NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 25, 1999

11:03 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

THE PRESIDENT: Thank you for that leadership.

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

(Whereupon, the assemblage respected a moment of silence.)

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, March 24th, the Senate met pursuant to adjournment. The Journal of Tuesday, March 23rd, 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.

The Secretary will read.

Senator Bruno.

SENATOR BRUNO: Madam President, can we call for an immediate meeting of the Veterans Committee in Room 332.

THE PRESIDENT: There will be an immediate meeting of the Veterans Committee in Room 332.

The Secretary will read.

THE SECRETARY: Senator Volker, from the Committee on Codes, reports the following bills:

Senate Print 718, by Senator Saland, an act to amend the Criminal Procedure Law and others;

1022, by Senator Skelos, an act to amend the Civil Practice Law and Rules;

1127, by Senator Marcellino, an act to amend the Criminal Procedure Law;

1265, by Senator Meier, an act to amend the Civil Rights Law;

1481A, by Senator Balboni, an act

to amend the Civil Practice Law and Rules;

1775, by Senator Kuhl, an act to amend the Penal Law;

1778, by Senator Trunzo, an act to amend the Penal Law;

2059, by Senator Volker, an act to amend the Civil Practice Law and Rules;

2086, by Senator Libous, an act to amend the Penal Law;

2096, by Senator Libous, an act to amend the Penal Law;

2188, by Senator Maltese, an act to amend the Penal Law;

2247, by Senator Lack, an act to amend the Penal Law;

2267, by Senator Balboni, an act to amend the Penal Law;

2531, by Senator Velella, an act to amend the Penal Law;

2613, by Senator Maltese, an act to amend the Penal Law;

2614, by Senator Volker, an act to amend the Penal Law;

2678, by Senator Velella, an act to amend the Penal Law;

2865, by Senator Volker, an act to amend the Civil Practice Law and Rules;

2874, by Senator McGee, an act to amend the Penal Law;

2904, by Senator Volker, an act to amend the Penal Law and the Criminal Procedure Law;

2943, by Senator Rath, an act to amend the Penal Law and the Criminal Procedure Law;

3337, by Senator McGee, an act to amend the Criminal Procedure Law; and

3435, by Senator Volker, an act to amend the Civil Practice Law and Rules.

All bills ordered direct for third reading.

THE PRESIDENT: Without objection, all bills ordered direct to third reading.

Senator Bruno.

SENATOR BRUNO: Madam President, is there a report of the Finance Committee at the desk?

THE PRESIDENT: Yes, there is, Senator.

SENATOR BRUNO: Can we have it read at this time.

THE PRESIDENT: The Secretary will read.

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

As Commissioner of the State Insurance Fund, Terence L. Morris of Burnt Hills.

SENATOR STAFFORD: Move confirmation, please. I'm sorry.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please. Thank you.

THE PRESIDENT: Thank you, Senator Stafford.

The question is on the confirmation of Terence L. Morris of Burnt Hills as - reappointed to Commissioner of the State Insurance Fund.

All in favor, signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Terence L. Morris is hereby confirmed and reappointed as Commissioner of the State Insurance Fund.

The Secretary will read.

THE SECRETARY: As a member of the Dormitory Authority, Thomas H. O'Neill of Hamburg.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: Thank you, Senator.

The question is on the confirmation of Thomas H. O'Neill of Hamburg, for a term to expire December 11, 2001, as a new appointee and member of the Dormitory Authority.

All those in favor, signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Thomas H. O'Neill of Hamburg is hereby confirmed as a member of the Dormitory Authority.

The Secretary will read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, Edward B. Dunn of Rye.

THE PRESIDENT: The question is on the confirmation of Edward B. Dunn of Rye as a member of the Metropolitan Transit Authority.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Edward B. Dunn of Rye as a member of the Metropolitan Transit - Transportation Authority.

All in favor, signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Can I speak on the nomination, please?

THE PRESIDENT: Go ahead, Senator.

SENATOR SPANO: It is my pleasure to stand in support of the nomination of Ted

Dunn as a member of the MTA. I have known Ted Dunn personally for a long time. He is a valued member of the Westchester County community, a very successful person down on Wall Street.

I commend the Governor for appointing someone who has got the time and the determination to make sure that the interests of the commuters, particularly in Metro-North, and of all the commuters served by the MTA, will be -- that those interests will be protected adequately.

And I would be remiss if I did not stand to thank the Governor for his appointment of Ted Dunn and wish Ted the best in his role as the -- as a representative of the MTA.

Thank you, Madam President.

THE PRESIDENT: Edward B. Dunn is hereby confirmed as a member of the Metropolitan Transportation Authority.

The Secretary will read.

THE SECRETARY: As a member of the Administrative Review Board for Professional Medical Conduct, Robert M. Briber

of Schenectady.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Robert M. Briber of Schenectady as a member of the Administrative Review Board for Professional Medical Conduct.

All in favor, signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Robert M. Briber is hereby confirmed as a member of the Administrative Review Board for Professional Medical Conduct.

The Secretary will read.

THE SECRETARY: As members of the Finger Lakes State Park, Recreation and Historic Preservation Commission, Marcia Herrling Finch of Aurora and Kenneth L. Patchen, Jr., of Waterloo.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move

confirmation.

THE PRESIDENT: The question is on the confirmation of Marcia Herrling Finch of Aurora and Kenneth Lee Patchen, Jr., of Waterloo, as members of the Finger Lakes State Park, Recreation and Historic Preservation Commission.

All in favor, signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Marcia Herrling Finch and Kenneth Lee Patchen are hereby confirmed as members of the Finger Lakes State Park, Recreation and Historic Preservation Commission.

The Secretary will read.

THE SECRETARY: As a member of the Veterans' Affairs Commission, Ann L. Baglio of Springville.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is

on the confirmation of Ann L. Baglio of Springville as a member of the Veterans' Affairs Commission.

All those in favor, signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Ann L. Baglio of Springville is hereby confirmed as a member of the Veterans' Affairs Commission.

The Secretary will read.

THE SECRETARY: As director of the Municipal Assistance Corporation for the City of New York, Edward V. Regan of New York City.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Edward V. Regan of New York City as a director of the Municipal Assistance Corporation for the City of New York.

All in favor, signify by saying

aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Edward V. Regan of New York City is hereby confirmed as a director of the Municipal Assistance Corporation for the City of New York.

The Secretary will read.

THE SECRETARY: As a member of the New York State Hospital Review and Planning Commission, Robert Hurlbut of Rochester.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Robert Hurlbut of Rochester as a member of the New York State Hospital Review and Planning Council.

All in favor, signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Robert Hurlbut of Rochester is hereby confirmed as a member of the New York State Hospital Review and Planning Council.

The Secretary will read.

THE SECRETARY: As a member of the Board of Visitors, New York State Home for Veterans and Their Dependents at Oxford, Joseph J. Benenati, Jr., of Norwich.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Joseph J. Benenati, Jr., of Norwich as a member of the Board of Visitors, New York State Home for Veterans and Their Dependents at Oxford.

All in favor, signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Joseph J. Benenati, Jr., of Norwich is hereby confirmed as a member of the Board of Visitors, New York

State Home for Veterans and Their Dependents at Oxford.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following bill direct to third reading:

Senate Print 4079A, Budget Bill, an act to amend Chapters 50, 53, and 54 of the laws of 1998 making appropriations for the support of government.

THE PRESIDENT: Without objection, this bill is directed to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Larkin, legislative resolution mourning the death of Nick F. Bernard Badami, distinguished citizen and philanthropist.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe there is another privilege resolution at the desk -

THE PRESIDENT: Yes, there is, Senator.

SENATOR BRUNO: -- by the very distinguished senior senator, the most senior senator in all of the United States, Senator Marchi. I would ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Marchi, legislative resolution congratulating the College of Staten Island basketball team on winning the City University Conference Tournament on February 26, 1999.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we now have the controversial reading of the calendar -- non-controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 99, by Senator Skelos, Senate Print 980, an act to amend the Domestic Relations Law, in relation to orders of adoption.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 100, by Senator Saland, Senate Print 1013, an act to amend the Family Court Act, in relation to extensions of child placement.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 198, by Senator Holland, Senate Print 1351, an act to amend the Social Services Law, in relation to county responsibility.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 265, by Senator Rath, Senate Print 2948, an act to amend the Vehicle and Traffic Law, in relation to mandatory suspension of licenses.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

268, by Senator Holland, Senate Print 15A, an act to amend the Domestic Relations Law, in relation to notification concerning orders of support.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 284, by Senator Farley, Senate Print 1781, an act to amend the Executive Law, in relation to the designation of August 7th as Family Day, a day of commemoration.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. I'd like to explain my vote.

THE PRESIDENT: Go ahead, Senator.

SENATOR DUANE: Thank you.

I rise to highlight that New York recognizes all families -- same-gender families, single-parent families, parents where moms and dads parent foster children, and children and adults whose families are those who are cared for in our state facilities -- and to reiterate that New York highlights all of its families.

Thank you, Madam President. I'm voting aye.

THE PRESIDENT: You will be recorded, Senator, as voting in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 311, by Senator Saland, Senate Print 2752, an

act to authorize the city school district of the City of Poughkeepsie to file data.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 317, by Senator Wright, Senate Print 2589, an act to amend the Vehicle and Traffic Law, in relation to exempting certain ATVs from registration requirements.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 320, by Senator Marcellino, Senate Print 3170, an act to amend the Vehicle and Traffic Law, in relation to aggravated unlicensed operation.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 344, by Senator Leibell -

SENATOR PATERSON: Lay it aside.

THE SECRETARY: -- Senate Print 3877, an act to amend the Retirement and Social Security Law.

THE PRESIDENT: The bill is laid aside.

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

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time have the controversial reading of the calendar.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: Calendar Number 317, by Senator Wright, Senate Print 2589, an act to amend the Vehicle and Traffic Law, in relation to exempting certain ATVs from registration requirements.

SENATOR LACHMAN: Explanation.

THE PRESIDENT: Senator Wright, an explanation has been requested.

SENATOR WRIGHT: Thank you, Madam President.

This bill conforms provisions of law for all-terrain vehicles consistent with the same provisions that are provided snowmobiles.

THE PRESIDENT: Read the last section.

SENATOR LACHMAN: Madam President, will -

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Will the distinguished Senator yield for a couple of questions?

THE PRESIDENT: Senator, will you yield?

SENATOR WRIGHT: Certainly, Senator.

THE PRESIDENT: Go ahead, Senator Lachman.

SENATOR LACHMAN: From an urban farmer to a rural farmer, I have one or two questions.

What is the cost of registering an ATV?

SENATOR WRIGHT: I don't know the answer at the current rates.

SENATOR LACHMAN: The way I read the bill, could this apply to the nonregistered use for nonfarming situations as long as it meets the broad criteria you set in the bill?

SENATOR WRIGHT: There would -

SENATOR LACHMAN: What I'm really asking is, couldn't the bill be tightened and made narrower so the focus would be exclusively on agricultural vehicles? Because it could be interpreted to be beyond that.

SENATOR WRIGHT: Well, it certainly could be. And that would be subject to some judicial review of the intent. The

language at this point, we felt, conforms with the language that is made available for snowmobile exemptions. The utilization is very comparable. And we've had no difficulty with the snowmobile exemptions.

SENATOR LACHMAN: Madam President.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Would the Senator continue to yield?

SENATOR WRIGHT: Certainly.

THE PRESIDENT: Senator, do you yield -

SENATOR LACHMAN: Would the exemption or could the exemption apply to AT vehicles that happen to be on the premises of summer camps rather than farms?

SENATOR WRIGHT: Well, it talks about property owned by the owner of the ATV. So if the owner of the ATV owned that property, that's certainly a potential.

SENATOR LACHMAN: That is, there is a possibility, then, that this could be extended to other areas rather than agricultural settlements or farms?

SENATOR WRIGHT: There's certainly that potential, yes.

SENATOR LACHMAN: Okay, thank you.

THE PRESIDENT: Read the last section.

Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President.

Would the Senator yield to one other question?

THE PRESIDENT: Senator, do you yield?

SENATOR WRIGHT: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Dollinger.

SENATOR DOLLINGER: The -- I think Senator Lachman touched on it. Is there any loss of revenue through not requiring the registration? And if so, how much is it?

SENATOR WRIGHT: Since I didn't know the amount of the registration and I don't know the number of vehicles that are registered that would not be registered, I

haven't done the math.

But obviously, if you're not collecting the registration fee, there would some mild loss of revenue.

SENATOR DOLLINGER: Again through you, Madam President.

THE PRESIDENT: Thank you, Senator.

SENATOR DOLLINGER: And again, I'm always, as a trial attorney, advised never to ask a question you don't know the answer to. But I don't know the answer to this.

Is the sales tax due at the time of registration or proof of the payment of the sales tax on this transaction, on the purchase of one of these vehicles?

SENATOR WRIGHT: Like you, Senator, I don't know the answer to that question. Therefore, I didn't ask it.

(Laughter.)

SENATOR DOLLINGER: Thank you.

Madam President, I'll just -- I'm going to vote against this because I don't know what the cost is, both in the lost registration and the potential loss of sales

tax.

It also seems to me that -- I have some difficulty believing there's a hardship. Usually the registration fee is 20 or 25 dollars, at most. ATVs cost several thousand dollars. And to buy one and then claim that there's a hardship because you have to register it for twenty dollars -- I appreciate Senator Wright's perspective, but that doesn't quite ring true to me.

So I'll be voting in the negative.

THE PRESIDENT: Read the last section.

Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I just, through you, Madam President, would like to make a request of the sponsor.

THE PRESIDENT: Go ahead, Senator. You're on the bill, then?

SENATOR DUANE: Just -- I'm intrigued by my colleague's questions on the bill, and I was hoping that the sponsor would -- maybe if you could provide us with

the information that was asked about in the debate. To our offices, if you wouldn't mind.

THE PRESIDENT: Senator, are you yielding to his question, request?

SENATOR WRIGHT: If -- I'm trying to ascertain once again what the Senator's question is. So perhaps -- I will yield if he would phrase it in the form of a question.

SENATOR DUANE: If the tax is paid at the time of registration, how much revenue we're talking about. If the vehicles -- what other areas could the vehicles be driven on in addition to agricultural areas?

SENATOR WRIGHT: I believe I've responded, to the best of my ability, to those questions when they were asked at the time. And therefore, repeating the same response is really not productive.

SENATOR DUANE: Madam President, through you.

I was hoping that you could provide us, though, with that information after our meeting at some point.

SENATOR WRIGHT: I would be glad

to provide you with the number and name of Taxation and Finance, and I'm sure they can provide that necessary information.

SENATOR DUANE: Madam President, not quite the answer I was expecting. But I guess that will do for now.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Dollinger, do you wish to be recognized?

SENATOR DOLLINGER: Just voting no.

THE SECRETARY: Those recorded in the negative on Calendar Number 317 are Senators Dollinger, Duane, and Lachman.

Ayes, 50. Nays, 3.

THE PRESIDENT: The bill is passed.

SENATOR MONTGOMERY: Madam President.

THE PRESIDENT: Senator

Montgomery.

SENATOR MONTGOMERY: Yes, thank you.

I would like to have unanimous consent to be recorded in the negative on Calendar 99.

THE PRESIDENT: Without objection, you will be recorded as voting in the negative on Calendar 99.

The Secretary will announce the results.

The Secretary will read.

THE SECRETARY: Calendar Number 344, by Senator Leibell, Senate Print 3877, an act to amend the Retirement and Social Security Law, in relation to benefits.

SENATOR WALDON: Explanation, please.

THE PRESIDENT: An explanation has been requested.

SENATOR LEIBELL: Thank you, Madam President.

This legislation will provide a presumption that correction officers who suffer an impairment of their health due to

heart disease, which results in a total or partial disability or death of the member, that such heart disease is related to the employment of such member.

Similarly, for hospital -- security hospital treatment assistants with the Office of Mental Health who suffer an impairment of their health due to heart disease, resulting in total or partial disability or death of a member, such heart disease is related to the employment of such member by presumption.

It will also require that -- state correction officers and security hospital treatment assistants to have successfully passed a physical exam prior to entry into service. These physical exams must have failed to disclose evidence of heart disease.

The other night, many of us had the opportunity to be at a function sponsored by Council 82. And at that time, the Governor was there, and he addressed the issue of being a correction officer in New York State and how it is one of the most difficult and tense jobs in the state of New York and possibly in the country.

This is -- this legislation, Senator, is a reflection as to the difficulty these positions impose on those who exercise them.

SENATOR WALDON: Would the gentleman -

THE PRESIDENT: Thank you, Senator Leibell.

Senator Waldon?

SENATOR WALDON: Would the learned gentleman from Westchester County who represents Theodora Jackson and Bailey Jackson, two of my closest friends, yield to a question or two?

THE PRESIDENT: Senator Leibell, will you yield to a question?

SENATOR LEIBELL: Yes. Yes.

THE PRESIDENT: Go ahead, Senator Waldon.

SENATOR WALDON: Senator, from your characterization, the stresses inherent in this bill, which would allow it to activate itself regarding a particular correction officer or other similar employee, are not dissimilar from those facing the police across

this state in regard to the construction of the Heart Bill as it speaks to police officers. Is that fairly accurate?

SENATOR LEIBELL: I think that's correct. This is a -- both positions are very difficult positions, often characterized as young people's positions because they are physically difficult.

And this legislation is reflecting that this, similar to a police officer's, is a very difficult position.

SENATOR WALDON: Madam President, would the gentleman yield to another question or two?

THE PRESIDENT: Senator Leibell, do you continue to yield?

SENATOR LEIBELL: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Waldon.

SENATOR WALDON: Senator, would you please correct me if I'm wrong? It is my understanding that correction officers are sometimes required to work double shifts, are sometimes required to work holidays, are

sometimes required to work around the clock - meaning 4:00 to 12:00s at one time, 12:00 to 8:00s at another time, 8:00 to 4:00s at another time -- and are often required to shift from location to location as the dictates of the Department of Correctional Services requires. Is that fairly accurate?

SENATOR LEIBELL: Senator, I certainly couldn't give you specifics. And I certainly try on a yearly basis to visit correctional facilities within my own district and nearby, of which there are many.

But without question, they work long hours, difficult hours, holidays, and sometimes are required to shift from facility to facility.

SENATOR WALDON: If I may, Madam President, through you, another question or two.

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

SENATOR LEIBELL: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Waldon.

SENATOR WALDON: Thank you, Madam President.

Senator, the thing that fascinates me about the similarity of what you're proposing for our consideration, and the police force, is the type of stress that I believe the correction officer faces.

He's often using the singular to replicate or reflect the collective. The correction officer, he or she is often required to get in the middle of fights between inmates, is often required to respond to inmates who are in the throes of very dire illnesses, who are often required to take people down when they have actually hung themselves or injured themselves, which are all stress-ridden and stress-initiating activities.

Is it your experience that this is true, that these kinds of things happen within the walls of our prisons?

SENATOR LEIBELL: Without question, Senator. For those of us who have visited such facilities -- and for us that's only a matter of an hour or two hours that

we're there -- from the time you hear that large metal door clang and you're in there and speaking with the men and women who work on behalf of this state within those facilities, you have to, in a very small way, share some degree of the tension and stress that is involved in their job.

As you walk down, whether it's in Green Haven, in my district -- you walk these facilities, these young men and women who are the COs there never know from one minute to the next when they will face an assault, knowing similarly that their families are worried about their well-being throughout any given day that they are on the job.

SENATOR WALDON: Last question, Mr. -- oh, Mr. President. Last question. If the gentleman would yield.

ACTING PRESIDENT KUHL: Glad you noticed. Glad you noticed.

Senator Leibell, do you continue to yield?

SENATOR LEIBELL: Yes, Mr. President.

SENATOR WALDON: Earlier, Senator

Leibell -- and I appreciate your patience in responding to these questions -- you mentioned the physical, the prehire physical.

I would assume that that physical is similar to the one taken by members of the New York City Police Department, it's comprehensive, it tests everything which is testable to ensure that the person is in the best physical condition to take on the rigorous job of being employed in a correctional facility, and that includes a thorough examination of the person's heart. Is that fairly accurate?

SENATOR LEIBELL: I think that's very accurate. I believe that the physical examination they receive would be a most thorough one.

SENATOR WALDON: Okay. Thank you very much, Senator.

Mr. President, if I may, on the bill.

ACTING PRESIDENT KUHL: Senator Waldon on the bill.

SENATOR WALDON: Many years ago, in the Assembly, I was very instrumental in

having the Heart Bill passed for members of the New York City Police Department. And I did that simply because having been there and having a personal awareness of the stresses faced by police officers, I thought it extremely important for us to ensure that the families of police officers would not be left in the lurch if as a result of a tension-filled job they should be injured by a heart attack or in fact die and leave their families, so to speak, in the lurch. And so I worked very vigorously in regard to creating that bill. I'm very proud to have done so.

I'm glad that the Senator, Senator Leibell, the learned gentleman from Westchester County, has brought a similar bill for our consideration. No less stress-filled is the job of those who serve in the Department of Correctional Services for the State of New York. And therefore it is my opinion, after your explanation and my personal examination, that they should be no less provided for.

So I encourage all of my colleagues to vote up on this bill and to ensure that not

only the correction officers but their families will be made whole in terms of the stresses which they experience each day in their job situation if they should succumb to a heart attack.

Thank you very much, Mr. President.

Thank you, Senator.

ACTING PRESIDENT KUHL: Senator Nozzolio, on the bill.

SENATOR NOZZOLIO: Thank you, Mr. President. On the bill.

Mr. President and my colleagues, I rise in support of this measure and to congratulate Senator Leibell for his leadership in bringing this measure to the forefront. I know that he has worked very hard on this measure, a measure that, along with Senator Bonacic, have been pushing through the Legislature to ensure that we have equity among our law enforcement officials.

And the law enforcement officials too often overlooked are those brave men and women who are serving in our state prisons as correction officers. Correction officers, as was indicated, is extremely stressful. It's

one of the most stressful jobs in America today.

Our job in this Legislature is to make the job less stressful. But until we can achieve that result, we need to protect and to provide as much honor and dignity and compensation and support for those correction officers as we possibly can.

This bill goes a long way in recognizing correction officer importance. And that again, I believe it's something that is long overdue, and I congratulate the sponsors for bringing this measure before us today.

Thank you, Mr. President.

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

Secretary, 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.)

ACTING PRESIDENT KUHL: Record the negative, and announce the results.

THE SECRETARY: Ayes, 56. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

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

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

ACTING PRESIDENT KUHL: To return to the order of reports of standing committees, there is a report from the Veterans Committee. I'll ask the Secretary to read.

THE SECRETARY: Senator Meier, from the Committee on Veterans and Military Affairs, reports:

Senate Print 1479, by Senator Wright, an act to amend the Real Property Tax Law, and Senate Print 4052, with amendments, by Senator Meier, an act to amend Chapter 435 of the laws of 1997.

Both bills ordered direct to third

reading.

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

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: With unanimous consent, would you please recognize Senator Padavan for a statement?

ACTING PRESIDENT KUHL: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

I believe it would be most appropriate at this time if we would take a few moments to reflect upon the events of the past 24 hours. I'm sure and confident that I express the views and sentiments of this body in saying very directly, loudly, clearly that our thoughts and our prayers are with the servicemen and women who are participating in the NATO air strikes and military activities in the Balkans, as well as their families.

At this moment, perhaps as we speak, thousands of men and women born and

bred in this great state and across this great nation have willingly placed themselves in harm's way for no greater purpose than service to this great nation and to achieve stability in Europe, as they do in many other parts of the world.

I think we might also consider that our nation's military stand ready and willing at any time to go anywhere when called upon by our Commander-in-Chief, and in so doing risk their lives and pay a great price.

I believe that we should not allow anyone to make any mistake in assuming that while we are of different political thoughts and views, we are completely united and wholeheartedly support our American servicemen. And we pray, as we - particularly as we head into this most holiest of seasons in the Judeo-Christian faith, we pray for their safe return.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

I'd like to join with Senator Padavan. You know, in the last 48 hours we've seen on our TV and listened on the radio and the paper about possible strikes and the strikes that are coming. And too often we forget the reality of war, those who have never been in it, that there are casualties to come. And many of these casualties will be young men and women who serve their nation and are very proud of it.

But the bickering back and forth of whether we should or we shouldn't should take a back step and recognize the fact that these are young American men and women who are being sent there by our President. It's very trying, anyone who's ever taken troops into combat, because you're not worrying about yourself, you're also worrying about those men and women. And you're worrying about their people back home -- their families, their loved ones, their children, their wife and mother, father.

And I think that we ought to take a moment and reflect over the next few days what it would mean to us, and make sure that we

don't get into debates about whether we should or shouldn't do it. It's done, they are there, and they need our prayers.

And just remember that we're into this. My biggest question is, how do we get out? I hope we don't have another Vietnam.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, would you please recognize Senator Meier for an amendment?

ACTING PRESIDENT KUHL: I'll ask the Secretary to read the title of Calendar Number 429.

THE SECRETARY: Calendar Number 429, Budget Bill, Senate Print 4079A, an act to amend Chapters 50, 53, and 54 of the laws of 1998.

ACTING PRESIDENT KUHL: The bill is before the house.

The chair recognizes Senator Meier for purposes of amendment.

SENATOR MEIER: Thank you, Mr. President.

I offer the following amendments to

Calendar Number 429, Senate Print Number 4079A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments received and adopted. The bill will be laid aside.

Senator Marchi, did you wish to be recognized?

SENATOR MARCHI: Mr. President, if there are no objections, I realize Senator -

ACTING PRESIDENT KUHL: Senator Marchi is speaking. The chair recognizes Senator Marchi.

SENATOR MARCHI: -- Padavan and Senator Larkin have placed a statement I think which expresses the concerns and the support of this house.

It should be pointed out that each and every member of our armed forces are volunteers, this is a voluntary service.

That we hope, because of the statements made by -- on a bipartisan basis in Washington by both the Speaker and people like Senator Warner, that this is based on solid

evidence.

That calls our attention to circumstances that grew out of the same fractious nature of troublesome events in Yugoslavia many years ago that gave rise to World War I -- the danger of that war spreading to Macedonia and into Greece, with the feelings that are current between Greece and Turkey, the feelings of the Russians.

The fact that this distance is very minimal. Even Italy itself is like -- is not any further away from the center of activity than Washington is from New York. And airports on the Adriatic front have been - the sea coast, have been closed down, for obvious reasons.

We can't second-guess. The President pledges that we are not going to use ground troops. And decisions will be made pending an evaluation of the events that take place after the intervention of our armed forces and those nations that are allied - and there are 18 of them, I believe -- into that area.

And hopefully I -- and I know that

we have Senator Padavan and Senator Larkin to thank, that this is something that calls for the united support of the American people at this juncture.

And hopefully that it will bear fruit and induce a greater sensitivity and propensity to seek peaceful resolutions of these difficulties.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, Calendar Number 429 has been distributed. We're just waiting for the message at this point.

ACTING PRESIDENT KUHL: Like to stand at ease, then, Senator?

SENATOR SKELOS: While we're waiting for the message, I'd just like to remind my colleagues in the Majority that there will be a conference following session. If we don't get the message soon, there may be a conference before the end of session.

(Pause.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator

Skelos.

SENATOR SKELOS: Would you please call up Calendar Number 429, Senate 4079B.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 429, Budget Bill, Senate Print 4079B, an act to amend Chapters 50, 53, and 54 of the laws of 1998.

SENATOR SKELOS: Mr. President -

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: -- is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: The message has arrived, Senator.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 429.

All those in favor, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: Message 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.)

ACTING PRESIDENT KUHL: Senator Dollinger, to explain your vote.

SENATOR DOLLINGER: To explain my vote, Mr. President.

I note that there is money in here for education and teacher centers and other things, in addition to some Medicaid money. I hope that part of what happens to this money is that it's used for a remedial reading experience down on the second floor, Mr. President. Because they published a budget, read the budget, and vetoed things out of the budget which was in their budget, and then, lo and behold, after apparently someone saying "We made a mistake. We didn't read our

budget right," the Governor of this state said, "Without appropriation and authority from this Legislature, I'm going to spend all this money."

So my hope is that some of this education money will go to remedial reading on the second floor.

And then the other thing that I hope happens with the Medicaid money is I hope it goes to eyeglasses for the same people in the Division of the Budget, the people who saw appropriations in the budget that were for good things like student assistance and for additional education money -- that they'll use that Medicaid money next time around to buy glasses so that they'll read this budget more carefully and be able to see what it says.

My hope is that both that Medicaid money, that education money, some portion of it will go down to the second floor, and we won't have this constitutional question of whether a governor in this state can spend money out of the General Fund without appropriation authority from this Legislature. Which is exactly what happened.

I think my colleague, Senator Stachowski, said, well, that we're setting a new precedent for Republican governors. Someday maybe someone else is in that office, I wonder what will happen when this body finds out that someone is spending money without their authority.

I thought that's what we were here to do. I guess I was wrong, I guess I was mistaken. Maybe part of that education money ought to come to me so that I can get better educated on how the state works.

I'm going to vote in favor of this, but my real hope is that someone on the second floor will get the benefit of this and maybe change their old ways.

Thank you, Mr. President.

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

Senator Stachowski, to explain his vote.

SENATOR STACHOWSKI: Just briefly to explain my vote.

I just wanted to point out also that we're glad to see that community college

piece in here. And as Senator Dollinger quoted me on it, I did point out that money has already been going out for that aid, and that the Governor had vetoed it out and then announced that he was going to give it anyway. And some of us were troubled about how he did that.

And at least here it's in a deficit -- deficiency package, and we're glad to see it here. But the precedent's already set. So that someday in the future, if the governor happens to be from the other house, well, then you'll get your chance when a deficiency budget comes to finally okay it, but he'll be spending what he wants to spend in between, even though he vetoed it out of the budget, which I thought was really interesting.

And I thought if I were in charge, I would have probably addressed this a lot sooner with a chapter amendment or something to cover whatever he wanted to spend after he realized that he had vetoed things out by mistake. And those mistakes being community colleges and women's breast cancer, that was

vetoed even though his wife was a spokesperson, and none of us would want to veto something like that. And then he spent that money also.

And I just hope that this year when we go through this process, and we are going to be trying to work together on this, that hopefully "together" means everybody, including DOB and the Governor, and that when -- before he vetoes something, he's sure that it is exactly what he wants to veto and not put out 1300 veto messages and then decide a bunch of them were a mistake and subsequently pay for that anyway.

I vote aye. Thank you.

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

Senator Marchi, to explain his vote.

SENATOR MARCHI: I just wanted to point out, in a deficiency budget the exact and precise determination sometimes is varied by circumstances that are beyond the vision or the knowledge or anticipated expectations at

the time.

I remember when we had, in the mid-'70s, the crisis and the dramatic increase in fuel prices, and suddenly we would have had buildings and hospitals and other institutional settings run freezing, simply because the cost of fuel had risen so dramatically.

They can be addressed, of course, in special messages and other appeals before the fact, as some have mentioned.

But those minuscule adjustments that have to be made in the light of unanticipated changes -- indeed we ought to be available, where reason and logic and sanity prevails, to make those adjustments so that we reflect the basic objectives that were attempted in the original appropriations.

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

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: No, the desk is clean, Senator Skelos.

SENATOR SKELOS: Just a reminder that there will be a conference of the Majority immediately following session.

And there being no further business, I move we adjourn until Monday, March 29th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until Monday, March 29th, 3:00 p.m., intervening days to be legislative days.

(Whereupon, at 11:57 a.m., the Senate adjourned.)