ALBANY, NEW YORK

June 10, 1998

10:03 a.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order. I ask everyone present to please rise and repeat with me the Pledge of Allegiance to the Flag.

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

The invocation will be given by Dr. Mark Chatterton, Pastor of the United Ministry of Delhi.

DR. MARK CHATTERTON: Let us pray.

Creator God, thank You for the gift of a new day. We come as real imperfect people to do a nearly impossible task in a time and in an environment where too often vulnerability is an invitation to attack rather than an opportunity for compassion.

We acknowledge that we are real and imperfect people with real and imperfect spouses, with real and imperfect children. To be here in times of personal chaos can be an act of courage.

So today I ask for God's grace. Grace us with the gift of discernment, to

discern what is good and just and fair. At the end of this day, may we have no regrets. Amen.

ACTING PRESIDENT MEIER: The reading of the Journal.

THE SECRETARY: In Senate, Tuesday, June 9th. The Senate met pursuant to adjournment, Senator Meier in the Chair upon designation of the Temporary President. The Journal of Monday, June 8th, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can you star my bill, Calendar Number 1045, Senate Print 5067-A.

ACTING PRESIDENT MEIER: The star

will be placed at the request of the sponsor on Calendar 1045.

SENATOR MARCELLINO: Thank you.

ACTING PRESIDENT MEIER: Senator Holland.

SENATOR HOLLAND: Mr. President, on behalf of Senator Johnson, please remove the sponsor's star from Calendar Number 1221 and on behalf of Senator Rath, please place a sponsor's star on Calendar Number 1010.

ACTING PRESIDENT MEIER: The sponsor's star will be removed from Calendar 1221 and a sponsor's star will be placed on Calendar 1010.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. On behalf of Senator Spano, on page 24, I offer the following amendments to Calendar Number 794, Senate Print 6991, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR KUHL: Also, Mr.

President, on behalf of Senator Johnson, on page 47, I offer the following amendments to Calendar Number 1264, Senate Print 7450, and ask that said bill retain its place on the Third Reading Calendar.

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

The Secretary will read the substitutions.

THE SECRETARY: On page 45, Senator Volker moves to discharge from the Committee on Codes Assembly Bill Number 8174 and substitute it for the identical Third Reading Calendar 1239.

On page 46, Senator Balboni moves to discharge from the Committee on Rules Assembly Bill Number 10951 and substitute it for the identical Third Reading Calendar 1252.

And on page 46, Senator Alesi moves to discharge from the Committee on Rules Assembly Bill Number 10687 and substitute it for the identical Third Reading Calendar 1255.

ACTING PRESIDENT MEIER: The substitutions are ordered.

SENATOR SKELOS: Please make the substitutions, Mr. President.

ACTING PRESIDENT MEIER: The substitutions have been ordered.

SENATOR SKELOS: Okay.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Read the non-controversial calendar, please.

ACTING PRESIDENT MEIER: The Secretary will read the non- -

SENATOR KUHL: Before we do that.

ACTING PRESIDENT MEIER: Excuse me. Senator Kuhl.

SENATOR KUHL: Before we do that, I have a sponsor's star I would like to place, it's Calendar 583, Senate Print 4333, my bill, place a sponsor's star on the bill.

ACTING PRESIDENT MEIER: A sponsor's star will be placed on Calendar Number 583.

SENATOR KUHL: Thank you, Mr. President.

ACTING PRESIDENT MEIER: The Secretary will read the non-controversial

calendar.

THE SECRETARY: Calendar Number 337, by Senator Velella, Senate Print 4422-A, an act to amend the Public Health Law, in relation to Human Immunodeficiency Virus infection.

ACTING PRESIDENT MEIER: Read the last -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 422, by Senator Maltese, Senate Print 4351-B, an act to amend the Alcoholic Beverage Control Law, in relation to certain types of wine packaging.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Ayes 36, nays 1,

Senator Marcellino recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 510, by Senator Alesi, Senate Print 5941, an act to amend the Correction Law, in relation to work release programs.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 678, by Senator Nozzolio, Senate Print 5181, an act to amend the Correction Law, in relation to state Commission of Correction.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 871, by Senator Farley, Senate Print 7352-B, an act to amend the Banking Law, in relation to participation.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 888, by Senator Trunzo, Senate Print 6943, an act to amend the Civil Service Law, in relation to suspension.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 929, by Senator Volker, Senate Print 395-B, an act to amend the Public Health Law and others, in relation to establishing a program to reduce the risks of residential lead-based paint hazards.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 931, by the Assembly Committee on Rules, Assembly Print 8696, an act to amend the State Finance Law, in relation to a payroll deduction plan.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 959, by Senator Alesi, Senate Print 6191-B, an act to authorize payment of transportation aid to the East Rochester Union Free School District.

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

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1031, by member of the Assembly DiNapoli, Assembly Print 10301-A, an act to amend Chapter 273 of the Laws of 1939.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1039, by the Assembly Committee on Rules, Assembly Print 11012, an act to amend the General Municipal Law, in relation to urban development action area projects.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1053, by Senator Volker, Senate Print 3534-B, an act to amend the General Business Law, in relation to providing.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1090, by Senator Goodman, Senate Print 6988-A, an act to amend the Tax Law and the Vehicle and Traffic Law, in relation to authorizing.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1093, by Senator Goodman, Senate Print 7317-A, an act to amend the Tax Law and the Administrative Code of the city of New York, in relation to allowing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1124, by Senator Marchi -

SENATOR SKELOS: Lay it aside for

the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1125, by Senator Marchi, Senate Print 3355, an act to amend the Not-for-Profit Corporation Law, in relation to granting.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1132, by Senator Marchi, Senate Print 6644-A, an act to amend the Not-for-Profit Corporation Law, in relation to prepaid niches.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect in 120 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1138, by Senator Stafford, Senate Print 7421, an act to amend the Public Authorities Law, in relation to authorizing.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1165, by member of the Assembly E. Sullivan, Assembly Print 10416, an act to amend the Education Law, in relation to streamlining.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1174, by Senator Leibell, Senate Print 7458-A, an act to amend the Private Housing Finance Law, in relation to contracts.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1210, by Senator Stafford, Senate Print 7556, an act to amend the Public Officers Law, in relation to permitting.

ACTING PRESIDENT MEIER: Read the last -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1229, by Senator Cook, Senate Print 786-A, an act to amend the Facilities Development Corporation Act, in relation to definitional provisions.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1230, by Senator Volker, Senate Print 2402-A, an

act to amend the Penal Law, in relation to criminal sale of a controlled substance.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1231, by Senator Stavisky, Senate Print 2908, an act to amend the Penal Law, in relation to penalties.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1232, by Senator Trunzo, Senate Print 3165, an act to amend the Vehicle and Traffic Law, in relation to the use of head lamps.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1233, by Senator Montgomery, Senate Print 3860-A, an act authorizing the city of New York to reconvey its interest.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1234, by Senator Leibell, Senate Print 3929-A, an act to amend the Real Property Actions and Proceedings Law, in relation to a special procedure.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1235, by Senator Johnson, Senate Print 4179-A,

an act to amend the Highway Law, in relation to transportation.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1236, by Senator Rath, Senate Print 4462, an act to amend the Executive Law, in relation to the computer system.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1237, by Senator Bruno, Senate Print 5260-A, an act in relation to the timeliness of the election of the village of Castleton-on-the Hudson.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1238, by Senator Lachman, Senate Print 5463, an act to amend the Railroad Law, in relation to providing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1239, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 8174, an act to amend the Penal Law, in relation to the definition of criminal act.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1240, by Senator Kuhl, Senate Print 6016, an act to amend the Military Law, in relation to the

conspicuous service cross award.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1241, by Senator Marchi, Senate Print 6123, an act authorizing the city of New York to reconvey its interest.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1242, by Senator Trunzo, Senate Print 6142-A, an act to amend the Tax Law, in relation to establishing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1244, by Senator Kuhl, Senate Print 6361-A, an act to amend the Tax Law, in relation to the agricultural property tax credit.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1245, by Senator Meier, Senate Print 6393-A, an act to amend the Military Law, in relation to creating a new state military decoration.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1247, by Senator Velella, Senate Print 6438, an act authorizing the city of New York to reconvey its interest.

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

section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1248, by Senator Nozzolio, Senate Print 6522, an act to amend the Alcoholic Beverage Control Law, in relation to the exemption.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1249, by Senator Balboni, Senate Print 6648, an act to amend the Local Finance Law, in relation to refunding bonds.

ACTING PRESIDENT MEIER: Senator Markowitz.

SENATOR MARKOWITZ: No.

ACTING PRESIDENT MEIER: No. Hi, there. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1250, by Senator Padavan, Senate Print 6655-A, an act to amend the Real Property Tax Law, in relation to clarifying.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1251, by Senator Kuhl, Senate Print 6742, an act in relation to authorizing the village of Penn Yan.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1252, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 10951, an act to amend the Environmental Conservation Law, in relation to the general powers.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1253, by Senator Volker, Senate Print 6937, an act to amend the Penal Law, the Criminal Procedure Law and the Family Court Act, in relation to enhanced penalties.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 20. This act shall take effect on the first day of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1254, by Senator DeFrancisco, Senate Print 6969, an act to amend the Judiciary Law, in relation to punishments.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1255, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 10687, an act to amend the Social Services Law, in relation to reporting.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1256, by Senator Seward, Senate Print 7080, an act to amend the Tax Law, in relation to a reduction.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1257, by Senator Larkin, Senate Print 7222-B, an act to amend the General Municipal Law and the Executive Law, in relation to the conduct of games.

ACTING PRESIDENT MEIER: Read the -- read the last section.

THE SECRETARY: Section 19. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1258, by Senator Seward, Senate Print 7320, an act to amend the Tax Law, in relation to excluding stock of subsidiaries.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1259, by Senator Alesi, Senate Print 73...

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1260, by Senator Santiago, Senate Print 7389-A, an act to authorize the city of New York to reconvey a certain parcel of real property.

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

section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1261, by the Senate Committee on Rules, Senate Print 7432, an act to amend the General Business Law, in relation to the licensing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1262, by Senator Seward, Senate Print 74...

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1263, by Senator Seward, Senate Print 7447 -

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1266, by Senator Stafford, Senate Print 7555, an act to amend the Executive Law, in relation to permitting.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1268, by Senator Nozzolio, Senate Print 7574, an act to amend the Family Court Act, in relation to increasing the number of Family Court judges.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: I want to thank my colleagues in the Monroe County delegation and in particular Senator Nozzolio for their work in putting this bill on the floor and getting it through the Senate.

This is an issue that a number of us have worked together with for a long time and we have finally reached the end of what has been a long road but for the people in my community, many of whom need the extensive services avail able in the Family Court, this is a blessing for

them, and I commend Senator Nozzolio, Senator Alesi and Senator Maziarz for their cooperative work in getting this job done. Long overdue, but the right thing to do.

And I'll add just one other thank you and that goes to Monroe County Executive Jack Doyle with whom I've had my discussions in the past, but I think he came to the table and realized after some study that this was the right thing to do. I commend him and the County Legislature for supporting this initiative as well.

It's the right thing to do for so many people in my community, and I thank all of you for making it happen.

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

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I ask permission to explain my vote. Thank you, Mr. President, my colleagues.

I wish to express my thanks for the passage of this measure, particularly my colleagues, Senators Alesi and Maziarz on this side of the aisle and Senator Dollinger on the

other side of the aisle, that this is an example where those of us can -- a true example that those of us can work together, that the County Executive of Monroe, Jack Doyle, was steadfast in his analysis and that the proper course was taken, the proper preparation is made so that this Family Court judge will be implemented with -- in a planned way with minimal impact on the county's budget.

It's a good process and I want to thank my colleagues and the County Executive of Monroe County for their participation in establishing this very needed Family Court judge.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Nozzolio will be recorded in the affirmative.

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1269, by Senator Fuschillo, Senate Print 7576, an act to amend the Vehicle and Traffic Law, in relation to establishing.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR GOLD: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1270, by Senator Spano, Senate Print 7628, an act to amend the Labor Law, in relation to the definitions of manufacturer, contractor and realtor.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1271, by Senator Hannon, Senate Print 5346, an act to amend the Public Health Law and the Insurance Law, in relation to eliminating.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

SENATOR SKELOS: Mr. President, if we could go to the controversial calendar and please start with Senator Volker's bill, Calendar Number 929.

ACTING PRESIDENT MEIER: The Secretary will go to the controversial calendar and commence with Senator Volker's bill, Calendar 929.

THE SECRETARY: Calendar Number 929, by Senator Volker, Senate Print 395-B, an act to amend the Public Health Law and others, in relation to establishing a program.

SENATOR DOLLINGER: Explanation.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT MEIER: Senator Volker, an explanation has been requested.

SENATOR VOLKER: Mr. President, this is a bill -- a similar bill has passed this house, I believe twice. This relates to a series of actions that have occurred over a number of years in an attempt to deal with the issue of lead in residential homes throughout the state and previous to this, by the way, we have also taken actions on businesses.

Actually, although the -- some of the activists in this area claim that there has not been a great deal of activity in this area, they are totally wrong. We have made dramatic inroads in the issue of lead throughout this state. I won't go into all the details.

Art Eve and I have been attempting to deal with this issue since 1975. It is a difficult issue because, although we have made great strides and there is a lot of lead abatement going on in this state, some of which may be at times a bit questionable because of the way in which some of it is done -- what this bill really attempts to do is, number one,

set up training in what we call risk assessment procedure in the law and it applies, by the way, to the entire state which is important because the real problem with this bill is -- which this bill would have passed as it is, I believe years ago if it wasn't for the city of New York, and I say -- by the "city of New York", I do not mean the city of New York as an entity because generally speaking the city of New York supports this bill, is not opposed to this bill. In fact, the only real opposition to this bill when you come right down to it, is from two sources: One is the Trial Lawyers who oppose this bill primarily because of what's called constructive notice in this bill. They want constructive notice so they can continue to do their class actions and as a result of that, even though there is no environmental difference essentially or any other difference in this bill from the Assembly bill, the EPL opposes it and NYPIRG and the rest, but really it all has to do with class actions and yet in New York City, for instance, the way the Assembly bill would operate is if you buy a home and/or an apartment building and you -- 30 days goes by and you have not

remediated, even though you don't know there's a problem, you are stuck. You could be the subject of a class action and you could be the subject of some heavy lawsuits.

What this bill does is say, look, you've got to know and if you know, you've got to take an action and it basically sets up standards for taking those actions because the federal government will be coming in with standards in September -- September 1st, the federal standards will come into place. The major problem is that right now there are people who are doing lead abatement in this state but because we don't have a training process in place, the people that are trained have to go to a different state. Ironically, most of the people that go -- from Albany here go to Connecticut.

Connecticut is a state that originally did a lead abatement bill similar to the one that was supported by many of the so-called environmentalists which totally brought Connecticut to a halt in doing any lead abatement because it was completely out of whack. It suggested that the state would only

put up 2-, $3 billion they would be able to lead abate. Of course, that was impossible. So Connecticut backed off, basically moved back to a modified kind of schedule and did their training piece similar to this one and now Connecticut is moving on to try to do some lead abatement.

So what this bill really tries to do is a major step forward in allowing for the training of people who can do the lead abatement, not bringing the housing stock sales, and so forth, totally to a halt as could well happen if we passed a bill that over-did the issue of lead abatement and thirdly to set up some standards for how the lead abating is done, and that essentially is what this bill does and I must clear one thing up and I know there's going to be an amendment.

There's very, very little difference any more between the Senate and Assembly bill and anyone that claims there's some sort of environmental difference or whatever hasn't read the bills. In fact, another bill just went in the last two weeks because there's a lot of interest, especially in

the upstate cities where people are getting very, very restive and would prefer to have the state of New York control our destiny rather than the federal government.

SENATOR DOLLINGER: Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Is there an amendment at the desk, Mr. President?

ACTING PRESIDENT MEIER: Yes, there is, Senator.

SENATOR DOLLINGER: I would ask that the reading of the amendment be waived and that I be heard on the amendment.

ACTING PRESIDENT MEIER: The reading of the amendment is waived and you're recognized for the purpose of explaining your amendment.

SENATOR DOLLINGER: Thank you.

Once again, as yesterday, I appear with an amendment to a bill sponsored by Senator Volker, who has very well explained his underlying bill. I should preface the discussion of this amendment with a -- as I did

yesterday with an understanding that I share much of what Senator Volker has described as to the state of what's going on in lead abatement.

We have made some advancements in lead abatement, and I think through the work of Assemblyman Eve and Senator Volker, we have driven this issue into the public consciousness and that the problem is being attended to.

Unfortunately, the problem continues to proceed at a dramatic level, if you look at the health of the children who are living in homes or apartment buildings that have lead and the presence of lead as a problem in early childhood development is well known and, unfortunately in many of our urban areas, our older areas of this state, the incidence of lead poisoning is continuing to rise. So when we're faced with that difficulty -- and I appreciate Senator Volker's work with Assemblyman Eve to try to deal with this problem.

What we're seeking to do today and what this amendment seeks to do, Mr. President, is to simply establish a lead paint certification program. This is one of several bills that Assemblyman Eve carries. It's -- the

text of his bill -- it's Assembly bill 7099 - and what it would do is it would simply require that, in order to be involved in a lead paint abatement process, that you would have to have certified workers doing it, so we're assured that it would be properly done, it would be effectively done, that during the period of time of removal, there would be no greater exposure to lead and when the final product is done, we can actually certify, we would know that the work has been properly done and we would end up with a systemic renewal of our neighborhoods in the older portions of our communities where we know that lead paint has been fully and completely abated.

Mr. President, we did this amendment last year. It failed. My sense is it may also fail this year. I think that would be unfortunate, because Senator Volker's correct. We do have a problem of marching down the road to lead abatement and reducing lead abatement if we allow the federal government to come in and tell us what to do. We will have a system then that is perhaps dictated by lead abatement problems in Detroit or Philadelphia or Atlanta,

Georgia or St. Louis, Missouri and not the kind of lead problems that we have in Rochester, Buffalo, Syracuse, New York City and Albany.

It seems to me that we should seize the opportunity to make New York deal with this problem and deal with it in a special way that we understand, that we control, where the destiny and future of lead abatement will be held by this chamber and by the chamber across the way instead of our friends in the Environmental Protection Agency that may be bureaucrats living in our state or, frankly, a Congress based in Washington that doesn't know this problem as well as Senator Volker, Assemblyman Eve and other members of the two houses know it.

So my suggestion is that we accept this amendment. We move down the road in discussions with Senator Volker and Assemblyman Eve. We give them the impetus to come to the table with the leadership of both houses to bring a bill out that will achieve the beneficial purpose of improving our record on lead abatement. At the same time -- and I know there are complicated issues. Senator Volker

outlined them with respect to notice and instances in which civil recovery might be possible, but those issues, I think can be resolved. I think if we adopt this amendment, we would be signalling to the other house that there's a rapprochement in dealing with this issue and that we're prepared to go forward, hopefully even in the next week, to resolve a bill that will deal with this long-standing problem.

Senator Volker says he's been working on this since 1975. I will say one thing about him. He worked on the death penalty which was the subject of our bill since, I believe the early '70s, and he finally got that a couple years ago.

Senator Volker, no one would be applauding more than I on this issue, whereas I was perhaps not applauding a couple of years ago when your perseverance on death penalty reached its peak and you were successful but no one would be applauding more than I if we got a bill that did what's necessary in New York, in my judgment.

Let's deal with the lead

abatement problem. Let's continue the good work that's been started. Let's send a message to our colleagues in the other house that there's an open door to resolving some of these outstanding issues and by accepting this amendment, I think that we might be able to send that message. I would urge all of my colleagues to vote in favor of it.

ACTING PRESIDENT MEIER: On the amendment, all those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(Response of "Nay".)

The amendment fails.

Read the last section.

THE SECRETARY: Section 10. This act shall take effect December 31st.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 929 are Senators

Balboni, Connor, Dollinger, Fuschillo, Gentile, Goodman, Lachman, Leibell, Marcellino, Markowitz, Onorato, Paterson and Spano. Ayes 36, nays 13.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Also Senator Gold. Ayes 35, nays 14.

ACTING PRESIDENT WRIGHT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 337, by Senator Velella, Senate Print 4422-A -

SENATOR SKELOS: Lay that aside temporarily and please take up Calendar Number 1210, by Senator Stafford.

ACTING PRESIDENT WRIGHT: The bill is laid aside.

The Secretary will read 1210.

THE SECRETARY: Calendar Number 1210, by Senator Stafford, Senate Print 7556, an act to amend the Public Officers Law, in relation to permitting.

SENATOR DOLLINGER: Explanation.

SENATOR STAFFORD: I would

immediately point out that Senator Dollinger's point is very, very well taken. They explained to me yesterday you asked, and I, for the most part, think we have to be very, very careful about this, and I think it's a very, very sensitive point and that is people leaving and then coming back into service.

I would respectfully suggest that due to the severity of this -- can't hear me?

SENATOR DOLLINGER: Now I can. I'm fine. Go ahead.

SENATOR STAFFORD: I would respectfully suggest that due to the severity of the problems with the millennium and due to the technical situation as far as people's expertise, I think we're going to have to both in the private and public sector pull in everybody we can, and I just the other day was talking to someone and they're talking about possibly at -- how would it be -- 12:01 on 1999, it's amazing what could happen.

I think that we have enough -- I think the issue has a high enough profile now that the country won't shut down, but I suggest that when you talk to people that are in this

field and have this problem, that it is something that this exception would prevail.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT WRIGHT: Thank you, Senator.

Senator Dollinger.

SENATOR DOLLINGER: Just on the bill. I appreciate Senator Stafford's comments. I'm really torn on this one. I don't quite know what the right thing to do is.

My problem with this bill is that here we've got a situation where we know we have a virtual catastrophe if our computers aren't dealing with the year 2000 problem and we've got this group of experts who know how to deal with it.

So what do they do? We spend taxpayers' money training them how to deal with it. We give them all the information. They know how to do it. Well, then what do they do? They exercise their right, and I'm not disputing their right to do this is, but they retire from our system and then they -- under normal course, they would be banned by the Public Officers Law

prohibition about going back to work as a consultant for their department. Instead they know that they've got the technical knowledge and information to be able to more than better compete with the private industry to solve the problem, they've got -- they're the perfectly situated group to be able to do it. So they retire and they come back on our door and in essence say to us, Well, we've got the solution. We know the machines. We know the technology. We know the people we've got. We're the perfect people to solve this problem except we want to solve it as private consultants at a significant pay rather than members of the state work force if we had stayed and hadn't retired.

I really, quite frankly, don't quite know what to do in this instance, but it seems to me that it's somewhat unfair to the people of this state who made an investment in these employees to allow them, even though they're not doing anything illegal, anything improper, but we end up in a situation where we're absolutely beholden to them because they've got the goods on us.

I appreciate this bill. I'll simply vote against it perhaps as a personal protest to what seems to be the unfair bargaining position we end up by virtue of law, but we need to solve the 2000 problem. These are probably the right people to do it. It just seems as though our law doesn't quite put the people of this state and the taxpayers who trained them and paid for their training and education in a position to defend themselves when they're now retired and able to leverage their position in the negotiations over solving this problem.

The bill ought to pass. If my vote were necessary to have it pass, I would have it pass, but I'm going to vote in the negative because it seems as though we're not getting the right deal.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49, nays 1, Senator Dollinger recorded in the negative.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, in discussing 1248 with Senator Paterson, I think he has a quick question to ask or a comment to make and just to alert the members on both sides of the aisle, there will then be a conference of the Majority and the Minority upon completion of this bill. So if you're not in the chamber, start heading over.

So could you call up Calendar Number 1248, please.

ACTING PRESIDENT WRIGHT: The Secretary will read Calendar Number 1248.

THE SECRETARY: Calendar Number 1248, by Senator Nozzolio, Senate Print 6522, an act to amend the Alcoholic Beverage Control Law, in relation to the exemption.

ACTING PRESIDENT WRIGHT: Senator Paterson.

SENATOR PATERSON: Mr. President, on this particular bill, I'm in concurrence with

what appears to be not only Senator Nozzolio's feeling but the feelings of other Senators. I saw a bill very similar written by Senator Goodman. There are about three or four bills out here and my statement, even though I'm voting aye, is that if the wall is coming down between the distributor and the retailer of alcohol, if peoples' tastes are changing and if it's getting to the point where we're having the situation now where we have the winery creating the brew pub right on the -- on its area - there's one right here in Albany -- if that's the case, then I think we really need to invoke this as a statewide policy.

This particular bill actually addresses one piece of land in one area of the state, and I don't think we need to be doing it that way. I don't think Senator Nozzolio or anyone else should be forced to put these bills in one at a time. Let's put a broad-based policy together and establish some responsible legislating on this subject.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Senator

Nozzolio, are you going to want to explain your vote or make a comment now?

SENATOR NOZZOLIO: Explain my vote.

SENATOR SKELOS: So why don't we have the last section read.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Yes, Mr. President. Thank you for the opportunity.

Just for history that the law currently allows winery owners to also own and operate a retail establishment on the same premise or adjacent to each other. It does not allow them to own also a brewery along with a winery in a retail establishment. It's an archaic law. It doesn't make sense.

I conclude -- I agree with

Senator Paterson that we should have a statewide issue focused on. However, this gentleman is in business and we have only a few weeks in this legislative session left and that we need to make hay while the sun shines in upstate New York and certainly this is very important to this business owner in the Finger Lakes region, and I appreciate the opportunity to support this measure.

ACTING PRESIDENT WRIGHT: Results -- I'm sorry. Senator Padavan, to explain his vote -- Senator Mendez, to explain her vote.

SENATOR MENDEZ: Yes, Mr. President. I would like to have unanimous -

ACTING PRESIDENT WRIGHT: I'm sorry, Senator. We're currently on a roll call. We'll come back to you, Senator.

Is there anyone else wishing to explain their vote on 12... Calendar 1248?

(There was no response.)

Results.

THE SECRETARY: Ayes 50.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, please recognize Senator Padavan.

ACTING PRESIDENT WRIGHT: Senator Padavan.

SENATOR PADAVAN: I would like to be recorded in the negative on Calendar Number 422.

ACTING PRESIDENT WRIGHT: Without objection, so ordered.

SENATOR PADAVAN: 929.

ACTING PRESIDENT WRIGHT: Without objection, so ordered.

SENATOR PADAVAN: And 1257.

ACTING PRESIDENT WRIGHT: Without objection, so ordered.

Senator Mendez.

SENATOR MENDEZ: Yes. I would like to be recorded in the negative on Calendar Number 1234 -- 1234.

Thank you.

ACTING PRESIDENT WRIGHT: Without objection, so ordered.

Senator Smith.

SENATOR SMITH: Mr. President, I request unanimous consent to be recorded in the

negative on Calendar Number 929.

ACTING PRESIDENT WRIGHT: Without objection, so ordered.

Senator Kruger.

SENATOR KRUGER: Mr. President, I would ask unanimous consent to be recorded on Calendar Number 929 in the negative.

ACTING PRESIDENT WRIGHT: Without objection, so ordered.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: There will be an immediate -- there will be an immediate Majority Conference in the Majority Conference Room and the conferences will last one half hour.

Senator Paterson? 31 minutes. Senator Dollinger needs that extra minute.

ACTING PRESIDENT WRIGHT: Senator Paterson.

SENATOR PATERSON: Mr. President, would you please recognize Senator Mendez.

ACTING PRESIDENT WRIGHT: Senator Mendez.

SENATOR MENDEZ: There will be an

immediate conference of the Minority in Room 314.

ACTING PRESIDENT WRIGHT: There will be immediate conferences of the Majority and the Minority for one half hour, one minute allocated to Senator Dollinger. The Senate is in recess -- will stand at ease.

(Whereupon, the Senate stood at ease from 10:57 a.m. until 12:10 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to find their places, those who are not in the chamber to come to the chamber. Ask the staff to find their places.

The Chair recognizes Senator Skelos.

SENATOR SKELOS: Please recognize Senator Hoffmann.

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

SENATOR HOFFMANN: Mr. President, I was out of the chamber at the time Calendar 929 was taken up. I would request unanimous consent to be recorded in the negative.

ACTING PRESIDENT KUHL: Without

objection.

SENATOR HOFFMANN: Thank you.

ACTING PRESIDENT KUHL: Hearing no objection, Senator Hoffmann will be recorded in the negative on Calendar Number 929.

Senator Skelos.

SENATOR SKELOS: Mr. President, Senator Nanula, please.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Nanula.

SENATOR NANULA: Thank you, Mr. President.

I too would like to request unanimous consent to be recorded in the negative on Calendar Number 929.

ACTING PRESIDENT KUHL: Without objection.

SENATOR NANULA: Thank you.

ACTING PRESIDENT KUHL: Hearing no objection, Senator Nanula will be recorded in the negative on Calendar Number 929.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: We have a motion.

ACTING PRESIDENT KUHL: Return to the order of motions and resolutions, Senator Skelos.

The Chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

On behalf of Senator Johnson, I wish to call up his bill, Print Number 2550-D, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 256, by Senator Johnson, Senate Print 2550-D, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, 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 53.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I now offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

SENATOR MARCELLINO: Thank you.

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

SENATOR OPPENHEIMER: I rise to ask unanimous consent to be recorded in the negative on 9... Calendar 929.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Oppenheimer will be recorded in the negative on Calendar Number 929.

Senator Skelos.

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

ACTING PRESIDENT KUHL: We have one -- or two substitutions.

SENATOR SKELOS: Please make the substitutions.

ACTING PRESIDENT KUHL: The Secretary will read the substitutions at the desk.

THE SECRETARY: On page 13, Senator Present moves to discharge from the Committee on Rules Assembly Bill Number 9238 and substitute it for the identical Third Reading Calendar 499.

And on page 21, Senator Trunzo moves to discharge from the Committee on Rules Assembly Bill Number 10081 and substitute it for the identical Third Reading Calendar 721.

ACTING PRESIDENT KUHL: The substitutions are ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to the controversial calendar, I believe Calendar Number 1269 by Senator Fuschillo was inadvertently laid aside. If we could take that up at this time.

ACTING PRESIDENT KUHL: The

Secretary will read Calendar Number 1269 by Senator Fuschillo.

THE SECRETARY: Calendar Number 1269, by Senator Fuschillo, Senate Print 7576, an act to amend the Vehicle and Traffic Law, in relation to establishing.

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

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, to explain his vote?

SENATOR GOLD: No. Just a minor correction. I didn't inadvertently lay it aside, but I have no objection to the bill.

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

THE SECRETARY: Section 4. 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 54.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 337, by Senator Velella.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 337, by Senator Velella, Senate Print 4422-A, an act to amend the Public Health Law, in relation to Human Immunodeficiency Virus infection.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT KUHL: Senator Velella, an explanation of Calendar Number 337 has been requested by the Acting Minority Leader, Senator Paterson.

SENATOR VELELLA: Yes, Mr. President.

This is a bill which would establish a name reporting system to track HIV infection in this state and it also makes provisions for confidential partner notification procedures.

The way this bill sets up the process is if a person is diagnosed with the HIV

virus, a notice would be sent to the Commissioner of Health, who would in turn notify the local health authority. That local health authority would send out a trained health care worker, social worker or health care professional, to discuss with the person who's been diagnosed with the HIV virus the fact that this is a communicable disease, advise them of all of their rights, advise them of all of the services and treatments that are available and request -- and I stress the word "request" - from them a list of potential contacts or possible contacts that they had to which this disease may have been spread.

There is no mandatory provision that the infected person must reveal the names of anybody that they either had a physical contact with or shared a needle or any way that the virus might have been transmitted. There is no provision to put anyone on the rack and stretch them until they come clean and confess. That person has the option to say I do not wish to discuss this with you. I consider it a private matter and that's where the conversation ends.

If, in fact, that person chooses to let the health care worker know some contacts that they had had that may have been infected, that health care worker will then notify the people that are on that list personally and will then let them know that you have been exposed to the HIV virus. There is a possibility that you have contracted this virus. You ought to get yourself tested. Their names will be held confidential. There's nowhere that this will be published as a list. It will be a strictly confidential reporting system and it will work.

The arguments that I have heard against this bill are nothing but fear tactics. It is the same arguments that were raised when I did the baby AIDS bill, that this was a terrible thing. People weren't going to be tested. It was going to make people have babies in alleyways. You know what? We passed the baby AIDS bill. It's working. I think if we all think about it, it is probably one of the most significant votes that we have made to save lives.

That bill is working today, thanks to the work of my colleague over in the

Assembly, Nettie Mayersohn, who has really done an outstanding job on calling these issues to the public.

This bill will do the same thing. It will help us fight the battle. We have to stop treating this disease as a politically protected disease. It is a communicable disease. Why do we want to abandon all of the state policies that have dealt with communicable diseases before, whether it be tuberculosis, whether it be syphilis, gonorrhea. We have put provisions in our laws that have dealt with these diseases and worked and make them almost non-existent, or to at least a low level. Why not for AIDS? Why not for this case? Why do we treat it especially?

Because I say to you, there are some people who have financial interests in keeping this the way it is, to obtain all of this counseling money, all the money we see in the budget. Let's do it the good old-fashioned way, the way we've whipped tuberculosis, the way we've controlled syphilis and gonorrhea. Let's treat it the same way. Let's pass this bill.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Mr. President, it's interesting to hear Senator Velella's reference to an Assemblywoman from Queens. Actually I think that probably everyone that has been involved with this Legislature in recent years would admit that Nettie Mayersohn has been a pain in the neck for years over this issue, a pain, a disturbance, someone who can drive you crazy. And what's the result of all of that? That woman is responsible for saving lives and that's the bottom line, and I think we owe a debt of gratitude to someone who doesn't give up and doesn't mind being cursed out now and then and being avoided in the halls and who dedicates herself to the fact that the cause is important enough that lives are going to be saved and she stayed with it.

Which points out something else, and that is that I have a great sympathy for the people who have lobbied this issue and the politics of the whole AIDS/HIV issue, in my opinion, has not worked well over recent years and many people have made the comment that if

the politics had worked out differently, perhaps we would have been more aggressive in the way we've handled this whole issue in terms of the health problem that clearly does exist, and I feel badly about that.

But I will tell you that one thing I've learned over my years in this Legislature is that there is a difference between being supportive of an issue, supportive of a group that is committed to an issue and being owned or controlled, and I think that as legislators we've got to know where that difference is.

I'm certainly not running away from my record on issues that deal with the - with the gay community and the human rights issues involved and in this bill people have raised privacy issues and I'm sensitive to that, but I must tell you that the determining factor as to how I would vote on this bill came as a result of a meeting I had, I think just two weeks ago outside this chamber with a lobbying group that was very much opposed to this bill, and it's irrelevant to name the group, but I listened to their arguments against this bill

and people told me about how difficult it is to be notified that you have this terrible disease and that the trauma is huge and then the trauma of having to go back and tell somebody else. People who go through this trauma may need counseling. They may need a certain amount of personal care and attention, and I must tell you without trying to be cruel in any way, that the way I heard the argument was "I, I, I, I" and I said to myself, I have never in my life tried to delineate between love and to criticize anyone who professed to love, and you don't -- and a child loves a parent. A parent loves a child and there are heterosexual relationships where people love and there are homosexual relationships where people love, and I have never in my life ever suggested that one type of love is different or less caring, and I said to myself, if you love, it means you care. I don't know how you can love and not care, and if you love and you care, how can you know a piece of information that can dramatically affect the life of an individual or individuals for whom you say you care and then say, I'm sorry. That's all in the back burner because I need the

counseling and I need this and I need that and I'm sorry. I'm sorry. That's not my understanding of reactions.

We have seen mothers face certain death to run into a burning house to save a child. We've seen men and women do that for each other. I mean, love is something which when it comes to caring and expressing care, people do irrational things because they care and in this situation, this bill, in my humble opinion, is setting up something that is, indeed, rational, not irrational, but rational and says that there is an obligation that goes past the one individual and it goes to other individuals and maybe even to society as a whole because we have seen the terrible situations where some people who don't care have increased the risk to society in general.

So I am sorry that this always gets politicized, but on the other hand as I look around the room, we got elected to take the heat and everything we do is in one way or another political.

So I will continue my commitment to try to see to it that AIDS programs are

properly funded, that we don't politicize that issue to the point where we don't do everything that's scientifically and medically necessary to deal with that dreadful situation and wipe it out, but it seems to me that this bill is a common sense bill and that this bill does not offend the conscience of people who say, if you love somebody, how do you just not get involved with an activity or a circumstance that can save their lives?

I think there are protections in this bill and I'm going to vote very comfortably in favor of the bill.

ACTING PRESIDENT KUHL: Senator Hoffmann.

SENATOR HOFFMANN: Mr. President, I would like to compliment the sponsor of this bill. I think it is a necessary and appropriate response to a terrible dilemma that we face right now.

I'm impressed with some of the things that Senator Gold said because he talked about a concept of love and how loving partners would, in most instances, be so concerned about the health and well-being of the partner that

they would take all appropriate steps to see that that individual receives medical care if they were jeopardized by any kind of a disease; but something seems to happen when we're looking at the HIV issue. Is it possible that some people become frightened or embarrassed, or is it possible that on occasion it was not love that motivated the sexual activity in the first place, and they really don't care at all about the infected partners or the potentially infected partners, and those are the issues as policymakers that we've had to look at in this state over the last couple of years.

There is no example more startling in this state and possibly the nation than the Nushawn Williams case. This has given all of us quite an education in what can happen in the HIV spectrum of experiences.

This individual, using several different names, cut a wide swath of sexual activity across the state of New York, having sexual experience with many young girls, some as young as the age of 13, allegedly even younger. These girls were totally unaware of his status, and probably totally unaware of the risks that

they were undertaking when they agreed to have sex with him. The result of his activity is that many of them are now infected with HIV and there have been several infected babies born to some of these girls. It is anticipated that there will be more as well. There are also young men who were the secondary partners of some of these women, young girls, who had slept with Nushawn Williams, and they are infected as well.

Now, what happened in that case that we should be learning from? In that instance out in Chautauqua County, a very small health department was able to ascertain that there was a problem, and a couple of very astute individuals were able to piece together the fact that it was quite possibly one individual with an ostensibly diabolical modus operandi to sleep with as many young girls as possible who was, in fact, causing this high rate of infection.

Under the current law, it was necessary to achieve access to his victim population through the legal system. There was no medical provision in place that would have compelled all of the doctors who might have

encountered any of the victims to put that information in a central repository. It became an issue of law enforcement rather than the medical community in the Nushawn Williams case.

This measure, I believe, will put the matter squarely where it belongs, in the hands of the medical and the health community, and it will not have to become a matter of law enforcement responsibility in the future. When people are going to be notified about the prospect of having had a sexual encounter with a person who is infected with a disease like HIV, I conclude that most of those people would prefer to be notified by a health official. They would prefer that rather than have a knock on the door from a sheriff or a member of a law enforcement outfit who is following up on the criminal activity of the individual responsible for the infection.

We have learned the hard way in Chautauqua County and the other rural counties, where this one individual cruelly infected so many people, that the responsibility did not exist where it needed to, in the medical and in the health departments and it then fell to law

enforcement to try to treat this as a criminal activity.

I am confident that this measure will give people who are well qualified, who are sensitive, who are trained and who care about the health and well-being of all citizens, the opportunity to do the right thing at the right time and help head off the type of epidemic that occurred out in western New York.

I understand also that there are other states that have attempted with some success to do what we're looking at today and have evaluated what has happened in the area of confidentiality. This isn't always the first question people ask when we talk about any kind of notification of HIV.

I had the experience a couple of weeks ago of visiting with some people from the state of Florida at a health-related conference, I and another member of this Senate. Senator Smith and I talked with people who were responsible for implementing, for designing and implementing the statute that's in effect in the state of Florida.

We asked the question about

breaches of confidentiality. The answer was no, there have been none. We also asked the question about the gay community that had so vigorously opposed any notification laws in this state, and what their role was in the state of Florida and, to our surprise, we were told that several organizations, including the Gay Men's Health Crisis, had actually participated in development of that legislation. This marks a tremendous change, and a coming together of very diverse groups of people whose thinking has often polarized people in this chamber and in other legislatures around the country on the issue of HIV and HIV reporting.

I take great comfort in the fact that 28 other states are doing what we are doing now. I feel terrible that we have not had a law in place that might have assisted in the tracking of an individual who was as wantonly irresponsible and callous as Nushawn Williams apparently was in Chautauqua County, New York, but I believe that by passing this bill we will be able to safely say that lives are being saved in the future.

I will vote aye.

ACTING PRESIDENT KUHL: Secretary will read the last section. Excuse me. Senator Dollinger.

SENATOR DOLLINGER: Will the sponsor yield to just a couple quick questions?

ACTING PRESIDENT KUHL: Senator Velella, do you yield? The Senator yields.

SENATOR VELELLA: Yes.

SENATOR DOLLINGER: So I understand this, Senator Velella, I call your attention to page 2, section 3, just deals with the transmission of the information which, as I understand it, what this bill will do is the reports will be filed from the physician to the state health commissioner and then routed to the local health commissioners; is that correct?

SENATOR VELELLA: I'm sorry. Yes.

SENATOR DOLLINGER: O.K. Again through you, Mr. President, it says, the way I read it, that will not only be the name of the individual who is diagnosed.

SENATOR VELELLA: Could you cite the line you're talking about.

SENATOR DOLLINGER: Line 12,

section 3, it says this is the information that will be divulged to the commissioner. It will include not only the name identification of the person diagnosed with HIV, but any contacts of the protected individual as well; is that correct?

SENATOR VELELLA: Of any contacts or to protect the individual, yes.

SENATOR DOLLINGER: So the information that's transferred from the local physician, the primary care physician or whom ever, to the health commissioner is not just going to be the name of the diagnosed individual but the name of any contact. So my question is, you -- you have an individual who comes in and is diagnosed. There is the question asked, and I know the latter portion of the bill deals with the ability of the physician to make the notification, allows the health commissioner to review that process of notification, but there's a list at that point of names of contacts and there's no -- at the time the information is transmitted to the health commissioner, there's no notice to the -- to the contacts at that point.

What your bill provides is that once the health commissioner gets it, that information, person diagnosed and contacts is then relayed to the local health commissioner, who takes the health information and determines whether the contacts have been informed; is that correct?

SENATOR VELELLA: Well, I don't know that necessarily the procedure is going to work the way you outline it. The state health officials will notify the local people who will then, in turn, notify the persons that are on a list of contacts which will have been obtained voluntarily from the infected person.

SENATOR DOLLINGER: I understand. The -- again through you, Mr. President, if Senator Velella will continue to yield, and just so I understand it, what's going to be transmitted is not just the information of the person who has been diagnosed but the name of all the contacts as well, voluntarily obtained in a consultation with the physician or other person, will be transferred to the state Health Department and then, in turn, transferred to the local Health Department.

SENATOR VELELLA: It's my understanding that you may be just generaliz ing too broadly. Obviously this isn't in effect. However, there are other notification provisions for other communicable diseases. It's my understanding that the local health official -- let us just, for example, use me as an example. I live in Bronx County. My local New York City, because we have the five counties would be notified, the official health commissioner of New York City. He would then get the names of anybody I had given that lived within that area. If it was someone that I had a contact with that may have been involved in Chautauqua County, that health official would get that name. He wouldn't necessarily get the names from anywhere outside his own jurisdiction, the idea being he would be responsible to reach out to the people within his jurisdiction.

SENATOR DOLLINGER: Again I - and again through you, Mr. President.

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: Senator Velella continues to yield. Senator continues to yield.

SENATOR DOLLINGER: I want to make sure that it's not just the name of the diagnosed person, the protected individual as it's used in the bill, and I believe used elsewhere in the Public Health Law, but it's the names of the contacts as well that would be transmitted in this chain of information.

SENATOR VELELLA: To the commissioners in the area where those people might be found.

SENATOR DOLLINGER: O.K.

The second thing I'm concerned about, I've read the bill in somewhat -- in some detail. I clearly understand what it does. The -- are you satisfied -- again through you, Mr. President, if Senator Velella will continue to yield.

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR DOLLINGER: Are you satisfied, Senator, that the non-disclosure provisions of this bill are sufficient to protect the disclosure of this information either under the Freedom of Information Law in New York State or the disclosure of this information to any other agency of the state of New York; that is, not just the public health commissioner but the housing commissioner, the police commissioner, and are you satisfied that these records would be immune from disclosure to agencies of the federal government?

SENATOR VELELLA: Yes.

SENATOR DOLLINGER: Can you tell me where your language is that suggests that?

SENATOR VELELLA: Well, let me begin by saying that we've tried as much as possible to mirror the language of laws that protect people from this disclosure in other circumstances such as the transmission of syphilis or other communicable diseases, so that while this -- while this would be no new law or new procedure that would guarantee the safety or the security of these names, it would have the same security that other communicable diseases

have, which has proven over time not to have published a list of people who have these diseases. So I would rely on the body of law that we have and the case law and -- which section? -- Section 2135, "Confidentiality" which is what I would rely on where we have taken that from the other statutes that protect people from unfair disclosure of their communicable disease.

SENATOR DOLLINGER: O.K.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Just on the bill briefly, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I appreciate the clarifying comments of Senator Velella. I'm somewhat troubled by the notion that it's not just the names of the diagnosed individual that will be in this confidential chain of information, and I should parenthetically add that I believe Senator Velella speaks correctly and accurately when he says that generally dealing with syphilis and other STDs, the chain

of confidentiality has not been broken in this state. We have a Health Department that has strongly preserved the confidential nature of this information with respect to other STDs, which gives us the optimism and I think the well-founded optimism and hope that this will continue for HIV.

But the notion is, however that it's just not the recording of the individuals diagnosed. It's the reporting of context as well, which I think I understand why that information is going to be supplied, but it just means there are going to be more names in the system, more names that at least at the point of transmission of the information from the physician to the health commissioner, there won't necessarily have been any verification of whether there actually was contact.

There will be the statement of the individual diagnosed that he had a contact, it won't have been verified, certainly won't have been verified whether transmission of this disease has occurred or exposure to it has occurred, but it's just that there are more names that will be in this system than I

initially anticipated.

The other issue that I raised in my questioning of Senator Velella is that you believe the great fear with this bill is the breach of confidentiality, that the state of New York somehow, these names will be exposed to a broader group of people than are absolutely necessary to serve the public health interest and that's why I would suggest, even though the language that Senator Velella has adopted in Section 2135 of this proposed bill renders them confidential, I would suggest if there's any further discussion of this with the other house, I would make them specifically exempt from any disclosure under the Freedom of Information Act or any information under our Freedom of Information Act. I would exempt them from disclosure to any other state agency if there's no internal transmission of this information, any police agency, any social service agency, any housing agency, that none of that be expressly provided in this bill; and lastly, I would expressly provide that they could not be disclosed to the federal government under any circumstance, simply to strengthen the wall of

confidentiality that I see the sponsor would like to see. I just think it should be more tightly drafted and more positively stated that those restrictions occur.

Generally, on this bill, this is a difficult bill. This is an emotional issue. This is a very complicated issue. I am satisfied that the medical evidence in dealing with this question has convinced me that this is the proper way to go to deal with the epidemic that this disease involves. It requires a difficult policy choice, but I believe that when you balance all the factors, our best hope for dealing with HIV and reducing its incidence in all of our communities across New York State is to begin to try to deal with it as we have dealt with other STDs.

I would add one other closing comment, and I would say this to my Republican colleagues in the house. There is a tremendous fear in many communities in this state about this bill, and the reason is because there's a perception that HIV, the mere mention of the word, creates fear and changes people's conduct. It changes their conduct in

employment; it changes their conduct in health care. It changes their conduct in housing. Merely mention the word and it changes people's behavior.

I would suggest to you that one of the reasons why there's a fear amongst certain groups in this state about this bill is because we have never given them -- we have never accepted the fact that they should be treated just like everyone else in this state and prohibited from unlawful discrimination on the basis of their sexual orientation.

My feeling is, if we pass the gay rights bill, we would go a long way to alleviating the fears that many people have that this bill is designed against a specific community and designed to punish a specific community, and if we had the guts to do what's necessary to treat the gay community and the issue of sexual orientation the same way we treat the rights of those who have religious beliefs, the same way we treat the rights of those who are African-American, the same way we treat the rights of our Puerto Rican and Hispanic colleagues, if we gave them the

assurance that we would not discriminate against them on the basis of their disease or their sexual orientation, they might feel a little less fearful of what this bill entails.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

This is a rather difficult vote for me personally. I think in the 20 years I've been in the Senate, I certainly have advocated for equal treatment for the gay community. I've -- one of the first bills I sponsored involved a non-discrimination provision in the civil service based on sexual orientation, so apologies to know one really.

I rise here to explain why I feel compelled to vote in favor of this bill. You know, the tragedy of the HIV/AIDS epidemic and it's been a tragedy these past years, has seen us lose on a large level in our society some of our most talented and respected people. Certainly on a personal basis, I ask you, all my colleagues, whether you be liberal, conservative, upstate, downstate and all, I ask

you, is there anyone in this chamber -- is there anyone in this chamber who hasn't known someone who's been the victim of AIDS, who hasn't known a family that's lost a family member?

When this disease first came to the fore, when people first became aware of it, the people called it "the gay disease" and then, oh, yes, it was "the gay and Haitian disease".

Well, my colleagues, it's neither. As someone pointed out to me earlier today, most people who are HIV-positive, most people with AIDS today are not gay, and it's not an American disease. It's not a -- we don't own it. Unfortunately, it's spread throughout the world in nations that once looked at it as some sort of decadent western disease because of western decadence or mores or whatever. Those countries indeed are now in an AIDS epidemic. It's a stranger to no continent on this earth.

It's fortunate that, in this country, it appears that the spread of HIV has slowed down. That's good. That's a testament to some of the measures, and I don't -- as we undo some of the legislation that we put in place to deal with it a decade ago, we need a

very clear rationale for doing that, and the good news is there are now treatments. There are now treatment modalities. There are now drug regimens that, at least for some who suffer from AIDS or HI -- or who are infected with HIV, it's been a great help. We've seen some of these for some people. I've known people who appeared to be -- were very incapacitated. Indeed, they appeared to be but a few months away from death, who because of the cocktail regimens, and so forth, so-called "cocktails" they appear healthy, although obviously still infected, who are functioning and living relatively normal lives.

So that's been a wonderful miracle and a testament to the researchers and scientists and the many, many people who have contributed to that research financially and with political support and other things. That's good, but it's time that we re-examine.

I agree we must re-examine the public health modality we put into place for HIV. Once upon a time I stood over there in supporting the original legislation and said we're not treating AIDS as an ordinarily

sexually transmitted disease, public health problem, because there were those that said why don't we just treat it -- at the time, let's just treat it like we do other sexually transmitted diseases with reporting, notifica tion, so on and so forth, and I remember saying it's -- we're treating it differently because it is different. It is different than those other diseases.

One of the differences then was that it appeared to have no cure, no treatment that alleviated -- to alleviate it, except very briefly the progress of the disease, and was - appeared to be always fatal. So it was different, and we treated it differently, and yes, some of that different treatment, because I had medical people at the time say to me, you know, this is a disease but you're -- it's not being -- the way we're dealing with it, it isn't being driven by the medical community and medical concerns. It's being driven by politics, and I suppose it was, and I make no apologies for that, because of the understand able concern many, many advocates had at the time for issues like confidentiality, for issues

like preventing discrimination in so many ways, and indeed this Legislature has had to deal or subsequently had to deal with little forms of discrimination that arose, whether it be employment, whether it be insurance, lots of other things, renting an apartment or whatever. There clearly was -- it was not a misplaced concern. It wasn't a paranoid fantasy.

Certainly when it was perceived as a gay disease, people who had it were treated unfairly, as unfortunately many members of the gay community have been treated, and still - still are often treated unfairly, because this Legislature -- because this part of this Legislature in the Senate has not seen fit in the last 20 years to adopt a civil rights bill that guarantees civil rights to all of our citizens, and that protects people who differ perhaps in their sexual orientation from the majority, that protects them from discrimination.

So those weren't misplaced fears, Mr. President. They were well founded, well placed fears that understandably still persist, and that because of the history of these past

years, somehow or other is connected to HIV and AIDS in some people's mind; but I suggest, Mr. President, it's not in the popular mind so connected on such a widespread basis as it once was, because AIDS doesn't care about race, religion, ethnicity, economic status or sexual orientation. It -- AIDS doesn't discriminate.

While the politics and the understandable concerns and sensitivity, concerns for privacy, for protecting people, for not intruding because, after all, what could you do about it anyway, drove the public health decisions that were first made, the good news is that medical advances made some of the measures we put into effect not relevant or perhaps not the best way to go.

Once upon a time when the so-called "baby AIDS bill" was first put out, I was against it. After all, what could you do? What could you do for these infants? You know, what -- why place value on knowledge? Knowledge that is, if anything, disturbing but not offering the possibility of anything that approached either a cure or an improvement in the life expectancy of those infants.

Then we saw, and it's good news, we saw that, gee, there were in utero treatments developed; there were early intervention things that actually gave some cause for hope, and so it is with people who are HIV-positive today with adults or who have AIDS, and therefore, we come to a point where perhaps it's appropriate -- not "perhaps", it is appropriate to do all that we can now to identify those who have been exposed to the HIV virus, not so we can point fingers, not so we can ostracize them, not so they can be discriminated against but so that they can get treatment as soon as possible to avoid the destruction and death that this disease has brought on so many people, so many people that we miss, that we miss today and, if there be a testament to those who have paid the ultimate price of this disease, let it be that we rescue -- we rescue people, that we finally get to the point where we can place HIV on the defensive, and the only way to do that is to apply the kind of public health protocols that have worked so well elsewhere with other diseases.

Now, I understand the concerns

partly in this state because of the failure - the failure of the leadership, of succeeding leaderships in this house to bring a civil rights bill out. There is still among our citizens a concern, a concern that their rights will be lost if they're identified as being gay or lesbian. That's not a misplaced concern, because when we fail to act on something like this, it certainly conveys from this house, from the highest levels of this state government, an attitude, an attitude that you don't really count. You're not really part of it.

The failure -- the failure of this house to adopt an anti-bias -- an anti-bias violence bill that includes sexual orientation, that would in effect protect those who we see are more often than not the primary victims or focus of bias violence, bias-related violence, the failure of this house to do that is further cause for concern in the gay community that we really, as a government, as a state government, as a Legislature, ought to be suspect when we do anything in this area, ought to be suspect and are suspect.

What's the real motive? What are

they really trying to do here? Can we really trust them? Can we trust the state government they set up to really preserve confidentiality? You know, if they're not willing -- if they're not willing to guarantee me my apartment free of discriminatory intent on the part of the renter, if they're not willing to guarantee my job against mindless bias, if they're not willing to respect my personal relationships with those whom I love, if they're not willing to record me and protect my rights that are the same as every other New Yorker's, how can I really trust that they want to do legislation like this because they care so much about me and mine that they want to protect us against -- in the best possible way against the ravages of HIV?

So, my colleagues, when you see the opponents of this bill, and you read a New York Times editorial that says it's a good bill and indeed the New York Times as these things go -- and I don't think they have all truth at their disposal, it certainly doesn't appear in their columns all the time, but certainly it's been an editorial page that has been concerned about the rights of our gay and lesbian citizens

in the past. They look at it as a public health issue, and I have to look at it as a public health issue. Take the politics out of it, and this is the way to go with the treatments that are available today and, more hopefully, the treatments of a short tomorrow for those who have it.

But I say to my colleagues do that civil rights bill, you know. It's 1998. Let's do that civil rights bill. Why not? Why not? Let's face it. The world has changed in the last 20 or 30 years. I asked the question earlier rhetorically of all my colleagues. Let me ask you all, regardless of your political persuasions now, be there one of you who somewhere in your family or your spouse's family or your best friend's family or your extended family, that you don't have someone who now is so-called out and proud and, gee, their family loves them because we've come a long way. We've come a long way these past two or three decades, as we should have, so why can't we start making a big deal about it for politics. Why can't we? Forget about advocacy groups. Yeah, they have their politics, but why can't we as a

legislator, as sworn public officials, stop making a political football, stop making a political football.

Protect people's civil rights. What's the big deal? You all know it's the right thing to do and you all know you would fight within your own families or your extended families, you would all fight for that cousin or nephew or uncle or whatever who now you -- is willing to say, "I'm gay, I'm gay but I'm me and I'm proud." You'd all fight for their rights if somebody was grossly discriminating against them, so why won't you just pass a law and preserve it to all New Yorkers.

But that's not the bill before us. The bill before us, looking at it as a public health measure, and while I respect and understand the concern that advocacy groups have because they don't trust us, and they shouldn't trust us, tend to reflect upon the bill based on its source, and I don't mean the sponsor of this bill. I just mean the state Legislature in general, that hasn't adopted these other things. Can't we all grow up, put aside the politics, do this bill.

I'm going to vote for this bill but let's see -- let's see that civil rights bill. You know, it moved from one committee to the other just a week or two ago. Virtually everybody on the committee in both parties voted to advance the bill. If the time is now, the time is now, you know. We're not talking about putting a stamp of approval on anything, any kind of conduct. We're just talking about assuring all New Yorkers their privacy rights. Let's talk about privacy because somebody in the conference said, Well, how much authority would this bill give state officials to investigate people's sexual contacts and relationships? And the answer is a lot. The answer is a lot of authority, but the problem is not in this bill. The problem is not in this bill. The problem is in what we fail to do as a society.

If, in a civil -- if, in a civil case, people who are called as witnesses can be asked about their personal conduct, their personal sexual relationships and required under oath to answer truthfully, even when it's not relevant because you don't need -- the questions don't have to be relevant in a deposition and

then, you know, grand juries can be impounded and haul people in to ask them all sorts of questions. You know, once upon a time a truth speaker 40 or 50 years ago in those circumstances would have been a cad. There was a description for that.

So given the media, given what we're doing now, reputations get besmirched, things that used to not be discussed now get talked about and I've had constituents come up to me, I've had straight constituents who had no agenda before, never particularly to my knowledge involved in advocating a gay civil rights bill, come up to me and say, "Senator, let me ask you something. I see it the news and all, see what's going on in Washington, and you mean somebody's got a right to make me tell about my personal conduct with my girl friend or whatever?" Yeah, under oath, and if you deny it, probably have the right to prosecute you, you know. If they have bad judgment enough to, they have a right to do it, yeah, and unfortunately it just may be somebody has bad enough judgment as well to bring such a case.

People react in shock, and I've

said to them, Well, don't you think we ought to have the kind of civil rights that protects the guaranteed privacy to consenting adults in their private relationships, all consenting adults, no matter who their partner is? Yeah, they said.

Well, we should. So maybe it's time for us to wake up and stop, you know, looking at it as odd. This is just to benefit that group or this thing, you know. Perhaps everybody's privacy is at stake. Perhaps everybody's most personal relationships are at stake as we enter into this new century where everything is on computers, everything is on the TV, everything is in the papers.

So I think a first start would be if we brought next week, the last week of session, and I urge my colleagues in the Majority, I'm not going to talk about this. Bring this bill out. Let's do it. No reason not to. You all know in your hearts it's not a big deal. It's not a big deal to your constituents either. They think it's the right thing to do.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

VOICES: Slow roll call.

ACTING PRESIDENT KUHL: If there are five members requesting a slow roll call, please stand. Secretary will ring the bell and read the roll slowly.

THE SECRETARY: Senator Abate.

(There was no response.)

Senator Alesi.

(There was no response.)

Senator Balboni.

SENATOR BALBONI: Aye.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: No.

THE SECRETARY: Senator Bruno.

(There was no response.)

Senator Connor.

SENATOR CONNOR: Aye.

THE SECRETARY: Senator Cook.

(There was no response.)

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.
THE SECRETARY: Senator Dollinger.
SENATOR DOLLINGER: Aye.
THE SECRETARY: Senator Farley.
SENATOR FARLEY: Aye.
THE SECRETARY: Senator Fuschillo.
SENATOR FUSCHILLO: Aye.
THE SECRETARY: Senator Gentile.
SENATOR GENTILE: Yes.
THE SECRETARY: Senator Gold.
SENATOR GOLD: Yes.
THE SECRETARY: Senator Gonzalez.
(There was no response.)
Senator Goodman.
(There was no response.)
Senator Hannon.
SENATOR HANNON: Yes.
THE SECRETARY: Senator Hoffmann.
(There was no response.)
Senator Holland.
SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.
(There was no response.)
Senator Kruger.
SENATOR KRUGER: Yes.
THE SECRETARY: Senator Kuhl.
SENATOR KUHL: Yes.
THE SECRETARY: Senator Lachman.
(There was no response.)
Senator Lack.
(There was no response.)
Senator Larkin.
SENATOR LARKIN: Yes.
THE SECRETARY: Senator LaValle.
SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Aye.
THE SECRETARY: Senator Leichter excused.
Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
(There was no response.)
Senator Marcellino.
SENATOR MARCELLINO: Aye.
THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.
THE SECRETARY: Senator Markowitz.
SENATOR MARKOWITZ: No.
THE SECRETARY: Senator Maziarz.
SENATOR MAZIARZ: Aye.
THE SECRETARY: Senator Meier.
SENATOR MEIER: Yes.
THE SECRETARY: Senator Mendez.
SENATOR MENDEZ: Aye.
THE SECRETARY: Senator Montgomery.
SENATOR MONTGOMERY: No.
THE SECRETARY: Senator Nanula.
SENATOR NANULA: Yes.
THE SECRETARY: Senator Nozzolio.
SENATOR NOZZOLIO: Aye.
THE SECRETARY: Senator Onorato.
SENATOR ONORATO: Aye.
THE SECRETARY: Senator Oppenheimer.
(There was no response.)
Senator Padavan.
SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

Senator Paterson.

SENATOR PATERSON: Yes.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Rosado.

SENATOR ROSADO: No.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Sampson excused.

Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Seabrook.

(There was no response.)

Senator Seward.

SENATOR SEWARD: (Affirmative indication.)

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Aye.

THE SECRETARY: Senator Smith.

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

SENATOR SMITH: Mr. President, thank you. Mr. President, to explain my vote.

Previously I would have been opposed to this legislation, but after having long hours of discussion with members of the African-American medical community and the Hispanic Puerto Rican medical community, I believe that it is the right thing to do, especially now that the largest growing population of those with AIDS are women and children, and it is our responsibility to protect our young and it is critical that we vote in the affirmative on this bill.

Thank you.

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

Continue the slow roll call.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator

Stafford.

(There was no response.)

Senator Stavisky.

SENATOR STAVISKY: Aye.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon excused.

Senator Wright.

(There was no response.)

ACTING PRESIDENT KUHL: Secretary will call the absentees.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Cook.

(There was no response.)

Senator Abate.

(There was no response.)

Senator Gonzalez.

SENATOR GONZALEZ: Yes.

THE SECRETARY: Senator Goodman.

(There was no response.)

Senator Hoffmann.

SENATOR HOFFMANN: Aye.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: Yes.

THE SECRETARY: Senator Lack.

(There was no response.)

Senator Maltese.

(There was no response.)

Senator Oppenheimer.

SENATOR OPPENHEIMER: Yes.

THE SECRETARY: Senator Stafford.

(There was no response.)

Senator Stafford.

SENATOR STAFFORD: (Affirmative indication.)

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 50, nays 3.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be a meeting of the Rules Committee at 1:30 in the Majority Conference Room, and if at this time we could take up Calendar Number 1256, by Senator Seward.

SENATOR KUHL: There will be a meeting, meeting of the Rules Committee in the Majority Conference Room at 1:30.

Secretary will read Calendar Number 1256, by Senator Seward.

SENATOR LACHMAN: Explanation.

THE SECRETARY: Calendar Number 1256, by Senator Seward, Senate Print 7080, an act to amend the Tax Law, in relation to a reduction.

ACTING PRESIDENT KUHL: Senator Seward, an explanation of Calendar Number 1256 has been requested by Senator Lachman.

SENATOR SEWARD: Certainly, Mr. -

ACTING PRESIDENT KUHL: Senator

Seward, wait just a minute until the members who are going to Rules Committee have exited the chamber and we get a little quiet.

Senator Seward.

SENATOR SEWARD: Yes, thank you, Mr. President.

The legislation before us accelerates the scheduled one percent reduction of the gross receipts tax on utilities and telecommunications providers that we enacted last year to make the reduction fully effective on January 1, 1999 rather than January 1, 2000 as current law states.

Now, this bill also provides an additional one percent reduction of the GRT from 3.25 percent down to 2.25 percent effective January 1, 2000.

Now, additionally, the bill on the telephone side, the telecommunications side, provides local telephone companies with GRT relief akin to that provided to long distance carriers by phasing out that portion of the GRT dealing with those carriers.

I would point out, Mr. President, that the bill further amends the formula for the

distribution of funds received from the GRT to maintain the required funding level for the mass transportation operating assistance funds. That's right in the bill. We're going to maintain that funding by changing the formula to make sure that we live up to the commitment from the GRT to that fund.

And finally, the bill requires that any net decrease in cost to the utilities and the telecommunications providers because of this tax reduction would be required to benefit the ratepayers. What we're talking about here, Mr. President, is ratepayer relief. Everyone who receives a utility bill in this state will see a reduction in their rates if this bill is enacted into law, and I would point out that under existing law this gross receipts tax which is so abhorrent and, in my estimation, under law is prohibited from being itemized on our utility bills, this legislation, one final point, would remove that prohibition so that the ratepayers of this state would see exactly as an itemized -- be able to see as an itemized item on their bill just what the GRT tax is rather than being a hidden tax as it -- as it is now under

existing law.

ACTING PRESIDENT KUHL: Senator Lachman.

SENATOR LACHMAN: Thank you, Senator Seward, for that explanation. It was very clear and succinct.

Will the Senator yield?

SENATOR SEWARD: Sure.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LACHMAN: On the New York State Senate introducer's memorandum in support of the bill, it's written that section 5 changes the formula -- I'm going to skip some words - in order to maintain required funding levels for the Mass Transportation Operation Assistance Fund. By maintaining, you mean a save harmless, it will be held harmless?

SENATOR SEWARD: That's the intent of the legislation, yes.

SENATOR LACHMAN: O.K. Will the Senator continue to yield?

SENATOR SEWARD: Certainly.

SENATOR LACHMAN: O.K. The SFY for '98-99 is a 50 percent reduction which comes

out to $64.8 million or $9.2 million shortfall. The SFY for '99-2000 is a hundred percent reduction from the original 74 million to 45 million. That is a 28 million reduction. How does the bill fill that shortfall?

SENATOR SEWARD: Well, Senator, the -- some of the concerns you're raising are -- far beyond this legislation. What this legislation does in that section 5 that you have been -- you and I have been discussing, what that deals with is that portion of that funding that actually comes from the gross receipts tax and -- the state gross receipts tax, and so what that -- the change that we're making in the formula would -- would actually increase the percentage of funds raised from the GRT. It would increase the -- those funds raised by GRT that go into the metropolitan mass transportation assistance operating account and after the year 2000, all of the funds raised by the state GRT would go toward that.

SENATOR LACHMAN: Will the Senator continue to yield?

SENATOR SEWARD: Yes.

SENATOR LACHMAN: So what you are

saying is it will not be a shortfall only in the area of telecommunications, that the shortfall will be made up by other revenues, this 184.

SENATOR SEWARD: That's correct, that's correct.

SENATOR LACHMAN: I will support the legislation.

SENATOR SEWARD: Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR PATERSON: Mr. President, I vote aye. Certainly Senator Seward has taken a leadership position in trying to diminish the gross receipts tax, and there is a real cause to do that with utility rates higher and higher and the gross receipts tax having really such a broad-based effect on all of us. But

this is a measure that is going to perhaps reduce revenues by as much as $450 million, and I think when you have a half billion dollar revenue reduction on an item that was already negotiated earlier this year in the budget, it should be part of a supplementary budget process. So if we're going to have a supplementary budget process, I think we should have one where we are assessing whatever our excesses and revenues are in toto, and this would certainly be a good solution, but I just don't think we should do it in a -- in a piecemeal fashion. I certainly agree with the legislation. I think it's time that something to reduce the GRT is accomplished.

Senator Seward deserves a great deal of credit for his leadership on this issue, and I agree with it, but I really, with this admonition, I vote aye, Mr. President, and that this is a type of a measure that is something that I think we should do in concert with any other changes we want to make after our budget process that we negotiated earlier this year.

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

Announce the results.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 1271, by Senator Hannon, Senate Print 5346, an act to amend the Public Health Law and the Insurance Law, in relation to eliminating.

SENATOR DOLLINGER: Mr. President, I'm willing to waive a question or an explanation just to be heard on the bill.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: Mr. President, this is a bill that we have seen before in this chamber that creates the -- the inequity of removing the clinical surcharge from certain clinical labs and continuing to have it posted against hospital-based labs, an inequity that tilts the competitive balance that we have spent a long time in this community -- in this chamber trying to titrate, I guess is the word

that -- the clinical word, trying to balance the health care system, the need for competition in the health care system, to drive down cost and at the same time provide quality services.

This bill upsets that by alleviating the surcharge for a certain group of labs while continuing it, in effect, against hospital-based labs, and the difficulty is that after several years of trying, and I know the chairman of the Health Committee has been one of those who has led the fight to try to introduce a system that is competitively balanced, this bill tilts the balance in the opposite direction by favoring one form of lab and discriminating against other forms.

So a number of members voted against this last year, Mr. President. We had a healthy debate on it. I would hope that this issue would be either resolved through conference with the other chamber or that this idea, this notion of upsetting the competitive balance will be consigned to the past where I think it belongs back in those days when we extensively regulated hospitals when we lived in a different health care environment. So as the

ranking member of the Health Committee, I would again urge my colleagues to vote against this bill. It's plain and simple unfair.

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

SENATOR PATERSON: Mr. President, I actually had two points and Senator Dollinger must have read my mind. He covered one of them, but if Senator Hannon would yield just for this question.

ACTING PRESIDENT KUHL: Senator Hannon, do you yield for a question from Senator Paterson?

SENATOR HANNON: Yes.

SENATOR PATERSON: Senator, it's my understanding that, if we do pass this legislation, that the bad debt and charity care pool could wind up in debt as much as $25 million, so in light of the fact that we passed through the NYPHRM era that we continue a bad debt and charity pool. So my question is what would happen to the deficit, if you acknowledge that there is one, through the passage of this piece of legislation?

SENATOR HANNON: Senator

Paterson, I don't believe that through the passage of this we would have a deficit the way the pools are funded, and let me just, in order to come back to that, address the issue of fairness that Senator Dollinger raised.

The point is from one analysis you could say you need to have fairness among and throughout the laboratory provider community, and I couldn't agree, you know, more that we should always try to have equity. However, doing that would only exacerbate the drain on the pool and, therefore, lead you into a more and more difficult situation, leading me to have to say that it would put us into a deficit.

The other part of it is, and why one should vote for the bill is that the implementation of this assessment which just goes right back into the health care system has been done in such a way that has led to mis understandings of the system, may well cause people to have a lack of confidence in the system, may well cause people to think we are actually doing a tax when we're not, and so that this bill, standing alone, allows us to respond

to those charges and to say we are trying to put confidence back in, and that's why I think we should enact the bill.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

THE SECRETARY: Those recorded in the negative on Calendar Number 1271 are Senators Breslin, Connor, Dollinger, Gold, Montgomery, Onorato, Paterson, Rosado, Santiago and Stachowski. Ayes 46, nays 10.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, is there any housekeeping needs to be done?

ACTING PRESIDENT KUHL: There is. We could return to the order of motions and

resolutions, Senator, and we will. Chair recognizes Senator Holland for some motions.

SENATOR HOLLAND: Mr. President, I wish to call up Senator Farley's bill, Print Number 7352-B, recalled from the Assembly.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 871, by Senator Farley, Senate Print 7352-B, an act to amend the Banking Law.

ACTING PRESIDENT KUHL: Senator Holland.

SENATOR HOLLAND: Mr. President, I now move to reconsider vote by which this bill was passed.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: Bill is before the house, Senator Holland.

SENATOR HOLLAND: That's complete.

ACTING PRESIDENT KUHL: Bill is

restored to the calendar.

SENATOR HOLLAND: Thank you. Third reading.

ACTING PRESIDENT KUHL: Senator Holland.

SENATOR HOLLAND: On page 42, I offer the following amendments to Calendar Number 1164, Senate Print 6602-A, for Senator Volker, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 1164 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Holland.

SENATOR HOLLAND: Mr. President, on page number 11, I offer the following amendments to Calendar Number 395, Senator Leibell's bill, Senate Print Number 4141, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 395 are received and adopted. The bill will retain its place on the Third Reading Calendar.

SENATOR HOLLAND: Mr. President, on page number 35, I offer the following amend ments to Calendar Number 1047, Senator Marcellino's bill, Senate Print 7402, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar 1047 are received and adopted, and the bill will retain its place on the Third Reading Calendar.

Senator Holland.

SENATOR HOLLAND: Mr. President, on page 45, I offer the following amendments to Calendar Number 1246, Senator Skelos' bill, Senate Print 6416, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 1246 are received and adopted, and the bill will retain its place on the Third Reading Calendar.

Senator Holland.

SENATOR HOLLAND: And Mr. President, on behalf of you, please place a sponsor's star on Calendar Number 495.

ACTING PRESIDENT KUHL: Calendar

Number 495 is starred at the request of the sponsor.

Senator Present, that completes the housekeeping which was at the desk.

SENATOR MONTGOMERY: I have a -

SENATOR PRESENT: I move that we stand at ease.

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

SENATOR MONTGOMERY: Mr. President, I would like unanimous consent to be recorded in the negative on Calendar Number 929.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 929.

Senator Stavisky, why do you rise?

SENATOR STAVISKY: Mr. President, I wish also to be recorded in the negative on Calendar Number 929.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator

Stavisky will be recorded in the negative on Calendar Number 929.

Senator Present.

SENATOR PRESENT: Mr. President, I will move that we stand at ease and await the report of the standing Committee on Rules.

ACTING PRESIDENT KUHL: The Senate will stand at ease awaiting the report of the Rules Committee.

(The Senate stood at ease from 1:32 to 1:46 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to take their chairs.

Senator Marchi.

SENATOR MARCHI: May we please return to reports of standing committees, and I believe that there is a report of the Rules Committee at the desk.

ACTING PRESIDENT KUHL: There is. We will return to the order of reports of standing committees, ask the Secretary to read the report of the Rules Committee which is at the desk.

THE SECRETARY: Senator Bruno,

from the Committee on Rules, reports the following bills:

Senate Print 210, by Senator Kuhl, an act to amend the Education Law;

1273, by Senator Stachowski, an act to amend the General Municipal Law;

1276-B, by Senator Farley, an act to amend the Education Law;

2393-A, by Senator Rath, an act to amend the Executive Law and the State Administrative Procedure Act;

2464-B, by Senator LaValle, an act to amend the General Obligations Law;

3549-B, by Senator Saland, an act to amend the Retirement and Social Security Law;

3811, by Senator Wright, an act to amend the Tax Law;

4290, by Senator Santiago, an act directing the Commissioner of Social Services;

4492-A, by Senator Maziarz, an act to amend the General Municipal Law;

5029-A, by Senator Farley, an act to amend the Banking Law;

5358-B, an act by Senator Wright, an act to amend the County Law;

5446, by Senator Montgomery, an act to amend the Emergency Tenant Protection Act;

6184, by Senator Kuhl, an act to amend the Private Housing Finance Law and Chapter 596 of the Laws of 1995;

6509, by Senator Rath, an act to amend the Real Property Tax Law;

6552-A, by Senator Skelos, an act to amend the State Finance Law;

6636, by Senator Meier, an act in relation to the creation;

6659-A, by Senator Seward, an act to authorize Robert M. Foster;

6675, by Senator Alesi, an act to amend the General Business Law;

6735, by Senator Balboni, an act to amend the Insurance Law;

6754, by Senator Saland, an act to amend the Retirement and Social Security Law;

6812, by Senator Volker, an act to amend the Civil Practice Law and Rules;

6993, by Senator Maltese, an act to amend the Real Property Law;

7052, by Senator Volker, an act

in relation to allowing;

7097, by Senator DeFrancisco, an act to amend the General Municipal Law;

7165-A, by Senator Farley, an act to authorize the city of Schenectady;

7187, by Senator Holland, an act to amend the General Municipal Law;

7310, by Senator Saland, an act to permit the re-opening;

7420, by Senator Seward, an act in relation to granting;

7456, by Senator Wright, an act to amend the Real Property Tax Law;

7468-A, by Senator Lack, an act to amend the Judiciary Law and the State Finance Law;

7472, by Senator Skelos, an act authorizing the assessor;

7491, by Senator Stafford, an act to amend the Tax Law;

7514, by Senator Goodman, an act to amend the Tax Law and the Administrative Code of the city of New York;

7538, by Senator Velella, an act to amend the Administrative Code of the city of

New York;

7549, by Senator Stafford, an act legalizing and ratifying;

7566, by Senator Skelos, an act to amend the Penal Law;

7586-A, by Senator Marcellino, an act to amend the Town Law;

7589, by Senator Balboni, an act to amend the Domestic Relations Law;

7594, by the Senate Committee on Rules, an act to amend the New York State Printing and Public Documents Law;

7606, by Senator Balboni, an act to amend Chapter 602 of the Laws of 1993;

7612, by Senator Johnson, an act to amend the Public Authorities Law;

7616, by Senator Velella, an act to amend the Insurance Law.

All bills ordered direct for third reading.

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: Mr. President, I move to accept the report.

ACTING PRESIDENT KUHL: Motion is

to accept the report of the Rules Committee. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The Rules report is accepted. Bills ordered directly to third reading.

Senator Marchi.

SENATOR MARCHI: Is there any housekeeping?

ACTING PRESIDENT KUHL: The desk is clean, Senator Marchi.

SENATOR MARCHI: Wonderful. There being no further business, I move we adjourn until Thursday, June 11th, at (ten hundred) 1000 a.m.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Thursday, June 11th, at 10:00 a.m. Note the time change, 10:00 a.m.

(Whereupon at 1:51 p.m., the Senate adjourned.)