicans on this bill, and Roswell Park  
8           Cancer Institute is just that. It's an  
9           institute, the first of its kind in the nation,  
10          devoted to researching a cure for cancer and my  
11          esteemed colleague from Monroe, Rick Dollinger,  
12          and, of course, I understand the importance of  
13          Strong to the Rochester community, but we have  
14          to understand as New Yorkers that Roswell Park  
15          Cancer Institute is a New York State institution  
16          and, in fact, is a national institution, and we  
17          also should remind ourselves that as a state we  
18          put significant dollars, to the tune of almost  
19          \$300 million, into Roswell Park several years  
20          ago, a construction process that is just now  
21          coming to fruition, and with this legislation  
22          and the great effort behind it to ensure that  
23          this institution can be one that's empowered to  
24          move itself into the 21st Century, to work with  
25          the private sector, the HMOs, and the merged

1 hospital networks that are coming together in  
2 Western New York, it can be in fact a dynamic  
3 vibrant entity not only for Western New York and  
4 not only for New York State, but for this  
5 country and really again put itself on the  
6 forefront of cancer research, and hopefully in  
7 the forefront of finding cures to cancer.

8 So with that again, I want to  
9 thank Senator Volker on behalf of his bipartisan  
10 initiative here, and for that matter all those  
11 on both sides of the aisle that were involved in  
12 bringing this legislation forward.

13 Thank you, Mr. President.

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

18 THE SECRETARY: Section 25. This  
19 act shall take effect immediately.

20 ACTING PRESIDENT KUHL: Call the  
21 roll.

22 (The Secretary called the roll. )

23 THE SECRETARY: Ayes 57.

24 ACTING PRESIDENT KUHL: The bill  
25 is passed.

1 Senator Holland.

2 SENATOR HOLLAND: Stand at ease  
3 please, Mr. President.

4 ACTING PRESIDENT KUHL: The  
5 Senate will stand at ease.

6 (The Senate stood at ease from  
7 2:20 a.m. to 3:47 a.m.)

8 ACTING PRESIDENT NOZZOLIO:  
9 Senator Skelos.

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

13 ACTING PRESIDENT NOZZOLIO:  
14 Immediate meeting of the Rules Committee in the  
15 Majority Conference Room.

16 (The Senate stood at ease from  
17 3:53 a.m. until 4:20 a.m.)

18 ACTING PRESIDENT MEIER: Senator  
19 Skelos.

20 SENATOR SKELOS: Mr. President,  
21 on Senate Calendar Number 66, would you please  
22 call up Calendar 1155.

23 ACTING PRESIDENT MEIER:  
24 Secretary will read.

25 THE SECRETARY: Calendar Number

1 1155, by Senator Stafford, Senate Print 5349-C,  
2 an act to amend the Lien Law.

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

5 ACTING PRESIDENT MEIER: There is  
6 a message at the desk.

7 SENATOR SKELOS: Move to accept.

8 ACTING PRESIDENT MEIER: Motion  
9 to accept the message of necessity. All those  
10 in favor signify by saying aye.

11 (Response of "Aye.")

12 Opposed nay.

13 ( )There was no response. )

14 The message of necessity is  
15 accepted. Read the last section.

16 THE SECRETARY: Section 2. This  
17 act shall take effect the first day of  
18 September.

19 ACTING PRESIDENT MEIER: Call the  
20 roll.

21 (The Secretary called the roll. )

22 THE SECRETARY: Ayes 57.

23 ACTING PRESIDENT MEIER: The bill  
24 is passed.

25 SENATOR SKELOS: Would you -- on

1 the same calendar, would you call up Calendar  
2 Number 1385.

3 ACTING PRESIDENT MEIER:  
4 Secretary will read.

5 THE SECRETARY: Calendar Number  
6 1385, by Senator Rath, Senate Print 5535-A, an  
7 act authorizing the town of Amherst.

8 SENATOR SKELOS: Is there a  
9 message at the desk?

10 ACTING PRESIDENT MEIER: There is  
11 a message at the desk.

12 SENATOR SKELOS: Move to accept.

13 ACTING PRESIDENT MEIER: Motion  
14 is to accept the message of necessity. All  
15 those in favor signify by saying aye.

16 (Response of "Aye.")

17 Opposed nay.

18 (There was no response. )

19 The message of necessity is  
20 accepted. Read the last section.

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

23 ACTING PRESIDENT MEIER: Call the  
24 roll.

25 (The Secretary called the roll. )

1 THE SECRETARY: Ayes 57.

2 ACTING PRESIDENT MEIER: The bill  
3 is passed.

4 Senator Skelos.

5 SENATOR SKELOS: Mr. President,  
6 would you call up Calendar Number 1502.

7 ACTING PRESIDENT MEIER:  
8 Secretary will read.

9 THE SECRETARY: Calendar Number  
10 1302 -

11 SENATOR SKELOS: It was recalled  
12 and restored today, to the calendar today.

13 THE SECRETARY: Calendar Number  
14 1302, by Senator Saland, Senate Print 5356-A, an  
15 act to amend the Penal Law.

16 SENATOR SKELOS: Is there a  
17 message at the desk?

18 ACTING PRESIDENT MEIER: There is  
19 a message at the desk.

20 SENATOR SKELOS: Move to accept.

21 ACTING PRESIDENT MEIER: Motion  
22 is to accept the message of necessity. All  
23 those in favor signify by saying aye.

24 (Response of "Aye.")

25 Opposed nay.

1 (There was no response. )

2 The message is accepted. Read  
3 the last section.

4 SENATOR LEICHTER: Mr.  
5 President.

6 ACTING PRESIDENT MEIER: Oh,  
7 sorry. Senator Leichter.

8 SENATOR LEICHTER: Which calendar  
9 is that, 1302?

10 ACTING PRESIDENT MEIER: It's  
11 Calendar 1302, Senator Leichter.

12 SENATOR SKELOS: That was  
13 restored to the calendar today, but it's not in  
14 the calendar.

15 ACTING PRESIDENT MEIER: The bill  
16 is on the desk.

17 SENATOR LEICHTER: Yeah.

18 Maybe Senator Saland could  
19 quickly tell us what changes were made in this  
20 bill.

21 ACTING PRESIDENT MEIER: Senator  
22 Saland, an explanation of changes has been  
23 requested by Senator Leichter.

24 SENATOR SALAND: Senator  
25 Leichter, I believe what the changes are, and

1 I'd need the marked up copy of the preceding  
2 bill, but I believe that they may primarily deal  
3 with the stepped up "E" felony penalty where  
4 there is a predicate for having been convicted  
5 previously within the past five years of  
6 non-support of a child which was the underlying  
7 "A" misdemeanor, but if you would like I  
8 certainly can take a -- take a look at the prior  
9 print and tell you with greater specificity.

10 SENATOR LEICHTER: We'll forget  
11 it. Last section.

12 ACTING PRESIDENT MEIER: Read the  
13 last section.

14 THE SECRETARY: Section 3. This  
15 act shall take effect on the first day of  
16 September.

17 ACTING PRESIDENT MEIER: Call the  
18 roll.

19 (The Secretary called the roll. )

20 THE SECRETARY: Ayes 57.

21 ACTING PRESIDENT MEIER: The bill  
22 is passed.

23 SENATOR SKELOS: Mr. President,  
24 if we could return to reports of standing  
25 committees. I believe there's a report of the

1 Rules Committee at the desk. I ask that it be  
2 read.

3 ACTING PRESIDENT MEIER:  
4 Secretary will read.

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

8 Senate Print 2543, by Senator  
9 Spano, an act to amend the Retirement and Social  
10 Security Law;

11 3738, by Senator Breslin, an act  
12 to amend the Tax Law;

13 4139, by Senator Spano, an act to  
14 amend the Workers' Compensation Law;

15 4409-C, by Senator Rath, an act  
16 to authorize the trustees of the State  
17 University;

18 4598, by Senator Velella, an act  
19 to amend the Administrative Code of the city of  
20 New York;

21 4749-B, by Senator Skelos, an act  
22 to amend the Agriculture and Markets Law;

23 4842, by Senator Goodman, an act  
24 to amend the Real Property Tax Law;

25 5024-A by Senator Farley, an act

1 to amend the Retirement and Social Security Law;  
2 5119-B, by Senator Alesi, an act  
3 to amend the Education Law;  
4 5391, by Senator Seward, an act  
5 to amend the Public Service Law;  
6 5501-C, by Senator Rath, an act  
7 to amend the Education Law;  
8 5577-A, by Senator Present, an  
9 act to amend the Indian Law;  
10 5631-A, an act -- by Senator  
11 Spano, an act to amend the Public Service Law;  
12 5738, by Senator Trunzo, an act  
13 to amend the Retirement and Social Security Law;  
14 5740, by Senator Farley, an act  
15 to legalize, validate acts by the Fonda  
16 Fultonville Central School;  
17 5748, by the Committee on Rules,  
18 an act to amend the Tax Law;  
19 5749, by the Committee on Rules,  
20 an act to amend the Tax Law;  
21 5751, by Senator Goodman, an act  
22 to amend the Real Property Law;  
23 5755, by Senator Spano, an act  
24 creating a temporary state commission;  
25 5768, by Senator Velella, act to

1 amend the General Business Law;  
2 5776, by Senator Maltese, an act  
3 to amend the Retirement and Social Security Law;  
4 5786, by the Committee on Rules,  
5 an act to amend the Public Authorities Law;  
6 5789, by Senator Volker, an act  
7 to amend the Criminal Procedure Law; and  
8 5790, by Senator Maziarz, an act  
9 to amend the facility schools to expedite.  
10 All bills directly for third  
11 reading.  
12 ACTING PRESIDENT MEIER: Senator  
13 Skelos.  
14 SENATOR SKELOS: Move to accept  
15 the report of the Rules Committee.  
16 ACTING PRESIDENT MEIER: Motion  
17 is to accept the report of the Rules Committee.  
18 All those in favor signify by saying aye.  
19 (Response of "Aye.")  
20 Opposed nay.  
21 (There was no response. )  
22 The report of the Rules Committee  
23 is accepted. All bills are referred to third  
24 reading.  
25 SENATOR SKELOS: Mr. President,

1 at this time if we could take up Senate  
2 Supplemental Calendar 66-A, non-controversial.

3 ACTING PRESIDENT MEIER:  
4 Secretary will read.

5 THE SECRETARY: Calendar Number  
6 1647, by Senator Spano, Senate Print 2543, an  
7 act to amend the Retirement and Social Security  
8 Law.

9 SENATOR LEICHTER: Lay it aside.

10 ACTING PRESIDENT MEIER: Lay the  
11 bill aside.

12 THE SECRETARY: Calendar Number  
13 1648, in relation to Calendar Number 1648,  
14 Senator Breslin moves to discharge from the  
15 Committee on Rules Assembly Bill Number 6118,  
16 and substitute it for the identical Senate bill,  
17 Third Reading 1648.

18 ACTING PRESIDENT MEIER:  
19 Substitution ordered. Secretary will read.

20 THE SECRETARY: Calendar Number  
21 1648, by member of the Assembly McEneny,  
22 Assembly Print 6118, an act to amend the Tax  
23 Law.

24 ACTING PRESIDENT MEIER: Read the  
25 last section.

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

3 ACTING PRESIDENT MEIER: Call the  
4 roll.

5 (The Secretary called the roll. )

6 THE SECRETARY: Ayes 57.

7 ACTING PRESIDENT MEIER: The bill  
8 is passed.

9 THE SECRETARY: Calendar Number  
10 1649, in relation to Calendar Number 1649,  
11 Senator Spano moves to discharge from the  
12 Committee on Labor Assembly Print 6543 and  
13 substitute it for the identical Senate bill,  
14 Third Reading 1649.

15 ACTING PRESIDENT MEIER:  
16 Substitution ordered. Secretary will read.

17 THE SECRETARY: Calendar Number  
18 1649, by member of the Assembly Nolan, Assembly  
19 Print 6543, an act to amend the Workers'  
20 Compensation Law.

21 ACTING PRESIDENT MEIER: Read the  
22 last section.

23 THE SECRETARY: Section 3. -

24 SENATOR LEICHTER: Lay aside.

25 ACTING PRESIDENT MEIER: Lay the

1 bill aside.

2 THE SECRETARY: Calendar Number  
3 1650, by Senator Rath, Senate Print 4409-C, an  
4 act to authorize the trustees of the State  
5 University.

6 ACTING PRESIDENT MEIER: Read the  
7 last section.

8 THE SECRETARY: Section 12. This  
9 act shall take effect immediately.

10 ACTING PRESIDENT MEIER: Call the  
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 57.

14 ACTING PRESIDENT MEIER: The bill  
15 is passed.

16 THE SECRETARY: Calendar Number  
17 1651, by Senator Velella, Senate Print 4598, an  
18 act to amend the Administrative Code of the city  
19 of New York.

20 ACTING PRESIDENT MEIER: Read the  
21 last section.

22 THE SECRETARY: Section 14. This  
23 act shall take effect immediately.

24 ACTING PRESIDENT MEIER: Call the  
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes 57.

3 ACTING PRESIDENT MEIER: The bill  
4 is passed.

5 THE SECRETARY: Calendar Number  
6 1652, by Senator Skelos, Senate Print 4749-B, an  
7 act to amend the Agriculture and Markets Law.

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

10 ACTING PRESIDENT MEIER: There is  
11 a message at the desk.

12 SENATOR SKELOS: Move to accept.

13 ACTING PRESIDENT MEIER: Motion  
14 is to accept the message of necessity. All  
15 those in favor signify by saying aye.

16 (Response of "Aye.")

17 Opposed nay.

18 (There was no response.)

19 Message of necessity is  
20 accepted. Secretary will read.

21 I'm sorry. Read the last  
22 section.

23 THE SECRETARY: Section 5. This  
24 act shall take effect on the first day of  
25 September.

1                   ACTING PRESIDENT MEIER: Call the  
2                   roll.

3                   (The Secretary called the roll. )

4                   THE SECRETARY: Ayes 57.

5                   ACTING PRESIDENT MEIER: The bill  
6                   is passed.

7                   THE SECRETARY: Calendar Number  
8                   1653, in relation to Calendar Number 1653,  
9                   Senator Goodman moves to discharge from the  
10                  Committee on Rules Assembly Print 8345 and  
11                  substitute it for the identical Senate bill,  
12                  Third Reading 1653.

13                  ACTING PRESIDENT MEIER:  
14                  Substitution is ordered. Secretary will read.

15                  THE SECRETARY: Calendar Number  
16                  1653, by the Committee on Rules, Assembly Print  
17                  8345, an act to amend the Real Property Tax  
18                  Law.

19                  ACTING PRESIDENT MEIER: Read the  
20                  last section.

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

23                  ACTING PRESIDENT MEIER: Call the  
24                  roll.

25                  (The Secretary called the roll.)

1 THE SECRETARY: Ayes 57.

2 ACTING PRESIDENT MEIER: The bill  
3 is passed.

4 THE SECRETARY: Calendar Number  
5 1654, by Senator Farley, Senate Print 5024-A, an  
6 act to amend the Retirement and Social Security  
7 Law.

8 ACTING PRESIDENT MEIER: Read the  
9 last -

10 SENATOR LEICHTER: Lay it aside.

11 ACTING PRESIDENT MEIER: Lay the  
12 bill aside.

13 THE SECRETARY: 1656, by Senator  
14 Seward, Senate Print 5391, an act to amend the  
15 Public Service Law.

16 ACTING PRESIDENT MEIER: Read the  
17 last section.

18 THE SECRETARY: Section 15. This  
19 act shall take effect immediately.

20 ACTING PRESIDENT MEIER: Call the  
21 roll.

22 (The Secretary called the roll. )

23 THE SECRETARY: Ayes 57.

24 ACTING PRESIDENT MEIER: The bill  
25 is passed.

1 THE SECRETARY: Calendar Number  
2 1657, by Senator Rath, Senate Print 5501-C, an  
3 act to amend the Education Law.

4 ACTING PRESIDENT MEIER: Read the  
5 last section.

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

8 ACTING PRESIDENT MEIER: Call the  
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 57.

12 ACTING PRESIDENT MEIER: The bill  
13 is passed.

14 THE SECRETARY: Calendar Number  
15 1658, by Senator Present, Senate Print 5577-A,  
16 an act to amend the Indian Law.

17 ACTING PRESIDENT MEIER: Read the  
18 last section.

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

21 SENATOR LEICHTER: Lay aside.

22 ACTING PRESIDENT MEIER: Lay the  
23 bill aside.

24 THE SECRETARY: Calendar Number  
25 1659, by Senator Spano, an act to amend the

1 Public Service Law.

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

4 ACTING PRESIDENT MEIER: There  
5 is.

6 SENATOR SKELOS: Move to accept.

7 ACTING PRESIDENT MEIER: Motion  
8 is to accept the message of necessity. All  
9 those in favor signify by saying aye.

10 (Response of "Aye.")

11 Opposed nay.

12 (There was no response.)

13 The message of necessity is  
14 accepted. Secretary will read the last  
15 section.

16 THE SECRETARY: Section 4. This  
17 act shall take effect on the 90th day.

18 ACTING PRESIDENT MEIER: Call the  
19 roll.

20 (The Secretary called the roll. )

21 THE SECRETARY: Ayes 57.

22 ACTING PRESIDENT MEIER: The bill  
23 is passed.

24 THE SECRETARY: Calendar Number  
25 1660, by Senator Trunzo, Senate Print 5738, an

1 act to amend the Retirement and Social Security  
2 Law.

3 ACTING PRESIDENT MEIER: Read the  
4 last section.

5 THE SECRETARY: Section 19. This  
6 act shall take effect immediately.

7 ACTING PRESIDENT MEIER: Call the  
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 57.

11 SENATOR PADAVAN: Mr. President,  
12 I'd like to explain my vote.

13 ACTING PRESIDENT MEIER: Senator  
14 Padavan, to explain his vote.

15 SENATOR PADAVAN: I've read this  
16 bill and I must confess that it is rather  
17 complex in terms of understanding the fiscal  
18 impacts, although there is a notation at the  
19 very end indicating that it is fiscally neutral  
20 in terms of any cost to the city of New York in  
21 terms of an early retirement program for our  
22 teachers.

23 But I do find something else  
24 which I do find rather troubling. This early  
25 retirement program would be effective

1 immediately. I'm sure many of you have noted  
2 some articles in the media just recently  
3 indicating a severe shortage of teachers within  
4 the City system. It has reached really a very,  
5 very troubling level, not only in terms of not  
6 enough teachers but also teachers who are  
7 certified. A significant percentage of our  
8 pedagogical staff in the city of New York are  
9 uncertified in their various categories.

10 Now, this takes effect  
11 immediately. That means that in September, the  
12 school year just beginning, the Board of  
13 Education of the city of New York might find  
14 itself in a position of having significantly  
15 fewer teachers than it planned on having, with  
16 absolutely no reasonable amount of time to  
17 replace them and, as I'm sure you're also aware,  
18 in recent years and this year will be no  
19 different, the number of pupils entering in the  
20 system will increase by 20- to 25,000.

21 Now, with all of those factors, I  
22 think, to be considered, it would seem to me  
23 that it's imprudent to make this law effective  
24 immediately. It would have been more  
25 appropriate, I think, to allow the City, the

1 Board of Education, some time to at least  
2 recruit and adjust for what obviously will be  
3 very significant shortfalls and so, for that  
4 reason, Mr. President, I will have to vote no.

5 ACTING PRESIDENT MEIER: Senator  
6 Padavan will be recorded in the negative.  
7 Announce the results.

8 THE SECRETARY: Ayes 56, nays -

9 ACTING PRESIDENT MEIER: The bill  
10 is passed.

11 Oh, I'm sorry.

12 THE SECRETARY: Ayes 55, nays 2,  
13 Senators Padavan and Leichter recorded in the  
14 negative.

15 ACTING PRESIDENT MEIER: The bill  
16 is passed.

17 THE SECRETARY: Calendar Number  
18 1661, by Senator Farley, Senate Print 5740, an  
19 act to legalize and validate acts by the Fonda  
20 Fultonville Central School.

21 ACTING PRESIDENT MEIER: Read the  
22 last section.

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

25 ACTING PRESIDENT MEIER: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 57.

4 ACTING PRESIDENT MEIER: The bill  
5 is passed.

6 THE SECRETARY: Calendar Number  
7 1662, by the Committee on Rules, Senate Print  
8 5740-A, an act to amend the Tax Law.

9 ACTING PRESIDENT MEIER: Read the  
10 last section.

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

13 ACTING PRESIDENT MEIER: Call the  
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 57.

17 ACTING PRESIDENT MEIER: The bill  
18 is passed.

19 THE SECRETARY: Calendar Number  
20 1663, by the Committee on Rules, Senate Print  
21 5749, an act to amend the Tax Law.

22 ACTING PRESIDENT MEIER: Read the  
23 last section.

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

1                   ACTING PRESIDENT MEIER: Call the  
2                   roll.

3                   (The Secretary called the roll.)

4                   THE SECRETARY: Ayes 57.

5                   ACTING PRESIDENT MEIER: The bill  
6                   is passed.

7                   THE SECRETARY: Calendar Number  
8                   1664, by Senator Goodman, Senate Print 5751, an  
9                   act to amend the Real Property Law.

10                  ACTING PRESIDENT MEIER: Read the  
11                  last section.

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

14                  ACTING PRESIDENT MEIER: Call the  
15                  roll.

16                  (The Secretary called the roll.)

17                  THE SECRETARY: Ayes 57.

18                  ACTING PRESIDENT MEIER: The bill  
19                  is passed.

20                  THE SECRETARY: Calendar Number  
21                  1665, by Senator Spano, Senate Print 5755, an  
22                  act creating a temporary state commission.

23                  ACTING PRESIDENT MEIER: Read the  
24                  last section.

25                  THE SECRETARY: Section 10. This

1 act shall take effect immediately.

2 SENATOR LEICHTER: Lay aside.

3 ACTING PRESIDENT MEIER: Lay the  
4 bill aside.

5 THE SECRETARY: 1668, by Senator  
6 Velella, an act to amend the General Business  
7 Law.

8 ACTING PRESIDENT MEIER: Read the  
9 last section.

10 THE SECRETARY: Section 2. This  
11 act shall take effect on the same date as such  
12 chapter of the laws of 1997.

13 ACTING PRESIDENT MEIER: Call the  
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 57.

17 ACTING PRESIDENT MEIER: The bill  
18 is passed.

19 THE SECRETARY: Calendar Number  
20 1669, by the Committee on Rules, Senate Print  
21 5786, an act to amend the Public Authorities  
22 Law.

23 SENATOR SKELOS: Is there a  
24 message at the desk?

25 ACTING PRESIDENT MEIER: There is

1 a message at the desk.

2 SENATOR SKELOS: Move to accept.

3 ACTING PRESIDENT MEIER: Motion  
4 is to accept the message of necessity at the  
5 desk. All those in favor signify by saying  
6 aye.

7 (Response of "Aye.")

8 Opposed nay.

9 (There was no response.)

10 The message is accepted.

11 Secretary will read the last section.

12 THE SECRETARY: Section 6. This  
13 act shall take effect immediately.

14 ACTING PRESIDENT MEIER: Call the  
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 57.

18 ACTING PRESIDENT MEIER: The bill  
19 is passed.

20 THE SECRETARY: Calendar Number  
21 1670, by Senator Volker, Senate Print 5789, an  
22 act to amend the Criminal Procedure Law.

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

25 ACTING PRESIDENT MEIER: There's

1 a message of necessity at the desk.

2 SENATOR SKELOS: Move to accept.

3 ACTING PRESIDENT MEIER: Motion

4 is to accept the message of necessity. All

5 those in favor signify by saying aye.

6 (Response of "Aye.")

7 Opposed nay.

8 (There was no response.)

9 The message is accepted.

10 SENATOR PATERSON: Lay aside.

11 ACTING PRESIDENT MEIER:

12 Secretary will read the last section. Lay the

13 bill aside.

14 Senator Skelos, that concludes

15 the reading of the calendar.

16 SENATOR SKELOS: If we could have

17 the controversial reading of that calendar.

18 ACTING PRESIDENT MEIER:

19 Secretary will read the controversial calendar.

20 THE SECRETARY: Calendar Number

21 1647, by Senator Spano, Senate Print 2543, an

22 act to amend the Retirement and Social Security

23 Law.

24 SENATOR LEICHTER: Explanation.

25 ACTING PRESIDENT MEIER: Senator

1 Spano, an explanation has been requested of  
2 Calendar Number 1647.

3 SENATOR SPANO: Yes, Mr.  
4 President. This is a bill that allows for the  
5 Supreme Court Clerks to apply for three-quarter  
6 disability -- disability retirement.

7 Last year we passed a bill to  
8 offer Supreme Court Officers to -- to have this  
9 same option. It was signed into law by the  
10 Governor. The Supreme Court Clerks do much of  
11 the same work as the Supreme Court Officers and  
12 have the same exposure as do those other  
13 officers and this bill gives them that option.

14 SENATOR LEICHTER: If you -- if  
15 you'd yield, please, Senator Spano.

16 SENATOR SPANO: Sure.

17 ACTING PRESIDENT MEIER: Senator  
18 yields.

19 SENATOR LEICHTER: You know, I  
20 have no problem, as I said before, if there's a  
21 real risk related to somebody's employment. I  
22 think we ought to compensate them if they're  
23 injured in the course of performance, but what  
24 risk do these court officers take?

25 SENATOR SPANO: They're under

1 extreme risk in the courts.

2 SENATOR LEICHTER: Like what?

3 They drop their pencil?

4 SENATOR SPANO: The bail... the  
5 Supreme -- the court officers are the -- are an  
6 officer of the court obviously, and they have a  
7 great deal of exposure in terms of the prisoners  
8 that are brought before the judge, so the -  
9 there are a lot of -- we're seeing increasing  
10 weapons that have been confiscated in -- in our  
11 courtrooms.

12 The courtroom crime has been  
13 increasing. The court clerks have been gaining  
14 in their responsibilities, in their duties, and  
15 they are exposed to hazards in their job.

16 SENATOR LEICHTER: Mr.  
17 President. Mr. President, Senator Spano, you  
18 know, I go to court occasionally; I used to go  
19 more often and litigate. I must say I've never  
20 found the courtroom a particularly dangerous or  
21 risky place, but you tell us, you know, that the  
22 incidents have increased, and so on. Do you  
23 have any figures or any statistics that show  
24 that there's been, in fact, an increase to these  
25 accidents to these court officers related to

1           them having to deal with violence in the  
2           courtroom? I mean are we dealing with a serious  
3           problem, Senator, that we ought to address and  
4           rectify?

5                         SENATOR SPANO: We do -- we do  
6           not have any -- any specific statistics that I  
7           can share with you, Senator, but I'll tell you  
8           that if it is not a problem, then they would not  
9           be applying for an accidental -- accidental  
10          disability, so for them, if an injury does  
11          occur, we're giving them that option.

12                        SENATOR LEICHTER: Mr. President,  
13          if Senator Spano continues to yield.

14                        SENATOR SPANO: Sure.

15                        SENATOR LEICHTER: Senator, your  
16          theory is, well, just in case an accident  
17          occurs, would you be in favor of across the  
18          board throughout the pension system to apply the  
19          rule that anybody should be entitled to retire  
20          on three-quarters disability if they have any  
21          accident at all in the course of their  
22          employment?

23                        SENATOR SPANO: No, I don't think  
24          that we would -- I certainly would not support  
25          that type of measure across the board. We're

1 talking about peace officers; we're talking  
2 about individuals in a state or -- who are in  
3 high risk jobs and who deal on a daily basis in  
4 the hazards of the court system.

5 SENATOR LEICHTER: Well, Senator,  
6 Mr. President, on the bill.

7 ACTING PRESIDENT MEIER: Senator  
8 Leichter, on the bill.

9 SENATOR LEICHTER: Thank you,  
10 Senator Spano. I mean in all fairness, you've  
11 been unable to identify any hazards or any  
12 particular problems for these people who, as I  
13 understand it, are not uniformed court officers  
14 but who we've given the status of peace  
15 officers.

16 We've given the status of peace  
17 officers to so many people, I don't know if  
18 there's ten people left in New York state who  
19 aren't peace officers. It just seems -- Senator  
20 Skelos would like a bill making him a peace  
21 officer, but in all seriousness, I mean we ought  
22 to be certainly fair to all of the public  
23 employees. We appreciate their work, but I  
24 think we -- if we're going to give them a  
25 benefit, I think it's got to be based on some

1 rational basis.

2 I've heard nothing that Senator  
3 Spano says which justifies this increased  
4 expense to the pension system. We are talking  
5 about public monies. It seems to me that we  
6 have a responsibility to see that these public  
7 monies, after all these are charges on the  
8 employers, that if there's a justification for  
9 it, fine. If there's not, we shouldn't do it.  
10 I've heard no justification. I think, frankly,  
11 this is a gift that Senator Spano is making to  
12 certain court officers, and I don't think it's  
13 justified.

14 ACTING PRESIDENT MEIER: Read the  
15 last section.

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

18 ACTING PRESIDENT MEIER: Call the  
19 roll.

20 (The Secretary called the roll. )

21 THE SECRETARY: Ayes 56, nays  
22 one, Senator Leichter recorded in the negative.

23 ACTING PRESIDENT MEIER: The bill  
24 is passed.

25 THE SECRETARY: Calendar Number

1 1649, by member of the Assembly Nolan, Assembly  
2 Print 6543, an act to amend the Workers'  
3 Compensation Law.

4 SENATOR SKELOS: Last section.

5 ACTING PRESIDENT MEIER: Read the  
6 last section.

7 THE SECRETARY: Section 3. This  
8 act shall take effect on the 180th day.

9 ACTING PRESIDENT MEIER: Call the  
10 roll.

11 (The Secretary called the roll. )

12 THE SECRETARY: Ayes 57.

13 ACTING PRESIDENT MEIER: The bill  
14 is passed.

15 THE SECRETARY: Calendar Number  
16 1654, by Senator Farley, Senate Print 5024-A, an  
17 act to amend the Retirement and Social Security  
18 Law.

19 SENATOR LEICHTER: Explanation.

20 ACTING PRESIDENT MEIER: Senator  
21 Farley, an explanation has been requested of  
22 Calendar Number 1654.

23 SENATOR FARLEY: I'm delighted to  
24 explain it at this hour. Senator Leichter, you  
25 want this explanation?

1 SENATOR LEICHTER: Please.

2 SENATOR FARLEY: This is a bill  
3 that affects one of the most popular state  
4 workers that we have, the forest rangers. It  
5 would allow DEC's forest rangers to transfer  
6 from the state employees' retirement system to  
7 the state and local police and firemen  
8 retirement system. Therefore, like other  
9 officers, forest rangers could elect either the  
10 25-year retirement plan or retirement at age  
11 60.

12 This bill recognizes that DEC's  
13 forest rangers both have police and fire  
14 responsibilities. They are the only state  
15 employees with significant firefighting  
16 responsibilities, including fire suppression,  
17 supervision of local units and prevention  
18 activities. They are also designated peace  
19 officers who enforce a variety of environmental  
20 law. They're also required to complete  
21 mandatory basic and annual police training.  
22 They direct and participate in emergency rescue  
23 operations.

24 Because of these dual police and  
25 fire responsibilities, forest rangers should be

1 eligible for membership in the state and local  
2 police retirement systems, in my judgment.

3 SENATOR SKELOS: Last section.

4 ACTING PRESIDENT MEIER: Read the  
5 last section.

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

8 ACTING PRESIDENT MEIER: Call the  
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 57.

12 ACTING PRESIDENT MEIER: The bill  
13 is passed.

14 SENATOR OPPENHEIMER: Mr.  
15 President.

16 ACTING PRESIDENT MEIER: Senator  
17 Oppenheimer.

18 SENATOR OPPENHEIMER: I'd like  
19 unanimous consent to be recorded in the negative  
20 on, it's S. 5749, which is -

21 ACTING PRESIDENT MEIER: Calendar  
22 1663, Senator. Without objection, Senator  
23 Oppenheimer will be recorded in the negative on  
24 Calendar Number 1663.

25 SENATOR OPPENHEIMER: Thank you.

1                   ACTING PRESIDENT MEIER:

2           Secretary will read.

3                   THE SECRETARY:   Calendar Number  
4           1658, by Senator Present, Senate Print 5577-A,  
5           an act to amend the Indian Law.

6                   ACTING PRESIDENT MEIER:   Read the  
7           last section.

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

10                   ACTING PRESIDENT MEIER:   Call the  
11           roll.

12                   (The Secretary called the roll. )

13                   THE SECRETARY:   Ayes 57.

14                   ACTING PRESIDENT MEIER:   The bill  
15           is passed.

16                   THE SECRETARY:   Calendar Number  
17           1665, by Senator Spano, Senate Print 5755, an  
18           act creating a temporary commission on  
19           employment classifications.

20                   ACTING PRESIDENT MEIER:   Read the  
21           last section.

22                   SENATOR LEICHTER:   I have a  
23           question.

24                   ACTING PRESIDENT MEIER:   Senator  
25           Leichter.

1                   SENATOR LEICHTER: Yes, if  
2           Senator Spano would yield, please.

3                   ACTING PRESIDENT MEIER: Senator  
4           Spano, Senator Leichter asks if you would yield  
5           for a question.

6                   SENATOR SPANO: Yes.

7                   SENATOR LEICHTER: Senator, I  
8           notice in setting up this commission, that while  
9           you give two appointments to the Speaker and to  
10          the Majority Leader, you give no appointments to  
11          the Minority. That's always troubled us on this  
12          side of the aisle.

13                  SENATOR SPANO: Well, that always  
14          troubled me when I was in the Assembly also.

15                  SENATOR LEICHTER: Well, and  
16          therefore, did you learn from that, Senator?

17                  SENATOR SPANO: No, no -- or some  
18          say yes.

19                  A VOICE: Enjoying the joke.

20                  SENATOR SPANO: That's why I  
21          switched.

22                  SENATOR LEICHTER: Well, Senator,  
23          -- apparently you did learn, Senator, but maybe  
24          the wrong lesson. Let me -- let me just ask you  
25          another question. Really, what is -- what is

1 the need for this commission, Senator? We have a  
2 Civil Service Commission. Can't they do this  
3 work?

4 SENATOR SPANO: They haven't been  
5 able to do this. There has been an enormous  
6 amount of confusion for the last number of years  
7 on the designation of what -- who, in fact, is  
8 an independent contractor. We have a number of  
9 bills that have been presented to the Labor  
10 Committee, whether it be taxicab drivers or  
11 models, and we probably have a dozen different  
12 classifications that have been sent to us, where  
13 we're trying to come to terms with the entire  
14 issue of just who is an independent contractor.  
15 One way for us to come with some clear, concise  
16 bill that will be able to pull everybody in will  
17 be to get the -- the departments involved, the  
18 Department of Labor and Taxation and Finance,  
19 the Workers' Comp' Board, which are agencies  
20 which deal with each of those issues as well as  
21 representatives from the Legislature, so that we  
22 can reach out to the affected groups and come in  
23 with an all-encompassing bill to finally deal  
24 with this issue once and for all.

25 SENATOR LEICHTER: Mr. President,

1 if Senator Spano will continue to yield. I  
2 still haven't heard why the Civil Service  
3 Commission can't do it or, for that matter, why  
4 the standing committees of the Senate and  
5 Assembly can't draft a bill and deal with all of  
6 these classifications.

7 SENATOR SPANO: Mr. President,  
8 there are a lot of conflicting interests in not  
9 only in the Labor Law, the Workers' Compensation  
10 Law, the Department of Taxation and Finance,  
11 each of these agencies all attack this issue in  
12 a different direction, and what we're asking for  
13 in this legislation that is being supported by  
14 the AFL-CIO as well as The Business Council is  
15 for us to get everyone at the same table working  
16 in the same direction to develop a comprehensive  
17 solution to a problem.

18 SENATOR LEICHTER: Mr. President,  
19 on the bill.

20 ACTING PRESIDENT MEIER: Senator  
21 Leichter, on the bill.

22 SENATOR LEICHTER: Maybe it's  
23 because of the lateness of the hour and I don't  
24 appreciate fully what Senator Spano said, but  
25 I'm no more convinced on this bill, Senator

1 Spano, than I was on your previous bill and I  
2 just point out that I just think it's a wrong  
3 way to go that when you set up a commission of  
4 this sort, you exclude the Minority. You should  
5 have more regard for your Republican colleagues  
6 in the Assembly, and you should have more regard  
7 for your Democratic colleagues in the Senate.

8 I think if we -- if a commission  
9 is to be set up, and I'm not convinced that you  
10 need it, I think you should provide for Minority  
11 appointments. In view of that, I think that's  
12 reason enough not to vote for it, but I fail to  
13 see the real need for this commission.

14 ACTING PRESIDENT MEIER: Read the  
15 last section.

16 THE SECRETARY: Section 2. This  
17 act take effect immediately.

18 ACTING PRESIDENT MEIER: Call the  
19 roll.

20 SENATOR CONNOR: Party vote in  
21 the negative.

22 SENATOR SKELOS: Party vote in  
23 the affirmative.

24 ACTING PRESIDENT MEIER: Party  
25 vote. Call the roll.

1 (The Secretary called the roll. )

2 THE SECRETARY: Ayes 34, nays 23,

3 party vote.

4 ACTING PRESIDENT MEIER: The bill

5 is passed.

6 Secretary will read.

7 THE SECRETARY: Calendar Number

8 1670, by Senator Volker, Senate Print -

9 SENATOR SKELOS: Mr. President.

10 ACTING PRESIDENT MEIER: Senator

11 Skelos.

12 SENATOR SKELOS: On Calendar

13 Number 1663, Senate Bill 5749, I'd like

14 unanimous consent to be recorded in the

15 negative. I believe it's an extender of the

16 commuter tax.

17 ACTING PRESIDENT MEIER: Without

18 objection, Senator Skelos will be recorded in

19 the negative on Calendar Number 1663.

20 SENATOR SPANO: Mr. President.

21 ACTING PRESIDENT MEIER: Senator

22 Spano.

23 SENATOR SPANO: Can I also be

24 recorded in the negative on Calendar 1663.

25 ACTING PRESIDENT MEIER: Without

1 objection. Will you hold just one second.

2 All right. Would anyone else  
3 desire -- we're going to have to recognize you  
4 one at a time because we've completed that roll  
5 call.

6 Senator LaValle.

7 SENATOR LAVALLE: Mr. President,  
8 may I be recorded in the negative on Calendar  
9 Number 1663, please.

10 ACTING PRESIDENT MEIER: Without  
11 objection, Senator LaValle will be recorded in  
12 the negative on Calendar 1363.

13 Senator Lack.

14 SENATOR LACK: Thank you, Mr.  
15 President.

16 Without objection, I too would  
17 like to be recorded in the negative on Calendar  
18 1663.

19 ACTING PRESIDENT MEIER: Without  
20 objection, so ordered.

21 Senator Trunzo.

22 SENATOR TRUNZO: Without  
23 objection, I'd like to be recorded in the  
24 negative on Calendar 1663.

25 ACTING PRESIDENT MEIER: Without

1 objection, Senator Trunzo in the negative.

2 Senator Saland.

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

5 I, too, would like unanimous  
6 consent to be recorded in the negative on 1663.

7 ACTING PRESIDENT MEIER: Without  
8 objection.

9 Senator Marcellino.

10 SENATOR MARCELLINO: Thank you,  
11 Mr. President. I, too, would like to be  
12 recorded in the negative on Calendar Number  
13 1663.

14 ACTING PRESIDENT MEIER: Without  
15 objection.

16 Senator Larkin.

17 SENATOR LARKIN: I'd like to be  
18 recorded in the negative on Calendar 1663.

19 ACTING PRESIDENT MEIER: Without  
20 objection.

21 Senator Tully.

22 SENATOR TULLY: Mr. President,  
23 please record me in the negative on Calendar  
24 Number 1663.

25 ACTING PRESIDENT MEIER: Without

1 objection.

2 Senator Hannon.

3 SENATOR HANNON: Mr. President,  
4 I'd like to be recorded in the negative on  
5 Calendar Number 1663.

6 ACTING PRESIDENT MEIER: Without  
7 objection.

8 Is there any other Senator who  
9 wishes to change his -- Senator Johnson.

10 SENATOR JOHNSON: No. Is that  
11 right?

12 ACTING PRESIDENT MEIER: Without  
13 objection, Senator Johnson wishes to be recorded  
14 in the negative on Calendar Number 1663.

15 Does any other Senator wish to  
16 change his vote with regard to Calendar Number  
17 1663?

18 (There was no response.)

19 Secretary will read.

20 THE SECRETARY: Calendar Number  
21 1670, by Senator Volker, Senate Print 6789, an  
22 act to amend the Criminal Procedure Law.

23 SENATOR WALDON: Explanation.

24 ACTING PRESIDENT MEIER: Senator  
25 Volker, an explanation has been requested of

1 Calendar Number 1670.

2 SENATOR VOLKER: Mr. President,  
3 this is a Governor's program bill relating to  
4 actually three separate cases, Court of Appeals  
5 cases, which in all honesty passed this house,  
6 that is, what these cases represent, the changes  
7 in these passed this house earlier this year in  
8 a very large bill, called the Police and Public  
9 Protection Act, if I'm not mistaken.

10 What this bill represents is,  
11 from what I'm told by the Governor's office -  
12 Mr. President. I hate to do this, but -

13 ACTING PRESIDENT MEIER: Senator  
14 Waldon, your point is well taken. Can we have  
15 some order in the house so Senator Volker can be  
16 heard.

17 Senator Volker, please proceed.

18 SENATOR VOLKER: At any rate,  
19 I've been asked to do this because the  
20 Governor's office, I'm told, has been discussing  
21 this with the Assembly in an attempt  
22 specifically to deal with these three areas.

23 The first area relates with the  
24 change in the People versus -- People vs. Holman  
25 case which states that the indicia of the

1 requirements of probable cause and reasonable  
2 suspicion, a police officer must have an  
3 objective, credible reason, not necessarily  
4 criminality before they may approach a suspect  
5 and ask non-threatening questions. In other  
6 words, the police officer does not have to -  
7 does not have to know that there was a crime  
8 committed or suspect that a crime has been  
9 committed but must have an objective, credible  
10 reason to approach a person in a public place.

11 Secondly, the People vs. Doaks  
12 case, which was another rather famous case which  
13 stated that a person -- a case was thrown out or  
14 a number of convictions were thrown out simply  
15 because the defendant was not present at some  
16 portion of the trial. In one case the defense  
17 attorney, in fact, not only didn't object but  
18 consented, but because the person wasn't there  
19 when a remark was made that could be prejudicial  
20 to him, the -- the judge on the appeal threw out  
21 the case.

22 That relates, by the way, to  
23 another case also that says that although there  
24 may have been a mistake made or prejudice in the  
25 case, if it turns out that the -- it could be

1 considered to be harmless error on appeal, then  
2 the alleged violations are to be disregarded.  
3 That case -- the harmless error case -- of  
4 course, pertained to a series of cases that have  
5 been decided primarily before the Court of  
6 Appeals, or in some cases the Appellate  
7 Division.

8 So there's three separate areas,  
9 the harmless error area, the stopping a person  
10 with objective, credible evidence and the issue  
11 of whether the defendant has to be present  
12 despite a waiver at any area of the trial.

13 SENATOR WALDON: Mr. President.

14 ACTING PRESIDENT MEIER: Senator  
15 Waldon.

16 SENATOR WALDON: Would you ask  
17 the learned gentleman from the northwest of the  
18 state if he would yield to a question.

19 SENATOR VOLKER: Sure.

20 ACTING PRESIDENT MEIER: Senator  
21 yields.

22 SENATOR WALDON: Senator Volker,  
23 I appreciate your yielding. I was reading the  
24 language of the bill and came to sentence 13  
25 which says, "\*\*\* when he has an objective -

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

2 SENATOR WALDON: -- comma, -

3 SENATOR VOLKER: Right.

4 SENATOR WALDON: -- credible

5 reason -

6 SENATOR VOLKER: Right.

7 SENATOR WALDON: -- not

8 necessarily indicative of criminality \*\*\*". Can  
9 you give me and our colleagues an example of an  
10 objective, credible reason not necessarily  
11 indicative of criminality as covered by this  
12 proposal?

13 SENATOR VOLKER: As we -- I think  
14 the last time we discussed this, I discussed the  
15 -- the incidents that related to the health and  
16 safety, for instance, of someone who was  
17 questioned in the street where a police officer  
18 stopped a person and thought that the  
19 possibility that that person may be ill or in  
20 some case may have been part of an incident that  
21 may not necessarily be a criminal -- be a  
22 criminal act, and that that person would then be  
23 allowed to question.

24 There have been several cases, by  
25 the way, where a person was stopped, it was

1 thought, to make certain that the person for  
2 some reason was in some sort of trouble and was  
3 found to have committed a criminal act and the  
4 case was thrown out because the court said no,  
5 that the police officer had no reason to stop  
6 that person because he didn't believe there was  
7 a crime, but under this provision, the person  
8 could be stopped because the officer would have  
9 an objective, credible reason not necessarily  
10 indicative of criminality.

11 SENATOR WALDON: Mr. President,  
12 would the gentleman continue to yield?

13 SENATOR VOLKER: Sure.

14 ACTING PRESIDENT MEIER: Senator  
15 continues to yield.

16 SENATOR WALDON: Senator Volker,  
17 let's accept your hypothetical for discussion  
18 sake, for dialogue's sake and for edification  
19 purposes, and let's assume that the person was  
20 sick, so the officer stopped the person, asked  
21 some questions, determined that the person was  
22 sick, would the proper and appropriate response  
23 to that apparent illness be to find medical  
24 attention for the person or to arrest and search  
25 the person's body and/or car?

1                   SENATOR VOLKER: I think the  
2                   problem is that whether -- if the proper  
3                   treatment, the proper action may have been  
4                   intended to be to treat that person, but if some  
5                   sort of weapon or something was found on that  
6                   person, then arrest may follow.

7                   The problem is that what the  
8                   courts have done in certain cases is said, even  
9                   though the -- there may have been some reason,  
10                  if that reason was other than criminality, then  
11                  weapons have been thrown out, and all sorts of  
12                  cases have been thrown out on the basis of the  
13                  fact that the police officer really didn't  
14                  question that person believing that there had  
15                  been a crime committed or was about to be  
16                  committed.

17                  SENATOR WALDON: Would the  
18                  gentleman continue to yield, Mr. President?

19                  SENATOR VOLKER: Sure.

20                  ACTING PRESIDENT MEIER: Senator  
21                  continues to yield.

22                  SENATOR WALDON: Thanks, Mr.  
23                  President. Thanks, Senator Volker.

24                  Let's assume that there was no  
25                  weapon found, that the hypothetical I have

1 presented to you which obviously wasn't clear in  
2 my presentation to you, I did not mention a  
3 weapon or other criminal purpose that would  
4 allow the officer to search and seize, but let's  
5 take a hypothetical that's very clean.

6           There's no weapon, there's no  
7 criminality. In your opinion, as a member of  
8 the bar and a distinguished member of this  
9 Legislature, as someone who understands better  
10 than perhaps anyone in the state our criminal  
11 law from a legislative perspective, would there  
12 be a reason for the officer to search the person  
13 or his or her car?

14           SENATOR VOLKER: Probably not.

15           SENATOR WALDON: I looked also,  
16 Senator Volker, if I may continue, if the  
17 gentleman continues to yield.

18           ACTING PRESIDENT MEIER: Senator  
19 continues to yield.

20           SENATOR VOLKER: Sure.

21           SENATOR WALDON: I looked further  
22 at your proposal, and I turn to the back of the  
23 proposal on page 2, and it speaks to your  
24 concern mentioned earlier in the explanation  
25 about why cases are thrown out, that the

1 defendant wasn't there or someone uttered a  
2 remark that was conceived as prejudicial and it  
3 was thrown out, and all of that.

4 Do you think that the founding  
5 fathers were mistaken when they gave certain  
6 constitutional guarantees to the people of this  
7 great nation in regard to the limits,  
8 parameters, placed upon not just the police  
9 officers, but even our court system in regard to  
10 the freedom of people in this nation?

11 SENATOR VOLKER: Senator, I know  
12 you asked that question of me in very good  
13 faith, but that was the wrong question. If the  
14 founding fathers ever knew what some of the  
15 courts of this state have done with the  
16 Constitution, they would be so horrified I'm  
17 sure they'd find a way in that Constitution to  
18 make sure that some of these judges would be in  
19 caapable of making the decisions they've made.

20 Senator, the decisions of some of  
21 the -- in the Court of Appeals of this state,  
22 not recently so much in the Supreme Court, have  
23 been so hypertechnical and so out of control  
24 with the founding fathers' original intent in  
25 the Constitution, I don't think there's any

1 question that those founding fathers would have  
2 been absolutely horrified and would probably  
3 have been much more explicit in making sure that  
4 it was understood that if there's real criminal  
5 activity, fine, then -- by enforcement people,  
6 or mistakes being made that had something to do  
7 with the innocence or guilt of that person, but  
8 where there is no indication that it had any  
9 real impact on the innocence or guilt of those  
10 persons, I don't think there's any question that  
11 the founding fathers of this state would have  
12 been horrified.

13 SENATOR WALDON: Thank you very  
14 much, Senator Volker.

15 If I may, Mr. President, on the  
16 bill.

17 ACTING PRESIDENT MEIER: Senator  
18 Waldon, on the bill.

19 SENATOR WALDON: I am wont to  
20 disagree with you, Senator Volker, because you  
21 are truly one of the well informed persons in  
22 our legislative body, but in this instance I  
23 must absolutely disagree with you.

24 I believe that our founding  
25 fathers would be incensed by the fact that what

1 the Governor is proposing so skews the letter  
2 and intent of our constitutional guarantees. I  
3 don't think the founding fathers ever intended  
4 for the police, without reason, without  
5 provocation, to just stop people in the street  
6 because they fit a so-called, if I may, in  
7 quotes, "profile", a "hunch".

8           You were once a police officer;  
9 so was I, and I'm sure that you had a feeling as  
10 I did in many instances, I could smell, I could  
11 feel, I could sense that something was going on  
12 but I just couldn't stop people and throw them  
13 on the wall and search them and, if I happened  
14 to come up with something, could arrest them.  
15 It wasn't permitted then, and it shouldn't be  
16 permitted now.

17           Let me share something with you  
18 that I may have shared in other venues, either  
19 in committee or when I happened to be visiting  
20 with you in your office.

21           I witnessed personally three  
22 instances where police officers stopped young  
23 black men who happened to be driving nice cars.  
24 They searched the person of the young men, all  
25 of whom were college students, happened to be

1 home on holiday, searched their cars.

2 I jumped out of my car and  
3 interceded. Once the officers realized who I  
4 was, they sped away. I asked the young men,  
5 after I gave them my card, to let me be your  
6 advocate. This is wrong. Let me be the one who  
7 prevails upon the police department and the  
8 mayor of the city of New York to stop this  
9 foolishness. They were frightened. These are  
10 college students, the best that my community has  
11 to offer. Their parents can afford in St.  
12 Albans and Addison Park, Laurelton and  
13 Springfield Gardens, Cambria Heights and  
14 Rosedale and Queens Village, to buy these cars  
15 for these children. I know, I bought one for my  
16 son and I occasionally now have to ask him, May  
17 I borrow the best car in the house?

18 The police are stopping young  
19 black men in southeast Queens with abandon,  
20 searching them and searching their cars without  
21 provocation. In each of the three instances  
22 they found no "reefers", no liquor, no lights  
23 out, no rationale for stopping them. They just  
24 happened to be two young black men in each of  
25 the instances in a car, minding their own

1 business. It was my view at that moment in each  
2 of the instances that the only thing they had  
3 done was be black. The only thing that they had  
4 done was to be black.

5 As a result of that, with the  
6 cooperation of a very distinguished trainer in  
7 this nation, highly regarded at Quantico at the  
8 FBI Academy and across the nation, I with  
9 \$10,000 of my discretionary funds put on a  
10 seminar and training series for young blacks so  
11 that if they were stopped by the police their  
12 actions would not exacerbate the stop into  
13 something that could result in their being  
14 arrested, because some young blacks have an  
15 attitude. They don't like to be stopped when  
16 they haven't done something that's wrong. But I  
17 recognize that they lose, that it's a lose-lose  
18 situation for them.

19 We did the seminar, and we gave  
20 the training, but the stops continued, so I'm  
21 now in the process of preparing a pamphlet.  
22 We're waiting for one picture for the pamphlet  
23 and the addition of one organization to show  
24 fairness in terms of the police department.  
25 This pamphlet will explain to people when you

1 can be stopped, what are the reasons you can be  
2 stopped, what you must do -- not resist, not  
3 give the police a hard time, for several  
4 reasons. One, you don't want to exacerbate it  
5 and, two, it is the right of the police after a  
6 certain series of actions to follow through with  
7 what they're doing.

8 So my concern is that why should  
9 our children have to go through such an  
10 experience? Why should they be stopped and  
11 searched and their cars searched without reason?  
12 You know as well as I, Senator Volker, that this  
13 nation stood up from a moral perspective to  
14 fight the past laws of South Africa. We as a  
15 nation felt that that kind of arbitrary and  
16 punitive action on behalf of a government  
17 against its minorities was wrong.

18 Lord Acton, the great British  
19 philosopher said many, many years ago, You  
20 determine the liberty of a nation by the freedom  
21 of its minorities. We have a situation here  
22 where, I think, the police in some instances,  
23 not every cop, not every department, not every  
24 city, but in some instances and at this moment  
25 in New York City where the police have become

1 most repressive under the current mayor, are  
2 creating what is in effect a pass law  
3 requirement, meaning if you're black and you  
4 happen to be in a nice car in a nice community  
5 where your parents can afford to take care of  
6 business, you're still being stopped and treated  
7 as if you are a skel', someone who's prone to  
8 criminal behavior.

9 It is my belief, Senator Volker,  
10 with all due respect to your analysis, that the  
11 founding fathers of this nation would turn over  
12 in their graves if they knew what was happening  
13 with regard to the constitutional guarantees and  
14 I would urge my colleagues to recognize that  
15 this is a problem and to make the statement, a  
16 moral statement on this legislation 1670 and  
17 vote negative.

18 I thank you, Mr. President. I  
19 certainly thank you, Senator Volker.

20 ACTING PRESIDENT MEIER: Read the  
21 last section.

22 Senator Volker.

23 SENATOR VOLKER: Mr. President, if  
24 I might just respond.

25 ACTING PRESIDENT MEIER: Senator

1 Volker.

2 SENATOR VOLKER: Senator, I think  
3 you are right if that is happening. However,  
4 this bill doesn't apply to that. This bill  
5 applies to other stops; this doesn't apply to  
6 car stops. This applies to stops in public  
7 places. The issue of car stops is an entirely  
8 different thing.

9 I would only warn you about  
10 something though. As somebody who several times  
11 was accused of various things because of car  
12 stops, I remember one time I was accused of  
13 stopping two young black fellows in a white  
14 neighborhood and, in fact, a complaint was made  
15 against me. One thing that the people didn't  
16 know that made the complaint, however, was that  
17 a car very similar to that car had been stolen  
18 very shortly before, and we were trying to  
19 verify that the vehicle involved was actually  
20 stolen. We actually knew pretty well that the  
21 vehicle was the vehicle that was stolen and what  
22 we did was to stop the car and hold it  
23 temporarily. The two young black fellows in the  
24 car, of course, accused us of stopping them  
25 strictly because they were black and about ten

1 minutes later, after we received several threats  
2 from various people, we verified the car was  
3 stolen, and that the two young people in the car  
4 were the car thieves.

5 The only reason I mention that is  
6 that certainly that is the possibility, and if  
7 it happens, by the way, and it happened as you  
8 said, it's wrong. There's nothing in this bill  
9 that would make that right or would change that  
10 from being wrong.

11 What this bill talks about is the  
12 fact that there are a great many injustices it  
13 seems to me that are occurring on the street  
14 where killings and serious crimes and serious  
15 criminals are being allowed to escape because we  
16 are over-techno'lizing our system.

17 For instance, one of the things  
18 about stopping cars is, you can search a car and  
19 if you find minor things in that car, it  
20 appears, in other words implements for a  
21 burglary or something comparably minor that's  
22 fine, but in the (unintelligible) case, you find  
23 a body it's too much and, therefore, you're not  
24 going to be able to have a conviction upheld for  
25 manslaughter or murder.

1                   So I've been told that some of  
2                   the -- these cases represent restrictions on  
3                   police officers that no other state in this  
4                   nation sanctions, so I think maybe these  
5                   sanctions are not quite as severe as they might  
6                   appear.

7                   SENATOR WALDON: Explain my  
8                   vote.

9                   SENATOR LEICHTER: Would you -  
10                  ACTING PRESIDENT MEIER: Read the  
11                  last section. Oh, I'm sorry.

12                  SENATOR LEICHTER: I'm sorry. I  
13                  wanted to speak.

14                  ACTING PRESIDENT MEIER: Senator  
15                  Leichter, on the bill.

16                  SENATOR LEICHTER: Senator  
17                  Volker, I apologize because I didn't hear  
18                  everything that you and Senator Waldon discussed  
19                  but I -- I think one of the real problems that I  
20                  see with this bill is in line 16 where you say  
21                  the officer may not only ask questions but take  
22                  such other action as the officer deems  
23                  appropriate.

24                  If you discussed it with Senator  
25                  Waldon, I withdraw the question, but if you

1        didn't, it just seems to me that's an enormous  
2        loophole, it's such vagueness.  What does it  
3        mean, such other action as the officer deems  
4        appropriate?

5                    SENATOR VOLKER:  Senator,  
6        probably (unintelligible) that section out  
7        because it means that the officer has to act  
8        reasonably.  I think that language is in there  
9        because it's trying to indicate that through  
10       courts who maybe -- maybe the courts have not  
11       followed logic, that an officer can take such  
12       actions as may be reasonable under the  
13       circumstances.

14                    Incidentally, Senator, when I  
15        trained young police officers who have said to  
16        me, How am I supposed to be able to operate in  
17        this society?  You almost have to be a lawyer to  
18        be out there in the street.  I said, I'll tell  
19        you how you do it.  You act reasonably under the  
20        circumstances, and 99 percent of the time,  
21        you'll be all right.

22                    SENATOR LEICHTER:  Mr. President,  
23        just this one final point to Senator Volker.  
24        Senator, if the bill said that he acts  
25        reasonably under the circumstances that may be

1 acceptable, but acting reasonably under the  
2 circumstances is totally different than what is  
3 written here. It says, as the officer deems  
4 appropriate, doesn't even impose any standard,  
5 makes it a subjective standard, as the officer  
6 deems appropriate, so if he deems it appropriate  
7 even if it's unreasonable, as you've written it,  
8 now maybe the courts will impose the standard of  
9 reasonableness, but you would be much better off  
10 if it were to be drafted as you sought to  
11 interpret the bill; that should have been the  
12 language.

13 I understand it wasn't drafted by  
14 you; it was drafted on the second floor. Maybe  
15 they should have checked with you. Just very  
16 briefly on the bill, Mr. President.

17 ACTING PRESIDENT MEIER: Senator  
18 Leichter, on the bill.

19 SENATOR LEICHTER: I know the  
20 hour is late, and people look, Oh, my God, why  
21 is he debating this thing, but we're dealing  
22 with a terribly important issue. Senator Waldon  
23 and I didn't ask you to bring this bill up at  
24 5:15 in the morning, and I'm sorry but if you do  
25 bring up such a bill, then it's certainly the

1 responsibility and particularly on something  
2 that deals with such fundamental constitutional  
3 issues and basic rights, but I think to say not  
4 only may a police officer stop people and ask  
5 questions, and I think Senator Waldon properly  
6 pointed out some of the difficulties and  
7 problems with that, but then to go on and say  
8 that he may take any action that he deems  
9 appropriate, that's just not right.

10 I don't think that's consistent  
11 with our basic fundamental beliefs of what  
12 liberty is and the rights that we have. I mean  
13 I was born in a society and I was chased out of  
14 a society, you know, where they could stop you  
15 for any reason and grab you and hold you and do  
16 these things. One of the things that makes the  
17 country so special is that we do impose pretty  
18 severe restrictions on law enforcement officials  
19 because we believe basic liberties are so  
20 important.

21 This bill impinges on those  
22 liberties, and I would urge you to vote against  
23 it.

24 ACTING PRESIDENT MEIER: Read the  
25 last section.

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

3 ACTING PRESIDENT MEIER: Call the  
4 roll.

5 (The Secretary called the roll. )

6 ACTING PRESIDENT MEIER: Senator  
7 Waldon, to explain his vote.

8 SENATOR WALDON: Thanks very  
9 much, Mr. President.

10 I apologize, Senator Volker, in  
11 trying to make my point, I used three instances  
12 I had personally viewed. I assure you when I  
13 spoke at Rochedale Village with Senator -- I  
14 mean Comptroller McCall there, that there were a  
15 great number of parents who came up to me and  
16 told me of their children, teenagers and  
17 adolescents being stopped, searched and harassed  
18 and hassled by the police when they had done  
19 nothing wrong.

20 I assure you that my office is  
21 inundated with calls for this same reason, in a  
22 very middle class area. The homes in Addison  
23 Park, two blocks from my house, cost 500,000 or  
24 more dollars. The homes in the little  
25 neighborhood where I live run a deuce, a deuce

1 and a quarter, and the people who live there are  
2 hard working, law abiding citizens and their  
3 children should not be subjected to this simply  
4 because they're black.

5 Now, I'm not railing against the  
6 process simply to be heard. We have a problem  
7 in New York. We have a problem in this nation,  
8 and we may wish to bury our heads in the sand  
9 and not face up to the problem, but the problem  
10 is real. In the country from which Senator  
11 Leichter and his family fled, America stood by  
12 silently. The church of which I am a member,  
13 the Catholic Church, stood by silently and the  
14 result was millions and millions and millions of  
15 people lost their lives.

16 I hope that we will be a bit more  
17 judicious in our approach. I am telling you, I  
18 am telling you with all the sincerity I have in  
19 my body and mind and spirit, that we have a  
20 problem of racism and absolute discrimination by  
21 the police in the city of New York. I can't  
22 speak for other places, and we as a legislative  
23 body, the conscience of this state should be  
24 mindful of that and should attempt to do  
25 something, not make the process more punitive

1 but open up the process that young black kids  
2 who all they want to do is to have a shot at  
3 life shouldn't be hassled by the police.

4 I thank you very much, Mr.  
5 President.

6 ACTING PRESIDENT MEIER: Senator  
7 Waldon will be recorded in the negative.

8 THE SECRETGARY: Those recorded  
9 in the negative on Calendar 1670 are Senators  
10 Abate, Connor, Leichter, Paterson, Sampson,  
11 Smith, and Waldon. Ayes 50, nays 7.

12 ACTING PRESIDENT MEIER: The bill  
13 is passed.

14 Senator Leibell.

15 SENATOR LEIBELL: Mr. President,  
16 I'd like to ask to have unanimous consent to  
17 vote in the negative on 1663.

18 ACTING PRESIDENT MEIER: Without  
19 objection, Senator Leibell will be recorded in  
20 the negative on Calendar 1663.

21 Senator Holland.

22 SENATOR HOLLAND: I would also  
23 like to be recorded in the negative on 1663,  
24 please.

25 ACTING PRESIDENT MEIER: Without

1 objection, Senator Holland will be recorded in  
2 the negative on 1663.

3 Senator Skelos, that -- Senator  
4 Stafford?

5 SENATOR STAFFORD: Mr. President,  
6 I believe that we would like to call a Finance  
7 meeting in Room 332. Room 332, Finance  
8 meeting.

9 ACTING PRESIDENT MEIER: The  
10 Finance Committee will meet in Room 332  
11 immediately.

12 Senator Skelos.

13 SENATOR SKELOS: We'll stand at  
14 ease pending the report of the Finance  
15 Committee.

16 ACTING PRESIDENT MEIER: Senate  
17 will stand at ease pending the report of the  
18 Finance Committee.

19 I'm sorry. Senator Paterson.

20 SENATOR PATERSON: Mr. President,  
21 at the conclusion of the Finance Committee there  
22 will be a Minority Conference in the Minority  
23 Conference Room.

24 ACTING PRESIDENT MEIER: At the  
25 conclusion of the Finance Committee, there will

1 be a meeting of the Minority Conference in the  
2 Minority Conference Room.

3 The Senate will stand at ease  
4 pending the report of the Finance Committee.  
5 Thank you.

6 (The Senate stood at ease from  
7 5:22 a.m. until 6:41 a.m.)

8 ACTING PRESIDENT NOZZOLIO:  
9 Senator Skelos.

10 SENATOR SKELOS: If we could  
11 return to reports of standing committees, I  
12 believe there's a report of the Finance  
13 Committee at the desk. I ask that it be read.

14 ACTING PRESIDENT NOZZOLIO:  
15 Report of Finance Committee. Secretary will  
16 read.

17 THE SECRETARY: Senator Stafford,  
18 from the Committee on Finance, offers up the  
19 following bills:

20 Senate Print 700-A, Budget Bill,  
21 an act making appropriation for the support of  
22 government;

23 5788, by the Committee on Rules,  
24 an act to amend the Education Law.

25 Both bills directly for third

1 reading.

2 SENATOR SKELOS: Move to accept  
3 the report of the Finance Committee.

4 I believe there's a substitution  
5 to be made.

6 ACTING PRESIDENT NOZZOLIO:  
7 Secretary will read the substitution.

8 THE SECRETARY: Senator Larkin  
9 moves to discharge from the Committee on Rules  
10 Assembly Print 8448-A and substitute it for the  
11 identical Third Reading, Senate bill 827.

12 ACTING PRESIDENT NOZZOLIO:  
13 Substitution ordered.

14 SENATOR SKELOS: Read the last  
15 section.

16 ACTING PRESIDENT NOZZOLIO:  
17 Secretary will read the bill.

18 SENATOR DOLLINGER: Mr.  
19 President.

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

22 SENATOR DOLLINGER: Just a point  
23 of order, Mr. President. Could you tell us  
24 which bill this is?

25 SENATOR SKELOS: The original

1 Calendar Number 66, Senate Number 8452-B,  
2 Calendar Number 827.

3 ACTING PRESIDENT NOZZOLIO:  
4 Secretary will read the bill.

5 THE SECRETARY: Calendar Number  
6 827, by the Assembly Committee on Rules,  
7 Assembly Print 8448-A, an act to amend the  
8 General Municipal Law.

9 ACTING PRESIDENT NOZZOLIO: Last  
10 section.

11 SENATOR LEICHTER: Explanation.

12 ACTING PRESIDENT NOZZOLIO:  
13 Explanation is asked for.

14 SENATOR LARKIN: Mr. President.

15 ACTING PRESIDENT NOZZOLIO:  
16 Senator Larkin.

17 SENATOR LARKIN: This bill will  
18 amend the General Municipal Law with regard to  
19 the Industrial Development Agencies to provide  
20 expanded opportunities for IDAs to finance not  
21 for-profit medical facilities, facilities for  
22 the aging and dormitories for educational  
23 institutions.

24 We have capped these projects at  
25 \$15 million. In addition, there's been major

1 reforms instituted herein. Several have been  
2 included in this legislation to ensure that  
3 IDAs' responsibility for accounting are  
4 tightened up and specifically we will be  
5 requiring them to re-adopt their uniform tax  
6 exemption policy before April the 1st, 1999 and  
7 will be required to hold a public hearing before  
8 any deviation is made from that policy.

9 This bill represents what we  
10 consider an excellent balance of the enhanced  
11 accountability and increased business  
12 opportunity combined.

13 ACTING PRESIDENT NOZZOLIO:

14 Senator Leichter.

15 SENATOR LEICHTER: Mr. President,  
16 would Senator Larkin yield to a question?

17 ACTING PRESIDENT NOZZOLIO:

18 Senator Larkin, do you yield? Senator yields.

19 SENATOR LEICHTER: Senator  
20 Larkin, one of the additional powers it seems  
21 that you give to the IDA in this bill is to do  
22 some construction for the United Nations.

23 SENATOR LARKIN: That's been  
24 stricken.

25 SENATOR LEICHTER: Is it? Because

1       it's in your memo. I see your memo is on the  
2       eighth ranking.

3                    SENATOR LARKIN: Computers are  
4       working overtime on other things, Senator, and  
5       we're catching up on the other items.

6                    SENATOR LEICHTER: Senator  
7       Larkin, if you continue to yield. One of the  
8       problems we've had with IDA is that they've not  
9       always been responsive to local governments.  
10      They also affect local tax base. Now, who's  
11      going to make the decision as to constructing  
12      these so-called civic facilities? Is that going  
13      to be up to the IDA? Are they going to exercise  
14      that authority separate and apart from  
15      authorization from local governments?

16                   SENATOR LARKIN: Well, the IDA  
17      still has the -- they have to come to the IDA  
18      and through the local government and asking for  
19      the utilization of an IDA to construct a certain  
20      project. Then you have two forces there. You  
21      have the local government, want to be a  
22      participant, and the IDA, and they both must  
23      have an agreement.

24                   SENATOR LEICHTER: Senator  
25      Larkin, if you would be so good as to continue

1 to yield.

2 SENATOR LARKIN: Yes, Mr.

3 President.

4 ACTING PRESIDENT NOZZOLIO:

5 Senator continues to yield.

6 SENATOR LEICHTER: Suppose a  
7 specific facility goes to an IDA and says we'd  
8 like a new facility, can the IDA construct that  
9 facility without going to local government and  
10 getting the authorization of local government?

11 SENATOR LARKIN: Two things.  
12 First of all, local government have asked for  
13 their IDA, Senator. For an IDA to be active in  
14 building a facility, it comes under the umbrella  
15 of local government. What happens is that they  
16 can build it because they have the  
17 authorization.

18 SENATOR LEICHTER: Senator, if  
19 you continue to yield.

20 SENATOR LARKIN: Yes.

21 SENATOR LEICHTER: IDAs may not  
22 be set up without the participation of local  
23 government. Now, we're dealing down the road  
24 some years with a a civic facility comes to an  
25 IDA and says, Build us something. Does that IDA

1 have to get the consent and the approval of  
2 local government before it can do that?

3 SENATOR LARKIN: I think,  
4 Senator, if you'll look at the detail there,  
5 you'll find out that what we have not added any  
6 great extra amount of work on here. All we've  
7 given them is the expanded power to do some  
8 work, but when you look at their accountability  
9 and what they're required to do, we're  
10 tightening it up.

11 More important, under what we're  
12 doing, you're going to find more input from  
13 local government.

14 SENATOR LEICHTER: Thank you very  
15 much, Mr. -- Senator Larkin. Mr. President,  
16 just briefly on the bill.

17 ACTING PRESIDENT NOZZOLIO:  
18 Senator Leichter, on the bill.

19 SENATOR LEICHTER: We've created  
20 IDAs really as an economic development vehicle.  
21 We've had a lot of problems with IDAs because  
22 the economic development that they've engaged in  
23 very often has been at the expense of local  
24 communities. They've competed with each other.  
25 They've built the sort of facilities that really

1 don't create jobs and, of course, they affect  
2 the tax base of the local communities.

3 Now, to give them the authority  
4 and the power to get involved in civic  
5 facilities, which is totally outside what the  
6 goal and the aim we had in mind when we  
7 established the whole IDA system, but secondly,  
8 to further have them act on matters that really  
9 so intimately affect a municipality without  
10 first getting the permission or the authority by  
11 the municipality which is just not provided as I  
12 see it in Senator Larkin's bill and that's also  
13 going affect the tax liability of other people  
14 in the community, because you're going to take  
15 property off the tax rolls.

16 I really see no justification for  
17 it. I think it's an unwise bill, not only at  
18 7:00 a.m., in the morning, but even at a more  
19 normal hour.

20 ACTING PRESIDENT NOZZOLIO: Read  
21 the last section.

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

24 ACTING PRESIDENT NOZZOLIO: Call  
25 the roll.

1 (The Secretary called the roll. )

2 ACTING PRESIDENT NOZZOLIO:

3 Senator Maziarz.

4 SENATOR MAZIARZ: To explain my  
5 vote.

6 ACTING PRESIDENT NOZZOLIO:

7 Senator Maziarz, to explain his vote.

8 SENATOR MAZIARZ: Mr. President,  
9 just very, very briefly, I want to commend  
10 Senator Larkin and his staff and the staff of  
11 the Majority Leader for crafting an IDA bill  
12 that even I could vote for, because I tend to  
13 agree with Senator Leichter when it comes to  
14 Industrial Development Agencies, but this bill,  
15 although it does expand somewhat the ability of  
16 Industrial Development Agencies, I think that it  
17 also very correctly reinstitutes the 1993 IDA  
18 reforms, and it further restricts Industrial  
19 Development Agencies, but most importantly it  
20 gives local governments, local taxing  
21 authorities more information about Industrial  
22 Development Agencies that are approved within  
23 their district.

24 So, Mr. President, I will be  
25 voting in the affirmative. Thank you.

1                   ACTING PRESIDENT NOZZOLIO:

2           Senator Maziarz in the affirmative.

3                   THE SECRETARY:   Ayes 56, nays  
4           one, Senator Leichter recorded in the negative.

5                   ACTING PRESIDENT NOZZOLIO:   The  
6           bill is passed.

7                   Senator Skelos.

8                   SENATOR SKELOS:   Mr. President,  
9           would you call up Calendar Number 1672.

10                   ACTING PRESIDENT NOZZOLIO:  
11          Calendar Number 1672.

12                   THE SECRETARY:   Calendar Number  
13          1672, by the Committee on Rules, Senate Print  
14          5788, an act to amend the Education Law.

15                   SENATOR SKELOS:   Is there a  
16          message of necessity and appropriation at the  
17          desk?

18                   ACTING PRESIDENT NOZZOLIO:  
19          Message is at the desk.

20                   SENATOR SKELOS:   Move to accept.

21                   ACTING PRESIDENT NOZZOLIO:  
22          Motion is to accept the message of necessity.  
23          All in favor say aye.

24                                 (Response of "Aye.")

25                                 All opposed, nay.

1 (There was no response.)

2 The ayes have it. The message is  
3 accepted. Read the last section.

4 THE SECRETARY: Section 2. This  
5 acts shall take effect immediately.

6 ACTING PRESIDENT NOZZOLIO: Call  
7 the roll.

8 (The Secretary called the roll. )

9 ACTING PRESIDENT NOZZOLIO:  
10 Announce the results.

11 THE SECRETARY: Ayes 55, nays 2,  
12 Senators Dollinger and Leichter recorded in the  
13 negative.

14 ACTING PRESIDENT NOZZOLIO: The  
15 bill is passed.

16 SENATOR SKELOS: Stand at ease.

17 ACTING PRESIDENT NOZZOLIO: House  
18 will stand at ease.

19 SENATOR MONTGOMERY: Mr.  
20 President.

21 ACTING PRESIDENT NOZZOLIO:  
22 Senator Montgomery, why do you rise?

23 SENATOR MONTGOMERY: Yes, Mr.  
24 President. I would like to have unanimous  
25 consent to be recorded in the negative on

1           Calendars 1660 and 1670.

2                   ACTING PRESIDENT NOZZOLIO: With  
3 unanimous consent, Senator Montgomery will be  
4 recorded in the negative -- Senator Montgomery,  
5 the clerk has had a hard time hearing you and  
6 would you mind repeating those numbers?

7                   SENATOR MONTGOMERY: Calendars  
8 1660 and 1670.

9                   ACTING PRESIDENT NOZZOLIO: So  
10 ordered.

11                   SENATOR MONTGOMERY: Thank you.

12                           (The Senate stood at ease from  
13 6:56 to 7:48 a.m.)

14                   ACTING PRESIDENT NOZZOLIO:  
15 Senator Skelos.

16                   SENATOR SKELOS: Mr. President,  
17 if we could return now to messages from the  
18 Assembly.

19                   ACTING PRESIDENT NOZZOLIO: The  
20 Chair hands down a message from the Assembly.  
21 Secretary will read.

22                   THE SECRETARY: The Assembly sent  
23 for concurrence Assembly Print 8653, by the  
24 Assembly Committee on Rules, an act to amend the  
25 State Law.

1                   ACTING PRESIDENT NOZZOLIO:  
2       Senator Skelos.  
3                   SENATOR SKELOS:  Third reading.  
4                   ACTING PRESIDENT NOZZOLIO:  Third  
5       reading.  Secretary will read.  
6                   THE SECRETARY:  Calendar Number  
7       1684, by the Assembly Committee on Rules,  
8       Assembly Print 8653, an act to amend the State  
9       Law.  
10                  ACTING PRESIDENT NOZZOLIO:  Last  
11       section.  
12                  THE SECRETARY:  Section 2.  This  
13       act shall take effect immediately.  
14                  ACTING PRESIDENT NOZZOLIO:  Call  
15       the roll.  
16                  (The Secretary called the roll. )  
17                  ACTING PRESIDENT NOZZOLIO:  
18       Announce the results.  
19                  THE SECRETARY:  Ayes 54, nays 3,  
20       those recorded -  
21                  SENATOR GOLD:  Hold it.  
22                  ACTING PRESIDENT NOZZOLIO:  
23       Senator Kruger, to explain his vote.  
24                  SENATOR KRUGER:  Yes, Mr.  
25       President, to explain my vote.  Today we are

1 given a set of boundaries that basically  
2 represent planning in a vacuum. It represents a  
3 lack of opportunity for community input. It  
4 represents a lack of opportunity for digestion  
5 of what is otherwise a reckless disregard for  
6 what reapportionment is supposed to do.

7 Reapportionment, in its true  
8 sense of the word, is supposed to define lines  
9 that protect natural boundaries, that respect  
10 political divisions, that concern themselves  
11 with the history of communities, that are  
12 compact and, most importantly, are respective of  
13 the neighborhoods that these lines are supposed  
14 to serve, and the lines that each legislator  
15 has.

16 Interestingly enough, if I can  
17 just go back for a second. This bill, as it  
18 presently is constituted is an effort to correct  
19 a corridor to make what we call the Bullwinkle  
20 district, the district that is currently  
21 represented by Congresswoman Nydia Velazquez, in  
22 compliance with current law. In an effort to do  
23 that, the leadership of both the Assembly and  
24 the Senate has attempted to develop a set of  
25 lines that basically destroys neighborhoods.

1                   If we're to look at particular  
2           districts, we see today that lines have been  
3           drawn in two districts in particular. One  
4           district that is represented by Congressman  
5           Edward Towns takes neighborhoods such as  
6           Canarsie -- Edolphus Towns, Ed Towns -- takes  
7           neighborhoods such as Canarsie, Mill Basin,  
8           Bergen Beach, Georgetown, Futurama, Marine Park  
9           and Flatbush, and bifurcates them from what was  
10          normally a district that was compact, that was  
11          contiguous, that was represented by current  
12          Congressman Chuck Schumer, and more particularly  
13          was an effort when it was originally constituted  
14          to protect communities.

15                   We resent it. We object to it.  
16          There is a legislative commission that was  
17          formed, the Legislative Commission on  
18          Demographic Reapportionment, of which I am a  
19          member, that never met to consider this  
20          legislation. For so many years, when other  
21          bills were proposed, there was at least the  
22          charade, there was an effort made to go into  
23          communities, to get input, to speak to  
24          constituents, to develop a set of lines that  
25          made sense.

1                   Well, in this particular eleventh  
2                   hour move, a move of desperation, we are faced  
3                   with what I view to be a set of lines that  
4                   ultimately will be declared void by the courts.  
5                   We face the possibility of a master being  
6                   appointed to come in and draw lines that truly  
7                   reflect the values that we speak about and, more  
8                   particularly, once again the Majority of this  
9                   house in consonance with the Majority in the  
10                  Assembly, disregarding the legislative process  
11                  and disregarding every member of this house,  
12                  decided on a set of lines that truly destroys  
13                  and is not representative of what we should  
14                  represent and what we should say a Congressional  
15                  District would be.

16                  I urge my colleagues to vote  
17                  against these lines. I urge those that are in a  
18                  position to look at them to bring the matter  
19                  before the courts and hopefully they will be  
20                  declared void.

21                  Thank you.

22                  ACTING PRESIDENT NOZZOLIO:

23                  Senator, how do you vote?

24                  SENATOR KRUGER: No.

25                  ACTING PRESIDENT NOZZOLIO:

1 Senator Dollinger?

2 SENATOR DOLLINGER: Yield to  
3 Senator Connor.

4 SENATOR CONNOR: Thank you, Mr.  
5 President.

6 Mr. President, the court, as we  
7 all know, the federal court ruled it  
8 unconstitutional, the existing Congressional  
9 lines. At that time and several times  
10 subsequently in discussions with the Speaker,  
11 the conclusion was that the way to proceed  
12 perhaps would be to have the members of the  
13 Congressional delegation who are affected -- in  
14 this case we are affecting five Congressional  
15 District lines -- to meet and develop a  
16 consensus plan that would meet legal and  
17 constitutional requirements.

18 In those early stages, I was  
19 involved in some of discussions that arrived at  
20 that principle. Subsequently the members of the  
21 delegation had many different meetings and  
22 indeed I would get called up until last week,  
23 somebody had a map here, somebody had a map  
24 there, all which they had drafted and they were  
25 passing around among themselves.

1           I learned very late on Friday  
2           that the final conclusion was, if not exactly  
3           what we have before us, quite similar. There  
4           are good points in this obviously. The good  
5           points are, I believe legal requirements are  
6           met. I believe, for the benefit of the  
7           continuity represented -- of representation of  
8           most of the constituents involved, that the -  
9           we have preserved that continuity of  
10          representation which some people would call  
11          incumbency protection.

12                 That's good for a variety of  
13          reasons. I believe we'll keep the kind of  
14          diversity in the Congressional delegation from  
15          Brooklyn, Queens and Manhattan that's  
16          appropriate, that's been the tradition in New  
17          York with that, basing it on really, really  
18          race-based drawing considerations but rather on  
19          relatively compact contiguous districts.

20                 The one thing about which I am  
21          chagrined and indeed have been by certain  
22          constituents in the last few days accused of  
23          engineering, which is not true, indeed I didn't  
24          see it until the bill was in print and on the  
25          desks, and that is the fact that the boundary

1 lines between the 10th and 12th Congressional  
2 Districts divide significant portions of my  
3 district, indeed what I would characterize as my  
4 political base, Carroll Gardens, Cobble Hill and  
5 Brooklyn Heights. It divides the Brooklyn  
6 Heights community, New York's first landmark  
7 district, Cobble Hill, another landmark historic  
8 district, Carroll Gardens, dividing them by  
9 going up Henry Street, taking a right-hand turn  
10 on Pierpont Street. Indeed, I live on Pierpont  
11 Street and I'm now one of those people who  
12 wonder why those people across the street have a  
13 different member of Congress than I, and I am  
14 not -- I'm not happy about that. Indeed, I'm  
15 quite upset.

16 More importantly, those  
17 neighborhoods I represent are the kind of  
18 neighborhoods that clearly understand that it is  
19 not better to be represented by two  
20 representatives in Congress because you're an  
21 insignificant part of the constituency in both  
22 rather than being a substantial part of the  
23 constituency in one district.

24 I can't help but be wondering,  
25 and I won't go into it, that certain current

1 political events in Brooklyn may have motivated  
2 one of the incumbents to select the boundaries  
3 since indeed in my neighborhood I am now out of  
4 the Congressional District I've been in. My  
5 Assemblywoman is out of the Assembly District  
6 that we've been in, and indeed our City Council  
7 man is out of the Congressional District that he  
8 has been in, thus every political official in  
9 our neighborhood.

10 With respect to that, a fate  
11 similar to that we've heard from Senator  
12 Kruger's area, so while legally -- legally  
13 neighborhoods are not sacrosanct and indeed the  
14 Congressional redistricting in the Constitution  
15 and the decisions pursuant to it mandate  
16 absolute numerical equality between districts,  
17 indeed they can deviate only by one person, and,  
18 therefore, in the blind pursuit of this -- and  
19 there's not much we can do about that since it's  
20 federal law -- we do ignore somewhere or other  
21 traditional neighborhoods.

22 I think as a matter of policy, if  
23 it's a matter of policy, it would have been  
24 better had this plan respected these important  
25 neighborhoods in Brooklyn. It didn't. I wrote

1 to the Speaker and asked him to correct this.  
2 He responded, of course, that he had proceeded  
3 on the basis of the members of Congress affected  
4 in drawing the lines and agreeing to them  
5 subject to legal requirements which they met and  
6 it was indeed clear who the architect of this  
7 is.

8 But, Mr. President, on behalf of  
9 the people I represent and I've represented  
10 these past 20 years, I want to make it very  
11 plain. I think it's outrageous these  
12 neighborhoods have been divided, and I am voting  
13 no.

14 ACTING PRESIDENT NOZZOLIO:  
15 Record the negatives. Announce the results.

16 THE SECRETARY: Those recorded in  
17 the negative on Calendar Number 1684 are  
18 Senators Connor, Dollinger, Kruger, Sampson and  
19 Smith. Ayes 52, nays 5.

20 ACTING PRESIDENT NOZZOLIO: The  
21 bill is passed.

22 SENATOR SKELOS: Mr. President,  
23 on Calendar -- Supplemental Calendar 66-A, would  
24 you call up Senator Alesi's bill, Calendar  
25 1655.

1                   ACTING PRESIDENT NOZZOLIO:

2           Calendar 1655. Clerk will read.

3                   THE SECRETARY: Calendar Number  
4           1655, in relation to Calendar Number 1655  
5           Senator Alesi moves to discharge from the  
6           Committee on Rules Assembly Print 8003-B and  
7           substitute it for the identical Senate bill,  
8           Third Reading 1655. The Senate bill is high,  
9           the Assembly bill is not.

10                   ACTING PRESIDENT NOZZOLIO:

11           Substitution is ordered. Secretary will read.

12                   THE SECRETARY: Calendar Number  
13           1655, by the Assembly Committee on Rules,  
14           Assembly Print 8003-B, an act to amend the  
15           Education Law.

16                   ACTING PRESIDENT NOZZOLIO: Read  
17           the last section.

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

20                   ACTING PRESIDENT NOZZOLIO: Call  
21           the results. Call the roll.

22                   (The Secretary called the roll. )

23                   THE SECRETARY: Ayes 57..

24                   SENATOR GOLD: Mr. President.

25                   ACTING PRESIDENT NOZZOLIO: The

1 bill is passed.

2 ACTING PRESIDENT NOZZOLIO:

3 Senator Gold.

4 SENATOR GOLD: Yes, Mr.

5 President. May I have unanimous consent to be

6 recorded in the negative on Calendar Number

7 1670.

8 ACTING PRESIDENT NOZZOLIO: 1670,

9 without objection.

10 SENATOR GOLD: Thank you.

11 SENATOR SKELOS: Mr. President,

12 we'll stand at ease, stand or sit at ease.

13 ACTING PRESIDENT NOZZOLIO: The

14 house will be at ease.

15 (The Senate stood at ease from

16 8:03 to 8:29 a.m.)

17 SENATOR SKELOS: Mr. President,

18 at this time if you'd call up Calendar Number

19 1667.

20 ACTING PRESIDENT NOZZOLIO:

21 Calendar 1667. Clerk will read.

22 THE SECRETARY: Calendar Number

23 1667, Budget Bill, Senate 700-A, Legislature and

24 Judiciary Budget.

25 SENATOR SKELOS: Mr. President,

1 is there a message of necessity and  
2 appropriation at the desk?

3 ACTING PRESIDENT NOZZOLIO:  
4 Messages are appropriately at the desk.

5 SENATOR SKELOS: Move to accept.

6 ACTING PRESIDENT NOZZOLIO:  
7 Motion is to accept the message. All in favor  
8 say aye.

9 (Response of "Aye.")

10 All opposed, nay.

11 (There was no response. ) The  
12 message is accepted. Last section.

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

15 ACTING PRESIDENT NOZZOLIO: Call  
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 57.

19 ACTING PRESIDENT NOZZOLIO: Bill  
20 is reported. The bill is lost. The bill is  
21 passed.

22 SENATOR LEICHTER: Mr. President,  
23 would you recall the bill.

24 ACTING PRESIDENT NOZZOLIO:  
25 Senator Leichter, why do you rise?

1                   SENATOR LEICHTER: Mr. President,  
2                   may we reconsider the vote on the bill that just  
3                   passed?

4                   ACTING PRESIDENT NOZZOLIO: Re  
5                   consider? Call the vote on reconsideration.

6                   (The Secretary called the roll on  
7                   reconsideration. )

8                   THE SECRETARY: Ayes 57.

9                   SENATOR LEICHTER: All right.  
10                  Thank you, Mr. President.

11                  ACTING PRESIDENT NOZZOLIIO:  
12                  Senator Leichter.

13                  SENATOR LEICHTER: Is that bill  
14                  before us now, Mr. President?

15                  ACTING PRESIDENT NOZZOLIO: Yes.

16                  SENATOR LEICHTER: Is there an  
17                  amendment at the desk, please?

18                  ACTING PRESIDENT NOZZOLIO: The  
19                  amendment is at the desk.

20                  SENATOR LEICHTER: Mr. President,  
21                  I waive the reading of the amendment and ask an  
22                  opportunity to explain it.

23                  ACTING PRESIDENT NOZZOLIO:  
24                  Senator Leichter, I believe that -- on the  
25                  amendment.

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

3                   My colleagues, just because it's  
4                   8:30 a.m., and we've been in session for about  
5                   20 straight hours, and we're staggering to  
6                   conclusion like punch-drunk fighters.

7                   ACTING PRESIDENT NOZZOLIO:  
8                   Senator Skelos.

9                   SENATOR SKELOS: Point of order.

10                  ACTING PRESIDENT NOZZOLIO: Point  
11                  of order.

12                  SENATOR SKELOS: I've reviewed  
13                  the amendment, and I believe under the Bankers  
14                  decision, it would be out of order to change the  
15                  language of a budget bill, so, therefore, I'd  
16                  ask that you rule that Senator Leichter's  
17                  amendment is out of order.

18                  ACTING PRESIDENT NOZZOLIO: The  
19                  Chair has reviewed the amendment with the  
20                  parliamentarian, concur with your result and the  
21                  amendment is out of order.

22                  SENATOR LEICHTER: Mr. President,  
23                  if I may be heard on it before you hastily rule  
24                  on it, even though my learned friend -

25                  ACTING PRESIDENT NOZZOLIO:

1 Senator Leichter, are you appealing the ruling  
2 of the Chair?

3 SENATOR LEICHTER: No, I'm asking  
4 before you make your ruling that you have the  
5 courtesy and the fairness to listen to both  
6 sides of the argument. You've heard from  
7 Senator Skelos. You ought to hear from me.

8 This amendment doesn't change any  
9 language. It changes -- what it changes  
10 essentially is some of the numbers, Senator  
11 Skelos, and -

12 SENATOR SKELOS: Looking at the  
13 amendment, Senator Leichter, it says strike out  
14 all after "enact" and insert, so I would say  
15 that you reasonably could say that you change  
16 the entire language of the budget bill. So,  
17 therefore, Mr. President, I would ask as I asked  
18 once before, that Senator Leichter's amendment  
19 be ruled out of order and if he wishes to appeal  
20 the ruling of the Chair, of course, he has that  
21 right.

22 ACTING PRESIDENT NOZZOLIO:  
23 Senator Leichter, the ruling of the Chair is  
24 that the amendment adds language. By doing so,  
25 it violates the rules of this house and,

1           therefore, the Chair rules respectfully that the  
2           amendment is out of order.

3                           SENATOR LEICHTER:   Well, Mr.  
4           President, I mean at this hour we can, fine, we  
5           can just, you know, take a half an hour on the  
6           appeal and then we can always discuss the bill  
7           for two hours.  After all, we've had a lot of  
8           dead time and maybe that will fill some more  
9           dead time.  I mean I -- I'm feeling great, so I  
10          was looking forward and didn't know what I would  
11          do the next two hours.

12                           I'm not going to do that because  
13          I don't think it makes sense at this hour and I  
14          was, frankly, going to take a very short time on  
15          the amendment.  I think the ruling is incorrect,  
16          but I think at this hour we'll let it go.  I  
17          don't really intend to take much time with it.  
18          I didn't want to deny any of you the treat of  
19          having an opportunity to vote on the real  
20          itemized legislative budget.  I thought that  
21          after the 20 gruelling hours we had, we should  
22          have had something that would really give us  
23          pleasure and delight, but Senator Skelos,  
24          unfortunately, has interfered with that.

25                           You know, we've been through this

1 every year and every year I've gotten up and  
2 I've said that what we have before us is not an  
3 itemized budget. Obviously it is not. The  
4 budget we have now has the very same format as  
5 the budget that we've had in all these years and  
6 we still continue to have the Legislature  
7 abrogate to itself a privileged position. We're  
8 immune from having the public know -

9 ACTING PRESIDENT NOZZOLIO:  
10 Senator Leichter, are you appealing the ruling  
11 of the Chair?

12 SENATOR LEICHTER: No, but if you  
13 want me to, Mr. President, if you'd like an  
14 appeal, I'll appeal it.

15 ACTING PRESIDENT NOZZOLIO:  
16 Senator -

17 SENATOR LEICHTER: I'm speaking  
18 on the bill.

19 ACTING PRESIDENT NOZZOLIO:  
20 Senator, that's the point of inquiry of the  
21 Chair. Respectfully, we are asking whether you  
22 have withdrawn your amendment and are now  
23 speaking on the bill. As you responded, you  
24 have withdrawn the amendment, and Senator  
25 Leichter, on the bill.

1                   SENATOR LEICHTER: Thank you.

2           Mr. President, I've not withdrawn the  
3           amendment. I think you've incorrectly ruled it  
4           out of order, and I made it clear that I wasn't  
5           going to appeal the ruling, although I could. I  
6           would just speak on the bill. That's what I was  
7           in the process of doing.

8                   Mr. President, and my colleagues,  
9           I just think it's unfortunate that we just  
10          insist on thumbing our nose at the public in  
11          saying we can have a budget that is really not a  
12          budget, that's a fraud, that's a hoax, that  
13          doesn't describe in detail how we spend public  
14          money.

15                   Two years ago, Senator Bruno, in  
16          a dialogue that he and I had on this floor, said  
17          that we will have an itemized budget. I  
18          specifically asked him. I said, is it going to  
19          show how much is going to be spent for personnel  
20          for each member's office, and so on. He said,  
21          Yes. He said, You're going to be very happy  
22          with it.

23                   We've had absolutely no change  
24          whatsoever. This is the same format that goes  
25          back for years and years and years, and instead

1 of revealing how we spend public money, it  
2 shrouds that from public information and  
3 knowledge.

4 What my amendment would have done  
5 and what it did in other years, is it showed  
6 what an itemized budgeted is like. It also  
7 reduces the expenditure for the Legislature,  
8 because I believe our expenditures are high.  
9 Our budget tends to be bloated. We can  
10 certainly reduce expenditures. This year, I  
11 don't know by what percentage, the legislative  
12 budget goes up, maybe three or four percent. I  
13 just wish that we would finally come to grips  
14 with a decent budget that we would have the  
15 responsibility of letting the public in.

16 This is not a private club. This  
17 is a public institution. We're dealing with  
18 public monies. This budget should not be  
19 enacted in this form.

20 ACTING PRESIDENT NOZZOLIO: Read  
21 the last section.

22 SENATOR DOLLINGER: Mr.  
23 President.

24 ACTING PRESIDENT NOZZOLIO:  
25 Senator Dollinger, why do you rise?

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SENATOR DOLLINGER: Mr.

President, I in the past have supported Senator Leichter's amendment and echoed his sentiments about the need for greater accountability in this institution, as we seek to achieve greater accountability throughout the rest of the state.

I simply rise because I do not concur with the ruling of the Chair which would have been made in this amendment had it not been withdrawn, that the Bankers decision as I heard it aired by Senator Skelos, that the Bankers decision would foreclose this amendment. Frankly, that was a new wrinkle that I had not heard in this amendment previous times when we've been under the dictates of the Bankers decision. The amendment has never been ruled out of order on that basis.

I'm simply reserving to another day, Mr. President, I would be interested in seeing from the Counsel to the Senate the logic and law that seems to drives the notion that an amendment such as that proposed by Senator Leichter would be inconsistent with dictates of the the Bankers decision.

1 I agree with the substance of  
2 it. I disagree with the articulation of the  
3 basis for purportedly ruling it out of order and  
4 I simply wanted to make that known at this  
5 time.

6 ACTING PRESIDENT NOZZOLIO:  
7 Senator Stafford.

8 SENATOR STAFFORD: Well, Senator,  
9 you know, I'm the last one who will continue or  
10 will make the debate last any longer than we  
11 would want it to. As I say, usually I'm  
12 criticized for not speaking enough, but that's  
13 sort of going, because I've said that a little  
14 too much lately.

15 Please let me share this with  
16 you, however. I have here in my hand the third  
17 publication of the New York State Senate  
18 Expenditure Report. This one is October 1st,  
19 1996-March 31, 1997. I, a number of times, have  
20 complimented Senator Bruno and the  
21 administration of this Majority upon the job  
22 that they are doing and at the risk of being  
23 redundant, let me please compliment them again.

24 If anyone wants to see exactly  
25 how money is spent to the penny in this

1       Legislature, I suggest that they -- it's not  
2       funny. I suggest that they read this very  
3       serious document because, when you open it, you  
4       can go to the person and see exactly how the  
5       money is spent to the penny, p-e-n-n... is it  
6       i-e or -y -

7                   VOICE: -y.

8                   SENATOR STAFFORD: -y.

9                   SENATOR SKELOS: Mr. President,  
10       while Senator Stafford is pausing -

11                   ACTING PRESIDENT NOZZOLIO:  
12       Senator Skelos.

13                   SENATOR SKELOS: There will be an  
14       immediate meeting of the Rules Committee in the  
15       Majority Conference Room.

16                   ACTING PRESIDENT NOZZOLIO:  
17       Immediate meeting of the Rules Committee.  
18       Senator Stafford.

19                   SENATOR LEICHTER: Mr.  
20       President.

21                   ACTING PRESIDENT NOZZOLIO:  
22       Pardon me, Senator Leichter. Get some order.

23                   Senator Leichter.

24                   SENATOR LEICHTER: Mr. President,  
25       I just need to correct my good friend from the

1 North Country. What you're bringing up is  
2 something that tells me how you spent the  
3 money. A budget tells you how you're going to  
4 spend money, so there's really no relationship.  
5 We should know before we vote money for the  
6 Legislature how it is to be spent. That's my  
7 point.

8 The fact that we have this book  
9 that says how we spent money six months ago may  
10 be helpful; it certainly satisfies a public need  
11 and a public right, but it's not the same thing  
12 as a detailed budget, and I'm sure you weren't  
13 intimating that it was.

14 SENATOR STAFFORD: Well, again -  
15 ACTING PRESIDENT NOZZOLIO:  
16 Senator Stafford.

17 SENATOR STAFFORD: I yield, and  
18 was that a question?

19 SENATOR LEICHTER: No, it was a  
20 correction.

21 SENATOR STAFFORD: Oh.

22 ACTING PRESIDENT NOZZOLIO: Read  
23 the last section.

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

1                   ACTING PRESIDENT NOZZOLIO: Call  
2                   the roll.

3                   (The Secretary called the roll. )

4                   ACTING PRESIDENT NOZZOLIO:  
5                   Announce the results.

6                   THE SECRETARY: Ayes 55, nays  
7                   two, Senator Dollinger and Leichter recorded in  
8                   the negative.

9                   ACTING PRESIDENT NOZZOLIO: The  
10                  bill is passed.

11                  Senator Maziarz.

12                  SENATOR MAZIARZ: Mr. President,  
13                  would the Senate stand at ease awaiting a report  
14                  of the Rules Committee.

15                  ACTING PRESIDENT NOZZOLIO:  
16                  Senate will stand at ease.

17                  (The Senate stood at ease from  
18                  8:43 to 9:05 a.m.)

19                  ACTING PRESIDENT KUHL: Senator  
20                  will come to order. Members will take their  
21                  place, staffs find their place.

22                  Senator Skelos.

23                  SENATOR SKELOS: Mr. President,  
24                  on behalf of Senator Stafford, there will be an  
25                  immediate meeting of the Finance Committee in

1 the Majority Conference Room.

2 ACTING PRESIDENT KUHL: Immediate  
3 meeting of the Finance Committee, immediate  
4 meeting of the Finance Committee in the Majority  
5 Conference Room, Room 332.

6 Senator Skelos.

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

12 ACTING PRESIDENT KUHL: Return to  
13 the order of reports of standing committees.  
14 There is a report of the Rules Committee at the  
15 desk. Secretary will read.

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

19 2788, by Senator Trunzo, an act  
20 to amend the Retirement and Social Security Law;

21 3272-A, by Senator Trunzo, an act  
22 to amend the General Municipal Law;

23 4237, by Senator Alesi an act to  
24 authorize and direct;

25 5101-A, by Senator Trunzo, an act

1 to amend the Social Security Law;

2 5638, by Senator Connor, an act

3 to amend the Real Property Tax Law;

4 5791, by Senator Saland, an act

5 to amend the Criminal Procedure Law;

6 5794, by Senator Velella, an act

7 to amend the Insurance Law;

8 Assembly Print 8639, by the

9 Committee on Rules, an act to amend the Real

10 Property Tax Law;

11 Assembly Print 8670, by the

12 Committee on Rules, an act to amend the

13 Education Law; and

14 Senate Print 5796, by Senator

15 Lack, an act to amend the Court of Claims Act.

16 All bills directly for third

17 reading.

18 ACTING PRESIDENT KUHL: Senator

19 Skelos.

20 SENATOR SKELOS: Move to accept

21 the report.

22 ACTING PRESIDENT KUHL: Motion is

23 to accept the report. All in favor say aye.

24 (Response of "Aye.")

25 Opposed nay.

1 (There was no response.)

2 The report is accepted. The  
3 bills are ordered directly to third reading.

4 Senator Skelos.

5 SENATOR SKELOS: At this time if  
6 we could take up Senate Supplemental Calendar  
7 Number 66-C, non-controversial.

8 ACTING PRESIDENT KUHL: Calendar  
9 Number 66-C, Supplemental, is on the members'  
10 desks. Ask the Secretary to read the  
11 non-controversial reading.

12 THE SECRETARY: Calendar Number  
13 1676. In relation to Calendar Number 1676,  
14 Senator Trunzo moves to discharge the Committee  
15 on Rules from Assembly Print 7273 and substitute  
16 it for the identical Senate Bill, Third Reading  
17 Number 1676.

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

21 THE SECRETARY: Calendar Number  
22 1676, by member of the Assembly Vitaliano,  
23 Assembly Print 3473, an act to amend the  
24 Retirement and Social Security Law.

25 ACTING PRESIDENT KUHL: Secretary

1 will read the last section.

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

4 ACTING PRESIDENT KUHL: Call the  
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes 57.

8 ACTING PRESIDENT KUHL: The bill  
9 is passed.

10 THE SECRETARY: Calendar Number  
11 1677. In relation to Calendar Number 1677,  
12 Senator Trunzo moves to discharge from the  
13 Committee on Rules Assembly Print 5864-A and  
14 substitute it for the identical Senate Third  
15 Reading 1677.

16 ACTING PRESIDENT KUHL:  
17 Substitution is ordered. Secretary will read  
18 the title.

19 THE SECRETARY: Calendar Number  
20 1677, by member of the Assembly Vitaliano,  
21 Assembly Print 5864-A, an act to amend the  
22 General Municipal Law.

23 ACTING PRESIDENT KUHL: There is  
24 a home rule message at the desk. Senator  
25 Paterson, you want that laid aside?

1                   SENATOR PATERSON: No, I don't,  
2                   but Senator Leichter would.

3                   ACTING PRESIDENT KUHL: Lay the  
4                   bill aside.

5                   THE SECRETARY: Calendar Number  
6                   1678. In relation to Calendar Number 1678  
7                   Senator Alesi moves to discharge from the  
8                   Committee on Rules Assembly Print 4572 and  
9                   substitute it for the identical Senate Third  
10                  Reading 1678.

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

14                  THE SECRETARY: Calendar Number  
15                  1678, by member of the Assembly Koon, Assembly  
16                  Print 4572, an act to authorize and direct the  
17                  Workers' Compensation Board.

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

20                  SENATOR PATERSON: Lay aside.

21                  THE SECRETARY: Section 3. This  
22                  act shall take effect on the 30th day.

23                  ACTING PRESIDENT KUHL: Lay the  
24                  bill aside.

25                  THE SECRETARY: Calendar Number

1 1679, by Senator Trunzo, Senate Print Number  
2 5105-A, an act to amend the Retirement and  
3 Social Security Law.

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

6 THE SECRETARY: Section 3.

7 SENATOR PATERSON: Lay aside.

8 ACTING PRESIDENT KUHL: Lay the  
9 bill aside.

10 THE SECRETARY: Calendar Number  
11 1680, by Senator Connor, Senate Print 5630-A, an  
12 act to amend the Real Property Tax Law.

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

15 THE SECRETARY: Section 27. This  
16 act shall take effect immediately.

17 ACTING PRESIDENT KUHL: Call the  
18 roll.

19 (The Secretary called the roll. )

20 THE SECRETARY: Ayes 57.

21 ACTING PRESIDENT KUHL: The bill  
22 is passed.

23 THE SECRETARY: Calendar Number  
24 1681, by Senator Saland, Senate Print 5791, an  
25 act to amend the Criminal Procedure Law.

1                   ACTING PRESIDENT KUHL:  Senator  
2                   Skelos.

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

5                   ACTING PRESIDENT KUHL:  There  
6                   is.

7                   SENATOR SKELOS:  Move to accept.

8                   ACTING PRESIDENT KUHL:  Motion is  
9                   to accept the message of necessity on Calendar  
10                  Number 1681.  All those in favor signify by  
11                  saying aye.

12                  (Response of "Aye.")

13                  Opposed nay.

14                  (There was no response.)

15                  The message is accepted.  The  
16                  bill is before the house.  Secretary will read  
17                  the last section.

18                  SENATOR PATERSON:  Lay aside.

19                  ACTING PRESIDENT KUHL:  Lay the  
20                  bill aside.

21                  THE SECRETARY:  Calendar Number  
22                  1682, by Senator Velella, Senate Print 5794, an  
23                  act to amend the Insurance Law.

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

1                   ACTING PRESIDENT KUHL:  There  
2           is.

3                   SENATOR SKELOS:  Move to accept.

4                   ACTING PRESIDENT KUHL:  Motion is  
5           to accept the message of necessity on Calendar  
6           Number 1682.  All those in favor signify by  
7           saying aye.

8                               (Response of "Aye.")

9                               Opposed nay.

10                              (There was no response.)

11                   The message is accepted.  The  
12           bill is before the house.  Secretary will read  
13           the last section.

14                   THE SECRETARY:  Section 9.  This  
15           act shall take effect on the first day of  
16           January.

17                   ACTING PRESIDENT KUHL:  Call the  
18           roll.

19                              (The Secretary called the roll.)

20                   THE SECRETARY:  Ayes 57.

21                   ACTING PRESIDENT KUHL:  The bill  
22           is passed.

23                   THE SECRETARY:  Calendar Number  
24           1683, by the Assembly Committee on Rules,  
25           Assembly Print 8639, an act to amend the Real

1 Property Tax Law.

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

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

6 ACTING PRESIDENT KUHL: Call the  
7 roll.

8 (The Secretary called the roll. )

9 THE SECRETARY: Ayes 57.

10 ACTING PRESIDENT KUHL: The bill  
11 is passed.

12 THE SECRETARY: Calendar Number  
13 1685, by the Assembly Committee on Rules,  
14 Assembly Print 8670, an act to amend the  
15 Education Law.

16 ACTING PRESIDENT KUHL: Senator  
17 Skelos.

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

20 ACTING PRESIDENT KUHL: There  
21 is.

22 SENATOR SKELOS: Move to accept.

23 ACTING PRESIDENT KUHL: Motion is  
24 to accept the message of necessity on Calendar  
25 Number 1685. All those in favor signify by

1 saying aye.

2 (Response of "Aye.")

3 Opposed nay.

4 (There was no response.)

5 The message is accepted. Bill is  
6 before the house. Secretary will read the last  
7 section. Lay the bill aside.

8 SENATOR SKELOS: Call up Calendar  
9 Number 1685 at this time.

10 ACTING PRESIDENT KUHL: Secretary  
11 will read the title of Calendar Number 1685.

12 THE SECRETARY: Calendar Number  
13 1685, by the Assembly Committee on Rules,  
14 Assembly Print 8670, an act to amend the  
15 Education Law.

16 ACTING PRESIDENT KUHL:  
17 Explanation has been asked for, Senator Skelos.  
18 Who's going to handle the explanation?

19 SENATOR LARKIN: Who asked?

20 ACTING PRESIDENT KUHL: Senator  
21 Larkin, an explanation has been requested on  
22 Calendar Number 1685 by Senator Dollinger.

23 SENATOR LARKIN: Yes, Mr.  
24 President. This legislation by Mr. Lentol  
25 repeals an existing law that we had on a special

1 school district in Orange County in the village  
2 of Kyrias Joel and creates a new atmosphere of  
3 establishing a school district based on the  
4 guidelines of the federal court.

5 This new law allows two specific  
6 purposes: One, by the superintendent of BOCES to  
7 declare a school district, the other to  
8 establish a vote by the members of the existing  
9 school district of Monroe-Woodbury exclusive of  
10 the residents of Kyrias Joel, and the third one  
11 would be by the superintendent of the BOCES of  
12 Orange County.

13 ACTING PRESIDENT KUHL: Senator  
14 Dollinger.

15 SENATOR DOLLINGER: Through you,  
16 Mr. President, will Senator Larkin yield to a  
17 couple questions?

18 SENATOR LARKIN: Yes.

19 ACTING PRESIDENT KUHL: Senator  
20 yields.

21 SENATOR DOLLINGER: Is this a  
22 bill of general application across the state,  
23 Senator Larkin?

24 SENATOR LARKIN: Yes, it is. I  
25 apologize, Senator Dollinger, but this bill

1        could be applicable in any town or city. Its  
2        boundaries are such that if it's within the  
3        existing municipality or an existing part of an  
4        existing school district, for example, within  
5        the Monroe-Woodbury School District that  
6        encompasses three parts, parts of three  
7        municipalities, a whole municipality. It could  
8        encompass Monroe County. As long as it has a  
9        population of students of 2,000 students, then  
10       it has the ingredients of, one, the vote of the  
11       BOCES superintendent or the vote of the public  
12       within the school district exclusive of that  
13       segment that wants to declare their own school  
14       district.

15                    The third part, and I apologize,  
16       is that if there is any existing debt that was  
17       paid by the school district as a whole in Monroe  
18       County and Niagara county, Nassau, Suffolk, it  
19       would have to be repaid by the created school  
20       district.

21                    SENATOR DOLLINGER: Through you,  
22       Mr. President, if Senator Larkin would continue  
23       to yield.

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

1                   SENATOR LARKIN:  Yes, Mr.  
2           President.

3                   ACTING PRESIDENT KUHL:  Senator  
4           continues to yield.

5                   SENATOR DOLLINGER:  Is there any  
6           school district that you can identify in New  
7           York State, any community in New York State that  
8           the terms of this bill would apply to other than  
9           Kyrias Joel?

10                   SENATOR LARKIN:  May I read you a  
11           sentence, please?  It just says any municipality  
12           situated only within one central or union free  
13           school district, but whose boundaries are not  
14           co-terminous with the boundaries of such school  
15           district may organize pursuant to the provision  
16           of this subdivision.

17                   That means a town, a village,  
18           city can establish within its own right as long  
19           as it's within that district.

20                   SENATOR DOLLINGER:  Again through  
21           you, Mr. President if Senator Larkin would  
22           continue to yield.

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

25                   SENATOR LARKIN:  Yes, Mr.

1 President.

2 ACTING PRESIDENT KUHL: Senator  
3 continues to yield.

4 SENATOR DOLLINGER: Senator  
5 Larkin, portions of the bill that we're  
6 repealing today contained language that appeared  
7 to have general application according to the New  
8 York Court of Appeals -- appeared to have  
9 language applicable to many communities but, in  
10 fact, the bill we drafted last time and went to  
11 the Court of Appeals was designed -- expressly  
12 designed by this Legislature for one purpose,  
13 solely to create a school district for the  
14 community of Kyrias Joel.

15 My question is, is there anything  
16 about this supposed general description that  
17 would suggest to the Court of Appeals or any  
18 other court that we are doing something that  
19 doesn't apply to a specific school district for  
20 this specific group which twice, the highest  
21 court in this nation, the highest court in this  
22 state, have said is unconstitutional to create?

23 SENATOR LARKIN: My legal  
24 adviser. Senator Dollinger, when you read the  
25 last part as pertains to a BOCES superintendent,

1 the language is expressly taken from Section  
2 1504 of the state Education Law which authorizes  
3 the superintendent of a BOCES to create this  
4 specific type of a district.

5 Also if you're looking at what  
6 has been talked about in the charter schools  
7 this would be the same language we would talk  
8 about of a charter school, so it could be in any  
9 place in the state using the guidelines you have  
10 here.

11 SENATOR DOLLINGER: But again  
12 through you, Mr. President, if Senator Larkin  
13 would continue to yield, and I understand,  
14 Senator, that this may or may not be your bill,  
15 you're doing this on behalf of the Rules  
16 Committee, but could you tell me of any other  
17 community in the state other than Kyrias Joel  
18 which would utilize the provisions of this  
19 statute which we have before us today to create  
20 a school district?

21 SENATOR LARKIN: Yes, they  
22 could.

23 SENATOR DOLLINGER: The bill  
24 doesn't say that.

25 SENATOR LARKIN: This doesn't say

1 anything about any specific school district. It  
2 gives you the general guidelines. It's a  
3 generic as to how a school district would be  
4 created, as long as it meets the criteria,  
5 minimum of 2,000, that is within it; it can  
6 either be by the superintendent of BOCES or if  
7 the superintendent of BOCES says, "I don't want  
8 to do it," it then goes back to the school  
9 district which could be Monroe, it could be  
10 Greece, it could be the Bronx, it could be -- if  
11 there's a basic generic of how a school district  
12 gets created.

13 If you remember your days back in  
14 the county legislature when you saw towns and  
15 village creating villages, creating themselves  
16 out of a town, the same generic.

17 SENATOR DOLLINGER: Thank you,  
18 Mr. President. Just on the bill.

19 Senator Larkin, I appreciate your  
20 candor in describing the action of this bill,  
21 but quite frankly, we in Monroe County never  
22 created any more villages. Why? Because one of  
23 the things we were trying to do was to  
24 consolidate levels of government, not create new  
25 levels of government. One of the things we've

1 talked about in this Legislature is we've got  
2 too many school districts. We should  
3 consolidate them instead of opening new school  
4 districts and, in fact, I would just counsel  
5 everyone in this chamber, everyone in this  
6 chamber, take a very, very careful look at this  
7 bill because in my personal opinion having been  
8 told by the United States Supreme Court that we  
9 couldn't do this, having been told by the Court  
10 of Appeals that we can't do this because it  
11 violates one of the most important protections  
12 in both our state Constitution and our federal  
13 Constitution, if I were on the Court of Appeals  
14 and I determined that what the Legislature was  
15 doing was trying to get around my decision, if I  
16 were on the Court of Appeals or the United  
17 States Supreme Court, I would hold this  
18 Legislature, this state, in contempt for  
19 attempting to do it, because what I think you  
20 have here is a situation where we, for some  
21 reason, are attempting to create a school  
22 district which we've been told by all of our  
23 courts violates the First Amendment.

24 I cannot do it. I voted against  
25 it last time. I would suggest that all of us

1 think about voting for this bill very carefully  
2 have, because once again, we are attempting to  
3 evade the highest law in this land, the highest  
4 law in this state, if this bill runs into the  
5 same problem that the last attempt did, we could  
6 be held in contempt and that could be very  
7 costly to the people of this state.

8 ACTING PRESIDENT KUHL: Senator  
9 Gold.

10 SENATOR GOLD: Mr. President,  
11 everybody really understands what we're doing  
12 here. There's a very unique situation, and the  
13 members of the Legislature, and I think at least  
14 two governors have recognized that it's a unique  
15 situation and we ought to do something about it  
16 and we're trying to do something about it.

17 Senator Dollinger, as you were  
18 speaking, I was reminded of a news broadcast  
19 that I heard within the last 48 hours and they  
20 were talking about some federal tax legislation  
21 and how people should talk to their accountants  
22 right away. And what did it all mean? It meant  
23 that two Americans, two hard working Americans  
24 who make the same money, the same kind of lives,  
25 one is going to pay more taxes than the other

1 unless that one goes to an accountant, to a  
2 lawyer, to figure out how you get around the tax  
3 law.

4 Now, Senator Dollinger, I think  
5 it's absurd. I think it's absurd that you  
6 should have to know the tricks in order to  
7 protect income from taxes, et cetera, and if you  
8 know the tricks then you get around it. But in  
9 America, we have said that you are allowed to  
10 try to get around laws for as long as you do it  
11 legally.

12 All this Legislature is trying to  
13 do, Senator Dollinger, is exactly what you  
14 said. The courts have given us decisions we  
15 don't like. We see a situation which needs us  
16 and we are trying to find a way around it and,  
17 if the courts don't like this one, well, maybe  
18 Senator Larkin and I and others will be back  
19 with another solution because there is a unique  
20 situation which needs a remedy, and I use the  
21 tax situation as an example because that's  
22 exactly what we do in 89,000 other things in  
23 America. We come out with a rule and then we  
24 have rules that get around the rules in order to  
25 take care of other situations, and if we can do

1           it for rich people, we can do it for this school  
2           district that really needs the help.

3                       I'm going to vote for this bill.

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

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

8                       ACTING PRESIDENT KUHL: Call the  
9           roll.

10                      (The Secretary called the roll. )

11                      ACTING PRESIDENT KUHL: Record  
12           the negatives and announce the results.

13                      THE SECRETARY: Ayes 56, nays  
14           one, Senator Dollinger recorded in the  
15           negative.

16                      ACTING PRESIDENT KUHL: The bill  
17           is passed.

18                      Senator Skelos.

19                      SENATOR SKELOS: Mr. President,  
20           would you call up Calendar Number 1686. The  
21           bill is on the desk. It doesn't show on the  
22           calendar, by Senator Lack, Senate 5796.

23                      ACTING PRESIDENT KUHL: Secretary  
24           will read Calendar Number 1686.

25                      THE SECRETARY: Calendar Number

1 1686, by Senator Lack, Senate Print 5796, an act  
2 to amend the Court of Claims Act.

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

5 ACTING PRESIDENT KUHL: There  
6 is.

7 SENATOR SKELOS: Move to accept.

8 ACTING PRESIDENT KUHL: Motion is  
9 to accept the message of necessity on 1686. All  
10 those in favor signify by saying aye.

11 (Response of "Aye.")

12 Opposed nay.

13 (There was no response.)

14 The message is accepted. Bill is  
15 before the house. An explanation has been  
16 requested by Senator Dollinger.

17 Senator Lack.

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

20 5796 which is -- has just been  
21 put on your desk, was until approximately 45  
22 minutes ago in a three-way agreed-upon addition  
23 to the judicial system. It is at this point in  
24 time not agreed upon. The Assembly has not  
25 agreed to the provisions of 5796, but for our

1       edification, why don't I go through what's  
2       contained in the bill.

3                   The bill would create 14 judge  
4       ships, all of which are certified and approved  
5       as necessary by the Office of Court  
6       Administration: Four Court of Claims "A" judge  
7       ships. They are the traditional Court of Claims  
8       judgeship, two paragraph (d) Court of Claims  
9       judgeships which are the so-called criminal  
10      Court of Claims judgeships, a county court judge  
11      in the county of Rensselaer, one of the county  
12      court judgeships certified as in desperate need  
13      by the Office of Court Administration now for  
14      over -- way over a year and Supreme -- an  
15      additional Family Court judge in the county of  
16      Oneida. You might recall that we passed a bill,  
17      the Assembly passed and the Governor vetoed a  
18      bill creating that desperately needed Family  
19      Court judgeship earlier in this session. The  
20      main reason the Governor vetoed that bill was  
21      that it needed budgetary language and the budget  
22      had not been enacted.

23                   This bill, of course, which is  
24      introduced at the request of the Governor has at  
25      the request of the Governor, re... put back in

1       that Oneida County court family, Oneida County  
2       Family Court judge which is so desperately  
3       needed in Oneida court, and then a number of  
4       Supreme Court additions in Kings County one, in  
5       Queens County one, in the Ninth District which  
6       is the county of Westchester and the four  
7       northern counties north of Westchester two, and  
8       in the Tenth Judicial District, the counties of  
9       Nassau and Suffolk two.

10               I'll make a general comment if I  
11       could. For those who are saying, Well, why is  
12       there only one Supreme Court justice in the  
13       county of Queens and one in the county of Kings  
14       when more is necessary, I totally agree that  
15       more is necessary. Unfortunately, according to  
16       the Constitution, there can only be one judge,  
17       one justice of the Supreme Court for every  
18       50,000 residents of this state. Queens and  
19       Kings County only have, under the constitutional  
20       cap, room for one more Supreme Court justice.

21               Enactment of this statute by both  
22       houses and signing by the Governor will mean  
23       that all five boroughs, all five counties of the  
24       city of New York will have reached their  
25       constitutional cap for the appointment -- for

1 the election, sorry, of Supreme Court justices.  
2 I would respectfully point out to the members of  
3 the body that the Chief Judge of the state of  
4 New York, Judith Kaye, has earlier this year  
5 proposed constitutional amendments some of which  
6 track what we have unanimously passed in the  
7 Senate, a reorganization of the court system  
8 into a two-tiered court structure as well as the  
9 provision which would do away with the  
10 constitutional limitation, the constitutional  
11 cap on the creation of Supreme Court justices.

12 Over a month ago I sent a letter  
13 to the Assembly inviting the members of the  
14 Assembly to join in with me with the members of  
15 the Senate Judiciary Committee to hold joint  
16 hearings on the Chief Judge's proposal including  
17 doing away with the constitutional cap. The  
18 Assembly has not responded to that letter.  
19 Accordingly, the Senate has gone alone and has  
20 scheduled hearings beginning September 15th at  
21 the Association of the Bar in the city of New  
22 York in Manhattan, thereafter in Hauppauge,  
23 Albany and Buffalo, in which we're inviting  
24 anybody and everybody to please come and comment  
25 on the Chief Judge's proposal, with the sincere

1 hope that in 1998 we can begin a very earnest  
2 process to reform the court system in this  
3 state, especially to do away with the  
4 constitutional cap.

5 In any event, this is a very well  
6 thought out proposal from the Governor which I'm  
7 happy to advance on the floor this morning to  
8 create these 14 judgeships at this point in  
9 time.

10 ACTING PRESIDENT KUHL: Senator  
11 Dollinger.

12 SENATOR DOLLINGER: Will you  
13 yield to a question?

14 ACTING PRESIDENT KUHL: Senator  
15 Lack, will you yield to a question?

16 SENATOR LACK: Yes.

17 ACTING PRESIDENT KUHL: Senator  
18 yields.

19 SENATOR DOLLINGER: Through you,  
20 Mr. President, was consideration given -  
21 consideration given in this package to including  
22 a Family Court judge in Monroe County?

23 SENATOR LACK: Not to my  
24 knowledge.

25 SENATOR DOLLINGER: Was it

1       discussed -- again through you, Mr. President,  
2       was it discussed in the negotiations between the  
3       two houses?

4                    SENATOR LACK:  I do not know what  
5       was discussed other than the negotiations that I  
6       had, Senator Dollinger, and at that point in  
7       time I had no discussions with respect to  
8       creating a Family Court judgeship in Monroe  
9       County, but in general, Senator, I should reply  
10      to you that there is a much larger package for  
11      the creation of judgeships which conceivably  
12      could include the creation of more Family Court  
13      judges throughout the state of New York for  
14      which months ago I sent requests to the Assembly  
15      and asked them to enter into a discussion on.  
16      That has not taken place.

17                   This is in response to a need  
18      that exists really, of a desperate need that  
19      exists through the state, the creation of this  
20      particular package.  I would hope that as part  
21      of the reorganization of the current  
22      seven-tiered judicial system in the state to a  
23      two-tiered system as proposed by the Chief  
24      Judge, that that would also include the creation  
25      of additional judgeships throughout the state as

1 would be needed to support what would hopefully  
2 be the newly created two-tiered system.

3 SENATOR DOLLINGER: Just one  
4 other question, through you, Mr. President.

5 ACTING PRESIDENT KUHL: Senator  
6 Lack, you continue to yield?

7 SENATOR DOLLINGER: I won't take  
8 up a lot of time with this, and I would suggest,  
9 Senator Lack, you may even need some advice to  
10 answer this question from Senator Meier. Do you  
11 know how many people there are in Oneida County?

12 SENATOR LACK: Excuse me?

13 SENATOR DOLLINGER: Do you know  
14 how many people there are in Oneida County?

15 SENATOR LACK: Senator Meier.

16 SENATOR MEIER: There are  
17 presently about 244,000 people in Oneida County  
18 who among them manage to generate the highest  
19 per judge case load in the entire state of New  
20 York, including the five boroughs of the city.

21 ACTING PRESIDENT KUHL: Senator  
22 Dollinger.

23 SENATOR DOLLINGER: On the bill,  
24 Mr. President.

25 I appreciate the candor of

1 Senator Lack. I know that he has, in our  
2 discussions, considered the issue of a Family  
3 Court judge in Monroe County. I know it's been  
4 considered by the Office of Court  
5 Administration.

6 I appreciate his pushing for a  
7 complete package to try to resolve the issue of  
8 sparse judicial resources across this state.  
9 Whether that's achieved through the addition of  
10 judges in particular communities or through a  
11 courtwide reorganization which probably is three  
12 or four or five years away, given the  
13 Constitutional Amendment process that would  
14 probably be required to do that.

15 It is an interesting question  
16 that we perhaps should debate, and I would be  
17 interested in seeing what his hearings produce  
18 but I stand here again to ask that this issue of  
19 a Family Court judge for Monroe County be a part  
20 of the final package.

21 Senator Meier, I appreciate that  
22 for 244,000 people, you're going to have three  
23 judges. We have 700,000 people and we have  
24 five. We need at least twice as many as you do  
25 if not more. I've asked to add six. It seems

1 to me it would make good sense. I'm concerned  
2 because we give the Family Court judges more and  
3 more responsibility all the time. We ask them  
4 to protect children from neglect, we ask them to  
5 collect child support. We ask them to achieve  
6 real justice in our juvenile justice system. We  
7 ask that they intervene earlier in child's lives  
8 so that we discourage them from a life of crime  
9 and cut down on the need for future judicial  
10 resources. It seems that at a time when we  
11 should be doing more for children, we're going  
12 to actually end up doing less in Monroe County.

13 I'm disappointed that the Monroe  
14 County judge is not in this package. I would  
15 hope that in discussions with the Assembly that  
16 when it is an agreed package it would be made a  
17 final part of and that no obstacle would stand  
18 in the way of improving our Family Court in my  
19 home community and in other parts of the state.

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

22 THE SECRETARY: Section 5. This  
23 act shall take effect January 1st, 1998.

24 ACTING PRESIDENT KUHL: Call the  
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes 57.

3 ACTING PRESIDENT KUHL: The bill  
4 is passed.

5 Senator Skelos, we have a cross  
6 now that we'd like to take care of. He'd like to  
7 do that.

8 We'll return to Calendar Number  
9 1680 which previously passed on the  
10 non-controversial reading of the Calendar Number  
11 66-C, and the motion is to reconsider the vote  
12 by which Calendar 1680 passed the house. I'll  
13 ask the clerk -- the Secretary to call the roll  
14 on reconsideration.

15 (The Secretary called the roll on  
16 reconsideration. )

17 THE SECRETARY: Ayes 57.

18 ACTING PRESIDENT KUHL: The bill  
19 is before the house. Secretary will read the  
20 substitution.

21 THE SECRETARY: Senator Connor  
22 moves to discharge from the Committee on Rules  
23 Assembly Print 8416-A and substitute it for the  
24 identical Senate bill, Third Reading 1680.

25 ACTING PRESIDENT KUHL:

1 Substitution is ordered. Secretary will read  
2 the title.

3 THE SECRETARY: Calendar Number  
4 1680, by the Assembly Committee on Rules,  
5 Assembly Print 8416-A, an act to amend the Real  
6 Property Tax Law.

7 ACTING PRESIDENT KUHL: Secretary  
8 will read the last section.

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

11 ACTING PRESIDENT KUHL: Call the  
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 57.

15 ACTING PRESIDENT KUHL: The bill  
16 is passed.

17 SENATOR DOLLINGER: Mr.  
18 President.

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

21 SENATOR DOLLINGER: If I could,  
22 Mr. President, on calendar -- or on Senator  
23 Lack's bill, and I don't have the calendar  
24 number, but Senate Number is 5796.

25 ACTING PRESIDENT KUHL: Calendar

1 1686.

2 SENATOR DOLLINGER: I would ask  
3 to be recorded in the negative on Calendar  
4 Number 1686. I apologize.

5 ACTING PRESIDENT KUHL: Without  
6 objection, hearing no objection, Senator  
7 Dollinger will be recorded in the negative on  
8 Calendar Number 1686.

9 Senator Velella.

10 SENATOR VELELLA: Mr. President,  
11 can we go to Senator Saland's bill, Calendar  
12 Number 1681.

13 ACTING PRESIDENT KUHL: Secretary  
14 will read Calendar Number 1681.

15 THE SECRETARY: Calendar Number  
16 1681, by Senator Saland, Senate Print 5791, an  
17 act to amend the Criminal Procedure Law.

18 SENATOR GOLD: Explanation.

19 ACTING PRESIDENT KUHL: Senator  
20 Saland, an explanation of Calendar Number 1681  
21 has been requested.

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

24 Mr. President, this bill is  
25 what's been commonly termed the "primary

1       aggressor" bill. It is a bill which is somewhat  
2       limited in scope in that, while it amends the  
3       Mandatory Arrest Law that we passed in 1994, the  
4       Family Protection and Domestic Violence and  
5       Prevention Act of 1994, there have been some  
6       concerns expressed in some quarters that partic  
7       ularly with respect to misdemeanors, there has  
8       been some situations in which law enforcement  
9       officers would arrive at the scene of a domestic  
10      violence incident and find both parties charging  
11      each other with what, in essence, was some type  
12      of a family offense misdemeanor, and the police  
13      officer would then, under the strict  
14      interpretation of the law, be compelled to  
15      arrest both.

16                   What we're doing here, and I take  
17      great pains to point out that by way of this  
18      bill and there's a three-way agreement on this  
19      bill, this does not apply to felonies. It would  
20      be a virtually impossible task to ask a police  
21      officer to distinguish among competing felonious  
22      misconduct as to whom the primary aggressor  
23      would be, and also I do believe that there's not  
24      a state in the Union that has, in effect, merged  
25      mandatory arrest and primary aggressor.

1                   This bill, as I said, is narrow  
2                   in its scope. It attempts to deal with those  
3                   misdemeanor cases and tries to establish a  
4                   series of criteria that are to be taken into  
5                   consideration when a law enforcement official  
6                   has to make that determination as to whether or  
7                   not, in fact, there is a readily discernible  
8                   primary aggressor.

9                   SENATOR GOLD: Mr. President.

10                  ACTING PRESIDENT KUHL: Senator  
11                  Gold.

12                  SENATOR GOLD: Will the gentleman  
13                  yield to a question?

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

16                  SENATOR SALAND: Yes, Mr.  
17                  President.

18                  ACTING PRESIDENT KUHL: Senator  
19                  yields.

20                  SENATOR GOLD: Senator, first of  
21                  all, I appreciate your comments, and I get the  
22                  feeling from your comments and you don't have to  
23                  really deal with this, but I get the feeling  
24                  that of all the legislation you've passed in  
25                  your life much of it very significant you've

1           come to the floor on other occasions a little  
2           bit more excited than with this bill.

3                         But at any rate, we have a bill  
4           before us and the bottom line is this terrible  
5           word "arrest" and I say terrible word because if  
6           somebody gets arrested and it's for a  
7           misdemeanor or if it's for a felony, there are  
8           police procedure, as we all know, and that means  
9           cuffing, it means a lot of things and arrest is  
10          a serious situation.

11                        My question to you is the  
12          following: If a police officer is called to a  
13          lobby of a bank and the guard has grabbed  
14          somebody, he has reasonable cause from  
15          independent witnesses to get an idea of who  
16          committed a crime, but aren't we placing an  
17          extraordinary burden on a police officer if in a  
18          misdemeanor situation where again we're talking  
19          about injuries which I assume are much less than  
20          they would be in a felony situation, we're  
21          asking a police officer to look at two people,  
22          both pointing fingers at each other, and all of  
23          a sudden, without a trial, be the judge and the  
24          jury and cause an arrest. He has to, as I read  
25          this, he must or she must take somebody into

1 custody and make an arrest. Isn't that a kind  
2 of a huge burden especially in a misdemeanor  
3 situation?

4 SENATOR SALAND: Senator Gold,  
5 primary aggressor has been used in a number of  
6 jurisdictions. I said in my earlier comments,  
7 I'm not aware of a jurisdiction that has merged  
8 both mandatory arrest and primary aggressor. I  
9 think your point is well taken. I think it will  
10 be a perhaps difficult decision for an officer  
11 to make, but our purpose here with some of the  
12 language that we've provided in some of the sub  
13 categories is to try and provide some definition  
14 that might make that very difficult decision  
15 somewhat more objectively arrived at.

16 SENATOR GOLD: Will the Senator  
17 yield to another question, Mr. President?

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

20 SENATOR SALAND: Yes, Mr.  
21 President.

22 ACTING PRESIDENT KUHL: Senator  
23 continues to yield.

24 SENATOR GOLD: Senator, the first  
25 criterion is the comparative extent of any

1 injuries conflicted by and between the parties.  
2 It seems to me, Senator, that there are many,  
3 many, many cases which have led us to understand  
4 that very often the primary aggressor in a fight  
5 winds up getting the worst of it. As a matter  
6 of fact our whole law -- body of law dealing  
7 with the issue of self-defense has parts of it  
8 which talk about defending yourself but then not  
9 going too far, et cetera, et cetera, that kind  
10 of stuff, so it is very often that the person  
11 with the worst injuries may have been the  
12 primary -- is that the word? -- the primary  
13 aggressor.

14 So how does one look at the  
15 injuries and using that criteria determine if  
16 it's only the two parties in the domestic  
17 violence situation, which one was the primary  
18 aggressor?

19 SENATOR SALAND: Senator Gold,  
20 the categories or sub-categories that are listed  
21 on lines 15 through 21 represent, in effect, a  
22 series which, taken in their totality, are  
23 appropriately to be considered by an officer who  
24 is contemplating making this decision as to  
25 whether there is someone who is clearly the

1 primary aggressor.

2 SENATOR GOLD: Will the Senator  
3 yield to another question?

4 SENATOR SALAND: Yes, Mr.  
5 President.

6 ACTING PRESIDENT KUHL: Senator  
7 continues to yield.

8 SENATOR GOLD: Senator, you have  
9 gone out of your way, and I appreciate that, to  
10 make it clear that this does not involve felony  
11 situations. You're talking about physical  
12 aggression, but it's physical aggression at the  
13 misdemeanor level, am I correct?

14 SENATOR SALAND: Yes, you are,  
15 Senator Gold.

16 SENATOR GOLD: So if I can follow  
17 up with that, isn't it a fact that a misdemeanor  
18 at the -- physical damage at the misdemeanor  
19 level does not have to be really serious  
20 physical injury. It could be injury or could be  
21 an assault but not of a serious injury?

22 SENATOR SALAND: Without my Penal  
23 Law, I can not say with absolute certainty but I  
24 do believe you're correct.

25 SENATOR GOLD: Well, O.K. I don't

1        have mine either, but your shooting from the hip  
2        is usually more accurate than most people with a  
3        law library. But, Senator, my point really is  
4        in a situation where you've got felonies being  
5        committed and you've got witnesses and you've  
6        got other things, I can understand putting  
7        certain burdens upon a police officer, but when  
8        you don't have physical damage that brings it to  
9        a felony level, you're not out on the front lawn  
10       where all of the neighbors saw what happened.  
11       You're in a home and the police officer gets  
12       called there, and all he's got is two people,  
13       minor injuries if at all, maybe scratches, they  
14       each scratched each other, and they're both  
15       pointing to each other. I think it's an  
16       impossible job for a police officer, and we are  
17       mandating by law that he arrest somebody and  
18       take somebody who may never have been arrested  
19       in his or her life and subject them to criminal  
20       incarceration with people who obviously may be  
21       worse criminal types.

22                    I say, Senator, that you have my  
23       admiration for what you've done in this field in  
24       many other ways, but I just think that we're  
25       taking that last stretch which goes beyond logic

1 and to do it after an all-night session and I  
2 know that Senator Bruno has outlawed them and I  
3 assume this is an extraordinary situation or he  
4 wouldn't violate his own rule, but I mean at  
5 this point in time to be dealing with this, I  
6 would really urge upon you to make some  
7 reconsideration.

8 The concept that this is a three  
9 way deal gets me wondering about the three who  
10 made the deal, but I think that, with all due  
11 sensitivity to the women's groups and for the  
12 fact that domestic violence is a very serious  
13 situation, I think this stretches it beyond  
14 logic.

15 ACTING PRESIDENT KUHL: Secretary  
16 will read -- Senator Dollinger.

17 SENATOR DOLLINGER: Will the  
18 sponsor yield to a question?

19 ACTING PRESIDENT KUHL: Senator  
20 Saland, do you yield to a question?

21 SENATOR SALAND: Yes.

22 ACTING PRESIDENT KUHL: Senator  
23 yields.

24 SENATOR DOLLINGER: Senator, I  
25 want to follow up on a question that Senator

1 Gold asked, and ask whether this is really a  
2 mandatory arrest policy of the primary physical  
3 aggressor; is that what it's intended to be?

4 SENATOR SALAND: This -- the  
5 section of the law that's being amended is part  
6 of the 1994 Family Protection and Domestic  
7 Violence Intervention Act. If you recall, that  
8 section required mandatory arrest in misdemeanor  
9 and felony situations. It also went on to say  
10 that in the misdemeanor situation unlike the  
11 felony situation, the complainant would have the  
12 ability to withdraw his or her, in the vast  
13 overwhelming majority of cases, the complainant  
14 would be a woman complainant. However, the -  
15 the law enforcement officer who is investigating  
16 could not advise that person, the victim, of her  
17 or his right to withdraw.

18 What we're doing in this section  
19 is now amending that to say that in that  
20 misdemeanor situation, the law enforcement  
21 officer will have to make a determination, if  
22 one can be made, as to whether there's a primary  
23 aggressor and then if, in fact, there is a  
24 primary aggressor, that primary aggressor, where  
25 both people are alleging that the other has

1 committed a family offense, that primary  
2 aggressor would be the person to be arrested so  
3 as to avoid incidents in which one person  
4 initiates a domestic violence incident and then  
5 claims that the other person was culpable either  
6 causing it or in some manner or way creating the  
7 incident.

8 SENATOR DOLLINGER: Through you,  
9 Mr. President, Senator Saland, I remember that  
10 portion of the bill very well because you and I  
11 had an extended colloquy about the question of  
12 mandatory arrest and the circumstances in  
13 domestic violence in which exactly these kinds  
14 of issues would arise; but my question really  
15 deals with the language of the bill that was  
16 highlighted by Senator Gold.

17 Look at line 14 and 15. It says  
18 shall attempt to identify and arrest. Does that  
19 mean they are attempting to arrest or attempting  
20 to identify and thereafter shall arrest, or that  
21 they only have to engage in an attempt to  
22 arrest?

23 SENATOR SALAND: I believe what  
24 that's intended to do, Senator Dollinger, is to  
25 accept the reality that in these types of

1 situation, one may not be able to determine in  
2 every instance and perhaps in many or most  
3 instances that there is, in fact, a clearly  
4 primary aggressor.

5 What is being said here is that  
6 the investigating officer shall attempt to  
7 identify. If, in fact, that identification  
8 can't be made and yet there has been the  
9 commission of a family offense misdemeanor or  
10 misdemeanors, then the officer, I believe, would  
11 be dutybound to act accordingly.

12 SENATOR DOLLINGER: And not make  
13 an arrest.

14 SENATOR SALAND: Oh, make an  
15 arrest, certainly have to arrest.

16 SENATOR DOLLINGER: Again through  
17 you, Mr. President, if he cannot figure out who  
18 the physical aggressor is, he would be obligated  
19 then not to make an arrest; isn't that correct?

20 SENATOR SALAND: No, I think the  
21 officer would be confronted with two choices.  
22 If both people had committed what would appear  
23 to be a family offense misdemeanor and neither  
24 person -- neither or both people chose to  
25 withdraw their complaint without being advised

1           that they could do so by the officer, the  
2           officer would be required to do that which he or  
3           she would have had to have done if they came  
4           upon you and I fighting or doing damage to each  
5           other physically in some setting, whether it was  
6           in a ball park, in a parking lot, in a bar room,  
7           and I think under those circumstances the  
8           officer would in all likelihood have arrested  
9           the two of us.

10                         SENATOR DOLLINGER:  Arrest both  
11           parties.

12                         SENATOR SALAND:  Yes.

13                         SENATOR DOLLINGER:  Just through  
14           you, one other question, Mr. President.

15                         ACTING PRESIDENT KUHL:  Senator  
16           Saland, you continue to yield?  You continue to  
17           yield?

18                         SENATOR SALAND:  I'm sorry, yes.

19                         ACTING PRESIDENT KUHL:  Senator  
20           yields.

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

23                         What happens -- what happens,  
24           Senator, if there is an arrest of the primary  
25           physical aggressor and in the pre-trial motions

1       against the misdemeanor complaint there's a  
2       hearing held and it's determined by the court  
3       that he wasn't the primary physical aggressor  
4       based on a hearing. Is the arrest then voided  
5       even if it's an arrest for a simple assault?

6                    SENATOR SALAND: Well, the  
7       purpose of this legislation is to try and avoid  
8       dual arrest situations. My assumption in the -  
9       in the scenario that you've mentioned is that  
10      that particular charge, whatever it might be,  
11      assault whatever, would be dismissed.

12                   SENATOR DOLLINGER: O.K. Mr.  
13      President, on the bill very briefly.

14                   I understand the goal that  
15      Senator Saland is getting to, and I support the  
16      concept of arresting the primary physical  
17      aggressor. I think it's unfortunate, as Senator  
18      Gold said, that it's quarter of ten in the  
19      morning on the morning after that we're doing  
20      this. This is a very significant piece of  
21      legislation. Perhaps it should have been talked  
22      about either in the Children and Families  
23      Committee or in the penal -- the Codes  
24      Committee, because I assume this affects the  
25      Criminal Procedure Law and should be a part of

1           that as well.

2                       I'm going to vote in favor of it,  
3           but I share the concerns of Senator Gold, and  
4           I'm not so sure that we're giving quite as much  
5           guidance to our police officers as we think we  
6           are.  Much as I said in 1994 when we did the  
7           mandatory arrest bill, I would simply suggest  
8           that this thing -- this whole concept needs to  
9           be looked at in greater detail.

10                      ACTING PRESIDENT KUHL:  Senator  
11           Rath.

12                      SENATOR RATH:  Mr. President, to  
13           clear the record, there were -- there was a  
14           comment made about how women's groups and the  
15           domestic violence groups feel about this  
16           particular bill, and I find myself doing a lot  
17           of work on that issue in my district, in fact, a  
18           lot of very creative work with the groups.  It  
19           was their number one choice this year, was this  
20           bill.

21                      ACTING PRESIDENT KUHL:  Secretary  
22           will read the last section.

23                      SENATOR GOLD:  Mr. President.

24                      ACTING PRESIDENT KUHL:  Senator  
25           Gold, why do you rise?

1                   SENATOR GOLD: Well, I wasn't  
2                   sure whether Senator Rath was implying that I  
3                   didn't say that. I think I recognized the fact  
4                   that there are women's groups, I think, that are  
5                   supporting it. I think they're wrong, and you  
6                   know, as with so many other situations, groups  
7                   take positions and then we have to make a  
8                   determination and vote.

9                   With all due respect to the  
10                  wonderful work these groups have done and the  
11                  fact that people like you and Senator Saland and  
12                  many people on this side of the aisle have  
13                  sensitized society to some extent towards the  
14                  issues involved in domestic violence, I think  
15                  this is a long stretch, and I'm going to vote  
16                  no.

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

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

21                  ACTING PRESIDENT KUHL: Call the  
22                  roll.

23                  (The Secretary called the roll. )

24                  ACTING PRESIDENT KUHL: Record  
25                  the negatives and announce the results.

1 THE SECRETARY: Ayes 56, nays 1,  
2 Senator Gold recorded in the negative.

3 ACTING PRESIDENT KUHL: The bill  
4 is passed.

5 Senator Skelos.

6 SENATOR SKELOS: Would you call  
7 up Senator Trunzo's bill 1677.

8 ACTING PRESIDENT KUHL: Secretary  
9 will read the title of Number 1677.

10 THE SECRETARY: Calendar Number  
11 1677, by member of the Assembly Vitaliano,  
12 Assembly Print 6864-A, an act to amend the  
13 General Municipal Law.

14 SENATOR LEICHTER: Mr.  
15 President.

16 ACTING PRESIDENT KUHL: Senator  
17 Leichter.

18 SENATOR LEICHTER: Let me ask  
19 Senator Trunzo to yield. Rather than ask for an  
20 explanation, let me cut to the quick.

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

23 SENATOR TRUNZO: I will,  
24 Senator.

25 ACTING PRESIDENT KUHL: Senator

1 yields.

2 SENATOR LEICHTER: I also would  
3 relate to another bill you -- are we on 1677?

4 SENATOR TRUNZO: We're on 1677  
5 right now, and also I have 1676.

6 SENATOR LEICHTER: O.K. You  
7 provide special disability retirement for  
8 certain employees, correction officers another  
9 bill dealt with the State Police who've  
10 developed HIV positive or hepatitis. Do we have  
11 any statistics, any indication whatsoever that  
12 would show a higher incidence to those diseases  
13 by these particular employees?

14 SENATOR TRUNZO: I personally  
15 don't have any records at this point myself, but  
16 I can assure you, Senator, that the presumption  
17 of the HIV or the other diseases doesn't mean  
18 solely just that they have it. They're going to  
19 have to show evidence that the incident that  
20 occurred in the prison or in association with  
21 the criminals that they may be working with,  
22 that they have to indicate that and prove the  
23 fact that this particular incident caused them  
24 to have the HIV. It isn't just strictly a  
25 presumption.

1                   SENATOR LEICHTER: All right.  
2           Senator, just to clarify that, because I don't  
3           know if the bill is that clear as to the  
4           legislative intent. As we know, most of the  
5           time, to contact HIV, it's that you practice  
6           unsafe sex or you may be a drug user and you use  
7           needles, but I can well understand that these  
8           people may come into contact with both -- with  
9           more persons who are HIV positive. They are  
10          guards they work in the prisons; there's a high  
11          incidence of HIV and TB and hepatitis.

12                   What you're telling us that when  
13          they apply for the disability pension that they  
14          would have to show that they were in contact  
15          with somebody. They can't just come and say,  
16          "I'm HIV positive" and the presumption applies;  
17          you're telling us that they have to show  
18          contact.

19                   SENATOR TRUNZO: Absolutely, show  
20          the fact that they were contacted.

21                   SENATOR LEICHTER: All right.

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

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

3 ACTING PRESIDENT KUHL: Call the  
4 roll.

5 (The Secretary called the roll. )

6 THE SECRETARY: Ayes 57.

7 ACTING PRESIDENT KUHL: The bill  
8 is passed.

9 Senator Skelos.

10 SENATOR SKELOS: Please call up  
11 Calendar Number 1678, by Senator Alesi.

12 ACTING PRESIDENT KUHL: Secretary  
13 will read.

14 THE SECRETARY: Calendar Number  
15 1678, by member of the Assembly Koon, Assembly  
16 Print 4572, an act to authorize and direct the  
17 Workers' Compensation Board.

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

20 SENATOR GOLD: Hold it. Hold  
21 on.

22 ACTING PRESIDENT KUHL: Senator  
23 Alesi, would you like to explain Calendar Number  
24 1678 for Senator Leichter.

25 SENATOR ALESI: I'd be happy to.

1                   Mr. President, this bill simply  
2                   directs the Workers' Compensation Board to  
3                   increase the Workers' Compensation benefits for  
4                   an injured firefighter.

5                   ACTING PRESIDENT KUHL: Senator  
6                   Gold.

7                   SENATOR GOLD: Yeah. Mr.  
8                   President, I'll speak on the bill.

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

11                  SENATOR GOLD: This is a bill  
12                  which legislatively makes absolutely no sense in  
13                  the world. There's an individual who is  
14                  receiving benefits. There is a process by which  
15                  the disability was determined and the  
16                  Legislature is going to change that award and,  
17                  if we do it, we are crazy, which doesn't mean we  
18                  don't do it. Matter of fact, that may explain  
19                  why we may do it; but the point is in the  
20                  Committee meeting, someone pointed out that  
21                  there have been changes in benefits and that  
22                  people coming down the line later might get  
23                  different benefits and, Senator Alesi, I  
24                  certainly would consider a bill that set up a  
25                  process whereby anybody who is on disability

1       could make application if things changed, but  
2       the concept of picking a person coming to the  
3       Legislature and the Legislature determining what  
4       disability benefits should be makes no sense.

5               I don't know this person. I  
6       don't know whether you do or don't. I assume,  
7       and just for the record, Senator Alesi, I'm  
8       assuming -- I'm assuming based upon my knowledge  
9       of you, that this bill is put in in good faith,  
10      so please don't take anything I say as being  
11      anything other than that -- but we are being  
12      asked to judge a disability case without any  
13      evidence, without any knowledge of the  
14      individual, without any search of a record, and  
15      it's just absurd.

16             Now, in similar situations where  
17      people have claimed that their pension benefits  
18      through no fault of their own, we wind up with  
19      that silly language, they want to change,  
20      finally after years we got the Trunzo bill. We  
21      allowed that to lapse, which made no sense.  
22      There are ways the Legislature can set up  
23      procedures, but to flood ourselves with people  
24      who will find out that we would override  
25      administrative determinations and put money in

1 their pocket, is something we don't need.

2 Now, we could argue from now 'til  
3 the end of the year, and on and on and on about  
4 a full-time Legislature. If we want to make a  
5 full-time Legislature and we're looking for new  
6 bills to make it look like we're busy, well,  
7 this is one, I guess, that will give us a new  
8 way to look busy and justify to the people, but  
9 it's just silliness.

10 There are things which are proper  
11 legislative concerns, and there are things which  
12 we shouldn't touch with a ten-foot pole, and I  
13 don't know the merits of this one individual any  
14 more than I know the merits of 500 other  
15 individuals in this state who don't know Senator  
16 Alesi and don't know Senator Tully and don't  
17 know Senator Dollinger or Leichter or Gold or  
18 anybody else, and whose benefits are going to  
19 stay the same.

20 One last thing, I mean let's talk  
21 about the open secret we all know about. How  
22 many times I've walked out of that Rules  
23 Committee or other committees and had members of  
24 the other side say to me, You know, you're  
25 right, you know, it's really terrible, but you

1 don't have, unfortunately -- and I'm not  
2 mentioning names obviously -- don't have the  
3 guts on the floor to say we're right and to vote  
4 with us. Makes no sense at all.

5 So just on a personal basis, I  
6 can't speak for Senator Leichter who has the  
7 same experience, you know, don't tell us walking  
8 out of the room we're right. If you think we're  
9 right, vote with us. If you don't, at least  
10 don't pour salt in it that you're going to vote  
11 for a bad bill just because that's what the  
12 party tells you to do.

13 This is a bad process. This bill  
14 rather is a bad precedent, and I think it's one  
15 we should keep away from and I'm going to vote  
16 in the negative.

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

19 THE SECRETARY: Section 3. This  
20 act shall take effect on the 30th day.

21 ACTING PRESIDENT KUHL: Call the  
22 roll.

23 (The Secretary called the roll. )

24 ACTING PRESIDENT KUHL: Record  
25 the negatives and announce the results.

1 THE SECRETARY: Ayes 55, nays  
2 two, Senators Gold and Leichter recorded in the  
3 negative.

4 ACTING PRESIDENT KUHL: The bill  
5 is passed.

6 Senator Skelos.

7 SENATOR SKELOS: Mr. President,  
8 would you call up Calendar Number 1679, by  
9 Senator Trunzo.

10 ACTING PRESIDENT KUHL: Secretary  
11 will read.

12 THE SECRETARY: Calendar Number  
13 1679, by Senator Trunzo, Senate Print 5101-A, an  
14 act to amend the Retirement and Social Security  
15 Law.

16 ACTING PRESIDENT KUHL: Senator  
17 Leichter.

18 SENATOR LEICHTER: Senator  
19 Trunzo, the answer that you gave me when I  
20 discussed your previous bill, 1676, also applies  
21 to this bill?

22 SENATOR TRUNZO: It also applies  
23 to this legislation.

24 SENATOR LEICHTER: Right, that  
25 you would have to show that the person who is

1 applying for the disability pension, that he  
2 came into contact with somebody which could have  
3 caused him to -

4 SENATOR TRUNZO: Correct.

5 SENATOR LEICHTER: -- to develop  
6 that disease.

7 SENATOR TRUNZO: Correct, yes.

8 ACTING PRESIDENT KUHL: Secretary  
9 will read the last section.

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

12 ACTING PRESIDENT KUHL: Call the  
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 57.

16 ACTING PRESIDENT KUHL: Senator  
17 Skelos.

18 SENATOR SKELOS: Mr. President,  
19 on the original calendar of today, Calendar  
20 Number 66, would you call up Senator  
21 Marcellino's bill 5628, Calendar 1522.

22 ACTING PRESIDENT KUHL: On the  
23 regular calendar, the brown calendar, Calendar  
24 Number 66, first calendar of the day, Secretary  
25 will read Calendar Number 1522, by Senator

1 Marcellino.

2 THE SECRETARY: Calendar Number  
3 1522. In relation to Calendar Number 1522.  
4 Senator Marcellino moves to discharge from the  
5 Committee on Rules Assembly Print 8477-A and  
6 substitute it for the identical Senate bill,  
7 Third Reading 1522.

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

11 THE SECRETARY: Calendar Number  
12 1522, by the Assembly Committee on Rules,  
13 Assembly Print 8477-A, an act authorizing the  
14 county of Suffolk.

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

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

20 ACTING PRESIDENT KUHL: Call the  
21 roll.

22 (The Secretary called the roll. )

23 THE SECRETARY: Ayes 57.

24 ACTING PRESIDENT KUHL: The bill  
25 is passed.

1 Senator Skelos.

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

7 ACTING PRESIDENT KUHL: Return to  
8 the order of reports of standing committees, ask  
9 the Secretary to read the report of the Finance  
10 Committee which is at the desk.

11 THE SECRETARY: Senate Stafford,  
12 from the Committee on Finance, offers up the  
13 following bills:

14 Senate Print 6705-B, Budget Bill,  
15 Education, Labor and Social Services Budget  
16 Bill;

17 By Senator DeFrancisco, Senate  
18 Print 5757, an act to amend the Insurance Law;  
19 5792, by the Committee on Rules,  
20 an act in relation to appropriations made by the  
21 chapters of the laws of 1997; and

22 Senate 814-A, Budget Bill, an act  
23 making appropriations for the support of  
24 government.

25 All bills directly for third

1 reading.

2 ACTING PRESIDENT KUHL: Motion is  
3 to accept the report of the Finance Committee.  
4 All those in favor signify by saying aye.

5 (Response of "Aye.")

6 Opposed nay.

7 (There was no response.)

8 The report is accepted. The bills  
9 are reported directly to third reading.

10 Senator Skelos.

11 SENATOR SKELOS: Mr. President,  
12 will you call up Calendar Number 1673.

13 ACTING PRESIDENT KUHL: Secretary  
14 will read Calendar Number 1573, Bill Number  
15 705-B.

16 THE SECRETARY: Calendar Number  
17 1673, Budget Bill, 705-B, Education, Labor and  
18 Social Services budget.

19 ACTING PRESIDENT KUHL: Senator  
20 Skelos.

21 SENATOR SKELOS: Mr. President,  
22 Is there a motion -- message of necessity and  
23 appropriation at the desk?

24 ACTING PRESIDENT KUHL: There  
25 is.

1 SENATOR SKELOS: Move to accept.

2 ACTING PRESIDENT KUHL: Motion is  
3 to accept the message of necessity that is at  
4 the desk. All those in favor signify by saying  
5 aye.

6 (Response of "Aye.")

7 Opposed nay.

8 (There was no response.)

9 The messages are adopted. Bill  
10 is before the house. Secretary will read the  
11 last section.

12 THE SECRETARY: Section 7. This  
13 act shall take effect immediately.

14 ACTING PRESIDENT KUHL: Call the  
15 -- Senator Leichter, why do you rise?

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

18 ACTING PRESIDENT KUHL: Call the  
19 roll.

20 (The Secretary called the roll. )

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

23 SENATOR LEICHTER: Yes. Mr.  
24 President, I'm going to vote against this bill.  
25 I voted against all the budget bills, but I just

1 specifically want to point out that in this bill  
2 that the educational aid disparity to the city  
3 of New York is barely narrowed. I think it's  
4 narrowed by one-tenth of one percentage point.

5 The fact is that the city of New  
6 York has been short-changed over the years in  
7 education aid. We have a growing school  
8 population, yet we don't receive the amount of  
9 state aid that we should.

10 But let me also say, Mr.  
11 President, maybe it's a fitting end to this  
12 session that we have this sort of chaotic and  
13 sloppy ending and that here we are after some  
14 21, 22 hours, trying to pass budget bills that  
15 we barely understand and have barely seen. It  
16 just underscores again the need that we have to  
17 reform our procedures.

18 Certainly I think the people of  
19 the state of New York would like us to be  
20 somewhat awake and aware when we pass these  
21 budget bills. We clearly are not. These are  
22 bills negotiated by the leaders against a  
23 deadline. Then they come out at the very last  
24 minute before we vote on them. It's just not a  
25 way to act on a 66- or \$68 billion budget.

1 Mr. President, I vote in the  
2 negative.

3 ACTING PRESIDENT KUHL: Senator  
4 Leichter will be recorded in the negative.

5 Announce the results.

6 THE SECRETARY: Ayes 55, nays 2,  
7 Senator Dollinger and Leichter recorded in the  
8 negative.

9 ACTING PRESIDENT KUHL: The bill  
10 is passed.

11 Senator Skelos.

12 SENATOR SKELOS: Call up 1674.

13 ACTING PRESIDENT KUHL: Secretary  
14 will read Calendar Number 1674.

15 THE SECRETARY: Calendar Number  
16 1674, by the Committee on Rules, 5792, an act in  
17 relation to making appropriations.

18 SENATOR SKELOS: Mr. President,  
19 is there a message of necessity and  
20 appropriation at the desk?

21 ACTING PRESIDENT KUHL: There  
22 is.

23 SENATOR SKELOS: Move to accept.

24 ACTING PRESIDENT KUHL: Motion is  
25 to accept the message of necessity on 1674. All

1 those in favor signify by saying aye.

2 (Response of "Aye.")

3 Opposed nay.

4 (There was no response.)

5 The messages are adopted. The  
6 bill is before the house. Secretary will read  
7 the last section.

8 THE SECRETARY: Section 96. This  
9 act shall take effect immediately.

10 ACTING PRESIDENT KUHL: Call the  
11 roll.

12 (The Secretary called the roll. )

13 THE SECRETARY: Ayes 56 -

14 ACTING PRESIDENT KUHL: Record  
15 the negatives, announce the results.

16 THE SECRETARY: Ayes 55, nays 2,  
17 Senators Dollinger and Leichter recorded in the  
18 negative.

19 ACTING PRESIDENT KUHL: The bill  
20 is passed.

21 Senator Skelos.

22 SENATOR SKELOS: Stand at ease  
23 temporarily.

24 SENATOR KUHL: Senate will stand  
25 at ease for a few moments.

1 (The Senate stood at ease from  
2 10:10 to 10:51 a.m.)

3 SENATOR BRUNO: Mr. President.

4 ACTING PRESIDENT KUHL: Senator  
5 Bruno.

6 SENATOR BRUNO: Can we at this  
7 time take up Calendar Number 1675.

8 THE SECRETARY: Calendar Number  
9 1675, Budget Bill, an act making appropriations  
10 for the support of government.

11 SENATOR BRUNO: Is there a  
12 message at the desk, Mr. President?

13 ACTING PRESIDENT KUHL: There  
14 is.

15 SENATOR BRUNO: Move we accept  
16 the message.

17 ACTING PRESIDENT KUHL: Motion is  
18 to accept the message of necessity at the desk  
19 on Calendar Number 1675. All those in favor  
20 signify by saying aye.

21 (Response of "Aye.")

22 Opposed nay.

23 (There was no response.)

24 The message is accepted. The  
25 bill is before the house. Secretary will read

1 the last section.

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

4 ACTING PRESIDENT KUHL: Call the  
5 roll.

6 (The Secretary called the roll. )

7 ACTING PRESIDENT KUHL: Record  
8 the negatives and announce the results.

9 THE SECRETARY: Ayes 55, nays 2,  
10 Senators Leichter and Dollinger recorded in the  
11 negative.

12 ACTING PRESIDENT KUHL: The bill  
13 is passed.

14 Senator Bruno.

15 (The Senate was at ease until  
16 11:00 a.m.)

17 ACTING PRESIDENT KUHL: Senate  
18 will come to order. Have some order in the  
19 house. Senator Velella. Members take their  
20 chairs. Staff take their places.

21 Chair recognizes Senator Bruno.

22 SENATOR BRUNO: Mr. President,  
23 can we at this time take up Calendar Number  
24 1687.

25 ACTING PRESIDENT KUHL: Secretary

1 will read the title to Calendar Number 1687.

2 THE SECRETARY: Calendar Number  
3 1687, by Senator DeFrancisco, Senate Print 5757,  
4 an act to amend the Insurance Law.

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

7 THE SECRETARY: Section 5. This  
8 act shall take effect in 120 days.

9 ACTING PRESIDENT KUHL: Call the  
10 roll.

11 (The Secretary called the roll. )

12 THE SECRETARY: Ayes 57.

13 ACTING PRESIDENT KUHL: The bill  
14 is passed.

15 (The Senate stood at ease from  
16 11:01 to 11:18 a.m.)

17 ACTING PRESIDENT KUHL: Senate  
18 will come to order. Members find their places,  
19 staff their places.

20 Chair recognizes Senator Bruno.

21 SENATOR BRUNO: Thank you, Mr.  
22 President. My apologies to my colleagues and  
23 others in the chamber for this delay.

24 We are going to conclude this  
25 session, and some people have said this session

1 is too long, has been too long, and they're  
2 right; and some people are thinking that the  
3 past 24 hours or so have been too long, and  
4 they're right; and some people will say that the  
5 latest budget in the history of this state is  
6 unfortunate, and they're right.

7 But nobody can say that what we  
8 have done over these past months while we have  
9 been in session and, yes, this latest budget  
10 ever, that we have not saved the people of this  
11 state in an exceptional way, and we have done  
12 that together.

13 What we have done is  
14 extraordinary. Third year in a row biggest tax  
15 cuts in the history of this state, more than any  
16 other state in the United States for the third  
17 year, and you know the things that we've done.  
18 People will read, and they will learn very  
19 specifically about what has happened during this  
20 past session and in this budget, so I don't have  
21 to, today, recite that. I don't have to go on  
22 at great length, thank the good Lord, and I will  
23 set an example for my learned colleague in the  
24 Minority, Senator Connor, and be very brief, and  
25 just say thank you, thank all of you for your

1 cooperation, for your assistance, for your  
2 commitment to doing what is right for the people  
3 of this state.

4           Want to thank Senator Stafford  
5 who has chaired Finance, does all the many  
6 extraordinary kinds of things that he does to  
7 make everything work, and Senator Skelos, the  
8 Deputy Majority Leader, who sits here hour after  
9 hour, helping this function in an orderly way,  
10 and Senator Randy Kuhl, who has presided hour  
11 after hour after hour and day after day, and I  
12 thank you for that; and all the rest of you that  
13 are here, chairs, the leaders, playing a role  
14 and making the good things happen on behalf of  
15 the people of this state.

16           I also want to say a special word  
17 of thank you, and that's really the most  
18 meaningful thing that I can do is to say thank  
19 you to Abe Lackman, who is known throughout this  
20 state and the United States as one of the most  
21 able and capable who just makes things happen,  
22 sometimes in a timely way but -- couldn't resist  
23 that, Abe -- but there is no one that can do it  
24 better and knows it better than Abe. And he is  
25 assisted by Mary Louise Mallick, who is here,

1 and Lee Van Riper and his Finance staff, many of  
2 them that are here. He has spent hours and  
3 hours and hours and hours, more than any of us  
4 want to recount, in helping us get where we are  
5 today.

6 The counsels, Dave Dudley and Ken  
7 Riddett and all the others that work with them,  
8 literally to the point of exhaustion, and I  
9 apologize for that, where people have had to be  
10 bodily removed, having collapsed, and that's  
11 unfortunate in the process that exists here in  
12 this state, but I thank you for that. And Steve  
13 Boggess, my chief of staff, who has been with me  
14 for an awful lot of years, and Pat Stackrow, my  
15 executive assistant, and Marcia White, who is my  
16 person -- I don't quite know what her title is  
17 but I think she is a press secretary. Yes, she  
18 is a press secretary, and when I say things that  
19 are inappropriate she helps make them more  
20 appropriate, such as right now.

21 And my director of  
22 communications, John McArdle, and his whole  
23 press office, that tries to make us all look  
24 good and usually succeeds, and I know Steve  
25 Sloan, who is here as the Secretary of the

1 Senate, and the Sergeant-at-Arms that are on  
2 duty, and so many other people at the front  
3 desk, Billy and Tommy and all the rest who make  
4 this place work for all of us, and when it works  
5 for us, it works for all of the people of this  
6 state.

7 So again, I apologize for having  
8 to recess, having the delays, having to work  
9 through the night. I won't take the time to  
10 relate some of what needs to be corrected and  
11 will be corrected as we get into next year, and  
12 that I can promise you.

13 But we're here and we're  
14 concluding and, as I conclude my remarks, we are  
15 not going to adjourn to a particular time to be  
16 called. Mr. President, I'm going to ask that we  
17 recess and there will be enough members here  
18 because we have one piece of business that we  
19 will be acting on, and that is a bill that  
20 should be acted on before we leave. It's a bill  
21 that's already been debated in this house. It  
22 is going to be amended and recalled and acted  
23 on, and that is the "Wild Card" bill that was  
24 debated at length and will not be debated again,  
25 but a very simple amendment will take place that

1 is more technical and that has been part of the  
2 the delay for the last 20 minutes to see whether  
3 or not we would get that technical language  
4 here. It is not here. We're not going to stay  
5 any longer because many of us have responsibil  
6 ities to our constituency, and we must -- and to  
7 ourselves and to our families, and so it's time  
8 to recess until it's time for us to get back  
9 together.

10 So I wish you all well for the  
11 rest of the summer and fall, until we put a call  
12 to get back together at some time in the  
13 future.

14 Thank you, Mr. President.

15 ACTING PRESIDENT KUHL: Chair  
16 recognizes Senator Connor.

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

19 Mr. President, it has been quite  
20 a session. I'll tell a little anecdote, because  
21 Senator Leichter always reminds me that some  
22 years ago when my kids were a little younger -  
23 they're still young -- I decided, gee, I had  
24 fond memories of the seashore in New Jersey, so  
25 I rented a place and we had a great week at the

1 seashore, so I did it the next year and lo and  
2 behold, my wife went and I was up here; we  
3 were in session right up to July 4th. So I  
4 moved it back a week for the next year, and lo  
5 and behold, same thing happened. I missed it  
6 and my family went. After about three years of  
7 this, Senator Leichter said, Jeez, he started to  
8 come up to me and say, When's that week you're  
9 going to the Jersey shore, because I know we  
10 won't get out until after that.

11 I'm really afraid, Mr. President.

12 I moved it back again this year and here we  
13 are. So I don't -- I don't quite know what to  
14 do. I'm afraid to put it off until the middle  
15 of August or sure enough, things will happen and  
16 we'll be here.

17 Mr. President, it has been a -  
18 in some respects a contentious session. Senator  
19 Bruno has outlined some of the accomplishments,  
20 reference to some of the bills this house has  
21 passed and we share in some of them. We in the  
22 Minority have a peculiar perspective though, we  
23 share in some of the ones that didn't pass on  
24 time, a different perspective, but it has been a  
25 session that as pointed out also, as Senator

1 Bruno said, some of the things we ought to  
2 address for the future about perhaps better ways  
3 we can mend this process to make it work better  
4 for the people and maybe make it work better for  
5 us as well.

6 That said, I do want to be  
7 brief. I know we have a 12:00 o'clock rule, and  
8 we're approaching 12:00 o'clock. I should have  
9 read that rule more closely, but I want to thank  
10 certainly, thank Senator Bruno, our Majority  
11 Leader, for always being gracious, always being  
12 sincere and forthright. He is refreshingly  
13 candid. You don't, at least by reputation you  
14 don't look for candor, the public doesn't look  
15 for candor among elected officials, and Senator  
16 Bruno is one elected official who says it like  
17 he sees it and means what he says and that is  
18 indeed refreshing, and he has always been  
19 courteous to me. He has always been a fine  
20 gentleman and a principled leader, and indeed  
21 principled even when we disagree.

22 Mr. President, a lot goes into  
23 even the Minority Conference's efforts. A lot  
24 of that certainly, a good deal of that is due to  
25 colleagues on this side of the aisle and their

1 support that they give and the efforts that they  
2 make, the committee work and fostering ideas and  
3 task forces, and so on, and, of course, the job  
4 of being leader needs the most able right arm  
5 one can find. I am indeed fortunate that I have  
6 a Deputy such as David Paterson who day in and  
7 day out graces this chair, leads us in debate,  
8 does it with, I think, always an incredible wit,  
9 insight and intellect, and can disagree really  
10 time in and time out in a way that is not  
11 disagreeable but is, in fact, sometimes rather  
12 enjoyable, and Senator Bill Stachowski,  
13 Assistant Minority Leader, who fills in in this  
14 Chair, does our work in the Rules Committee and  
15 otherwise is an outstanding leader of this  
16 Conference, is a colleague I think we've all  
17 over these years grown to love and respect. He  
18 has some pretension of athletic knowledge and  
19 ability, but we tolerate in return for his  
20 phenomenal sense of humor. Sincerely though,  
21 Senator Stachowski is someone who I respect and  
22 rely on.

23 Senator Manny Gold, our ranking  
24 Minority member on Finance, lifts those with the  
25 benefit of the incredible intellect, the

1       incredible debating skills and his many, many  
2       years of experience, and I certainly thank him.  
3       I do rely on his friendship and suport and  
4       advice.

5                   Conference is indeed a privilege  
6       to be shared by someone who has experience and  
7       wisdom and who is indeed kind and concerned to  
8       all the members of this house on both sides of  
9       the aisle, and that is our dear Senator Olga  
10      Mendez. Thank you, Senator. The rest of the  
11      leadership and members of this Conference, I say  
12      thank you; thank you for your support; thank you  
13      for your efforts. Keep up the good work.

14                   Staff, I don't know, what we ask  
15      of staff in both our Conferences is truly  
16      incredible, truly incredible in terms of the  
17      time, the time they put in. Just think if they  
18      all investment bankers or whatever and put in  
19      those most kind of hours, or lawyers who bill  
20      \$350 an hour, they would have bankrupted the  
21      state this week with the hours in the past week  
22      that they put in, and that's true of staff I  
23      know in both Conferences. Seven days a week, 20  
24      -- must be 25 or '-6 hours a day at least, we  
25      have been blessed with their services.

1                   And to my counsel, Michael  
2           Boxley, to his deputy, Ed Wassermann, and to all  
3           the capable lawyers and support staff in our  
4           counsel's office, I say thank you. To John  
5           Ewashko, the Secretary to Senate Minority  
6           Finance, who has toiled unstintingly these past  
7           weeks, whose acuity and insight have been in  
8           valuable. His efforts are monumental; the ideas  
9           he puts forth both refreshing and often  
10          shockingly insightful, sometimes even to arouse  
11          the compliments of the Majority, as I'm unaware  
12          and the serious study of those ideas by all the  
13          conferences here, and the Governor.

14                   Thank you, John; thank you Lynn,  
15          Lynn Kopka, his able Assistant Secretary and all  
16          the staff of the Senate Minority Finance, I hope  
17          they were not foolish enough to stay away for  
18          this speech since we didn't need their services  
19          as of a half hour or so ago, and I certainly  
20          wish them a well earned rest for the rest of the  
21          summer.

22                   To Chris Andrucci, our secretary,  
23          Amy Solomon, my chief of staff, to Mona DeMay,  
24          our deputy secretary, to Mercy Magrino, Eileen  
25          Hickey, Janet Kennedy in Communications, Peter

1 Slocum, our press secretary and he has a double  
2 title of senior policy adviser and that's  
3 because he is a policy wonk in the finest sense  
4 of the word, and is a real idea person who is  
5 always thinking and always looking for new ways  
6 that government can serve the people, and I know  
7 I'm going to forget somebody, to Mark Lining,  
8 our director of programs, all the many members  
9 of the program staff who labored these past  
10 weeks as well on the issues and the substantive  
11 issue side of both the budget and the bills  
12 before us. I say thank you to -- I'm looking  
13 around, because I got to -- to Joe and Jeff and  
14 the other members of our senior staff, I say  
15 thank you to all of you. Enjoy the rest of the  
16 summer, what's left of it. Take a few hours off  
17 and let's get back to work.

18 To all of my colleagues on both  
19 sides of the aisle, I thank you especially for  
20 your courtesy, for your good companionship and  
21 for your collegiality. Please everyone enjoy  
22 the rest of the summer. Take pride in those  
23 things you've accomplished and look forward in  
24 the future to rectifying some of the things  
25 where perhaps we collectively as an institution

1 fell short.

2 Thank you very much, Mr.  
3 President.

4 ACTING PRESIDENT KUHL: Senator  
5 Bruno.

6 SENATOR BRUNO: Thank you, Mr.  
7 President. Thank you, Senator Connor, for the  
8 very fine words and it is also a pleasure most  
9 of the time to work with you and your  
10 colleagues.

11 Having said that with almost a  
12 straight face, we do things together and we know  
13 that, and the debate does help us all.  
14 Sometimes it's stimulating but gets us where we  
15 have to be. So sincerely, thank you.

16 And Mr. President, at this time,  
17 I would move that we stand in recess, and thank  
18 you very much, and God bless.

19 ACTING PRESIDENT KUHL: The  
20 Senate stands in recess.

21 (Whereupon at 11:36 a.m., the  
22 Senate recessed until 11:40 a.m.)

23 ACTING PRESIDENT MAZIARZ:  
24 Senator Farley.

25 SENATOR FARLEY: Thank you, Mr.

1 President.

2 Mr. President, I wish to call up  
3 my bill, Senate Print 5717-A which was recalled  
4 from the Assembly which is now at the desk.

5 ACTING PRESIDENT MAZIARZ:  
6 Secretary will read.

7 THE SECRETARY: By Senator  
8 Farley, Senate Print 5717-A, an act to amend the  
9 Banking Law.

10 SENATOR FARLEY: I now move to  
11 reconsider the vote by which this bill passed.

12 ACTING PRESIDENT MAZIARZ:  
13 Secretary will call the roll on  
14 reconsideration.

15 (The Secretary called the roll on  
16 reconsideration.)

17 THE SECRETARY: Ayes 57.

18 SENATOR FARLEY: Mr. President, I  
19 now offer the following amendments.

20 ACTING PRESIDENT MAZIARZ:  
21 Amendments received.

22 (Whereupon the Senate was in  
23 recess.)

24 SENATOR FARLEY: Mr. President,  
25 would you please call up my bill, Calendar

1 Number 1637.

2 ACTING PRESIDENT MAZIARZ:

3 Secretary will read.

4 THE SECRETARY: Calendar Number  
5 1637, by Senator Farley, Senate Print 5717-B, an  
6 act to amend the Banking Law.

7 SENATOR FARLEY: Is there a  
8 message of necessity at the desk?

9 ACTING PRESIDENT MAZIARZ: There  
10 is a message at the desk, Senator Farley.

11 SENATOR FARLEY: I move that we  
12 accept the message.

13 ACTING PRESIDENT MAZIARZ: All  
14 those in favor of accepting the message of  
15 necessity, signify by saying aye.

16 (Response of "Aye.")

17 Opposed nay.

18 (There was no response.)

19 The message is accepted. Senator  
20 Farley.

21 Secretary will read, I'm sorry.  
22 Read the last section.

23 THE SECRETARY: Section 7. This  
24 act shall take effect immediately.

25 ACTING PRESIDENT MAZIARZ: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: AYES 57.

4 ACTING PRESIDENT MAZIARZ: The  
5 bill is passed.

6 Senator Farley.

7 SENATOR FARLEY: The bill is  
8 passed.

9 I move now to recommit all the  
10 bills that are on the calendar to the Rules  
11 Committee.

12 ACTING PRESIDENT MAZIARZ: All  
13 bills are recommitted.

14 SENATOR FARLEY: Now, Mr.  
15 President, I move that the Senate stand  
16 adjourned subject to the call of the Majority  
17 Leader.

18 ACTING PRESIDENT MAZIARZ: The  
19 Senate stands adjourned subject to the call of  
20 the Majority Leader.

21 Thank you, and have an enjoyable  
22 summer.

23 (Whereupon at 11:59 a.m., the  
24 Senate adjourned.)

25