NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 16, 1999

11:09 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order.

I ask the members to take their chairs and everybody to rise and join with me in saying the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT KUHL: In the absence of clergy, may we bow our heads in a moment of silence.

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

ACTING PRESIDENT KUHL: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, June 15, the Senate met pursuant to adjournment. The Journal of Monday, June 14th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

The Chair recognizes Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. On page 10 I offer the following amendments to Calendar Number 371, Senate Print 1469A, and I ask that Senator Spano's bill will retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 371 are received and adopted, and the bill will retain its place on the Third Reading Calendar.

Senator Skelos, we have one substitution at the desk.

SENATOR SKELOS: Please make the substitution.

ACTING PRESIDENT KUHL: The Secretary will read the substitution.

THE SECRETARY: On page 38, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 8164A and substitute it for the identical Third Reading Calendar, 1433.

ACTING PRESIDENT KUHL: The substitution is ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there are two privileged resolutions at the desk, Resolution 2053 and 2054. If we could have the titles read and move for their immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read the titles to Resolution 2053 and 2054.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 2053, honoring Lieutenant Colonel Robert E. Newman upon the occasion of his retirement upon 18 years of active service with the United States Army and the United States Army National Guard.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted.

The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 2054, honoring Officer Colleen Goldston upon the occasion of her designation as the recipient of the John J. Givney Award, May 21, 1999.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up the noncontroversial calendar.

ACTING PRESIDENT KUHL: The Secretary will read the noncontroversial reading of the calendar.

THE SECRETARY: Calendar Number 239, by Senator Farley, Senate Print 1918, an act to amend the Banking Law, in relation to charges.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR SANTIAGO: Thank you, Mr. President. To explain my vote.

I appreciate that the stores, grocery stores and the retailers, are probably consider -- are losing -- are probably losing an unreasonable loss at this time. I've explained to Senator Farley that I'm very comfortable with the grocery stores raising their prices, but I think that to raise it

from 50 cents to a dollar is just too much, and for some people an extreme -- an -- it's a burden on probably the people that could afford it least.

I would support a raise to 75 cents or a slower incremental raise over a couple of years. I do support the idea that we have a sliding-fee scale based on the amount of the check. I think that's an excellent idea. Senator Farley and I support that concept, and we've discussed that in the past.

However, as the bill now stands, I must vote against it. And I hope that there's a compromise legislation, if it passes the Assembly, that we could come to some agreement.

But I hope, Senator Farley, you understand that, you know, it's very difficult to vote for this bill as it now reads. I just think it puts a burden on the population that I represent.

Thank you.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 239 are Senators Kuhl, Onorato, and Santiago. Ayes, 37. Nays, 3.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 435, by Senator Saland, Senate Print 3268, an act to authorize the apportionment of state building aid.

ACTING PRESIDENT KUHL: There a local fiscal impact note at the desk.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 652, by Member of the Assembly Morelle, Assembly Print Number 6317, an act to amend

the General Business Law, in relation to the sale of monuments.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 700, by Member of the Assembly Weinstein, Assembly Print Number 6933A, an act to amend the Lien Law, in relation to liens on molds.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 772, by Senator Trunzo, Senate Print 4408A, an act to amend the Public Authorities Law, in relation to the recovery.

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

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 803, by Senator Leibell, Senate Print 2661A, an act to amend the Retirement and Social Security Law, in relation to benefits.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 866, by Senator DeFrancisco, Senate Print 1151, an act to amend the General Obligations Law, in relation to extending.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 896, by Member of the Assembly Harenberg, Assembly Print Number 1269A, an act to amend the Military Law, in relation to date of membership.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 980, by Senator Goodman, Senate Print 5084A, an act to amend Chapter 912 of the Laws of 1920.

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

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1030, by Senator Goodman, Senate Print 5348A, an act to amend the Alcoholic Beverage Control Law, in relation to powers and operations.

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

THE SECRETARY: Section 6. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39. Nays, 1. Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1039, by Member of the Assembly Lafayette, Assembly Print Number 121, an act to amend the Banking Law, in relation to the geographic distribution.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR SANTIAGO: Yes. Mr. President, this legislation amends the Community Reinvestment Act. And we all know

that that's the law that requires banks to invest and contribute to the neighborhoods that I represent and neighborhoods that some of my colleagues represent, which is particularly poor neighborhoods.

This bill looks to the new millennium. It updates the Community Reinvestment Act by allowing examiners to consider whether a bank provides computer and electronic banking services evenly, in both terms of geography and economic class.

Let me be clear about one point, however. This law is designed to be a carrot and not a stick. It does not penalize a bank during its CRA exam for not offering computer banking services if it's not a regular part of their business. It instead will provide CRA credit to those banks which do offer services and make an effort to promote these services to poor urban and rural communities through measures like advertising and customer training.

And finally, let me just thank you, Senator Farley. Thank you for helping me with this bill and for working so closely with me.

I really appreciate your support during the entire process. You've always been a pleasure to work with, and I'd like to thank you publicly for that.

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

Announce the results.

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1055, by Senator Rath, Senate Print 125, an act to amend the Education Law, in relation to the composition.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1063, by Member of the Assembly Harenberg, Assembly Print Number 7009A, an act to amend the Education Law, in relation to the supervision.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1124, by Senator Skelos, Senate Print 4337A, an act to authorize the Village of Rockville Centre.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1174, by Senator Goodman, Senate Print 5671A, an act to amend the Real Property Tax Law and the Administrative Code of the City of New York.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 51. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1294, by the Assembly Committee on Rules, Assembly Print Number 8220, an act to amend the Insurance Law, in relation to eligibility.

ACTING PRESIDENT KUHL: Read the

last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1295, by Senator Marchi, Senate Print 5589, an act to amend the Education Law, in relation to courses.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1324, by Senator Wright, Senate Print 2425B, an act to amend the Economic Development Law and the Public Authorities Law, in relation -

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1350, by Senator Meier, Senate Print -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1372, by Senator Morahan, Senate Print 5794 -

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

The bill will be starred at the request of the sponsor.

THE SECRETARY: Calendar Number 1381, by Senator Marchi, Senate Print 2529A, an act to amend the Navigation Law, in relation to pilotage fees.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1386, by Senator Larkin, Senate Print 2533, an act to authorize retroactive membership.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1389, by Senator Maltese, Senate Print 4372, an act to amend the Administrative Code of the City of New York, in relation to the establishment.

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

The Secretary will read the last section.

THE SECRETARY: Section 14. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR ONORATO: Lay the bill aside.

ACTING PRESIDENT KUHL: The bill is passed, gentlemen. Do you want a motion to reconsider the vote by which the bill passed the house?

The Secretary will call the roll on reconsideration.

THE SECRETARY: In relation to Calendar Number 1389.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill

is laid aside.

The Secretary will continue to call the noncontroversial calendar.

THE SECRETARY: Calendar Number 1412, by Senator Johnson, Senate Print 2698, an act to amend the Retirement and Social Security Law, in relation to providing.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1413, by Senator Velella, Senate Print -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1414, by Senator Marchi, Senate Print 3605A, an act to amend the Not-for-Profit Corporation

Law, in relation to increasing.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 5. This act shall take effect January 1.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1415, by Senator Leibell, Senate Print 3796A, an act to amend the General Municipal Law, in relation to benefits.

SENATOR PATERSON: Lay it aside.

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

The bill will be laid aside.

THE SECRETARY: Calendar Number 1416, by Senator Larkin, Senate Print 3971, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law, in relation to off-track betting and simulcasting.

ACTING PRESIDENT KUHL: Read the

last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1417, by Senator Wright, Senate Print 3994, an act to amend the Public Service Law and the State Administrative Procedure Act.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 4. This act shall take effect in 90 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1418, by Senator Alesi, Senate Print 4124A, an

act to amend the Workers' Compensation Law, in relation to liability.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1419, by Senator Bonacic, Senate Print 43 -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1420, by Senator Marchi, Senate Print 4457, an act to amend the Not-for-Profit Corporation Law, in relation to authorizing.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1421, by Senator Goodman, Senate Print 4993, an act to amend the State Finance Law, in relation to requirement.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1424, by Senator Seward, Senate Print 5207, an act to amend the County Law, in relation to requiring.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 3. This act shall take effect in 30 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1425, by Senator Alesi, Senate Print 5212, an act to amend the Insurance Law, in relation to the minimum remuneration.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1426, by Senator Alesi, Senate Print 5213, an act to amend the Public Health Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1427, by the Assembly Committee on Rules, Assembly Print Number 8075, an act to amend the Real Property Tax Law, in relation to requiring.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1428, by Senator Leibell, Senate Print 5479A, an act to amend the Retirement and Social Security Law, in relation to permitting.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1429, by Senator Alesi, Senate Print 5587, an act to amend the Tax Law, in relation to the affixation.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 4. This act shall take effect in 180 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1430, by Senator Lack, Senate Print -

SENATOR SKELOS: Lay it aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number 1432, by the Assembly Committee on Rules, Assembly Print Number 8128A, an act to amend the Environmental Conservation Law, in relation to regulations.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1433, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8164A, an act to amend the Environmental Conservation Law, in relation to the management.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1434, by Senator Stachowski, Senate Print 5713, an act to amend the Executive Law, in relation to eligibility.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1435, by Senator Johnson, Senate Print 5718A, an act to amend the Environmental Conservation Law, in relation to authorizing.

ACTING PRESIDENT KUHL: Read the last section.

SENATOR LEIBELL: Section 2. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1436, by the Senate Committee on Rules, Senate Print Number 5815, an act to amend the Administrative Code of the City of New York, in relation to the authorization.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1437, by the Senate Committee on Rules, Senate Print Number 5816, an act to amend the Administrative Code of the City of New York, in relation to permitting.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1438, by the Senate Committee on Rules, Senate Print Number 5817, an act to provide for pension credit.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1439, by Senator Goodman, Senate Print 5834, an act to amend the Public Health Law, in relation to office.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1440, by Senator McGee, Senate Print 5836, an act to amend the Navigation Law, in relation to operation.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This

act shall take effect on the first day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1441, by Senator Meier, Senate Print 5848, an act to amend the Social Services Law, in relation to the family loan programs.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1442, by Senator Meier, Senate Print 5850, an act to amend the Social Services Law, in

relation to permitting.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1443, by Senator LaValle, Senate Print 5857, an act to amend the Education Law, in relation to removing.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1444, by Senator DeFrancisco, Senate Print 5880, an act to amend the Tax Law, in relation to providing.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1445, by Senator Meier, Senate Print 5887, an act in relation to creating a demonstration program.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1446, by Member of the Assembly Tocci, Assembly Print Number 3084A, an act to amend the New York State Veterans Bill of Rights.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1447, by Senator Meier, Senate Print 5908, an act to amend the Tax Law and the Administrative Code of the City of New York.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 18. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1448, by Senator Morahan, Senate Print 5909, an act to amend the Not-for-Profit Corporation Law, in relation to corporations.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1449, by the Assembly Committee on Rules,

Assembly Print Number 8272A, an act to amend the Banking Law, in relation to criteria.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1450, by Senator Goodman, Senate Print 5920A, an act to amend the General Municipal Law and Chapter 130 of the Laws of 1998.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1451, by Senator lack, Senate Print 5924, an act to amend the Insurance Law, in relation to a guarantee.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1452, by the Assembly Committee on Rules, Assembly Print Number 8237, an act to amend Chapter 942 of the Laws of 1983.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1453, by Senator Meier, Senate Print 5933 -

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1454, by the Assembly Committee on Rules, Assembly Print Number 8226, an act to amend the Criminal Procedure Law, in relation to removal.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1455, by Senator Maziarz, Senate Print 5947, an act to amend the General Business Law, the Personal Property Law, the Public Service Law and the State Finance Law.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 6. This act shall take effect September 1.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1456, by Assemblyman Canestrari -

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1457, by Senator Leibell, Senate Print 3921, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 1110.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1110.

Before the Secretary reads, can we have a little order in the chamber, please. Senator Spano, Senator Padavan, Senator Mendez, Senator Smith. Staff members, take their seats. Senator Balboni, take the conversation out of the chamber.

The Secretary will read.

THE SECRETARY: Calendar Number 1110, by Senator Leibell, Senate Print 5328B,

an act to amend Chapter 338 of the Laws of 1998.

ACTING PRESIDENT KUHL: Senator Skelos.

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

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1110. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted. The bill is before the house.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the controversial calendar, please, starting with Calendar Number 803, by Senator Leibell.

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

THE SECRETARY: Calendar Number 803, by Senator Leibell, Senate Print 2661A, an act to amend the Retirement and Social Security Law, in relation to benefits.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Leibell, an explanation of Calendar Number 803 has been requested.

SENATOR LEIBELL: Yes, Mr. President.

This bill intends to provide parole officers who suffer job-related heart disease with the presumption that the heart disease is

job-related. Specifically, the bill requires that the parole officer successfully pass a physical examination prior to entry into service, and that physical exam did not disclose any evidence of heart disease.

Additionally, it provides that it shall be presumptive evidence that a parole officer who suffers from heart disease which results in disability or death incurred the heart disease in the course of their employment.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Leibell would yield for some questions.

ACTING PRESIDENT KUHL: Senator, do you yield?

SENATOR LEIBELL: Yes, I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, what would be the way of rebutting a presumption that heart disease was job-related? In other words, how would you ever know if any physical

ailment, malady or disease was caused through the person's job unless you individually determined the amount of time they were spending overtime, stress, and other excesses?

SENATOR LEIBELL: Well, Senator, before they come into the job, of course, as I noted, you're going to have to successfully pass a physical examination prior to the entry into service. And that physical exam would disclose if there was in fact any heart disease.

As to what circumstances would rebut this, that would be up to a medical professional. It would be beyond me to say.

SENATOR PATERSON: Thank you.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator.

Mr. President, if Senator Leibell would yield for another question.

ACTING PRESIDENT KUHL: Do you continue to yield, Senator Leibell?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: The

Senator continues to yield.

SENATOR PATERSON: So, Senator, if someone comes to the job and they are not suffering from heart disease and it accumulates later, we are making a presumption it was job-related. How long could the person have been working at the job when the condition would arise? Could it be as much as 20 years?

SENATOR LEIBELL: Yeah, it could be.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Senator.

Mr. President, if Senator Leibell would yield for another question.

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: Senator Leibell yields.

SENATOR PATERSON: So therefore, if we were going to compare this particular employee with anyone else in society within 10, 15, 20 years, isn't it possible that anyone else could acquire heart disease just

by the nature of their own age?

SENATOR LEIBELL: That's why it would be a rebuttable presumption. That would be for medical professionals to be able to determine that.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Leibell would yield for another question.

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Senator, what is the position of the relevant medical conferences or associations on this type of distinction as to how someone acquired something, especially considering the fact that until the ailment presents itself, often the medical profession cannot diagnose a disease prior to its taking effect?

SENATOR LEIBELL: I'm not sure that I completely understand your question. But I think the answer you're looking for is probably still a technical medical answer,

which certainly I would not be equipped to give you.

As to what would cause this sort of a disease, as to whether it was related to the specific job, those are things that medical professionals would have to answer. It's beyond my scope to answer that. I don't have that expertise.

But what we are doing here is we are creating that presumption.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you.

Mr. President, if Senator Leibell would continue to yield.

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: Therefore, Senator, in order to create the medical presumption, there must be -- we must have evidence already, even though this is not a medical determination, but sheerly just statistics, that individuals in this line of work are more prone to developing heart

disease; is that correct?

SENATOR LEIBELL: I think that is correct, yes.

ACTING PRESIDENT KUHL: Senator Paterson.

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

SENATOR LEIBELL: I do.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: Mr. President, I'd like to know if Senator Leibell can give us any of that information right now. In other words, what the statistics are for those who would be unfortunate enough to be suffering from heart disease, what the statistics are between the affected, as represented in this bill, and the regular - and the general society.

SENATOR LEIBELL: I certainly would not, Senator, have any information available to me today as to what the statistics would be.

I would note, though, this is legislation that's comparable to laws that are

already on the books for police and fire.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Right. Thank you, Senator.

If Senator Leibell would continue to yield.

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: Senator, as a preface to my question, what I'm interested in knowing in this particular class that's affected by this particular legislation here, Calendar Number 803, is what the relevance of the statistics would be in order to establish this type of presumption. In other words, that there's a significant likelihood that a person working in this line of work, as are corrections officers, would be more likely to suffer from heart disease.

And so what I just want to know is that the evidence is not just a preponderance, but it is clear that there is a risk that someone takes to their life by working in this

particular endeavor.

SENATOR LEIBELL: No, as I noted -- and we've discussed this type of bill before. Throughout this session, we've discussed legislation like this -- that those who serve in police and fire and corrections, and now we're also including parole, have uniquely difficult and professionally very stressful jobs, much more so than the average citizen of this state would confront.

Is it likely that -- or is it possible that they could develop heart disease and it could be related to something entirely outside of their job, something genetic, possibly? And the answer to that is yes. That's why it's a rebuttable presumption.

We create the presumption here in this legislation, or we attempt to, as we have in other statutes, because of the difficulty and unique nature of the work. We've presented that before to this legislative body on numerous occasions for others, to indicate that those who deal with the criminal justice system, those who deal with emergency services such as fire, face unique health problems.

And heart disease is certainly at the forefront.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Leibell would continue to yield.

SENATOR LEIBELL: Yes.

SENATOR PATERSON: Interestingly enough, Senator Leibell, I read one of those reports that actually the most stressful career, based on the effects on the individuals, is actually in the print media and also in the radio and television media. Which I felt was ironic, since the individuals who work in that area often, I thought, caused stress to other professions, that they would be the ones that suffered the most.

The question that I have for you is -

SENATOR LEIBELL: I'll be happy to look at legislation in that area, Senator.

SENATOR PATERSON: (Laughing.) No, that's okay, Senator, you don't really have to do that.

The question that I have for you is what I'm really just looking for is that I recognize that we have established this legislation over a period of time and that we've established it with other groups. And so because of that, I was wondering why we hadn't already done this.

And so to determine whether or not we should do it now, I was just trying to learn what statistic or information it was that compelled you to bring this legislation before us now. Because clearly, if it is the case, we would want to do it. But what I wanted to elicit from you was what the catalyst was, since we hadn't done it previously.

SENATOR LEIBELL: My understanding is this is not new legislation, although it was not passed here previously. It was passed in the Assembly last year. And apparently at that time there was -- there's consistently been evidence that's been made available concerning those who work in the criminal justice system, the stressful nature of their work.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If the Senator would be willing to yield.

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: I think the reason that I raised it, Senator, is because police officers, it's -- even without the statistics, it's almost a fait accompli. If you become a police officer, you're walking around in conditions every day where your own life is at risk. And we just lost a police officer in New York City about a month ago.

Firefighters, the same thing. Two weeks ago on Friday, we lost a firefighter in New York City. Firefighters, just by the nature of the work that they do, are automatically put in that position.

But when we come to parole officers, I'm not going to say that I have an idea of what the stresses are in that particular profession. I'm just saying that

it doesn't jump out at me as something that we immediately should do, not knowing the full -

SENATOR LEIBELL: Senator, as you say, when you take a look at police and fire, to you that's a fait accompli. Similarly to myself, it would seem self-evident with respect to this.

And just as we can search for statistics to bear that out with police and fire, we can similarly search for statistics here. And possibly my threshold in the criminal justice system may be somewhat different than yours may be. But to me, it's just as apparent for parole officers as it is to you -- and to me -- for police and fire.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

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

SENATOR WALDON: Thank you very much, Mr. President. Would the gentleman from Westchester yield?

ACTING PRESIDENT KUHL: Senator

Leibell, do you yield to a question from Senator Waldon?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR WALDON: Thank you very much. Thank you very much, Mr. President.

Senator Leibell, are you aware of the various assignments within the Division of Parole in regard to those who are required to carry weapons?

SENATOR LEIBELL: I'm somewhat familiar with them, yes. I've worked with them in the past.

SENATOR WALDON: Would the gentleman continue to yield?

ACTING PRESIDENT KUHL: Senator Leibell?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: He continues to yield.

SENATOR WALDON: If you are, Senator, then you know that many of the parole officers are assigned to warrant squads or other kinds of duties where they go into the

South Bronx or other areas across the state to get people who are technical and other violators of parole and to apprehend them and bring them in. It's not just the New York City Police Department or other municipal departments who are required with a warrant to go and return these people to the system.

Are you aware of that?

SENATOR LEIBELL: Yes, I am aware of that.

SENATOR WALDON: Would the gentleman continue to yield?

ACTING PRESIDENT KUHL: Senator Leibell?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR WALDON: Senator, if you are aware of that, then you may also be aware -- and please let me know if you are - of situations where parole officers are actually engaged in shoot-outs. I'm sure that you may have heard -- is that correct?

SENATOR LEIBELL: Yes. In fact, when I was a prosecutor in Westchester County,

I was involved in such a case.

SENATOR WALDON: One last question, Mr. President.

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

SENATOR LEIBELL: Yes, I do.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR WALDON: To your knowledge, in handling those cases, Senator, were you made aware through the interface with the parole officer or from other information received that the kinds of tension and stress, anxiety, back pain, cold sweats, fear generated for police officers and other similar law enforcement personnel could have occurred in those situations where parole officers were in fact exposed to gunfire?

SENATOR LEIBELL: Absolutely, Senator. And with respect to your line of questioning, I've known many people in this professional position. I've known them in a professional capacity, I've known them socially. And I would view this as a particularly dangerous position. It's one

that can cause a great deal of stress.

And in fact, I have personally known many people who have felt the effects of the stress that comes from their job.

SENATOR WALDON: Thank you very much, Senator.

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

ACTING PRESIDENT KUHL: Senator Waldon, on the bill.

SENATOR WALDON: To my knowledge, my personal knowledge, the frequency of encounters and shoot-outs, et cetera, with parole officers is not the same as most of the police officers who work the warrant squad, who work -- or who work in the detective bureau. However, one time facing down a revolver firing at you is really sufficient to create the kinds of stress that can create problems throughout the rest of your career.

And from my personal knowledge, that those who live in my community who happen to be parole officers, sometimes they face the dangers even if there's no weapon fired. In apprehending someone who is a very violent

person, the same kind of tension occurs.

So I think we should give the parole officers the same consideration as we do other law enforcement personnel. And I applaud Senator Leibell for bringing this to us for our consideration.

Thank you, Mr. President.

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

SENATOR SCHNEIDERMAN: Thank you, Mr. President. If the sponsor will yield to a question.

ACTING PRESIDENT KUHL: Senator Leibell, do you yield to a question?

SENATOR LEIBELL: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SCHNEIDERMAN: Yes, Senator Leibell, I just want to make sure I understand. What is the administrative proceeding in which this presumption would apply and in which the rebuttal by competent evidence would be required?

SENATOR LEIBELL: It would be a

normal disability hearing.

SENATOR SCHNEIDERMAN: And under the auspices of what agencies would that be taking place or does that take place?

SENATOR LEIBELL: Within the retirement system.

SENATOR SCHNEIDERMAN: Is that the same sort of proceeding for a city -

ACTING PRESIDENT KUHL: Senator Schneiderman, are you asking Senator Leibell -

SENATOR SCHNEIDERMAN: Oh, yes.

ACTING PRESIDENT KUHL: I hate to say that -

SENATOR SCHNEIDERMAN: Through you, Mr. President. No, that's all right. You're doing a fine job of keeping this in line, sir.

ACTING PRESIDENT KUHL: The stenographer will note those remarks for the record. Thank you.

Senator Leibell, do you yield to a question?

SENATOR LEIBELL: Yes, I do, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SCHNEIDERMAN: Thank you, Senator.

Is there a different set administrative procedure for city as opposed to state parole officers?

SENATOR LEIBELL: My understanding is it is separate.

SENATOR SCHNEIDERMAN: And if the sponsor will continue to yield.

ACTING PRESIDENT KUHL: Senator Leibell?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR SCHNEIDERMAN: I'm not sure I understand what kind of competent evidence would have to be introduced to rebut this. But it seems to me that it might be - have to be fairly intrusive -- evidence that would involve a fairly intrusive inquiry into someone's diet, lifestyle, and other factors that might have contributed to heart disease.

Has there been any evaluation of

the types of inquiry that might be undertaken within the pension system or by those who are responsible for rebutting this presumption and what kinds of personal information they might be required to get out about parole officers?

SENATOR LEIBELL: There hasn't been an inquiry by me, but there certainly is a history and a line of cases with respect to other people who would have this or who would benefit from this sort of a presumption with respect to heart disease, where there have been hearings.

Now, you make the interesting point if you had somebody who has led a particular lifestyle -- had not been watchful of their weight, for instance, and had been excessive -- that may very well be in fact evidence that could be used to rebut.

SENATOR SCHNEIDERMAN: If the sponsor would continue to yield.

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR SCHNEIDERMAN: Is there any requirement that the beneficiaries of this legislation would make available medical records, fill out questionnaires, or otherwise provide information relating to things such as whether or not they smoked, what their diet was, whether they'd had other kinds of medical conditions or problems?

SENATOR LEIBELL: When you make application for this sort of a disability, you would have to make information available.

SENATOR SCHNEIDERMAN: If the sponsor will continue to yield.

What sort of information do you have to make available?

SENATOR LEIBELL: Well, for instance, I'm sure there would be a litany of questions that would be asked on an appropriate form. I mean, I have not seen the form, but with respect to your various and general -- your general health conditions.

SENATOR SCHNEIDERMAN: Okay. And, Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I thank the sponsor for his time.

I find I'm a little bit puzzled at this point about the nature of the inquiry we're undertaking. I think that, sympathetic as I am to people who suffer stress on the job, it sounds like we're sort of operating in a little bit of a vacuum here. I'm not sure I understand what the nature of the inquiry that's possible is.

The variation in duties among parole officers is so severe, and the variation in the types of caseloads and stresses and strains is so much greater than for others who are covered under similar statutes, that it seems to me that some sort of thorough inquiry really needs to be undertaken before this kind of extension of law is made. And I think for that reason I have serious concerns about this bill at this time.

Thank you.

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

THE SECRETARY: Section 3. This

act shall take -

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

SENATOR DOLLINGER: If Senator Leibell would just yield to one quick question.

ACTING PRESIDENT KUHL: Senator Leibell, do you yield to one quick question from Senator Dollinger?

SENATOR LEIBELL: Yes.

SENATOR DOLLINGER: Through you, Mr. President. We have a number of these presumptions in the heart law for firefighters and others. What is the evidence that the presumption is actually overcome? Is there - there must be, since we've had the heart bill for police and fire I think now for something like twenty years. Do you have any evidence of sort of a chronological record of how many times someone asserts the presumption and it's actually overcome on behalf of the -

SENATOR LEIBELL: I don't have any statistics on that.

SENATOR DOLLINGER: Again, through you, Mr. President, just to clarify.

We really don't know whether this is a rebuttable presumption or an irrebuttable presumption with -

SENATOR LEIBELL: It's rebuttable by statute, we do know that.

SENATOR DOLLINGER: I understand, Mr. President. But just to clarify, we don't know -- I mean, if it were a hundred percent of the time the presumption governed, then even though we refer to it as a rebuttable presumption, it becomes irrebuttable by virtue of fact, in fact.

SENATOR LEIBELL: No. No. Because it could still be rebuttable, but in all the cases that came before them, it was justified, the end result, by the hearing officer.

SENATOR DOLLINGER: Again, through you, Mr. President. I agree with Senator Leibell's formulation -

ACTING PRESIDENT KUHL: You're asking Senator Leibell to yield to -- is it another quick question, Senator Dollinger?

SENATOR DOLLINGER: It's a follow-up to the quick question. Which will

also be quick.

ACTING PRESIDENT KUHL: I was just going to suggest, Senator Dollinger, that you never ask for an interpretation from the Chair as to what your interpretation is of quick.

Senator Leibell, do you continue to yield?

SENATOR LEIBELL: For a quick answer, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: If there were a hundred percent of the cases that were unable to rebut the presumption, then it would be a de facto irrebuttable presumption; you could draw that conclusion, couldn't you, that if the presumption had never been overcome and hence the person was always entitled to benefits in the event heart disease is determined to causally be related to the death or injury or the disability?

SENATOR LEIBELL: Mr. President, this sounds a little bit like a law school issue. If you had one case and only one case

arose, and that person was under it pursuant to this statute even though with the presumption it would be under a disability as a result of heart disease, by your standing that would be one hundred percent and therefore de facto irrebuttable, and I would not think that that would be correct.

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

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I appreciate the clarification from my colleague from Westchester County about the nature of rebuttable and irrebuttable presumptions.

But I still think that as we embark on doing something like this, it would be helpful to know, since we've set up other rebuttable presumptions about linkage between heart disease -- and, in some cases, established for police and fire lung disabilities and other kinds of disabilities. As we link them to, though, the presence of those disabilities on behalf of certain employees, but I think we have a long enough

track record now to be able to make some evaluation about whether the presumption works as a rebuttable presumption, which is oftentimes overcome, or whether it's a de facto irrebuttable presumption and hence what we're doing is we're creating a benefit, a disability benefit for a disease that crops up regardless of its causal relationship to employment.

I've voted in favor of bills of this type in the past, Mr. President. But I think it's time for us to just take a look at the linkage between these presumptions to see whether they are really rebuttable both in law and in fact or whether what they really constitute is an irrebuttable presumption which I believe -- or at least I take from Senator Leibell's answers that he's not intending to create an irrebuttable presumption.

It's just not the mere fact of heart disease that qualifies you for disability benefits, it creates a presumption. The government or the entity that is challenging that disability retirement or that

disability benefit would then be able to overcome it. It's really a question of the amount of evidence necessary to overcome and the circumstances under which it occurs.

I think it would be interesting just to -- I think for all of us, whenever we do one of these bills in the future -- to have some kind of information about that.

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

SENATOR BRESLIN: Mr. President, for a brief couple of questions from -

ACTING PRESIDENT KUHL: Senator Leibell, do you yield to a question from Senator Breslin?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR BRESLIN: Senator Leibell, I recall we did police officers and firemen, I believe, last year, and corrections offers earlier, and now parole officers. Are there any other groups that you might consider prospectively that we might want to include, like maybe the Senate?

SENATOR LEIBELL: If you mean Senators, we will not be considering members of the Senate.

SENATOR BRESLIN: We will not be considering members of the Senate. How about -

SENATOR LEIBELL: I'm not aware of any others right now.

ACTING PRESIDENT KUHL: Senator Breslin.

SENATOR LEIBELL: No, I'm not aware of any others right now.

SENATOR BRESLIN: Excuse me, Mr. President. Through you, if you will.

SENATOR LEIBELL: I yield.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR BRESLIN: Is there an overall criteria that we're using? Is it the carrying of a weapon or is it the designation of police-officer status, that we're trying to include a particular group and only that group?

SENATOR LEIBELL: Well, a weapon in and of itself, Senator, would not be the

criteria, because we include firefighters. And the nature of their job in the vast majority of cases, possibly unless they're a fire marshal, that we would include that as the sole standard alone.

But certainly the use of -- the carrying of a weapon, the potential for having to use that in your professional capacity. Although correction officers, in the vast majority of cases, don't, and that's one of the most dangerous jobs there is.

ACTING PRESIDENT KUHL: Senator Breslin.

SENATOR BRESLIN: Through you, Mr. President.

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

SENATOR LEIBELL: Yes, sir.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR BRESLIN: Could we then, with that analysis, begin to say that possibly a social worker, a caseworker who confronts sometimes unhappy clients on a daily basis might be included?

SENATOR LEIBELL: You know, I would say that that would be very unlikely. In the vast majority of cases, they would not be exposed with the regularity, the consistency that someone who is in this type of job in the legislation before the house today would be exposed to.

SENATOR BRESLIN: Thank you very much, Senator Leibell.

On the bill, please, Mr. President.

ACTING PRESIDENT KUHL: Senator Breslin, on the bill.

SENATOR BRESLIN: I guess -- I'm very supportive of any police officers, firemen, and the tremendous risks that they suffer on a day-in, day-out basis.

However, I have serious concerns about the subjective nature of taking a group at random, it seems at times -- parole officers -- to include in this group. And possibly we need a designation that everyone's included, all workers. And possibly even members of the Senate. And possibly even members of the Senate in the latter part of the spring and early summer, just for that

time frame.

So other bills of this nature, I've supported totally. I have serious reservations about this one.

Thank you, Mr. President.

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

SENATOR HEVESI: Thank you, Mr. President. Would the sponsor yield to a few questions, please?

ACTING PRESIDENT KUHL: Senator Leibell, do you yield to a question from Senator Hevesi?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HEVESI: Thank you.

Senator, I'm a little bit concerned about the potential fiscal implication were this piece of legislation to be enacted. Can you explore that for me, please?

SENATOR LEIBELL: It's very minimal, Senator. Dependent upon the number of members granted an increase in benefits, a 10 percent increase in disability cases would

bring an annual cost to the state of $700. A 25 percent increase in disability cases would cost the state $2,100.

SENATOR HEVESI: Thank you. Mr. President, if the sponsor would continue to yield.

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR HEVESI: Thank you, Senator. Do we have any kind of projection or assumption on exactly how many -- I understand that you've -- we have numbers here on per case, per individual -- who would then be eligible for -- to collect disability as a result of the legislation?

Do we know how many individuals that this could potentially impact so that we can apply that to the numbers that you have here and make a determination as to the aggregate fiscal impact?

SENATOR LEIBELL: Senator, I don't know how you would determine that until

you have some experience. And there's no experience because it's not legislation now.

ACTING PRESIDENT KUHL: Senator Hevesi.

SENATOR HEVESI: Mr. President, through you.

ACTING PRESIDENT KUHL: Senator Leibell?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR HEVESI: Senator, I'm sure you are concerned, as I am concerned, now that the budget is months late and we're going to potentially enact a piece of legislation that we don't really know the fiscal impact of.

And while I can appreciate that it's very difficult to ascertain exactly how many individuals would affected by this, before I decide whether or not to vote on this bill, I'd like to know whether similar legislation has been passed concerning parole officers in other states or whether there is a comparable group of individuals within New

York State who we might be able to do some extrapolation on the numbers.

SENATOR LEIBELL: Senator, I'm not familiar with what other states are doing in this area.

ACTING PRESIDENT KUHL: Senator Hevesi.

SENATOR HEVESI: Thank you. On the bill.

ACTING PRESIDENT KUHL: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you. Mr. President, on the bill.

I have a general sense from my experiences with parole officers that the job that they perform is exceedingly dangerous. And Senator Waldon articulated some of those dangers. And in fact, earlier this year I actually went with a -- the head of the New York State Parole Officers throughout Albany and experienced what they experience on a day-to-day basis.

And there is a significant element of danger involved in the jobs that they conduct and the tasks that they perform. And

to that end, it is consistent with the provisions and protections that we have provided for other members of the uniformed services.

On the other hand, I am concerned about a fiscal impact here, that we really don't know what it might be, particularly in light of the fact that the state budget is so late.

And the final concern that doing this, even if it's appropriate, raises the question that we now have to make an evaluation every time another group, however deserving they may be, another group requests this privilege or this right to be extended to them.

So I just -- I'm a little uncomfortable with it. I'll probably wind up voting for the bill. And I appreciate, Senator, your efforts on behalf of parole officers. But there is a little bit of trepidation or, better yet, pause for deliberation when we see this bill before us.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator

Paterson, why do you rise?

SENATOR PATERSON: Mr. President, I listened to the discussion, and I heard very good points brought out. But I feel that - as they say, there's that expression, it's a good idea whose time has come. And this is a good idea whose time may not be gone, but we're getting very close to it.

Because what I'm beginning to think is the case is that there are several other lines of work that can come in here and can definitely put on the record that the degree of difficulty of performing those jobs is very difficult now.

We now have a piece of legislation we passed in this house where we're giving teachers the right to expel students for ten days without a hearing. And I don't know whether or not we should be doing that, but that's what we did. But certainly, whether you agree with it or you don't -- and I don't know that I agree with it -- you do have to recognize that the difficulty of being a teacher -- I mean, how many times have we found that out, just in our most recent days,

that being a teacher is a difficult profession and often a risky profession, and that there are dangers commensurate with trying to perform those duties.

Should the teachers have this same legislation? I don't know what the degree of difficulty is for the parole officers, so I don't know whether the teachers should have it or not. I'm just saying that it's becoming something that is assimilating into something that I don't know that it was intended to be when it was first drafted.

And if the relevant documentation can be shown, I think I would have to vote for the legislation. I'm open on this. But I'm also very concerned about what we're starting to do. And as Senator Hevesi pointed out so adroitly, the fiscal impact, it's a little bit, at a time -- I guess it's Senator Dollinger, who stands in this same place and goes through the whole issue of the fiscal impacts. But I'll spare you that, Mr. President.

But just suffice it to say that it is of great concern that we don't create some

kind of standard when we're going to give special protection that is needed by workers in certain areas. But we just need to know to what degree we can help them, to what degree we can afford it, and to what degree they must first meet the burden before we establish the proof.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 803 are Senators Connor, Duane, and Paterson. Ayes, 53. Nays, 3.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Mr. President. I was hoping to be given unanimous consent to vote in the negative on Calendar Number 239 and Calendar Number 866.

ACTING PRESIDENT KUHL: Hearing no objection, Senator Duane will be recorded in the negative on Calendar Number 239 and Calendar Number 866.

Senator Waldon, why do you rise?

SENATOR WALDON: Mr. President, thank you for your attention. I also respectfully request unanimous consent to be recorded in the negative on Calendar 239.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Waldon will be recorded in the negative on Calendar Number 239.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 1295, by Senator Marchi, Senate Print 5589, an act to amend the Education Law, in relation to courses of instruction.

SENATOR McGEE: Lay the bill aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1350, by Senator Meier, Senate Print 5776, an

act to amend the Tax Law, in relation to hotel and motel taxes.

SENATOR McGEE: Lay the bill aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1389, by Senator Maltese, Senate Print 4372, an act to amend the Administrative Code of the City of New York.

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

SENATOR McGEE: Lay the bill aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1413, by Senator Velella, Senate Print 3279A, an act to amend Chapter 576 of the Laws of 1975.

SENATOR PATERSON: Explanation.

SENATOR McGEE: One moment, please.

ACTING PRESIDENT KUHL: Senator Velella, an explanation of Calendar Number

1413, Senate Print 3279A, has been requested by Senator Paterson.

SENATOR VELELLA: Thank you.

Senator, this is a bill that would add the following medical schools to a list of approved out-of-state schools which the Commissioner of Education is authorized to contract with in order to provide New York State residents with expanded opportunities to study medicine or dentistry and, as a return, require them to serve for a period of time in underserviced areas for a period of three years.

The schools that are added are the University of Padua in Padua, Italy; the Royal College of Surgeons in Dublin, Ireland; St. George's University School of Medicine in Grenada; and the Ross University School of Medicine in Dominica.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. Senator, that was Grenada.

SENATOR VELELLA: I'm sorry, Grenada.

SENATOR PATERSON: The question I have for you is whether or not you think this is necessary at a time when medical schools are actually cutting back on the number of students that they teach, considering the fact that we really have a surplus of doctors in our society.

SENATOR VELELLA: Well, Senator, I don't know that I agree with your statement that we have a surplus of doctors. But this program does provide an incentive, which I know you must be very much interested in, that if a student takes part in a program, they must be a resident of the state and agree to practice in an area of the state which has a shortage of physicians for a period of three years following their licensure. Failure to practice in the area obligates the students to reimburse the state according to a formula which would reimburse them for any monies that were advanced.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President. Senator, I actually agree with you.

There never seems to be a doctor around when I need one. So I agree with you on that part. But the point that -

SENATOR VELELLA: If I may, Senator, if you'll suffer an interruption. It depends on your HMO plan. If you're a member of the plan, they're usually available. If you're not a member, they're not.

SENATOR PATERSON: Yes. That opens up a whole opportunity for discussion which I'm sure we'll -- we won't make our colleagues suffer through.

But the question that I have for you is, how were the schools chosen for the program?

SENATOR VELELLA: Senator, I really couldn't tell you. I assume that a group of -- I can only guess at it, that a group of colleges band together to try and encourage New York State residents to come to their facility to get some additional revenues, because the state pledges to support some of the cost of their education. And they have probably gone out and tried to band together and offer this bill up. And this

bill was suggested to me by a representative that they retain, to put on our calendar.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Do - Mr. President, if the Senator would yield to -

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: Do any of the medical societies or physicians' societies have any position on this?

SENATOR VELELLA: To the best of my knowledge, I have no statement from the Medical Society or from any other interested party, either for or against the bill. I don't believe that they have any stated position.

No, we have -- I just checked with my office people, and they tell me they have had no communication on the bill.

ACTING PRESIDENT KUHL: Senator

Waldon, why do you rise?

SENATOR WALDON: Would the gentleman yield to a question or two?

ACTING PRESIDENT KUHL: Senator Velella, do you yield from Senator Waldon?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR WALDON: Thank you very much, Mr. President.

Senator Velella, I noticed the schools are in nations where the language of the country is not English. Is there a requirement that the students applying for those schools be fluent in the languages of those particular countries; i.e., Padua, Italy?

SENATOR VELELLA: I do know that the students from New York State that go to one or two of these schools, and I would assume the others, are required to go down to the school, I believe it's like three weeks in advance. And they are given an intensive language course in the foreign language. And also many of the classes are taught in both

the language of that particular country and in English.

But I do know that -- you notice we don't have a Guadalajara school down in Mexico here. They already are part of the program that these people are trying to get into. And I know that they have the requirement that they take an intensive three-or-four-week course in the language.

SENATOR WALDON: Would the gentleman yield again, Mr. President?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR WALDON: Thank you, Mr. President.

Senator, do you have any knowledge or awareness of the number of African-American, Caribbean-American, Latino students who have been admitted to these colleges historically?

SENATOR VELELLA: No, Senator. I wouldn't even look to that. I would look to eligible young people who have graduated college, seeking a medical career, that have

an opportunity to study abroad.

So I wouldn't even be looking - I've never taken any interest into what color they are or what their national origin is, I just look at students that are looking to go to a foreign school and how we can help them.

SENATOR WALDON: One more question.

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR WALDON: Senator, I did not mean to imply that the students wouldn't be qualified. I wouldn't want someone operating on me not to be qualified no matter what their color. So that wasn't intended in my question. But I appreciate your response.

Thank you, Mr. President. Thank you, Senator.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

THE SECRETARY: Those recorded in the negative on Calendar Number 1413 are Senators Breslin, Connor, Duane, Hannon, Marcellino, Onorato, Paterson, Schneiderman, and Seabrook. Ayes, 47. Nays, 9.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Padavan, why do you rise?

SENATOR PADAVAN: Mr. President, by unanimous consent I'd like to be recorded in the negative on Calendar Number 239.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Padavan will be recorded in the negative on Calendar Number 239.

Senator Smith, why do you rise?

SENATOR SMITH: Mr. President, I request unanimous consent to be recorded in the negative on 1413 and 239.

ACTING PRESIDENT KUHL: Without

objection, hearing no objection, Senator Smith will be recorded in the negative on Calendar Number 239 and 1413.

Senator McGee.

SENATOR McGEE: Mr. President, would you please call up Calendar 573.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 573.

THE SECRETARY: Calendar Number 573, by Senator Trunzo, Senate Print 4412A, an act to amend the Vehicle and Traffic Law, in relation to the permissive revocation.

ACTING PRESIDENT KUHL: Senator McGee.

SENATOR McGEE: Is there a message of necessity at the desk, Mr. President?

ACTING PRESIDENT KUHL: There is.

SENATOR McGEE: I move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 573. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted. The bill is before the house.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator McGee.

SENATOR McGEE: Mr. President, will you please call up Calendar 815.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 815, by Senator Leibell, Senate Print 5446B,

an act to amend the Retirement and Social Security Law, in relation to providing.

ACTING PRESIDENT KUHL: Senator McGee.

SENATOR McGEE: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR McGEE: I move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 815. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted. The bill is before the house.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT KUHL: The bill is passed.

Senator McGee.

SENATOR McGEE: Mr. President, would you please call up Calendar 860.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 860, by Senator Rath, Senate Print 118B, an act to amend the State Administrative Procedure Act, in relation to access to data.

ACTING PRESIDENT KUHL: Senator McGee.

SENATOR McGEE: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR McGEE: I move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 860. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted. The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect in 180 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT KUHL: The bill is passed.

Senator McGee.

SENATOR McGEE: Mr. President, will you please continue the controversial bills.

ACTING PRESIDENT KUHL: The Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number

1415, by Senator Leibell, Senate Print 3796A, an act to amend the General Municipal Law, in relation to benefits.

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

There is a home rule message at the desk.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Mr. President.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Duane, why do you rise? So you could sit back down and listen to Senator Paterson?

SENATOR DUANE: Senator.

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

SENATOR PATERSON: Mr. President, when Senator Duane stood up, it was during the roll call. I think he wants to explain his vote.

ACTING PRESIDENT KUHL: Senator Duane, now why do you rise?

SENATOR DUANE: Because Senator Paterson is correct.

ACTING PRESIDENT KUHL: On which calendar bill number did you wish to explain your vote, Senator?

SENATOR DUANE: 1415.

ACTING PRESIDENT KUHL: 1415. All right. You wish to be recorded in the negative?

SENATOR DUANE: Yes, Mr. President.

ACTING PRESIDENT KUHL: Why don't you tell us why you wish to be recorded in the negative.

SENATOR DUANE: Though I enjoyed our camaraderie and repartee right prior to this, I do want to comment that I think it's really a shame that this body is voting on yet another bill -- misguided bill, ill-informed

bill, a bill which unfortunately and sadly will only continue to spread misinformation on how it is that HIV is contracted.

I would think that by 1999 the New York State Senate would have more knowledge of how it is that HIV is and is not spread, and also that we would realize that tuberculosis is a treatable disease, though, sadly, HIV is not a treatable disease. It is spread with much more difficulty than this bill and the previous bills which we voted on in this body would lead people to believe.

So with the sincere wish that in the future as we consider these bills, we consider it in light of what is accurate public-health information, that we won't have to vote on more of these misguided and ill-informed pieces of legislation which sadly serve to stigmatize people with HIV.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Duane will be recorded in the negative on Calendar Number 1415.

The Secretary will continue to call

the controversial calendar.

But before that, Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, I'd like to also be recorded in the negative on Calendar Number 1415.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Paterson will be recorded in the negative on Calendar Number 1415.

The Secretary will read.

THE SECRETARY: Calendar Number 1418, by Senator Alesi, Senate Print 4124A, an act to amend the Workers' Compensation Law, in relation to liability.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Alesi, an explanation been requested by Senator Paterson.

SENATOR ALESI: Thank you, Mr. President. This would simply state that anyone who is injured on the job but who is performing an illegal act would not qualify

for workers' compensation.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, that makes perfect sense to me. If Senator Alesi would yield for a question.

ACTING PRESIDENT KUHL: Senator Alesi, do you yield?

SENATOR ALESI: That would make perfect sense to me, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator Alesi, what in a situation -- let me give you an example. Suppose the employee was driving a car that was not registered, so the employee, although committing an illegal act, is unaware that they are committing an illegal act; it's actually the employer who had the unregistered vehicle.

And my question is, would there be any opportunity for the individual to demonstrate special circumstances that would allow them to qualify for workers' compensation? Ignorance of the law is no

excuse in the legal community, but here we're talking about in the compensation community. And I'm wondering if this would be an exception that you would think was meritorious of some consideration.

SENATOR ALESI: Mr. President, through you.

Senator, it's clear we both read the memo from the Trial Lawyers. So my response to you would be this, that the Workers' Compensation Board does have some latitude in determining cases. And in the case that you described, I'm sure that they would recognize that that wasn't necessarily a conscious illegal act on the part of the employee.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Alesi -- I figured if he yielded once, he'll yield again. But we should ask him.

SENATOR ALESI: There are limits to everything, Mr. President. But I will yield another time, yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: Then, Senator, it's your opinion that this legislation would not diminish or in any way negate the opportunity for the Workers' Compensation Board to perhaps make an award in this circumstance such as the one I described?

SENATOR ALESI: Through you, Mr. President.

No, it would not limit that, as I've already described. And furthermore, it simply recognizes that the disability benefits section of workers' comp already takes into account a nonpayment for illegal acts.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

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

Excuse me, Senator Dollinger. Why do you rise?

SENATOR DOLLINGER: Just one question for the sponsor, if he'll continue to

yield.

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

SENATOR ALESI: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Is there a definition of the phrase "illegal act" in other places in the Compensation Law? My concern is that Senator Paterson brought up one possibility. Another possibility is we've attached -- we've made either violations or misdemeanors out of all kinds of reporting conduct and other types of conduct.

My question is, does the illegal act require a misdemeanor or a felony, or is it a violation as well?

SENATOR ALESI: Through you, Mr. President.

The bill clearly states that if the employee is convicted of an illegal act, by virtue of being convicted the conviction would define what the illegal act would be. And the denial, based on the decision and

determination of the Workers' Comp Board, would be sufficient.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

THE SECRETARY: Those recorded in the negative on Calendar Number 1418 are Senators Connor, Dollinger, Duane, Gentile, Onorato, Paterson, Schneiderman, and Waldon. Ayes, 48. Nays, 8.

ACTING PRESIDENT KUHL: The bill is passed.

Senator McGee.

SENATOR McGEE: Mr. President, please call up Calendar 1426.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1426.

THE SECRETARY: Calendar Number 1426, by Senator Alesi, Senate Print 5213, an act to amend the Public Health Law.

SENATOR DUANE: Explanation.

ACTING PRESIDENT KUHL: Senator Alesi, an explanation has been requested of Calendar Number 1426 by Senator Duane.

SENATOR ALESI: Thank you, Mr. President.

This bill is fashioned after the child abuse reporting laws that we have in this state already. It recognizes the growing problem of abuse that occurs in the elder population, whether it is in nursing homes or other facilities. It also includes those who are physically or mentally incapacitated and who are under care in some other facility.

It would require that anybody who is in a professional capacity that comes into contact with someone who appears to be abused would be required to report that suspected abuse to the appropriate agency or authorities.

ACTING PRESIDENT KUHL: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. Would the sponsor yield to a question?

ACTING PRESIDENT KUHL: Senator Alesi, do you yield?

SENATOR ALESI: Be happy to.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: I agree that mandatory reporting of abuse of mentally or physically incapacitated persons is a very good idea, and it's time that the state did that.

I'm wondering also whether or not the sponsor agrees that reporting of bias-related incidents based on sexual orientation or anti-Semitism or racism is something that also should be reported in the State of New York.

SENATOR ALESI: Mr. President, through you. As the issue that Senator Duane raises is not part of this particular bill, my opinions on that will remain for another day.

ACTING PRESIDENT KUHL: Senator Duane.

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

ACTING PRESIDENT KUHL: Senator Duane, on the bill.

SENATOR DUANE: I again applaud this piece of legislation. I think that this kind of reporting is very important and something which is overdue in the state of New York.

But I also would urge my colleagues to keep in mind that another area of crime which is not reported in the state of New York is bias-related crime. In fact, only a handful of reporting agencies, out of the 500 law-enforcement agencies that could, report bias incidents of any type at all. And of those, we don't know what smaller number of those report bias incidents based on sexual orientation.

Even so, when these statistics are gathered, bias based on sexual orientation is the third highest form of bias-related incidents, behind anti-Semitism and racism. And I just would urge my colleagues to make it part of the agenda of this session to make it

possible in New York State for us to have reporting on bias-related crimes.

Thank you, Mr. President.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1419, by Senator Bonacic, Senate Print 4377B, an act to amend the Real Property Actions and Proceedings Law, in relation to new owners.

SENATOR GENTILE: Explanation.

ACTING PRESIDENT KUHL: Senator Bonacic, an explanation has been requested by Senator Gentile.

SENATOR BONACIC: Thank you, Mr. President.

This is a piece of legislation

where we're amending the Real Property Actions and Proceedings Law in relation to new owners of buildings for which administrators have been appointed, pursuant to Article 7A. This is an agreed-upon bill. Assemblyman Lopez is carrying it in the Assembly.

And what the legislation will do, it will create more affordable housing to tenants in New York City. What has been happening in New York City since the mid-'80s, we had, believe it or not, about 86,000 abandoned buildings, people just walking - owners walking away. And due to the city's efforts in a very aggressive policy, they've been taking over many of those abandoned buildings, expending city money to rehabilitate them, and then looking for a new owner to come over and enter into regulatory agreements, and then a new owner would upkeep them.

We're now down to 16,000 abandoned buildings in the city of New York, in the metropolitan area, of which still we have to focus on and try to convert into affordable housing.

So this legislation -- what happens now, if an owner abandons a building, the tenants petition the court to have an administrator appointed. The administrator then -- all city-owned money -- will upgrade the buildings, a lien will go on the building. Then they will look for a new owner, enter into a regulatory agreement. And that lien, of which the city invested in that abandoned building, will be evaporated over 15 years. And the agreement that they enter into with the new owner is for 30 years.

So it's been a very successful program. We have roughly 2300 units, apartments, that are in -- under the administrators, waiting for this law to pass so we can then get it into affordable housing and get it to a new owner.

That's what the legislation is.

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

SENATOR GENTILE: Yes, would the sponsor yield for a question or two?

SENATOR BONACIC: I do.

ACTING PRESIDENT KUHL: The

sponsor yields.

SENATOR GENTILE: Thank you, Mr. President. Through you, Mr. President.

Senator, while the intent of the legislation is certainly worthwhile and lofty, there are some questions about the actual wording of the bill that trouble me. For example, in these regulatory agreements, the way I read this bill, is there any provision being made for either the judge or the administrator, the 7A administrator, to have any -- be involved in any of these transactions or any of the decisions that come under the regulatory agreements that this bill will authorize?

SENATOR BONACIC: Yeah, the administrator has oversight. And he makes - he makes suggestions to the judge as to, you know, who the building should be sold to. They talk about the details of the regulatory agreement -- whether we'll have rent restructuring, whether there will be an increase in the rent just to cover the cost of improvements.

And I may say, since these policies

have been in effect, there has never been one displaced tenant in this transition of going from an abandoned building, from the old owner, going to administrator, court proceeding, new owner, never had one displaced tenant, to the city's credit.

ACTING PRESIDENT KUHL: Senator Gentile.

SENATOR GENTILE: Yes, if the sponsor will continue to yield.

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

SENATOR BONACIC: I do.

ACTING PRESIDENT KUHL: He continues to yield.

SENATOR GENTILE: Senator, in this legislation, however, it indicates that the agreement is between the city and the new owner. It does not mention in any way any oversight or involvement by the judge or by the 7A administrator.

SENATOR BONACIC: Yeah, that is correct. But let me try to clarify your misconception.

The administrator has the oversight

responsibility to the judge when the building gets abandoned. It is -- can be a private person that's appointed. And the administrator, since it's the city's money, is really communicating with the City of New York officials as to how they're going to proceed, what new owner is in the wings, how much money are they going to invest in this particular building, how much is going to be rent-restructured, and what improvements are going to be made.

Now, that's a judicial, mechanical process that takes part in a judicial proceeding. Any agreement is with the City of New York and the new owner.

SENATOR GENTILE: If the sponsor would continue to yield.

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

SENATOR BONACIC: I do. I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR GENTILE: Through you, Mr. President.

You mentioned also rent

restructuring. Does this bill, the way it's written, allow HPD, New York City Housing Preservation, to override in rent restructuring -- as provided in this bill, to override the Rent Stabilization Law, the Rent Control Law, and the Emergency Tenant Protection Act?

SENATOR BONACIC: It's my understanding that this legislation would do that. It would give the power to the city, the administrator to restructure and raise the rent.

But the rents are geared strictly for the cost of the capital improvements. So you're upgrading the living conditions and the quality of life of the tenants. That's the purpose of it. It's not made to charge more than what the cost of improvements are.

SENATOR GENTILE: If the sponsor will continue to yield.

SENATOR BONACIC: I do.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR GENTILE: Thank you.

In that, Senator, there are some

words in this legislation that are rather vague when we talk about helping the tenants and improving the lot of the tenants in the building. For example, it indicates here that best efforts would be made by HPD to minimize involuntary economic displacement of tenants.

My question to you is, what is meant here by "best efforts," left solely in the legislation as "best efforts"?

SENATOR BONACIC: Well, if we didn't have the program, we'd have 86,000 abandoned buildings that all the tenants would have to get out of, because it wouldn't be habitable, it would be rat-infested, and we would have not kept them -- to keep them in a condition where we would put any human being in.

So the whole purpose of the program is to make sure that the water is clean, that the plumbing works, that the wiring is safe, that the building is habitable. And the city puts their money into the building and then tries to find an owner, a new owner -- and sometimes they're not waiting in the wings, because these are buildings that are very

badly deteriorated, in high-crime zones. And then what they do is they make an investment and they try to keep the rent as low as possible, and most times subsidizing what they actually invested in the building to try to keep the tenants there.

And the proof of the pudding is there hasn't been one displaced tenant when they've reduced the amount of abandoned buildings in New York City from 86,000 to 16,000 that they have now. So I don't think we can -- I mean, we can ask about it. But you've never had a displaced tenant that said, "Hey, I can't afford the rent restructuring and I don't want to stay here," because it's a heck of a lot better now than it was with the old owner.

SENATOR GENTILE: If the sponsor would continue to yield.

SENATOR BONACIC: I do.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR GENTILE: Through you, Mr. President.

We mentioned the best efforts to

prevent the economic displacement of tenants. That's in this legislation. But, Senator, in this legislation there is no specific requirement for HPD -- or any governmental agency, for that matter -- to provide those loans or grants to actually rehabilitate those affected buildings. Am I correct about that?

SENATOR BONACIC: Well, the whole purpose of the program and the policies is to accomplish that. Just for your own information, we -- rent restructuring authority already exists in other statutes utilized by the HPD, which is the New York City Department of Housing Preservation and Development. You have it in Article 8, you have it in Article 8A, and you have it in Article 15.

So we're just now expanding the authority to Article 7A housing, which will provide the city with the ability to transform these buildings into a source of permanent affordable housing.

SENATOR GENTILE: But you would agree with me that there is no requirement in this bill for rehabilitation?

SENATOR BONACIC: Well, I will say to you that the whole essence of the policy is to do rehabilitation. So I think your concerns are unfounded in view of the past success of the city's policies. And I know you certainly would want to see more increased affordable housing, you know, for your residents in Brooklyn and the rest of the metropolitan area.

SENATOR GENTILE: If the sponsor would continue to yield.

SENATOR BONACIC: I do.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR GENTILE: Through you, Mr. President.

What also concerns me is the fact that by the provisions of this bill, aren't we in effect allowing owners of deteriorated buildings to benefit from an increased market value in the buildings as a result of this rehabilitation? And also allowing the lien to evaporate over a period of years, doesn't that increase the market value of the buildings for the purpose? And in effect -- I understand

what the purpose is, but in effect, doesn't that reward the very landlords that -

SENATOR BONACIC: Allowed it to fall into disrepair.

SENATOR GENTILE: -- allowed it to happen?

SENATOR BONACIC: I think it's a good concern. There is no intent -- in fact, there is language in this legislation where the prior owner cannot use a straw man, new owner, to buy the property, where the real equitable owner or the beneficial owner is the one that let the building go into disrepair.

Conceivably, though, to answer your question specifically, old owner walks away, we're in court, the administrator and New York City puts money into the building, rehabilitates the building, and they find a new owner. It's conceivable that the old owner will stand to benefit minimally to expedite the transfer of the property to the new owner. But there is never a windfall, there is never a big profit at the expense of New York City.

The loan evaporates after getting

15 years of affordable housing and management by the new owner. So that's the trade-off. We feel -- in most cases the abandoned, old owner gets nothing, just walks away, disappears. Can't find him. But -- and we get a minimum of 15 years of new affordable housing under a new owner before the loan goes away. And normally, if they've survived 15 years, they live up to the agreement of 30 years.

SENATOR GENTILE: If the sponsor would continue to yield.

SENATOR BONACIC: I do.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR GENTILE: You would agree with me, though, Senator, that we're not only talking about owners who abandon their buildings, but that those who might get a windfall from this could be owners who allowed their buildings to be in disrepair but have not abandoned those buildings?

SENATOR BONACIC: As far as - I'm not an administrator of the program, but I will tell you what the people from the City of

New York who -- who administrates this program tells me, that they never, never have an old owner reap the benefits of a plan to let their building go into disrepair so they can get the City of New York to invest city taxpayer money for them to make a sale where they now see a massive increase in profits as a result of the city's infusion of capital.

Here's where the administrator and the judge and the City of New York have oversight. And any return to the old owner is minimal, at best.

SENATOR GENTILE: Or so we say.

SENATOR BONACIC: So they say.

SENATOR GENTILE: So they say.

Will the sponsor continue to yield for one or two more questions?

SENATOR BONACIC: I do.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR GENTILE: Thank you.

Now, in your legislation it provides for both rent restructuring and the forgiving of the loans -- the evaporating of the liens, I should say. Does the 15-year

requirement of this bill, which requires that housing be for persons of low income, would that still apply if in the agreement the agreement only provided for rent restructuring but not for -- does not include the forgiving of the liens?

SENATOR BONACIC: Could you rephrase that question? I don't think I understood what you were getting at.

SENATOR GENTILE: Sure. The legislation allows both rent restructuring and the evaporation of the liens placed against the building.

SENATOR BONACIC: That's correct.

SENATOR GENTILE: Either or both.

SENATOR BONACIC: Or both.

SENATOR GENTILE: If the regulatory agreement only included the rent restructuring, the increasing of the rent, did not also provide for the evaporation of New York City liens against the building, would that -- would the requirement, the other requirement that for 15 years that this building be for low-income housing, would that still be in effect if the -- if one or other

of the two options, the liens or the rent restructuring, were not in the agreement?

SENATOR BONACIC: As I understand it, you need the evaporation in order to attract new owners to come into these kinds of investments. That's point number one. And you need the rent restructuring in order to capture the substantial infusion of money that the city has to do to make it habitable. And it's up to, I think, $18,000 per unit the city would invest to make the buildings safe to keep the tenants there.

So I don't know if that answers your question. But I think we need both all of the time -- in most cases, both happen. You need the carrot, the economic incentive to get the new owner, and you need the rent restructuring to offset the massive amount of monies to get the building back into repair.

SENATOR GENTILE: If the sponsor would yield for one additional question.

SENATOR BONACIC: I do.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR GENTILE: You mentioned,

Senator, that there has not been one tenant displaced in the history of the program. However, the legislation does provide for suitable temporary relocation arrangements, in the event that such happens, for tenants.

My question again is the definition: What are we talking about when we're talking about suitable temporary relocations?

SENATOR BONACIC: Well, I think, as a practical matter, sometimes when the city enters the picture and the owner abandons the building, the building is basically unsafe. And the city would love to keep the -- as a practical matter, they would love the tenants to be able to stay there while they're fixing it up, but they have the responsibility to make sure that no harm comes to those tenants.

And if the building is in real bad shape, I would assume that they'd put the tenants in hotels or other apartments until they make the repairs and then allow them to move back in in a much safer building. I think that's how it works.

SENATOR GENTILE: But that is not

included in the bill.

SENATOR BONACIC: It is not. And, I mean, we're not micromanaging every physical aspect that you go through. But that's the intent, and that's what would happen as a practical matter.

SENATOR GENTILE: Thank you, Senator.

SENATOR BONACIC: You're welcome.

SENATOR GENTILE: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Gentile, on the bill.

SENATOR GENTILE: While I applaud Senator Bonacic on the intent of the legislation here, it just seems to me that many of these are a best-hope provision. We hope for the best, and we hope that HPD will do the right thing and certainly rehabilitate the buildings and raise rents only for the purpose of rehabilitating the buildings; will, in case of displacements, find suitable - whatever that suitable accommodation might be, and also not be in a situation where owners who have allowed the building to deteriorate

would reap a windfall from the increased market value by allowing the liens to evaporate over time.

Those are my concerns that, while the intent is good here, there are real vagaries, that we're giving basically the authority to HPD and to the -- and to a new owner to enter into a regulatory agreement without much input or oversight, if any - because it's not clear in this legislation - from the court or from the 7A administrator.

Given those vagaries in the bill, I have real problems of putting tenants in that position of increased rents and the possibility of allowing landlords that don't deserve it to have windfall profits.

So I would ask my colleagues in that to consider that in this vote. Thank you, Mr. President.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1419 are Senators Connor, Gentile, Paterson, Rosado, and Schneiderman. Ayes, 53. Nays, 5.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1430, by Senator Lack, Senate Print 5635, an act to amend Chapter 83 of the Laws of 1995.

SENATOR McGEE: Lay the bill aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

Senator Schneiderman, why do you rise?

SENATOR SCHNEIDERMAN: I'd like to request unanimous content to be recorded in the negative on Calendar Number 1415, Senate Bill 3796A.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Schneiderman will be recorded in the negative

on Calendar Number 1415.

SENATOR SCHNEIDERMAN: Thank you.

ACTING PRESIDENT KUHL: The Secretary will continue to read.

THE SECRETARY: Calendar Number 1453, by Senator Meier, Senate Print 5933, an act to amend the Social Services Law.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT KUHL: Senator Meier, an explanation of Calendar Number 1453 has been requested by Senator Duane.

SENATOR MEIER: Thank you, Mr. President.

Mr. President, as you know, in the 1997-'98 series of budget legislation, the Legislature implemented the Learnfare program. This legislation before us today would modify that legislation.

The existing statute requires that all social services districts have Learnfare in place by September of 1999 for children in grades one through six. This legislation makes three primary modifications. The first is that it somewhat delays and stretches out

that implementation schedule so that one-half of school districts within each social services district must implement Learnfare by September of 1999, and then we would phase in the full implementation by September of the year 2000.

Secondly, the bill before the house takes a requirement in existing law, which requires that a child be referred to counseling after three unexcused absences, and adds a requirement that the child's parents or other responsible household head be added to that counseling requirement.

The third change that the bill before the house makes to existing law is to delay the sunset date. Present law would sunset the Learnfare program in July of the year 2000. This bill would take that sunset date to July of the year 2005. The purpose of that, of course, is to give us time to take a look at the new implementation schedule and to review the results.

SENATOR DUANE: Thank you.

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

SENATOR DUANE: Thank you, Mr. President. Would the sponsor yield to some questions?

ACTING PRESIDENT KUHL: Senator Meier, do you yield to a question?

SENATOR MEIER: Of course, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Thank you.

Has there been any study or evaluation done on the effectiveness of the original legislation, the original period?

SENATOR MEIER: Mr. President, there has been a review of the data that is available from the implementation as it is at this point.

Presently, we have some 140 schools located within 43 social services districts, including the city of New York. That involves some 15,000 students who are enrolled in the program. There have been 1,277 referrals for counseling, and that is the result of three unexcused absences within an academic quarter.

It is significant that the sanction

piece, which comes into effect after four unexcused absences, has only been utilized in 97 cases. 97 cases of sanctions out of 1277 counseling referrals would seem to indicate that monitoring the attendance of these pupils and then requiring the counseling session would seem to promote school attendance.

There have been so far reported, after initial sanctions of the 97 cases, only two cases of repeat necessity of referral. So the available data would seem to suggest that this does promote school attendance. And of course it is an undergirding principal of Learnfare that we want to try to start breaking the cycle of dependency, if you will, early on by promoting school attendance, school graduation, and all that learning and education means.

SENATOR DUANE: Thank you.

Through you, Mr. President, if the sponsor could continue to yield.

ACTING PRESIDENT KUHL: Senator Meier, do you yield to yield?

SENATOR MEIER: Yes, I do, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DUANE: Can you tell me who it is that performed this study?

SENATOR MEIER: This is a result of data that has been gathered by the State Office of Temporary and Disability Assistance, and it's been done by canvassing the participating school districts.

SENATOR DUANE: And it was - just to continue on that point, it was not done by an outside study, it was done in-house?

SENATOR MEIER: Well, Mr. President, the study was done by the State Office of Temporary Assistance and Disability Assistance, canvassing school districts and social services districts. I presume that's the most reliable way to get the information, to go to the people who are out on the street.

ACTING PRESIDENT KUHL: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. Through you, if I could continue with some questions.

ACTING PRESIDENT KUHL: Senator Meier, do you yield?

SENATOR MEIER: Yes, I do.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DUANE: Is there evidence that children in New York whose families receive TADA funding attend school at a lower rate than those that are non-TADA, that don't get that funding?

SENATOR MEIER: Mr. President, the initial data would suggest as much. If we have some 15,000 students enrolled in the program, and 1,277 counseling referrals, that's a rate of a little over 8 percent, which would seem to exceed the normal absentee level in most school districts.

I mean, understand -- and there may be a philosophical difference here, but there is a philosophical reason behind this. And that is that we in New York State have decided that there is, in effect, a social contract with the needy. That is observed in our Constitution, that is observed in statute, that the needy and their children should be

provided for so that no New Yorker should have to live below a certain level of human existence.

This, however, rests on the proposition, Learnfare does, that contracts - social contracts are like other contracts, they're two-way streets, and that we as a society ought to have the right to ask for the observance of certain kinds of conduct, which would include ensuring that one's children receive an education so that they have a better chance to escape welfare dependency.

ACTING PRESIDENT KUHL: Senator Duane.

SENATOR DUANE: Mr. President, if the sponsor would continue to yield.

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

SENATOR MEIER: Yes, Mr. President.

SENATOR WALDON: The sponsor yields.

SENATOR DUANE: I acknowledge there may very well be a philosophical difference. Be that as it may, what exists

exists.

But what I'm trying to get at is I understand the 8 percent of the children who were studied out of the 15,000, I believe the sponsor said. But what I can't figure out is -- and there may not be an answer, but is that compared to 15,000 that are non-TADA? Or we just don't know that? In other words, is the 15,000 sample, 8 percent of them receive counseling, as compared to 15,000 students someplace who are non-TADA qualified?

SENATOR MEIER: Mr. President, I understand the question. But the point I was making is that roughly 8 percent of that sampling would seem to exceed the normal absentee level in terms of the overall student body in every school district.

Now, I understand, Mr. President, that averages can be deceiving. If you're standing with one foot in a bucket of ice water and one foot in a bucket of boiling water, on average you're comfortable. But this would seem to give us a sampling.

And what that legislation seeks to do is to extend the implementation schedule,

to give the school districts and counties in the state of New York more time to implement the program so they can do it in an orderly fashion. It sunsets the law in the year 2005. And at that time, we'll have a more complete set of data to review.

SENATOR DUANE: Mr. President, if the sponsor would continue to yield.

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

SENATOR MEIER: Yes, I do, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Presently, each school district has different guidelines for how it is that Learnfare is -- well, different guidelines for Workfare -- for Learnfare, excuse me. As I read this bill, it isn't putting any structure into the guidelines, that in fact we're expanding the program but still not incorporating any guidelines. So will it be a similar situation that guidelines will differ from school district to school district?

SENATOR MEIER: Mr. President, the bill provides for implementation through the negotiation of an agreement between the local social services district and the school districts where we are implementing this.

And indeed, it is precisely the point that we do not seek from Albany to micromanage how school districts handle the subject of school attendance, and that those issues are best addressed at the local level.

But I think you will find across the state that most schools recognize excused absences for the same reasons -- for illnesses, for deaths in the family, for family emergencies and so forth. So I think you will find a degree of uniformity, but it will be done according to local standards and will be implemented by locally negotiated agreements.

ACTING PRESIDENT KUHL: Senator Duane.

SENATOR DUANE: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT KUHL: Senator

Meier, do you continue to yield?

SENATOR MEIER: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DUANE: I raise that only in the context of how it is that we're going to study the effectiveness of the Learnfare programs as they vary from district to district.

The other area that I am concerned about is whether or not, in the study that was done, whether or not there was any look at the effectiveness of truancy-prevention programs in terms of what the percentages are in each school district and whether truancy-prevention programs end up having an impact on school attendance as opposed to only the Learnfare project in and of itself without the truancy-prevention programs.

SENATOR MEIER: Well, Mr. President, that was the point I thought I was making, that of the over 1,200 referrals for counseling, out of that cohort only 97 resulted in sanctions. That would seem to

indicate that counseling -- once we identify a student as a truancy problem, that counseling is effective.

I would suggest that this legislation, which adds the additional requirement of parental involvement in counseling, would only further serve to make that counseling effective.

SENATOR DUANE: And a final question, Mr. President, if the sponsor will yield.

ACTING PRESIDENT KUHL: Senator Meier, do you yield?

SENATOR MEIER: Yes, I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Is the sponsor aware of anything that's being done to expand programs such as the Attendance Improvement and Dropout Prevention Program?

SENATOR MEIER: Well, again, Mr. President, that is what this bill seeks to do, by providing a better implementation schedule, by encouraging parental involvement in individual school districts across the

state. There very well may be programs to implement attendance improvement, but I would add that I thought that that is a good part of what the schools are in the business of doing, is making sure that the kids, regardless of whether their households may be family-assistance recipients, of making sure that the kids attend school.

ACTING PRESIDENT KUHL: Senator Duane.

SENATOR DUANE: Thank you. On the bill.

ACTING PRESIDENT KUHL: Senator Duane, on the bill.

SENATOR DUANE: Thank you.

I am concerned that while we're collecting statistics, we're not comparing them to anything. There's no comparison being made to students that are not TADA receivers. And also, while we have the aggregate numbers, we don't have a breakdown by school district to school district and have a way to compare them with what guidelines are in place and what programs are in place.

And I think that while I do agree

that philosophically we probably have a different point of view -- which will be exacerbated by the sanctions which are going to come into effect -- I still think that we could be using this time to make a better study about what it is that actually works for students who are poor or come from poor families as well as for students that come from more advantaged families.

So my point is even if we disagree at the root philosophically, that there is always room to use what information we have to provide for better programs as we go into the out years.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes, 55. Nays,

3. Senators Duane, Paterson, and Schneiderman recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Mendez, why do you rise?

SENATOR MENDEZ: Thank you. Mr. President, I wish unanimous consent to be recorded in the negative in Calendar Number 1419. I was out of the chamber when the vote was taken.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Mendez will be recorded in the negative on Calendar 1419.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 1456, by Member of the Assembly Canestrari, Assembly Print Number 5126, an act authorizing the reopening.

SENATOR McGEE: Lay the bill aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

Senator McGee.

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

ACTING PRESIDENT KUHL: We will return to the order of reports of standing committees.

There is a Rules report at the desk. I'll ask the Secretary to read.

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

Senate Prints 1202A, by Senator LaValle, an act to amend the Education Law;

2075, by Senator Trunzo, an act to amend the Administrative Code of the City of New York;

2347, by Senator DeFrancisco, an act to amend the Navigation Law;

2403, by Senator LaValle, an act relating to the granting of retirement system death benefits;

2543C, by Senator Marcellino, an act to amend the Environmental Conservation Law;

2884, by Senator Saland, an act to amend the Judiciary Law;

3365A, by Senator Wright, an act to amend the Tax Law;

3514B, by Senator Spano, an act to amend the Labor Law;

3805, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

3828, by Senator Saland, an act to amend the State Finance Law;

3893, by Senator Bonacic, an act to amend the Executive Law;

3897, by Senator Saland, an act to amend the State Finance Law;

4032, by Senator Goodman, an act to amend the Executive Law;

4061A, by Senator Oppenheimer, an act to legalize;

4067, by Senator Leibell, an act to amend the Administrative Code of the City of New York;

4135A, by Senator Volker, an act to amend the Civil Practice Law and Rules;

4188, by Senator Maltese, an act to amend the Administrative Code of the City of

New York;

4244B, by Senator Hannon, an act to amend the State Finance Law;

4323A, by Senator McGee, an act to amend the Economic Development Law;

4489, by Senator Larkin, an act to amend the Racing and Pari-Mutuel Wagering Law;

4529, by Senator Leibell, an act to amend the Penal Law;

4585B, by Senator Maziarz, an act to amend the Public Health Law;

4640, by Senator Hannon, an act to amend Chapter 904 of the Laws of 1984;

4680A, by Senator Stafford, an act to amend the Public Health Law;

4689A, by Senator Alesi, an act to redistribute;

5049, by Senator Alesi, an act to amend the Public Authorities Law;

5055, by Senator Hoffmann, an act to amend the Agriculture and Markets Law;

5356, by Senator Nozzolio, an act to amend the Education Law;

5385A, by Senator DeFrancisco, an act to amend the Executive Law;

5462B, by Senator Maziarz, an act to amend the Public Health Law;

5488, by Senator Bonacic, an act to enable the County of Ulster;

5492, by Senator Larkin, an act to amend the Racing and Pari-Mutuel Wagering Law;

5499A, by Senator Larkin, an act to amend the Racing and Pari-Mutuel Wagering Law;

5577, by Senator Trunzo, an act to amend the Public Authorities Law;

5586A, by Senator Stafford, an act relating to constituting;

5590, by Senator Nozzolio, an act to amend the Executive Law;

5601, by Senator Saland, an act to amend the Social Services Law;

5643A, by Senator Marcellino, an act to amend the Environmental Conservation Law;

5674, by Senator Spano, an act to amend the Labor Law;

5699A, by Senator Seward, an act to amend the General Municipal Law;

5716A, by Senator Johnson, an act to amend the Environmental Conservation Law;

5717A, by Senator Johnson, an act to amend the Environmental Conservation Law;

5797A, by Senator Johnson, an act to amend the Environmental Conservation Law;

5914, by Senator Johnson, an act to amend the Environmental Conservation Law;

5915, by Senator Johnson, an act to amend the Environmental Conservation Law;

5916, by Senator Johnson, an act to amend the Environmental Conservation Law;

5917, by Senator Johnson, an act to amend the Environmental Conservation Law;

5918A, by Senator Johnson, an act to amend the Environmental Conservation Law;

5935, by the Committee on Rules, an act to amend Chapter 141 of the Laws of 1994;

And 5953, by Senator Smith, an act directing the Department of State.

All bills directly for third reading.

ACTING PRESIDENT KUHL: Senator McGee.

SENATOR McGEE: Mr. President, I move to accept the Rules Committee report.

ACTING PRESIDENT KUHL: The

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The Rules report is accepted. The bills are ordered directly to third reading.

Senator Gentile, why do you rise?

SENATOR GENTILE: Mr. President, I just rise to inquire how I was recorded on Calendar Number 1418.

ACTING PRESIDENT KUHL: Senator Gentile, the Secretary has you recorded as being in the negative on Calendar Number 1418. Is that your pleasure?

SENATOR GENTILE: I would ask unanimous consent to be recorded in the affirmative on 1418.

ACTING PRESIDENT KUHL: Without objection, hearing no objection -

SENATOR GENTILE: Thank you.

ACTING PRESIDENT KUHL: -

Senator Gentile will be recorded in the affirmative on Calendar Number 1418.

Senator Stachowski, why do you rise?

SENATOR STACHOWSKI: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar 1413.

ACTING PRESIDENT KUHL: Without objection -

SENATOR STACHOWSKI: Thank you.

ACTING PRESIDENT KUHL: - hearing no objection, Senator Stachowski will be recorded in negative on Calendar Number 1413.

Senator McGee.

SENATOR McGEE: Mr. President, I would ask that we return to the Senate Supplementary Calendar 56A and read the noncontroversial items.

ACTING PRESIDENT KUHL: Secretary will read the noncontroversial reading of Senate Supplemental Calendar 56A, which is on the members' desks.

THE SECRETARY: Calendar Number 1458, by Senator LaValle, Senate Print 1202A,

an act to amend the Education Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1459, by Senator Trunzo, Senate Print 2075, an act to amend the Administrative Code of the City of New York.

SENATOR WALDON: There is a home rule message at the desk.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1460, by Senator DeFrancisco, Senate Print 2347, an act to amend the Navigation Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1461, Senator LaValle moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill 4250 and substitute it for the identical third reading, 1461.

SENATOR WALDON: Substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1461, by Member of the Assembly Vitaliano, Assembly Print 4250, an act relating to the granting of retirement system death benefits.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1463, by Senator Saland, Senate Print 2884, an act to amend the Judiciary Law.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: The bill is laid aside.

THE SECRETARY: Calendar Number 1464, by Senator Wright, Senate Print 3365A, an act to amend the Tax Law.

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

THE SECRETARY: Section 6. This act shall take effect December 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1465, by Senator Spano, Senate Print 3514B, an act to amend the Labor Law and the Urban Development Corporation Act.

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

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1466, by Senator Trunzo, Senate Print 3805, an

act to amend the Retirement and Social Security Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1467, by Senator Saland, Senate Print 3828, an act to amend the State Finance Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1468, by Senator Bonacic, Senate Print 3893, an act to amend the Executive Law.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

1469. In relation to Calendar Number 1469, Senator Saland moves to discharge, from the Committee on Finance, Assembly Bill 7644 and substitute it for the identical third reading, 1469.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1470, by Senator Goodman, Senate Print 4032, an act to amend the Executive Law.

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

THE SECRETARY: Section 38. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1471. In relation to Calendar Number 1471, Senator Oppenheimer moves to discharge from the Committee on Rules and substitute it for the identical third reading, 1471.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1471, by Member of the Assembly Tocci, Assembly Print 6880A, an act to legalize, validate, ratify and confirm.

ACTING PRESIDENT KUHL: There is a local fiscal impact note at the desk.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1472, by Senator Leibell, Senate Print 4067,

an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR LEIBELL: Section 5. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1474, by Senator Maltese, Senate Print 4188 -

SENATOR PATERSON: Lay it aside.

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

The bill will be laid aside at the request of the Acting Minority Leader.

THE SECRETARY: Calendar Number 1476. In relation to Calendar Number 1476, Senator McGee moves to discharge, from the Committee on Rules, Assembly Bill 5337A and substitute it for the identical third reading, 1476.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1476, by Member of the Assembly Destito, Assembly Print 5337A, an act to amend the Economic Development Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1477, by Senator Larkin, Senate Print 4489, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

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

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number 1478, by Senator Leibell, Senate Print 4529, an act to amend the Penal Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1479, by Senator Maziarz, Senate Print 4585B, an act to amend the Public Health Law and the Insurance Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1480. In relation to Calendar Number 1480, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill 8236 and substitute it for the identical third reading, 1480.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1480, by the Assembly Committee on Rules, Assembly Print 8236, an act to amend Chapter 904 of the Laws of 1984.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1481, by Senator Stafford, Senate Print 4680A, an act to amend the Public Health Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1482, by Senator Alesi, Senate Print 4689A, an act to redistribute 1998 bond volume allocations.

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

THE SECRETARY: Section 17. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1483. In relation to Calendar Number 1483, Senator Alesi moves to discharge, from the

Committee on Commerce, Economic Development and Small Business, Assembly Bill 471 and substitute it for the identical third reading, 1483.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1483, by Member of the Assembly Destito, Assembly Print 471, an act to amend the Public Authorities Law.

ACTING PRESIDENT KUHL: Call the roll.

Last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1484, by Senator Hoffmann, Senate Print 5055, an act to amend the Agriculture and Markets

Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 10. This act shall take effect on the first day of April.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1485, by Senator Nozzolio, Senate Print 5356, an act to amend the Education Law.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1486, by Senator DeFrancisco, Senate Print 5385A, an act to amend the Executive Law and the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1487, by Senator Maziarz, Senate Print 5462B, an act to amend the Public Health Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1488, by Senator Bonacic, Senate Print 5488, an act to enable the County of Ulster.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1489, by Senator Larkin, Senate Print 5492, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1490, by Senator Larkin, Senate Print 5499A, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1491, by Senator Trunzo, Senate Print 5577, an act to amend the Public Authorities Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1493. In relation to Calendar Number 1493, Senator Nozzolio moves to discharge, from the Committee on Rules -

SENATOR DUANE: Lay it aside.

THE SECRETARY: -- Assembly Bill 8130A and substitute it for the identical third reading, 1493.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1493, by the Assembly Committee on Rules, Assembly Print 8130A, an act to amend the Executive Law.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1494, by Senator Saland, Senate Print 5601, an act to amend the Social Service Law, the Family Court Act, and the Civil Practice Law and Rules.

SENATOR DOLLINGER: Lay the bill aside, Mr. President.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1495, by Senator Marcellino, Senate Print 5643A, an act to amend the Environmental

Conservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1496, by Senator Spano, Senate Print 5674, an act to amend the Labor Law, in relation to funds.

SENATOR McGEE: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1497, by Senator Seward, Senate Print 5699A, an act to amend the General Municipal Law.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1498. In relation to Calendar Number 1498, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill 8165A and substitute it for the identical third reading, 1498.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1498, by the Assembly Committee on Rules, Assembly Print 8165A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1499. In relation to Calendar Number 1499, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill 6044A and substitute it for the identical third reading, 1499.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1499, by Member of the Assembly Sweeney, Assembly Print 6044A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator LaValle recorded in the negative.

SENATOR WALDON: The bill is passed.

THE SECRETARY: Calendar Number 1500. In relation to Calendar Number 1500,

Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill 8479A and substitute it for the identical third reading, 1500.

ACTING PRESIDENT KUHL: The substitution is ordered.

Secretary will read the title.

THE SECRETARY: Calendar Number 1500, by the Assembly Committee on Rules, Assembly Print 8479A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1501. In relation to Calendar Number 1501, Senator Johnson moves to discharge, from the

Committee on Rules, Assembly Bill 8169 and substitute it for the identical third reading, 1501.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1501, by the Assembly Committee on Rules, Assembly Print 8169A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1502. In relation to Calendar Number 1502, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill 8117 and

substitute it for the identical third reading, 1502.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1502, by the Assembly Committee on Rules, Assembly Print 8117, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1503, by Senator Johnson, Senate Print 5916, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1504, by Senator Johnson, Senate Print 5917, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1505, by Senator Johnson, Senate Print 5918A,

an act to amend the Environmental Conservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

ACTING PRESIDENT KUHL: Senator Dollinger, to explain his vote on Calendar Number 1505.

SENATOR DOLLINGER: Briefly, Mr. President, we'd like to give the Neptune Award to Senator Johnson to all these bills apparently regulating the fishing of all the fish in the sea.

So we're going to give you the Neptune Award, Senator Johnson, for carrying these eight bills, and we'll deliver our trident to you later this week.

ACTING PRESIDENT KUHL: How do you vote, Senator Dollinger?

SENATOR DOLLINGER: Aye,

Mr. President.

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

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1507, by Senator Smith, Senate Print 5953, an act directing the Department of State to examine and investigate the use.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the reading of the noncontroversial calendar, Calendar Number 56A.

SENATOR SKELOS: Mr. President,

is there any housekeeping at all at the desk that should be done?

ACTING PRESIDENT KUHL: Senator Skelos, yes, there is one motion we have we'd like to take up. You want to return to the order of motions and resolutions?

SENATOR SKELOS: Yes. Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Meier.

SENATOR MEIER: Mr. President, on behalf of Senator Saland, please remove the sponsor star from Calendar Number 645.

ACTING PRESIDENT KUHL: The sponsor star is removed from Calendar Number 645.

Senator Smith, why do you rise?

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I would like unanimous consent to be recorded in the negative on several bills.

ACTING PRESIDENT KUHL: Without objection -

SENATOR MONTGOMERY: Okay, thank

you.

ACTING PRESIDENT KUHL: -

hearing no objection -- Senator Montgomery, why don't you list the bills for us.

SENATOR MONTGOMERY: All right. Calendars 239, 866, 1413, 1415, 1418, 1419, and 1453.

ACTING PRESIDENT KUHL: Without objection, Senator Montgomery will be recorded in the negative on Calendar Numbers 239, 866, 1413, 1415, 1418, 1419, and 1453.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up the reading of the controversial calendar, supplemental.

ACTING PRESIDENT KUHL: The Secretary will read the controversial supplemental calendar, Calendar 56A.

THE SECRETARY: Calendar Number 1463, by Senator Saland, Senate Print 2884, an act to amend the Judiciary Law and the Uniform City Court Act.

ACTING PRESIDENT KUHL: Read the

last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1466, by Senator Trunzo, Senate Print 3805, an act to amend the Retirement and Social Security Law.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT KUHL: Senator Trunzo, an explanation of Calendar Number 1466 has been requested by Senator Dollinger.

SENATOR TRUNZO: Mr. President, this bill is a chapter amendment to Chapter 300 of the Laws of 1998, where we granted retirement credit for a period of workers' compensation leave for members of the New York City Employees Retirement System who are transit operating and bridge and tunnel employees. However, we inadvertently omitted

the bridge and tunnel officers, sergeants and lieutenants, from the benefits. This legislation corrects the oversight.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Trunzo would just yield to a couple of quick questions.

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

SENATOR TRUNZO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Are there currently employees in the City of New York who get this benefit, the workers' -

ACTING PRESIDENT KUHL: Senator Dollinger, excuse the interruption. It's just a little noisy in the chamber. I know that Senator Trunzo can't hear with the conversation going on right next to him. So Senator Lack, if you could take that conversation away from Senator Trunzo, he might be able to hear the question.

I think Senator Trunzo can now hear.

SENATOR DOLLINGER: Thank you, Mr. President. Through you, could Senator Trunzo just tell me what other employees of the City of New York, if any, now get this benefit, credit for their periods of workers' compensation leave on their pension benefit, Mr. President?

SENATOR TRUNZO: I didn't quite hear the question. I'm sorry.

SENATOR DOLLINGER: I apologize -

ACTING PRESIDENT KUHL: I was wrong. I'm sorry, Senator Dollinger. Would you speak a little louder?

SENATOR DOLLINGER: This, as you know, Mr. President, is unusual for me, since I'm usually heard most times.

Senator Trunzo, what current employees of the City of New York get this benefit, this -- in other words, the credit for their workers' compensation benefits in their pension calculation?

SENATOR TRUNZO: All of them do,

from my understanding, except for the ones that we happen to have unfortunately left out of this legislation last year; that is, Tri-Borough Bridge and Tunnel Authority. When we did the legislation last year, Chapter 300, we included the Triborough Bridge and Tunnel Authority personnel, but unfortunately forgot to include the sergeants and the lieutenants from this benefit.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, what I'm -

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

SENATOR TRUNZO: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: Do the other employees of the City of New York -- not the TBTA personnel, but the other employees of the City of New York, the comparable employees, the sergeants, lieutenants of the New York City Police Department or the Housing Police or the Transit Police, do they also have this

benefit?

SENATOR TRUNZO: The transit police have it. The transit police have that. A few people have that particular clause right now in the City of New York.

SENATOR DOLLINGER: Through you, Mr. President, just to clarify. The transit workers have it. Do the regular police officers have it?

SENATOR TRUNZO: I'm not sure about the regular police at this point.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Trunzo will continue to yield for just one other question.

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

SENATOR TRUNZO: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: What is the cost of this measure to the pension plan, and who would pay it? And have they asked us to pay it or asked us to do this knowing that they've got to pay for it or somebody else is going to pay for it?

SENATOR TRUNZO: According to the bill, the fiscal note indicates that the cost to the employer would be approximately $200,000 per year.

SENATOR DOLLINGER: Through you, Mr. President. I'm not sure I heard the answer and I'm not sure I understood it.

ACTING PRESIDENT KUHL: Senator Trunzo, could you repeat the answer for Senator Dollinger, please?

SENATOR TRUNZO: According to the fiscal note that's on this legislation, the cost would be -- to the employer would be approximately 200,000 per annum.

SENATOR DOLLINGER: Final question, Mr. President.

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

SENATOR TRUNZO: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: This measure is retroactive, as I understand it, to 1998, back 17 or 18 months. Why would we make the bill retroactive that far back? I mean, how

many people would be affected? Will there be a lump sum that will be required to be paid by the TBTA at that time?

SENATOR TRUNZO: The problem was that they were originally excluded from the original bill, from the Chapter 300. And so we had to make it retroactive to the date of the original legislation that passed. That these should have been in that piece of legislation back in 1998.

SENATOR DOLLINGER: Okay. Just a final question, Mr. President.

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

SENATOR TRUNZO: How many final questions you got?

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Did the TBTA ask us to do this bill? The Authority, the actual Authority asked us to do this bill?

SENATOR TRUNZO: Yes, we got this from the Authority.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1468, by Senator Bonacic, Senate Print 3893, an act to amend the Executive Law.

SENATOR DUANE: Explanation.

SENATOR BRUNO: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1469, by Member of the Assembly Schimminger, Assembly Print 7644, an act to amend the State Finance Law.

SENATOR DUANE: Explanation.

ACTING PRESIDENT KUHL: Senator Saland, an explanation of Calendar 1469 has

been requested.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, what this bill would do would be to merely expand the current authority of the Comptroller to deposit monies for use in the Linked Deposit Program. The current level is $100 million. This bill would propose to expand that to $150 million.

And what the Linked Deposit Program is, and I'm sure most of the members are familiar with, it is a program whereby the state or certain state authorities agree to deposit monies in certain banking institutions and accept a lower interest rate, generally 2 or 3 points lower. Those monies are then used for lower-interest-rate loans to businesses that that bank may be dealing with.

And it's been a very successful program, has leveraged a considerable amount of additional dollars. Some 600-plus loans have been instituted, and the monies that we've provided have been more than doubled by the money that it's leveraged.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1474, by Senator Maltese, Senate Print 4188, an act to amend the Administrative Code of the City of New York.

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

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT KUHL: An explanation, Senator Maltese, has been requested by the Acting Minority Leader.

SENATOR MALTESE: Mr. President, this is a bill that would amend the Administrative Code of the City of New York in relation to the establishment of a 25-year retirement program for members of the New York City Employees Retirement System employed as

fire-alarm dispatchers. The terminology "fire-alarm dispatchers" is specifically spelled out in the bill, indicating the personnel that would be covered by the provisions of this bill.

At the present time, I am advised that there are 172 members that would be covered by this plan. The plan would be entirely contributory, entirely covered by the members themselves.

The fire-alarm dispatchers are men and women who are subject to a great deal of stress. Their normal work day is a 12-hour shift. In many cases, because of their small numbers and fact that the work is so arduous, stressful and demanding, many times they work over their shifts.

Unlike their colleagues at 911, who are largely -- largely are able to make use of computers and many of the decisions are triggered by computer programs that are built into the system, fire-alarm dispatchers, during times of high call volume, must make decisions about safe deployment and relocation of fire units throughout New York City so that

no neighborhood will be lacking in fire department coverage. At times they divert different equipment to the areas that the calls are made in connection with.

The -- naturally, since the job is so stressful and since it goes over all types of shifts, the -- as a result, the members are subject to a great many infirmities and disabilities that are accentuated by any stressful job.

It's a provision that would cover them for this -- the 25-year retirement. The -- it would opt in after a hundred -- they would have 180 days to opt in, and after that time they wouldn't be able to opt in. And in addition, they would not be able to transfer from any other position that wasn't in a comparable line.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President. Will Senator Maltese just yield to a couple of quick questions?

ACTING PRESIDENT KUHL: Senator Maltese, do you yield for a question?

SENATOR MALTESE: Sure.

SENATOR DOLLINGER: Through you, Mr. President.

Will this plan affect current employees? You talked about the opting-in provision after 180 days. Will that apply to people just at the start of employment or at any point in their 25-year career? In other words, will this affect current employees?

SENATOR MALTESE: Mr. President, through you.

It will affect all current employees, the 173 personnel presently on. Those employees will have the 180 days to opt in. As far as new employees, it will also give them the 180 days after their employment to opt in.

SENATOR DOLLINGER: Through you, Mr. President.

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

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: If an

employee had twenty years in and wanted to elect this plan and only had five years to build up the credits, they would make the exclusive contribution to build up enough credits to fund their pension after 25 years' retirement regardless of age; is that correct?

SENATOR MALTESE: Mr. President, yes, that is actuarially sound, I'm told. They would have that option even if they had the twenty years in, to be able to opt into the program for 180 days.

SENATOR DOLLINGER: Final question, Mr. President, through you.

What is the current plan that they're in? Is it a standard twenty-year partial with age requirement or -

SENATOR MALTESE: Presently they're in a twenty-year retirement plan. The present plan is funded by a 3 percent contribution. This would add an additional 6 percent contribution. They would then be giving 9 percent of their pay to pay for not only this program but their other life insurance and pension plan.

SENATOR DOLLINGER: Through you,

Mr. President, one question that arose in that, if Senator Maltese will continue to yield.

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

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: The entire 9 percent would be paid for by the employee, the 3 percent normal contribution plus the 6 percent on top of that?

SENATOR MALTESE: It would be 9 percent, which would include the 3 percent they're paying now, the additional 6 percent which would fund this plan.

SENATOR DOLLINGER: And again, through you, Mr. President, the employer continues to make the 3 percent contribution or to make no contribution?

SENATOR MALTESE: My understanding is that the 3 percent presently pays their retirement and pension program, and that the 6 percent would then cover only this. So it would be 6 plus 3, which would be

9 percent.

And then also, just as an added fact, they would not be able to retire - there is, in a way, an age provision, because they wouldn't be able to retire until age 55, currently.

SENATOR DOLLINGER: Well, is this -

ACTING PRESIDENT KUHL: Senator Dollinger, you're asking Senator Maltese to yield, or was that sufficient?

SENATOR DOLLINGER: I'd ask him to yield, Mr. President, but I'll yield just for an answer, because he knows what the question is.

SENATOR MALTESE: Well, I'm sorry, Senator Dollinger, you lost me in there.

SENATOR DOLLINGER: Well, through you, Mr. President, is this a 55-age-plan retirement, or -

SENATOR MALTESE: No.

SENATOR DOLLINGER: I thought it was 25 years -

SENATOR MALTESE: It is.

Mr. President, presently they can retire at 55. This would have no age restriction. It would be 25 years at any age.

SENATOR DOLLINGER: I'm done, Mr. President.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 14. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1477, by Senator Larkin, Senate Print 4489, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

SENATOR DUANE: Explanation.

ACTING PRESIDENT KUHL: Senator Larkin, an explanation of Calendar Number 1477 has been requested by Senator Duane.

SENATOR LARKIN: Yes, Mr. President.

Senator Duane, this bill here is a simple bill that over the last few years, many owners of horses have assumed a dual responsibility of jockey, of trainer, of walker, because of the high cost of operating horses at various tracks. The question come up about some of them have been injured in their capacity as a jockey. Under the existing law, they weren't covered under 2 or 4.

So what we're trying to say is that everybody who does that who's licensed to do that as a 2 or a 4 would be adequately covered. Because right now you could ride a horse as an owner, but as the designated jockey you could be injured, it could be fatal, it could be incapacitating for life, and there's no way you can have any benefits.

This is covering those that only act in that capacity and are licensed to act in that capacity.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1481, by Senator Stafford, Senate Print 4680A, an act to amend the Public Health Law.

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

SENATOR DOLLINGER: Explanation, Mr. President.

SENATOR BRUNO: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1485, by Senator Nozzolio, Senate Print 5356, an act to amend the Education Law.

SENATOR DUANE: Explanation, please.

SENATOR BRUNO: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the

bill aside temporarily.

THE SECRETARY: Calendar Number 1489, by Senator Larkin, Senate Print 5492, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, I believe that we ought to emphasize that bills are being laid aside because members are not here prepared to debate the bills.

The chances are good we're not going to get back to this calendar, because we are in a shut-down mode, the regular session is supposed to end tonight, and it's our intent to do the best that we can to end the session today.

So when we run back through these, if these bills are dead, they're dead. So if anyone wants a bill to be debated, they better be in the chamber and they ought to be here to hear the discussions that are going on.

Thank you, Mr. President.

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

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT KUHL: Senator Larkin, an explanation of Calendar Number 1489 has been requested by Senator Duane.

SENATOR LARKIN: Senator Duane, this is another racing bill. Just for your information -- I know you don't serve on our committee -- but quite some time ago, the chairman of the Racing Committee in the Assembly and myself and our respective staffs had a meeting with all the racing industry, off-track betting and everything else, and one of the items that come up about all of the harness tracks was this specific bill here. Because we're forcing tracks to race and lose $80,000 or $90,000 a day when there's no way for them to recoup that on their attendance or in the betting. It's also ensured that we're not getting the best quality of horses.

Specifically, in Senator Meier's district, Senator Bonacic's district, and some of the other places, Senator Spano's district, the purses are getting so low since 1998 that it's becoming a hardship on them.

And this has been agreed upon by all the harness tracks together, because it's in their best benefit because they're going to have to go out of business. If they go out of business, they're going to have to lay a lot of people off, Senator.

SENATOR DUANE: Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1490, by Senator Larkin, Senate Print 5499A, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

SENATOR DUANE: Explanation.

ACTING PRESIDENT KUHL: Senator Larkin, an explanation of Calendar 1490 has been requested by Senator Duane.

SENATOR LARKIN: Senator Duane, this is another bill that was discussed at our meeting and agreed on.

The revenues are based on a percentage of the total handle at our racing tracks and at the off-track betting. For example, back prior to your coming here, in 1998 the fund earned approximately 70,000 or more in awards than the fund is statutorily allowed to have. And with the new emphasis on improving the track, some of the legislation that we've done in this house, we find that we're doing it every year, trying to make amends to the fund.

We've brought the fund up to a level for the first time in ten years. We now feel it's time to let this handle by itself. And it's agreed upon by the tracks, the owners and everybody else. And it does return the money to where it's intended to go.

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

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1493, by the Assembly Committee on Rules, Assembly Print 8130A, an act to amend the Executive Law.

SENATOR DUANE: Explanation.

SENATOR BRUNO: Lay it aside for the day.

ACTING PRESIDENT KUHL: Lay it aside for the day.

THE SECRETARY: Calendar Number 1494, by Senator Saland, Senate Print 5601, an act to amend the Social Services Law, the Family Court Act, the Civil Practice Law and rules.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT KUHL: Senator Saland, an explanation has been requested on Calendar 1494 by Senator Montgomery.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this is Governor Pataki's program bill, the Child Support Enforcement Improvement Act of 1999. It would do a number of things. Included among them, it would provide computer access to workers' comp records to get child support attachment enforcement. It will increase penalties for criminal nonsupport, including a new D felony classification.

It would provide mandatory counsel fees in an instance where a punitive father disputes paternity after a 95 percent likelihood finding on a DNA test. It would provide civil penalties in addition for evading, attempting to evade paternity testing.

It would provide some clarification of the recent Kennedy decision with respect to the suspension of motor vehicle licenses where there are arrearages.

And also it would provide for the elimination of a grant where a parent is not cooperating in either establishing paternity or attempting to establish or modify or enforcing a support order.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, if Senator Saland would answer a couple of questions.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: Senator Saland, it is my understanding that the bill also authorizes the license of a person who is no longer under a current order to pay child support, that their license could also be revoked. Is that in the bill?

SENATOR SALAND: When I referred earlier to the Kennedy decision, that decision was one in which the court was concerned with what constituted arrears. The law currently requires some four months in arrears before you can have the revocation of, among other things, a motor vehicle license.

And, excuse me, I'm looking for the

particular section of the bill as I respond to you.

I see a reference to that on page 3, Section 4, and I believe you'll also find reference to it over on page 5, in subsection A. And one of the things that concerned the court was exactly when those arrears ran.

And I believe among the concerns was where there was a case that had been pending for quite some time and the court entered an order fixing the support obligation and retroactively saying that you owe arrears for a period of however many months and shall pay so many dollars with respect to those arrears, that that particular situation be distinguished, where there was already arrearage in excess of four months, from a situation in which there was an old outstanding order that someone had chosen to ignore for a period of four or more months.

The effort in this bill is to try and in effect address the issues that were raised in the Kennedy case.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: If you would continue to yield, Senator Saland.

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR MONTGOMERY: Now, does the bill remove the language that stated essentially that the mother's refusal to sign the acknowledgment would not be deemed as a failure to cooperate in establishing paternity? Is that language now removed from this bill?

SENATOR SALAND: Can I ask you to repeat that, please, Senator Montgomery?

SENATOR MONTGOMERY: There was language in the bill prior that -- to the effect that the mother's refusal to sign the acknowledgment would not be deemed a failure to cooperate in establishing the paternity for the child. So if the mother refused to sign, that would not be deemed failure to cooperate; is that -

SENATOR SALAND: Senator Montgomery, I'm looking at page 28 of the

bill, and I'm not quite sure where the -

SENATOR MONTGOMERY: On page 21 of the bill, Senator Saland, line 18 through 20, that language is removed: "The mother's refusal to sign the acknowledgment shall not be deemed a failure to cooperate in establishing paternity." That language is now removed, is that the case?

SENATOR SALAND: When you say removed, beginning at -

SENATOR MONTGOMERY: On page 21, line -- I think it begins on line 18.

SENATOR SALAND: Oh, I'm sorry, I'm looking at the wrong page. I take that back.

Correct, that language has been removed from the bill.

SENATOR MONTGOMERY: So in the event that there is some doubt in the mother's mind, does that mean that she is still going to be sanctioned even though there's some question, perhaps, in her mind?

SENATOR SALAND: I do not believe that the section to which you refer relates to public assistance benefits. It's primarily a

section that deals with the gathering of statistics for purposes of purely accumulation of data. I do not believe that that section in and of itself would be adequate in order to deny any benefits.

I would call your attention, however, to page 28, which is where I thought you were going in your initial inquiry, to Section 66 of the bill. That's the section which deals with the elimination of benefits for somebody who fails to cooperate.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Okay, if the -- if Senator Saland would continue to yield.

ACTING PRESIDENT KUHL: Senator Saland?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR MONTGOMERY: Does the bill now include a sanction for the full family?

SENATOR SALAND: Yes, I thought I had referred to that in my opening comments.

And that again -- I would again call your attention to Section 66 of the bill. It replaces the 25 percent of household grant penalty for noncooperation.

SENATOR MONTGOMERY: So in other words, in noncooperation cases, the entire - all the benefits are cut off?

SENATOR SALAND: There are exceptions, and those exceptions certainly deal with things such as allegations of domestic violence. The bill refers to the requirement that there be good cause found by the agency before somebody's benefits could be denied.

SENATOR MONTGOMERY: Senator Saland -- Mr. President, if the Senator would continue to yield.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR MONTGOMERY: Does the bill require that the counties now put in 50 percent of the child support passthrough, the counties now -

SENATOR SALAND: The passthrough has been increased from $50 to $100. There's no change in whatever the existing law is. It merely increases the amount from $50 to $100.

ACTING PRESIDENT KUHL: Senator Montgomery.

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

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

THE SECRETARY: Section 67. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

THE SECRETARY: Ayes, 58. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1496, by Senator Spano, Senate Print 5674.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1497, by Senator Seward, Senate Print 5699A, an act to amend the General Municipal Law.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT KUHL: Senator Seward, an explanation of Calendar Number 1497 has been requested.

SENATOR SEWARD: Yes, Mr. President. This bill creates a new set of economic criteria for the eligibility as an economic development zone which is consistent with the original law's rationale that these zones should be placed in an area that must be characterized by pervasive poverty, high unemployment, and general economic distress to be eligible for the designation.

The additional criteria under this

bill would include really five criteria, an unemployment rate equal to or higher than the state's rate, a rate of poverty for individuals at least 20 percent, number of households receiving public assistance is 15 percent -

ACTING PRESIDENT KUHL: Senator Seward. Senator Seward, excuse me just a minute.

Senator Duane, I don't -- could you hear that?

SENATOR DUANE: Yeah, but I'm focusing very sharply. Thank you.

ACTING PRESIDENT KUHL: If we could have members take the conversation out of the chamber. Recognize that for each minute you slow us down, it's going to extend the session another minute.

Excuse me again for the interruption, Senator Seward. I think Senator Duane should be able to hear you now.

SENATOR SEWARD: Thank you, Mr. President.

As I was stating, this bill adds additional criteria for additional economic

development zones to be created in the state. And the criteria would include that the unemployment rate would have to be higher than the state rate, the rate of poverty for individuals in the zone would have to be at least 20 percent at the poverty rate, the number of households receiving public assistance would have to be at 15 percent or more, that the county is considered a nonmetropolitan area, and the fifth one would be that no other economic development zone would be located in that county.

But the bill creates six additional zones, three of which would have to meet these additional criteria. The other three would continue to have to meet the existing criteria that are already in the law. This is designed to have new zones to be placed in areas that for whatever reason have not been successful in obtaining the EDZ designation in the past but are obviously in great need.

Now, the economic development zone program, in my estimation, and I'm sure everyone here would agree, has been highly successful in helping to spur economic

development in this state. And this legislation would help extend the benefits to even more areas of our state, and I think that would be a very positive thing for the state to proceed on.

ACTING PRESIDENT KUHL: Senator Duane.

SENATOR DUANE: Thank you. If the sponsor would just yield to a couple of questions.

ACTING PRESIDENT KUHL: Senator Seward, do you yield to a question?

SENATOR SEWARD: Certainly.

SENATOR WALDON: The Senator yields.

SENATOR DUANE: I just want to clarify. So three would be in counties that presently don't have economic development zones now, and three could go into counties that do have them and then we'll have additional ones; is that correct?

SENATOR SEWARD: That's basically it. Three of the additional six zones created under this legislation would have to meet those additional criteria that I mentioned.

The other three could go anywhere in the state as long as they met the criteria that are already in the law.

SENATOR DUANE: Through you, another question, Mr. President.

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

SENATOR SEWARD: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DUANE: The sponsor indicated that it's possible that an area that had trouble putting together, I guess, a board or whatever, the public mass to create such a an economic development zone, would now perhaps be more able to do that. But I'm wondering if -- there's nothing in the law that would strengthen a board or to provide assistance to make a board that could really do the job. And I'm just wondering why that isn't part of this as well.

In other words, if they couldn't do it before, what is it in here that would make it possible for them to put together an economic development zone that could work?

SENATOR SEWARD: Well, Mr. President, the -- I think you are -- that Senator Duane is asking about something that is certainly not covered under the bill in terms of a community's ability to come up with a successful application.

I think that how this bill would help would be adding additional zones. In the past, we have -- I think the original bill, there were 40. And just a couple of years ago, I think we added another 12. And this would continue the trend of adding more zones to be created in the state. And that alone, in my estimation, does give more communities of our state an opportunity to submit successful applications, just from increasing the number of zones that are available.

SENATOR DUANE: Through you, Mr. President, a final question.

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

SENATOR SEWARD: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DUANE: My concern has to

do, then -- it sounds as if we're lowering the bar, or raising the bar -- anyway, making it easier to create a zone, but that that may not improve the economic climate. Are we making it easier to create a zone for places where they haven't been able to get it together to put together a zone in the past?

SENATOR SEWARD: Well, Mr. President, I wouldn't describe it as lowering the bar, so to speak, on this, because we're talking about -- in terms of additional criteria, we're talking about communities that have a rate of poverty of 20 percent, 15 percent on public assistance, and unemployment rates that are higher than the state average. And so these are communities that obviously are in need of economic stimulation, and that's what we hope to accomplish under the bill.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, please call up Calendar Number 1481, by Senator Stafford.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1481, by Senator Stafford, Senate Print 4680A, an act to amend the Public Health Law.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation of Calendar Number 1481 has been requested by Senator Paterson.

SENATOR PATERSON: Actually, Mr. President -

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr.

President -

ACTING PRESIDENT KUHL: You wish to modify that request?

SENATOR PATERSON: Yeah, I was going to spare Senator Stafford from giving an explanation if he'd just like me to go right to my question.

SENATOR STAFFORD: Sure.

SENATOR PATERSON: Because I actually find the bill to be quite pertinent.

But in the original print of the bill, the Minority leaders had appointments, and now, in what appears to be this final draft, I don't see a Minority leader appointment on this bill.

SENATOR STAFFORD: I think that is true. I guess this goes along the lines of a discussion we had the other day. There are many areas -- commissions, committees - responsibilities where I think all of us would like to be involved. I know when I first got here, I wanted to be in everything, and I found that that really wasn't possible.

I think we have to be careful about commissions being unwieldy. I think we can

overdo it with numbers. I think this is a good bipartisan approach. It also has business leaders -- not leaders, it has business individuals, it has people in the medical profession. And I think we try to do our best to keep it efficient.

I really wish everybody could be involved. Sparta didn't do too well. Athens, that was a problem. I guess they were pure democracies. I'm for them. I want to be in them, and I want to be the president. But actually -- theoretically. Theoretically.

But on a serious note, efficiency, I think, really is what this boils down to.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, I think one of the reasons -- I agree with Senator Stafford that everybody here would like to be involved in as many activities as they could be, and on all the committees and commissions and the different types of groups that we put together.

But one of the reasons that we consolidate and we create leadership positions

is to have the few represent the many and to hopefully truncate the process and speed it up. So to that end, we have five -- we have four leaders in the Legislature, and when meeting with the Governor, we have a fifth leader. And it's just my opinion that we don't want to ruin that process where everybody is pretty much represented through their leader.

And for that reason, I strongly suggest that the Minority leaders, both Assemblyman Faso in the Assembly and Senator Connor right here in the Senate, had been included on that bill.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Party vote in the negative.

SENATOR SKELOS: Affirmative.

ACTING PRESIDENT KUHL: Record

the party line votes. Announce the results.

THE SECRETARY: Ayes, 36. Nays, 23. Party vote.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR GOODMAN: Mr. President.

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

SENATOR GOODMAN: I rise to ask if you would be good enough to record me in the negative on two bills previously passed. Calendar Number 1394, passed yesterday -- I realize that my vote probably cannot be included on that particular bill, but I would like it noted that had I been in the chamber, I would have voted in the negative on that bill.

ACTING PRESIDENT KUHL: The record will so reflect, Senator Goodman.

SENATOR GOODMAN: I appreciate that.

I'd also be grateful if you'd record ne in the negative on 1462, passed earlier today.

ACTING PRESIDENT KUHL: Without

objection -

SENATOR GOODMAN: Thank you.

ACTING PRESIDENT KUHL: 1462, Senator Goodman, has not passed at this point.

SENATOR GOODMAN: Thank you.

ACTING PRESIDENT KUHL: The Secretary will continue to read.

SENATOR SKELOS: Mr. President, would you please call up 1485, by Senator Nozzolio.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1485, by Senator Nozzolio, Senate Print 5356, an act to amend the Education Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Nozzolio, an explanation has been requested.

SENATOR NOZZOLIO: Who requested the explanation, Mr. President?

ACTING PRESIDENT KUHL: Senator Paterson, were you requesting the explanation on Calendar Number 1485?

SENATOR PATERSON: Yes, I did, Mr. President.

ACTING PRESIDENT KUHL: That's what I thought.

Senator Paterson, Senator Nozzolio, has requested the explanation.

SENATOR NOZZOLIO: Thank you, Mr. President. I would be glad to provide an explanation to Senator Paterson.

This measure allows the Department of Education to establish rules and regulations to provide for the certification of chiropractors as acupuncturists, provided that those rules and regulations are not more restrictive than the rules and regulations provided for other professionals and entities who seek licensure as acupuncturists.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, I'm having trouble -

ACTING PRESIDENT KUHL: Did you hear the explanation, number one, Senator Paterson?

SENATOR PATERSON: No, I didn't, but I was going to pretend that I did and go right to my question.

ACTING PRESIDENT KUHL: Well, I had a hard time hearing it also.

Please, will the members take their conversations out of the chamber. Senator Volker, Senator Marcellino.

Assemblywoman John, we welcome your presence, but please, if you have to have a conversation, take it out of the chamber.

Senator Paterson.

SENATOR PATERSON: If the Senator would yield for a question.

SENATOR NOZZOLIO: Be glad to.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, what are the prerequisites to becoming an acupuncturist in the state? Not specifically, but if someone is trained in a field that's related, how long would it take them, let's say, to create a situation where they would be certified by the Department of Education to become an acupuncturist?

SENATOR NOZZOLIO: Mr. President, Senator Paterson's insightful, thorough question could be answered directly by looking

at Chapter 772 of the Laws of 1980, which established the provisions for acupuncture licensing, certification, training and regulation within the State Education Department.

SENATOR PATERSON: If the Senator would yield for another question.

ACTING PRESIDENT KUHL: Senator Nozzolio, do you yield to another question?

SENATOR NOZZOLIO: Mr. President, I'd be happy to yield.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, I think I can vote for this legislation, but I do see the Medical Society has raised some sort of an objection, and I got the objection by telephone. I'm not exactly sure what it is. Can you address the Medical Society's concern?

SENATOR NOZZOLIO: Mr. President, through you, that I have not seen the specific objections of the Medical Society or any other group regarding this legislation.

But I think the answer, the essence

of your question, if I may, that the -- there are nontraditional doctors that are certified acupuncturists. You do not have to be an M.D. in this state to be a certified acupuncturist. That what we're saying with this provision is that chiropractors, as a matter of course, because of their training and background, if they meet the other regulations required by the State Education Department for certifying this activity, that the profession of chiropractor would not be excluded from consideration for a license to be an acupuncturist in New York State.

SENATOR WALDON: Senator Paterson.

SENATOR PATERSON: Senator Nozzolio, I know we're supposed to address our remarks through the Chair, but I'm sure Mr. President won't mind if I direct this solely to you, because I know you've wanted to hear me say this for five years. But you have convinced me.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the first active list would you please call up Calendar 1389, by Senator Maltese.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1389. It's on the members' first calendar, regular calendar for the day.

THE SECRETARY: Calendar Number 1389, by Senator Maltese, Senate Print 4372, an act to amend the Administrative Code of the City of New York.

SENATOR WALDON: There is a home rule message at the desk.

The Secretary will read the last section.

THE SECRETARY: Section 14. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the same active list would you please call up Calendar Number 1456, by Senator Breslin.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1456, by Member of the Assembly Canestrari, Assembly Print 5126, an act authorizing the reopening of the twenty-year retirement plan.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please, on Senate supplemental calendar, would you please call up 1468, by Senator Bonacic.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1468, by Senator Bonacic, Senate Print 3893, an act to amend the Executive Law.

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

SENATOR PATERSON: Mr. President, I laid this bill aside for Senator Duane, who seems to be out of the chamber for a moment. Might we lay that aside for a couple of -

SENATOR SKELOS: We will lay it aside temporarily, but the admonition that Senator Bruno gave us in terms of people being in the chamber ready to debate applies both to the Majority and the Minority.

So I would urge all members, if

they can, when their bills are going to be called up or they wish to debate a bill, to please be in the chamber.

ACTING PRESIDENT KUHL: The bill will be laid aside temporarily.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions and resolutions and adopt the Resolution Calendar in its entirety.

ACTING PRESIDENT KUHL: We will return to the order of motions and resolutions.

There is a Resolution Calendar on the members' desk. The motion is to adopt the Resolution Calendar. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, I

believe there's a privileged resolution at the desk by Senator Balboni. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read the title of the privileged resolution by Senator Balboni.

THE SECRETARY: By Senator Balboni, Legislative Resolution 2045, honoring Barry M. Dennis, Esquire, upon the occasion of his retirement after nearly two decades of dedicated service to Nassau County, July 8, 1999.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if you could call up Senator Bonacic's bill at

this time, Calendar Number 1468.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1468.

THE SECRETARY: Calendar Number 1468, by Senator Bonacic, Senate Print 3893, an act to amend the Executive Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to order of presentation of petitions, I believe we have a treat from Senator Dollinger.

SENATOR DOLLINGER: Yes. Mr. President, if we're on the presentation of petitions section, I'm going to invoke a -- I think it's safe to say this is a seldom-used

device in this house. But it is my understanding, Mr. President, that this gives me the opportunity to present two petitions which were gathered, one I believe exclusively in my district, and the other throughout western New York.

The first is a petition that relates to a bill that was in the Assembly last year which is also being considered this year. And it generally relates to Bill A651F, which is a bill with respect to trigger locks. It relates to the unfortunate, tragic death of a young boy named LaRalle Nesmith in my district when he was inadvertently shot and killed by another youngster. It has about 4600 signatures, Mr. President.

I would present them to you as the custodian of the Senate and for, I believe, filing with Mr. Boggess, as the Secretary, which I assume is what happens.

ACTING PRESIDENT KUHL: If you'd like to walk those up and present them -

SENATOR DOLLINGER: I'd be glad to, Mr. President.

ACTING PRESIDENT KUHL: -- to the

Secretary.

Senator Dollinger, I'm not the custodian of the Senate. I think that's a paid position, and I'm not getting paid.

(Laughter.)

ACTING PRESIDENT KUHL: If you'd like to walk that up. And you have a second petition?

SENATOR DOLLINGER: I do. I'll pass these to counsel.

The second petition, Mr. President, contains about 14,000 signatures, largely from western New York, and relates to a bill that I have sponsored and a position with respect to the funding of Ralph Wilson Stadium, improvements to the stadium in exchange for lifting the NFL blackout in western New York. This also relates to a piece of legislation. It is addressed to the members of the New York State Legislature. And I offer this petition at this time.

ACTING PRESIDENT KUHL: Thank you, Senator Dollinger.

Senator Skelos.

SENATOR SKELOS: Mr. President,

there is going to be a meeting of the Rules Committee at 2:45. There's going to be a conference of the Majority at 3:00 p.m. until 4:00 p.m., at which time we'll resume business. But we're going to just stand at ease now until at least 3 o'clock, to see if any messages come up or whatever may happen during this period of time so we can continue with our business.

ACTING PRESIDENT KUHL: There will be a meeting of the Rules Committee, a meeting of the Rules Committee in the Majority Conference Room at 2:45. A meeting of the Rules Committee in the Majority Conference Room, Room 332, at 2:45.

Session will stand at ease until 3:00, and at 3:00 there will be a meeting of the Majority Conference in the Majority Conference Room.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 2:35 p.m.)

(Whereupon, the Senate reconvened at 3:03 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Skelos.

SENATOR SKELOS: Mr. President, would you please recognize Senator Paterson.

ACTING PRESIDENT NOZZOLIO: Sena tor Paterson.

SENATOR PATERSON: Mr. President, good to see you. There will be a 3:30 conference -- there will be a conference of the Minority in the Minority Leader's Conference Room, 314, at 3:30 sharp. 3:30 sharp.

ACTING PRESIDENT NOZZOLIO: Minority conference, 3:30 sharp, in Room 314.

SENATOR SKELOS: Mr. President, just a reminder that the Majority will be conferencing now in the Majority Conference Room, and that we will reconvene at 4:00 p.m.

(Whereupon, the Senate stood at ease at 3:04 p.m.)

(Whereupon, the Senate reconvened at 4:30 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: The Senate will come to order. I ask the members

to find their places, staff to find their places.

Senator Skelos.

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

SENATOR WALDON: We'll return to the order of reports of standing committees. There is a report of the Rules Committee at the desk.

I direct the Secretary to read.

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

Senate Print 5752, by the Senate Committee on Rules, an act to amend the Insurance Law;

5757, by Senator Seward, an act to authorize the County of Cortland;

5763, by Senator Trunzo, an act to amend the Vehicle and Traffic Law;

5811A, by Senator Goodman, an act to amend the Real Property Tax Law;

5823, by Senator Nozzolio, an act to amend the Civil Practice Law and Rules;

5831, by Senator Volker, an act to amend the Criminal Procedure Law;

5853, by Senator Meier, an act to amend the Social Services Law;

5871, by Senator Saland, an act to amend Chapter 81 of the Laws of 1995;

5872, by Senator Saland, an act to amend Chapter 706 of the Laws of 1996;

5874, by Senator Bruno, an act to amend the Highway Law;

5876A, by the Senate Committee on Rules, an act to amend Chapter 41 of the Laws of 1997;

5894, by Senator Marcellino, an act to amend the Environmental Conservation Law;

5897, by Senator Velella, an act to amend the Education Law;

5910, by Senator LaValle, an act to amend the Education Law;

5941, by the Senate Committee on Rules, an act to amend Chapter 491 of the Laws of 1995;

5949, by Senator Farley, an act to

amend the Public Authorities Law;

5952, by Senator Fuschillo, an act in relation to authorizing;

5955, by the Senate Committee on Rules, an act to amend the Local Finance Law;

5965, by the Senate Committee on Rules, an act providing for the election;

5806, by Senator Farley, an act to amend the Public Authorities Law;

5738, by the Senate Committee on Rules, an act to amend the Tax Law;

5739, by the Senate Committee on Rules, an act to amend the Tax Law;

5795A, by Senator Morahan, an act in relation to authorizing;

5796, by Senator Morahan, an act in relation to authorizing;

And 5827, by Senator Breslin, an act authorizing the Commissioner of Education.

All bills ordered direct to third reading.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Move to accept the report.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The Rules report is accepted. The bills are ordered directly to third reading.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the first active list, could we take up Calendar 1350, by Senator Meier.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1350, by Senator Meier, Senate Print 5776, an act to amend the Tax Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's some housekeeping at the desk.

ACTING PRESIDENT KUHL: Return to motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. On behalf of Senator Balboni, on page 19 I offer the following amendments to Senate Print 1530 -- I'm sorry, to Calendar Number 695, Senate Print 1530, and I ask that that bill retain its place.

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

SENATOR FARLEY: On behalf of Senator Hannon, Mr. President, on page 29 I offer the following amendments to Calendar 957, Senate Print 4870, and I ask that that

bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 957 are received and adopted, and bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the first supplemental calendar and call up Calendar Number 1473.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1473, by Senator Volker, Senate Print 4135A, an act to amend the Civil Practice Law and Rules and the Judiciary Law.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1473. All those in favor

signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted. The bill is before the house.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the same calendar, if we could call up Senator Stafford's bill, Calendar Number 1492.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number

1492, by Senator Stafford, Senate Print 5586A, an act relating to constituting Chapter 57A of the Consolidated Laws.

ACTING PRESIDENT KUHL: Senator Skelos.

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

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar 1492. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted. The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, on this same calendar, Calendar Number 1496, Senator Spano's bill, if we could lay it aside for the day.

ACTING PRESIDENT KUHL: The Secretary will read.

Lay it aside for the day?

SENATOR SKELOS: Yes.

ACTING PRESIDENT KUHL: The bill will be laid aside for the day.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: If we could take up Supplemental Calendar 56B, noncontroversial.

SENATOR WALDON: The Secretary

will read.

THE SECRETARY: Calendar Number 1508, by the Senate Committee on Rules, Senate Print 5752, an act to amend the Insurance Law, in relation to salaries.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1509, by Senator Seward, Senate Print 5757, an act to authorize the County of Cortland to transfer.

ACTING PRESIDENT KUHL: There's a home rule message at the desk.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1510, by Senator Trunzo, Senate Print 5763, an act to amend the Vehicle and Traffic Law, in relation to the sale of salvaged inflatable.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date as a chapter.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1511, by Senator Goodman, Senate Print 5811A -

SENATOR DOLLINGER: Lay it aside,

please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1513, by Senator Volker, Senate Print 5831, an act to amend the Criminal Procedure Law, in relation to expanding.

SENATOR WALDON: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1514, by Senator Meier, Senate Print 5853, an act to amend the Social Services Law -

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1515, Senator Saland moves to

discharge, from the Committee on Rules, Assembly Bill Number 7699 and substitute it for the identical Third Reading Calendar, 1515.

ACTING PRESIDENT KUHL: Read the last section.

The substitution is ordered.

Read the title.

THE SECRETARY: Calendar Number 1515, by Member of the Assembly Weinstein, Assembly Print Number 7699, an act to amend Chapter 81 of the Laws of 1995.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1516, Senator Saland moves to discharge, from the Committee on Rules,

Assembly Bill Number 7698 and substitute it for the identical Third Reading Calendar, 1516.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1516, by Member of the Assembly Weinstein, Assembly Print Number 7698, an act to amend Chapter 706 of the Laws of 1996.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1517, by Senator Bruno, Senate Print 5874, an act to amend the Highway Law, in relation to certain bridges.

ACTING PRESIDENT KUHL: There's a

home rule message at the desk.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1518, by the Senate Committee on Rules, Senate Print Number 5876A, an act to amend Chapter 41 of the Laws of 1997.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a chapter of the Laws of 1999.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1519, by Senator Marcellino, Senate Print 5894, an act to amend the Environmental Conservation Law, in relation to extending.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1520, by Senator Velella, Senate Print 5897, an act to amend the Education Law -

SENATOR SKELOS: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1521, by Senator LaValle, Senate Print 5910, an act to amend the Education Law, in relation to the regulations.

ACTING PRESIDENT KUHL: Read the last section.

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

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1522, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 8650 and substitute it for the identical Third Reading Calendar, 1522.

ACTING PRESIDENT KUHL: The substitution is ordered.

Read the title.

THE SECRETARY: Calendar Number 1522, by the Assembly Committee on Rules, Assembly Print Number 8650, an act to amend Chapter 491 of the Laws of 1995.

ACTING PRESIDENT KUHL: Read the last section.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1523, by Senator Farley -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: There's a home rule message at the desk.

The bill will be laid aside.

SENATOR FARLEY: Who laid that bill aside?

ACTING PRESIDENT KUHL: Senator Paterson laid that bill aside, Senator Farley. You might want to talk to him.

THE SECRETARY: Calendar Number 1525, by Senator Fuschillo, Senate Print 5952, an act in relation to authorizing the State University of New York.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1526, by the Senate Committee on Rules -

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1528, by Senator Farley, Senate Print 5806, an act to amend the Public Authorities Law, in relation to amending the Schenectady Metroplex.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 17. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1529, by the Senate Committee on Rules, Senate Print Number 5738, an act to amend the Tax Law and Chapter 535 of the Laws of 1987.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1529 are Senators Dollinger, Gentile, Leibell, and Saland. Ayes, 55. Nays, 4.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1530, by the Senate Committee on Rules, Senate Print Number 5739 -

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1531, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 8585B and substitute it for the identical Third Reading Calendar,

1531.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1531, by the Assembly Committee on Rules, Assembly Print Number 8585B, an act in relation to authorizing.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1532, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 8586 and substitute it for the identical Third Reading Calendar, 1532.

ACTING PRESIDENT KUHL: The

substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1532, by the Assembly Committee on Rules, Assembly Print Number 8586, an act in relation to authorizing the Town of Haverstraw.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1533, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 8692 and substitute it for the identical Third Reading Calendar, 1533.

ACTING PRESIDENT KUHL: The

substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1533, by the Assembly Committee on Rules, Assembly Print Number 8692, an act authorizing the Commissioner of Education.

ACTING PRESIDENT KUHL: Call the roll.

Excuse me, read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

SENATOR WALDON: The bill is passed.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, I laid aside Calendar Number 1523, by Senator Farley, and he's explained that bill to my satisfaction. If a member of the Majority would like to take it up, I'd like to take it up and vote on it, speak in favor of it, generally advocate it, whatever Senator Farley

would like.

SENATOR SKELOS: Thank you, Senator.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1523, by Senator Farley, Senate Print 5949, an act to amend the Public Authorities Law.

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

The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR PATERSON: It's a great bill, Mr. President.

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Duane.

SENATOR DUANE: Never mind.

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

SENATOR DOLLINGER: May I have unanimous consent to be recorded in the negative on Calendar Number 1350, Mr. President?

ACTING PRESIDENT KUHL: Without objection -

SENATOR DOLLINGER: Thank you.

ACTING PRESIDENT KUHL: - hearing no objection, Senator Dollinger will be recorded in the negative on Calendar Number -- 1350?

SENATOR DOLLINGER: Yes, Mr. President.

ACTING PRESIDENT KUHL: 1350.

Senator Gentile, why do you rise?

SENATOR GENTILE: I too ask for unanimous consent to be recorded in the negative on Calendar Number 1350.

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

Gentile will be recorded in the negative on Calendar Number 1350.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the main calendar we have a supplemental active list. So if we could take up Calendar Number 553.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 553, by Member of the Assembly Weprin, Assembly Print Number 5937A, an act to amend the Civil Practice Law and Rules.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Would you then

call up Calendar Number 673 and 911.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 673.

THE SECRETARY: Calendar Number 673, by Member of the Assembly E. Sullivan, Assembly Print Number 4735B, an act to amend the Education Law, in relation to streamlining.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will read Calendar Number 911.

THE SECRETARY: Calendar Number 911, by Senator Stafford, Senate Print 4393, an act to amend -

SENATOR DUANE: Explanation.

THE SECRETARY: -- the General

Municipal Law, in relation to the provision of ambulance services.

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

Senator Stafford, an explanation of Calendar Number 911 has been requested by Senator Duane.

SENATOR STAFFORD: Thank you, Mr. President.

We are most fortunate in our area to have excellent ambulance units emergency - providing emergency services. And also in this county there's a very, very strong county office that covers these responsibilities, disaster preparedness. And of course we're a bit cognizant of how important this is with the tragedy we had -- let me see now. Time passes so quickly. What was it, last year or the year before last that we had the ice storm? It was last year. Not this past year, but a year ago this past year. There we are.

So, Mr. President, we have a home rule request.

And we have really seen the county organization, the county office strengthen.

As you probably know, we were very unfortunate, in some people's eyes, to have the Plattsburgh Air Force Base close. That was a very, very tough blow. On the other hand, that was a facility that the Emergency Services Disaster Preparedness Office was able to take over. That although it was so unfortunate that we did lose the air base, we were able to have this facility turned over to the county, and the county has now taken it over.

So at the present time, municipalities have the option now to have these contracts and not fire districts. And this is actually a fire district taking this over, the county fire district.

And it's a bit different in our county, as I say, because of the new -- really the office that, as I say, has been strengthened. We have a gentleman there who did a tremendous job during the disaster, and he's really building what we think is going to be a model for other areas.

And therefore, the home rule request came in, and we think it's just very,

very good for this county to be able to contract with these various fire districts that will be able to provide fire services and ambulance service.

ACTING PRESIDENT KUHL: Senator Duane, are you standing?

SENATOR DUANE: No, I'm actually looking at something. The explanation -

SENATOR STAFFORD: As has been pointed out, and this is very understandable, although up in our area we do have a lot of deer and bear -- we used to vote them all, but that's changed, fortunately. I think it's better that we have -- but we're relatively highly populated. And frankly, the volunteer service is getting to be a bit of a problem, so these contracts are important.

SENATOR DUANE: Thank you. Explanation satisfactory.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe if we could return to motions and resolutions, we have one motion.

ACTING PRESIDENT KUHL: We will return to the order of motion and resolutions.

The Chair recognizes Senator Seward.

SENATOR SEWARD: Yes, Mr. President. On page -- well, I offer the following amendments to Calendar Number 1527, Senate Print Number 5965, and I ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 1527 received and adopted. The bill will retain its place on the Third Reading Calendar.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: If we could call

up Calendar 1530.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1530, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 8698 and substitute it for the identical Third Reading Calendar, 1530.

THE PRESIDENT: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1530, by the Assembly Committee on Rules, Assembly Print Number 8698, an act to amend the Tax Law, in relation to extending.

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. Nays, 1. Senator Dollinger recorded in the negative.

THE PRESIDENT: The bill is passed.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: If you could call up Calendar Number 1514, by Senator Meier.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1514, by Senator Meier, Senate Print 5853, an act to amend the Social Services Law, the Penal Law, and the Tax Law.

THE PRESIDENT: Read the last section.

SENATOR DUANE: Explanation.

THE PRESIDENT: Senator Meier, an explanation has been requested by Senator Duane.

SENATOR MEIER: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR MEIER: Madam President, this bill basically recodifies, with some minor changes, existing Social Services Law in

New York State which makes the misuse of food stamps a crime.

There are fundamentally two changes that are made in this bill. The first was at the express suggestion of the district attorney's office of New York City, Mr. Morgenthau's office, requesting that the statute be moved from the Social Services Law to the Penal Law. And the reasoning that they had was that district attorneys and the criminal courts are more familiar dealing with the criminal law.

The second thing that the bill does is it changes the classifications by dollar amount of the amount of food stamps involved as it relates to the severity of the penalties. Fundamentally, the classification system leaves intact the old system for food-stamp recipients in terms of the dollar amount involved. For example, below a thousand dollars remains a misdemeanor, a thousand dollars and up would remain an E felony.

But the classifications are split out for middle people; in other words, an

unscrupulous merchant or someone who would traffic with regard to food stamps on the black market. And the classifications are kicked up for them into a higher category at a lower dollar amount. So there's a distinction made between food-stamp recipients and those who create the black market in food stamps, which is deemed by the D.A. in the City of New York to be a problem.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, we're trying to work our way through, as you know, the supplemental calendar. And looking around, there are a number of members whose bills are going to be coming up that have been

laid aside to be debated. So again, I would urge those who have bills to be debated and those who wish to debate to please be in the chamber so that we can proceed in an orderly fashion.

Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: If we could call up Calendar Number 1521, by Senator LaValle.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1521, by Senator LaValle, Senate Print 5910, an act to amend the Education Law, in relation to the regulations.

SENATOR DUANE: Explanation.

THE PRESIDENT: Senator LaValle, an explanation has been requested by Senator Duane.

SENATOR LAVALLE: This bill, Madam President, is born out of situations and a concern by the Dental Society -- that is in support of this legislation -- that there have been situations where dentists have used anesthesia and may not have had the kind of

necessary training that they should have.

And this bill simply says that a dentist that is employing conscious sedation, deep sedation, must have a certificate in order to use this methodology in their dental office.

And again, this bill emanates from concerns that the dentists have, is supported by the Dental Society. And myself and the chairman of the Assembly Education -- Higher Education Committee, Mr. Sullivan, are the sponsors of this legislation.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 180 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 1511, by Senator Goodman.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1511, by Senator Goodman, Senate Print 5811A, an act to amend the Real Property Tax Law and the Administrative Code of the City of New York.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Senator Paterson, did you request an explanation?

SENATOR PATERSON: Yes, I did, Madam President.

THE PRESIDENT: Senator Goodman, an explanation has been requested by Senator Paterson.

SENATOR GOODMAN: Madam President, this is an important and rather complex piece of legislation which I'll try to clarify to the best of my ability. It relates to the question of the assessment of real estate in the City of New York, and also to a very important relief measure which is appended to it, which would provide a tax abatement and reduction with respect to co-ops and condominiums in the City of New York.

To take the last and most refreshingly delightful part of this first, it contemplates roughly a $160 million reduction in co-op and condo taxation, to recognize the fact that co-ops and condos are a class of housing which have often been overtaxed. The Mayor has done a rather remarkable job, despite the elimination of the commuter tax, in making this cut in the co-op and condo tax, which is very important in keeping the economic base of the city intact.

Now, with regard to the assessment situation, let me indicate to you in broad-brush terms how this works. There are various ways of evaluating real estate, as I think this house is generally aware. One relates to the question of the last sale of a home in a category which determines the general and broad valuation. The second is to take the profit and loss statement of that housing and to use that for some sort of projection of the potential future income of that piece of property.

This bill essentially goes to the use of the profit and loss information, which

is believed by both the city and the Real Estate Board of New York and a great number of other experts to be a fairer method of valuation of the real estate in New York City.

And I believe that in the utilization of this, we come up with a variety of numbers for the various classes of property in New York. As is generally known, based on past experience, I'm sure, the Class 1 properties in New York are the small homeowners arrayed in the -- around the city. Class 2 are the co-ops and condos. Classes 3 and 4 relate to commercial and utility properties in the City of New York.

So what this seeks to do, once again, is to place these in juxtaposition and in proper proportion, and in doing so will come up with the fairest possible approach to the property taxes to be levied within the city, based upon what's believed to be the most appropriate assessment technique.

THE PRESIDENT: Read the last section.

Senator Connor.

SENATOR CONNOR: Thank you, Madam

President.

THE PRESIDENT: You're welcome.

SENATOR CONNOR: Madam President, I have an amendment at the desk. And I ask that it be called up, waive its reading, and that I explain.

THE PRESIDENT: Senator, we'll review the amendment at this time. Thank you.

Senator, the reading will be -- and explaining will be waived. The amendment is ruled to be germane.

SENATOR CONNOR: Thank you, Madam President. On the amendment.

As Senator Goodman explained, there are two main features -- three, actually -- to his bill. And one feature would eliminate the comparability grounds, or, as they call it, the sales grounds for challenging an assessment in New York City and Nassau County.

We saw this bill standing alone last year, and there were some 22 votes against it, including four -- three or four Republicans. The concern with that provision of the bill was that it would result in some inequities in assessments and would open the

door -- and would actually make challenging an assessment a very expensive and difficult proposition, because people in effect would have to use the equalization method. That would certainly require lawyers in the certiorari proceeding. Not a problem for large commercial property holders, but there's a category that would be covered by it of cooperative and condominium large buildings that have been somewhat successful. I know in my own district, on Sunday I spoke with the head of a co-op board where the co-op had had their assessment lowered by $900,000. This particular person said to me, "Senator, the abatement provision" -- the other provision of Senator Goodman's bill -- "continuing the abatement provision puts a couple hundred dollars in the pocket of our cooperators, but they saved a lot more money, a lot more money by the co-op having the ability to get that assessment lowered by $900,000," using the comparability sales analysis to challenge their assessment.

My amendment would provide that the existing method of challenging an assessment

be continued -- as opposed to Senator Goodman's bill, which would eliminate it - and that the abatement provision be extended. That's the amendment. It's very simple. It would continue the abatement program for the co-ops and condos, and it would -- the amendment, as it says, would continue -- would make sure that the comparability method of challenging an assessment be continued and applied to property in those classes in New York City and Nassau County.

Madam President, I think this is the best way to ensure that our cooperative and condominium-owning residents receive fair treatment, receive a full economic benefit of abatements, as well as the ability to ensure that their assessments are fair and equitable because comparable properties have the same level of assessment.

So I urge my amendment be adopted.

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

SENATOR CONNOR: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 23. Nays, 36. Party vote.

THE PRESIDENT: The amendment is defeated.

On the bill, the Secretary will read the last section.

THE SECRETARY: Section 13. This act shall take -

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Goodman will yield for a question.

THE PRESIDENT: Senator Goodman, do you yield to a question from Senator Paterson?

SENATOR GOODMAN: Yes, I will, Madam President.

SENATOR PATERSON: Senator Goodman, if the sales of related properties are not allowed in the proceeding, then that

would leave only two other solutions for a person seeking action in a certiorari proceeding. One would be the equalization method, which, as Senator Connor pointed out, would incur great expense and would need a specific type of legal advice not really available to small tenants and commercial property owners. The other is a procedure that's not even really used in New York City.

And so my question to Senator Goodman is, what is the relief for someone who is disputing what would be an inequity, other than the one that is basically being removed for New York City in this bill?

SENATOR GOODMAN: Senator, let me try to respond to this as lucidly as I can with a stock market analogy.

One could argue, with some degree of justification, that the price of a stock, what a stock is worth, is represented by its last sale in the market. On the other hand, one could also argue that what a stock is worth is reflected in its earning statement, which can be projected in various ways to determine the future prospects of the

corporation.

Similarly, with regard to buildings, it seems to me you could argue that this building valuation question, the so-called assessment of a piece of real estate, could be argued based upon the utilization of a recent sale or the last sale, projecting that across the entire class, as opposed to taking the profit and loss statements of the buildings that are under consideration for specific equalization and evaluation and using that profit and loss as the basis for that evaluation.

It's my judgment, and that of the Real Estate Board of New York, which speaks for realty owners generally, that the preferable method is the one that I've indicated. And that's why the city has sought to shift over into that method. I happen personally to agree with their thinking, and I can tell you that the only people I know of who are in favor of the retention of this at the moment are the certiorari lawyers.

What is a certiorari lawyer? It's a specialist whose sole income is earned from

an attempt to downgrade the valuation put on a building on behalf of a client, in order to obtain a reduction of the real estate tax. And there's a contingency fee charged by such certiorari lawyers. They take a percentage of the reduction for their fee.

Now, I think that the fact that the certiorari lawyers are the only ones in support of this gives us sort of a commonsense measure of the fact this is not necessarily in the best interests of real estate as a whole. And I would respectfully suggest your premise is not quite accurate when you say that an individual is less likely to get an adjustment in payment under this system that the city proposes as opposed to the other.

Now, with regard to the splendid piece of work that's been done by the Mayor and his budget director and his tax officials in making available the reduction and, in effect, the subsidization of co-op and condo taxes, I think this is a very significant thing which should be emphasized. It's generally known and has been for some time that co-ops and condos get the short end of

the stick in property taxation in New York City. Basically, the co-ops and condos are in such a condition that they are often disadvantaged to the advantage of the one- and two-family homeowners, for the simple reason that, as Abraham Lincoln said, "I favor the common man because there are so many more of them." You favor the normal one- or two-family homes because there are so many more of them, and that's the basis on which they've managed over the years to get a disproportionate relief in terms of real estate taxes.

So that I think these things suggest generally the correctness of the city's approach.

THE PRESIDENT: Senator Paterson.

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

What's very disappointing is that two basically unrelated issues are addressed by this piece of legislation. They're tied together. I'm certainly in favor of the first part, the co-op/condo conversion part of the legislation.

The second part of the bill, I'd like to turn Senator Goodman's attention to a June 1998 decision in a case involving Saratoga Racing, Incorporated, versus Williams. While the court decision does not in any way affect the issues that are being discussed in this particular bill, nonetheless there is dicta that basically states that the best evidence that would establish equalization would come really from an assessment of property as it was disposed between a buyer and a seller. Meaning exactly what that bill eliminates would actually cure the situation in its best form.

These were certainly the expectations of those who would have been the recipients, those state residents who would have benefited from our 1997 Tax Reform Act when it was first included, but it is now denied in New York City.

While I see the overwhelming merits in a lot of this legislation, I would just like to caution all of us that these types of situations where we put these issues together make it very difficult for some of us to reach

an informed decision.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 13. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, why do you rise?

SENATOR DUANE: I actually had some questions as well, if the sponsor would continue to yield.

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

SENATOR GOODMAN: Will you withdraw the roll call, Madam President?

THE PRESIDENT: Yes, Senator Goodman.

SENATOR GOODMAN: As a point of order, perhaps the Senator would prefer to explain his vote. I'm not certain what your desire is, but we normally do not interrupt a roll call unless you wish to withdraw -

THE PRESIDENT: Senator Duane, do you wish to withdraw the roll call in order to

ask a question?

SENATOR DUANE: Yes, Madam President.

SENATOR GOODMAN: I have no objection, if that's the Senator's wish, Madam President.

THE PRESIDENT: Without objection, the roll call is withdrawn.

Senator Duane, you may proceed with a question.

SENATOR DUANE: Thank you very much, Madam President. And thank you to the sponsor.

I was hoping that the sponsor could comment on the consequences of removing the ability to challenge an assessment during a downturn in the real estate market in New York City.

SENATOR GOODMAN: I don't know on what you premise your question, but there's no diminution of the right to challenge or to bring a certiorari proceeding in this bill that I'm aware of.

SENATOR DUANE: Madam President, through you.

More specifically, for a large property owner to not be able to use assessments of surrounding properties, whether or not that would -- you believe that would be a negative situation for a property owner in a market downturn, in a real estate market downturn.

SENATOR GOODMAN: I think, Senator, your question reveals that I may have not have been sufficiently explicit in my explanation. I tried to make it clear to you that what we're dealing with here is a last-sale concept versus a profit-and-loss-statement concept in the valuation. This is what is known as the assessment. And your question does not, I think, reveal your awareness of the distinction that I have just made.

The city's approach to this will remove -- will alter the use of the last sale as the principal criterion and substitute therefore the use of the profit and loss statement, which goes to the question of the profitability of a given building, not just at this moment but in the future as well.

SENATOR DUANE: Through you, Madam President.

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

SENATOR GOODMAN: Yes, I will.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: As I understand it, presently, though it would seem at first blush that while the market is doing -- the real estate market is doing well -- which thankfully, thanks to our hard work, it is, particularly in Manhattan -- that it would seem that that would in fact increase revenues for the City of New York, because the assessments of surrounding properties would be going up. So logic would dictate that in fact that would mean more revenue for the city.

However, what ends up happening, since you are taxed at a percentage of the assessment -- of which it's far too complicated to really go through how that percentage is arrived at, but if you use that benchmark of surrounding properties, in fact properties end up paying a less high

percentage towards that assessment, which leads properties surrounding it to say, Me too, me too, we also should be paying a less percent.

Is that not your reading of what happens under the system where you can use the surrounding properties?

SENATOR GOODMAN: No, I think there's a misperception here. What happens in a rising market, obviously the last sale criterion is one which is going to rise as sales prices increase the property.

In a rising market, by the same token, there is the likelihood that there are increased rentals, which in turn generate richer profits to the building, and those profits are reflected in the profit and loss statements of the building, and they in turn reflect a higher value. So in both instances, the fluctuations in the market are reflected in the assessment.

SENATOR DUANE: Through you, Madam President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Perhaps, then,

I'm not quite understanding what in reality will be happening.

Even -- from what you're saying, it would lead me to believe that even more properties would dispute their assessment with the argument that they believe that they should be paying a lower percentage of their assessment, as do buildings which have already gone through that process. And therefore, the city could potentially lose revenue that way.

SENATOR GOODMAN: What is your question, Senator?

SENATOR DUANE: Well, that -- my question is, is that we are -- it seems to me that -

SENATOR GOODMAN: Your question is who invented this nutsy set of ground rules, is that a fair -

SENATOR DUANE: That's an excellent question.

THE PRESIDENT: Senator Duane, do you have a question? You are authorized to ask a question, sir.

SENATOR DUANE: Madam President, though, I'm going to refuse to yield to my

colleague's question on that, because it's too complicated. But -- but my sort of more - and I don't know who invented it.

But I guess the question I wanted to ask is, are we not in a conundrum having to do with -- a conundrum having to do with balancing the needs of the city being able to count on a consistent revenue stream versus the ability of property owners to have a broader range of options when it comes to assessing -- to being assessed for property taxes?

SENATOR GOODMAN: May I attempt to penetrate the complexities of this with a statement that I think you will agree too?

PIn response to your question, you and I share a concern for the well-being of tenants and the owners of co-ops and condos, I'm sure. What this does, as a totality of the piece of legislation, is to grant a special preferment to the owners of co-ops and condos by reason of a $160 million tax subsidization which the city is willing to provide, even though it's under increased budgetary pressure due to the revocation of

the commuter tax.

Frankly, when that tax was repealed, I was greatly concerned that it would crowd out this benefit to co-ops and condo owners, both of whom populate our districts in larger than normal proportions relative to the rest of the city.

And I can only say to you that this is a good deal for them, and that the way this bill balances out because of that, the disadvantages they unfortunately suffer in terms of their shares versus Classes 1 and 3 and 4, are not -- are more than canceled out and overweighted by the benefit in the tax reduction which they enjoy as owners of co-ops and condos.

SENATOR DUANE: Through you, Madam President, if the sponsor will continue to yield.

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

SENATOR GOODMAN: It's always a pleasure to have a late-afternoon bit of exercise at your discretion, Senator. Of course I will yield.

THE PRESIDENT: Assuming that is a yield, Senator Duane, you may proceed with a question.

SENATOR DUANE: Thank you very much. And I need to preface this by saying my seven years on the New York City Council did not nearly prepare me for the complexities of the issues of co-op and condo taxation and the different class shares.

But that said, I think that the Senator and I share the concern of equalizing the tax burden on Class 1 and Class 2 properties. And how it is that we arrive at what is the best way to do that, keeping in mind the importance of maintaining a steady stream of revenue to the City of New York -- I think I will forgo the question I was going to pose and instead make this be the -- my statement on the bill and indicate that though it's a bit of a tough call, that I will be voting yes on this.

Thank you, Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President. If Senator Goodman would yield for

one last question.

THE PRESIDENT: Senator, do you yield?

SENATOR GOODMAN: Yes, Senator, with pleasure.

THE PRESIDENT: Thank you, Senator Goodman.

Go ahead, Senator Paterson.

SENATOR PATERSON: Senator, I know we may have gone over this before, but I just want to ask one more time. If this method of value, if this tax sales method is so bad, then why aren't we doing it statewide? Why are we just removing New York City and Nassau County from the process and leaving the rest of the state under the protections that existed from our 1997 tax act?

SENATOR GOODMAN: Senator, I didn't suggest that this method was so bad. What I think you must understand is that in the way that the city's real estate taxation scheme works, you have these four classes of real estate, each one of which is assessed in accordance with a capped formula.

In this situation, it is quite

manifest that over the years, the co-op and condo and, indeed, the high-rise apartment buildings which constitute Class 2 have consistently taken a back seat, by virtue of pure political pressure and understandable weight of numbers in the determination of how these formulas would be applied.

In plain language, the people in the city council who reach these conclusions are more responsive to the one- and two-family homeowners because there are so many more of them and at election time, needless to say, they cast a great many more votes than the poor folks who live in high-rise buildings who are a small percentage of that total.

So that what has happened over the years is that you have a disadvantaged group -- mainly the one- and two-families, whom I've been battling for a number of years, since my population in my district obviously is very much more heavily populated with that class of renter and homeowner -- or apartment dweller, I should say. And the result is that what we have here is a very specific -- is the Bagel King adding anything to your question?

Marty, be my guest. Do you wish to -

So why don't I just cut it off there and say that I think you should, as one who also represents apartment dwellers, be very well pleased with this, and we shouldn't expend too much energy looking a gift horse in the mouth.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 13. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 2. Senators Breslin and Dollinger recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 1522.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

1522, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8650, an act to amend Chapter 491 of the Laws of 1995.

SENATOR DUANE: Explanation.

THE PRESIDENT: Senator Skelos, Senator Duane has asked for an explanation.

Senator Spano, excuse me.

SENATOR SPANO: Thank you, Madam President.

Chapter 491 of the Laws of 1995 that I sponsored allowed for the creation of the establishment of an alternative dispute resolution program to handle workers' compensation claims. This statute is due to expire December 31, 2000. What this bill does is to extend that statute for five years, through December 31, 2005.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: If the sponsor would yield for a couple of questions.

THE PRESIDENT: Senator Spano, will you yield?

SENATOR SPANO: Yes.

THE PRESIDENT: Thank you,

Senator.

Go ahead, Senator Duane.

SENATOR DUANE: Thank you.

Does this preclude a worker being able to go to civil court to address their concerns, their grievance?

SENATOR SPANO: This would not take the right of any employee in the state from exercising their right to go to court and civil court, at all, Senator Duane. All this would do is give the opportunity to opt into the alternative dispute resolution to deal with the claim of workers' compensation.

SENATOR DUANE: And one last question, through you, Madam President.

That would be with the agreement of both parties?

SENATOR SPANO: That would be with the agreement of the union, subject to the collective bargaining agreement that they would negotiate.

SENATOR DUANE: 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, 59.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 1295, on the first active list, by Senator Marchi.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1295, by Senator Marchi, Senate Print 5589, an act to amend the Education Law, in relation to courses of instruction.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Who requested the explanation? Senator Paterson, did you request the explanation, sir?

SENATOR PATERSON: Yes, I did, Madam President.

THE PRESIDENT: Senator Marchi, an explanation has been requested by Senator

Paterson.

SENATOR MARCHI: Since I share a birthday with him, I will always honor that request. But it may be the end of the happy birthday.

(Laughter.)

SENATOR MARCHI: I hope not.

Madam President, under Section 801 of the Education Law of the State of New York, there is a provision that the Board of Regents and the State Education Department provide for the, quote, courses of instruction in patriotism and citizenship in certain historic documents. That's within quotation marks, "courses of instruction in patriotism and citizenship in certain historic documents." And among those documents that are listed, Madam President, in Section 801 are the Declaration of Independence and the New York State Constitution.

It provides also for the provision by the Board of Regents of the State of New York to provide the instructional guidance in addressing those items that are part of our state treasury of historical documents,

seminal documents on the jurisprudence and rights of the people of this state.

I refer now to the Declaration of Independence, which is cited specifically. I'm not -- this is not a proposal, these are direct quotes from the Declaration of Independence. As many of you know, the Declaration of Independence, in New York State Education Law, would specifically -- and I'm recommending that it specifically include that language in the declaration that reads "We hold these truths to be self-evident; that all men are created equal" -- and the words at that time, in 1776, used it in its general sense of all human beings are created equal - "that they are endowed by their creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness."

This amendment to the bill would say to take these words, which are taken from the Declaration of Independence specifically, and to highlight them and to grant the instruction, which the Board of Regents then held a responsibility for doing. The language

of this bill would also mandate emphasis by the teachers in the prescribed courses of instruction on the phrases from the Declaration of Independence which say "appealing to the Supreme Judge of the world" -- "Supreme Judge," meaning someone that you have to answer to -- and "reliance on the protection of Divine Providence."

We have in this implicitly a theistic consideration in attributing to the Creator the fact that we all enjoy, or should enjoy, certain unalienable rights; among these, life, liberty and the pursuit of happiness.

In the preamble of the State Constitution, which is also cited in Section 801 of the Education Law, the citation in the preamble reads as follows: "We, the people of the State of New York, grateful to Almighty God." They didn't say the president or anybody else, "to Almighty God." This is the preamble to the Constitution of the State of New York today. And tomorrow, unless it is amended out. And no one has introduced a bill to amend that out.

"We, the people of the State of New York, grateful to Almighty God for our freedom, in order to secure its blessings, do establish this Constitution." And that also would be highlighted.

I made a request to the Board of Regents and to the State Education Department for just what guidance was provided to instructional personnel, which they suggested begin at the age of 8 and upward. And they sent me a lot of material. Because in considering the Constitution of the State of New York, they also would describe the agencies that form government -- the Senate, the Assembly, the Governor, and the people who have it operate -- and the relationships and certain considerations that be -- that ought to be examined.

At some point, Madam President, it was also suggested that, in addition to that, that there be added to it instruction on subjects such as the Holocaust, slavery, and the famine in Ireland. This is the famine in the 1840s in Ireland.

Nowhere, nowhere in this

instruction in the material that was provided to the schools of this state is any reference made to the Creator, to the Divine Judge of the world, as the Declaration of Independence cited. And it is suggested in this document, in this bill that we do this.

I had many responses from around the country, from many clergymen, from all kinds of people, from citizens who felt -- on an interdenominational basis, that were supportive of this sentiment. I had a letter just -- the most recent one is from the Most Reverend Henry J. Mansell, the bishop of Buffalo.

"Dear Senator Marchi: I write in support of your bill requiring the highlighting of the words "Creator" and "Supreme Judge" in the Declaration of Independence and in the New York State Constitution, as required to be taught in New York State school courses on patriotism.

"We approach the end of the century that has seen the most rapid progress in science and technology in history. It has also been the most murderous and barbarous in

history, with tens of millions of people killed at the hands of Godless ideologies.

"In our own country, the clouds of secularism and materialism hover dangerously over us. We are in need of renewed enlightenment as to our roots, expressed in the fundamental documents of the country. It is critically important as well that we promote an acute awareness of our accountability before God as Creator and Supreme Judge.

"Once again, Senator Marchi, I am deeply grateful for your sensitivity," and so forth, some complimentary remarks that I treasure. But all supportive of this feeling.

I didn't want to prescribe a prayer. I didn't want to instruct that a prayer be of a nondenominational nature or a prayer that was nonsectarian. I was appealing to the very provisions that are in this law, 801 of the Education Law, and to the seminal documents that sustain this country.

I immediately had a Staten Islander who objected, and he was the chairman of the Atheists of America. He's entitled to express

his views, and I certainly wouldn't deny him that right. God does believe in him, however, so I think things will work out in the final analysis.

I pick up a coin, and I see "In God we trust." We give the Pledge of Allegiance, "under God," we say. Are these vacuous words? Do they mean nothing at all? Is this all make-believe? It has a specific impact.

And I engaged in numerous programs, some of which will be televised in July and August by various elements of media, radio and television. And in virtually all cases, even with critical analysis, they expressed a great deal of interest.

In the state of New Jersey, the assembly passed a bill that prescribes, among other things, a measure -- this bill requires principals and teachers of public schools of conduct -- this is the Assembly of the State of New Jersey, to conduct the following oral recitation from the Declaration of Independence before the opening of each school day: "We hold these truths to be self-evident; that all men are created equal;

that they are endowed by their creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed." This bill takes effect immediately.

I don't know what the final vote on it was, but it was very heavily in favor. And it came out of the standing committee unanimously, unanimously, both parties. There was no partisan division on it. I understand that it is in progress in the senate and that the governor expects to sign it. So it's not an idea that, after taking on life, did not make an impact and an appeal on others.

So I would suggest, Madam President, that we give this serious consideration. I'm not asking for a prayer. I'm not asking for a moment of reflection. I'm just asking for a look and consideration at those seminal documents and those seminal sentiments that sustain this nation.

And I submit that if we do these

things, it will not be to the damage of this country. It will not be to the damage or detriment of the people of this state. And it certainly should not offend anyone where the sentiment of God as a spirit permeates virtually every theistic portion of our population, regardless of what their term is -- "Allah," "God," whatever.

But this -- the fact that this profession of faith in a Supreme Being and a Supreme Judge, which means also an accounting, is also -- constitutes as well a positive step, takes a positive step in developing a more wholesome attitude. And in the context -- you know, we talk about values and whose values -- mine, yours, or somebody else's. But the fact that it -- the fact that we acknowledge the existence of Almighty God -- God bless America, and our responsibilities under it -- certainly, I think, will have a beneficial effect in this country and in this state in particular, where it applies.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Yes, Madam

President.

THE PRESIDENT: Why do you rise?

SENATOR PATERSON: Well, I was actually going to ask Senator Marchi to yield for a question.

THE PRESIDENT: Senator Marchi, do you yield for a question?

SENATOR MARCHI: Yes, Senator.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Senator, there are many times when we have passed legislation to promote action for which law has already sustained. And in this particular case, we already command, through our social studies syllabus, through our history requirements, through our specific references to these same seminal documents, that teachers teach these particular documents.

But what we often do in law-making, what we often try to accomplish is to focus specific attention on a situation that needs a certain redress. And I would imagine, from the explanation, that that's what Senator Marchi is trying to do today.

My question is, is there something that is not being taught, is there a fashion in which these documents and certainly the references therein, the spiritual references, are not being taught that compels the Senator to create an addendum to our existing law and to focus us on teaching these specific references?

Was that clear, Senator?

SENATOR MARCHI: Yes, the question is clear, Senator.

And in fairness, I want to respond that I'm not talking about whatever the frailties of our own system is and how we behold our fellow man. Meaning men and women, to be politically correct.

Are we animals? Are we the highest created level of animals? Or are we something more? Why do we invoke God's blessing unless there is something unique and special about each and every individual? Why do we speak of loving our neighbor? Because we are not animals. We have physical beings, but we are individuals with immortal souls, with a spirit, a conscience, an awareness of right

and wrong. The natural law, you don't have to go back to Christians and Jews and Islamics or anybody else, going back to -- going back to our -- to the ancient Greeks. We are something special, each and every one of us. Each and every one of us. And we have these responsibilities.

Are we aware of that? What I'm saying here is are we -- is there something that's failing? Yes. It would seem to me that we are not reinforcing the respect that we should have for each other and for our fellow human beings. And because they are special, they are God's children. They're not just a higher order of animals.

So I don't like to see it steeped in a secularism that has no place when we equate it to the dignity that belongs to each and every individual. Where does dignity come from? It doesn't come from the fact that we developed and we -- through a process of evolution to a physical essence that now has dignity.

What is dignity? How do you definite dignity? Dignity is defined in terms

of personality, of a person created in a divine image, of a person having a supreme responsibility. And we have that responsibility. It's not the responsibility that might makes right. We make an awful lot of mistakes, and we try to help each other correct them. But unless we come down to the fundamentals of our existence and the views with which we hold other individuals as precious, very, very precious -- because they are something special. Because they are created in a divine image.

So I can't answer your question adequately in the sense that is there a specific failing. We are not reinforcing that -- those very considerations that are basic to a decent civilization.

Our response that was critiqued, pro and con -- I'm not pro-Clinton. To the contrary, perhaps, on many matters of policy. But when the slaughter was taking place, many people in the free world were offended. And when we read of the atrocities that were being committed, we were offended. Can we respond to them all? No, I guess we can't. But we

have to make a better effort.

But I think, basic to all that, laws are not going to do it. They can help. They can help. They're helpful guidance, and they're the best that we can bestow. But it has to come from what we conceive and what we believe to be a human being. And that has no reference to the condition of that human being.

And that's why it's a very difficult question. It's not an unfair question, Senator, I'm not suggesting that at all. But I'm looking for a way to strengthen and reinforce and give more life. And I believe that if we -- these things which we say automatically -- otherwise, why have it in our preamble? Might as well take it out. It has no place. It plays no useful role. A nice role, or a feel-good role, maybe, I don't know.

But if this has substance, it does play a role. And it should play a role in every conscious moment of our lives, that we are children of God. And in that which was the pronunciation unanimously of the

Declaration of Independence -- and they had their faults, too -- we begin to see the formation of a better view and a better understanding.

And we had to go through a Civil War. And that's why the Board of Regents wanted slavery, the circumstances that undergirded slavery included in some of the companion instructional material that was to be studied by generations of Americans.

But we go back to the centrality of the dignity of the human being and the importance of the seminal documents I think is so overwhelming that it's almost a res ipsa loquitur in terms of its desirability as a matter of Board of Regents instructional effort to give it a highlight in the society in which we live in.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Marchi would yield for another question.

THE PRESIDENT: Senator Marchi, do you yield?

SENATOR MARCHI: Yes.

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

SENATOR PATERSON: Madam President, in many ways what Senator Marchi is trying to accomplish is in -- very much in the same spirit as what our forefathers were intending when they wrote the seminal documents to which Senator Marchi refers. That many of the founding fathers of this country were deists, and they had a lot of kind of spiritual beliefs that they interpreted metaphysically.

Now, I understand your admonition to us yesterday about public demonstrations. And I won't engage in one. But if I were to take out a dollar, which I couldn't -- neither could any of my colleagues at this point in the process. But if I were to do that, apparently you can see on a dollar a point at which you see what appears to be a garden, and it's in front of a desert. It's part of a picture on a $1 bill. And that was supposed to represent the pilgrimage from the desert into the garden of the New World. Which is, of course, what we now know as America.

That even the year of the Declaration of Independence, 1776, if you took those numbers and added them up, some of the formulators took note that it added up to the age 21, which was the age of majority, as was interpreted through the Constitution.

So there was a lot of this type of feeling and sentiment about fundamental rights and fundamental humanistic law running through our major documents.

Senator Marchi makes a point, and I'd like to ask him -

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Well, I was going to ask if there was a question, since I believe Senator Paterson asked for the floor to ask one. But I understand he's getting there, so I'll sit back down.

THE PRESIDENT: Senator Paterson, there is a question forthcoming?

SENATOR PATERSON: Yes, Madam President, there is a question coming.

THE PRESIDENT: Forthcoming, Senator.

SENATOR PATERSON: Forthcoming.

THE PRESIDENT: Soon.

SENATOR PATERSON: In the future.

THE PRESIDENT: Thank you.

SENATOR PATERSON: The question would be, to Senator Marchi -- unless Madam President would like to answer the question - with respect to the errors of history to which Senator Marchi referred, we have a Declaration of Independence, and he wants -- Senator Marchi would like to turn our attention to the specific reference of "all men are created equal." And yet another one of the documents, the United States Constitution, still to this day contains a provision -- Article 4, Section 2, Clause 3 -- which is the provision that allows for the recovery of runaway slaves.

So if we're going to be teaching these documents, I would think that it would be an enhancement to point out that that article, which still exists in the Constitution today, is completely antithetical to what's represented in the Declaration of Independence. And I wanted to know if Senator Marchi thought that that should be part of the expanded teaching that he's offering in this

bill.

SENATOR MARCHI: Well, there were a lot of -- that is perhaps one of the smallest of what in my religion is called venial sins today, of runaway slaves.

The crude bargaining of -- when it came down to representation in the Congress of the United States -- not in the House of - not in the Senate, but in the House itself, they said "We have to count all our people." "Yeah, but you have slaves, and you're counting them as whole people, and you treat them as chattels." So they bargained it out. So you were three-fourths of a person. Or two-thirds. I forget what the formulation was.

SENATOR PATERSON: Three-fifths.

SENATOR MARCHI: So -- well, I had a friend of mine said, "I like Patrick Henry's definition of freedom much better than yours." I forget what I had taken, because I have a reputation for being a fairly open sort of a guy. I said, "Do you realize that Patrick Henry was a slave owner?"

Jefferson sometimes has been

belabored because he owned slaves. Washington emancipated his slaves. But the real Jefferson manifested himself in the Northwest Ordinance, and he made sure that slavery was not permitted in all those states that all the way up to Minnesota were developed.

Are there failings today? Yes, there are, Senator. There are. And where there are, they don't measure up to the Albert Schweitzers or the Mother Teresas or the people who believe, believe, that there's a long way to go. And we don't stop trying. And we don't go up and say, well, we're nice people and everybody else isn't. We try to be nice, and we try to be better. And that's our objective.

But we do that because we are children of God. We know there's a right. We know there's a wrong. We don't stand in judgment, you're wrong or you're right. Because we -- in those very same documents, they mention that God is the lawgiver. And that's why I hesitate ever to say, "Oh, you're absolutely wrong," even morally. That has to be decided Upstairs. Certainly not in our

realm.

But in our own Constitution in this state, Senator, we have the -- "We, the people of the State of New York, grateful to Almighty God for our freedom, in order to secure its blessings, do establish this Constitution."

Now, no one is suggesting -- are you suggesting that we take that out? I don't think so. I don't think so. Because I believe that in your heart of hearts, you believe in that personal dignity, that, as the Italians say, the "amore proprio," and they bastardize it in Europe and they say "amour propre," in French. Love of self, loving our neighbor as ourselves.

These are important considerations. And they're so basic to how we react to each other. And I really don't -- I can't see any adequate substitute, on the example that you gave, that we still have that provision in the Constitution.

We also have on the dollar, I think, a little eye at the head of the triangle. I'm not sure what that means. I think it has some mysterious, mystic meaning.

And maybe it would not, under a moralistic jeweller's eye, stand close scrutiny. But in any event, there it is.

But of course, that dollar bill does say "In God we trust." Which perhaps might have been suggested by someone who just felt -- just wanted everybody to feel good when they got the money.

But this is serious stuff. It's so basic to our civilization. And so necessary, I think, when it is felt acutely, as it motivates us in trying to live up to the mandate that's implicit in being children of God.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, I want to thank the Senator i grazio, which in Italian means "the gracious Senator," for his answers to my questions. He's someone who I admire.

And on the bill, I just wanted to point out that the article to which the Senator referred, which for purposes of population counted Africans brought to this country as 3/5 of a man, was actually taken

out of the Constitution. But the article that provides for the recovery of runaway slaves is still in the Constitution.

So if the Senator is asking me would I like to take it out, yes, I would like to take it out. Or at least -- not even as much to take it out, because that would be in some way referring to history in an anachronistic way. And if we don't really fully learn about history, we might inevitably be condemned to repeat it.

But I think what's more important is that some of the values that Senator Marchi is promoting in this legislation, and some of the spiritual messages that he would like us to receive, I think would be more aptly applied to some of the idiosyncratic references in our past documents, which in many ways were discriminatory on the basis of race, religion, on the bases of age and gender and sexual orientation, as opposed to the values of just saying them for the purpose of just eliciting what would be a spiritual response.

And I was just saying that if we're

going to be doing this, we might want to actually apply it to situations where we might demonstrate how they might have been done more in compliance with the spiritual message that the passages from these seminal documents offer.

THE PRESIDENT: Read the last section.

Senator Dollinger.

SENATOR DOLLINGER: Madam President, will Senator Marchi yield to a couple of questions, please?

THE PRESIDENT: Senator Marchi, do you yield?

SENATOR MARCHI: Yes.

THE PRESIDENT: Go ahead, Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President.

Senator Marchi, the section that you quote in your bill from the Declaration of Independence, are you familiar with the phrase that immediately follows that declaration of the inalienable rights of life, liberty, and the pursuit of happiness? Do you know what

the phrase is that follows that section?

SENATOR MARCHI: I would prefer that you put it in full context so that I get a sense of balance.

SENATOR DOLLINGER: Okay, right. What I'd like to do is just read you that provision. You quote the provision about holding truths self-evident, that among these are life, liberty and the pursuit of happiness. The next phrase, "that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

My question, through you, Madam President, is isn't that the critical line in the Declaration of Independence? That's the critical line, that it's a declaration that governments exist to preserve those rights, that is the foundation for the notion that we are declaring our independence from Great Britain. From the point of view of patriotism and civics, isn't that the great line in the Declaration of Independence?

It's not what we believe, but that governments are created by people to put those

beliefs into action, with the consent of the governed. Isn't that the critical notion in the Declaration of Independence, even more critical than the articulation of the rights?

SENATOR MARCHI: Madam President, the -

THE PRESIDENT: Senator Marchi.

SENATOR MARCHI: Senator Dollinger raises the question, and I believe Senator Patrick Moynihan, who probably would favor my bill, says that this is the consent of the governed and this is the compact with the people. But it's preceded by defining those people: children of God. And that God gave them rights that are unalienable. So that as we elaborate and consent -- when we trespass we trespass even by consent, consensual processes. We are departing from the wellspring that gave us our existence - we are children of God. And what better to say that instituted among -- among men, as you put it, is this ability and this capacity to create those institutions to -- for our governance.

So a free people, mindful of the

fact that there are rights that are not alienable, you cannot take it away from them, also have the responsibility for organizing themselves and to function. That follows, of course, with respect for the right of the minority. It follows with so many of the principles that you articulate so well when you speak on these subjects.

But the basis, the basic stone that the -- is our very essence as human beings. It's not a compact among animals, it's a compact among creatures of God. And we're reminded that we have a Supreme Judge and that we're accountable to that Creator.

SENATOR DOLLINGER: Through you, Mr. President. We went from Madam to Mr. quickly. Excuse me, Mr. President.

Will Senator Marchi yield for just other question? Then I'll address the bill.

ACTING PRESIDENT BONACIC: Senator Marchi, do you continue to yield?

SENATOR MARCHI: Yes. Yes, Senator.

SENATOR DOLLINGER: Do you know, Senator Marchi, how the New York delegation to

the Philadelphia convention voted on the Declaration of Independence?

SENATOR MARCHI: Well, I wrote a doctoral thesis on the -- and I read all of the -- in tribute to the Fifth Avenue Library and Columbia University and a few other institutions where I could get original documents. And I read newspaper articles in secured facilities where they'd lock you in, you know.

SENATOR DOLLINGER: I think this is called a softball question. Do you know how the New York delegation voted at the Philadelphia convention on the Declaration of Independence?

SENATOR MARCHI: No, I -- well, go ahead and tell me. When you get to be my age, sometimes your memory isn't as fresh -

SENATOR DOLLINGER: I can appreciate that, Senator, and -

SENATOR MARCHI: -- and clear as the crystal young man that you are.

SENATOR DOLLINGER: No, I -- I'm simply reading, Senator Marchi, I'm not -- I don't have any independent recollection.

New York abstained in Philadelphia, didn't vote on the Declaration of Independence. The New York delegation was instructed not to vote but simply to go back to New York to report to the Legislature before it voted. So New York actually abstained in Philadelphia and didn't sign the Declaration until it had been approved by the remainder of the Congress.

SENATOR MARCHI: Well, if you want to be historic -- if you want to be contemporary, of course, the same thing happens with all of us. Sometimes we're not there when we should be. And that goes for all of us.

Then the -- when the 14th, 15th and 16th Amendments were making their way, do you know that we hesitated to adopt them? Finally we adopted them, and the Democratic Legislature unadopted them. By that time, other states had passed it. So then it became the law anyway. This goes off so far back - we Republicans committed so many sins thereafter, Democrats did very noble things.

So, I mean, that's buried and in

the past. But we are here, we're going into the new millennium. And we go in, hopefully, with a spirit and a conviction that we are children of God.

SENATOR DOLLINGER: Thank you, Senator Marchi. I greatly appreciate the font of wisdom from this bill jumps.

But through you, Mr. President, as I sit here today, I have -

ACTING PRESIDENT BONACIC: Excuse me, Senator Dollinger. You're now on the bill?

SENATOR DOLLINGER: On the bill, Mr. President.

ACTING PRESIDENT BONACIC: Thank you very much.

SENATOR DOLLINGER: As I stand here today and consider this bill, I clearly understand the motivation for this bill. But I have a concern about the emphasis placed on one portion of our treasured documents to the exclusion of others, and perhaps to the deemphasis of others.

And I have always been intrigued by the phrase about inalienable rights, which of

course many people think comes from the Constitution, but is actually found in the words of Thomas Jefferson in the Declaration of Independence. But my concern, Senator Marchi, is that it seems to me, from the point of view of teaching people in America about what their country stands for, that it is not just that our founding fathers articulated inalienable rights. That had been done before. It had been done in the documents from John Locke. It had been done in English documents. It was part of Rousseau's New Enlightenment thinking. The notion that people had rights was not a new notion.

But the critical notion that the Declaration of Independence sets forth, the critical notion that nowhere appears but - for the first time appears in the handwriting of Thomas Jefferson, is the phrase that comes after it, the phrase that is the critical touchstone for democracy, the phrase that's the critical touchstone for this state and this nation: the source of the power of government, that it is to secure these rights that governments are instituted among men,

deriving their just powers from -- using the phrase that's never, really never been used before -- from the consent of the governed.

And I would suggest, Senator Marchi, that while your attempt to focus on the issue of the Creator creating rights as being a critical component of America -- I agree with that, that notion of some inalienable rights, something that we have as human beings that we are given by our Creator -- that the greater lesson of the Declaration of Independence, the greater lesson of America, the greater lesson of New York State, the lesson we need to teach our children, is that it is governments created by men, deriving their power from the consent of the governed, that are the hallmark to preserve those rights, to secure those rights. We don't have them without a government that draws its consent from the governed.

And my concern, Senator Marchi, is that while you focus on the Creator as having given us those rights, you deemphasize the notion that it is government, with the power of the people behind it, that must protect

those rights. And my concern in voting for this bill is that I would teach my children that God has given them something, with a strong emphasis, and not with the same emphasis tell them that they in their government participation, through the power of their vote, through the power of their elected leaders, which is the power of the consent of the governed -- that without their participation, they will not be able to secure those rights and maintain them forever.

And my fear is that when we pass this, which is motivated from the spirit of letting children know what God gave them, that they will lose the fact that men can take it away from them if they don't participate in their democracy. So my fear, Senator Marchi, is that by emphasizing one portion, we will lose our power to emphasize the more critical portion, that what God has given them men can take away unless they exercise the power of governance, unless they participate in their government.

You have said, Senator Marchi, and I think I quoted you directly, it's so

important that children learn about the founders' belief in God. I would suggest it's so important, equally as important -- and should be a part of this bill before I can vote for it -- that they must realize that it is men who can take those rights away. And it is the history of mankind, as too often demonstrated, as you have so often brilliantly articulated on this floor, that our history is littered, littered with the casualties of men taking away others' inalienable rights. I remember your fabulous description of the Armenian tragedy and the Armenian destruction that -- the terrible time that the Armenians had in the destruction of their homeland. And I think too often we forget that it is people who take away those rights given from God.

I would strongly suggest, Senator Marchi, that the true civics lesson in the Declaration of Independence lies not so much in saying that God gave us our rights but, more importantly, that it is we, the people - we, the people who believe in the power of governments that govern with the consent of the governed can secure those rights for

eternity, that is the most important message of the Declaration of Independence.

I'm afraid that if we pass this bill and require simply one reference without the other, we will lose the greatest message given in history, which is contained in this document.

SENATOR MARCHI: Madam -- no Madam. Mr. President.

ACTING PRESIDENT BONACIC: Senator Marchi.

SENATOR MARCHI: I prayerfully hope that this bill passes. But the sentiments you expressed, Senator, are excellent. And they spring, I think, from your deep faith -

SENATOR DOLLINGER: Absolutely.

SENATOR MARCHI: -- in the dignity of the individual and the human being and the obligations that we have morally. You made a very, very moral statement for -- for the application of what I'm talking about.

So I hope we have a last section and we have -

ACTING PRESIDENT BONACIC:

Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Mr. President. I was hoping that the sponsor would yield to a few questions as well.

ACTING PRESIDENT BONACIC: Senator Marchi, do you yield?

SENATOR MARCHI: Yes. Yes, I will.

SENATOR DUANE: Thank you very much, Senator. In an effort to not ask you to restate the purpose for the introduction of this legislation, I would like to focus on one area and see if we can find some common ground.

I heard over and over again the sponsor -- through you, Mr. President - discuss that one of the major purposes of this bill is to make sure that tolerance and dignity is something that is dwelled upon in the schools, that it is something that is made a part of the very fabric of schools, that they are values that are instilled in the students in the school as well as within the entire school community. And I heard over and over again dignity as being one of the major

components or outcomes that the sponsor hopes to have result from this legislation.

Is that an appropriate characterization?

SENATOR MARCHI: Fair enough.

SENATOR DUANE: In that -

ACTING PRESIDENT BONACIC: Senator Duane, do you have another question now of Senator Marchi?

SENATOR DUANE: Sort of. Yes.

ACTING PRESIDENT BONACIC: Okay. Senator Marchi, do you continue to yield?

SENATOR MARCHI: You're asking me to yield to a question?

ACTING PRESIDENT BONACIC: Yes, Senator.

SENATOR MARCHI: Yes, Senator, of course.

ACTING PRESIDENT BONACIC: Senator Duane.

SENATOR DUANE: I agree that this is a very, very important value, as are other values which need to be instilled in schools through the school community, hoping that it is something that comes to the school and

throughout the neighborhood through the family as well.

And I was wondering if the sponsor would also agree that the goal of tolerance and dignity for students within a school can only ultimately make it possible for dignity and tolerance to be values shared throughout neighborhoods, throughout the state, and hopefully throughout all of the communities in the nation, for that matter.

SENATOR MARCHI: Well, it's been the objective and the pursuit of 200 years of endless effort, of trial and error, of all kinds of experiences. But hopefully we're making our way there.

SENATOR DUANE: Thank you. Thank you.

Mr. President, I believe that there's an amendment at the desk.

ACTING PRESIDENT BONACIC: There is, Senator Duane.

SENATOR DUANE: And I would waive the reading of the amendment, if the president so desires.

SENATOR MARCHI: I understood,

Senator, you had offered an amendment, and by the rules, you submitted copies, so I am familiar with the -

ACTING PRESIDENT BONACIC: Excuse me. Senator Marchi, are you asking Senator Duane to yield? Do you have a question for him?

SENATOR MARCHI: Well, I'm just saying that the rules require that it -- the amendment be shared, and the Senator has done this. So I'm familiar with it. I have no objection to his -

ACTING PRESIDENT BONACIC: Thank you, Senator Marchi.

SENATOR DUANE: Thank you, Mr. President. If I may describe the amendment.

ACTING PRESIDENT BONACIC: We've reviewed the amendment. You may describe it and move forward.

SENATOR DUANE: Thank you very much, Mr. President.

The amendment at the desk is the - is really legislation entitled "Dignity for All Students Act." And what this legislation

would do is to put into place policies throughout the state of New York that would ensure that schools are safe and respectful for all students, regardless of their ethnic group identification, race, national origin, gender, sexual orientation, religious background, et cetera.

It would mean that the Commissioner of Education would be authorized -- indeed, directed -- to implement policies that would make sure that school environments around the state are safe, that a curriculum would be put forward and students would be required to take it that would have the aim of fostering an appreciation of different kinds of people, to make sure that tolerance of different kinds of people were taught, that no student should ever have to be in fear of being intimidated because of who they are or who they are perceived to be.

I think that among many other pieces of legislation which we have seen come before this body during this legislative session dealing with issues of violence and discrimination in schools, in some cases

leading to gun violence and other forms of violence in schools -- we've all seen the terrible violence on television and in the newspapers which has happened because of unfortunate circumstances in schools which has led students to act out sometimes in violent manners.

And what this legislation seeks to do is from the earliest time on in school to foster an atmosphere in school where kids would not have to fear that they're at risk of physical violence, where they are not in fear of being verbally harassed or made fun of, called names. That it would be the responsibility of the administration and of teachers to foster a safe environment where there would be zero tolerance for bias-related language. I don't have to tell you what those words are. You've heard those words, sadly. But to make schools, to the best efforts possible, free of that form of discrimination and intolerance.

And I think in many ways it's complementary to the spirit of Senator Marchi's legislation, in that ultimately

legislation such as ours would hope to restore tolerance and dignity to all students in schools, through different avenues but with the same result.

And I would urge my colleagues to support this amendment to the bill and make dignity for all students a reality in the schools in the state of New York.

Thank you, Mr. President.

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

(Response of "Aye.")

ACTING PRESIDENT BONACIC: All those opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT BONACIC: The amendment is defeated.

Senator Connor.

SENATOR CONNOR: Thank you, Mr. President. I have an amendment served on the sponsor at the desk. I would just like to call it up, waive its reading, and explain.

ACTING PRESIDENT BONACIC: Senator Connor, you may proceed with the

amendment.

SENATOR CONNOR: Thank you, Mr. President.

My amendment follows in the course of what Senator Marchi has proposed. I think it's admirable what he's doing here. And my amendment would add to his legislation the requirement that the Pledge of Allegiance be taught with special emphasis on the words "one nation under God." And I think it's self-explanatory, and I certainly hope my amendment passes.

ACTING PRESIDENT BONACIC: Senator Marchi -- first of all, Senator Marchi on the amendment.

SENATOR MARCHI: Yes, on the amendment.

I have certainly no violent difference with you on the subject. But if you go back to Section 801, which was adopted in 1980, I -- 1980 or 1988, but then was amended because of the whole question of the Pledge, and that gave rise to the instruction on certain subjects, the courses of instruction 801 and then 802, on the question

of the flag -- we're getting into an area which would require extended discourse and debate.

And the responsibility is assigned to the -- the Regents shall determine the subjects to be included in such courses of instruction on patriotism and in humanity - on the question of human rights issues. And it does give them that province.

It is possible, under amendments that were made in 1994, 1996, a body of laws which has suggested to them -- and perhaps you might want to provide them, rather than get into the question of how we're going to amend -- I don't know whether you would provide for the amendment of Section 801 altogether, because it is a rather complicated item.

So that I believe that if you follow the footsteps that were selected in 1994 and 1996, as add-ons -- that's where the famine in Ireland and the Holocaust came in - that there may be a way in which you can effect a change. And I would recommend it. It was in -- you will find it in the chapters

of the Laws of 1994 and 1996. But it's not in the statute books yet. It's instructions given to the Board of Regents.

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

SENATOR CONNOR: Party vote in the affirmative.

SENATOR MEIER: Party vote in the negative.

ACTING PRESIDENT BONACIC: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 24. Nays, 36. Party vote.

ACTING PRESIDENT BONACIC: The amendment is defeated.

On the bill, read the last section.

SENATOR MONTGOMERY: Mr. President, to explain -

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

SENATOR MONTGOMERY: -- my vote. Can I explain my vote?

ACTING PRESIDENT BONACIC: We

have to call the roll first.

SENATOR MONTGOMERY: Call the roll.

ACTING PRESIDENT BONACIC: Read the last section.

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

ACTING PRESIDENT BONACIC: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BONACIC: Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: I'm -- I've been instructed that I have 3/5 of my time to explain, so I'll go quickly.

I want to just make sure that my colleagues know what we are amending. So I'm going to read into the record, Mr. President, Senator Marchi's -- the bill that Senator Marchi is amending. I'm not reading his language, I'm reading the bill that is already in law.

It says, on page 2, line 6, "The Regents shall determine the subjects to be included in such courses of instruction in

patriotism, citizenship, and human rights issues, with particular attention to the study of the inhumanity of genocide, slavery - including the Freedom Trail and Underground Railroad -- the Holocaust, and the mass starvation in Ireland from 1845 to 1850, the history, meaning, significance, and effect of the provisions of the Constitution of the United States, the amendments thereto, the Declaration of Independence, the Constitution of the State of New York, and the amendments thereto."

So I just want my colleagues to know that in fact what Senator Marchi is trying to do is already in law. It is not even necessary that this language go in. But nonetheless, I am voting for it, because it is already part of our statutes.

ACTING PRESIDENT BONACIC: Senator Montgomery will be recorded in the affirmative.

Senator Duane, to explain his vote.

SENATOR DUANE: Thank you very much, Mr. President.

Though I have the utmost respect

for the sponsor of the legislation and the values which he holds dear, and for the most part agree with them in spirit, if not across the board, and try to uphold them in my own personal life, I believe that this legislation would begin a slippery slope towards the teaching of religion and, more specifically, a religion in our public schools. And for that reason, I just can't support it.

I very firmly believe that our protections for freedom of religion in the Constitution has in fact created an atmosphere in the United States where perhaps religions are stronger than anyplace else in the entire world. And to my mind, since freedom of religion is not broken, that we don't need to fix it through this by introducing religion into public schools.

Thank you, Mr. President.

ACTING PRESIDENT BONACIC: Senator Duane will be recorded in the negative.

Senator Paterson, to explain his vote.

SENATOR PATERSON: Mr. President,

I've -- I voted in the affirmative on the amendment. I'm sorry, I thought the amendment had been voted on. I'm sorry.

ACTING PRESIDENT BONACIC: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1295 are Senators -- those recorded in the negative on Calendar Number 1295 are Senators Duane, Hevesi, Schneiderman, Seabrook, and Waldon. Ayes, 55. Nays, 5.

ACTING PRESIDENT BONACIC: The bill is passed.

Senator Morahan, why do you rise?

SENATOR MORAHAN: Mr. President, I would ask for unanimous consent, without objection, to change -- to be recorded in the negative on Calendar Number 1529, Senate Bill 5738.

ACTING PRESIDENT BONACIC: With out objection, you will be recorded in the negative.

SENATOR MORAHAN: May I go on, Mr. President? I hope I'm doing this the right way.

On 6/14 I was out of the chamber for Calendar Item 1333, Senate Bill S4405. Had I been in the chamber, I would have cast a negative vote.

ACTING PRESIDENT BONACIC: The record will so reflect.

SENATOR MORAHAN: Thank you, Mr. President.

ACTING PRESIDENT BONACIC: Senator Seabrook, why do you rise?

SENATOR SEABROOK: Yes, Mr. President. With unanimous consent, I would like to be recorded in the negative on Calendar 980.

ACTING PRESIDENT BONACIC: With out objection.

Senator Sampson, why do you rise?

SENATOR SAMPSON: Mr. President, I'd like unanimous consent to be recorded in the negative on Calendar Number 980.

ACTING PRESIDENT BONACIC: With out objection.

Senator Meier, why do you rise?

SENATOR MEIER: Mr. President, I rise to ask that the Secretary bring -- or

read, rather, Calendar 667.

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: Calendar Number 667, by Member of the Assembly Hill, Assembly Print Number 7549A, an act relating to the payment of a lottery prize.

SENATOR DUANE: Explanation.

ACTING PRESIDENT BONACIC: Senator Hannon, an explanation has been requested.

SENATOR HANNON: I'm sorry, Mr. President, I didn't hear. Who asked for the explanation?

ACTING PRESIDENT BONACIC: Senator Duane asked for the explanation.

SENATOR HANNON: This is a bill that has, in a different form, passed this house in regard to describing situations when a lottery ticket having been lost, and all of the circumstantial evidence being -- pointing in one direction might be -- that circumstantial evidence could be considered the equivalent of the winning lottery ticket and presented to the Lottery Commission for

approval of payment.

ACTING PRESIDENT BONACIC:

Senator Duane.

SENATOR DUANE: Through you, Mr. President, would the sponsor yield?

SENATOR HANNON: Yes.

ACTING PRESIDENT BONACIC:

Senator Hannon, do you yield?

SENATOR HANNON: Yes.

ACTING PRESIDENT BONACIC:

Senator Duane.

SENATOR DUANE: This legislation provides more leniency for someone who missed a chance to claim their prize?

SENATOR HANNON: Yes. But with careful circumscribing of when that chance may occur so that we are sure to a moral certitude that the individual who has all of the circumstantial evidence is the person who really had the ticket.

SENATOR DUANE: Okay.

ACTING PRESIDENT BONACIC: Read the last section.

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

ACTING PRESIDENT BONACIC: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BONACIC: The bill is passed.

Senator Meier.

SENATOR MEIER: Thank you, Mr. President. Could we now return to the order of messages from the Assembly.

ACTING PRESIDENT BONACIC: We will return to the order of messages from the Assembly.

I hand down a message from the Assembly. The Secretary will read.

THE SECRETARY: The Assembly returns Senate Bill Number 3651, with a message that it has concurred in the passage of the same, with amendments. Senator Padavan moved to concur in said amendments.

ACTING PRESIDENT BONACIC: The amendment is concurred, and the bill is before the house.

The Secretary will read.

THE SECRETARY: Calendar Number

449, by Senator Padavan, Senate Print 3651A, Assembly Reprint Number 30,000, an act to amend the Real Property Tax Law.

ACTING PRESIDENT BONACIC: Read the last section.

SENATOR DOLLINGER: Lay it aside, Mr. President.

ACTING PRESIDENT BONACIC: Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, I just laid the bill aside because there were -- on the original version of this bill, Senators Breslin, Dollinger, Duane, Kruger, Montgomery, Paterson, Santiago, Schneiderman, and Stavisky voted against this bill. I understand in a conversation with - well, I just wanted to alert the other members that the bill, as I understand it, is just a series of technical amendments and one minor correction to the last bill. And I'd just advise my colleagues that those were the members who voted against it the first time around.

This is Calendar Number 449; correct?

ACTING PRESIDENT BONACIC: That's correct, 449.

SENATOR DOLLINGER: Why don't we just do the same vote, since it was the same bill.

ACTING PRESIDENT BONACIC: Senator Meier.

SENATOR MEIER: We consent to recording the same vote as on the bill when it was previously before the house.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT BONACIC: With out objection, please record the Senate vote. The same vote.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT BONACIC: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, after consultation with the Deputy Majority Leader, it appears as though we cannot have that same vote.

I would simply, however, recommend that my colleagues who were in the chamber who

voted against it the first time around, it's the same bill with some minor technical amendments. I think the objection that we raised the last time around is the same objection.

And I'd ask you to just read the last section and then call the roll.

ACTING PRESIDENT BONACIC: Read the last section.

THE SECRETARY: Section 8. This act shall take effect July 1.

ACTING PRESIDENT BONACIC: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 449 are Senators Breslin, Dollinger, Duane, Montgomery, Paterson, and Schneiderman. Ayes, 54. Nays, 6.

ACTING PRESIDENT BONACIC: The bill is passed.

Senator Meier.

SENATOR MEIER: Mr. President, may we now call up Calendar 1462, which is found in the first supplemental calendar.

SENATOR OPPENHEIMER: Explanation, please.

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: Calendar Number 1462, by Senator Marcellino, Senate Print 2543C, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT BONACIC: Senator Meier.

SENATOR MEIER: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT BONACIC: Yes, there is.

SENATOR MEIER: I move acceptance of the message of necessity.

ACTING PRESIDENT BONACIC: The motion is to accept the message of necessity. All those in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT BONACIC: All those opposed, say nay.

(Response of "Nay.")

ACTING PRESIDENT BONACIC: The message is accepted.

Read the last section.

SENATOR DOLLINGER: Explanation.

SENATOR MARCELLINO: We tried. Mr. President, I think they want an explanation.

ACTING PRESIDENT BONACIC: Senator Marcellino, Senator Dollinger has asked for an explanation.

SENATOR MARCELLINO: And I'll be glad to give him one.

Mr. President, in 1996 we did a Pesticide Registry Act, which I and several other senators were co-prime sponsors to. That act allowed us to collect a certain amount of documentation and information relative to pesticide usage throughout New York State.

One -- or some groups, particularly the New York Public Interest Research Group and Environmental Advocates, put out a report in 1998, based heavily on the documentation provided by the Pesticide Registry Act, in which they stated that New York is plagued by pesticides, New York State. In the executive summary, they particularly stated that

downstate -- and I'm reading, and I quote. This is from the executive summary: "Downstate urban and suburban counties report more pesticide use than rural and other upstate counties. The data reveal a striking pattern that shows substantially more pesticide use in downstate urban and suburban areas than in rural and other upstate counties. New York, Manhattan, Kings, Nassau, Suffolk and Westchester Counties dominate the overall county rankings. The use of such large amounts of toxic pesticides in densely populated and geographically small downstate areas can pose significant public health risks. This kind of intimate exposure has the potential to affect people, particularly vulnerable populations such as infants, children, and the elderly, on an-around-the-clock basis."

A constituent came into my office and said to me, "Senator, I was in my house doing some housework, my child was out playing in the back yard. I looked out the kitchen window to notice a mist come flying across through the hedges." She went outside and

noticed a person standing there holding a power hose, spraying the trees that border her property. He was dressed in almost like a space suit, the way she described it. He had a facial mask on, an inhaler to protect his face, clothing to protect his garments. He was totally draped. And he was spraying. Her child had no such protection. She was very concerned, ran outside, grabbed the child and moved him inside. She felt she should have been warned, yet there was nothing in the law to do that.

Another constituent came to me and said, "Senator, I was sitting in my house, in my bedroom, and all of a sudden -- with the window open, taking a nice summer day and getting some breeze. And all of a sudden, a mist came flying through the window." He looked outside -- after closing the window - and noticed a similar occurrence. A gentleman was out there spraying the hedges, and the spray from the hose was rising up in the air and traveling and impacting his way of life and impacting his lifestyle.

He would also have liked to have

been notified in advance so that he could have taken some precautions. He didn't object to the fact that his neighbor was protecting his shrubs or his foliage. They were expensive trees, and he understood the reason. But he just would have liked to have been warned so that he could have closed his window, perhaps covered the pool which they happen to have had, cover the sandbox where the children played.

The other lady would have liked to have been able -- another constituent said when that happened, a similar occurrence happened to her, they had laundry hanging out, and she had to bring the laundry back inside and rewash it because she didn't want it to be contaminated.

What we are proposing in this particular bill is basically a homeowners infringement protection act. We want to protect homeowners from having their rights infringed upon, having their lifestyle infringed upon. Not by anybody doing something illegal, but just to give them good warning. It's a good-neighbor act. It says

if you're going to spray trees, you should be providing your neighbors whose houses can be impacted, whose properties can be impacted, give them at least 48-hour notice so that they can take whatever precautions they wish to take.

We're not saying don't spray. We're not saying don't do what you feel you have to do to protect your property. We're just saying warn your neighbors, let them know.

Current law requires pesticide applicators who come to your property to put down application to put little flags on the front lawn or around the property to mark the fact that the property has been treated, give you a warning to stay off of it. Our bill would also require that same behavior of homeowners. Homeowners right now can go out and put an application on the lawn and are not required -- although I've noticed in recent years many do put up some kind of notification to let their neighbors know that the lawn has been treated.

Again, it doesn't say don't do it.

It just says this lawn has something on it, why don't you stay off it for a while. Not that you should be walking on your neighbor's lawn anyway, it's private property. But we're just telling you that their lawn has been treated so that if you're walking your dog on the sidewalk, you might not want to let the dog go running on the property. If kids are playing, you might not want to let them play on the lawn.

Pesticide applicators, among others, have been somewhat opposed to the bill. And one can understand that. They feel it's going to impact their right to make a living, it's going to increase the cost of doing business, and a whole host of other reasons.

So we worked with these people and negotiated and talked and discussed, and we came to some ground rules. We said basically if you're going to spray shrubbery -- this would include lawns -- less than five feet in height and the object of the spraying is within 15 feet of your property line, all you have to do is go over to your neighbor and

warn them, give them 48 hours' notice, at least, and say, Look, I'm going to do that.

If the tree is above that height or if the shrubs are above that height and the spraying equipment is a high-powered device, then you have to go a little bit more distance. We say if it's within 50 yards or 150 feet. This is not a hard thing to do. You can pace that off. If there's an abutting property line there on the neighbor's property, you walk over and you go and inform the neighbor, give them some notice.

This could be accomplished -- we've talked to applicators. This could be accomplished quite simply. All they have to do is when they inspect the site to determine what they're going to do, walking the site with the homeowner, they simply have to take it, pace it off: Okay, there's a neighbor over there, that's the one I have to notify. Walk over, hang a slip on the neighbor's door which basically says what you're going to spray and when you're going to spray it.

We're not asking them to do something that they don't ordinarily do. I

obtained my own lawn applicator by that very means. He signed up one of my neighbors, went around the community saying, basically, "I signed up your neighbor. Would you like a lawn application as well?" I checked him out, he was licensed, he had all the credentials, I checked him with Consumer Protection Agency in our county. He had a good reputation. I signed him up to do the work.

That's the way I would contend that most people get their applicators, by that very means. We're not telling the applicators to do any more than that. When they go around soliciting other business that they've already signed up somebody, all they have to do is notify these people: This is what we're doing. They're walking up and down the street. I wasn't even an abutting property to that other neighbor. They found me by just going knocking on doors. It wasn't that hard. All we're saying is go to the person next door, within the ranges we discussed, and do it.

We've got some provisos in this that basically ask the homeowner, if they're

doing a granular application, to flag the property as well. We try to avoid it. We put some language in the bill that says if you're applying pesticides to a small area, less than a hundred square feet, you don't have to do anything. What we're trying to do is avoid somebody going out and spraying dandelions in one little patch or covering one little spot or grandma spraying a rosebush, a small bush near the house, that she doesn't have to give 48 hours' notice to somebody on that. So we've limited that. We've tried to cut out that problem.

The bill is common sense. It's a good-neighbor bill. It's a commonsense bill. It is, as the bill says, limited to New York City, Nassau and Suffolk Counties, and Westchester County, in conjunction with the report by NYPIRG and Environmental Advocates which basically said downstate has the greatest problem. We think that with downstate and Westchester, we cover approximately two-thirds of the population of the state of New York.

And with this group, under this

experiment, we can begin to show that this plan can work, will not put people out of business, will not be a detriment to the applicators, will not cause undue stress to anybody, and perhaps it will spread.

ACTING PRESIDENT BONACIC: Senator Oppenheimer, you have a question -

SENATOR OPPENHEIMER: Yes. Would the sponsor yield?

ACTING PRESIDENT BONACIC: - for Senator Marcellino?

SENATOR OPPENHEIMER: Yes.

SENATOR MARCELLINO: It would be my pleasure to yield to the former ranker on the Environmental Conservation Committee.

SENATOR OPPENHEIMER: Your dear buddy. Okay.

Why do you think it's necessary only to cover the eight counties downstate and not the -- we are 62 counties in this state. And why are we not covering all counties in your bill?

SENATOR MARCELLINO: Many of our -- as I said earlier, this -- let me correct that. As I said earlier, this bill

covers approximately two-thirds of the populated area -- or the population of New York State already. We are trying to impact those areas where the greatest impact occurs.

There has been strong opposition by Farm Bureau, who basically say that it isn't necessary in the rural farm areas of upstate New York where you don't have the density of population, where you don't have the compactness of population, that the notification law would be a burden, an unnecessary burden on these areas.

We feel that by doing the downstate communities where the greatest impact would be felt, where the greatest protection would be provided, we're serving the greatest need.

SENATOR OPPENHEIMER: Are you aware -- if you would yield again, through you, Mr. President -

SENATOR MARCELLINO: Absolutely.

SENATOR OPPENHEIMER: -- that the majority of the New York City pesticide applications which are referenced in the statistics you mentioned earlier, they are interior applications which are not covered by

notice?

SENATOR MARCELLINO: I would suggest, Senator, that if you lived in Brooklyn, Bronx, Queens, Staten Island, other than Manhattan, you would find that you would have enough outdoor applications where you have trees and shrubs.

The one last tree left in Manhattan, which we're trying to protect and preserve at this point in time as a shrine to the environment, we don't think has to be sprayed.

I don't mean to be facetious or make light of it, but the other boroughs do have a need.

SENATOR OPPENHEIMER: I was just saying that the majority of the applications in New York City are interior ones.

ACTING PRESIDENT BONACIC: Senator Oppenheimer, do you have another question?

SENATOR OPPENHEIMER: Yes, if you would yield again, the sponsor.

ACTING PRESIDENT BONACIC: Senator Marcellino, do you continue to yield?

SENATOR MARCELLINO: It would be my pleasure.

SENATOR OPPENHEIMER: There seems to be, in your bill, a complex set of heights and setbacks and type of spraying equipment. And the majority of applications that go directly to lawns are not covered in your bill; is that correct?

SENATOR MARCELLINO: Absolutely not correct, Senator. Lawns -- if the Senator will yield to a question.

ACTING PRESIDENT BONACIC: Senator Oppenheimer, would you yield for a question from Senator Marcellino?

SENATOR OPPENHEIMER: Sure.

SENATOR MARCELLINO: Senator, do you have a lawn in front of your house on your property? How high is the grass?

SENATOR OPPENHEIMER: (Gesturing.)

SENATOR MARCELLINO: Let the record show she refers to something approximately 3 inches in height.

By my ability in mathematics, 3 inches is less than 5 feet. If you applied a

granular application -- if you applied a granular application, you would have to flag your property under this bill. If you hired Chemlawn to come in and spray your grass, they would have to notify at least -- give your neighbors at least 48 hours' notice. They're required to do that under this bill as well. And if you sprayed it with a hose, a garden hose, which is about a 60-pound-per-square-inch force, you would have to give your neighbors notification.

Grass is absolutely covered. Lawn applications are absolutely covered by this bill. You talk about a complex set of heights. Five feet, the height of an average person, 5 feet. We can give or take a few inches, I don't think anybody's going to sue you. You've got to notify somebody within 15 feet of the abutting property line. That's simply done. Because usually when you're doing that, you're pointing your object down and there is a de minimis amount of spread in the spray. If it's above 5 feet, you're aiming the gun up. So if it sprays up, it travels greater, we say you have to go at

least 50 yards, or 50 paces.

This is not complex. This is a basic, simple thing. Everybody can figure this one out. As the applicator walks the property and checks it out, they can simply pace it off. This is not rocket science. This is simple.

We put in some spray numbers. We said at least 25 pounds per square inch, because we wanted to make sure we incorporated everything but the little push can that is done. That's why that's in there. We feel it's important to do that. Otherwise we would have a hole as to what is under the code and what isn't, what kinds of devices are used.

The typical devices used by the professional applicators will be covered by this legislation. The pump-up devices which build up a certain amount of pressure, all will exceed at least 25 pounds per square inch when you do that. So we feel they're covered as well. We think this had to be done to protect Grandma Marcellino from going out and hand-pumping her favorite rosebush, and we just didn't want to make her have to notify

her neighbors and give them 48 hours' notification.

SENATOR OPPENHEIMER: Thank you, Senator. I think I'll just talk on the bill for a moment or two -

ACTING PRESIDENT BONACIC: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: -- because it sounds so good. You know, sometimes the names of things sound so much better than the thing actually is.

The fact is that almost everybody in the environmental community is opposed to this bill and supports Assembly 1461, which is the bill that they see as comprehensive. It covers all pesticide applications, it covers all applications in schools and daycare centers, it is not complex, it covers the entire state of New York, it doesn't single out eight counties. And, by the way, the other counties of this state are -- their options are foreclosed so they can't even opt into this.

And, in addition, this is something -- well, as I said, it applies only

downstate, which kind of makes you wonder why this body isn't dealing with the entire state.

Now, the fact is that the cancer rate is 6 percent higher outside of New York City, and that cancer rates are growing more rapidly outside of New York City. In the city, the incidence of invasive cancers are - is about 3 percent, and it's 12½ percent for the rest of our state. Why are we not looking at the rest of our state?

I'm going to try and cover this more quickly, leaving out some of these facts. In 1997, since it was mentioned that the farmers are the reason this is not covering the entire state, commercial pesticide applicators applied or sold to farmers a total of 16½ million pounds of pesticides and 2.4 million gallons of pesticides. This is an incredible amount of pesticides going into our land and onto our trees and into our food.

And the description of -- there's a description of possible toxic effects, which I will briefly discuss. There's neurotoxicity, which includes -- well, it would give you a headache, it would give you dizziness.

There's the effect of carcinogens. There are epidemiological links between pesticides and childhood cancers, non-Hodgkin's lymphoma, multiple myeloma, leukemia, and breast and prostate cancers. It also affects birth defects. These pesticide applications produce reproductive abnormalities like infertility and miscarriage. And they're also immune suppressors. And the most heavily used products upstate are some of the most hazardous. And new pesticide products are proliferating all the time.

There's a really dangerous illogic in our system in this country, and it's based towards accepting a pesticide use until the mounting proof of harm is totally incontestable. Pesticides such as DDT, dieldrin, and chlordane were once widely used and claimed to be safe. And they are now banned because of serious harmful effects.

What I'm saying -- and the reason I voted for this in committee was because I had very high hopes that the two bills, the one in the Assembly, 1461, and this one, S2543, would conference, that we could have a conference

committee that would bring these two bills together.

But, you know, to just deal with New York City and a couple of the suburbs when the counties with the highest cancer rates are Clinton County, which has the highest rate for total invasive malignant cancers as well as for prostate cancer, Rockland County has the highest incidence of breast cancer, Hamilton County has the highest rates of non-Hodgkin's lymphomas, Schuyler County has the highest incidence of ovarian cancers -- it's just unreasonable to say that we should only have this protection in eight counties when there are 62 counties in this state and they all need protection.

So I am going to be voting against this. The Environmental Advocates have given this two smokestacks. And I certainly hope that others will join me in voting no and hope that we will be able to get a conference committee going that will draw together the excellent Assembly bill and this bill and try and work to a conclusion that's satisfactory to all.

ACTING PRESIDENT MAZIARZ: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, thank you. Just a point, a couple of points that need to be made.

ACTING PRESIDENT MAZIARZ: Senator Marcellino, on the bill.

SENATOR MARCELLINO: The Assembly bill is a second bill. We at one time had a same-as. And the bill that passed the Assembly two years ago, it was substantially very similar in scope, in concept, to the one we are talking about on this floor today.

We have made some amendments to the bill. Their bill is a little bit too simplistic. It requires everything - everybody to notify for any application whatsoever, give a neighbor 48 hours' notice. So if I want to put Plus-2 and kill some dandelions on my lawn, I have to tell my neighbor 48 hours in advance. This bill makes a criminal out of somebody for doing basic lawn care. It's unnecessary.

The flagging is all that's needed on that. Notify the people and let them know

that it's there. It's private property you're talking about, Senator. There's no reason for people to be walking on other people's front lawns. If they know there's a pesticide or they know there's an application on that property, they'll stay off. So warning them ahead of time is a kind of -- well, making a criminal out of a homeowner for that is, I think, a little bit far out.

Schools are in the other bill. The school boards don't want this problem of having to get involved with sending home letters every time they put down some type of pesticide out in the field. That would be a burden on them. But in fact, you have an elected school board. They're an elected body and have a perfect right to set a standard. If they want to notify the people in their community, all that school board has to do is tell the superintendent to do it and he'll do it. Or she'll do it. So that can be accomplished. You don't need state legislation for that.

Daycare centers. They have to meet health and safety codes. If you're interested

in how they treat your children, you ask. I know a number of people, some who work for me, who put their children in daycare. You go to them, you sign a contract and you say what are you going to do, how is my child treated, how do you keep this place clean, where does my child play and how does he or she come in contact with it. They'll tell you, and you'll know. And if you don't like what they tell you, don't put your child in the daycare center. You don't need state legislation for that. It goes beyond the pale to require that sort of thing.

With respect to the cancer studies, I would suggest to you, Senator, that there is no definitive study that connects cancer with pesticides. Do we suspect? Yes. Do I suspect? Yes. Do I know for a fact? No. And the rules and the science on this topic are muddy at best.

So I would suggest that we have a bill on the floor which covers a lot of ground, deals with the issue clearly, is easily enforced and easily dealt with and easily understood and doesn't force people

into breaking laws unnecessarily. But it just says to them, be a good neighbor, be a comprehensive person -- a decent person and treat your neighbor with some respect and give them a little bit of a heads-up when you're doing something.

SENATOR OPPENHEIMER: Thank you, Senator. If I may.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: I have - well, a couple of things.

The first thing I would say is that my wish is that we get a conference committee going. Neither bill is going anywhere unless we get a conference committee going. The Assembly bill is much closer to what I desire and what the environmental community wants, but unless we get our heads together, we have nothing. And there is no companion bill live in the Assembly now on yours, and we have nothing here that is a companion to the Assembly bill.

I would very much like to see action. I understand what you're saying about

maybe getting too minute. But on the other hand, I think with 62 counties, they deserve coverage as well as -- you know, the other counties deserve it as well as the eight.

But here I have before me -- you said there is nothing that is known to be a carcinogen. In -

SENATOR MARCELLINO: I didn't say that.

ACTING PRESIDENT MAZIARZ: Senator Marcellino, why do you rise?

SENATOR MARCELLINO: No, no, I didn't say nothing was known to be a carcinogen, Senator. I said the cause and effect on pesticides causing cancer is muddy at best. That's what I said.

SENATOR OPPENHEIMER: Well, I -

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer.

SENATOR OPPENHEIMER: If I may, I would just like to enter in the record that - this was put out in 1997 by our New York State DEC, its Pesticide Sales and Application Database. And the first line says "Known carcinogens." And under that it says that

there have been 1,438,000 pounds of known carcinogens that are used in our state. So - and this is known. The next line under that is "Probable and likely" carcinogens. So there are known, and -- and we do put a lot of it on our earth.

I just am hopeful that we can get a conference committee going as soon as possible.

ACTING PRESIDENT MAZIARZ: Senator Spano.

SENATOR SPANO: Thank you, Mr. President.

I think rather than us spending a great deal of time in talking about other bills that are in the other house and what is not included in this bill, I think it would be more productive for us to talk about a bill that's on the floor and what is included.

And the fact that Senator Marcellino has taken the leadership to move forward to protect the areas of Long Island, New York City, and Westchester County. And not worrying about what counties' options are foreclosed, but to say what options do exist

for the residents of those communities that will be protected with some uniform standards for consumer pesticides that currently don't exist in this state of New York.

And I'm very happy that Senator Marcellino amended this bill to include Westchester County. That there are -- I don't think it's relevant at this point that - whether or not there's a companion bill in the Assembly. This bill is before us. Why? Because the Governor sent a message of necessity on this bill. And I'm sure that, as he did that for this bill, if the Assembly chose to either take this bill up or have a bill printed of their own, I'm sure the Governor would grant that same courtesy for them.

I think what this bill does here is recognizes the public health risks that exist currently, rather than getting into the clinical decisions, the studies of whether or not it's cancer-causing. I think it's pretty obvious that it's obnoxious, that there are applicators who are unprofessional, that there are individuals across the state who have a

total disregard for their neighbors, a total disregard for their environment, a total disregard for the health and the safety of our families and their families. And this bill will put a stop -- will go a long way towards putting a stop to that total disregard.

So I think the all-or-nothing attitude is not productive. What we should say is that we have a start here. We have a recognition that there need to be these type of uniform standards, that we need to provide some safety, a safety net for the people who live in these counties that are covered.

And for us to say that maybe we may oppose this bill -- or, as some groups have suggested, we oppose this bill, why, because it doesn't include the entire state of New York -- is not productive at all. Should we start -- where do we start? We do this with so many other measures that come before us here, that we will start by protecting a certain number of people or different geographical areas in this state and build upon that. And give us a chance, as we start the process, to evaluate how it is working and

evaluate the health and the safety and the risks that are -- that exist across the state.

So I think that this -- we should be commending Senator Marcellino for moving forward and showing the leadership and saying he is going to lead by saying that we need these uniform standards, that we are going to send a message out to those unprofessional applicators that these standards are going to exist in this state, and we're going to send the message out to individuals in this state that this commonsense approach is something that should be adopted by -- not only by an act of the Legislature, but by the common sense of individuals before they decide to go out and use pesticides on their own properties that will have an impact on their neighbors.

So Senator Marcellino, I think we are -- certainly it's a good day today that we're moving forward in this direction, and I'm very happy to see this bill on the floor.

ACTING PRESIDENT MAZIARZ: Can we just have a little quiet in the house, please. Thank you.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. If the sponsor would yield to a couple of questions.

ACTING PRESIDENT MAZIARZ: Senator Marcellino, would you yield for a question from Senator Schneiderman?

SENATOR MARCELLINO: My pleasure.

ACTING PRESIDENT MAZIARZ: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Senator Marcellino, the hour is getting late and I don't want to take too much time going over the same territory. But just to clarify something that came up in the dialogue between yourself and Senator Oppenheimer.

It is true, is it not, that a substantial number of active ingredients in pesticides that are used in New York State, throughout New York State, have been classified by the Environmental Protection Agency as known, probable, likely, or possible carcinogens, is it not?

SENATOR MARCELLINO: That's true.

SENATOR SCHNEIDERMAN: And I take it that your concern that you spoke about so

eloquently, about the need for protecting people from this spray, is motivated by the fact that we suspect or know that pesticides currently in use can cause -- pose health hazards to people, particularly children; is that not correct?

ACTING PRESIDENT MAZIARZ: Senator Marcellino.

SENATOR MARCELLINO: What we're doing with these things is we're saying to people that there are labeled instructions on the pesticides and the federal government labels them, and it tells you how to use them. And the manufacturers tell you how to use them. And the basic statement is if you use them correctly, the federal government says it it's okay. If you have certain training with certain types of chemicals, if these are nonrestricted chemicals, then the average homeowner can purchase them over the counter. Again, there are labeled instructions on these things.

Part of this legislation basically says that a store would put up a sign saying "Read the labels. Make sure you use the

pesticides according to the labeled instructions." If you do so, according to the manufacturer and according to the federal government, these things are safe to use.

This bill is designed to allow a homeowner to be proactive and take precautions and protect as they see fit when a neighbor's trees are being sprayed. This is what we're trying to do. We're not trying to cure cancer here. That's for other people. What we're trying to do is to let people take protections and protective actions to defend themselves.

SENATOR SCHNEIDERMAN: If the sponsor would continue to yield.

ACTING PRESIDENT MAZIARZ: Senator Marcellino, would you continue to yield to a question from Senator Schneiderman?

SENATOR MARCELLINO: Certainly.

ACTING PRESIDENT MAZIARZ: Senator Schneiderman.

SENATOR SCHNEIDERMAN: With reference to the study by Environmental Advocates and the New York Public Interest Research Group that you referred to earlier, the study relating to the gross quantities -

or the comments related to the gross quantities of pesticides used in New York City and other counties in the downstate area, that included pesticides used inside buildings in the city of New York, did it not?

SENATOR MARCELLINO: I believe so.

SENATOR SCHNEIDERMAN: And in fact, when it comes to the things that are actually covered by this legislation before us, which relates to the spraying of outside areas, if you -- there are many other counties other than the counties of the city of New York where more outside spray pesticides are used than the counties of the city of New York; is that not true?

SENATOR MARCELLINO: I don't know what's used outside or inside in other counties for a fact.

But what I can state, as I refer back to this report -- whether you agree with it or not, the report says downstate urban and suburban counties report more pesticide use than rural and other upstate counties. And they specifically name Westchester, Nassau,

Suffolk, and the counties of New York City. Those are covered by this bill.

SENATOR SCHNEIDERMAN: But -- if the sponsor will continue to yield.

ACTING PRESIDENT MAZIARZ: Senator Schneiderman.

SENATOR SCHNEIDERMAN: If the sponsor will continue to yield.

ACTING PRESIDENT MAZIARZ: Senator Marcellino, will you continue to yield to Senator Schneiderman for a question?

SENATOR MARCELLINO: I continue to yield.

ACTING PRESIDENT MAZIARZ: Senator Schneiderman.

SENATOR SCHNEIDERMAN: I'd hate to lose Senator Oppenheimer's support based on geography here for a well-intentioned piece of legislation. It is not -- there's no magic line that -- where Westchester -- I see Senator Spano is very excited about Westchester being included in this, and I appreciate why.

When you get to Putnam County, you get to Rockland County, the lawns being

sprayed in those counties pose as much danger to their neighbors as in the counties covered by this bill, do they not?

SENATOR MARCELLINO: The article that you're talking about, the report that you're talking about goes on on page 4 and says basically Nassau and Suffolk Counties, for example, had a wider range of heavily used products, many of them lawn-care products combined with fertilizers. It follows up with the same thing with the downstate area and the suburban counties.

We are covering two-thirds of the state or two-thirds of the population of the state, Senator.

SENATOR SCHNEIDERMAN: I guess my -

ACTING PRESIDENT MAZIARZ: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, thank you. If the sponsor would continue to yield.

My question, though, is if this is something -- this is a permissive bill, is it not, Senator? This just permits local governments to enact laws; is that not

correct?

SENATOR MARCELLINO: It allows them to opt into this plan. They cannot write their own laws. They must take this proposal and they must take this procedure, whatever the state adopts. The state has the right to make the plans.

SENATOR SCHNEIDERMAN: But other local governments in other parts of the state are foreclosed under current law from adopting such a procedure, or other, similar procedures; is that not true?

SENATOR MARCELLINO: This state empowers the counties that were mentioned in it. It does not unempower them, because they don't have that right now.

SENATOR SCHNEIDERMAN: Just to clarify, though, under the existing case law my understanding is that, for example, if Rockland County, with the highest breast cancer rate in the state, wanted to enact these laws, it could not now, in the absence of being included in this legislation.

SENATOR MARCELLINO: Senator, we said that at the very beginning. Nassau

County tried to enact its own spraying legislation, and the courts struck it down.

SENATOR SCHNEIDERMAN: So I think that I -- Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Schneiderman.

SENATOR SCHNEIDERMAN: I think that this bill has many commendable provisions in it. I honestly do not understand why it shouldn't be permissive for other counties in the state.

And in accordance with that, I believe there's an amendment at the desk.

ACTING PRESIDENT MAZIARZ: Yes, there is, Senator Schneiderman. Will you give us a moment to review the amendment?

Senator Schneiderman, I've reviewed your amendment and found it to be germane. The reading is waived, and you may speak on the amendment.

SENATOR SCHNEIDERMAN: Thank you, Mr. President, on the amendment.

All this amendment does is take the provisions of this bill which are permissive and allow local governments to protect -- to

opt into this scheme to provide for some notification.

And Senator Oppenheimer's comments indicate many people feel that the protections in this bill may not go far enough. It is a step, though. This would allow the other counties in the state the benefit of this legislation, allow them to opt in.

As Senator Oppenheimer pointed out, the parts of the state with the fastest-growing rates of cancer are not in the counties covered by this. As Senator Oppenheimer pointed out and as I also mentioned, the report that designates the counties that are included in this bill, when you take out the gross amounts of pesticides that are actually sprayed indoors and are not covered by the bill, the New York City counties fall out.

And if you look at the real problem that's addressed by this bill, people spraying their lawns without notification, it's really the other suburban counties and urban counties upstate where the biggest problem is.

And I do not understand how you can

support this bill and watch Senator Spano's laudable enthusiasm for having his county included in and say to the citizens of Monroe County, "You're not allowed to opt into this, you're not allowed to provide for notification." Much less the citizens of Rockland County.

We keep hearing the expression "downstate." Well, downstate -- I mean, listen, I had the occasion to walk some lawns and go door to door in Rockland County recently, and I observed pesticides being sprayed. Why shouldn't the people of Rockland County, with the highest breast cancer rate in the state, have the opportunity of notification, as people are going to in other counties?

So my amendment simply extends this permissive legislation to the rest of the state so that we can allow other counties, including the areas with the highest-growing cancer rates -- including areas where, according to the very report Senator Marcellino referred to, when you take out the indoor applications in New York City, you have

higher gross amounts of pesticides being sprayed than you do in the counties covered by this bill -- to opt into this scheme.

I think it's a friendly and good amendment to a well-intentioned piece of legislation that is an important step forward. And I would urge that we not discriminate against the citizens of Rockland County, Putnam County, and all the counties above those two counties and to the west of those two counties.

And I note that there are some counties that in this report have extraordinarily high levels of pesticides, whether you accept all of the results or not, that would not be covered here, including Orange County, including Erie County. Rockland County I've already mentioned. I think we have to allow them to opt in.

And therefore, I would move this amendment and urge everyone to vote yes. Let's pass a bill that covers the whole state.

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

(Response of "Aye.")

SENATOR PATERSON: Party vote in the affirmative.

SENATOR MEIER: Party vote in the negative.

ACTING PRESIDENT MAZIARZ: The secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 24. Nays, 36. Party vote.

ACTING PRESIDENT MAZIARZ: The amendment is defeated.

Senator Schneiderman.

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

ACTING PRESIDENT MAZIARZ: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I think that there is a dilemma that people who are reviewing this bill now in its current form face. I do think that it sends a serious and problematic message to provide for an optional scheme to some local governments and not to others. I think it's not a good way for us to proceed, particularly when -- based on my

reading of the data.

And I think -- Senator Marcellino has referred to a report by to organizations that I have a lot of respect for, Environmental Advocates and the Public Interest Research Group. When I read the report, I don't really see the distinction that he's talking about, because of the factor of indoor pesticides.

I think that there are many people who feel, environmentalists who feel that we should provide a comprehensive, statewide program that goes further than this.

However, I think that the provisions in this bill are a good first step. And that's why it troubles me so greatly that we are excluding some of the areas of the state where lawns are being sprayed and where all of the incidents that you described -- or the problems that Senator Spano described that make him so excited that Westchester is included in this -- exist today.

And I think it's a real shame that this legislation does not include Rockland County, Putnam County. If you're going to

include downstate, let's include all of downstate and not discriminate.

And I think that the drafters of the bill and the leadership really in this case has done a disservice to the other areas of the suburbs that I think everyone has to acknowledge need regulation and neighbor notification of this type.

Thank you.

ACTING PRESIDENT MAZIARZ: Senator Balboni.

SENATOR BALBONI: Mr. President, I'd like to just speak on the bill, please.

ACTING PRESIDENT MAZIARZ: Senator Balboni, on the bill.

SENATOR BALBONI: I think it's important, when we take the opportunity to advance a measure that has not seen this floor before by a Majority member, to put the bill into context.

As much as we have heard from people who have concerns about the bill, about studies and about poisons and about pesticides, the reality of this bill is that there's going to be no empirical way of

determining that this bill has saved one life, has reduced one person's exposure to pesticides.

And that's because pesticides and the pesticide treatment and cancer and breast cancer are things that continue to elude us in solution. We have been frightened on Long Island for a very long time with the rate of breast cancer, prostate cancer, ovarian cancer. But when we try to search for the solutions, there is no bright line, there is no final cause.

So what are we doing here? We are chipping away. We are trying to search for answers that make sense, things that will both accommodate the concerns in this case of the farming communities with the suburban communities and the urban communities.

What Carl Marcellino has done today is such a common practice in the practice of law. There's an old saying that in a contract negotiation, if both sides are unhappy just a little bit with the result, then it's a good result. Because in a negotiation, both sides have to give something up.

I have considered my environmental -- my personal environmental record on my votes for the last ten years to be a great source of pride. But I'll tell you now on this floor, I don't understand where some of the advocates are coming from. You mean to tell me because it's not the bill that everybody wants, you vote against it? Because it doesn't go far enough, so suddenly we should discard it?

That is accepting a premise that is frankly unacceptable. This is a courageous act by my colleague from Long Island, because of all the heat he's getting because it just doesn't go far enough or it goes too far.

But in reality, Mr. President, what we're doing today is trying as best we can with a human-made system that is imperfect at best to define the conduct by our pesticide applicators that will give people notice so they can protect themselves. And anybody who says information is bad, well, you just don't get it.

This is an important measure, but it won't be the last when it comes to this

issue. It may not be the best, but it comes from a man who believes very passionately in trying to provide the best information possible.

Mr. President, I plan on voting yes and working for greater solutions in the future. Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator. Read the last section.

SENATOR MORAHAN: On the bill.

ACTING PRESIDENT MAZIARZ: I'm sorry, Senator Morahan, on the bill.

SENATOR MORAHAN: Mr. President, I had asked that serious consideration be given to the inclusion of Rockland County to this measure. I came here, as many know, at the closing hours of this session. And unfortunately, it was a little bit too late for me to get that done.

I did get a commitment, and all should know, that if -- we can opt into this in the next session. And that the -- I have already sent letters to both county executives of the two counties that I represent, to the chairmen of the two legislatures that I

represent, to the majority and minority leaders of the two legislatures that I represent, asking them to develop the home rule legislation that I will need to get Rockland County included into this program.

I just wanted to say that for the record. Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first day of March.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: I'm sorry, Senator LaValle.

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

ACTING PRESIDENT MAZIARZ: Senator LaValle, to explain his vote.

SENATOR LAVALLE: Mr. President, much of what I wanted to say was said by Senator Spano, who articulated the position very, very well.

But I just wanted to pick up from what Senator Balboni talked about and compliment Senator Marcellino for his efforts in bringing this bill before us. It's a positive bill. It's a bill that has many positive things that Long Islanders and other people who are included in this bill really want.

Lastly, it's to his credit that he has carried this bill. Many years ago I had an opportunity to bring people together at a luncheon meeting with Assemblyman DiNapoli, the Assembly sponsor, and I thought we had made a great deal of headway. But some of the stakeholders got involved in this bill and made it very difficult to negotiate and bring this to a conclusion.

So, Senator Marcellino, you are to be congratulated for your efforts in bringing this bill, your stick-to-it-iveness in bringing this bill before the house.

I vote aye, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Stachowski, to explain his vote.

SENATOR STACHOWSKI: Mr.

President, in explaining my vote, I just wanted to say the check's in the mail. I vote no.

ACTING PRESIDENT MAZIARZ: Senator Stachowski will be recorded in the negative.

Senator LaValle will be recorded in the affirmative.

Senator Padavan.

SENATOR PADAVAN: Mr. President, I rise to explain my vote.

ACTING PRESIDENT MAZIARZ: Senator Padavan, to explain his vote.

SENATOR PADAVAN: I think Senator LaValle said it extremely well in terms of pointing to Senator Marcellino and saying that he did a yeoman's job in getting this bill before us.

Is it everything we would want? No. I don't know how many things that we do here are. Does it cover every part of the state? No. But at least it gives an opportunity to move forward in a direction that we have not been moving forward on.

On behalf of the people of New York

City who are covered, all five boroughs, in terms of the benefits of this legislation, I thank Senator Marcellino for his hard work. It was a very, very difficult task. Most people don't know how difficult it was.

And so I vote aye and thank Senator Marcellino again.

ACTING PRESIDENT MAZIARZ: Senator Padavan will be recorded in the affirmative.

Senator Oppenheimer, to explain your vote.

SENATOR OPPENHEIMER: This is a one-house bill. That's principally the thing I am objecting to the most.

I want to see some action on this. It's that I have not seen action, I have not seen the conference committee. I voted for this bill when we had our En Con meeting, committee meeting. I want to see something happen.

And I do applaud Senator Marcellino for coming -- and coming to this point. But the fact is, it's a one-house bill. We have no action. And what I'm praying for is some

action. We need a notification bill. We need it for the whole state. But we need it as soon as possible.

I'm voting no.

ACTING PRESIDENT MAZIARZ: Senator Oppenheimer will be recorded in the negative.

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Mr. Chairman, just briefly.

I would suggest that if we want action, if we want activity, if we'd like a better bill, the way to go -- the way not to go is to vote against this bill. Voting against this bill says no to protecting two-thirds or at least offering the protection to two-thirds of the people in this state.

Is this bill perfection, as mentioned before? No. But by rejecting it and calling it a detriment to the environment I think is disingenuous at best.

I vote aye.

ACTING PRESIDENT MAZIARZ: Senator Marcellino will be recorded in the

affirmative.

The Secretary will announce the results. We apologize for the confusion over Senator Markowitz's vote.

(Laughter.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 40. Nays, 20.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Meier.

SENATOR MEIER: Mr. President, on behalf of Senator Nozzolio, would you place a sponsor star on Senate Bill 5590A, Calendar 1493.

ACTING PRESIDENT MAZIARZ: So ordered. The bill is starred.

Senator Meier.

SENATOR MEIER: Mr. President, could we return to the regular -- could we return to the regular calendar -

Mr. President, could we have some order in the chamber.

ACTING PRESIDENT MAZIARZ: Can we

please have some order in the chamber.

Senator Meier.

SENATOR MEIER: Could we return to the regular calendar and call up Calendar 871, please.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 871, by Senator Lack, Senate Print 4218A, an act to amend the Judiciary Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 2 -

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

SENATOR PATERSON: In the briefest form possible, could Senator Lack explain to us what the assignment of debt known as champerty is?

ACTING PRESIDENT MAZIARZ: May we please have some quiet.

Senator Lack.

SENATOR LACK: Thank you, Mr. President.

Mr. President, I will attempt very

shortly to explain champerty. And in keeping with the admonition I've just gotten, I will explain it very shortly.

Champerty first became a statute in New York in 1809. It's an archaic English common-law title which pertains to the purchasing of claims purely for the commencement of lawsuits.

We are faced today with an amendment to current Section 489 of the Judiciary Law. The need for the amendment, which is really a clarification in terms of the scope of the statute, arises because of an extant federal court proceeding and a decision recently by Judge Sweet of the Southern District of New York, to which we are replying to in kind in terms of its effect on our champerty statute.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Thank you, Senator.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 871 are Senators Breslin, DeFrancisco, Farley, Kuhl, and Nozzolio. Ayes, 55. Nays, 5.

ACTING PRESIDENT MAZIARZ: The bill is passed.

Senator Larkin.

SENATOR LARKIN: Did they get us as negative?

ACTING PRESIDENT MAZIARZ: On the last bill, Senator, you want to be recorded in the negative?

SENATOR LARKIN: Yes.

ACTING PRESIDENT MAZIARZ: With out objection.

Senator Kuhl also recorded in the negative. Without objection, so ordered.

Senator Rath.

SENATOR RATH: I also wish to be recorded in the negative.

ACTING PRESIDENT MAZIARZ: On the

last bill?

SENATOR RATH: On the last bill.

ACTING PRESIDENT MAZIARZ: Senator Rath, without objection, will be recorded in the negative on 871.

SENATOR GOODMAN: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Goodman.

SENATOR GOODMAN: May I ask that a notation be made of the fact that in the last -- Calendar Number 1462, that my vote should be recorded in the affirmative? I'm not certain that I heard -- I was out of the chamber when the roll was called. But I wish to be recorded in the affirmative. Is that clear?

ACTING PRESIDENT MAZIARZ: With out objection, so ordered.

SENATOR GOODMAN: Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Mr. President, what does that make the final -- we never read the names of the negatives, so I'm just

wondering what that makes the final vote tally.

ACTING PRESIDENT MAZIARZ: On which calendar, Senator Paterson?

SENATOR PATERSON: Calendar 1462.

ACTING PRESIDENT MAZIARZ: The Secretary will read the negatives on Calendar 1462 and announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1462 are Senators Breslin, Connor, Dollinger, Duane, Gonzales -- Senator Goodman going to the affirmative -- Senators Kruger, Lachman, Markowitz, Montgomery, Nanula, Onorato, Oppenheimer, Paterson, Rosado, Sampson, Schneiderman, Seabrook, Smith, and Stachowski. Ayes, 41. Nays, 19.

ACTING PRESIDENT MAZIARZ: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Paterson.

Senator Meier.

SENATOR MEIER: Mr. President, is

there any housekeeping at the desk?

ACTING PRESIDENT MAZIARZ: Senator McGee.

SENATOR McGEE: Mr. President, on behalf of Senator Nozzolio, I wish to call up his bill, Print Number 3776A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Calendar Number 578, by Senator Nozzolio, Senate Print 3776A, an act to amend the Executive Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MAZIARZ: Senator McGee.

SENATOR McGEE: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MAZIARZ: The

amendments are received.

Senator McGee.

SENATOR McGEE: Mr. President, on page Number 33 I offer the following amendments to Calendar Number 1068, on behalf of Senator LaValle, Senate Print 5206B, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR McGEE: Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Meier.

SENATOR MEIER: Mr. President, if there are any substitutions, could we have those at this time, please.

ACTING PRESIDENT MAZIARZ: The Secretary will read the substitutions.

THE SECRETARY: On page 22, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill 6238 and substitute it for the identical third reading, 810.

On page 30, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill 8561A and substitute it for the identical third reading, 991.

ACTING PRESIDENT MAZIARZ: Substitutions ordered.

Senator Mendez.

SENATOR MENDEZ: Mr. President, there will be a Minority conference tomorrow at 10:00 a.m. in Room 314.

ACTING PRESIDENT MAZIARZ: There will be a Minority conference tomorrow at 10:00 a.m. in Room 134.

Senator Paterson.

SENATOR PATERSON: Oh, I just wanted to wish you a good evening, Mr. President.

(Laughter.)

ACTING PRESIDENT MAZIARZ: Thank you, Senator Paterson.

Again, we apologize for the confusion caused by Senator Markowitz.

(Laughter.)

ACTING PRESIDENT MAZIARZ: Senator Meier.

SENATOR MEIER: Mr. President, there will be a meeting of the Rules Committee tomorrow morning at 9:30 a.m. in the Majority Conference Room. That will be followed at 10:00 a.m. by a meeting of the Majority conference.

And at this time, there being no further business, I move the Senate stand adjourned until Thursday, June 17th, at 10:30 a.m.

ACTING PRESIDENT MAZIARZ: There will be a meeting of the Rules Committee tomorrow morning at 9:30 a.m. in Room 332.

There will be a Majority conference at 10:00 a.m. in Room 332.

Without objection, the Senate stands adjourned until 10:30 tomorrow, June 17th.

(Whereupon, at 8:09 p.m., the Senate adjourned.)