NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

August 5, 1999

10:05 a.m.

REGULAR SESSION

SENATOR CHARLES J. FUSCHILLO, Acting President

STEVEN M. BOGGESS, Secretary

ACTING PRESIDENT FUSCHILLO: The Senate will come to order.

Please rise and repeat after me the Pledge of Allegiance.

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

ACTING PRESIDENT FUSCHILLO: In the absence of clergy, please bow your heads.

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

ACTING PRESIDENT FUSCHILLO: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, August 4th, the Senate met pursuant to adjournment. The Journal of Tuesday, August 3rd, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT FUSCHILLO:

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communication and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT FUSCHILLO: No, there is not.

SENATOR SKELOS: We'll just stand at ease for a moment, Mr. President.

ACTING PRESIDENT FUSCHILLO: Okay, Senator Skelos.

(Whereupon, the Senate stood at ease at 10:07 a.m.)

(Whereupon, the Senate reconvened at 10:08 a.m.)

ACTING PRESIDENT FUSCHILLO: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

The Senate will stand at ease.

ACTING PRESIDENT FUSCHILLO: The re will be an immediate meeting of the Rules Committee in the Majority Conference Room.

Thank you, Senator Skelos.

(Whereupon, the Senate stood at

ease at 10:09 a.m.)

(Whereupon, the Senate reconvened at 10:17 a.m.)

ACTING PRESIDENT FUSCHILLO: 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.

ACTING PRESIDENT FUSCHILLO: Return to reports of standing committees. The Secretary will read.

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

Senate Print 4534, by Senator Hannon, an act to amend the Tax Law;

4998, by Senator Velella, an act authorizing the City of New York;

5758A, by Senator McGee, an act to amend the Public Authorities Law;

5762A, by Senator Libous, an act to amend the Mental Hygiene Law;

6102, by Senator Saland, an act to

amend the Real Property Tax Law;

And 5621, by Senator Sampson, an act authorizing the City of New York to reconvey its interest.

All bills ordered direct to third reading.

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

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

(Response of "Aye.")

ACTING PRESIDENT FUSCHILLO: Opposed?

(No response.)

ACTING PRESIDENT FUSCHILLO: The ayes have it. The motion is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, can we take up Senate Calendar Number 60A.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number 1698, by Senator Hannon, Senate Print 4534, an

act to amend the Tax Law, in relation to sales and compensating use taxes.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1699, Senator Velella moves to discharge, from the Committee on Rules, Assembly Print Number 7986, and substitute it for the identical Third Reading Calendar, 1699.

ACTING PRESIDENT FUSCHILLO: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1699, by the Assembly Committee on Rules, Assembly Print Number 7986, an act authorizing the City of New York.

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

Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 1700, by Senator McGee, Senate Print 5758A, an act to amend the Public Authorities Law, in relation to enacting.

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

Read the last section.

SENATOR DOLLINGER: Lay the bill aside.

ACTING PRESIDENT FUSCHILLO: Lay the bill aside.

THE SECRETARY: Calendar Number 1702, by Senator Saland, Senate Print 6102, an act to amend the Real Property Tax Law, in

relation to notice.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1704, Senator Sampson moves to discharge, from the Committee on Rules, Assembly Print Number 8348 and substitute it for the identical Third Reading Calendar, 1704.

ACTING PRESIDENT FUSCHILLO: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1704, by the Assembly Committee on Rules, Assembly Print Number 8348, an act authorizing the City of New York to reconvey its interest.

ACTING PRESIDENT FUSCHILLO:

There is a home rule message at the desk.

Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

Senator Skelos, that completes the reading of the -

SENATOR SKELOS: Could you please take up Calendar Number 1700, by Senator McGee.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number 1700, by Senator McGee, Senate Print 5758A, an act to amend the Public Authorities Law.

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

SENATOR DOLLINGER: Will the sponsor yield to one question, Mr. President?

ACTING PRESIDENT FUSCHILLO:

Senator McGee, will you yield for a question?

SENATOR McGEE: Certainly.

ACTING PRESIDENT FUSCHILLO: The sponsor yields.

SENATOR DOLLINGER: Through you, Mr. President. Does this bill permit the Sports, Recreation and Cultural Authority to condemn property?

SENATOR McGEE: No.

SENATOR DOLLINGER: It doesn't.

SENATOR McGEE: No.

SENATOR DOLLINGER: No objection, Mr. President.

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

Senator Wright, why do you rise?

SENATOR WRIGHT: Will the sponsor submit to a question, please?

ACTING PRESIDENT FUSCHILLO: Senator McGee, will you yield for a question?

SENATOR McGEE: Yes.

SENATOR WRIGHT: Senator McGee, is there any truth to the rumor that this authority is intended to relocate the Buffalo Bills to Chautauqua County?

(Laughter.)

SENATOR McGEE: I should ever be so lucky. That perhaps would be something we would certainly investigate, Senator Wright. Thank you so much for bringing that to my attention.

SENATOR WRIGHT: Thank you, Senator.

ACTING PRESIDENT FUSCHILLO: Senator Wright, are you satisfied with the response?

SENATOR WRIGHT: I am, Mr. President. Thank you.

ACTING PRESIDENT FUSCHILLO: 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 FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

SENATOR SKELOS: Mr. President, the Senate will stand at ease.

ACTING PRESIDENT FUSCHILLO: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 10:24 a.m.)

(Whereupon, the Senate reconvened at 10:27 a.m.)

ACTING PRESIDENT FUSCHILLO: Senator Skelos.

SENATOR SKELOS: Mr. President, on Calendar Number 60, which is the yellow calendar that's on your desk, would you please call up Calendar Number 1676.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number 1676, by Senator Bruno, Senate Print 6048B, an act to amend the Public Authorities Law.

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

ACTING PRESIDENT FUSCHILLO: Yes, there is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT FUSCHILLO: The

motion is to accept the message at the desk.

All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FUSCHILLO: Opposed?

(No response.)

ACTING PRESIDENT FUSCHILLO: The ayes have it. The motion is accepted.

Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

SENATOR SKELOS: Mr. President, on Calendar 60A, would you please call up Calendar Number 1701.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number 1701, by Senator Libous, Senate Print 5762A, an act to amend the Mental Hygiene Law.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT FUSCHILLO: Senator Libous.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT FUSCHILLO: Yes, there is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT FUSCHILLO: The motion is to accept the message at the desk. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT FUSCHILLO: Opposed?

(No response.)

ACTING PRESIDENT FUSCHILLO: The ayes have it.

Senator Dollinger, could you just wait one second?

SENATOR DOLLINGER: Can I just have an explanation of this bill?

ACTING PRESIDENT FUSCHILLO: Oka y. One second.

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT FUSCHILLO:

Senator Padavan, why do you rise?

SENATOR PADAVAN: To provide the explanation.

(Laughter.)

ACTING PRESIDENT FUSCHILLO: Senator Padavan, for the explanation.

SENATOR PADAVAN: Thank you, Mr. President.

ACTING PRESIDENT FUSCHILLO: Thank you, Senator.

SENATOR PADAVAN: This is a landmark piece of legislation which certainly reflects the hard work of not only Senator Libous, as chairman of the Mental Health Committee, but the Governor, the Attorney General, and many other individuals within the Legislature who have had a compelling if not serious interest in dealing with individuals who at one time had been in a facility because of their mental illness, were placed after a period of time on drug therapy which would stabilize them and allow them to mainstream, but unfortunately, for one reason or the other, would relapse -- primarily because they stopped taking their medication, but sometimes

for other reasons -- and then become not only a danger to themselves but a danger to society.

And this bill has been named Kendra's Law to reflect one of those tragedies. And there have been others you've read about, people being pushed off subway platforms in the City of New York, individuals constantly being in and out of mental hospitals. And really, they shouldn't be - the Hoag case comes to mind a couple of years ago. Really, they shouldn't be, if there'd been proper follow-up, case management, oversight, and an assurance that that individual was doing what prudently he or she should be doing.

So this bill outlines a process of providing support, supervision and coordination of community-based services for persons with mental illness who are at risk of relapse, violence and/or hospitalization and can be recommitted, through court-ordered assisted outpatient treatment, under a certain specific list of criteria, of which there are eight.

First, the patient has to be over 18 and obviously suffering from mental illness. If the patient is unlikely to survive safely in the community without treatment. If the patient has a history of lack of compliance with treatment programs, has been hospitalized or incarcerated at least twice in the past 36 months, or has resulted in one or more acts of serious physical violence against themselves or others. If the criteria specifies that as a result of his illness, the patient is unlikely to voluntarily participate in his recommended treatment plan, and because of his history and current behavior, he is in need of this type of implementation of commitment.

Now, there are, of course, mechanisms in place to ensure that this particular individual will get all the protections, both civil and others, that he or she is entitled to. And the key element there -- and I'm sure most of you are aware of the Mental Hygiene Legal Services, which will represent the patient and -- to ensure that his rights or her rights will be properly

advanced.

So in effect, we have the result of an evolutionary process. Back many years ago, during the Koch Administration, as the mayor of the city of New York, as a result of some high-profile cases, we implemented the 48-hour commitment. This had to do with people who were out on the streets, sometimes in the middle of winter freezing themselves, and the police and the health-care workers could not involuntarily take that person to a hospital. And so we passed a bill then called the 48-hour involuntary commitment. And it did save lives.

But it did not, obviously, go far enough. We then put in place the Bellevue program a number of years ago, a pilot program in the city of New York. And their report on the results of their efforts were provided to us this spring, which sought to do, in essence, the primary components of the bill before us. And they have been doing it with generally good results. But again, for a limited population in the city of New York.

This will be a statewide bill. And

so its benefits -- and, by the way, the Bellevue project will continue through September of 2000. So that catchment population that's in that program will continue to benefit from it.

Those are the essential ingredients in this. I think you also know in the budget -- and it's not in this bill, but I think it certainly relates to it - significant sums of money were provided for residences for the mentally ill, housing and other support services, as well as for the retarded. And so I think that is a supplement, if not certainly a helpful ingredient, in our overall effort to deal with people who unfortunately at one point in time or other are incapable of caring for themselves.

ACTING PRESIDENT FUSCHILLO: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, will the sponsor or the spokesman yield for a question?

ACTING PRESIDENT FUSCHILLO: Senator Padavan, will you yield for a

question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT FUSCHILLO: The sponsor yields.

SENATOR PADAVAN: Yes, I will.

SENATOR DOLLINGER: Just a couple of quick sort of understanding questions so I make sure I fully understand it.

This bill will only allow involuntary commitment or treatment if it was determined by the physician who evaluated the patient that that was the least restrictive alternative; is that correct?

SENATOR PADAVAN: After an examination, yes.

SENATOR DOLLINGER: Okay. So -

SENATOR PADAVAN: Now, the court -- there are certain prerogatives that the court has. The court must hear testimony from the physician. The physician must present and testify to a written treatment plan, which in many cases include medication and always include case management.

The court then can order an examination of the patient if that individual

refuses to be examined. And then a court can conduct a hearing in the patient's absence should there be good cause.

So there is that process that must be followed. But basically the answer to your question is yes.

SENATOR DOLLINGER: Okay. Through you again, Mr. President, if Senator Padavan will continue to yield.

ACTING PRESIDENT FUSCHILLO: Senator Padavan, do you continue to yield for another question?

SENATOR PADAVAN: Yes.

SENATOR DOLLINGER: This only applies to individuals who are actually involved in, as the statute refers to it, assisted outpatient treatment plans; isn't that correct? And so that we're taking the wide sort of universe of people who utilize or -

SENATOR PADAVAN: Correct.

SENATOR DOLLINGER: -- utilize drugs or whatever medication -

SENATOR PADAVAN: No, because if we were to include everybody, it might include

some of us in this chamber.

SENATOR DOLLINGER: Correct. But it only involves those who are actually -

SENATOR PADAVAN: Although I think we are involuntarily committed right here.

(Laughter.)

SENATOR PADAVAN: Yes, you're right.

SENATOR DOLLINGER: Well, we may deserve to be committed after today as well.

SENATOR PADAVAN: Again, you're correct.

SENATOR DOLLINGER: Okay. So we're taking the broad universe of people with a particular problem, we're saying if you're in a particular state-designated program, then you're in a position where this -

SENATOR PADAVAN: Or a city program. They could be in, as an example, the Bellevue program.

SENATOR DOLLINGER: Okay. I note, Senator Padavan -- again, through you, Mr. President, if Senator Padavan will continue to yield.

ACTING PRESIDENT FUSCHILLO: Senator Padavan, do you yield for another question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT FUSCHILLO: Senator Dollinger, can I just request that you address the President so you can speak into your mike, so the stenographer can hear your questions?

SENATOR DOLLINGER: Thank you, Mr. President. I have to get people to explain things who aren't behind me.

One of the issues that I note very quickly, Senator Padavan, in looking through this bill, is there's a reference to a health-care proxy and a proxy decision-making for some of these patients. Could you tell me how that works?

If you've signed a health-care proxy, is the proxy person, the person who's acting in your stead, able to commence this process or participate in this process?

SENATOR PADAVAN: Yes. I believe it has to be someone such as a wife, a sibling, as other proxies that we utilize

would provide for.

SENATOR DOLLINGER: And again, through you, Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Padavan, do you continue to yield?

SENATOR PADAVAN: Yes.

SENATOR DOLLINGER: This bill also provides that the outpatient commitment could not occur without a physician actually providing the testimony and the evidence - it's a physician, not any other -

SENATOR PADAVAN: No.

SENATOR DOLLINGER: -- treatment specialist?

SENATOR PADAVAN: That is the essential component that I tried to outline earlier. And that physician would not only do all the things you just said, but provide significant input into the judiciary, who would make the determination.

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

ACTING PRESIDENT FUSCHILLO: Senator Padavan, do you continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT FUSCHILLO: The Senator yields.

SENATOR DOLLINGER: I understand, Senator Padavan, according to your explanation, that the Mental Health Services Legal Services program would provide representation for the patient in this case.

My question is, does this provide -- and I notice there's a reference to the Mental Hygiene Law. Does this provide an expedited appeal for the patient in the event that there's an order issued that would allow them to go to the appellate division for a quick or immediate review of the case, of the decision?

SENATOR PADAVAN: To the appellate division? I really don't know the answer to that question. I would presume yes. But we can find out and get that answer to you.

SENATOR DOLLINGER: Okay. Thank you, Senator Padavan. I appreciate your - the explanation is satisfactory. I wish to address the bill.

Mr. President, this bill, as described by Senator Padavan, is a landmark piece of legislation. It is a continuing step down the path of trying to deal with the enormously difficult problem of mental illness, one that has vexed this state for hundreds of years, and certainly the funding of which and the problems of which continue to vex us today.

It seems to me that this bill balances, as best we can, the two important needs that Senator Padavan highlighted -- the need for us to be able to protect society and to protect our people, not only from those who may be the victims, as Kendra was, but also those who are in the enormously difficult and complicated, vexing situation of suffering from mental illness.

And it seems to me that this bill has the procedural safeguards necessary to support it. I'm concerned, based on Senator Padavan's comment, that $10 million in the budget to deal with this problem isn't enough. I believe that we have historically underfunded problems for the mentally ill.

Our history with community reinvestment is frankly a very disappointing one. We have not given it the -- or fulfilled the promise that we once articulated in this chamber about seven years ago.

Despite that, I'm going to vote in favor of this bill. I think it does have the protections. I think it does reflect a balancing of those difficult interests. And my hope is that we will continue to look carefully at this issue. This may need more tinkering. This may need more study. The Bellevue study, I think, gave us a direction. This bill, which grows out of the Bellevue study, continues that direction.

But my hope is that we don't put this on the books and then forget it. I hope that we continue to look at this problem, we evaluate whether it works, we evaluate whether it's properly funded. And if it does fulfill the promise, if it does improve the quality of life both for patients and reduces the risk to society in general, then maybe Kendra's Law will have a long-term hope for everyone in this state.

I vote in favor of this bill with -- with some reluctance. Not about the quality of this bill, but about our continuing commitment to the future of dealing with the difficult problems of the mentally ill. My hope is my colleagues will support me, that we will vote in favor of this bill and continue to look at this problem into the future.

Thank you, Mr. President.

ACTING PRESIDENT FUSCHILLO: Read the last section.

THE SECRETARY: Section 18. This act shall take effect immediately.

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

ACTING PRESIDENT FUSCHILLO: Senator Duane, to explain your vote?

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

I'm voting in the negative on this legislation. And I also want to make the point that for us to bring this to the floor for a vote without at the same time dealing

with the issue of providing parity for mental health services in our state's health-care delivery is just wrong.

And though I know a lot of people will be patting themselves on the back for this, I think in the absence of providing parity for mental health we're doing the state a disservice.

I'm voting in the negative on this, Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Duane, you will be recorded in the negative.

Announce the results.

Senator DeFrancisco, to explain your vote?

SENATOR DeFRANCISCO: Yes.

I'm going to vote in the affirmative. I originally had some reluctance about this bill in view of the involuntary commitment procedures. But it does strike an appropriate balance.

And I think the two key things in my mind that shows that there's a balance is that if someone falsely makes a petition

against someone, they're subject to criminal prosecution. Which I think is a significant factor in avoiding some petitions that aren't true and are really brought for some ulterior purpose. And, secondly, the hearing that's required to be held before a judge requires that there be a finding by clear and convincing evidence, which is a higher standard of proof that this type of commitment is necessary.

So with those safeguards, I will be voting yes.

ACTING PRESIDENT FUSCHILLO: Senator DeFrancisco will be recorded in the affirmative.

Senator Schneiderman, why do you rise?

SENATOR SCHNEIDERMAN: To say good morning, Mr. President, and just to make sure that I'm also recorded in the negative.

Nice to see all of you.

ACTING PRESIDENT FUSCHILLO: Senator Schneiderman, you will be recorded in the negative.

Announce the results.

THE SECRETARY: Ayes, 41. Nays, 2. Senators Duane and Schneiderman recorded in the negative.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, we'll just stand at ease again.

ACTING PRESIDENT FUSCHILLO: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 10:45 a.m.)

(Whereupon, the Senate reconvened at 11:24 a.m.)

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: There will be an immediate conference of the Majority in the Majority Conference Room.

ACTING PRESIDENT WRIGHT: Immediate meeting of the Majority in the Majority Conference Room.

SENATOR SKELOS: Please stand at ease.

ACTING PRESIDENT WRIGHT: Stand

at ease.

(Whereupon, the Senate stood at ease at 11:25 a.m.)

(Whereupon, the Senate reconvened at 11:26 a.m.)

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. I call an immediate conference of the Minority in Room 314.

ACTING PRESIDENT McGEE: There will be an immediate meeting of the Minority in the Minority Conference Room, immediately, 314.

(Whereupon, the Senate stood at ease at 11:27 a.m.)

(Whereupon, the Senate reconvened at 12:34 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT SEWARD: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT SEWARD:

Immediate meeting of the Rules Committee in Room 332.

(Whereupon, the Senate stood at ease at 12:35 p.m.)

(Whereupon, the Senate reconvened at 12:55 p.m.)

ACTING PRESIDENT KUHL: Senator Skelos.

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

ACTING PRESIDENT KUHL: We will return to the order of reports of standing committees. There is a report of the Rules Committee at the desk.

The Secretary will read.

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

Senate Print 5114B, by Senator Rath, an act to amend the Real Property Tax Law;

2726B, by Senator Stafford, an act

to allow Lawrence E. Strait;

1749A, by Senator Maltese, an act to amend the Administrative Code of the City of New York;

2141, by Senator Maltese, an act to amend the Administrative Code of the City of New York;

3382A, by Senator Leibell, an act to amend the Retirement and Social Security Law;

4288, by Senator Maltese, an act to amend the Retirement and Social Security Law;

2334A, by Senator Montgomery, an act authorizing the City of New York to reconvey its interest;

6095, by Senator Hannon, an act to amend the Tax Law;

6099, by Senator Libous, an act to amend Chapter 723 of the Laws of 1993;

6116, by the Senate Committee on Rules, an act to amend the Tax Law;

6117, by the Senate Committee on Rules, an act to amend the Social Services Law and others;

And Senate Print 6123, by the

Senate Committee on Rules, an act to repeal Section 4 of Chapter 307 of the Laws of 1996.

All bills ordered direct for third reading.

ACTING PRESIDENT KUHL: Senator Skelos.

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

ACTING PRESIDENT KUHL: 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: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: The calendars on this agenda are about to be distributed. But with the consent of the Minority, we'll

proceed.

There's a bill package on your desk starting with Calendar Number 920.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 920, Senate Print 5114B.

THE SECRETARY: Calendar Number 920, by Senator Rath, Senate Print 5114B, an act to amend the Real Property Tax Law.

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 920. 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 4. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1604, Senator Stafford moves to discharge, from the Committee on Rules, Assembly Bill Number 6367B and substitute it for the identical Third Reading Calendar, 1604.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1604, by Member of the Assembly Ortloff, Assembly Print Number 6367B, an act to allow Lawrence E. Strait to file a request.

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, 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1694, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 3019A and substitute it for the identical Third Reading Calendar, 1694.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1694, by Member of the Assembly Pheffer, Assembly Print Number 3019A, 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.

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, 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1695, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Print Number 3688 and substitute it for the identical Third Reading Calendar, 1695.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1695, by Member of the Assembly Seminerio, Assembly Print Number 3688, 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.

The Secretary will read the last section.

SENATOR DUANE: Lay the bill aside.

ACTING PRESIDENT KUHL: Senator Skelos, are we on controversial calendar?

SENATOR SKELOS: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Duane, do you wish to be recognized?

SENATOR DUANE: Explanation.

ACTING PRESIDENT KUHL: Senator Maltese. Senator Maltese, an explanation of Calendar Number 1695, Senate Print 2141, has been requested by Senator Duane.

SENATOR MALTESE: Senator, this is an act to amend the Administrative Code of the City of New York, in relation to establishing the correction officers variable supplements fund and the correction captains and above variable supplements fund with respect to authorizing payments to beneficiaries receiving a correction retirement allowance or receiving a benefit by

reason of election of an option by retired correction officers.

The purpose is to correct an inequity among uniformed employees in the City of New York. In 1970, police officers, police superior officers, firefighters, and fire officers were granted variable supplement funds. In 1987, they were also given to housing and transit police officers and the police superior officers.

Correction officers, correction captains, and assistant deputy wardens do not presently have this fund and should have the same allowances as the above titles. This - basically, the justification is to correct an injustice that exists in the manner in which this benefit has been granted, by not previously extending it to the equally difficult and dangerous New York City uniformed titles.

SENATOR DUANE: Would the Senator yield for a question?

ACTING PRESIDENT KUHL: Senator Maltese, do you yield to a question from Senator Duane?

SENATOR MALTESE: Yes, I yield.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: In addition to the various employees who are now receiving this or who have gotten this, are there any other employees of the City of New York that you're aware of?

SENATOR MALTESE: That do not have it? My understanding is they all have it. Uniformed law enforcement have it, but these -- this would be the only uniformed law enforcement officers that do not have it.

And in addition, I am advised that the response to your question is that they are in a unique capacity in that they are the only law enforcement uniformed officers not presently receiving it.

SENATOR DUANE: Are there any nonuniformed service professionals that receive this?

SENATOR MALTESE: No.

SENATOR DUANE: Do you know how much this is going to cost the City of New York?

SENATOR MALTESE: Yes. There was originally a -- various numbers that were being tossed around by different actuarial services. Depending on the point of view, there seems to be a consensus that the amount it would cost is $6 million.

SENATOR DUANE: I'm sorry, you said $6 million?

SENATOR MALTESE: $6 million.

SENATOR DUANE: Does the Senator have any -- where is that figure coming from, Senator?

I'm sorry, through you, Mr. President.

SENATOR MALTESE: That's on the present fiscal note for the bill itself.

SENATOR DUANE: Through you, Mr. President.

What fiscal -- whose fiscal number is that?

SENATOR MALTESE: That's the actuary. Johnson & Schwartz have come up with that figure.

SENATOR DUANE: Through you, Mr. President. Who are Johnson & Schwartz?

SENATOR MALTESE: It's an actuarial firm I guess that comes up with fiscal notes.

SENATOR DUANE: Through you, Mr. President. Are they affiliated with any particular organization? On whose behalf do they do this?

ACTING PRESIDENT KUHL: Senator Maltese, do you yield to another question?

SENATOR MALTESE: Yes, I do.

SENATOR DUANE: Through you, Mr. President. Can you tell me on whose behalf this actuarial firm came up with the number, who hired them?

SENATOR MALTESE: Yeah. It was the correction officers, the beneficiaries of this legislation.

SENATOR DUANE: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Hevesi.

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

ACTING PRESIDENT KUHL: Senator

Maltese, do you yield to a question?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HEVESI: Senator Maltese, if I was listening correctly, the actuary that was hired by the correction officers who benefit from the passage of this legislation have assessed that the cost to the City of New York would be $6 million annually; is that correct?

SENATOR MALTESE: That's correct. And in addition, Senate Finance concurs with that figure. The Senate concurs with the figure of $6 million.

SENATOR HEVESI: Okay.

SENATOR MALTESE: So it isn't only the beneficiaries.

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

ACTING PRESIDENT KUHL: Senator Maltese -

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The

sponsor continues to yield.

SENATOR HEVESI: Senator Maltese, are you aware that the Chief Actuary of the City of New York, who is on the Board of Trustees of NYCERS, has analyzed this and has deemed that the cost to the City of New York, if this legislation was to be enacted, is $118 million annually, and that the New York City Comptroller and the Office of the Mayor of the City of New York have also agreed in that assessment, that those numbers are accurate?

SENATOR MALTESE: Mr. President, I am advised that they concur in that approximate figure.

But I'm also advised that the variance is something that comes up depending on the point of view. And the -- the -- I, for one, accept the Senate figure as more accurate.

SENATOR HEVESI: Mr. President, if the sponsor will continue to yield.

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

SENATOR MALTESE: Yes.

SENATOR HEVESI: Senator Maltese, I can articulate for you at least the conceptual methodology through which the city has determined that the cost would exceed $100 million a year. If you'd like, I can articulate them for you, and maybe I'll do that when I speak on the bill.

But for our edification, if you could suggest to us how the actuary that was hired by the correction officers -- with concurrence, I assume from Senate Majority Finance -- what was the methodology that resulted in the $6 million figure? Because that is a glaring difference between what the actuary of the City of New York has estimated the cost to the city would be.

SENATOR MALTESE: Mr. President, I think it's obvious in the amount of bills that come before this house, and the amount of fiscal notes that we consider, that we do not have an opportunity as legislators to go into all the fiscal backgrounds on these notes.

I would be glad to sit down with Senator Hevesi and have Senate staff sit down with him after the legislation has passed.

But I think that it is not -- this is not a unique bill. This is not a situation where we -- the only situation where we have a substantial variance between the figures of the City of New York or the comptroller's office and Senate and the proponents of the bill. We have -- we see the same thing reflected in the Finance and funds available for various legislative purposes, or we would not be sitting in this chamber in August instead of passing a budget by April 1st.

So there can be variances, and substantial variances, by persons of good conscience and good purpose. In this particular legislation, we have a home rule message, and the matter is presently before us on what I hope is the last day of the session. And if we hope to go into the fiscal background at length, I for one would defer that to perhaps sometime in September.

SENATOR HEVESI: Mr. President, will the sponsor continue to yield?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR HEVESI: Senator Maltese, with respect, we've waited four months for a fiscal package. And the suggestion that now, when there is a piece of legislation before us that could contain a serious financial hit to the City of New York, that we shouldn't stall or delay now, having waited four months to pass a budget, is unacceptable.

And although, you know, I can appreciate what you're trying to do with this legislation, your suggestion to me that we should pass the bill and then have a discussion as to whether or not the city's numbers are correct or whether or not the correction officers' numbers are correct I think is a little bit disingenuous, since this is the only opportunity we will have to vote on the legislation which will have the fiscal impact that we're discussing here.

So if we pass the bill here and then we have discussions and then, Senator Maltese, you agreed that the city's numbers are correct, we will have then inadvertently cost the city over a hundred million dollars, which is unacceptable.

So let me ask the question of you, Senator, because I know you are concerned, as a fiscal conservative, with the finances of the City of New York. And I'll remind everybody, since in the wake of the commuter tax debate, when everybody suggested that the City of New York is just awash in cash and we can spend, spend, spend -- which is actually contrary to the philosophy of the Majority party here in the Senate -- that the city is looking at multibillion-dollar deficits in the next few years. Multibillion-dollar deficits.

So my question is, Senator Maltese, since we're now coming forward with this legislation, and I know you're concerned about the fiscal impact for the City of New York and the city's budgetary condition, doesn't it trouble you to such -- doesn't the fact that the city's actuary suggests that this will cost over a hundred million dollars trouble you to the extent that you would deem it necessary to lay this bill aside and then have the actual discussion on what the fiscal impact is to the city?

I would request, Senator Maltese,

that you lay this bill aside, and I would appreciate having a dialogue with you and the relevant players in this to get to the bottom of it.

SENATOR MALTESE: Mr. President, I think it's a little bit disingenuous of my good and esteemed colleague, Senator Hevesi, to talk about making the system and the methodology available. This bill has been under serious discussion with the comptroller's office, with the mayor's office. Their representatives have been to see me numerous times. The Governor's office has been involved, the Senate Finance office has been involved. This methodology could have been made available to me, as the sponsor of the bill, prior to today.

So it's disingenuous to talk about making this material available at this point. Any special knowledge that Senator Hevesi has of the workings and the methodology of the bill as far as systems in the comptroller's office, I would certainly wish to avail myself of.

At the same time, we are seeking to

pass legislation in this house, we are ready to pass the legislation in this house. And quite frankly, I would not be interested at this point in time to go over lengthy - lengthy material rather than pass this legislation, when it has been the subject of very serious discussion I know of for at least four months.

ACTING PRESIDENT KUHL: Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President. Would the sponsor continue to yield?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The sponsor continues to yield.

SENATOR HEVESI: Senator Maltese, let me be specific in what the city's position is. And I respect the fact that you had a dialogue with the mayor's office and with the comptroller's office, because here's the rationale behind their assessment that this would have a fiscal impact far exceeding what you have suggested it would be.

The correction officers variable

supplement fund would be funded by amounts transferred to it by NYCERS. By the way, that's NYCERS money. And I believe, as the City of New York believes, that NYCERS should have a say -- all the members of NYCERS should have a say in how that money is spent. This is money out of their pockets.

In effect, the city would be required to fund the new supplemental benefits through increased contributions to NYCERS. Whenever the performance of the NYCERS stock portfolio would require the skim-off of pension assets, the city, for all practical purposes, would be required to replace the transferred assets. Under these circumstances, the amount of the city's contribution necessary to actuarially fund the liabilities of NYCERS would be increased by the amounts skimmed off.

And so, Senator Maltese, I will ask you one final question pertaining to this legislation. And I do appreciate your responsiveness in handling these questions. My question to you is simply if you believed that the cost to the city of New York of

enactment of this bill that's before us would exceed a hundred million dollars a year, would you support such legislation?

SENATOR MALTESE: Mr. President, I think first I'd like to just respectfully correct the terminology of my good colleague from Queens County. He keeps talking about the City of New York. I am advised that the City Council is still part of the government of the City of New York, in addition to the mayor and the comptroller's office. And I am further advised that the City Council passed this -- the home rule message with one negative vote.

So therefore, I feel that the legislation certainly appropriately reflects the will of a substantial portion of the, quote, City of New York, unquote.

ACTING PRESIDENT KUHL: Senator Hevesi.

SENATOR MALTESE: Would I support it if it was a hundred million dollars in the actuarial?

I've taken a look at this bill. I've worked with the correction officers,

certainly Norman Seabrooks and other people that are very interested in the welfare not only of the correction officers but the City of New York. I accept their figure. I think that's a rhetorical question. I accept their figure, and I don't have to dwell on whether or not it would in fact cost $100 million. I think their figure is much closer to the true figure of the cost.

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

ACTING PRESIDENT KUHL: Senator Hevesi, on the bill.

SENATOR HEVESI: Mr. President, I appreciate Senator Maltese's explanations of the legislation, and I have the greatest respect for Senator Maltese and his advocacy on behalf of correction officers. And I wasn't being facetious when I suggested that Senator Maltese is as committed as anybody to maintaining the structural and fiscal integrity of the budget of the City of New York.

But I am indeed concerned about the impact that this legislation would have. And

while I understand that the City Council did provide for a home rule message on this legislation, and I am not aware of the rationale that the City Council had, I am not cognizant of any study done by New York City Council finance staff as to their actuarial estimations or the reasons or rationale why they concur with the actuary of the City of New York -- I'm sorry, why they don't concur with the actuary of the City of New York and do concur with the correction officers' actuary. I don't know why that is.

ACTING PRESIDENT KUHL: Senator Hevesi, excuse me just a minute.

Senator Padavan, why do you rise?

SENATOR PADAVAN: Will Senator Hevesi yield to a question?

SENATOR HEVESI: Certainly.

SENATOR PADAVAN: Senator, I'm very interested in all the things you've said. I'm a member of the Finance Committee. I didn't receive this information that you referred to that was developed, apparently, by the City of New York.

My question to you is, do you have

a memo in opposition from the City of New York in your possession?

SENATOR HEVESI: Yes.

SENATOR PADAVAN: Well, when is that dated?

SENATOR HEVESI: I'm sorry?

SENATOR PADAVAN: What is the date on it? Because I never received it.

SENATOR HEVESI: If you'll bear with me a moment, Mr. President.

Mr. President, I -- the date on the memo that I have in front of me is May 26th -

SENATOR PADAVAN: May 26th?

SENATOR HEVESI: -- the date that I received the memo. And I'm not aware of any other member of the Senate Minority, that they received a memo prior to today.

SENATOR PADAVAN: Thank you. Thank you, Senator.

SENATOR HEVESI: Nor, Senator Padavan, did I have any knowledge that this legislation would be on the agenda today.

SENATOR PADAVAN: Yeah. Thank you.

SENATOR HEVESI: Thank you.

ACTING PRESIDENT KUHL: Senator Hevesi, you still have the floor.

SENATOR HEVESI: As I was saying, Mr. President, I'm not sure why the City Council rejected the actuarial estimates of the city's actuary.

But I am very concerned about this. And in light of the fact that it was so important that we enact a budget, as we did two nights ago, that was the best budget that we could possibly enact -- and the rationale was if it's a better budget and it took us a longer amount of time to get there, well, then, that was the appropriate governmental action to take. I think in the same vein, we could have some parallel reasoning which suggests that if there was a dispute here which is significant -- the dispute between $6 million and $100 million is significant, particularly when it's annualized every year and the City of New York is facing major budgetary problems in the future -- that that's something that should be discussed and agreed upon.

And I would suggest to Senator

Maltese that if indeed the actuary for the correction officers used the methodology that was accurate and the cost really is $6 million, then we need to reevaluate, and I would likely change my position on this legislation.

But short of that, it would be nice if we were able to have a further discussion about this bill without having passed it. I think it's unfortunate that we don't have that opportunity. But I appreciate the advocacy on behalf of the correction officers. Correction officers are tremendous, tremendous individuals who perform a dangerous task on a daily basis.

This is a matter of fiscal prudence for the City of New York. I think it compromises the fiscal integrity of the City of New York. And in the absence of more time to evaluate the accuracy and validity of the actuarial claims that have been made on both sides of this debate, Mr. President, I am forced to vote in the negative.

ACTING PRESIDENT KUHL: Senator Waldon.

SENATOR WALDON: Thank you.

Would the gentleman yield for a question?

ACTING PRESIDENT KUHL: Senator Maltese, do you yield to a question from Senator Waldon?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR WALDON: Senator Maltese, can you tell me, please, if the correction officers cited in this proposal are the only ones of the uniformed officers of the City of New York who do not have available to them the ability to tap into the variable supplement?

SENATOR MALTESE: Senator Waldon -- Mr. President, through you, I am advised that there are law enforcement personnel who -- uniformed and not uniformed, detective investigators and district attorney investigators, that are not within the four corners of this bill.

SENATOR WALDON: Mr. President, again, through you, if I may.

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

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR WALDON: Senator Maltese, to be very specific, my concern is those people who have traditionally in the City of New York been considered members of the force, which includes correction officers, New York City Police Department. Of those personnel, are the correction officers in question in this proposal the only ones outside of being able to benefit from the variable supplement?

SENATOR MALTESE: Mr. President, the -- my response is yes.

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

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, would Senator Maltese yield to a question from Senator Dollinger?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, I

was intrigued by your discussion with Senator Hevesi with respect to the first-year cost of this change. I know the fiscal note suggests that there's a decade -- that this will increase on an annual basis, so that the annual cost by fiscal year 2008, 2009, will be about 75 million, a tenfold increase.

My question is, if Senator Hevesi is correct, and the City of New York, the mayor's office is correct that the first-year cost is $118 million, can we anticipate that this will also increase tenfold in the course of the next decade, and that perhaps by the year 2009, if Senator Hevesi and the mayor's office are correct, that this could cost a billion dollars or more for the City of New York?

SENATOR MALTESE: Mr. President, through you. These -- my daughter, who's a CPA, would be far better equipped than I to handle some of these questions.

But I think that if we start out with our figure rather than the mayor's figure, we arrive at completely different conclusions. Therefore, if we arrive and -

accept our figure, then obviously the cost in subsequent years would be far, far less. If we accept the figure of the mayor of the City of New York, obviously that cost would be very, very much enhanced and increased.

SENATOR DOLLINGER: Just one other follow-up question for Senator Maltese.

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

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: My question really deals with the multiplier factor. Obviously in the fiscal note that is attached to this bill there is an assumption that there will be increases over the period of a decade, proportional increases as this fund expands, as it applies to more and more people, as there are greater and greater contributions to it.

That's why my question is - there's a dispute about what the first number is, and there's a dispute about what the last number is. My question is, do we all agree

that that number will be multiplied up by a tenfold figure, whether it's $6 million going to $75 million, or, as Senator Hevesi suggests, $118 -- and the City of New York suggests, $118 going to tenfold, a billion and two, a billion three?

SENATOR MALTESE: I think - Mr. President, through you -- Senator, the - it's obvious that there is a cost each subsequent year. And I -- I'm not in a position to speculate on what that cost is.

Obviously, and I go back to my first response, if we accept the $6 million figure, we're talking about a much less - much less cost. There's no question that the cost is -- it's not necessarily increased, but that the cost is additional every year. If you multiply two times the cost, and ten years, certainly you'd have ten years times your initial cost.

SENATOR DOLLINGER: Again, through you, Mr. President, if I could, just one other question.

ACTING PRESIDENT KUHL: Senator Maltese, do you yield to another question?

SENATOR MALTESE: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: The source of the funds, Senator Maltese, to pay for these variable supplements, will it be the general fund of the City of New York? Will this be a cost assessed against the general fund? Will it transfer monies from the general fund into this variable supplement fund?

SENATOR MALTESE: Mr. President, I'm advised that the money is transferred not from the general fund but from the pension fund.

SENATOR DOLLINGER: The City of New York's pension fund?

SENATOR MALTESE: Pension fund, yes.

SENATOR DOLLINGER: Thank you, Senator Maltese. I also appreciate your candor in responding.

I, however, have to agree with Senator Hevesi on this, without necessarily even agreeing with his number. What I agree is it appears as though there's a very

significant dispute about the cost of this from our own fiscal note versus the fiscal accounting of the City of New York. And I would suggest that, at least from my perspective, the mayor of the City of New York has no reason to inflate this number, since it appears as though his pension fund -- or the pension fund of the city will have to dig into its pockets to come up with this money.

And since we don't have an agreement on the starting number, but apparently we have an agreement that it will increase more than tenfold -- if Senator Hevesi is correct, that this is more like a hundred million that can grow to a billion and a half -- then, as we've often noted in this chamber, I guess we're talking about real money. And I would suggest that, given the absence of an agreement on the starting point, we're in a position where we should not pass this bill. Especially when the mayor of the City of New York says this could be $118 million the first year.

We all acknowledge, we all agree that it might have a tenfold multiplier over

the course of a decade. I would suggest that Senator Hevesi's warning about the impact of this on the future budget and the future pension viability of the City of New York is well-taken. And without a definitive answer to the question of the starting point, it would be irresponsible to do it.

I side with Senator Hevesi on this one, although I concur with his comments with respect to Senator Maltese's advocacy on behalf of correction officers.

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.)

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

THE SECRETARY: Those recorded in the negative on Calendar Number 1695 are Senators Dollinger, Duane, Hevesi, Montgomery,

and Schneiderman. Ayes -- excuse me, Senator Montgomery in the affirmative.

Ayes, 47. Nays, 4.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

Senator Skelos.

SENATOR SKELOS: Mr. President, will you please call up Calendar Number 1711.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1711.

THE SECRETARY: Calendar Number 1711, by the Senate Committee on Rules, Senate Print 6123, an act to repeal Section 4 of Chapter 307 of the Laws of 1996.

ACTING PRESIDENT KUHL: Senator Skelos.

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

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1711. 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.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT KUHL: An explanation has been requested by Senator Dollinger.

Senator Larkin.

SENATOR LARKIN: Yes, Mr. President. This bill contains two extenders, one for the Loft Law and one for the Quick Draw, and extends the period of time to 31 March, the year 2001.

The other provisions in here are similar to the ones that we've already adopted.

ACTING PRESIDENT KUHL: Senator Dollinger, explanation satisfactory?

SENATOR DOLLINGER: Yes, Mr. President.

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.)

ACTING PRESIDENT KUHL: Senator Padavan, to explain his vote.

SENATOR PADAVAN: Yes, very briefly, Mr. President.

Yesterday or -- I think it was yesterday, I outlined to you why I felt Quick Draw should not be extended. We talked briefly about the National Study Commission's report, our own State Council on Problem Gambling, the failure of OMH to give us the study that we mandated when we adopted Quick Draw in the first instance, which was then done as part of a bill dealing with tax cuts.

It's unfortunate now we have gone beyond where we were the other day, where Quick Draw was going to sunset on March 31st of the year 2000, to extend it for approximately two years. To couple that with the continuation of the Loft Law, which I

strongly support, and once again, we are participating in something that could be very closely aligned to the word "blackmail."

And I simply will not participate in that process, Mr. President. There is a compulsion, an addiction that flows from the floor beneath us relevant to gambling. And this is part of it. I vote no.

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

Announce the results.

Senator Montgomery, to explain her vote.

Would the negatives raise their hands, please, so the Secretary can record them.

Senator Montgomery, you have the floor to explain your vote for two minutes.

SENATOR MONTGOMERY: Mr. President, this -- obviously this bill places me in a very uncomfortable position, as it does, I would imagine, many of us. It pits people who live in lofts, in my district and in other districts, against poor people who lose money that they don't have gambling with

Quick Draw.

But I'm going to support this legislation, because I am -- I have to be concerned about people who will possibly be forced out of their homes without an extension of protection as loft dwellers. So I'm voting in the affirmative.

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

Senator Dollinger, you were negative.

Senator Schneiderman, you're negative? You wish to explain your vote?

SENATOR SCHNEIDERMAN: Yes, Mr. President.

ACTING PRESIDENT KUHL: You have two minutes to do so.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I concur in the statement of Senator Montgomery. I think the extension of the Loft Law is tremendously important, but I think that Senator Padavan is absolutely correct about gambling.

And I also would urge my colleagues that we are -- as we approach the very end of this session, it looks as though we are trying to take all sorts of steps to balance the books of the State of New York, not with tax cuts, not with returning money to the people, but in fact with gambling programs that take money away from those least able to pay.

And that if we are going to expand the pool of money going into the state from gambling while we're attempting to cut taxes in other areas, we really have to look at that. It is not any different than a tax, and it's a tax on those with the least ability to bear its cost.

Thank you.

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

SENATOR SCHNEIDERMAN: I vote in the affirmative.

ACTING PRESIDENT KUHL: You vote in the affirmative? Senator Schneiderman will be recorded in the affirmative.

Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I'm going to be voting in the negative, even though I must say I feel that the people living in lofts deserve protection.

But I believe that Quick Draw is an abomination and that it is a quick-fix addiction and it deserves to die, and therefore I have to vote in the negative.

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

Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Mr. President, I rise and I'm going to also vote in the negative, because I think that it's time to draw the line on Quick Draw.

What I find most discouraging about this bill extending Quick Draw for another year is that we now know for sure that there is one party in this state absolutely addicted to video crack, and that's the State Legislature. We now need it to balance our budget. We have to have it. And we're acting just like an addicted, compulsive person.

What we're saying is we don't like

it -- please tell me not to do it. I don't want to do it. Please hold me back, don't let me do it. But we continue to do it time and time again. Gambling is creating addictive behavior right here in this house. And all the dangers of compulsive gambling on a personal level are present in this house today.

Please stop us from renewing Quick Draw. Please stop us from renewing Quick Draw. We don't want to do it. We don't. We have to. We're going to do it. We're just - the same addictive, compulsive behavior that we condemn in gamblers, we've got right here present in the State Legislature.

It's terribly sad, Mr. President, that we balance our budgets for another year on the backs of compulsive gamblers. I vote no.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1711 are Senators Dollinger, Oppenheimer, and Padavan.

Ayes, 48. Nays, 3.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we proceed with the calendar in regular order, please.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1696, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 5390A and substitute it for the identical Third Reading Calendar, 1696.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1696, by Member of the Assembly McEneny, Assembly Print Number 5390A, an act to amend the Retirement and Social Security law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1697, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 7374 and substitute it for the identical Third Reading Calendar, 1697.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1697, by Member of the Assembly Seminerio, Assembly Print Number 7374, an act to amend the Retirement and Social Security Law. Calendar Number 1697.

ACTING PRESIDENT KUHL: The bill is before the house. The Secretary will read the last section. Calendar Number 1697.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1705, Senator Montgomery moves to discharge, from the Committee on Rules, Assembly Bill Number 4148A and substitute it for the identical Third Reading Calendar, 1705.

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

THE SECRETARY: Calendar Number 1705, by Member of the Assembly Vann, Assembly Print Number 4148A, an act authorizing the City of New York to reconvey its interest.

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, 51.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1706, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 9005 and substitute it for the identical Third Reading Calendar, 1706.

ACTING PRESIDENT KUHL: The substitution is ordered.

THE SECRETARY: Calendar Number 1706, by the Assembly Committee on Rules, Assembly Print Number 9005, an act to amend the Tax Law.

SENATOR BRUNO: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1707, by Senator Libous, Senate Print 6099, an act to amend Chapter 723 of the Laws of 1993.

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, 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1708, by the Senate Committee on Rules, Senate Print Number 6116, an act to amend the Tax Law, in relation to the tax on sales and compensating use tax.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1708. 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.

Senator Dollinger.

SENATOR DOLLINGER: One question, Mr. President, for whoever would answer it.

ACTING PRESIDENT KUHL: Senator Bruno, who do you wish to handle Calendar Number 1708 in response to a question -- a question -- from Senator Dollinger?

Senator Bruno.

SENATOR BRUNO: The information that we have is that it is not in the bill. We'll verify that.

SENATOR DOLLINGER: Thank you, Mr. President.

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, 50. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1709, by the Senate Committee on Rules, Senate Print Number 6117, an act to amend the Social Services Law and others.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1709. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

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

The Secretary will read the last section.

THE SECRETARY: Section 59. This act shall take effect immediately.

SENATOR DUANE: Explanation.

ACTING PRESIDENT KUHL: Call the roll.

Senator Duane, do you wish to be recognized?

SENATOR DUANE: Explanation.

ACTING PRESIDENT KUHL: That's usually asked for on your feet, Senator. You're asking for an explanation of Calendar Number 1709?

SENATOR DUANE: Yes, I am.

ACTING PRESIDENT KUHL: Senator Bruno, an explanation of Calendar Number 1709 has been requested. Who would you like to handle -

SENATOR BRUNO: The entitled bill is child support. Our esteemed Senator Saland.

ACTING PRESIDENT KUHL: Senator Saland will respond to your question.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, some of you may recall -- in fact, all of us may well recall earlier this year we did a bill dealing with child support enforcement. This bill is a modified version of that particular bill, in which a number of the provisions which questions had been raised about have been either modified or, in some instances, eliminated.

The felony -- there was a felony provision in the preceding bill which has been eliminated. The registration information with respect to children who are born out of wedlock has been eliminated.

The prior bill permanentized certain of the features that we had managed to adopt here in this house over the course of the past couple of years, including the

license suspension program. That in effect will be continued as an extender.

The bill also provides that criminal penalties in instances of criminal nonsupport will now include where if someone quits a job or lowers their income to purposely avoid child support.

There are some other provisions similarly which have been amended or modified. This bill I think addresses any number of the issues that were raised during the course of the prior debate.

ACTING PRESIDENT KUHL: Senator Duane.

SENATOR DUANE: Thank you. If the sponsor would yield to a couple of questions.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: In the present form of the bill before us, is there a

sanction to the family if the name of the father is not released?

SENATOR SALAND: That was in the prior bill. It has been eliminated in this bill.

SENATOR DUANE: And -

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DUANE: Could you describe to me what the penalties are for a father who is providing support who is - finds himself making less money?

SENATOR SALAND: This bill does nothing to deal with that subject.

Under the existing law, the father would make application to the court for a downward modification. And that would certainly be a question for the court or the hearing officer to determine on the facts of the case.

SENATOR DUANE: Through you, Mr.

President, if the sponsor will 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 DUANE: If the sponsor could describe potentially, however, what the penalties could be under a Class E felony.

SENATOR SALAND: I'm sorry, would you repeat your question?

SENATOR DUANE: If the sponsor could tell me potentially what the penalties could be in a Class E felony if a breadwinner's level of support were to be diminished.

SENATOR SALAND: I don't have my penal chart in front of me. But I think an E is generally an indeterminate sentence of one to three years.

SENATOR DUANE: And finally -

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DUANE: I'm wondering whether the other members of the state legislative troika, the Governor and the Assembly, have agreed to this version of this bill.

SENATOR SALAND: I think I could say very comfortably that this version is a lot more along the lines of what has been discussed previously by the Assembly. I don't think we're entirely there. But I will also tell you that as we speak, there are ongoing negotiations to try and bring closure to this.

SENATOR DUANE: Thank you. Thank you, Mr. President.

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

THE SECRETARY: Section 59. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

THE SECRETARY: Ayes, 50. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the reading of the Supplemental Calendar 60B.

SENATOR BRUNO: Can we stand at ease for just a few moments.

ACTING PRESIDENT KUHL: Before we do that, Senator Saland, why do you rise?

SENATOR SALAND: Mr. President, I'd like to request unanimous consent to be recorded in the negative on Calendar 1711, Senate 6123.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Saland will be recorded in the negative on Calendar Number 1711.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 1:45 p.m.)

(Whereupon, the Senate reconvened at 1:47 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order.

The Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1706.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1706.

THE SECRETARY: Calendar Number 1706, substituted earlier by the Assembly Committee on Rules, Assembly Print Number 9005, an act to amend the Tax Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we call an immediate meeting of the Rules

Committee in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee, immediate meeting of the Rules Committee in the Majority Conference Room, Room 332. Immediate meeting of the Rules Committee in the Majority Conference Room, in Room 332.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 1:56 p.m.)

(Whereupon, the Senate reconvened at 2:05 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to reports of standing committees. I believe there's a report from the Rules Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT KUHL: We'll return to the order of reports of standing committees. There is a report of the Rules Committee at the desk. The Secretary will

read.

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

Senate Print 6072B, by Senator Wright, an act to amend the Public Service Law and the Environmental Conservation Law;

6114, by the Senate Committee on Rules, an act to amend the Civil Service Law and others;

6118, by the Senate Committee on Rules, an act to enact the Public Protection Act of 1999;

6120, by Senator Seward, an act to amend the Insurance Law;

And Senate Print 6121, by the Senate Committee on Rules, an act to amend the Public Authorities Law and Chapter 738 of the Laws of 1988.

All bills ordered direct for third reading.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

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

Senator Bruno.

SENATOR BRUNO: Mr. President, can we have the noncontroversial reading of the calendar.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1703 and the rest of the Rules report.

THE SECRETARY: Calendar Number 1703, by the Senate Committee on Rules, Senate Print 6114, an act to amend the Civil Service Law and others.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity which is at the desk on Calendar Number 1703. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed,

nay.

(No response.)

ACTING PRESIDENT KUHL: The bill is before the house.

SENATOR DOLLINGER: Lay it aside, Mr. President.

ACTING PRESIDENT KUHL: You want controversial reading or noncontroversial reading, Senator Bruno?

SENATOR BRUNO: Yes, Mr. President, let's go to the controversial reading.

ACTING PRESIDENT KUHL: Senator Dollinger, you have a question about Calendar Number 1703?

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT KUHL: An explanation of Calendar Number 1703 has been requested, Senator Bruno. Who do you wish to have entertain the discussion?

Senator Leibell, an explanation of Calendar Number 1703 has been requested by Senator Dollinger.

SENATOR LEIBELL: Thank you, Mr.

President.

This bill would provide the state's approximately 12,000 unrepresented employees who are prohibited from collective negotiations with benefits and compensation at levels that are comparable to the benefits and compensation received by employees represented by employee organizations.

ACTING PRESIDENT KUHL: Senator Dollinger, is the explanation satisfactory?

SENATOR DOLLINGER: One question to make sure I understand it, Mr. President.

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

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

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: This reflects those who are not represented by collective bargaining organizations, is that correct -

SENATOR LEIBELL: Correct.

SENATOR DOLLINGER: -- and creates a parity for them with their

collective bargaining counterparts?

SENATOR LEIBELL: That's correct.

SENATOR DOLLINGER: No further objection.

ACTING PRESIDENT KUHL: The Secretary will 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, 51.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read the Rules report.

THE SECRETARY: Calendar Number 1710, by the Senate Committee on Rules, Senate Print 6118, an act to amend the Public Protection Act of 1999.

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

ACTING PRESIDENT KUHL: Yeah, there is.

SENATOR BRUNO: Move we accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1710. 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.

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT KUHL: An explanation of Calendar Number 1710 has been requested.

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

What you have before you is a bill that's generally referred to as a siting bill, or revisions to the Article X that's intended to address the issue of what's referred to as a jurisdictional gap as a result of 1992 legislation and the delegation of federal

authority relative to EPA permitting.

More importantly, what we have not done with this legislation is we have in no way diminished any of the environmental standards or obligations that were included in the 1992 legislation that in fact was cited -

Senator, I hope you were listening so that when I go back to this later, you'll pick up on 1712.

SENATOR DOLLINGER: Thank you, Senator.

SENATOR WRIGHT: Thank you.

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

Senator Dollinger.

SENATOR DOLLINGER: A couple of questions on the bill that is before the house that I believe is Senator Volker's bill.

SENATOR ONORATO: Mr. President. Mr. President.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: What bill are we on presently?

ACTING PRESIDENT KUHL: We're

trying to determine that right now, Senator.

(Laughter.)

ACTING PRESIDENT KUHL: For the benefit of the members, there are five bills on your desks, the last Rules Committee report. We've passed Calendar Number 1703, which is Senate Print 6114, a Rules bill. We are now on Calendar Number 1710, which is Senate Print 6118, a Rules bill, which is being discussed. We also have yet to do Calendar Number 712, which is -- or, excuse me, 1712, which is Senate Print 6072B, by Senator Wright. We also have to do Calendar Number 1713, Senate Print 6120, by Senator Seward. And we also have 1714, Senate Print 6121, which is a Rules bill.

Again, we're on Calendar Number 1710, which is Senate Print 6118. And Senator Volker will respond to Senator Dollinger's request for an explanation.

Senator Volker.

SENATOR VOLKER: Do you want an explanation or do you want a question?

SENATOR DOLLINGER: Mr. President, I'll waive the explanation if

Senator Volker will yield to a -

ACTING PRESIDENT KUHL: The explanation is waived. Senator Dollinger, you have the floor for a question of Senator Volker.

SENATOR DOLLINGER: If Senator Volker will yield.

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

SENATOR VOLKER: Yes. Yes, I yield.

ACTING PRESIDENT KUHL: The Senator yields.

May we have some quiet in the chamber. Senator Saland, if you have a discussion, please take it out of the chamber. Otherwise, sit in your seat.

SENATOR DOLLINGER: Mr. President, if Senator Volker -

ACTING PRESIDENT KUHL: Excuse me, Senator Dollinger. Excuse me.

There's still too much noise in the chamber. There are four bills left to do.

Senator Dollinger, now it's quiet

enough to hear.

SENATOR DOLLINGER: A quick compound question, Mr. President, for Senator Volker.

Could you explain to us how this bill differs from the earlier version of the stalking bill and what they've referred to as the Clinic Access Bill and the false bomb threat bill, those three pieces for starters?

SENATOR VOLKER: Primarily, the clinic access piece of this bill is identical to the bill that passed here several -- what, a month and a half ago or whatever.

The stalking bill has been revised primarily in language that relates to -- on page -- primarily page 6, 120-45, that describes stalking in the fourth degree. And it basically tightened up the language there that deals with how a stalking offense is determined.

You'll see there where it says a person is guilty of stalking in the fourth degree when he or she intentionally, and it goes on. And number 1 says "is likely to cause reasonable fear of material harm to

physical health, safety," and so forth. And then "or is likely to cause or in fact causes material harm to mental or emotional health of such person."

Essentially the language, I guess you could say, was cleaned up and revised to make it clearer as to what the offense is.

SENATOR DOLLINGER: And the final part of that question, Mr. President, was with respect to the false bomb. Has that changed in any way from -

SENATOR VOLKER: The false bomb changes -- I believe it is the penalty, I think, was increased to a Class E felony, which is one and a third to four years, I think. Minimum one and a third to four. That's the primary changes, is that the penalty was increased to a Class E felony.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Volker will continue to yield.

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

SENATOR VOLKER: Yes.

ACTING PRESIDENT KUHL: The

Senator continues to yield.

SENATOR DOLLINGER: With respect to the clinic and religious issue that's contained in this bill, do I understand correctly that this creates civil responsibilities for district attorneys to enforce the injunctive relief provisions? And do we have any other provisions in state law where we allow district attorneys -- who, as you know, have exclusively criminal responsibilities -- to be involved in a civil matter?

SENATOR VOLKER: Well, first of all, the language was in the original bill. And, Senator Dollinger, it's been determined that DAs already have that -- it is believed that they already have that authority. Although it was to -- to make it clear, that's why it was specifically put in this bill.

But the reason it's been determined that is to enforce the criminal authority. There's been some opinions that both the attorney general and district attorneys do have certain civil enforcement powers. But this legislation makes it specific, you're

correct.

SENATOR DOLLINGER: Just a final question, through you, Mr. President, if Senator Volker will continue to yield.

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

SENATOR VOLKER: Yes, I do.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: With respect to the DNA evidence portion of this bill, I understand that there are continuing discussions with the Assembly about the DNA portion of this bill. Could you just describe briefly for me what the discussion centers on, which part of this -- is there a part of this bill that is not agreed on? And if so, what's the nature of that dispute?

SENATOR VOLKER: Well, yeah, the discussions have broken down entirely. In fact, there was an attempt very, very recently to get an agreement.

I think the Assembly basically - and I hate to characterize the discussion, but I think they were basically on the question

of -- I think the Assembly wanted to limit the scope of DNA testing. And there has not been any agreement on that.

This bill is, by the way -- or this provision in this bill is essentially the same bill provision that passed this house several months ago.

SENATOR DOLLINGER: Thank you, Mr. President.

Just briefly on the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: This bill is a culmination of a lot of effort on a lot of people's part to get it to this point. It involves work by Senator Volker, by Senator Rath, by others -- Senator Balboni, who's not here today -- to bring this together.

I understand that when we get to the end of the session, we have to get our scissors and glue and glue these things together to make them work. This is a glued-together job that deserves a commendation to people who have put a lot of

time and effort in getting us to this point.

I'm somewhat disappointed to hear that the final piece of this appears to have broken down with the Assembly. At least from this Senator's perspective, the notion of DNA evidence is an important component of our criminal justice system. It is really the - at the end of this millennium, it's really the fingerprint discovery of the earlier part of this century.

And as I've told a number of people, I don't have a problem with government or Big Brother knowing who you are and being able to identify you. Whether they should know what it is you do, that's an entirely different question. If you're engaged in criminal activity, the notion of what you do and who you are, government should know and be able to enforce its laws accordingly.

But I don't think this takes us down that road. I think it's a step in the right direction. And at least from this legislator's perspective, I commend those who have been involved in all the parts of bringing this together.

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

SENATOR DUANE: Thank you for your anticipation, Mr. President. I was wondering if the sponsor would yield to a few more questions.

ACTING PRESIDENT KUHL: Senator Volker, do you yield to a question from Senator Duane?

SENATOR VOLKER: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Thank you. I just want to clarify some things.

The -- I understand that this bill includes a version of stalking legislation which we previously passed. Also, clinic access legislation similar to what we had passed before.

SENATOR VOLKER: Yes, that's correct.

SENATOR DUANE: And the DNA identification index, I have a question about that part of this.

Can you tell me what the rationale

is -- through you, Mr. President -- of -

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

SENATOR VOLKER: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR VOLKER: The rationale?

SENATOR DUANE: For including nonviolent felony offenders.

SENATOR VOLKER: Well, I think the rationale is that in the DNA testing area, that I think the Governor's bill -- which is what it is, it's the Governor's Program bill which is built into this -- is its rationale is that if you're going to do a DNA database and you're going to look to convicted felons, then the way to do it is to do all convicted felons. Because, as you know, Senator, it's a way in fact of tracking people who do commit crimes.

Very often, by the way, some of those people who have committed minor crimes, maybe, so-called minor property crimes, but have been involved in much more serious crimes. Many of the -- for instance, drug

offenders, most drug offenders that go to jail actually have some violence in their background.

But that's the reason for it, I think, is that -- to develop a database to deal with all those that commit serious offenses, whether they're nonviolent or violent.

SENATOR DUANE: And I also just want to make sure, the legislation also includes the falsely reporting -- I'm sorry, falsely placing -- or is it falsely reporting? Through you, Mr. President, I'd just like a clarification on that.

ACTING PRESIDENT KUHL: Senator Volker, do you yield to another question?

SENATOR VOLKER: Sure.

ACTING PRESIDENT KUHL: The Senator yields to a question, Senator Duane.

SENATOR VOLKER: It's falsely reporting and falsely placing. That is one of the -- there was legislation that passed this house, several pieces that dealt on the one hand with false reporting and on the other hand with falsely placing -- in other words,

phoney bombs and things of that nature. And this bill, this provision deals with both of those areas.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR VOLKER: Sure.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DUANE: Could you describe to me the penalties for falsely reporting and falsely placing for adults and for juveniles?

SENATOR VOLKER: It provides for an E felony. And of course, as you well know, there's still the possibility of a YO, or a youth offender. But it is an E felony, and that's the main, I think, provision of this, that it provides a serious offense, which is one and a third to four years, for such an offense.

SENATOR DUANE: Mr. President, is that -

ACTING PRESIDENT KUHL: Senator

Volker, do you continue to yield?

SENATOR VOLKER: Yes, I do.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DUANE: That's for both reporting and placing?

SENATOR VOLKER: Yes, for both reporting and placing, right.

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

SENATOR VOLKER: Yes, I yield.

SENATOR DUANE: What is the adult penalty for those -

SENATOR VOLKER: It's the same. It's an E felony.

SENATOR DUANE: The same.

SENATOR VOLKER: The penalty for this conduct is an E felony, which is one and -- essentially, one and a third to four years in jail.

SENATOR DUANE: And through you, Mr. President, I have another question -

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

SENATOR DUANE: -- on this section.

SENATOR VOLKER: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DUANE: I had heard talk of driver's license suspension, although I'm not -- I can't find that in the bill right now. I was wondering if you had knowledge of that as well.

SENATOR VOLKER: There's a one-year suspension of the driver's license, which is part of the bill. I'm sorry, I didn't -

SENATOR DUANE: I'm just having some trouble locating it, I'm sorry to say. If you could just tell me the section, I would appreciate it.

SENATOR VOLKER: Page 13, line 8. That's the beginning of it. And then see application of mandatory revocation or suspension, and so forth.

SENATOR DUANE: Thank you.

And if the sponsor would yield to one final question.

ACTING PRESIDENT KUHL: Senator Volker, do you yield to one final question from Senator Duane?

SENATOR VOLKER: Yes, I will yield for the final question.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Since we're putting together four bills at one time, I'm wondering if thought had been given to including the bias crime bill in this bill as well.

SENATOR VOLKER: No one suggested that.

These are all, by the way, bills that have previously passed this house in one form or another. So that's the binding force behind them. The bias-related crime has not passed this house. That's -- that's a different issue.

SENATOR DUANE: Thank you.

Through -- on the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Duane, on the bill.

SENATOR DUANE: I do want to note and in the strongest possible way voice my disappointment and anger that even after yet another terrible incident occurred in our nation, where someone drove from state to state murdering Asians and Jewish people and gay people, we still don't have it in our mettle here in the State of New York to pass bias crimes legislation. It's really the shame of this year's Senate session, I believe.

In addition, I'm planning on voting in the negative on this bill, in large part because of my objection to the too-rapid expansion of the DNA identification index, particularly to persons -- nonviolent offenders. But also because in fact there is no way in this that -- though oftentimes people make the argument, well, this will help innocent people to not be convicted, or this would help innocent people who are languishing in our jails to be allowed to be freed from jails, in fact there is nothing in this DNA identification legislation that makes it possible for those who have been falsely

convicted and imprisoned to be able to have their DNA matched.

So if in fact that is one of the goals of this bill -- and I would hope it would be, and people have said that it is - in fact, that's not part of this legislation.

And I don't think anyone could question my commitment to clinic access or to stop stalking, but I refuse to vote for this legislation with all of the elements in the forms therein. And hope that people will know that I'll continue my commitment to wanting to protect our family planning health centers and to protect people from stalking, but in good conscience I cannot vote for those elements of this bill in this form.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Schneiderman.

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

ACTING PRESIDENT KUHL: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I appreciate the work that's gone into this.

And I am -- I'm extremely disappointed that as we come to the conclusion of this session, we don't have a final agreement on this piece of legislation.

I appreciate the progress we've made in this house. And I gather, from talking to the advocates who have been lobbying for the clinic access provision, that the Senate has been there ready to deal, ready to get the business done. And there's really -- no one has anything but praise, really, for Senator Bruno and for our counsel who have been doing the negotiations in our efforts to get a clinic access and stalking bill passed. I think the revised stalking bill reflects excellent improvements, and I am really saddened that we haven't gotten a final deal with the Assembly.

Frankly, I do not share my friend and colleague Senator Duane's concern with the DNA evidence pool. I think DNA evidence is a tremendous resource for exonerating the innocent and for moving law enforcement ahead.

I will vote for this bill, but it is with a great degree of disappointment that

we haven't finally resolved this. I hope we will continue our efforts, and maybe after Mr. Messina gets some sleep we can renew our efforts in this regard. But I do appreciate the work that has gone in from this house, and I think this is a fine piece of legislation.

ACTING PRESIDENT KUHL: The Secretary will read the last section of Calendar Number 1710, Senate Print 6118.

THE SECRETARY: Section 35. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives. Negatives raise their hands and keep them raised until the Secretary records your votes.

THE SECRETARY: Those recorded in the negative on Calendar Number 1710 are Senators DeFrancisco, Duane, Maltese, Meier, Padavan, and Waldon.

Ayes, 45. Nays, 6.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will read Calendar Number 1712. Now, that is Senate Print 6072B, erroneously marked as 1710 on your -- the bills that are on your desk.

The Secretary will read.

THE SECRETARY: Calendar Number 1712, by Senator Wright, Senate Print 6072B, an act to amend the Public Service Law and the Environmental Conservation Law.

SENATOR ONORATO: Explanation.

ACTING PRESIDENT KUHL: Senator Bruno.

The motion is to accept the message of necessity which is at the desk on Calendar Number 1712. 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.

An explanation has been requested by the Acting Minority Leader, Senator

Onorato, Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

Senator Onorato, I hope you've heard my earlier explanation to Senator Dollinger, who was acting leader at that particular juncture. I will pick it up from there.

The intent of the bill is to address issues in Article X relative to jurisdictional siting, in conformance with federal requirements. More importantly, when that is accomplished, it will enable us to site electrical generating facilities in New York State in a fashion that is competitive with the surrounding states.

In the absence of legislation that resolves those issues, we open ourselves up to those facilities being sited on our borders and New York losing the economic benefit and the economic impact of taxes, jobs -- both in construction and operation -- and a number of related issues.

As I pointed out earlier, this legislation does nothing, nothing whatsoever

to diminish the high environmental standards that the State of New York established in 1992 when it passed Article X. There is nothing in here that reduces those standards or diminishes them in any way.

When Article X was enacted and cited for leading the nation in its environmental impact and environmental standards, that remains true to this day. The timeliness of the procedure, the length of the review, the extensiveness of the review will exceed all of the adjoining states, and again remains number one in the nation.

Other changes include increases in the intervenor's fees, substitution of the State Energy office with the now New York State Energy Research and Development Authority.

There are two provisions that we have worked out with the Assembly. One adds a provision addressing the cumulative effect of air emissions from existing facilities and the potential for significant deterioration in local air quality. And the second is a major study of reliability issues that relate to

electrical transmission and distribution systems, and that study to be conducted by an independent and competitively selected contractor.

ACTING PRESIDENT KUHL: Senator Onorato.

SENATOR ONORATO: Mr. President, will the Senator yield for a few questions?

ACTING PRESIDENT KUHL: Senator Wright, do you yield?

SENATOR WRIGHT: Certainly, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR ONORATO: Senator, has this current bill before us been agreed upon by the two houses?

SENATOR WRIGHT: I don't believe we can characterize it as that at this point. There have been ongoing negotiations. There are a number of issues that we have had agreement on that have been incorporated in this bill.

ACTING PRESIDENT KUHL: Senator Onorato.

SENATOR ONORATO: Do you continue to yield, Senator?

ACTING PRESIDENT KUHL: Yes, I will, Mr. President.

SENATOR ONORATO: Unlike the previous bill that you have introduced earlier, Senate 5968, which requires us to ensure that there's a net environmental benefit resulting in new expanded facilities, this current bill does not ensure that that will happen.

SENATOR WRIGHT: That is correct.

SENATOR ONORATO: And is there any study made that we are in fact in need of these additional eight facilities? Currently, they plan on building one -- right now there's a meeting going down in my community, adjacent to the Astoria and Ravenswood generating plant, which is operated by the Astoria, Con Edison, and by the New York Power Authority.

Now, there's nothing in this bill that states that the older existing plants must clean up their act before we allow additional facilities to be placed in the same area.

SENATOR WRIGHT: That is correct, Senator, there is no language that specifically requires that. We are now in a competitive energy market. And in the absence of new capacity being generated, that will slowly increase the demand and the dependency upon those old facilities, many of which now only deal with peak capacity needs.

However, in the absence of new facilities, in the absence of new capacity, those older plants will be utilized more and more. And in fact, you will have a situation where they will be contributing further to the air quality issues, if those are of particular concern.

So it is our interest and our intent to bring new generation facilities on-line that are truly more operationally efficient, more environmentally clean, using new generation and new technologies, and thereby diminishing the demand on the older facilities.

In terms of the adjacency issues, we have incorporated the language that I cited, and that's reflected in lines 25 and 26

on page 4, to be concerned about that cumulative air-quality impact of siting new facilities adjacent to existing facilities.

ACTING PRESIDENT KUHL: Senator Onorato.

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

Currently there's a study that indicates that the power plant emissions from 1997 and 1998, under the old plants that are in existence right now, pollution increased with the nitrogen oxides by 12 percent and by sulfur dioxides by 21 percent.

Now, there's no new assurances in this legislation that in fact, if and when these plants go on-line, that the old plants that are creating all of these problems will go off-line. Is that the intent of your bill?

SENATOR WRIGHT: No, the intent of my bill is to facilitate siting and new generating capacity within the state of New York. That intent is not to diminish the environmental impact or the environmental quality. The intent is to increase the economic impact of new generating facilities,

increase the state's capacity, increase the employment and the tax base as a result of that.

I believe when you have new capacity on-line, it will not only be operating more environmentally soundly, it will also be operating economically more soundly. And consequently, in a competitive market, that cleaner energy will be purchased in the first instance, as opposed to the more expensive, dirtier energy, if you will.

And so the marketplace that we're trying to facilitate will accomplish what you're looking for, a reduction in the overall impact on air quality.

ACTING PRESIDENT KUHL: Senator Onorato.

SENATOR ONORATO: You're sort of confusing me there a little bit, Senator.

SENATOR WRIGHT: That's not my intent, Senator.

SENATOR ONORATO: I can't understand how you feel that the older generating plants that are operating now - some of them are actually still burning coal,

as against burning gas or oil -- that the coal-burning facilities operate more expensively than burning gas or oil. I think that's -- I don't think that that's a fact at all.

And what's to prevent more plants above the older plants going into the coal-burning facilities that they were looking for -- to do when the supply of oil was at a low ebb? Why would this newer plant be more efficient and cheaper than the older plants?

SENATOR WRIGHT: Well, because I believe they take advantage of the technologies that make them more operationally efficient, reduce the cost of employment involved.

And I believe in a competitive energy environment, which we have not experienced to date and only are now entering into, you will see the benefits of those impacts.

ACTING PRESIDENT KUHL: Senator Onorato.

SENATOR ONORATO: Senator, on the bill, the -

ACTING PRESIDENT KUHL: Senator Onorato, on the bill.

SENATOR ONORATO: The Environmental Protection group -- this is a three smokestack bill.

And I would urge my colleagues to vote against this legislation until we have it cleaned up to ensure that the older operating plants that are currently in existence live up to the new standards of the Clean Air Act, so that we don't -- my particular area is subjected to the highest rate of emphysema, asthma, and lung-related diseases in the entire United States. And I don't think by siting additional plants in my community is serving them to the best the way we should be, without guaranteeing that there will be less pollution and not more.

And until there are some amendments made on this particular piece of legislation, I would urge all of my colleagues to vote against this bill.

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

SENATOR OPPENHEIMER: I also am

going to be voting against this bill.

Much of what it has I find good. But -- but it's really a big step backward in eviscerating a few of the really positive, though small, environmental provisions that were present in the first bill that Senator Wright presented us with.

You know, most of the power plants that were built before 1970 are taking advantage of the loophole in the federal Clean Air Act. And I think the reason we exempted them was because we felt that they would be gone, they would be obsolete, they would be finished. Well, that hasn't happened. And the older plants are emitting pollution at levels four to ten times higher than the modern plants, and that equals thousands of tons of excess sulfur dioxide and nitrogen oxides.

And by exempting these old power plants from the new standards, I think we are just asking for a continuation of the many health problems that we have experienced in our state.

I heard someone earlier talk about

the economic benefits. And I would like to cite the 1997 EPA study that says for every one dollar spent to comply with the Clean Air Act, $42 is saved in health-related costs.

We spend an awful lot of money in this state on health-related costs. And I believe a large reason for these health problems is the pollution that exists in our state. And maybe it will cost more to bring these old plants up to better standards, but it will certainly save us a bundle in our health costs.

So I'm urging a vote against this. It was already mentioned that the Environmental Advocacy PL does have three smokestacks on this particular bill.

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

Senator Duane -

SENATOR DUANE: Thank you, Mr. President.

ACTING PRESIDENT KUHL: -- you're on your feet. Why do you rise?

SENATOR DUANE: I'm just surprised you hadn't anticipated it as well as

you had been doing earlier today.

ACTING PRESIDENT KUHL: I did, but I was trying to look to the last section.

SENATOR DUANE: Oh, well.

ACTING PRESIDENT KUHL: You wish to speak to the bill?

That's what I was -- my sentiments exactly, Senator.

(Laughter.)

SENATOR DUANE: If the sponsor would yield just to a couple of final questions.

ACTING PRESIDENT KUHL: Senator Wright, do you yield to a question from Senator Duane?

SENATOR WRIGHT: I will, Mr. President.

SENATOR DUANE: Thank you.

Even if the siting board were to, as I assume they will, allow permission for new plants to move forward, I don't see any teeth in it to see that environmental mitigation will actually occur. What teeth will the siting board have to make sure that mitigation promises have been kept?

SENATOR WRIGHT: Well, first of all, Senator, I think you need to recognize that we're only changing a very small number of the elements of Article X. And I would refer you to Article X to review that extensively, and you will find that the involvement of the Department of Environmental Conservation is extensive, the permitting process is extensive, all of which conforms with state and federal statutes that very much parallels the existing SEQRA statutes in the State of New York.

The Article X proceeding is in fact a model of environmental quality and siting in the nation. This bill in no way diminishes that. And in fact, this bill does not in any way exempt any plant from any existing standards.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT KUHL: Do you yield to another question, Senator Wright?

SENATOR WRIGHT: Yes, I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: I'm wondering if the sponsor is concerned that the state ceding its SEQRA review in this would in a way set a precedent for other times when we would cede our SEQRA responsibilities and powers.

SENATOR WRIGHT: No, in fact, I do not. And I do not see this consolidated procedure as any ceding of the SEQRA procedure. And in fact, it very much models the existing SEQRA statute. It very much incorporates the various interests that are involved in siting. It very much provides for public participation.

As I previously stated, the existing statute is in fact a model, and one that leads the nation and one that New York State can be proud of. And I quite candidly saw no reason whatsoever to diminish, amend, or do anything other than correct the jurisdictional issue that needed to be dealt with.

SENATOR DUANE: And finally, through you, Mr. President -

ACTING PRESIDENT KUHL: Senator Wright, do you yield to another question?

SENATOR WRIGHT: Yes, sir, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Is the concept of need now to be left totally up to the utilities and not subject to any other review of need?

SENATOR WRIGHT: Obviously, we now move to a competitive environment. Much of that need will be a determination relative to investment, relative to risk that is entailed.

Clearly, given the other related issues, there is a role for the board to review all of those considerations relative to the public interest. That's the very essence of why we have public boards reviewing these issues.

SENATOR DUANE: Just on that, as my final question. Is that in statute, that -- the consideration of need?

SENATOR WRIGHT: I don't believe that we specifically have that language in this bill, no.

SENATOR DUANE: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Would the sponsor yield for a few questions?

ACTING PRESIDENT KUHL: Senator Wright?

SENATOR WRIGHT: Yes, Mr. President.

SENATOR MORAHAN: It's been difficult to hear some of the debate and some of the answers, and therefore some of my questions may be redundant or have been asked in a different form or in the same form.

What is the change in the role of the DEC as it is now involved in this process and how it will be changed in the new process?

SENATOR WRIGHT: It does not change the role of the DEC. The DEC is inherently involved in the siting process. DEC follows a procedure very similar to SEQRA. This simplifies codifies a jurisdictional issue relative to EPA and conforms DEC

issuance with the EPA requirements.

SENATOR MORAHAN: Thank you.

Would the sponsor yield for another question, Mr. President?

SENATOR WRIGHT: I will, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MORAHAN: The board that's now being constituted under this particular proposal, there are two ad hoc members; is that correct?

SENATOR WRIGHT: Yes, I believe there is.

SENATOR MORAHAN: Okay. And one will be from the county wherein the proposal or proposed plant would be sited?

SENATOR WRIGHT: Actually, the language on page 14 talks about the resident of the judicial district.

SENATOR MORAHAN: Okay. I also believe that there is another person who would be appointed by the Governor who will be a resident ad hoc member for the term of that proposal who will reside in the county in

question.

SENATOR WRIGHT: That is correct. That's the following line 1 on page 2.

SENATOR MORAHAN: Yes, okay. Is there any requirement that you may know of of any member of the board's being especially qualified in environmental techniques or -

SENATOR WRIGHT: Well, there's no specific requirement as it relates to those public employment appointments. Obviously, the Commissioner of Environmental Conservation is a member of that board. The other appointees of that board, in terms of the Public Service Commission, NYSERDA, are certainly knowledgeable on environmental issues.

And my assumption -- and it's certainly not an assumption I can guarantee - but certainly when appointments are being made, that would be a consideration in making those appointments.

SENATOR MORAHAN: Is there any changes to the rights or authorities of the towns or villages or counties wherein a sited plant may be proposed vis-a-vis planning or

zoning or what have you?

SENATOR WRIGHT: No, there is not, Senator.

And as I again pointed out, we very intentionally have not modified the preexisting conditions and standards that are contained in Article X. Our intent is simply to resolve a problem identified by the EPA and to maintain New York's high level of standards that it currently has on the books.

SENATOR MORAHAN: Would the sponsor yield for another question?

SENATOR WRIGHT: I will, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR MORAHAN: Mr. Wright - or Senator Wright, is there any change in this law to the requirements vis-a-vis the Clean Air Act or any of those federal environmental protection laws now on the books?

SENATOR WRIGHT: There is not, Senator. We do not have the authority to change that federal statute.

SENATOR MORAHAN: Thank you, Mr.

President.

Thank you, Senator.

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

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

SENATOR ONORATO: Party vote in the negative.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR BRUNO: Party vote in the affirmative.

ACTING PRESIDENT KUHL: Record the party line votes. Announce the results.

THE SECRETARY: Ayes, 34. Nays, 17. Party vote.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read Calendar Number 1713, Senate Print 6120.

SENATOR ONORATO: Explanation.

THE SECRETARY: Calendar Number 1713, by Senator Seward, Senate Print 6120, an act to amend the Insurance Law.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1713. 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.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT KUHL: Senator Dollinger, are you asking for an explanation?

SENATOR DOLLINGER: Yes, I will, Mr. President.

ACTING PRESIDENT KUHL: An explanation has been requested, Senator Seward, on Calendar Number 1713.

SENATOR SEWARD: Certainly, Mr. President.

This legislation is the so-called commercial deregulation legislation. This bill would amend the Insurance Law to exempt certain commercial policies from regulations

pertaining to rate and forms.

Under the bill, an insured would have to meet the -- certain requirements and criteria which are outlined in the bill which would show their sophistication in order to be able to purchase one of these deregulated policies. The insured would be required to have an aggregate annual premium of at least $10,000 for policies issued prior to January 1, 2002, and $5,000 after that date.

In addition to the premium thresholds, the policyholders would be required to meet at least one of another set of criteria which are outlined in the bill, such as having a net worth of at least $7.5 million, annual gross revenues exceeding $15 million, employing a risk manager, being a not-for-profit organization or a public entity with an annual budget of at least $10 million or a municipality with a population of at least 25,000 people.

In order to write insurance pursuant to this proposed new law, the insurer would be subject to additional oversight on the part of the Superintendent of Insurance.

And also including enhanced solvency requirements and greater penalties for any violation of this section of the Insurance Law.

The reason that this bill is before us, the problem we're attempting to solve is this. Currently, many of these larger, more sophisticated insureds who are looking for flexible, tailor-made-type insurance coverage now are leaving New York State and in fact even going offshore to obtain this type of coverage.

Because of the fact that every deviation from a normal insurance policy would have to go back to the Insurance Department for approval, in many cases that takes a great period of time -- in some cases, months -- to get approval. And rather than wait that length of time, they're going outside New York State -- and, as I said, even in some cases outside the country. And those premium dollars are leaving New York State.

So what we're attempting to do under this bill is to bring those premium dollars back to New York State, with the

ability to provide some measure of flexibility for these larger commercial insureds.

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

SENATOR DOLLINGER: Yes.

I believe Senator Breslin has a few questions, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Breslin.

SENATOR BRESLIN: Mr. President, through you, would the sponsor yield to a question?

ACTING PRESIDENT KUHL: Do you yield to a question, Senator Seward?

SENATOR SEWARD: Certainly.

SENATOR BRESLIN: Senator Seward, on the bill, on S12, Subsection B of 2307 - and it's on page 19, where it talks about filing with the Department of Insurance. And it talks about if a policy isn't reviewed within a certain period, a four-month period, it automatically becomes accepted, automatically becomes accepted.

And it would seem as though that if the department were overworked and a policy

that needed to be reviewed under the law sat there for a period of time, it would be automatically accepted, despite the fact that that policy might not be valid under the law if it had been reviewed.

SENATOR SEWARD: Well, Mr. President, I would respond to Senator Breslin in this way. We have been consulting the Insurance Department regarding that particular section, and they are fully confident to be able to deal with the matters before them in a timely manner. So I do not feel that would be a problem.

SENATOR BRESLIN: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Breslin, on the bill.

SENATOR BRESLIN: With that one concern, and if the department does feel comfortable and there's a good monitoring process to make sure that policies that are received are in fact reviewed within the statutory time, so if there is problems with the policy they can be identified and worked out.

But on the bill itself, I think the bill is an excellent bill. It's a bill that makes us -- as Senator Seward says, makes us competitive with adjoining states and really puts us in a position to be competitive and not be interfering with businesses that are fully capable of competing and agreeing within and among themselves.

And for that reason, I will vote for this bill.

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

Senator Dollinger, for a second time.

SENATOR DOLLINGER: Yes, a second time. Just one question of Senator Seward.

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

SENATOR SEWARD: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Is there any provision in this bill that provides a study of the impact of deregulation in this

commercial market and a report back to this Legislature after a period of two or three years to determine whether the benefits that both you and Senator Breslin have described actually transpire in the marketplace?

SENATOR SEWARD: Yes, Mr. President and Senator Dollinger, there is, on page 4 in -- there is a -- outlined in the bill a requirement by -- on or before January 1, 2002, the Superintendent of Insurance should issue such a report to this Legislature and, obviously, to the Governor.

SENATOR DOLLINGER: A final question, Mr. President. Just one thing I saw as I was going through the bill.

There's a reference in here to - again, assuming Senator Seward will continue to yield -- there's a reference in here to brokerage fees and agent fees. Does that change current law? It's obviously a new provision, but does it alter -- how does it modify current law?

SENATOR SEWARD: Mr. President, the reference that Senator Dollinger is making does allow certain additional commission and

fees to be collected, because of the -- the idea behind that is that under the bill, there is additional, obviously, workload on the part of such brokers and agents because of the tailor-made policies that will be issued. And there's just much more work involved. And so that's why that reference is in the bill.

SENATOR DOLLINGER: Okay. And this requires them all to be signed, the written documents, then, agreeing on the commissions, much like there would be in other areas?

SENATOR SEWARD: Oh, certainly.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT KUHL: 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, 51.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1714, by the Senate Committee on Rules, Senate Print 6121, an act to amend the Public Authorities Law and Chapter 738 of the Laws of 1988.

ACTING PRESIDENT KUHL: Senator Bruno.

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

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1714. 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.

Senator Padavan.

SENATOR PADAVAN: Mr. President, when we created the School Construction Authority a number of years ago, one of the components of that new entity, one of the conditions of its creation was waiving the Wicks requirement.

The theory being that by waiving Wicks, which means direct contracts with a variety of subcontractors that had been the rule -- electrical, heating, ventilating, plumbing, and so on -- that you would then be able to give supervisory responsibility and coordinating responsibility to general contractors, you would save money, and you would expedite the construction process. And whether or not that's happened is the subject of a great deal of study and analysis.

But it is deemed appropriate to continue the Wicks exemption, as it's referred to, for another three years. I will say that the new executive director of the SCA has, from my view, made some major strides in improving the SCA and its performance. And what this bill simply will do, as I say, is to

allow the Wicks exemption to continue for another three years. I'm advised that this is agreed upon by both houses.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

You know, I remember when, in the 1980s, repeal of the Wicks Law was a big issue. And I thought, what's the Wicks Law? And I read a little history and found out that it was first enacted to combat several things, including corruption in construction as well as shoddy construction work by unqualified people.

And it was a big issue through the '70s, late '70s and early '80s. Mayor Koch was pushing for repeal of the Wicks Law, said it could save New York City untold hundreds of millions of dollars. There were all sorts of studies, newspaper stories and what have you, contending that, gee, the Wicks Law was making New York construction so much more expensive and suggesting that if we did away with it we could really do great-quality construction on

the cheap and be so much better for it.

The one concession, finally, was ten years ago, with the School Construction Authority, when the Legislature and then-Governor agreed that on an experimental basis -- I think it was initially for five years and then extended thereafter for another five -- we would exempt the School Construction Authority from the Wicks Law. The reason was the absolute dire need for new school construction in New York City and the feeling and insistence of the then-mayor that we could save a whole lot of money and build a lot more schools a lot better and a lot cheaper without the Wicks Law.

So we established the School Construction Authority. It's spent, since then, somewhere between $8 billion and $10 billion. It's never achieved its goal in terms of the number of classrooms constructed. And there have been press reports year after year of problems covering the gamut of everything that the original supporters of the Wicks Law said would happen without it, everything from corruption to great cost

overruns to much more concern -- that is, brand-new, paid-for-in-full at top-dollar shoddy construction. School structures that develop cracks within a year or two in the walls. Nearly new schools that anyone in examining them would think, gee, this is never going to last for a generation of schoolchildren.

So we did this great experiment, it failed, and yet we stubbornly plunge ahead, extending it and extending it and saying it will get better.

Why do we do these experiments if we refuse to listen to the lesson they teach us? For example, in a 1994 study by the Senate Committee on Investigations, Taxation and Government Operations -- that's here, that's this Senate's staff and members - found that 85 percent of the new construction performed by the School Construction Authority up through that date had major problems. 85 percent. 85 percent. Eight to $10 billion spent, and 85 percent had serious problems.

The study found that 68 percent of the renovation work was inferior. Eight

billion dollars supposedly to put schools on-line for our schoolchildren, and your committee found that 68 percent of the renovation was inferior. Unlicensed contractors, inferior workmanship, improper bonding and insurance protections, building code noncompliance, and bloated bureaucracy with little oversight were all found to be endemic to the SCA.

Oh, let's chase another $10 billion after them to produce schools we can't use, not enough schools. Oh, let's give them - let's extend this exemption. It's been such a wonderful ten years.

A 1997 audit by Comptroller McCall revealed the non-Wicks experiment at the SCA to be a failure eight years after it began. Work was still found to be inferior. In fact, principals of schools where SCA work was performed criticized the results in 34 to 68 percent of the time.

Now, I've told you what the Republican Majority in the Senate said about it, what the Democratic comptroller says. And you may want to take with a grain of salt the

next findings, because they come from within the industry, they come from the people who support, by and large -- not in every case - the continuation of the Wicks Law in general. In other words, they come from the people who actually know how to do plumbing, electrical, heating, and other construction work.

So studies performed by the local New York City electrical, plumbing, and mechanical contracting associations on specific SCA jobs found unlicensed and unqualified contractors performing specialized work, general contractors defaulting on work, bid shopping and out-of-state workers being paid less than the prevailing wages required under our State Constitution and State Labor Law.

Who are we kidding? Why do we have blinders on? We tried a noble experiment. It sounded so good back then. Save all this money, build all these schools of such great quality. And every study -- not two or three weeks ago, the New York Times had a story about the failure of the School Construction Authority. Why do we think it's not broke?

Why do we just want to go plunge ahead, give them another three years, another three years, another $3 billion, $4 billion?

So we get shoddy construction, and Lord knows what else is going on there. Every job has come in way over cost. We're supposed to save money, remember? So we get the worst of both worlds, shoddy construction that costs more instead of quality construction that costs less.

We were hoodwinked ten years ago. Let's admit it. Every study, including our own, has found that. And let's do something different. Let's not just give them this license to go forward again and do whatever they want without the safeguards and protections of the Wicks Law.

I'm voting no. I've had it with extending it. I've had it with the School Construction Authority. It's been nothing but a boondoggle to begin with. It's been a failure and a disgrace, and we still have a crying need for school construction and repair that obviously are beyond the capacity of the SCA to carry out. And there's no reason to

have this kind of exemption.

If we're going to keep the SCA going, let's go back to the law that forces them to use qualified, licensed subcontractors on specialty work, so at least when they spend the money the job gets done and the result is a safe, lasting, quality-built school classroom.

ACTING PRESIDENT KUHL: Senator Padavan.

SENATOR PADAVAN: Mr. President, very briefly.

If you listen carefully to Senator Connor, you'd think that we're extending the SCA for three years. Now, much of what he said to you is absolutely correct, except for one thing. We were not all hoodwinked. There were a handful of us here, myself included, who voted against the creation of a School Construction Authority, because we thought it would be a bureaucracy not worth what they were attempting to achieve.

However, that being said, what we're talking here about is the Wicks provision. Now, in saying to any governmental

building authority that you can now negotiate with the general contractors who must then deal with the subcontractors does not waive the requirement, at least in the city of New York, that those subcontractors -- let's say electrical, as an example. They must be licensed by the City of New York, subject to all of the requirements, code requirements, regulatory requirements of a licensed electrician. The difference here is that when the bidding process take place, instead of all these individual bids coming in, you get one bid from the GC.

Now, I can tell you some things that Senator Connor didn't tell you about. When they eliminated that duplicity and waived Wicks, we assumed that then that the GCs would be the coordinators of the project. No, they went out and hired construction coordinators, at 5 to 10 percent of the work, adding again to the cost, which was going in the opposite direction.

But these things are historical in nature. In the last two years, roughly, there has been, in my view -- Senator Marchi and I

had a hearing about a year or so ago; there have been other inquiries since. Much of what you read in the New York Times story is historic.

I have gone to some of the schools currently in construction and major renovation in my district in Queens, and I will say to you that under the new leadership of the SCA, they have cleaned house. They have eliminated the construction coordinators. They have cracked down on the GCs. They have done many things internally. And they have a man there who comes from the private sector, who's well respected, as opposed to some of his predecessors, who came from divergent political quarters.

SENATOR CONNOR: And the military.

SENATOR PADAVAN: And the military. And the military, that's correct. I hesitate to remind myself, the Corps of Engineers. A general, no less.

But nevertheless, those are historical in nature. Now, I said to you a moment ago when I explained the bill that the

Wicks aspect -- does it save money, does it save time -- that debate still continues. But I also say to you that if the SCA is to enter a contract tomorrow to build a school in your district, they have to enter a contract and provide specifications with the general contractor or with all the subcontractors. Now, to go back and do it the old way at this juncture, in my view, would be detrimental.

I'm not thrilled with the Wicks issue, but I also accept the practical aspects of continuing it at least for this period of time. And let me say parenthetically, it's not Wicks that provides the highest cost of public construction anywhere in the state, if not in the country, in the city of New York, it's the prevailing wage of the Labor Law. It costs twice as much to build a public building -- I don't care if it's a firehouse, a police station, or a school -- in the city of New York as it might anywhere else in this state because of that prevailing wage. But that's another whole issue.

We have to allow them to continue at least in the direction they're going, with

some very careful oversight on our part. We have to revisit it, we have to make them prove to us that this waiving of Wicks is -- we met with the director. He seems to indicate quite clearly that he needs this in order to continue to move forward, as he's been doing in the last year or two, in a very positive way.

So that's why I support the bill. But I do so without backing away and without not acknowledging many of the things that you heard from the Minority Leader.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just very briefly.

I'm going to vote with Senator Connor on this bill. I think the great problem with the elimination of Wicks, whether it's from the SCA or statewide, is that what it does is, quite frankly, it creates temptation. And the temptation is that because the subcontractors are under the influence of the general contractor, they don't have a direct agreement, the general

contractor is going to squeeze them to get the job done as quickly and as efficiently as possible.

And that unfortunately leads to the temptation to do two things, both of which show up in the School Construction Authority. They do shoddy work because they can do it quicker and cheaper, or they cheat on the prevailing wage laws, through classifications or misclassifications.

And Lord knows that there's an ample series of case law, both -- certainly throughout this state, that shows given those temptations, the general contractor, under tremendous pressure to get it done on time, under tremendous time constraints, under money pressures, the temptation gets too large.

The whole point of the Wicks Law, as I understand, is to eliminate that temptation to do shoddy work or to cut corners on the Labor Laws. I continue to support Wicks. I think a change perhaps in the amount of money in Wicks would be appropriate.

But I think that the experience of the School Construction Authority as a

microcosm of how Wicks works demonstrates that in the debate about whether Wicks has worked for the people of the state of New York or not, the answer is yes, and to discontinue it here would be wrong.

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.)

ACTING PRESIDENT KUHL: Senator Stachowski, to explain his vote.

SENATOR STACHOWSKI: Mr. President, briefly to explain my vote.

I happen to concur with Senator Connor's remarks. I can understand Senator Padavan's explaining of the vote. It kind of scares me to no end, though, to hear him make detrimental comments about the prevailing wage law after all the work it took and all the hearings it took to finally get the men and women in the state of New York, and in particular in the city of New York, to be able

to get paid a decent wage where they could support their families.

It wasn't that long ago when - during those hearings when we heard all the stories, particularly in the city of New York, where the contractor would get people to work for him, tell them that they had to turn the check that they got from the City Housing or the State Housing that included prevailing wage back to them, at which time they would pay them with their own personal check at a much lower level.

So rather than ever even go near that -- I hope that's not what Senator Padavan is planning to do. I can understand him defending his bill. I vote against this bill and hope that we don't see a bill that's going to try to eliminate the prevailing wage.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1714 are Senators Breslin, Connor, Dollinger, Duane, Gentile, Hevesi, Montgomery, Schneiderman,

Stachowski, and Waldon. Also Senator Seabrook. Also Senator Sampson. Also Senator Kruger.

Ayes, 38. Nays, 13.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we go back to the regular calendar and call up Calendar Number 1686.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1686, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 8920B and substitute it for the identical Third Reading Calendar, 1686.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1686, by the Assembly Committee on Rules, Assembly Print Number 8920B, an act to amend the Vehicle and Traffic Law.

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

THE SECRETARY: Section 9. This act shall take effect in 180 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

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

ACTING PRESIDENT KUHL: There is none, Senator Bruno.

SENATOR BRUNO: There is none.

Mr. President, Senator Onorato has -- needs to be recognized.

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

SENATOR ONORATO: Mr. President, I would like unanimous consent to be recorded in the negative on the Wicks bill, please. Calendar Number 1714.

ACTING PRESIDENT KUHL: Without

objection, hearing no objection, Senator Onorato will be recorded in the negative on Calendar Number 1714.

Senator Bruno.

SENATOR BRUNO: Mr. President, there being no further business to come before the Senate, we are going to conclude this session. And, as we do, want to wish everyone the remainder of a very pleasant, safe and happy August.

And move that we stand adjourned, subject to the call of the Majority Leader, with intervening days to be legislative days.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned, subject to the call of the Majority Leader, intervening days to be legislative days.

(Whereupon, at 3:27 p.m., the Senate adjourned.)