NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 25, 1999

3:09 p.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: The invocation today will be given by the Reverend Peter G. Young of Blessed Sacrament Church in Bolton Landing.

REVEREND YOUNG: Let us pray.

Dear God, we gather today to discuss our concerns as citizens. We are mindful that many in our world do not enjoy such freedom. Grant us the wisdom to conduct our legislation with dignity and sensitivity.

May these Senate deliberations enrich the lives of our New York State citizens, and may we pray today for this newly elected Senator who will tomorrow become our colleague.

We ask You this now and forever. Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, May 24th, the Senate met pursuant to adjournment. The Journal of Friday, May 21st, 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.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

On behalf of myself, on page 59 I offer the following amendments to Calendar Number 223, Senate Print Number 2094, and ask that said bill retain its place on the Third

Reading Calendar.

THE PRESIDENT: The amendment is received, and the bill will retain its place on Third Reading Calendar, Senator Libous.

SENATOR LIBOUS: Madam President, I also wish to call up my bill, Senate Print 2101A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 224, by Senator Libous, Senate Print 2101A, an act to amend the Vehicle and Traffic Law.

SENATOR LIBOUS: Madam President, I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

SENATOR LIBOUS: Madam President, I offer up the following amendments.

THE PRESIDENT: The amendment is received.

SENATOR LIBOUS: Madam President,

on behalf of Senator Bonacic, on page 12 I offer the following amendments to Calendar Number 338, Senate Print Number 3892, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendment is received, and the bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Madam President, at this time could we adopt the Resolution Calendar, with the exception of Resolutions 1529 and 1557.

THE PRESIDENT: All in favor of adopting the Resolution Calendar, with the exception of Resolutions 1529 and 1557, signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, at this time if we could have the title read

on Resolution 1529, by Senator Seward, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Seward, Legislative Resolution Number 1529, Commemorating the 30th Anniversary of Herkimer Area Resource Center, on Thursday, May 27, 1999.

THE PRESIDENT: 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 Skelos.

SENATOR SKELOS: Madam President, may we please have the title read on Resolution 1557, by Senator Marcellino, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator

Marcellino, Legislative Resolution Number 1557, urging the New York State Congressional Delegation to effectuate a repeal of the oxygenate mandate for reformulated gasoline.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR MARCELLINO: Madam President, this resolution is very significant. The other house will be taking it up probably tomorrow or the day after, whenever they can, as immediately as possible, because it is imperative that we remove the substance MTBE from our gasoline.

It was put into the gasoline by the EPA as a means of cleaning up our downstate air. The trade-off, however, seems to be that the product has an affinity for water, and it seeps its way into the groundwater. And it's been found in various wells and water supplies throughout the state and throughout the Northeast region.

Other states have taken the road of

a ban on the substance in the states. We feel here that it would be better, in light of recent scientific evidence that the MTBE additive has really no effect on the pollution emissions of cars, mainly due to the fact that the cars are much better made today and the emissions controls on them are much more significant and much more capable of doing the job, we feel it's time that the EPA remove this requirement and remove the threat to our water supply. That's what this resolution is all about, and it's extremely significant.

Madam President, I offer this resolution up to anyone for cosponsorship. And I would ask if anyone wishes not to be on it, that they -- with the approval of the Chair, that they notify the desk, if that's okay.

THE PRESIDENT: Senator Skelos, Senator Marcellino wishes to open his resolution for sponsorship.

SENATOR SKELOS: Any person who would like to go on the resolution or -- are you all right with putting everybody on it?

Why don't we do this. Why don't we

put everybody on the resolution, and then anybody who wishes not to cosponsor the resolution, they should indicate to the desk.

THE PRESIDENT: Anyone who does not wish to be a cosponsor of the resolution should notify the desk.

Senator Skelos.

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 Skelos.

SENATOR SKELOS: If we could now take up the noncontroversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 248, by Senator Meier, Senate Print 3162C, an act to amend Chapter 271 of the laws of 1994.

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, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 354, by Senator Hannon, Senate Print 1718, an act to amend the Public Health Law and the Education Law, in relation to prohibiting the dispensing of controlled substances.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 527, by Senator Saland, Senate Print 3817, an act to amend the Family Court Act, in relation to the presiding judge in juvenile delinquency

proceedings.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 530, by Senator Saland, Senate Print 3985A, an act to amend the Domestic Relations Law, in relation to orders of protection.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

657, by Senator Skelos, Senate Print 968, an act to amend the Insurance Law, in relation to policy coverage for persons with cancer.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This bill shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 731, by Senator Rath, Senate Print 676A, an act to amend the Penal Law, in relation to assaults committed in the presence of certain children.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside, Senator Paterson.

THE SECRETARY: Calendar Number 780, by Senator Nozzolio, Senate Print 3265A, an act to amend the Tax Law, in relation to extending the additional 1 percent sales tax.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47. Nays, 2. Senators Dollinger and Gentile recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 842, by Senator Libous, Senate Print 2463C, an act to amend the General Business Law, in relation to enacting the Motor Vehicle Renter's Responsibility and Protection Act.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 988, by Senator Volker, Senate Print 3427A, an act to amend the Criminal Procedure Law, in relation to an order reducing or dismissing an indictment.

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, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1019, by Senator Goodman, Senate Print 4040, an act to amend the Alcoholic Beverage Control Law, in relation to permitting the State Liquor Authority.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1044, by Senator Farley, Senate Print 4703, an

act to amend the Banking Law, in relation to making certain technical corrections.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. 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 1045, by Senator Farley, Senate Print 4704, an act to amend the Banking Law, in relation to conforming the personal loan limitations imposed on foreign banks.

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 1047, by Senator Kuhl, Senate Print 1273, an act to amend the New York State Urban Development Corporation Act and others, in relation to food processor economic development assistance.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. 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 1048, by Senator Bonacic, Senate Print 3663, an act to amend Chapter 915 of the laws of 1982.

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 1053, by Senator Bonacic, Senate Print 4850, an act to amend the Public Authorities Law, in relation to indemnification.

THE PRESIDENT: Read the last section.

SENATOR DOLLINGER: Lay the bill aside.

THE PRESIDENT: The bill is laid aside, Senator.

Senator Skelos.

SENATOR SKELOS: Madam President, could we take up the controversial calendar now.

THE PRESIDENT: That completes the reading of the noncontroversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 731, by Senator Rath, Senate Print 676A, an act to amend the Penal Law, in relation to assaults.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, would Senator Rath give us a brief explanation on this bill?

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

SENATOR RATH: Surely.

This proposal makes it a Class D felony to commit an assault in the third degree in the presence of certain minor children. And it also enhances the penalty for a person who commits an assault on the same victim more than once.

The intent of the bill, particularly in relation to the minor children witnessing the acts of domestic violence, were to illustrate the fact that not only is one person hurt, but many people, for the future, may be hurt. Not only the victim, but the child who is witnessing the act of domestic violence, and then the very strong possibility that that child will go on to become a perpetrator of domestic violence themselves.

The facts and figures and all the information, the best information we have, shows us that young children who live in homes

where domestic violence is the way of life go on to become perpetrators of domestic violence themselves. And so this is meant to act as a deterrent.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President. If Senator Rath would yield for a question.

THE PRESIDENT: Senator Rath, would you yield for a question?

SENATOR RATH: Sure.

THE PRESIDENT: Go ahead, Senator Paterson, with a question.

SENATOR PATERSON: First of all, Madam President, I'd like to assure Senator Rath that I think this is an excellent bill, and I'm very proud to vote for it.

I think it's very creative in the sense that the effects on younger people of witnessing this violence have not fully been documented, but we can at least be aware of the inclination of those who have witnessed this type of victimization actually becoming a part of it later in life, which is a tragic reaction that some people have to witnessing

these types of events.

The question that I have is really just for the protection of those who might be assaulted and might be acting in a self-defense manner. Is there a provision in the legislation for the primary perpetrator as opposed to one responding to the initiation of violence?

And particularly, the reason I ask the question is that so many times women were actually in the process of being victimized and by the time law enforcement arrived, they may have undertaken actions to protect themselves and then wound up getting arrested along with the original perpetrator.

So I just wanted to make sure or have Senator Rath's point of view about the whole possibility of the wrong individuals being charged.

SENATOR RATH: That's a good question, Senator. And counsel advises me that the same defense as in any other assault case would hold forth throughout this.

And all we're doing here is increasing the penalties to reflect the fact

that we feel it should be a diversionary effort to have people discontinue violent behavior of this sort in front of children.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President. On the bill.

THE PRESIDENT: On the bill, Senator.

SENATOR PATERSON: I'm going to vote for the legislation, just to make sure that this becomes law.

I just wanted to suggest to Senator Rath that the -- all defenses would certainly be applicable, but it would probably be more specific if we wrote it into the legislation. I don't think it's stated as clearly as it could be.

And I'm very interested in seeing the bill passed. We all like to see young people who are witness to assaults, for the most part that might occur through domestic violence, to have some protection under the law.

I would state as an ancillary note that the fact that we are protecting a class

of people, meaning minors, I think further establishes the fact that we can protect a number of classes of people in the context of hate crimes. And certainly those who might oppose a hate crimes bill certainly should not be citing that the law can't distinguish between the classes of people who are affected, because this legislation establishes that it can.

And I can't really think of a better reason to pass legislation that would protect a class of people as would that protection provided to minors through this bill that's presented to us by Senator Rath.

And I thank her for sponsoring it and suggest that we all support it.

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, 55.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 842, by Senator Libous, Senate Print 2463C, an act to amend the General Business Law.

SENATOR DOLLINGER: Explanation.

THE PRESIDENT: Senator Libous, Senator Dollinger has requested an explanation.

SENATOR LIBOUS: Thank you, Madam President. It's deja vu all over again, as Yogi Berra once said.

The bill that we have on the floor before us is the Motor Vehicle Renter's Responsibility and Protection Act. The bill would amend the General Business Law to repeal the hundred-dollar liability cap for damages to a rental vehicle. It would also allow the sale of optional vehicle protection that would be made available to the renter.

The reason for the bill, as I stated the other day, Madam President, is that this is a response to a number of companies over the past ten years that have gone out of business because in New York State the hundred-dollar cap has been in place. All

other states have removed the hundred-dollar cap. We believe it is prudent to do the same in New York.

This is a pro-consumer bill. This is a pro-small business bill.

SENATOR DOLLINGER: Thank you, Madam President. Will Senator Libous yield to a couple of questions?

THE PRESIDENT: Senator Libous, would you yield to a couple of questions?

SENATOR LIBOUS: Madam President, I would be happy to yield.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: You're right, it was deja vu once, it's deja vu again.

When we had the discussion last week, or it may have been the week before, I raised the question, and I think you properly pointed out that there was a reduction in the number of rental car companies. And I was looking to try to find the cause of that and find out whether this bill was going to address the cause of that -- you know, create a causality.

And my question, through you, Madam President, is what are the premiums for fleet insurance in the rental car industry, and how have they grown or been affected in the 11 years that we've had the limitation on liability and we've banned the CDWs? I mean -- and particularly, I'm talking about the fleet coverage solely for property damage to the rented vehicle. Liability and damage to other vehicles would be separate charges.

But what about the -- what has the effect of that been? Because that would be the only cost, I presume, for -- that would be incurred by virtue of our having passed this bill in 1988.

SENATOR LIBOUS: Madam President, in response to Senator Dollinger's question, we checked into it and talked to some of the companies and some of the folks in the industry.

One of the reasons for this legislation on the floor today is the fact that many of the companies, particularly the smaller companies that have gone out of business -- there's some 300 companies that

have since gone out of business -- cannot purchase fleet insurance. Fleet insurance is extremely expensive from the carrier. They don't have the money to purchase the insurance to give them any coverage.

What's happened over the past ten years is that because of this, and because of the hundred-dollar liability cap, they have taken and absorbed the losses in their day-to-day business operations. And because of that, we have seen a loss and a decrease of about 46 percent.

So in response, Madam President, to the Senator's question, is that fleet insurance is not available because it is cost-prohibitive.

SENATOR DOLLINGER: Again, through you, Madam President.

Just so I understand. If they don't insure the car through fleet insurance, you're not suggesting, Senator Libous, that these insurance companies are leaving the fleet without insurance coverage? Because I assume that that would apply not only to collision insurance but liability insurance as

well. A car has to be insured. It can't be driven in the state of New York without insurance. Where does the insurance come from?

SENATOR LIBOUS: In the state of New York, under present law, that automobile is insured for up to a hundred dollars as far as the liability to the consumer. All right?

SENATOR DOLLINGER: Correct.

SENATOR LIBOUS: The business owner has to absorb the cost. And that's why these businesses have gone out of business, because they cannot afford the cost.

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

Do you have any statistics that show how much the cost increased between 1988 -- obviously there was a fleet insurance cost in 1988. That cost has gone up, I assume, since -- based on what you've said to suggest that it has gone up since then. I'd just like to know, do you have any statistics to show how much has fleet insurance gone up so that that would create an extra cost? Because that's the only extra cost that would

be caused to rental insurance companies by this -- by virtue of what we did in 1988.

SENATOR LIBOUS: Madam President, this bill does not pertain directly to fleet insurance, and we don't have any direct numbers on fleet insurance. I would recommend that if the Senator is interested in that, that he might want to contact some insurance carriers and some others in the industry who might be able to afford that insurance.

What we're dealing with is the liability right now to the consumer, to the renter, to the car -- to the business. And that's what this bill is addressing. It is really not addressing an issue, Madam President, as to what costs are for fleet insurance. That's certainly a business issue that has to be dealt with.

The issue that we're addressing directly in this bill is the fact that optional insurance can be purchased for collision damage when someone is renting an automobile.

SENATOR DOLLINGER: Again, through you, Madam President.

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

SENATOR LIBOUS: I'll be more than happy to yield.

THE PRESIDENT: Go ahead, Senator Dollinger.

SENATOR DOLLINGER: Senator, do you know what the average cost is for the collision coverage for an automobile in New York state for a year? How much does just the collision rider cost?

SENATOR LIBOUS: That I don't know, Madam President. Obviously, that is in the personal insurance policy, as I mentioned last week. All of us who have personal automobile policies pay for the rental policy right now as far as collision damage is concerned. I would guess that that varies, Senator, from company to company.

As a matter of fact, Madam President, I am now shopping myself, because I own four vehicles, and looking at what costs are for automobile coverage. And I find that it varies dramatically from company to company.

SENATOR DOLLINGER: Again, through you, Madam President.

THE PRESIDENT: Go ahead, Senator Dollinger.

SENATOR DOLLINGER: It may vary significantly -- through you, if Senator Libous will continue to yield.

THE PRESIDENT: Do you continue to yield, Senator Libous?

SENATOR LIBOUS: I'll be happy to.

SENATOR DOLLINGER: It may vary significantly. But do you have any sense of what the average cost is for collision coverage in New York state, how many hundred dollars of -- you would pay or less than a hundred dollars you would pay for full collision coverage even on a new car?

SENATOR LIBOUS: Madam President, I don't have the answer to that, but I don't think it's relevant to the discussion before us. Because it is -- right now, if you have an insurance policy in New York state for your own personal automobile and you rent a car, you're covered under that policy. And right

now, this law has not been changed. So what that cost is depends on what the company charges.

What we're dealing with here in this legislation, Madam President, very simply, is that we are going to make available to the consumer optional coverage if they do not have the coverage on their credit card or if they do not have the coverage on their personal policy.

SENATOR DOLLINGER: Again, through you, Madam President, just so I make sure I understand it. And if they -- through you just to Senator Libous, if he'd yield for a question, Madam President.

THE PRESIDENT: Senator Libous, will you yield for an additional question?

SENATOR LIBOUS: Sure. Sure.

THE PRESIDENT: Go ahead, Senator Dollinger.

SENATOR DOLLINGER: What we're really doing in this bill is we're shifting the responsibility for collision coverage exclusively to the renter. Isn't that the case? If they buy the insurance, they're

covered if the vehicle is stolen or cracked up. If they don't buy the coverage and the car is stolen, then the rental car company could sue them for the value of the car because they're personally responsible for it; correct?

SENATOR LIBOUS: Right now - Madam President, through you -- Senator Dollinger, right now if you use a credit card or if you have your own coverage, you're already paying for it. No additional charge to the consumer.

The only time there would be a charge is that if the consumer has no coverage and does not have a credit card to purchase the insurance, then, again -- and I stress this -- it is optional. Then it is up to them to make the decision whether they want to pay for that insurance at the time they rent a car.

And if I may also, Madam President -- and through you to Senator Dollinger -- 85 percent -- and this is an important note -- 85 percent of all cars rented in this state are rented by people from

outside of the state. That's a very important fact.

SENATOR DOLLINGER: Again, through you, Madam President, if Senator Libous will continue to yield while -

THE PRESIDENT: Senator Libous, will you continue to yield?

SENATOR LIBOUS: I'd be more than happy to yield.

THE PRESIDENT: Thank you. Go ahead, Senator Dollinger.

SENATOR DOLLINGER: Senator, isn't it safe to say that you would like to make rental cars as cheap in New York state as possible so that 85 percent of those tourists don't have to pay extra fees to come to New York? Wouldn't you want to keep the cost of rental car insurance down in an effort to boost our tourism?

SENATOR LIBOUS: Madam President, that's exactly what this legislation is doing. And yes, Madam President and Senator Dollinger, that's what I want to do.

Let me give you an example. They just did this in Illinois -- which this bill

is patterned after, as a matter of fact, the Illinois legislation. I'd like to read to you the success, the tremendous success that they've had there.

And it said basically that in less than one year, the results have been astonishing. Automobile rental rates have declined on average more than 25 percent. For example, the average rate for renting a full-size car in Chicago had been reduced from $64.99 per day to $41.99 a day. Even with the collision damage waiver, the cost -- the per-day cost is less than the $51 per day. And it reduced the rates.

And, Madam President, additionally, in nine short months, more than 60 new rental car companies or new branches have opened in Illinois, and these additional companies have purchased more than 2400 new cars. And it's -- it's seen rates go down.

We expect to see rental rates go down in New York state with this legislation.

SENATOR DOLLINGER: Again, through you, Madam President.

I have some different statistics,

Senator, that suggest that in Illinois the rate has gone up from about $20, on average, to $21.65, while in New York the rate from December 1996 to April of '99 has gone from $23 to about $26.30. The rates in Illinois have gone up 8.25 percent; in New York, they've gone up about 12 percent.

Is that consistent with the numbers that you have, Senator?

SENATOR LIBOUS: Madam President, it must be that the numbers that I have are accurate. And, Senator, you might want to check the sources that you received those -

(Laughter.)

SENATOR DOLLINGER: I suspected that would be the response, Senator.

I have no further questions. I'd just like to address the bill, Madam President.

THE PRESIDENT: Senator, on the bill.

SENATOR DOLLINGER: We talked about this bill last time. And with all due respect to Senator Libous, I don't believe there's any justification given on the floor

thus far to pass this bill and to transfer to consumers the exact problem that we passed the statute in 1988 to overcome, which is the predatory practice at that fragile moment when you're renting a car when someone says "You need to buy collision coverage."

And the reason why we passed this statute in 1988 is because what we found was that too many people were being told at the rental car outlet that "Collision coverage? We think you need it." No one said what Senator Libous said or what Senator Libous perhaps would advise him, that anybody would advise him: "Did you know that if you buy this with a credit card, you may not need it." May not need it. Some credit cards provide that protection; others may not.

They also didn't say at this critical moment when you're renting a car, "Oh, by the way, guess what, if you have an automobile and it's got collision coverage, you're probably covered anyway."

And what we found was that the predatory practice was that they simply said "You need a collision damage waiver. You

should have collision coverage." And the information that the consumer needed to make an intelligent choice about whether to buy it or not wasn't given. And as a consequence, in 1988 we passed this law.

I would suggest to Senator Libous that there is no evidence before us right now -- none, zero -- that the cost of insuring those vehicles went up from 1988 to 1999 as a consequence of our capping the liability to the consumer at a hundred dollars. There's no evidence of that. And in the absence of that evidence, we're making public policy for some unknown reason. We're about to change the policy of this state without a justification.

And I would suggest to Senator Libous that the actual cost of the collision damage coverage for your automobile, even if it's a brand-new one, as I know many of these rental cars offer, that that cost for collision is about $2 a day, tops. Buy a new car, get it insured for collision, and it costs you about $600 for the collision coverage.

What we're doing in this bill is

we're authorizing the rental car companies to charge up to $9 a day for that cost that you could buy in the marketplace for $2 a day. What happens to the other $7 a day that consumers are going to pay? And I would just suggest to Senator Libous that that extra $7 a day is what we used to call -- if government were doing that, we would call that a tax. Because what we're doing is we're charging - we're allowing someone to collect a fee that frankly doesn't bear any relationship to the price for the goods in the marketplace.

So what we're going to do is we're authorizing the imposition of a $7-a-day tax on the rental of a car in this state. That's what we're doing. And we don't do that now, but we're going to do that in the future.

And I would suggest to everyone in this room that before we impose a tax like this that will not build any new roads, will not build any new highways, will not do anything for the benefit of government but instead is going to put $7 a day in the pockets of the rental car companies, that before we do that we should have a valid, a

strong, and a justifiable reason for doing it.

And if Senator Libous had stood here and said, "Gee, Rick, look, the cost of collision damage has gone way up because of this cap. Since the consumer isn't paying their fair share, it's been shifted over to the auto rental companies." And you could justifiably say, "Wait a second, Rick, it's time for the consumer, since the cost has gone way up, to bear a bigger burden of the cost." I could buy that argument. But I don't see that before us today.

And I would just suggest that this is a rental car tax. Let's call it for what it is. And the problem is that this tax is going to end up in the pocket of someone other than government. This is going to be a $7-a-day contribution to the rental car business.

Senator Libous is correct. There are fewer rental car companies in this state than there were 11 years ago. I would suggest there are fewer businesses of all varieties, a consolidation that's happened. And there's not one shred of evidence that that

consolidation was driven by this consumer protection statute.

The policy reason for putting this in place in 1988, which was to protect consumers at the time they bought this type of insurance, is as relevant today as it was then. In the 11 intervening years, we've done one thing. We've forgotten the reason why we did it in the first place.

Don't forget that. We will be back here. The same practices that occurred at the time of purchase of this insurance will occur again and again and again. And your consumers and my consumers are going to pay an unnecessary $7 a day.

And how much does that come to, Senator Libous? My guess is that -- guess. That's all I've got. I would suggest that there've been lots of guesses today. But my guess is that there are about 5,000 to 8,000 cars rented in this state a day, every day. Multiply that by $7, the difference between what you could buy the insurance for versus what they're going to charge, and suddenly you have a $35,000-a-day tax that's going to be

imposed on consumers in this state.

Even if most of them live out-of-state, I would suggest it's a disincentive to our tourist business. And if they live in our state, it's frankly what they used to call a rip-off.

I think this is a bad piece of legislation. With all due respect to the chair of the Mental Health Committee, I don't see this as pro-consumer, I don't see this as pro-business. I see this as sanctioning a practice that we called a rip-off in 1988. We ought to call it a rip-off in 1999.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, with the consent of the minority, could we have the last section read for the purposes of Senator Rath and Senator Skelos voting.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect in 90 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR RATH: Aye.

SENATOR SKELOS: Aye.

Please withdraw the roll call.

THE PRESIDENT: The roll call is withdrawn.

Senator Volker.

SENATOR VOLKER: Madam President, I really didn't intend to speak on this. But because I guess I have a little history on this legislation, I thought maybe I ought to say something.

Back in 1988, I represented an area around the airport in Buffalo. That's where all the rental car people are. There used to be a lot of little ones there, and of course the bigger ones.

Well, the bill that is being talked about here passed in 1988, and all the little people came charging into my office, and I remember came charging into all sorts of our offices, and they said if this legislation persists, if this situation persists, all the big people will be all right, they will be able to handle this and they will remain in the state, and you'll get rid of most of the competition. And what will happen is for a

short period of time, maybe the rates will go down a little bit, and then they'll go up. Which they have.

Now, what happened was we didn't change the legislation, and those little people are gone. The people around the airport now, I can think of only one smaller rental car operation that's left.

Now, you can tell me all you want that this legislation in 1988 had nothing to do with those people leaving. But what happened to them? They left. The big people are still there. And those big people's rates, by the way, went up. And this is an interesting issue, because I think it points up the fact that sometimes we don't realize what happens, particularly in the insurance business and in some of the business around this state, when competition is knocked out.

We have a situation right now, and those of you who are from New York City, whether you realize it or not, you're the only part of the state right now that is not being impacted by lower airline rates. And the main reason that you're not being impacted by it is

because we have been trying for several years -- we have a task force on airlines' rates, which we've gotten very little publicity about because the people in Washington are grabbing all the publicity. We've been trying to get gate slots at La Guardia, at Kennedy, and at Newark from the Authority who owns the gates down there, and we haven't been able to do it.

And the result has been we haven't been able to get the competition. And without that competition, the rates for airlines, particularly in New York City, have remained extremely high.

Upstate, we've been able to get some airlines in, some new airlines, and the result has been the rates have been falling in places like Buffalo and Rochester and Syracuse. But without competition, that's not going to happen.

Fascinating issue, because you can call all this sort of stuff you want taxes and all that sort of thing. But the truth is what happened in 1988 clearly and unequivocally helped the bigger leasing companies. They

were able to survive and went through it and so forth. The little people went out of business because they were impacted by the legislation that passed in '88, and the other people were able to handle it.

The question I think we have to ask ourselves, though, is who really was benefited by that. And I think what Senator Libous is trying to do is to make sure that everyone is benefited, the little guys are benefited. Oh, yes, we understand that some of the insurance companies don't like it, although they haven't conveyed that dislike to very many of us that I'm really aware of, except that we've heard through the grapevine that they don't like it. And of course that's the regular insurance companies.

The truth is, Senator Dollinger, I'm afraid I just don't agree with you. I don't think that the 1988 law, although it was intended to be a consumer protection issue - I think Senator Libous's bill is the consumer-protection issue.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take -

SENATOR DOLLINGER: Madam President, can I be heard before the -

THE SECRETARY: -- effect in 90 -

THE PRESIDENT: Senator Dollinger, why do you rise?

SENATOR DOLLINGER: I don't -- I hadn't intended to speak for the second time. I don't know whether Senator Schneiderman had. But I have just a couple of follow-up points to Senator Volker's comments.

THE PRESIDENT: Senator Dollinger, go ahead.

SENATOR DOLLINGER: Couple of quick things -

THE PRESIDENT: On the bill.

SENATOR DOLLINGER: I appreciate Senator Volker's episodic evidence -

THE PRESIDENT: Senator - Senator Dollinger, are you on the bill or do you have a question?

SENATOR DOLLINGER: I am on the bill, Madam President.

THE PRESIDENT: Go ahead.

SENATOR DOLLINGER: I appreciate Senator Volker's episodic view of the little people who went out when the consolidation, like many consolidations -- I point out that little airlines went out of business, little rental car companies, little car companies went out of business. It's a time of consolidation.

And I challenged Senator Libous the last time we were here to prove to me that this particular statute, which outlawed the sale of collision damage waivers and the hundred-dollar cap on personal responsibility, that that caused them to go out of business, that it increased their premiums, that it resulted in an increase in insurance so that only the big boys could play in the marketplace.

Senator, if that were the case, I would suggest that the logic for this bill would get stronger. But I haven't heard that case made, and I'm waiting to see that it's made. If we were, as a consequence of this bill, drastically increasing the cost for

individual insurance for these vehicles when they're rented, and that they couldn't compete because big sellers of this service were able to discount, then I would say Senator Libous may have a point.

I would point out, however, that that is not the case. There is no evidence to support that point. There's no correlation between supposedly increased premiums and the passage of this bill.

And I would just sum up by adding one other thing. I always have sort of a "through the looking glass" approach to this chamber. I always walk in here and sometimes figure that I have walked into that land on the other side of the looking glass. And I feel like I'm here today, because what I hear is that this is a pro-consumer bill. It repeals the fundamental piece of consumer protection, which is a hundred-dollar cap on the consumer's liability in the event the vehicle is stolen or damaged. It protects the consumer. It says no matter what happens, if it's stolen from you and it's not your fault, the most you have to pay is a hundred dollars.

When this bill becomes law, if it someday does, the answer will be if it's stolen from you, you now owe the insurance company $12,000. How that could be perceived as benefiting the consumer -- I would suggest it looks like that came from the Cheshire Cat, because it's just not real. The pro-consumer decision made in 1988 is still a good one.

And to do this now is really, as I said before, it was a rip-off in '88. It would still be a rip-off.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR SCHNEIDERMAN: I just wanted to add to Senator Dollinger's comments, which I think make the case very well that this is a particular burden to people in New York City, many of whom do not own cars and would be compelled to always pay this additional $7 a day into the pockets of the car rental companies.

I realize it's not been a great

month for the people in New York City in this house, but at least in this piece of legislation I hope we can give everyone a break, as those extraordinarily persuasive people in the Rockland County legislature are not pushing us for this bill.

This would have a severe impact on many communities in New York City where no one owns a car and where all of those people would be required to buy the collision damage waiver. And I urge everyone to vote in the negative, certainly everyone from New York City.

SENATOR LIBOUS: I'd like to answer that question, because that's a good one.

Senator, I would assume that most if not all people in New York City who rent a car would use a credit card.

SENATOR SCHNEIDERMAN: Many would. Many would not.

SENATOR LIBOUS: Yeah, I would guess that most -- I don't know too many people that write a check or pay cash to rent a car.

And they would be covered under any major credit card that covers the account, so that they would not have to pay for the collision damage waiver.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: Yes, Madam President.

Senator Dollinger says over and over again that this is anticonsumer because, in his last statement, on the current law the obligation is no more than a hundred dollars, but if this becomes law then that individual would be responsible for $12,000, $15,000, whatever the value of that car is, should it be stolen or totaled. And that's what I heard him say.

Now, Senator Libous, if you would yield -- Madam President?

SENATOR LIBOUS: I'd happy to yield, Madam President.

THE PRESIDENT: Go ahead, Senator Padavan.

SENATOR PADAVAN: Is it not true that a rental agency would not rent that car if, A, as you said several times, the person

had a credit card that covered it, or, B, their insurance policy covered it, or, C, they bought insurance that would be available by the rental car agency? Am I correct in that assumption?

SENATOR LIBOUS: That's correct.

SENATOR PADAVAN: So therefore, under no circumstance would the renter be responsible for the $12,000 or $15,000 that you keep telling us about, Senator.

Well, you're going to have to put -- the rental agency's going to do one of those three things with you, or in cooperation with you. They're not going to let you walk out of there bare. Because if they did that, then they're relying upon your ability to come up with that money. And that would be a very bad business decision.

So I would suggest to you, Senator Dollinger, that your hypothesis just falls flat when you apply some logic, if not the proposal that's before us.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect in 90 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Madam President. Madam President, may we have a slow roll call on this?

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: May we have a slow roll call on this?

THE PRESIDENT: I see five members standing. The Secretary will call the roll. Slowly.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Balboni.

(No response.)

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: Yes.

THE SECRETARY: Senator Breslin.

(No response.)

THE SECRETARY: Senator Bruno.

(Senator Bruno was recorded as voting in the affirmative.)

THE SECRETARY: Senator Connor.

(Senator Connor was recorded as

voting in the negative.)

THE SECRETARY: Senator DeFrancisco.

(No response.)

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: To explain my vote, Madam President.

THE PRESIDENT: Senator Dollinger, to explain your vote.

SENATOR DOLLINGER: I appreciate Senator Padavan's comments. And at least as I understand it, what we're talking about is optional vehicle protection. It's not a mandatory sale. You don't have to buy the collision damage waiver. You don't have to buy the insurance. The way I read it, the bill refers to optional vehicle protection.

And I would suggest that the insurance company will never be in a situation where the vehicle will be uninsured. What they'll do is they'll insure the fleet generally, they'll charge the consumer. If the consumer doesn't buy it, they'll simply take, in the event the vehicle is stolen,

since it is optional -- it's not a mandatory purchase. You're not required to purchase it.

And under those circumstances, the scenario that I've discussed is a possibility, which is you don't buy it with a credit card, you don't have your own car, and instead you drive away saying "I don't want the collision damage coverage. I want the liability protection, I want everything else, but I don't want the collision," somebody steals the car, and the consumer will be held liable.

That was the whole point of the hundred-dollar cap, is that if all those things happened, the cap would be a hundred dollars.

Again, Madam President, I really think we're right here on the other side of the looking glass and we're talking about this as though it were a consumer protection bill. Why there are no consumer groups in here asking for it to be passed and all are in here saying don't pass this bill would suggest to me that on the other side of the looking glass, in that real world we're supposed to live in, this is a bad consumer bill.

I vote in the negative.

THE PRESIDENT: Senator Dollinger, you will be recorded as voting in the negative on this bill.

The Secretary will continue to call the roll.

THE SECRETARY: Senator Duane.

SENATOR DUANE: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Aye.

THE SECRETARY: Senator Gentile.

SENATOR GENTILE: No.

THE SECRETARY: Senator Gonzalez.

SENATOR GONZALEZ: No.

THE SECRETARY: Senator Goodman.

SENATOR GOODMAN: No.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hevesi.

SENATOR HEVESI: No.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: No.

THE SECRETARY: Senator Kuhl.

(No response.)

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: No.

THE SECRETARY: Senator Lack.

SENATOR LACK: Madam President.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President. I rise to explain my vote.

I've listened very carefully to the debate on the floor this afternoon. And once again, I'm always surprised at debates which make us the nation of New York rather than the state of New York, and a failure to understand that there are 49 other states in the Union. I've listened to the other side, very carefully, explain about the liability of $12,000, $15,000. And I must admit, I didn't know we had this wall at our state borders.

All those other problems that, if we adopt this, that must be going on in those

other states -- Illinois, which just repealed it, states like California and Texas, states in which, you know, thousands of people travel, tens of thousands of people, to rent cars -- and all that liability that they must be experiencing.

I must admit, Madam President, I guess I don't read the newspapers well enough. I fail to have read any article about a $15,000 liability some poor traveler in California or in Texas -- the one thing I do see in newspapers, however, and I invite all my colleagues on the other side of the aisle to take a look at it, is travel sections in Sunday's newspapers. Read them sometimes. And when you do, look at all those ads for the rental car companies. And look at the bottom print, when they have "Special, $19.95," "Special, $23.95," look at the small print: "Not available in New York State." You'll find that in every car ad in every Sunday travel section in every newspaper in the country, and you'll see it again next Sunday.

I vote aye.

THE PRESIDENT: Senator Lack, you

will be recorded as voting in the affirmative on this bill.

The Secretary will continue to call the roll, please.

THE SECRETARY: Senator Larkin.

(No response.)

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Aye.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Yes.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Madam President, to explain my vote.

THE PRESIDENT: Senator Libous, to explain your vote.

SENATOR LIBOUS: Thank you, Madam President.

I've heard the debate. We've answered questions this afternoon. And I just would like to cover a couple of very important points that I think have been missed in this entire debate. This bill is very much pro-consumer and it is very much pro-business. And I think the statistics really speak for themselves, and they ring a bell loud and

clear. And I want to share them one more time.

Over the past ten years, we've lost 46 percent of the car rental companies in this state. So whatever we did, that wasn't pro-business. We had 572 locations; we now have 319 locations. The accident frequency for rental cars increased by 250 percent because there was no renter responsibility.

You know, on this floor we talk about a number of different issues. You hear things about personal responsibility. You rent a VCR, you smash it up, you're liable for it. You rent a tuxedo, you rip it, you're liable for it. You rent a car in New York state, total it, and you can walk away for a hundred dollars. There has to be some personal responsibility.

But yet there is coverage for this. The coverage is available. Those of us who have automobiles and have policies, we have collision coverage on those policies. We're covered if we rent a car. If you carry a major credit card -- and I have to be very candid. I don't think there's a rental car

agency in the country that will rent you a car without a credit card. If there is, I'd like to be there. I'd like to talk to them. And any of the major credit cards has collision coverage. So for those individuals who claim they don't have personal policies, it's available.

Then the insurance is made optional. If you have neither, the insurance is optional. I would think, as someone who takes personal responsibility for my action, if I had neither the credit card or a personal automobile insurance and I were to rent a car, a piece of property that didn't belong to me, I would want to take responsibility for that piece of property if I were to take it out and damage it. That's the way I was brought up.

And I would pay, Senator Dollinger. I would pay for that $7 or $2. It all depends on what the company wants to charge. It could be as little as 1, it could be zero.

The point here, I think we're pretty clear that there is coverage for the consumer. And on -- if you look at the bill, Madam President, if you look at the

information on the bill, we are going to put it in big type right on the front of the bill that talks about the responsibility for the consumer. Because we care deeply about the consumer, and we will protect the consumer.

Madam President, this is a pro-business bill, it is a pro-consumer bill, it is good for the state, it is good for the consumers of this state. I vote aye.

THE PRESIDENT: The Secretary will continue to call the roll.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Yes.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: No.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: I was voting for Senator Markowitz.

(Laughter.)

THE SECRETARY: Senator McGee.

SENATOR McGEE: Yes.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Aye.

THE SECRETARY: Senator Mendez, excused.

Senator Montgomery.

SENATOR MONTGOMERY: Madam -

THE PRESIDENT: Senator Montgomery, to explain your vote.

SENATOR MONTGOMERY: Yes, Madam President, just briefly to explain my vote.

I think that I may have even voted no on the original bill that we passed because I thought that $100 was quite low. And I certainly would be very much in favor of raising that cap. I think that makes sense. But certainly not to repeal the law which protects consumers to a large extent.

So I'm voting no.

THE PRESIDENT: Senator Montgomery, you will be recorded as voting in the negative on this bill.

The Secretary will continue to call

the roll.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: Aye.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: No.

THE SECRETARY: Senator Oppenheimer.

(No response.)

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Madam President, I'd like to explain my vote -

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: -- and in the process attempt once again to respond to Senator Dollinger's comments.

He says this is an optional insurance coverage bill, and in so saying claims that the renter would be liable for the full value of that car should it be stolen or totaled. That is his contention.

But if he reads the bill and further clarifies, for his own benefit and the rest of us, what the word "optional" means

here. Now, if you look on page 5, it says: "This shall be printed in bold-faced type on the contract. This contract offers for an additional charge optional vehicle protection to cover your financial responsibility for damage or loss to the rental vehicle. The purchase of optional vehicle protection is optional and may be declined."

So far you're right.

"However, you are advised to carefully consider whether to purchase this protection if you have rental vehicle collision coverage provided by your credit card or automobile insurance policy coverage before you decide whether to purchase the optional insurance."

So what they're saying to the consumer, it's optional, but don't buy it if you're already covered by your credit card or by your personal policy on your vehicle back home. That's the optional part.

Now, obviously no rental agency is going to let you walk out of there with that vehicle without one of these three options being exercised. And that's the point I was

trying to make to you, which you choose to ignore.

I vote aye.

THE PRESIDENT: Senator Padavan, you will be recorded as voting in the affirmative on this bill.

The Secretary will continue to call the roll.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Rath voting in the affirmative earlier today.

Senator Rosado.

SENATOR ROSADO: No.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: No.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Schneiderman.

SENATOR SCHNEIDERMAN: No.

THE SECRETARY: Senator Seabrook.

SENATOR SEABROOK: No.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Yes.

THE SECRETARY: Senator Skelos voting in the affirmative earlier today.

Senator Smith.

(No response.)

THE SECRETARY: Senator Spano.

(No response.)

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: No.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: No.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Vellela.

SENATOR VELELLA: Aye.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

(No response.)

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

THE PRESIDENT: The Secretary will call the absentees.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: Aye.

THE SECRETARY: Senator Breslin.

(No response.)

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator Kuhl.

(No response.)

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator Oppenheimer.

(No response.)

THE SECRETARY: Senator Smith.

(No response.)

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Waldon.

(No response.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Ayes, 34. Nays,

20.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1053, by Senator Bonacic, Senate Print 4850, an act to amend the Public Authorities Law, in relation to indemnification.

SENATOR DOLLINGER: May I have a brief explanation, Madam President.

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

SENATOR BONACIC: Thank you, Madam President.

This is legislation that intends to extend a state defense and indemnification to officers, members, and directors and employees of the State of New York Mortgage Agency, known as SONYMA.

What has happened over the years is that we have extended the defense and indemnification to these categories of employees, officers, and directors for many public authority and public benefit corporations. And just to quickly name a few, the Local Government Assistance Corporation,

the Greenway Heritage Conservancy, Greenway Council, the Energy Research and Development Authority, the Science and Technology Foundation.

In addition, we do it for the State University Construction Fund, the Facilities Development Corporation, Long Island Power Authority, and even our own New York State Urban Development Corporation. And, last but not least, our Housing Finance Agency.

What we want to now do is extend this same privilege to the officers, directors, and employees of SONYMA.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President. If Senator Bonacic will yield just to one question.

THE PRESIDENT: Senator, would you yield to a question?

SENATOR BONACIC: Absolutely.

THE PRESIDENT: Go ahead, Senator Dollinger.

SENATOR DOLLINGER: As I understand this, this preserves the exception

that if the actions were not in good faith and were not made for a public purpose, they wouldn't be entitled to the indemnification?

SENATOR BONACIC: The standard that they use is the same standard that applies to all of those other agencies that I've said. And to answer your question specifically, it's yes.

SENATOR DOLLINGER: So the Section 20 -- line -- line 20 through 24, which deals with the exception, says you aren't covered if you participate in bad faith, that's in all the other statutes in the other agencies that we protect?

SENATOR BONACIC: It is. It's the same standard.

SENATOR DOLLINGER: Okay. No objection.

Thank you, Madam President.

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, 58.

THE PRESIDENT: The bill is passed.

SENATOR GOODMAN: Madam President.

THE PRESIDENT: Senator Goodman.

SENATOR GOODMAN: If I may, Madam President, I want to announce the fact that this afternoon from 6:00 to 8:00 p.m., there's going to be a reception at the New York State Museum featuring the works brought to this capital by the Whitney Museum of Art in New York City.

This exhibit will be of exceptional interest to legislators in particular, since it relates to the work of artists in New York done between the years 1900 and 1940. You will recall that these were years of tremendous ferment in our society. The exhibit will touch upon the World War I years, the prosperity, the Great Depression, the change in the metropolis from urban -- in the urban metropolises of our state.

And I think you'll find this an extremely interesting and approachable exhibit

which you'll enjoy greatly, not to mention the fact that there'll be hors d'oeuvres and refreshments served, with a distinguished group of Albany residents.

May I urge you, ladies and gentlemen, to attend this exhibit. It's something sponsored by the Senate, brought here as the third in a series, the first from the Metropolitan Museum, the second from the Museum of Modern Art, and finally this from the Whitney, all reflecting a concern that we have with the culture of our state and the fact that museums should not keep things in their basements but should share them with other cities.

I think you'll enjoy it immensely, and I look forward to personally welcoming you at the exhibit, along with the Trustees of the Whitney, the Mayor of Albany, and a great number of other dignitaries. Please do come. I think you'll find it a very rewarding experience. Thank you very much.

THE PRESIDENT: Thank you, Senator Goodman, for that announcement.

Senator Alesi, that completes the

controversial reading of the calendar.

SENATOR ALESI: Madam President, is there any housekeeping at the desk?

THE PRESIDENT: No, Senator Alesi, there is no housekeeping at the desk.

SENATOR ALESI: There being no further business, I move we adjourn until Wednesday, May 26th, at 11:00 a.m.

THE PRESIDENT: On motion, the Senate stands adjourned until Wednesday, May 26, 11:00 a.m.

(Whereupon, at 4:17 p.m., the Senate adjourned.)