ALBANY, NEW YORK

April 29, 1998

3:10 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to find their places, please, the staff to find their places.

I'd ask everybody in the chamber to rise and join me in saying the Pledge of Allegiance to the Flag, and please remain standing for the invocation.

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

We're very pleased to have the Reverend Peter G. Young of the Blessed Sacrament Church of Bolton Landing with us today for the invocation.

Father Young.

REVEREND PETER G. YOUNG: Let us pray. Dear God, in the middle of this beautiful spring, the last week of April, we see the budding of Your plant creations and the bright sunshine.

We hear of the awesomeness of the storms that have damaged so many of our southern states, and we offer our prayers for their strength of spirit. We gather to offer the

leadership to the many here in New York that are attempting to cope with their needs for a life of dignity and creativity.

We pray, though, particularly for Tom Testo's father, Tony, who passed away this last Friday. We call upon You to answer this prayer now and forever. Amen.

ACTING PRESIDENT KUHL: The reading of the Journal.

THE SECRETARY: In Senate, Tuesday, April 28th. The Senate met pursuant to adjournment. The Journal of Monday, April 27th, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

The Secretary will read.

SENATOR PATERSON: Mr. President. Mr. President. I understand that the clerk of the Senate has received some messages from the Governor. In fact, perhaps the clerk received 1,379 of them, and my question to the -- to the

Chair is, did these messages come separately or did they come all at once, and do you know at what time the clerk of the Senate received these messages?

ACTING PRESIDENT KUHL: Excuse me just a minute, Senator Paterson.

Senator Paterson, I'm informed by the Secretary that they all arrived at one time, last night at 6:50.

SENATOR PATERSON: 6:50?

ACTING PRESIDENT KUHL: 6:50 last evening, except for the legislative and judiciary, which I understand arrived on Monday. So I stand corrected with that piece of information. Is that sufficient?

I'll ask the Secretary to read the messages.

THE SECRETARY: The Governor returns without executive approval Senate Bill Number 6100-B, entitled "An act making appropriations for the support of government, Legislature and Judiciary Budget", Chapter 51, Line Veto 2.

The Governor returned without executive approval Senate Bill Number 6094-B,

entitled "An act to amend the Real Property Tax Law", Chapter 56, Line Veto 3.

The Governor returned without executive approval Senate Bill Number 6096-B, entitled "An act in relation to appropriations", Chapter 57, Line Veto 4 through Line Veto 8.

The Governor returned without executive approval Senate Bill Number 6104-C, entitled "An act making appropriations for the support of government, Public Protection, Health and Mental Hygiene Budget", Chapter 54, Line Veto 9 through Line Veto 164.

The Governor returned without executive approval Senate Bill 6102-D, entitled "An act making appropriations for the support of government, General Government Budget", Chapter 50, Line Veto 165 through line Veto 321.

The Governor returned without executive approval Senate Bill Number 6103-C, entitled "An act making appropriations for the support of government, Transportation, Economic Development and Environmental Conservation Budget", Chapter 55, Line Veto 322 through Line Veto 450.

The Governor returned without

executive approval Senate Bill Number 6098-B, entitled "An act to amend Chapter 393 of the Laws of 1994", Chapter 58, Line Veto 451 through Line Veto 499.

The Governor returned without executive approval Senate Bill Number 6105-C, entitled "An act making appropriations for the support of government, Education, Labor and Family Assistance Budget", Chapter 53, Line Veto 500 through Number 514 and Line Veto 516 through Line Veto 1380.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, all veto messages will be referred to the Committee on Rules.

ACTING PRESIDENT KUHL: Without objection, all Senate -- all the veto messages are referred to the Senate Committee on Rules.

Messages -- reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Velella, from the Committee on Insurance, reports:

Senate Bill 6945-A, by Senator

Velella, an act to amend the Insurance Law, ordered direct to third reading.

ACTING PRESIDENT KUHL: The bills are ordered directly to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

The Chair recognizes Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: 5936.

ACTING PRESIDENT KUHL: The enacting clause is stricken and the bill is recommitted.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I also wish to call up Senator Libous' bill, Print Number 5053, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 5, by Senator Libous, Senate Print 5053, an act to repeal Paragraph 3 of Subdivision A.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: Senator DeFrancisco.

SENATOR DeFRANCISCO: I now offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

On behalf of Senator Marcellino, on page number 23, I offer the following amendments to Calendar Number 571, Senate Print Number 6132, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

On behalf of Senator Wright, on page number 23, I offer the following amendments to Calendar Number 569, Senate Print Number 5526, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 569 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

On behalf of myself, on page number 20, I offer the following amendments to Calendar Number 531, Senate Print Number 4049, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The

amendments to 531 are received and accepted. The bill will retain its place on the Third Reading Calendar.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President, on behalf of myself, on page number 24, I offer the following amendments to Calendar Number 584, Senate Print Number 4496-A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 584 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Skelos.

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

ACTING PRESIDENT KUHL: Immediate meeting of the Senate Finance Committee, immediate meeting of the Senate Finance Committee in the Majority Conference Room, Room 332.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time may we please adopt the Resolution

Calendar with the exception -

ACTING PRESIDENT KUHL: The motion is to adopt -

SENATOR SKELOS: -- with the exception of Resolution 3245.

ACTING PRESIDENT KUHL: The motion is to accept the -- and adopt the Resolution Calendar on the members' desks with the exception to Resolution Number 3245. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, may we please have the title read on Resolution 3245 by Senator DeFrancisco and move for its immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read the title to the privileged Resolution 3245 by Senator DeFrancisco.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution 3245,

honoring the students of Central Tech Vocational Center, Syracuse, New York, for their participation in the 49th Senate District "Good News! Good Kids!" Youth Responsibility Program.

ACTING PRESIDENT KUHL: The Chair recognizes Senator DeFrancisco on the resolution.

SENATOR DeFRANCISCO: Thank you, Mr. President.

Each year I rise to commend a high school group, a middle school group and an elementary school group in my district for doing good things in our community and it's under the title of our "Good News! Good Kids!" program because all too often we learn about negative things that are happening in the schools or negative things that students are doing and it's good that we get reminded that the negative things are really the exceptions rather than the rule.

Today we have in the chamber some students from Central Tech Vocational Center and they submitted a project that they were involved in where they used their skills that they were learning at the vocational center to assist a homeowner at cost only of repairing a roof on a

garage.

Many people might say that there's so much work to do in our community and not enough people to do it. Well, these are the students that are doing it voluntarily and at cost for something good for people in the community. That's just one example that I wanted to give today.

This is the first time that we've recognized a vocational group in the Senate chambers as winners of the "Good News! Good Kids!" program, and I think that's very, very significant.

So I want to salute all of you, the four of you that are here from the group, Josh Bonhardt, David Gandino, Mary Meier, Jason Taylor and the supervising faculty member, Rick Macheda -- Macheda and James Bigsby, the school principal. You're all good kids except for the supervisor and the principal and the parents and they're good adults.

Thank you for the fine work in our community and we salute you on what you've done.

ACTING PRESIDENT KUHL: The question is on the resolution. All those in

favor of the resolution signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

On behalf of Senator Bruno, Senator DeFrancisco, let me welcome these young students to the chamber. Keep up the good work. We're very, very proud of you and have a safe day and a safe trip home.

Thank you for coming and sharing a moment of your life with us. If you'll stand, I'm sure the members of the chamber would like to recognize you. (Applause)

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up the non-controversial calendar.

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

THE SECRETARY: Calendar Number 256, by Senator Johnson, Senate Print 2550-D, an act to amend the Vehicle and Traffic Law, in relation to motor vehicle accident prevention courses.

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

THE SECRETARY: Section 2. This act shall take effect in 120 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54, nays 1, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 267, by Senator Trunzo, Senate Print 5322-A, an act to amend the Real Property Tax Law, in relation to income eligibility.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 269, by Senator Spano, Senate Print 4142-A, an act to amend the Labor Law, in relation to the maintenance of payroll records.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 321, by Senator Padavan, Senate Print 3083, an act to amend the State Finance Law, in relation to contracts for architectural and engineering services.

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

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 345, by Senator Alesi, Senate -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 463, by Senator Velella, Senate Print 2600, an act to amend the Penal Law, in relation to including certain documents.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 532, by Senator Marchi, Senate Print 6236, an act to authorize the United Pentecostal Church to file an application.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54, nays 1, Senator Cook recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 536, by Senator DeFrancisco, Senate Print 477-B, an act to amend the Real Property Tax Law, in relation to authorizing an infrastructure exemption.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

ACTING PRESIDENT KUHL: Calendar Number 541, by Senator Lack, Senate Print 1099, an act to amend the Real Property Tax Law, in relation to assessments resulting from a small claim proceeding.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 558, by Senator Nozzolio, Senate Print 6333, an act to legalize, validate and confirm.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. Lay the bill aside.

THE SECRETARY: Calendar Number 566, by Senator Velella, Senate Print 6231, an act to amend the Vehicle and Traffic Law, in relation to postponing the date for requiring certification.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 567, by Senator Stafford, Senate Print 6403, an act to amend the Highway Law, in relation to signs, displays or devices on state highways.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 576, by Senator Goodman, Senate Print 3541, an act to amend the Tax Law, in relation to the seizure and forfeiture of vehicles.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 579, by Senator Goodman, Senate Print 3682, an act to amend the Alcoholic Beverage Control Law, in relation to entering an unpaid civil penalty as a judgment.

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

THE SECRETARY: Section 2. This act shall take effect in 90 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR SKELOS: Take up the controversial calendar, please.

ACTING PRESIDENT KUHL: The Secretary will read the controversial calendar, beginning with Calendar Number 269 by Senator Spano.

THE SECRETARY: Calendar Number 269, by Senator Spano, Senate Print 4142-A, an

act to amend the Labor Law.

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

SENATOR PATERSON: Mr. President, Senator Stachowski has some questions on this bill and he's in the Finance Committee, so -

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 345, by Senator Alesi, Senate Print 4432-A, an act to amend the General Business Law.

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

SENATOR PATERSON: Mr. President.

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

SENATOR PATERSON: Same trouble, Mr. President.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the

bill aside temporarily.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 536, by Senator DeFrancisco, Senate Print 477-B, an act to amend the Real Property Tax Law.

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

SENATOR PATERSON: I thought you would guess why I rose, Mr. President.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 558, by Senator Nozzolio, Senate Print 6333, an act to legalize, validate and confirm.

ACTING PRESIDENT KUHL: Let me guess, Senator Paterson.

SENATOR PATERSON: Wrong, Mr. President.

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

SENATOR PATERSON: Would Senator Nozzolio -- would Senator Nozzolio be willing to

yield for a question? He's not here.

ACTING PRESIDENT KUHL: Hang on just a minute.

Senator Nozzolio, Senator Paterson has risen to ask a question on Calendar Number 538, Senate 6333.

SENATOR NOZZOLIO: Thank you, Mr. President.

What's the question, Senator Paterson?

SENATOR PATERSON: Mr. President, would Senator offer a brief explanation of the legislation?

ACTING PRESIDENT KUHL: Senator Nozzolio, Senator Paterson has asked for a brief explanation.

SENATOR NOZZOLIO: Yes. This measure validates and confirms certain actions with respect to issuance of serial bonds by the town of Marion, a small town in western Wayne County that I have the honor of representing in the state Senate. On behalf of the -- in addition to that Marion water system, extending it along Witherdon Road.

A home rule message is at the

desk, is it not, Mr. President?

ACTING PRESIDENT KUHL: That's correct.

Senator Paterson.

SENATOR PATERSON: Mr. President, the town is well served in the New York State Senate, but my question is, why did the town not seek the comptroller's edict on this or just find the authorization that would be necessary without proceeding in this forum and looking to create legislation over this?

SENATOR NOZZOLIO: Mr. President, through the Chair. I'm sorry. I had trouble hearing Senator Paterson.

Senator, if you would respectfully repeat that question, I would most appreciate it.

SENATOR PATERSON: Surely, Senator.

Mr. President, my question is - I'm asking why the town, rather than seeking legislation, did not just simply contact the comptroller's office and receive the comptroller's authorization for the action.

SENATOR NOZZOLIO: Evidently, the

improvement, Mr. President, of the Marion water system Witherdon Road addition, did not comply precisely with Subdivision 3 of Section 194 of the Town Law which requires application to an approval of the comptroller prior to the improvement. Because they did not take the step of complying with that, Senator, and, Mr. President, they're seeking this special help.

I should add the town of Marion is a small town. It does not have the sophisticated bureaucracy that other towns that are much larger in scope have, that I am sure that if they inadvertently did not comply with that provision of Town Law, it was because of a lack of resources, that it's not a very wealthy town by property tax standards. It's a mostly rural, agricultural town and that that's in all likelihood why this was not -- that procedure was not established.

ACTING PRESIDENT KUHL: Senator Paterson.

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

ACTING PRESIDENT KUHL: Senator

Nozzolio, do you continue to yield? The Senator continues to yield.

SENATOR PATERSON: Senator, was this town assuming on its own that because of the non-compliance with this particular section of law as you just cited, that, therefore, there would have been an automatic -- an automatic reaction from the Governor's office not granting authorization -- I'm sorry -- from the comptroller's office not granting the proper authorization?

SENATOR NOZZOLIO: I couldn't hear the question, Mr. President.

SENATOR PATERSON: I'm sorry, Mr. President.

My question is, did the town assume that there would be an automatic rejection of the application by the comptroller's office, or did the town actually seek the authorization even though it believed it was not in compliance with the section of law that you cited previously?

SENATOR NOZZOLIO: Senator Paterson, through the Chair, I can't answer that question because I don't know the answer to that

question, that I don't know what, frankly, the nuances were of the -- the motivations were of the town. I only know that they need this help and I'm here to provide this help through the provision of home rule message asking on behalf of the town of Marion for this particular authority.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, Senator, I want to support this legislation particularly after the manner in which you described the town and the fashion in which you were able to articulate what their concern is, but if they took the time to offer a home rule message to the Senate, I don't understand why, even if they did not think they were acting in a seasonable period, why they would not have sought the authorization of the comptroller's office because actually to pass this legislation without them at least seeking the authorization means that there was a step already prescribed to them in the law that they did not take and perhaps they could make the argument to the comptroller's office that the timeliness of their action was

not as important as what the authorization would actually alleviate and that the fact that it wasn't seasonable would be in a sense ministerial, and so what I'm just saying is it would be better I think for all of us who are voting on this piece of legislation that you offered if we actually knew whether the town was simply not feeling the need to give an application to the comptroller's office because they assumed it wouldn't be authorized, or whether or not they did not receive the authorization and are now appealing to us as a body as they're entitled to through your legislation.

Do you have any other information you can share with your colleagues before we vote on this?

SENATOR NOZZOLIO: Mr. President, the bill first validates actions that were taken by the town and those actions were not withstanding Section 194 of the Town Law, Subdivision 3 of that law which requires this application prior to the improvement. They wouldn't have made the improvement without getting the authorization. Knowing the town

officials, it's not because they were trying to do something that was surreptitious or trying to divert from -- it's almost laughable, Senator, that you would be asking this question about such a small rural community that is trying to do everything by the book but unfortunately the books are so big that the regulations are so - the nuances are so complex that it's often difficult for a very small rural town to comply with.

Section 2 of this bill authorizes the issuance of serial bonds, that it allows the town to go out and borrow money to the tune of $500,000 and they're asking for that authority so that they could reimburse the general unreserved fund balance of the town of which monies were temporarily taken away in 1996 and 1997 to pay for the costs of certain water improvements notwithstanding provision 16... 165.10 of the Local Finance Law which requires that a bond resolution should have first been adopted before such a temporary diversion of funds took place.

Senator, they're trying to rectify a situation here. We're trying to help them rectify the situation. They're not happy that

there might have been a misstep here, but they're trying to comply. They're trying to do the right thing and that's why we're authorizing them the authority to do so.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if the leadership of this particular town erred in their attempt to create the proper reimbursement, I don't think that there is a great problem in us forgiving them for really what is rather a minor inconvenience to this chamber to pass this legislation and correct what may have been a harmless error and to restore any entity that needs resources at this particular point, but in light of the fact that it is not clear right now whether or not this town made application to the comptroller's office or complied with what would have been the standard procedure in this situation, I was wondering if Senator Nozzolio would be willing to lay the bill aside for a day and just check so we can find out what that situation was so that when these situations come up in the future, we know what messages to be sending to our local governments

and our local townships just in terms of the procedure, which is my real concern.

ACTING PRESIDENT KUHL: Is that a question to Senator Nozzolio?

SENATOR PATERSON: My question is whether or not Senator Nozzolio would lay the bill aside for a day while we were able to obtain that information.

ACTING PRESIDENT KUHL: Senator Nozzolio.

SENATOR NOZZOLIO: Am I being asked to yield, Mr. President?

ACTING PRESIDENT KUHL: Are you asking the Senator to yield, Senator Paterson?

SENATOR PATERSON: For the question, yes, Mr. President.

ACTING PRESIDENT KUHL: Yes.

Senator Nozzolio, do you yield to a question?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Mr. President, the question was whether or not Senator Nozzolio

would be willing to lay the bill aside for a day so that we could obtain the information that I'm seeking and that some members would like to know, which is whether or not the town ever sought application to the comptroller's office in order to accomplish their goal in this situation.

SENATOR NOZZOLIO: Mr. President, my colleagues, in response to Senator Paterson's question -- Mr. President, my colleagues, in response to Senator Paterson's question, I think this whole line of questioning, this whole procedure is unconscionable. It's a sham and I frankly am seeing a great amount of disrespect in this house, that if Senator Paterson or any other Senator had a question about this legislation prior to it coming to the floor today, I certainly would have been more than forthcoming with any type of inquiry.

This is a local bill. It is a request of a small town and for this action, this type of debate about nothing is, in fact, I think an affront, and I certainly believe that local governments who come to this body and ask for appropriate authority, providing appropriate home rule messages should be given that authority,

that this -- I certainly look at this request to be extremely disrespectful and that I do not have any intention of laying this bill aside.

ACTING PRESIDENT KUHL: Senator Paterson, the floor is yours.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson on the bill.

SENATOR PATERSON: Mr. President, in terms of the answer to the question that I raised, the reason I could only raise the question today is today is the first time I saw today's active list and so looking through the active list, which is what I thought was my role here, I noticed, and as Senator Nozzolio pointed out, that under the actual section of the law, the town was compelled to seek the counsel -

ACTING PRESIDENT KUHL: Senator Paterson, excuse me for the interruption. It's getting awfully noisy in here. Can we have some quiet in the chamber, please? It sounds like it's getting noisy outside the chamber too, Senator Paterson. Excuse the interruption and I apologize for the delay.

Senator Paterson on the bill.

SENATOR PATERSON: Mr. President -- Mr. President, now that I understand that some of the people from that town are outside, maybe I should vote for this bill.

What I'm really just saying, Mr. President, is that at all points I made it very clear that we were very willing to understand the plight of this town but under the section of the law which Senator Nozzolio made clear to his colleagues that he knew, they were compelled to seek the authorization of the comptroller's office. I was just simply asking the question if they ever did prior to seeking this legislation. I never got an answer to my question which was whether or not they actually sought the authorization of the comptroller's office. The response I got was that they couldn't seek it because they had not offered it in a seasonable time but had they not assumed that and actually talked to the counsel of the comptroller's office, being that the mistake may have been not inconvenient and somewhat ministerial, I think it's possible that that authorization might have been allowed by the comptroller's office. Just

in the past few minutes, we understand the comptroller's office is certainly not opposed to helping the town.

So I'm just disappointed that I couldn't get an answer to a question which I thought in this chamber we did not value the - what we considered to be the validity of the questions, that we just answer them but on the actual criteria of the legislation, we're more than happy to support this township and hope that the restorations that are needed to be made are done so and that we just wanted to be made aware of some information that would have been helpful in considering the bill.

I vote aye, Mr. President.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 567, by Senator Stafford, Senate Print 6403, an act to amend the Highway Law, in relation to signs, displays or devices on state highways.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily, Senator Velella? Calendar Number 5...

SENATOR VELELLA: Mr. President, there will be a meeting of the Crime Victims, Crime and Correction Committee in the Majority Conference Room.

ACTING PRESIDENT KUHL: Immediate meeting of the Crime Victims Committee in the Majority Conference Room, Room 332. Immediate meeting of the Crime Victims, Crime and Corrections Committee in the Majority Conference Room.

Senator Velella, Senator Stafford is not in the chamber. Do you want to lay that bill aside temporarily and go back?

SENATOR VELELLA: Yes. Can we proceed then to Calendar Number 269, please.

ACTING PRESIDENT KUHL: Calendar Number 567 will be laid aside.

The Secretary will read Calendar Number 269.

THE SECRETARY: Calendar Number 269, by Senator Spano, Senate Print 4142-A, an act to amend the Labor Law, in relation to the maintenance of payroll records.

ACTING PRESIDENT KUHL: Senator Stachowski.

SENATOR STACHOWSKI: Explanation, please.

ACTING PRESIDENT KUHL: Senator Spano, an explanation of Calendar Number 269 has been requested by Senator Stachowski.

SENATOR SPANO: Mr. President, this bill increases the criminal penalties for an employer's failure to maintain payroll records from a violation of what it is now to a -- to a misdemeanor for the first offense and a felony for the second offense. It is supported by the New York State laborers and the AFL-CIO.

ACTING PRESIDENT KUHL: Senator

Stachowski.

SENATOR STACHOWSKI: Would Senator Spano yield for a question, please?

SENATOR SPANO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STACHOWSKI: Senator, the only question we had is that it says here that this bill will then -- will now increase the penalty to a misdemeanor and in looking at the law as it currently is, it says in the law that this violation is currently a misdemeanor. So I don't know exactly what this bill does.

SENATOR SPANO: The way counsel has explained this to me, Senator, is that Section 213 of the Labor Law is an umbrella enforcement section of the Labor Law dealing with -- dealing with general violations. It's not specific in that it states that any violation is, in fact, a misdemeanor.

What this statute would do is take that section of law to a higher standard and put into statute the first shot is a misdemeanor, the second violation is a felony.

ACTING PRESIDENT KUHL: Senator

Stachowski.

SENATOR STACHOWSKI: Thank you, Senator.

We're not going to oppose this bill but in researching the bill and looking up the law -- and I know it's not Senator Spano's bill as such. It's really the Attorney General's bill and even though he's a friend of mine, I wish whoever would have done this bill for him would have been a little bit better on their research because we still happen to believe that it's a misdemeanor currently and if it does whatever he thinks it's going to do for him with the laborers, then I guess that's what he needs to do and it doesn't do any harm. So I'm not going to oppose the bill and I'm going to vote for it.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I join the same sentiments as my colleague, Senator Stachowski, that this already is a misdemeanor and that this bill doesn't really seem to do anything.

I find it somewhat ironic that on a day when there were a couple billion dollars worth of contentious items in a budget vetoed, we're taking a statute that's already a misdemeanor and saying we're going to make it a misdemeanor and we're just doing something that's already been done that we don't need to do.

But let me give you one other spin, Senator Spano. I think what you ought to do is make this a felony because what this bill does is it says if an employer cheats its employees out of their wages and falsifies records to support cheating employees out of their wages and if those wages are paid by a public entity like the state of New York or the city of Rochester or the town of Brighton or this body, the Senate, and those records are used to bid a contract and the bid is based on paying prevailing rates and they don't pay prevailing rates because they cheat on their records, they're actually taking our money, the taxpayer's money and putting it in their pockets instead of giving it to their workers, in my opinion that ought to be a felony and not a misdemeanor.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58, nays 1, Senator Cook recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 345, by Senator Alesi, Senate Print 4432-A, an act to amend the General Business Law.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT KUHL: Senator Alesi, an explanation of Calendar Number 345 has been requested by Senator Montgomery.

SENATOR ALESI: Thank you, Mr. President.

This bill would eliminate the automatic provision that a security guard who loses his or her registration card would have a hearing without having to request it.

Under this bill, if a security guard loses his or her registration card, as an action of the Department of State, they would still have the right to ask for a hearing within 35 days but the hearing would not be held automatically.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. If the sponsor would yield to a question of clarification.

ACTING PRESIDENT KUHL: Senator Alesi, do you yield?

SENATOR ALESI: I would be happy to.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: Senator Alesi, it seems that your legislation also says that the agency shall suspend a -- the license of a security guard if that person changes address and does not notify the Department of State.

SENATOR ALESI: That would have been correct, Senator, if we were talking about the bill that we passed in this house last year,

but the bill that's before us today simply does what I just mentioned that it does.

SENATOR MONTGOMERY: So -- Mr. President, if I may. So the bill that I have in front of me, which is dated 4432, what are the changes -- would you explain to me what the changes are? I'm sorry. I don't have -- I don't have a current copy of the legislation.

SENATOR ALESI: I'd be happy to reiterate my explanation, Senator.

Currently it is automatic that a hearing be held if a security guard's registration card as an action of the Department of State is suspended or revoked. The change that this bill makes is that the hearing is not automatic any longer. There's a 35-day period when the security guard can request a hearing if their registration card has been suspended or revoked and the reason for that is in most cases -- in all cases when a registration card is revoked, it's been revoked because of a serious offense under the Business Law and most of the people that lose their card because of a serious offense don't show up for the hearings. So there's a tremendous cost to have a hearing for

which no one appears.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Just one last question.

ACTING PRESIDENT KUHL: Senator Alesi, do you continue to yield to one last question?

SENATOR ALESI: I'll yield, yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: Thank you. Thank you, Senator Alesi.

So the notice will go to the person and the person has a right to -- for a hearing but it's not automatic. It must be requested -

SENATOR ALESI: That's correct.

SENATOR MONTGOMERY: -- by the person whose license was revoked.

SENATOR ALESI: That's correct, Senator.

SENATOR MONTGOMERY: All right. Thank you, Mr. President.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 536, by Senator DeFrancisco, Senate Print 477-B, an act to amend the Real Property Tax Law.

SENATOR PATERSON: Explanation. Explanation.

ACTING PRESIDENT MARCELLINO: Senator DeFrancisco, an explanation has been requested.

SENATOR DeFRANCISCO: Yes. This bill would provide for cities of less than one million people a -- the right to vote in a local exemption for the taxable value of infra structure on lots that are undeveloped in each jurisdiction and basically the purpose behind the

bill is with the slowdown in the real estate market, there's many realtors -- real estate developers in upstate New York that have an inventory of a lot of building lots. Some of them are developed with roads in it and sewers and the like and they're just sitting there gathering more dust.

That being the case, we thought that it would be appropriate until that real estate market turned around to give localities the option to exempt that portion of the assessment from real estate taxes relating to those infrastructure improvements until there is a certificate of occupancy that's granted.

ACTING PRESIDENT MARCELLINO: 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 58, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 567, by Senator Stafford, Senate Print 6403, an act to amend the Highway Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

SENATOR OPPENHEIMER: Explanation. I'm sorry.

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer -- excuse me. Could you -

SENATOR OPPENHEIMER: I asked for an explanation. I'm sorry it wasn't loud enough, it wasn't heard.

ACTING PRESIDENT MARCELLINO: I'm sorry too. I didn't hear it. I'm sorry.

Senator Stafford, Senator Oppenheimer has requested an explanation of your bill.

SENATOR STAFFORD: I can't believe -- yes, I can. Thank you.

I'm very understanding that my esteemed and good friend -- esteemed colleague and good friend would ask about this. This is being sponsored in the Assembly by Assemblyman

Gantt and I think probably, Senator, I have been here long enough, and I think both you and I are probably moving toward each other, but I'm not sure how close yet.

This issue could be debated and debated and debated. What it is is in areas where it is legal to have these facilities, we would make it possible so that they would not be blocked when people are passing by.

I understand your concern. Now here we go, the issue. The economy. There are people in upstate when you're traveling -- and, of course, tourism is our life blood. It hasn't been that good. It hasn't been that good, no question about it. On the other hand, we're holding our own, but when people are traveling, they do look to see where they can go, where they can stay, but you know, Senator, I even find myself doing that when I get in another area and you're talking about people who are running a business and who are really, well, working very hard to make ends meet and they probably wouldn't live there if they didn't love the area as much as they do and they're the last ones that want to do anything to make it less desirable.

Consequently, we would hope that we would see this pass. It was a larger bill last year that passed the house. This, I think would be a bit more palatable and it appears that we have worked it out with the Assembly and I will say this, respecting your concerns -- in fact, we had a very fine lady who was still with us who had a husband in a very high position that got very involved in this type of work, and I think that she did good work, and I think things are a bit more to your -- well, palatable, I'll use that word again, but for those of us upstate, this is sometimes a difference between -- between whether you're in the Finger Lakes or the Adirondacks or Niagara Falls or the Southern Tier or the Mohawk and Hudson Valley. People will tell you that these facilities make it possible for them to stay in business.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Senator.

No. I'm not in the same mode as I was in past years and you're right. This is a much smaller bill. I just actually had a couple

of questions, if you would be good enough to answer.

ACTING PRESIDENT KUHL: Would you like Senator Stafford to yield? The Senator yields.

SENATOR OPPENHEIMER: I was just questioning why 250 permits? Was that based on some need assessment that was made? I mean, how did we pick that out of the wind?

SENATOR STAFFORD: Well, I think it's the art of compromise. None of us do it as well as we should but I know that I'm learning. I still have a lot more to learn but, of course, I would stand here and argue we should have no limit on the permits and I'm afraid that I would have some protagonists on the other side who will very effectively argue that they're not of that persuasion. So I realize -- or we realize, not I -- we and those of us who are working on this realize that it made sense to work something out so that we would know the number, and I would be glad to increase it if you want.

SENATOR OPPENHEIMER: Thank you, Senator.

ACTING PRESIDENT KUHL: Senator

Oppenheimer.

SENATOR OPPENHEIMER: On the bill. I would like to just say a word on the bill.

ACTING PRESIDENT KUHL: Senator Oppenheimer on the bill.

SENATOR OPPENHEIMER: The concern I have which we have always had is that a proliferation of signs, even though they are valuable in directing people to amenities and available accommodations and available eating places, that there not be a proliferation, and I do trust the good Senator when he says that people in the Adirondacks don't want to spoil the environment and would not be signing everywhere along the roads so you wouldn't be able to see the scenery, you would only be able to see signs.

One concern I have is about vegetation and the fact that when the vegetation gets put aside or the tree cut so that the sign can be read better, I just would like not to have to worry about pesticides and usages which we are trying to eliminate from the environment.

So that would be my one caveat, but I will be voting for this and I understand

the need for it.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59, nays 1, Senator Gentile recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Johnson, that completes the controversial calendar, sir.

SENATOR JOHNSON: May we please return to reports of standing committees. I believe there's a report of the Finance Committee at the desk.

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

The Secretary will read the report of the Finance Committee which is at the desk.

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

Senate Print 6853, by Senator

Trunzo, an act to amend the Executive Law and the State Finance Law, ordered direct to third reading.

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

Senator Johnson.

SENATOR JOHNSON: Is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: Yes. We have one motion, Senator Johnson. If we can return to the order of reports -- or motions and resolutions.

The Chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Mr. President, on behalf of Senator Cook, on page number 8, I offer the following amendments to Calendar Number 216, Senate Print Number 616, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 216 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Gentile, why did you rise?

SENATOR GENTILE: Mr. President, I'd just ask for unanimous consent to be recorded in the negative on Calendar Number 566.

ACTING PRESIDENT KUHL: 5...

SENATOR GENTILE: 566.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Gentile will be recorded in the negative on Calendar Number 566.

Senator Johnson.

SENATOR JOHNSON: Mr. President, there being no further business, I move we adjourn until Thursday, April 30th, at 12:00 noon.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Thursday, April 30th, at 12:00 noon. The Senate is adjourned.

(Whereupon, at 4:05 p.m., the Senate adjourned.)