ALBANY, NEW YORK

December 2, 1998

1:00 P.M.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

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

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

May we bow our heads in a moment of silence.

(A moment of silence was observed.)

THE PRESIDENT: Reading of the Journal, please.

THE SECRETARY: In Senate, Tuesday, December 1st. The Senate met pursuant to adjournment, Senator Farley in the chair upon designation of the Temporary President. The Journal of Monday, November 30th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nomination:

As a Justice of the Supreme Court for the Sixth Judicial District, Samuel J. Castellino, of Elmira.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

It is my privilege to rise and move the nomination of Samuel J. Castellino, of Elmira, as a Justice of the Supreme Court, Sixth Judicial District.

We received the nomination from the Governor this past week. The Judiciary Committee has examined the credentials of the candidate who appeared before the Judiciary Committee this morning. A hearing was held, and we unanimously moved to the floor of the Senate his nomination and, Mr. President, I yield for the purposes of seconding to Senator John Kuhl.

THE PRESIDENT: Senator Kuhl.

SENATOR KUHL: Yes, Madam President. It is my privilege and pleasure to rise on behalf of one of my constituents being elevated to this very, very important position in the service of the state of New York.

Justice Castellino, who is here today, has certainly a remarkable history in service to the residents not only of his home town of Elmira but in service to the people of the state of New York. He is, from my perspective as a lawyer, certainly the epitome of what we all hope to be, that is a person who has served in many capacities and served them very well.

His only really, from my perspective, negative part of his resume is he went to Holy Cross, which I know stimulates Senator Stachowski's interest in this candidate, rather than going to Syracuse, but he did go to Cornell Law School, which certainly speaks well of his abilities, and he did very well there.

But as far as his history in the practice of law, it seems like he has

served well in most every capacity he's been in. He was in private practice for close to 30 years, and he's served as an assistant district attorney, served on the other side of the prosecutorial section of the law in that he was a public defender, and then for the last about 13 years now, has served in the capacity of County Court and Surrogate Court Judge in Chemung County.

Judge Castellino, through this nomination, I think will reach the epitome of a judicial experience, that being where he will have the opportunity to serve as a Supreme Court Justice. The experiences that I hear from my constituents and fellow members of the bar when they're related to an association with Justice Castellino, are, in fact, very remarkable. I, as of this date, have never heard anybody speak negatively about this candidate for the bench in any capacity.

So it's with a great deal of pride, certainly a pleasure that I stand here before all of you to second the nomination of the Governor for Samuel J. Castellino as a

Justice of the Supreme Court.

Thank you, Madam President.

THE PRESIDENT: The question is on the confirmation of Samuel J. Castellino as a Justice of the Supreme Court. All in favor please signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Samuel J. Castellino is hereby confirmed as Justice of the Supreme Court.

(Applause)

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time adopt the Resolution Calendar.

THE PRESIDENT: All in favor of adopting the Resolution Calendar, please signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe that there is a privileged resolution at the desk, by Senator Leibell. I would ask that the title be read and move for its immediate adoption.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Leibell, Legislative Resolution 4305, congratulating the Fox Lane High School Girls Volleyball Team and Coach Mike Galu on their outstanding season and team record on winning the New York State Public High School State Championship.

THE PRESIDENT: The question is on the resolution. All in favor please signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe that I have a privileged resolution at the desk. I would ask that the title be read and it be read in its entirety and then move for its immediate passage.

THE PRESIDENT: Secretary will read, please.

THE SECRETARY: By Senator Bruno, Legislative Resolution commending Pauline Williman upon the occasion of her completion of 20 years as the Official Stenographer of the New York State Senate.

WHEREAS, the Legislature takes great pride in honoring outstanding citizens of the Great state of New York, and especially a person who has devoted a lifetime to an industrious career and to service in the New York State Senate; and

WHEREAS, it is the sense of this Legislative Body to commend Pauline Williman upon the occasion of her completion of 20 years as the Official Stenographer of the New York State Senate;

On December 31, 1998, Ms.

Williman will retire as the Senate's Official Stenographer. Ms. Williman is a life-long resident of the Capital District, having graduated as class salutatorian from Altamont High School in 1940. While she hoped to use her love for science and mathematics in future endeavors, as is the case with many persons, her career path led in a different direction.

As a student at the Albany Stenotype Secretarial School from 1941 to 1944, Ms. Williman excelled at reporting and attained a 300-word-per-minute writing speed, exceptionally fast in this service.

Ms. Williman's skills were such that she was able to take on reporting jobs for General Electric and Winthrop Chemical while completing the requirements for school; and

Whereas, a reporting company owned by New York City attorney James Beasley hired Ms. Williman in 1942 and almost immediately assigned her to work under the direction of state Senator Arthur H. Wicks; Senator Wicks was chairman of the Senate Finance Committee at the time and was deeply

involved in the review of Governor Thomas Dewey's nominees for state positions and with the Governor's proposed restructuring of state government.

Ms. Williman reported the minutes of many hearings while under the direction of Senator Wicks. During the same period, Ms. Williman reported the minutes of numerous meetings and hearings regarding the creation of the State University of New York.

In 1947, Ms. Williman became the executive secretary and the office manager for the U.S. Army Reserve Officers' Associa tion of New York. In this capacity, she was the personal secretary to Brigadier General Wendell Westover, who later became the executive for Reserve and ROTC in the U.S. Defense Department.

In 1949, Ms. Williman embarked on a career as a free-lance shorthand reporter, a career which continues today and has resulted in Ms. Williman owning and operating her own court reporting business.

Whereas, Ms. Williman has provided court reporting service to many

public and private entities statewide. One of her more notable jobs in the early part of years of her independent business was the reporting of hearings regarding applications by large and small municipalities for water supply grants; in fact, she became so much a fixture in these hearings that she was proposed for and was accepted for membership in the American Water Works Association and was awarded, a few years ago, a 30-year lifetime membership.

One of the more visible jobs that Ms. Williman reported for was the Organized Crime Trials and related hearings, especially as related to the Appalachian Crime Summit in 1957.

In 1958, Ms. Williman became Official Reporter with the New York State Supreme Court, Third Judicial District, a position that she held until 1964 when she resigned to devote full-time to her independent business; and

Whereas, elected to be the Official Stenographer of the New York State Senate in 1979, upon the recommendation of

then-Temporary President Warren M. Anderson, Ms. Williman embarked on a 20-year journey of reporting the minutes of the proceedings in the Senate chamber and of Senate hearings across the state.

Subsequent to her election to the Official Stenographer position in 1979, Ms. Williman has been elected to nine additional consecutive two-year terms.

As the Senate's Official Stenographer, she has reported on many momentous events that have been debated in the Senate chamber and has recorded the debates on all of the thousands of bills that have been considered by the Senate during the past two decades, many of which became the law of the state.

Keeping pace with the evolving technology of court reporting, Ms. Williman upgraded her reporting equipment regularly and in 1995 began supplying to the Senate the minutes of the Senate chamber proceedings in electronic format so that the transcripts could be made available to Senate offices via the computer network; and

Whereas, in addition to the service provided to the Senate as Official Stenographer, Ms. Williman has performed reporting services for, to name a few, the Department of Transportation, Public Employees Relations Board, State Insurance Department, Department of Environmental Conservation, Department of Law, Department of Mental Hygiene, the Office of General Services, and the Adirondack Park Agency.

Membership in the National Court Reporters' Association of the New York State Court Reporters' Association has given Ms. Williman an opportunity to actively promote the court reporting profession. She has been an active and vocal advocate of preserving and continuing the court reporting profession.

Ms. Williman takes great pride in the fact that she has trained over 75 court reporters who have gone on to hold responsible reporting positions from New Hampshire to Texas and Washington, D. C. to Montana; and

Whereas, the list of notables for whom she has recorded their statements

seems to be endless, but naming a few would include President Harry Truman, United Nations Secretary General Dag Hammarskjold, New York Yankee pitcher,"Lefty" Gomez and all Governors of the state since Thomas Dewey.

Ms. Williman, by her own estimate, has traveled over five million miles while carrying out the tasks of the thousands of large and small reporting jobs that she has completed.

Court reporting duties have enveloped Ms. Williman for well over 55 years, but she has had time for other activities. She has been an active community member of the Hill Towns of Albany County, been a member of the Second Reformed Church of Berne; Kiwanis Club of the Helderbergs, past president; the Business Council of New York State; Albany County Farm Bureau and other various civic and community organizations.

Hobbies include golf, gardening, snowmobiling, walking, music, reading, the New York Yankees and the Green Bay Packers; and

Whereas, it is the desire of

this legislative body to give recognition and thanks to someone who has faithfully served to assure that the proceedings in this chamber have been accurately recorded during the past 20 years; now, therefore, be it

Resolved that this legislative body pause in its deliberations to commend Pauline Williman upon the occasion of her retirement after two decades of dedicated service as the Official Stenographer of the New York State Senate; and be it further

Resolved that a copy of this resolution, suitably engrossed, be transmitted to Pauline Williman.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President and colleagues, we have just heard a remarkable dissertation on the life of one individual, and I am honored to stand here and say to Pauline and to say to you, Pauline, on behalf of my colleagues and myself, thank you. Thank you, thank you, thank you.

Pauline is here in this chamber longer than any individual. When we're working and have worked hour after hour, after

hour, I don't know about you, but I have been amazed that Pauline would sit there and do her job with such professionalism, with such efficiency; and when many of us mumble and grumble and get into exchanges, Pauline gets every word, every hesitation. And if you hiccup, it will be recorded as part of what you have been saying.

Now, if anyone doesn't recognize the talent, the art form that is represented in doing an outstanding, excellent job, then they ought to just take a look at what Pauline Williman does on behalf of this Legislature.

I've known Pauline for I don't know how many years. I believe we first met when I was on staff with Speaker Perry Duryea, when I was one of the high-paid staff people and doing better than I'm presently doing, let me say.

(Laughter)

But, Pauline, you know that times change and everything changes and eventually, we catch up. But I really want to congratulate you. You have a lot of years in

front of you to do the kinds of things that you'll see fit to do with your life, but I want to congratulate you, not really just for the excellence that you've demonstrated here with us on our behalf, but for the example that you are for people in this state as an entrepreneurial woman who has been an employer of hundreds of people in Upstate and throughout this state who really exemplifies what the spirit here in America is all about, about a person who does something and does it in such an outstanding way that she is head and shoulders above anyone else in her field; and there aren't too many people that should be or can be as proud as you should be about the work that you have done, about the example that you have set, about the leadership that you have exemplified for your employees, for people here in this chamber.

And I will challenge anyone here to try and live up to the standard that Pauline has set for us in terms of diligence, attention, responsiveness, and just doing what is right in such a talented and outstanding way.

So, on behalf of everyone here, Pauline, and from the bottom of our hearts, let us just say a heartfelt thank you very, very much for being here with us. And I would ask, Madam President, that we accept and adopt this resolution and that my colleagues join me in a standing ovation to Pauline Williman.

(Applause and standing ovation.)

THE PRESIDENT: Senator Cook.

SENATOR COOK: Not to be anticlimactic to that great presentation by Senator Bruno and the applause that Pauline received -- and I want to wait for a second.

Pauline was, at one point in my life, a constituent and I simply want to rise and recognize her in that capacity, not as my constituent, but as a leader in the town of Knox where her ability through the years has been something that has been a great service to all of her neighbors and friends. There really are very few towns in this state who have a resident who is as knowledgeable about such a broad range of public law and public policy as is Pauline because of all the things

in which she's been involved through the years and she's made that available to the people in her community and she's been a real leader.

Time after time when community issues have come to the surface, it's been Pauline who's been there, provided the expertise and the background for her neighbors who've been dealing with some issue of public policy in the town of Knox.

So totally aside from the fact that she's been a very, very warm and close and valuable and dear friend for these 25 years, aside from that, Pauline, we do congratulate you, in fact, for all of the service you've been to your neighbors. Thank you.

THE PRESIDENT: Thank you.

Would anyone else care to speak on the resolution?

Senator Paterson.

SENATOR PATERSON: Thank you, Madam President. On behalf of Senator Connor, we would like to thank Pauline for her years of service and her tireless devotion, particularly some of the occasions that we

went from one day right into the other, continually talking and engaging in diatribe in this chamber. And I sometimes wonder how many of you in the front of the room are able to put up with it, but it is in thanking you that we really thank all of the staff here for their work and devotion to allowing us to perform the functions of our duties here as Senators.

But in this specific case, Senator Stachowski reminded me to let you know, Pauline, that if any of us was ever doing 65 to 70 miles an hour on the Thruway, that we always knew that the radar gun would get you and not us and that we did appreciate you for that, as well as the tremendous work that you've done.

You'll certainly be missed. You certainly already are appreciated; and again, as much as we reward people for doing their jobs, what we probably don't do is to recognize people that do their jobs so effectively as the Majority Leader pointed out; and in this kind of small way -- and it's not a difficult thing to get up and to thank

people for their work, but to let you know that the spirit of what we're saying will be remembered and will be discussed long after you've left the chamber.

So, congratulations and best wishes.

THE PRESIDENT: Thank you.

Senator Smith.

SENATOR SMITH: Thank you, Madam President.

On behalf of the women of this chamber, I would like to say to Pauline that she has truly been a role model for all of us. And she has been there with a kind word when many of us needed it and when we felt a little depressed; but I also want to commend her for her love of her family and the time that she spends with her nieces, nephews and all that she gives to everybody because she is truly going to be missed by all of us. And the one thing that we most wish that she had missed was some of the things that we've said in this chamber.

THE PRESIDENT: Thank you.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I think all has been said that should be said, but I want to just make one observation, Pauline. Senator Bruno mentioned that you've raised the standard of stenographic reporting for everybody in that field and the observation that I'd like to make, you are the only one in this state that could possibly have drawn five T.V. cameras, all the photographers and a gallery full of people to honor you today on this special day.

(Applause.)

THE PRESIDENT: The question is on the resolution. All in favor, please signify by saying aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President-- I'm sorry, Senator Farley, do you have some comment to make?

SENATOR FARLEY: Yes. Was the resolution open to everyone?

SENATOR BRUNO: That resolution hopefully will be joined by the entire Senate. If anyone feels otherwise, you can approach the desk. But thank you, Senator Farley.

Madam President, can we at this time ask for an immediate meeting of the Rules Committee in Room 332, and I would ask my colleagues just be patient for a few minutes, I don't think we will be more than five or ten minutes with a Rules Committee report, which we will then address.

THE PRESIDENT: There will be an immediate meeting of the Rules Committee in Room 332, and the Senate will stand at ease.

(The Senate stood at ease from 1:35 p.m. to 1:47 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: The house will come back to order, please.

SENATOR SKELOS: Can we return to reports of standing committees? I believe there's a report of the Rules Committee at the desk; I ask it be read.

ACTING PRESIDENT KUHL:

Secretary will read the report of the Rules Committee.

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

7855-A, by Senator Volker, an act to amend the Vehicle and Traffic Law and Chapter 383 of the Laws of 1998;

7859-B, by Senator Volker, an act to amend a chapter of the Laws of 1998;

7866-A, by Senator Larkin, an act to amend Chapter 464 of the Laws of 1998;

7867, by Senator Liebell, an act to amend the Private Housing Finance Law;

7868-B, by Senator Velella, an act to amend the Insurance Law;

7870, by Senator Saland, an act to amend the Social Services Law and the Family Court Act; and

7871, by the Senate Committee on Rules, an act to extend the period for filing applications for the school tax relief exemption.

All bills ordered direct for third reading.

ACTING PRESIDENT KUHL:

Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

ACTING PRESIDENT KUHL: All in favor of accepting the report of the Rules Committee, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

SENATOR SKELOS: Mr. President, there will be an immediate conference of the Majority in the Majority Conference Room, and Senator Bruno indicates that we should be back in about 20 minutes.

ACTING PRESIDENT KUHL: Immediate conference of the Majority in Room 332. Room 332.

SENATOR SKELOS: Please recognize Senator Mendez.

SENATOR MENDEZ: Thank you, Mr. President. There will be a Democratic Conference in Room 314 right after.

ACTING PRESIDENT KUHL: And an immediate Minority Conference in Room 314.

Majority in 332, Minority in 313. See you in 20 minutes.

SENATOR SKELOS: Stand at ease.

ACTING PRESIDENT KUHL: The Senate stands at ease.

(The Senate stood at ease from 1:50 p.m. to 2:58 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order. Members will take their place. Staff will find their place.

The Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, can we take up the non-controversial reading of the Rules report?

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 1668, by Senator Volker, Senate Print 7855-A, an act to amend the Vehicle and Traffic Law and Chapter 383 of the Laws of 1998.

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

THE SECRETARY: Section 3. This act shall take effect on the same date and be subject to the same provisions as Chapter 383 of the Laws of 1998c.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1669, by Senator Volker, Senate Print 7859-B, an act to amend a chapter of the Laws of 1998 amending the Penal Law.

ACTING PRESIDENT KUHL: The 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.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The

bill is passed.

THE SECRETARY: Calendar Number 1671, by Senator Liebell, Senate Print 7867, an act to amend the Private Housing Finance Law, in relation to increasing the amount of the bond and note authorization.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1672, by Senator Velella, Senate Print 7868-B, an act to amend the Insurance Law, in relation to domestic life, property/casualty, reciprocal, mortgage guaranty, cooperative property/casualty and financial guaranty.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar 1672.

All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

Message is accepted.

SENATOR LEICHTER: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1674, by Senator Saland, Senate Print 7870, an act to amend the Social Services Law and the Family Court Act, in relation to reasonable efforts.

SENATOR DOLLINGER: Lay it

aside.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar 1674, which is at the desk. All in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT KUHL: The bill is laid aside.

THE SECRETARY: Calendar 1675, by the Senate Committee on Rules, Senate Print 7871, an act to extend the period for filing applications.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to except the message of necessity on Calendar 1675, which is at the desk. All those in favor, signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The bill is before the house. The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The

bill is passed.

Senator Oppenheimer, why do you rise?

SENATOR OPPENHEIMER: I was just going to question, did you read 1670?

ACTING PRESIDENT KUHL: No, we did not.

SENATOR OPPENHEIMER: Thank you.

ACTING PRESIDENT KUHL: Senator Bruno, that completes the non-controversial reading of the Rules report calendar.

SENATOR BRUNO: Mr. President, can we at this time have the controversial reading of the Rules report?

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1672, by Senator Velella, Senate Print 7868-B, an act to amend the Insurance Law.

SENATOR BRUNO: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

SENATOR BRUNO: Can we at this

time call up Calendar Number 1674?

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1674, by Senator Saland, Senate Print 7870, an act to amend the Social Services Law and the Family Court Act.

ACTING PRESIDENT KUHL: Senator Saland, an explanation of Calendar 1674 has been requested by Senator Dollinger.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this bill is a Governor's program bill. It is an effort on the part of the Governor and this body to conform with the federally adopted legislation; the legislation was adopted in November of '97, the Adoption and the Safe Families Act.

Basically what this bill attempts to do, proposing to do, is to elevate to the paramount consideration the health and safety of a child, whether it be in terms of adoption,

whether it be in terms of foster care or

whether it be in terms of child protective services.

And while previously the standard in the state of New York which was of paramount concern was the reunification of a family, in order to comply with the federal law and failure to comply, which will result in the loss of some 650-plus million dollars, but in order to comply with the federal law, we have to adopt again, as our paramount standard, the safety and health of a child.

And that is not to say that we divorce ourselves from the importance of reunifications of families, but in those cases where it is determined that the health -- I'm sorry, that the safety and well-being of a child requires either a termination of parental rights or whether it requires some intervention on the part of child protective, that, in fact, the reunification of the family will, in fact, have to take a back seat.

There are a number of changes that are contained in this legislation. What we do, among other things, is require that if a child is in foster care

for 15 out of 22 months,
we permit, as the federal law requires, that a termination of parental rights petition may be filed.

We require, in addition, that there be some new grounds for termination of parental rights; we define among them aggravated circumstances, which includes certain enumerated crimes or classifications of crimes. We also provide some additional categories which would provide grounds for termination. There would be criminal background checks for prospective foster and adoptive parents.

And, again, the essence of this bill, which is a bill which we must not fail to comply with simply if, for no other reason, aside from the changes in policy that will be dictated by this bill, but for the fiscal impact on the state of New York, as I said earlier, in excess of some 650 million dollars, but the essence of this bill is about children, the protection of children, and clearly adhering to the federal mandate to make of the paramount policy consideration by

this state and 49 others the safety and well-being of a child.

ACTING PRESIDENT KUHL: Is that explanation satisfactory, Senator Dollinger?

SENATOR DOLLINGER: Mr. Chairman, I don't know whether there are any other members from this side who had questions, but I had a couple for Senator Saland, if he would yield to a couple questions.

ACTING PRESIDENT KUHL: Senator Saland, do you yield to a question from Senator Dollinger?

THE SECRETARY: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: This is a bill that I hadn't seen until today, so some of these may be simple prefatory questions. For example, on page 4, there are a list of aggravated circumstances which would allow a court, in the absence of any other finding, to disqualify or remove from the parent a child. Aggravated circumstances would give, as I

understand this bill, Senator, would give the courts the ability to remove the child or terminate the parental rights upon a finding of any one of these violations, is that correct?

SENATOR SALAND: The - what the essence of the aggravated circumstances goes to -- and you have a list of some very severe crimes -- is that there would no longer be a requirement that you make a reasonable effort to reunify the family.

SENATOR DOLLINGER: Again, through you, Mr. President, if Senator Saland will continue to yield.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: I appreciate that explanation. As I've often asked in other bills we have done, that bill includes criminal solicitation as defined in

Article 100 of the Penal Law, does that include criminal solicitation that may only be a violation, therefore, we'd simply issue an appearance ticket to the parent on that issue and yet that would be sufficient a finding that there was a violation,
they were guilty of a violation, not a crime, but just a violation, would that be sufficient to constitute aggravated circumstances?

SENATOR SALAND: I think if you read a bit further and look at the language in line 19, it talks in terms of soliciting or facilitating any of the foregoing crimes. So I would think by definition, we are limiting ourselves to crimes and it would not apply to a violation, in as much as a violation is not a crime. It would apply to misdemeanors, would apply to felonies.

SENATOR DOLLINGER: Again, through you, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR SALAND: And again, I would just -- for purposes of responding yet

further, what this is part of the federal requirement.

SENATOR DOLLINGER: Okay.

ACTING PRESIDENT KUHL: Senator Dollinger, the chamber appeared to be a little noisy; I was trying to get a little control here so we could have the adherence of your discussion.

SENATOR DOLLINGER: I appreciate that, Mr. President.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: The specific crimes that are listed here, solicitation, facilitation and conspiracy, all are derivative violations, they are violations in which the individual who's charged has not necessarily committed the crime they have taken an overt act, either in the solicitation of the crime, or the facilitation of the crime, they are not actually engaged in the

underlying crime itself.

My question is, Mr. President, is that required by federal law that it go that far, all the way to facilitation and conspiracy and solicitation?

SENATOR SALAND: Attempt, conspiracy and solicitation are expressly in the federal mandate.

SENATOR DOLLINGER: Okay. Again, through you, Mr. President.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: Just let me make sure I understand. If a parent is found guilty of a violation, which I believe the sixth degree of criminal solicitation is defined in Article 100 of the Penal Law as a violation, simple violation, no jail time, minor fine, minor violation of the law, not

even a misdemeanor, not even a crime under New York law, if they are found guilty of one of those as defined in Article 100, solicitation, there's a chance that their parental rights could be cut off by a court upon that finding.

SENATOR SALAND: The solicitation -- and unfortunately I don't have the Penal Law in front of me -- relates back to each of the enumerated crimes, so if somebody attempts -- conspires, solicits or facilitates or attempts to do so with respect to murder in the second degree, manslaughter in the first degree, manslaughter in the second degree and so on, through all those enumerated crimes, yes, under this bill and pursuant to what has been required of us by way of the federal mandate, that person is -- stands to find themselves at great risk.

SENATOR DOLLINGER: Okay. Again, through you, Mr. President, just to use another example, suppose a child is killed in a gun accident and there's a finding of criminal manslaughter against someone who was playing with a gun involving another child and

yet it was the parent who made the gun available to the child, there might be an instance in which they had facilitated the crime of manslaughter. Under those circumstances, would the parents, finding that they had facilitated this terribly regrettable act for which there is some criminal liability, would that be sufficient to disqualify the parent from terminating their parental rights?

SENATOR SALAND: The language at the beginning of that paragraph beginning at line 8 says the parent of such child has been convicted. So, again, had the parent been convicted, yes, the situation which you describe would occur. Had the parent, for some reason or other, been guilty of some act of omission for which there were no criminal charges, the answer would assumedly be no.

SENATOR DOLLINGER: Okay. Again, through you Mr. President.

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

SENATOR SALAND: Yes, Mr.

President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: I understand that explanation; I'm not quite sure I read it that way, but I'll address that in my remarks.

Let me call your attention to the sections that allow the termination of parental rights as contained in subdivision 6 which is on page 5. My question here is, this says that if there is evidence that a child has been abandoned, then you may terminate parental rights. What happens to the parent's child support obligation when that happens?

SENATOR SALAND: The section to which you're referring is foster care review -

SENATOR DOLLINGER: Right, but -

THE SECRETARY: Not termination, this is foster care review.

SENATOR DOLLINGER: But my question is, what happens if a parent's rights

are terminated and that parent is paying child support on behalf of the child? It would seem to me that you can't be forced to pay child support for a child that you no longer have any parental rights over.

SENATOR SALAND: Under the existing federal law, if you remain in foster care, nowithstanding the fact that there has been a termination, you remain obligated for support payments until the child has been adopted.

SENATOR DOLLINGER: Is that again, through you, Mr. President.

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

SENATOR SALAND: Yes, Mr. President.

SENATOR DOLLINGER: Is that true as a matter of state law or federal law?

SENATOR SALAND: Federal law.

SENATOR DOLLINGER: I guess I find that intriguing, but I'll certainly accept that.

One final question, and again, Senator Saland, I can't -- I just read this very quickly, as quickly as I could. Are there any additional appropriations in this bill that go directly to family courts in this state because of the enormous mandate that we're now presenting them with for the very complicated adjudications that are necessary to reach the complicated, difficult, trying decisions that this bill requires to terminate parental rights? Are we going to give them any family court judges, are we going to create any more personnel, are we going to allow more social services money for reports and investigations that are at the heart of this bill?

SENATOR SALAND: The reviews that are required under this bill remain substantially the same other than the new responsibility for a 30-day hearing where there are issues of compelling circumstances.

Assumedly, if there is a need to provide additional dollars, we certainly can address this in as much as it is not effective until the beginning of the next

year. We certainly should be able to address that in the course of the adoption of the '99-2000 budget.

SENATOR DOLLINGER:

Finally, Mr. President, if I could, just one final question, Senator Saland, and I respect your opinion on this because I know you've done so much work in family support and in family issues. Are you convinced that there is evidence in this state that our current policy favoring parental rights and favoring the recreation and re-establishment of families has been ineffective sufficient to justify us to change that policy and adopt this federally- mandated system from Washington that this is the right thing to do in Albany and Syracuse and Schenectady? I mean, is it right for us to take a federal mandate?

I know, Senator Saland, that it comes with that lure of money attached to it, but has our system worked so poorly that we should buy the federal solution devised in Washington to replace our judgment on this issue of parental involvement in families?

SENATOR SALAND: Well, I must share with you my sense that I generally do not like the idea of having one-size-fits-all solutions imposed upon us by people who profess enormous wisdom in Washington. Nonetheless, we find ourselves, along with 49 other states, in a situation in which if we fail to comply -- we don't have to comply, but if we don't comply, we're going to lose 650-plus million dollars in Title IV(e) money.

The reality is that children do languish far too long in foster care; there is much evidence of that. This is an effort to try and move children out of foster care into more permanent settings much more rapidly; and there is also evidence and certainly there has been, either anecdotally or by way of reports in major media when it comes to questions of child protection, reports of very horrible incidents having occurred because of giving primacy to family reunification and not to the safety of a child.

I would have welcomed the

opportunity to get us here in some similar fashion, maybe not necessarily in the exact same fashion, and have done it as state policy without this -- certainly not a carrot, it's a stick being used on us by the federal government that certainly is a very critical and added impetus that is going to require us to do this.

SENATOR DOLLINGER: Thank you very much, Mr. President. I greatly appreciate that Senator Saland -- and let me just address the bill quickly and give you my sense of it.

I think you properly characterize this, Senator Saland, as this is a partially-funded mandate from Washington. I can't believe that the Congress in Washington which is so convinced that we ought to have 50 states experimenting has now given us this partially-funded mandate.

Why do I say partially-funded? Senator Saland is correct, there's a 650 million dollar lure to this, but I think the cost of doing this to our family courts is going to be

substantially greater than that. We're going to need additional judges. I know in my own home county, and Senator Nozzolio and Senator Alesi and I have been working on putting a sixth family court judge to work in Monroe County. I know there are other counties that need county court judges in Upstate to handle the enormous number of petitions that are filed currently. It's only going to expand here.

This sets a rubric for terminating parental rights that's going to have to be rigorously followed by our courts which is going to consume more resources. This is a partially-funded mandate, and I'm concerned, Senator Saland, because I know as you do that there is episodic evidence that we put kids in foster care too long and that too often they get lost in that system and we don't, in many cases, terminate those parental rights quickly enough and we end up with a situation where parents are attempting to get control back over their child long after they've abandoned them and it aggravates the tensions faced by our family courts and by our

whole family support system.
But, I'm not willing to suggest that this solution devised in Washington is the right thing to do in New York.
This is contrary to what I thought Washington would tell us, which is to give us the money, set some targets and goals and then let us figure out how to reach them and figure out how to get there.
It seems to me it's inconsistent for this Congress in Washington to claim that they favor states' rights and they want to increase the laboratory experimentation on critical issues like this and yet here they are telling us that we have to follow these rules.
I'm concerned, Senator, because I was hoping you would give this a strong endorsement as the solution to the problem in New York and what I heard you say was it may be a solution, but we don't have enough evidence in this state to make a judgment that it will solve our problem.
And with that, even though -- even though it has the lure of 650 million

dollars attached to it, and even though it may have the appearance of solving this problem, I don't think that this bill does necessarily provide the solution for New York. And, with all due respect, I'm going to vote against this bill because I think there are other serious problems with it.

But if this is the way we're going to deal with Washington and have Washington tell us how to solve our problems, I'm not convinced that the people in Washington have the sensitivity that you have, Senator Saland, to this problem in this state and I would feel much better if you had stood up and said we've come up to a solution, we've held the hearings, we've got a better idea of how to solve it.

If Washington's approach is to give us this cash lure that's going to force us all to conform with their vision of how to solve the problems of families and children, I think we're making a huge mistake.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: If I can ask a question of Senator Saland.

ACTING PRESIDENT KUHL: Senator Saland, do you yield to a question from Senator Oppenheimer?

THE SECRETARY: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR OPPENHEIMER: This bill that we're dealing with today is a Governor's program bill, is it not?

SENATOR SALAND: Yes, it is, Senator.

SENATOR OPPENHEIMER: But this is not a bill that will be or has been before the Assembly, is it?

SENATOR SALAND: This bill has not been approved by the Assembly; and as I respond to you here today, there is no three-way agreement with respect to this particular subject.

SENATOR OPPENHEIMER: So then we may look forward to another bill and perhaps that other bill can address some of

the concerns that I know I have been hearing from the New York Bar Association, which principally are concerns about the children being moved too swiftly through the system, not enough attention being given to the children, and I think these are things that we might be able to discuss further when the two bills are brought together; yes?

SENATOR SALAND: I would certainly welcome that sort of finality, keeping in mind that the clock is ticking, that our deadline is December 31st, and it's probably worth noting that the only memo I'm currently aware of that I have received with respect to this bill has been by the city of New York and that has been in favor, or in support of this bill.

SENATOR OPPENHEIMER: Uh-huh. I -

SENATOR SALAND: Counsel just advises me we have one other and that's from PWA.

SENATOR OPPENHEIMER: I today shipped down the -- faxed down the bill

to the New York bar -- City Bar Association, they wanted to see the bill. So I think we'll be hearing from them within a day or two. But thank you very much, Senator.

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

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If Senator Saland will yield.

ACTING PRESIDENT KUHL: Senator Saland, will you yield to Senator Paterson?

SENATOR SALAND: Certainly, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Thank you, Senator.

Theoretically -- not even theoretically but perhaps more specifically, this -- the federal legislation which contains within it the lure of $650 million which Senator Dollinger was referring to earlier does contain the opting out provision whereby we would not necessarily have to include some

of the criminal history checks and some of the specifics that this legislation contains.

Is that true, Senator?

SENATOR SALAND: As I indicated in my earlier remarks, Senator, while our bill complies with federal requirement provisions and you correctly point out the federal requirement, we would be able to opt out of that determination. The determination has been made both by the Governor and his relevant staff and the Majority in this house and myself included as the Chairperson of the Senate Children and Families Committee, that we wish to avail ourselves of the opportunity of having that fingerprinting mechanism as part of the process.

SENATOR PATERSON: Thank you.

If the Senator would continue to yield.

ACTING PRESIDENT KUHL: Will the Senator continue to yield?

SENATOR SALAND: Yes, Mr. President.

SENATOR PATERSON: Therefore, I guess, Senator, what you're saying is that the

federal government has set a threshold and in this case because we feel there might be some issues that have not been addressed by Washington, we would go beyond that threshold into a couple of these areas.

I want to just ask you a couple questions about those areas, but before I even go to that, the federal legislation itself talks about -

ACTING PRESIDENT KUHL: Senator Paterson. Senator Paterson, if I might interrupt you. I know it's getting very difficult for me to hear and if it's difficult for me to hear you, it's certainly difficult for the people trying to record your question and in your debate with Senator Saland. I don't have any idea whether Senator Saland can hear you, quite frankly, so if I could ask the members, please, if you need to have a conversation with your staff, please ask your staff to go outside and have a conversation. If you need to have a conversation with another member, please take it outside so we may proceed so some of us can get home to do some Christmas shopping.

Now, with that, please, Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President, Senator Saland, for your willingness to yield for this question.

I'm asking you with respect to some of the aggravated circumstances that would diminish the obligation of the court to accomplish a unification between the parents and the children and also in some cases that might actually terminate parental rights.

One of the aggravated circumstances that the federal legislation addresses is the issue of domestic violence or certainly of spousal abuse and my question to you is since there's no law that actually defines that, how are we supposed to interpret from the federal law what spousal abuse or what child abuse or some type of domestic violence actually is?

SENATOR SALAND: We have had meetings with DCJS and they have effectively compiled a list of all of the specifically enumerated categories of crime to which these types of crimes such as spousal abuse crimes

or child abuse crimes would be applicable.

SENATOR PATERSON: A final question, if the Senator would continue to yield.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: Senator, is there any distinction between the procedures in which an adoption would be procured either through the private agencies or through the foster care system?

SENATOR SALAND: Regrettably, Senator, I didn't hear your question in its entirety. Could I ask you to please repeat it.

SENATOR PATERSON: Certainly, Senator. Is there any distinction between the procedures by which an adoption would be procured either through the private agency or through the foster care system or any of the procedures that would be followed or the

regulations that this bill would establish, do they differ in any way based on the manner that the adoption is accomplished?

SENATOR SALAND: This isn't applicable to private adoptions. Private adoptions currently require fingerprinting. The fingerprinting is generic and it's within the discretion of the court to determine if there's a hit whether or not the parent is an appropriate adoptive parent.

SENATOR PATERSON: Criminal backgrounds, Senator -- if you'll continue to yield. Criminal backgrounds are the same or the record checks are the same whether the adoptions are private or through the foster care system?

SENATOR SALAND: No. The - the crimes which are deemed relevant are categorized in this legislation for foster care and for adoptions emanating from that foster care. Private adoptions are - currently require fingerprinting, criminal screening. They're not categorized. If anything they're broader but there's discretion within the judge to determine

whether or not that criminal record is relevant to the fitness of the parent to be an adoptive parent.

ACTING PRESIDENT KUHL: Senator Paterson?

SENATOR SALAND: The mandate applies to agency adoptions only.

SENATOR PATERSON: Senator, if you'd continue to yield.

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

(Senator Saland nods head.)

SENATOR PATERSON: Would it be fair to say that in private adoptions the judge has the discretionary power, whereas in the adoptions that are secured through the foster care system we would then be relying on the specific delineated circumstances set forth in the bill?

SENATOR SALAND: Yes, that comports with the federal mandate.

SENATOR PATERSON: Thank you.

Just one final question, Senator. In a situation involving Section 125 of the -- of the Criminal Code of the Penal

Law, and that being vehicular homicide in the second degree, in that situation, it only applies if a child is killed in the car crash, is that correct?

SENATOR SALAND: I believe it would be applicable -- if I read correctly on page 4, I believe it would be applicable to a child -- any other child of that parent or a half sibling as well.

SENATOR PATERSON: Then, Senator, if the prospective parent were willing to relinquish their driver's license, would that make them eligible where they otherwise would not be?

SENATOR SALAND: Not if there's been a conviction. I -- the parents' rights with respect to your question rise or fall on whether he or she has been convicted.

SENATOR PATERSON: Okay. Thank you, Senator.

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

THE SECRETARY: Section 50. This act shall take effect January 1, 1999.

ACTING PRESIDENT KUHL: Call

the roll.

(The Secretary called the roll.)

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

THE SECRETARY: Ayes 55, nays 3, Senators Dollinger, Leichter and Abate recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Abate, why do you rise?

SENATOR ABATE: Yes.

ACTING PRESIDENT KUHL: Senator Oppenheimer, do you wish to be recorded in the negative on this bill?

(Senator Oppenheimer nods head.)

THE SECRETARY: Ayes 54, nays 4. Also Senator Oppenheimer.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Abate, why do you rise?

SENATOR ABATE: Yes. I'm

voting in the negative on this bill and I want to explain my vote.

ACTING PRESIDENT KUHL: I suppose we can allow that to happen. I wish you had risen 30 seconds before.

SENATOR ABATE: I had my hand up.

ACTING PRESIDENT KUHL: Senator Abate to explain her vote.

SENATOR ABATE: Yes. I have a memo by the New York State Bar Association that raise some critical issues about the complexity of the bill, the impact the bill would have on the child welfare system and they had some very reasonable suggestions to get a three-month extension so we could have a public debate before the Judiciary, the child organizations, the legal community to have a public comment to look at the options available to make sure that not only we're in compliance with the federal laws, but that we also produce a system that benefits families and children throughout this state.

I do not believe that we've had sufficient debate today, opportunity for the

public review and for those reasons, I'm voting against the bill.

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

SENATOR MONTGOMERY: Yes, Mr. President.

I rise to vote no on this legislation and the reason being that I certainly understand Senator Saland's intent to put us in compliance, I guess you would say, with the federal law, but I do think there are some very major issues raised - being raised here in this in terms of what the bill will mean.

One in particular is there are larger and larger numbers of women who are being incarcerated for various reasons and obviously we want to make sure that in any instance where those women had been reunited successfully with their children, we don't want there to be any question that they can be, and I hope that we would be able to have more open debate and discussion on this bill. So I'm voting no for now.

Thanks.

ACTING PRESIDENT KUHL: Senator Montgomery will be recorded in the negative.

Is there any other Senator wishing to cast a negative vote?

(There was no response.)

The bill is before the house.

The Secretary will read the final results.

THE SECRETARY: Ayes 52, nays 6, Senators Abate, Dollinger, Leichter, Montgomery, Oppenheimer and Smith recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we call up Calendar Number 1672, please.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1672 on the Rules report.

THE SECRETARY: Calendar Number 1672, by Senator Velella, Senate Print 7868-B, an act to amend the Insurance Law.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Senator

Velella, an explanation has been requested.

SENATOR VELELLA: This is a chapter amendment to 7488-A which we passed during the regular session earlier this year. It expanded the types of derivative instruments that insurers may purchase to hedge upward or downward movement in the marketplace.

The bill makes several technical corrections to the new law to make it operate more effectively.

SENATOR LEICHTER: Will Senator Velella yield for a question or two?

ACTING PRESIDENT KUHL: Senator Velella, will you yield for a question?

SENATOR VELELLA: For a question, yes.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Okay. Senator, as I read the chapter -

SENATOR VELELLA: Could you speak up, Senator?

SENATOR LEICHTER: Yes, certainly. As I read the chapter amendment

contained in this bill, what it seems to do is somewhat limit the right and power of the Insurance Department to pass on these derivative proposals by insurance companies. As we've seen, these derivative investments can be extremely volatile, and I just wonder what the reason and purpose is of these limitations.

SENATOR VELELLA: Senator, it's my understanding -- and I just checked with counsel -- that, in fact, what this does is provide a mechanism for the Insurance Department to more closely scrutinize those investments, not to remove any powers from them to authorize it.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Senator, if you would continue to yield.

As I read it, this bill now imposes certain time limitation, states that if within a particular period of time the Insurance Department doesn't act on the application, the application will be approved. I read that to be a limitation on

the monitoring and the supervision by the Insurance Department.

SENATOR VELELLA: Well, Senator, like anything, it's a question of how you look at it, how you interpret it. Is the glass half full? Is the glass half empty? The fact that the Insurance Department's failure to act allows it to go through, I know that since we have had a new administration, the Insurance Department operates much more efficiently. They will act on these requests. It's not like the old Insurance Department that you knew. This is a new one.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Mr. President, I don't want to prolong this debate. Let me just briefly comment on the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: You know, Senator Velella, sometimes you can argue that

the glass is half full or half empty but when there's nothing in there, then it's all empty and the fact is that these derivatives, as you know, and as we've seen are extremely dangerous investments.

We've seen major banks lose hundreds of millions of dollars in assets in their ill-advised investment in derivatives. Now we're allowing insurance companies to invest in derivatives.

I voted against the main bill for that reason because I think it is such a dangerous type of investment but at the very least, if we're going to have these investments, if we're going to have some supervision by the Insurance Department, I wouldn't limit the time within which the Insurance Department has to act.

If you are right, Senator, and we have such an efficient Insurance Department -- I'm not saying that it isn't efficient - they'll act in due time, but it may well be that in some instances they would need more than the 45 days or whatever number of days that you permit in this chapter amendment for

them to review the application of an insurer to engage in derivatives.

It seems to me it's an ill advised bill.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives. Announce the results.

THE SECRETARY: Ayes 56, nays 2, Senators Dollinger and Leichter recorded in the negative.

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

SENATOR HOFFMANN: Mr. President, I was out of the chamber when the

vote was taken on 1674. I would -

ACTING PRESIDENT KUHL: Senator Hoffmann -- the bill is passed.

Senator Hoffmann, why do you rise?

SENATOR HOFFMANN: I'm sorry. Mr. President, when 1674 was taken up I was out of the chamber. I request unanimous consent to be recorded in negative on that bill.

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 1674.

Any other members wishing to make any adjustments to those?

(There was no response.)

Hearing none, Senator Bruno.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Can we at this

time take up Bill Number 1670.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1670, by Senator Larkin, Senate Print 7866-A, an act to amend Chapter 464 of the Laws of 1998.

SENATOR OPPENHEIMER: Explanation, please.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1670 which is at the desk. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(Response of "Nay".)

The message of necessity is accepted.

The bill is before the house.

Senator Larkin, an explanation has been requested of Calendar Number 1670 by Senator Oppenheimer.

SENATOR LARKIN: Mr. President.

ACTING PRESIDENT KUHL: Before the discussion, may I ask the members to

please take their chairs, the staff to take their places. Let's quiet the conversations down.

Senator Larkin.

SENATOR LARKIN: Mr. President, this bill is a chapter amendment for a project that was already approved by this body and the Assembly unanimously, the 18th of June in the Senate and the 19th of June, 1998 in the Assembly unanimously.

What this bill does, it enables the Dutchess County IDA to use $80 million of federal tax exempt bond volume cap to finance a recycling facility in Ulster County. The project will invest over $500 million, create 300 permanent jobs and 1,000 construction jobs.

This bill does not in any way, shape or form change the SEQR process. Nothing can be expended in this bill, none of this $80 million until the entire SEQR process has been totally completed and approved. Okay?

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

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

SENATOR OPPENHEIMER: I will have to disagree with my good colleague because I think this does a lot of damage to the SEQR process by turning the process on its head instead of having -- following the SEQR process and having an environmental impact statement done at the beginning of a project before any thought of financing that project is put out and bonds are floated. The process starts with an environmental impact. It doesn't start with floating bonds and then saying now let's look at the environmental impact. So I have to disagree with you in that I think it does a lot of damage by allowing bonds to be sold before the SEQR review.

This bill would actually redefine a government action calling it a non-action and it's hard to understand how a non-action could be utilized -- that word could be utilized in a project that will be

700 acres of waterfront in Kingston. It will take three million gallons of water a day out of the river, Hudson River, and then return to the Hudson River after the ink is removed from the news print and that will have, we believe, certainly some potentially serious consequences to the spawning areas of sturgeon and Atlantic shad and bass. We're not sure. We can't say this for certain but that's the purpose of the environmental impact statement, so that we find out if there will be any serious consequences.

I think we all would agree that SEQR has been enormously, enormously effective and in some ways it is our landmark conservation legislation that has been around for almost two decades and why -- why are we talking about circumventing it now? Why are we talking about turning it upside down, and I think the fundamental principle of a comprehensive environmental review at the outside -- at the outset, the very beginning of a project is something that we shouldn't do, and that is what this law would do, and so you would say, perhaps, Well, what it does it

matter? This is one instance and this is because we want to get the -- you know, the federal tax exempt bonds.

I would say that the reason we shouldn't do this is that it sets a very dangerous precedent, and I know many of us feel that there is no reason to sacrifice environmental quality for economic development even for a project that I'm sure we all would agree is a good project. We want to see newspaper recycled. We want to see this project going -- to go ahead, but the fact is this piece of money, this $80 million is a small piece of the total funding and the proposal -- as I understand it, the proposer has said that there are alternatives to this $80 million piece which we are to be voting on today.

So when all things are considered, I see a terrible potential precedent here. This would be the first and there would be others that would refer to it in future years. We don't want to damage SEQR. It has been the best environmental law that we have had.

So I'm urging a no vote.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Will the sponsor yield to two quick questions?

ACTING PRESIDENT KUHL: Senator Larkin, will you yield to two questions from Senator Dollinger?

SENATOR LARKIN: Yes, Mr. President.

SENATOR DOLLINGER: The first one, Senator, what happens if the bonds are sold and the project is never approved?

SENATOR LARKIN: Pardon me, Richard?

SENATOR DOLLINGER: Through you, Mr. President. What happens if the $80 million in bonds are sold and as a result of the SEQR process, either there are deficiencies and it's affecting, as Senator Oppenheimer pointed out, the striped bass or the water intake from the Hudson River, the watershed or environmental -- the air that -

SENATOR LARKIN: Is that a question, what happens to the bonds?

SENATOR DOLLINGER: What happens to the $80 million in bonds?

SENATOR LARKIN: Well, first of all, the 880 million would be held in escrow and after the environmental impact statement has gone through the entire process from A to Z, just as we said back in June when you voted for the bill, this would be refunded, the bonding would be refunded.

Richard, nothing can be spent on this in the process of the facility until every aspect of the environmental process - the SEQR process is the guiding light of this whole project. Without the approvals from A to Z, there is no project, period, and -

SENATOR DOLLINGER: Okay. Again just so I can clarify, Mr. President. If the bonds will be sold, they will be held in escrow for some period of time and then if the project eventually isn't approved, the bonds will be repaid, correct?

SENATOR LARKIN: Yes.

SENATOR DOLLINGER: Who's going to pay all the interest to the bondholders that accrues during the period of time it sits

in escrow?

SENATOR LARKIN: The partners of the project, they've already agreed to that in writing to both Ulster County and Dutchess County IDAs.

SENATOR DOLLINGER: Again through you, Mr. President.

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

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: I understand that in June we did approve a bill that would have allowed this project to get in under the cap. My question is why wasn't the SEQR process started then? It would be done now or close to being done now. We wouldn't be where we are today if the application had been filed, would we?

SENATOR LARKIN: Well, Richard, when they started this, they weren't totally sure of how long the process would take place. As my good friend and colleague,

Senator Saland, and I put together there was advisory groups and they were sitting down between the multiple -- both counties that were involved in it, the municipalities that had interest and all of the others. There were advisory boards put together so they could settle down and see where it was going. They started to realize at that time that this process, based on these initial evaluations between the numbers of members that were appointed to the board and their interest, that this process could take as high as 18 to 20 months. That would put them past 31 December, at which time the 80 million cap would float away. We couldn't roll it over. The fed's said no. It would be lost not only to this project but to the state of New York and next year when we applied for federal tax credit bonds, people could in Washington just say, Wait a minute, New York. You had $80 million last year and you didn't use it, why should we give you extra this year? There's no guarantee we could get that money next year. We would have to make an application and what is the project?

Richard, this project is, in essence, to be environmentally sound. If we believe in the SEQR process, as my good friend Senator Oppenheimer said, I don't want to violate the SEQR. I don't want to see us create anything that's not environmentally sound. I would not support any of this if anybody would say to me that we plan to circumvent the SEQR law. No way in Hades.

What we need to do is to make sure -- and this package that's set out here that creates a project worth $553 million, it has a -- it has 1,000 construction jobs, it has 375, but for me that's after the fact. The fact of the matter is once this is -- we would take -- should take positive action on this, then the SEQR process, based on all of the advisory groups, projects so far, would move forward but we're talking about 18 months.

Everybody that we've talked to said this project will take 18 months until you get all of your evaluations and then there's approvals which could extend a couple more months. So at that point you would see

the bonding move out -- not move out, be extended.

SENATOR DOLLINGER: Just through you, Mr. President, one more question to Senator Larkin's comment.

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

SENATOR LARKIN: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: Under federal law and under the federal cap, how quickly does the $80 million have to be spent? Is there any limitation on when it can be spent? I know it has to be approved before December 31st. Is there a limitation on when it has to be spent?

SENATOR LARKIN: For example, if we -- had we not had this process here and the SEQR would have been done, they could have done the bonds this year.

SENATOR DOLLINGER: But they could do that under the -

SENATOR LARKIN: But SEQR is not going to be done now. They can't do

anything with those bonds. They can sell them immediately upon receipt of total approved SEQR process. Not until they receive that can these bonds be valid for utilization in the project.

SENATOR DOLLINGER: Okay. Thank you very much, Mr. President.

I share the concerns of my colleague, Senator Oppenheimer, and I'll be very brief. There's some troubling allegations that have been made by opponents of this to me at least with respect to representations made by this company in the application process.

I would strongly suggest that any municipal agency or the IDAs in these counties take a good look at those. I offer no interpretation other than to say that there's some troubling allegations about whether they've properly represented themselves in the application. I leave that to someone else to resolve.

It seems to me the critical question here is whether our SEQR process should be bent, slightly bent in this case, to

achieve the goal of this project.

What I'm afraid we're doing, Senator Larkin, is you're putting a very, very, very big cart in front of a horse and what you're doing is you're saying we're going to fund this project. We're going to sell under the cap, put these bonds in place and somehow be convinced that the fact that we've already got the money isn't going to influence the decision we make about the environmental security of this project.

I would just point out as a private practice lawyer, I have been involved in a number of SEQR cases. They are very long. They can oftentimes be very contentious and in many cases you don't know the outcome of the SEQR process because of the determination of the various environmental variables until you get to the end of the process and you're actually looking for those governmental approvals both from the state and local municipalities that are necessary to operate this facility.

I would just suggest that we're putting the financial cart before the SEQR

horse and that's a bad idea. It would set a terrible precedent in New York and somehow suggest that there is a category of projects which are so large, so important -- I won't minimize the importance of this as an economic development tool but somehow we're going to create a big project exception and the exception we're going to create is Go ahead. Put the cart of financing ahead of the horse of SEQR process and I would submit that that's going to take a process we should all be justifiably proud of, the SEQR process of determining variables, making them a part of our decision-making, something that I know, Senator Larkin, I think you've have supported throughout your history here, a time tested process for making sure that our environment for which we may forever change in the Hudson River Valley if we build this project, that that environment is taken into account when we make this terribly important decision.

I would just submit when we put the cart before the horse, we're creating a terrible precedent in this state and we're carving out a big project exception to the

SEQR laws that in the long run will treat us very, very poorly.

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

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

SENATOR SALAND: Mr. President, on the bill. On the bill. I would ask that the roll call be withdrawn.

ACTING PRESIDENT KUHL: Senator Saland, on the bill.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I rise in opposition to this bill. Certainly as Senator Larkin has indicated, our efforts initially earlier this year were cooperative and I can say nothing but kind things about Senator Larkin, a dear friend and colleague for a number of years, but this is -- issue has certainly galvanized considerable response in my Senate District, particularly in the northern Dutchess portion of my Senate District and much of it seems to center on what many would consider to be a precedent -

a dangerous precedent, an effort to get around the so-called Queensbury case, a case which was decided by the Court of Appeals back in 1982 and the concerns are that if we initiate the type of action that's being requested here and we compromise SEQR, what will be next, what other exception will be required to facilitate some other worthy project or perhaps not so worthy project.

The reality is that the SEQR law certainly has stood us well. For those who might be concerned about SEQR, certainly the form within which to deal with those issues would certainly be far broader than this attempted exception to SEQR and attempting to carve out an exception to the Queensbury case. I have a number of municipalities in my district, the Northern Dutchess Alliance, a number of environmental groups who have been vehemently outspoken in their opposition to this proposal, and I certainly think that under the circumstances we would be ill-advised to proceed with this bill at this time.

Thank you, Mr. President.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1670 are Senators Abate, Breslin, Connor, Dollinger, Gentile, Kruger, Lachman, LaValle, Leibell, Leichter, Markowitz, Montgomery, Nanula, Onorato, Oppenheimer, Padavan, Paterson, Rosado, Saland, Sampson, Santiago, Seabrook, Smith, Stachowski, Stavisky. Ayes 34, nays 25. Also Senator Hoffmann. Ayes 33, nays 26.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the controversial reading of the Rules report.

SENATOR BRUNO: Mr. President, can we return to the report of the Finance Committee, and I believe that there is a report of the Finance Committee at the desk.

ACTING PRESIDENT KUHL: Return to the order of standing committees, the Secretary will read the report of the Finance Committee.

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

Member of the Buffalo and Fort Erie Public Bridge Authority-(Peace Bridge): Louis J. Billittier, of Hamburg.

SENATOR STAFFORD: Move the nomination, please. Do them all. Yeah, do them all.

THE SECRETARY: As a member of the Board of Oswego Authority: Frank E. Sayer, of Oswego and William F. Shannon, of Oswego;

Commissioner of the Ohio River Valley Water Sanitation Commission: Douglas E. Conroe, of Maple Springs;

Members of the Thousand Islands

State Park, Recreation and Historic Preservation Commission: Judith J. Foster, of Clayton and Sam F. Villanti, of Grieg;

Director of the Municipal Assistance Corporation for the city of New York: Ann Daly Printon, of New York City;

Member of the Mental Health Services Council: Patricia H. Ogden, of White Plains;

Members of the Board of Visitors of the Bronx Psychiatric Center: Richard Somer, of the Bronx;

Member of the Board of Visitors of the Bronx Children's Psychiatric Center: John T. Shea, of City Island;

Member of the Board of Visitors of the Hudson River Psychiatric Center: Diana T. Andros, of Poughkeepsie;

Member of the Board of Visitors of the Letchworth Village Developmental Disabilities Services Office: Ann Nehrbauer, of Hastings-on-Hudson;

Member of the Board of Visitors of the New York State Home for Veterans and their Dependents at Oxford: Mary Smack, of

Binghamton;

Member of the Board of Visitors of the St. Lawrence Psychiatric Center: Clinton R. Matott, of Potsdam;

Member of the Board of Visitors of the Staten Island Developmental Disabilities Services Office: Robert McCarren, of Staten Island;

Member of the Board of Visitors of the Western New York Children's Psychiatric Center: Ramon P. Perez, of Eden; and

Member of the Board of Visitors of the Western New York Developmental Disabilities Services Office: Ernest D. McPeek, of South Dayton.

ACTING PRESIDENT KUHL: Is there any member wishing to speak to any of the nominations?

(There was no response.)

Hearing none, the question is on the nominations before the house. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominees are confirmed.

(Pause)

ACTING PRESIDENT KUHL: The Senate will come to order.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time ask for an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee in the Majority Conference Room, an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332, and the Senate will stand at ease.

(Whereupon, the Senate stood at ease from 4:19 p.m. until 4:40 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order.

Senator Skelos.

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

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills directly for third reading:

Senate Print 7869, by the Committee on Rules, an act to amend the Retirement and Social Security Law;

Senate Print 7872, by the Committee on Rules, an act to repeal section 2 of part C of Chapter 56; and Assembly Bill 6583-B, by member of the Assembly Grannis, an act to amend the Insurance Law. All bills directly for third reading.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

ACTING PRESIDENT KUHL: The motion is to accept the report of the Rules Committee. All in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

ACTING PRESIDENT KUHL: The

report of the Rules Committee is before the house.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we can take up the Rules Committee report, non-controversial.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: In relation to Calendar Number 1673, Senator Bruno moves to discharge from the Committee on Rules, Assembly Bill 8716-B, and substitute it for the identical Senate Bill 7869.

ACTING PRESIDENT KUHL: The substitution is ordered. Secretary will read.

THE SECRETARY: Calendar Number 1673, by the Committee on Rules, Assembly Print 8716-B, an act to amend the Retirement and Social Security Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1676, by member of the Assembly Grannis, Assembly Print 6583-B, an act to amend the Insurance Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

ACTING PRESIDENT KUHL: Calendar Number 1678, by the Senate Committee on Rules, Senate Print 7872, an act to repeal section 2 of part C of Chapter 56 of the Laws of 1998.

ACTING PRESIDENT KUHL:

Senator Skelos.

SENATOR SKELOS: Mr. President, is there a message at the desk?

ACTING PRESIDENT KUHL:

There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar 1678. All in favor, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is before the house. Read the last section.

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

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go back to the Rules Committee report and take it up controversial,

which means we'll take up Calendar Number 1678.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1678, by the Senate Committee on Rules, Senate Print 7872, an act to repeal section 2 of part C of Chapter 56 of the Laws of 1998.

ACTING PRESIDENT KUHL: The bill is before the house.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, can I just have an explanation of this bill? It's unusual and I would just appreciate to know what it involves.

ACTING PRESIDENT KUHL: Senator Skelos, who are you going to have handle the explanation?

(Pause)

Senator Dollinger, you had a question?

SENATOR DOLLINGER: Yes, I do, Mr. President, and it has nothing to do with-

ACTING PRESIDENT KUHL:

Senator Nozzolio is going to be handling the answer.

SENATOR DOLLINGER: And maybe Senator Nozzolio -- I know this is an issue that substantively may affect Senator Nozzolio's Crime and Corrections Committee, but I have a broader question that deals with the procedure. My understanding is, Mr. President, that what we're doing by this bill is repealing the language in an Article 7 bill that was vetoed by the Governor. Why do we need to repeal language for which the Governor has already exercised his veto?

I'm not sure it's a question for Senator Nozzolio, but it's really more of a -

SENATOR NOZZOLIO: Let me try to answer Senator Dollinger's question. As thought- provoking and as provocative as his questions often are, this question I think simply can be answered by -- that we very much want to make sure that the Senate has clearly stated their position in support of Governor Pataki's veto of that PTAC language.

SENATOR DOLLINGER: Mr. President, I accept Senator Nozzolio's explanation, but I find it intriguing because if the Senate were to approve this bill, which suggests that the language needs to be repealed, it would also suggest that Governor Pataki's veto of the language portion of this Article 7 bill was ineffective at the time it was delivered; and I would just suggest that what we're doing here is, in essence, suggesting to me, at least, that the lawsuit dealing with the repeal -- or excuse me, the veto of the Article 7 bills, one of which was this veto, that what we may be doing is suggesting that we agree with the Assembly that the effect of the veto was a nullity because it couldn't veto Article 7 language as part of the Governor's power and that what we are, in essence, doing is declaring to the people of this state that the Governor's veto had no effect and that, in fact, what we had to do as a chamber was now repeal that language, with the consent of the Assembly.

So, Senator Nozzolio, I under- stand why you substantively want to do

this and I think that at least from my perspective, that's a debate we could have about the substance of this, but I would just point out that I think what you're doing here today is acknowledging that the veto of the Article 7 language was ineffective and, therefore, the only way to eliminate this, remove it from state law, is to use the power of repeal which rests in the Legislature rather than the power of veto which rests with the Governor.

Under those circumstances, I think this bill may procedurally send a different message than the proponents of this suggest on the other side of the floor.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1678 are Senators Abate, Connor, Dollinger, Markowitz, Montgomery, Onorato, Oppenheimer, Paterson, Santiago, Seabrook, Smith, Stachowski, Stavisky also Senator Nanula.

Ayes 45, nays 14.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Majority in the Majority conference room.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Majority Conference in the Majority conference room, in the Majority conference room, room 333.

Senator Paterson.

SENATOR PATERSON: Mr. President, there will be an immediate conference of the Minority in room 314.

ACTING PRESIDENT KUHL:

There will be an immediate meeting of the Minority Conference, room 314.

The Senate stands at ease.

(At 4:50 p.m., the Senate stood at ease.)

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

Senator Skelos.

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

ACTING PRESIDENT KUHL: An immediate meeting of the Rules Committe, an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

The Senate will continue to stand at ease.

(Whereupon, the Senate stood at ease from 6:14 p.m. To 6:50 p.m.)

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

The Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, can we return to the reports of standing committees.

ACTING PRESIDENT KUHL: We'll return to the order of standing committees with the report of the Rules Committee at the desk.

We'll ask the Secretary to read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, offers up the following bills directly for third reading:

Senate Bill 6436-A, by the Committee on Rules, an act to amend the Civil Service Law;

Senate Bill 7873, by the Committee on Rules, an act to amend the Legislative Law;

7874, by the Committee on Rules, an act to repeal Section 2 of a chapter of the Laws of 1998;

7875, by the Committee on Rules, an act to amend the Legislative Law;

7876, by the Committee on Rules, an act to amend the Executive Law and a chapter of the Laws of 1998;

7877, by the Committee on Rules, an act to amend the Education Law;

7878, by the Committee on Rules, an act to amend the State Finance Law and a chapter of the Laws of 1998; and

Assembly Bill 11464, by the Assembly Committee on Rules, an act to amend the Judiciary Law, the Executive Law and the Legislative Law.

All bills directly for third reading.

ACTING PRESIDENT KUHL: The 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 respones.)

The report is accepted.

The bills are reported directly to third reading.

SENATOR BRUNO: Mr. President,

I move we accept the Rules report as read.

ACTING PRESIDENT KUHL: The Rules report is accepted.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 1683.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1683, Senate Print 7877.

THE SECRETARY: Calendar Number 1683, by the Senate Committee on Rules, Senate Print 7877, an act to amend the Education Law, in relation to establishing a charter school program.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity

on Calendar Number 1683. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(Response of "Nay".)

The message is accepted.

The bill is before the house.

The Secretary will read the last section.

SENATOR MONTGOMERY: Explanation.

THE SECRETARY: Section 26. This act shall take effect immediately.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Just briefly to explain my vote.

ACTING PRESIDENT KUHL: Senator, let me call the roll so we can get the bill before the house.

The Secretary will call the roll.

(The Secretary called the roll.)

SENATOR BRUNO: Party vote in the affirmative.

SENATOR CONNOR: Party vote in the negative.

ACTING PRESIDENT KUHL: The Secretary will call the party votes with exception.

SENATOR CONNOR: Without exception.

ACTING PRESIDENT KUHL: The Secretary will call the party line vote.

The Chair recognizes Senator Connor to explain his vote.

SENATOR CONNOR: Thank you, Mr. President.

To briefly explain my vote. I think the members of the Senate Minority in this house support innovative changes in the educational system. I think we would like to explore in a less hurried fashion the concept of charter schools. We want to do it in a proper way. We want to do it so collective bargaining rights are preserved, so that we're sure that certified teachers are used and so that other concepts like the Regents control

of education and local control are preserved.

This bill doesn't meet that.

That's why we're against it, Mr. President.

ACTING PRESIDENT KUHL:

Announce the results.

THE SECRETARY: Ayes 34, nays 25. Party vote.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we call up Calendar 1684.

ACTING PRESIDENT KUHL: The Secretary will read Calendar 1684, Senate 7878.

THE SECRETARY: Calendar Number 1684, by the Committee on Rules, Senate Print 7878, an act to amend the State Finance Law and a chapter of the Laws of 1998.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message on Calendar Number 1684. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect on the same date as a chapter of the Laws of 1998.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR BRUNO: Party vote in the affirmative.

SENATOR CONNOR: Party vote in the negative.

ACTING PRESIDENT KUHL: The

Secretary will call the party line votes with exceptions. Exceptions please raise your hands. Keep them raised until we announce the results.

THE SECRETARY: Ayes 38, nays 21. Party vote with exceptions.

ACTING PRESIDENT KUHL: The Secretary will announce the exceptions.

THE SECRETARY: Those recorded in the affirmative are Senators Dollinger, Gentile, Senator Hoffmann, Senator Nanula and also Senator Oppenheimer.

ACTING PRESIDENT KUHL: Announce the updated results.

THE SECRETARY: Ayes 39, nays 20.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 1677.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1677.

THE SECRETARY: Calendar Number

1677, by the Assembly Committee on Rules, Assembly Print 11464, an act to amend the Judiciary Law, the Executive Law and the Legislative Law.

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

THE SECRETARY: Section 16. This act shall take effect January 1st, 1999.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives. Announce the results. The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1677 are Senators Alesi, Breslin, Bruno, DeFrancisco, Dollinger, Gentile, Hoffmann, Kuhl, Larkin, Leibell, Libous, Maziarz, Meier, Nanula, Nozzolio, Oppenheimer, Saland, Santiago, Seward, Stachowski, Stafford, Volker and Wright. Also Senator Farley, also Senator Rath, also Senator Holland. Ayes 33, nays 26.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR CONNOR: Mr. President, excuse me. How was Senator Onorato recorded?

ACTING PRESIDENT KUHL: Senator Onorato was recorded in the affirmative.

SENATOR CONNOR: I think he was a negative, Mr. President. Is that right?

SENATOR ONORATO: Yes.

SENATOR CONNOR: Thank you.

ACTING PRESIDENT KUHL: Senator Onorato, did you wish to be recorded in the negative?

(Senator Onorato nods head.)

ACTING PRESIDENT KUHL: Without objection, Senator Onorato will be recorded in the negative on Calendar Number 1677.

Announce the final results.

THE SECRETARY: Ayes 32, nays 27.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Announce the results, Mr. President. Have we announced the

results, Mr. President?

ACTING PRESIDENT KUHL: We have, Senator Bruno.

The bill is passed.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR BRUNO: Would you call up Calendar Number 1679, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1679, Senate Print 7873.

THE SECRETARY: Calendar Number 1679, by the Committee on Rules, Senate Print 7873, an act to amend the Legislative Law, in relation to allowances payable to certain Senate officers.

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

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The

motion is to accept the message of necessity on Calendar 1679. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(Response of "Nay".)

The message is accepted.

The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a chapter of the Laws of 1998.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Party vote in the negative.

SENATOR BRUNO: Party vote in the affirmative.

ACTING PRESIDENT KUHL: The Secretary will call the party line vote. Announce the results.

THE SECRETARY: Ayes 34, nays

25; party vote.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, would you call up Calendar 1680.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1680, Senate Print 7874.

THE SECRETARY: Calendar Number 1680, by the Committee on Rules, Senate Print 7874, an act to repeal Section 2 of a chapter of the Laws of 1998.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1680. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(Response of "Nay".)

The message is accepted.

The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a chapter of the Laws of 1998.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Party vote in the negative.

SENATOR BRUNO: Party vote in the affirmative.

ACTING PRESIDENT KUHL: The Secretary will record the party line vote. Announce the results.

THE SECRETARY: Ayes 35, nays 24; party vote.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President,

would you call up Calendar Number 1681.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1681, Senate Print 7875.

THE SECRETARY: Calendar Number 1681, by the Committee on Rules, Senate Print 7875, an act to amend the Legislative Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move the message be accepted.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1681. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The bill is before the house.

The Secretary will read the

last section.

THE SECRETARY: Section 3. This act shall take effect on the same date as a chapter of the Laws of 1998.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Party vote in the negative.

SENATOR BRUNO: Party vote in the affirmative.

ACTING PRESIDENT KUHL: The Secretary will record the party line vote. Announce the results.

THE SECRETARY: Ayes 35, nays 24. Party vote.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, what was the tabulation on this last vote again?

ACTING PRESIDENT KUHL: The

Secretary informs me that the vote is 34 votes cast in the affirmative, 25 in the negative.

SENATOR PATERSON: I'm sorry, Mr. President. I thought I heard 35/24.

ACTING PRESIDENT KUHL: It's because of old age, Senator Paterson, and you did. You're correct. They were announced incorrectly.

Senator Bruno.

SENATOR BRUNO: Can we call up Calendar Number 1682, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1682, Senate Print 7876.

THE SECRETARY: Calendar Number 1682, by the Committee on Rules, Senate Print 7876, an act to amend the Executive Law and a chapter of the Laws of 1998.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move the message be accepted.

ACTING PRESIDENT KUHL: The

motion is to accept the message of necessity on Calendar Number 1682. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(Response of "Nay".)

The message is accepted.

The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date as a chapter of the Laws of 1998.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR BRUNO: Party vote in the affirmative.

SENATOR PATERSON: Party vote in the negative.

ACTING PRESIDENT KUHL: Record the party line vote.

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes 34, nays 25; party vote.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Leichter, why do you rise?

SENATOR LEICHTER: Exception on the party vote.

ACTING PRESIDENT KUHL: Senator Paterson, do you wish to have a party line vote recorded with exceptions?

SENATOR PATERSON: With exceptions, please, Mr. President.

ACTING PRESIDENT KUHL: All right. The Secretary will note the exceptions to the party line vote in the negative. Would the exceptions please raise your hands and keep them raised until the vote is announced.

ACTING PRESIDENT KUHL: The Secretary will announce the results with exceptions.

THE SECRETARY: Ayes 41, nays 18; party vote with exceptions. The exceptions: Senators Abate, Hoffmann, Lachman, Leichter, Markowitz, Mendez and

Montgomery.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Breslin, why do you rise?

SENATOR BRESLIN: Mr. President, I request to be recorded in the negative with unanimous consent on Calendar Number 1678.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Breslin will be recorded in the affirmative or in the negative?

SENATOR BRESLIN: Negative.

ACTING PRESIDENT KUHL: Negative on Calendar Number 1678.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 1685.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1685, Assembly 9867-A.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1685, Senator Bruno moves to

discharge from the Committee on Rules Assembly Print 9867-A and substitute it for the identical Senate Bill 6436-A.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1685, by member of the Assembly Crowley, Assembly Print 9867-A, an act to amend the Civil Service Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives. Announce the results.

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

ACTING PRESIDENT KUHL: The bill is passed.

(Pause)

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to take their chairs, the staff to find their places. A little order in the chamber.

The Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, can we return to motions and resolutions.

ACTING PRESIDENT KUHL: Can we have a little order in the house. We'll return to the order of motions and resolutions.

The Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, I believe you have a privileged resolution at the desk that was sponsored by the Rules Committee. I would be honored and pleased if you would read it and move for its immediate adoption.

ACTING PRESIDENT KUHL: There is a resolution at the desk.

The Secretary will read the title.

SENATOR BRUNO: Why don't you

read it.

SENATOR DOLLINGER: Can we see it?

ACTING PRESIDENT KUHL: The Secretary will read the resolution in its entirety.

THE SECRETARY: By the Senate Committee on Rules, Concurrent Resolution Number 4306, Concurrent Resolution of the Senate and Assembly fixing the salaries of the offices of Governor and Lieutenant Governor pursuant to Article IV, Sections 3 and 6 of the Constitution of the state of New York;

WHEREAS, the salaries of the offices of Governor and Lieutenant Governor were last increased to take effect in 1987; and

WHEREAS, the salaries of other state officials and employees have been fixed at levels which exceed or closely approach the salaries of the Governor and Lieutenant Governor; now, therefore, be it

RESOLVED, if the Assembly concur, that effective January 1st, 1999, the salary of the office of Governor shall be

fixed at $179,000 per annum and the salary of the office of Lieutenant Governor shall be fixed at $151,000, provided, however, that this resolution shall have no force and effect in the event that effective January 1st, 1999 the salaries of the Comptroller and Attorney General are less than $151,500 per year.

ACTING PRESIDENT KUHL: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye".)

The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Concurrent Resolution Number 4306 are Senators Breslin, Dollinger, Gentile, Nanula and Stachowski. Ayes 54, nays 5.

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Is there any housekeeping at the desk, Mr. President?

ACTING PRESIDENT KUHL: There's nothing at the desk, Senator.

SENATOR BRUNO: Well, then, Mr. President, my colleagues, in memory of the late Senator Jess Present, there being no further business to come before the Senate, I would move that we stand adjourned subject to the call of the Majority Leader, and I would like to take this opportunity to wish you all a Merry Christmas and a Happy New Year. Thank you, Mr. President. Intervening days to be legislative days.

Thank you.

ACTING PRESIDENT KUHL: The Senate stands adjourned in memory of the late Senator Jess Present, all intervening days to be legislative days.

(Whereupon, at 8:15 p.m., the Senate adjourned.)