THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

December 28, 1999

2:31 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

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

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

THE PRESIDENT: The invocation today will be given by the Reverend Peter Young, pastor of Blessed Sacrament Church in Bolton Landing, New York.

REVEREND YOUNG: Let us pray.

Dear God, as we start this last legislative session of this millennium, we take the time to thank You for the gifts that You have shared with all Your New York State people. We pray that You grant us the wisdom to carry out our decisions within Your will.

Bless us as we continue to conduct Senate business on this final session and with this dignity and sensitivity for the welfare and the concerns of our New York State citizens.

May we ask for Your blessing on all

of our Senate leadership for the challenges in the year 2000 and beyond. We ask You this in Your name now and forevermore. Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, December 27th, the Senate met pursuant to adjournment. The Journal of Friday, December 24th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time ask for an immediate meeting of the Finance Committee in Room 123

in the Capitol.

THE PRESIDENT: Yes, Senator. There will be an immediate meeting of the Finance Committee in Room 123 of the Capitol.

Senator Bruno.

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

THE PRESIDENT: The motion is to adopt the Resolution Calendar. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The motion is adopted and the calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, may I suggest that the Senate be at ease pending the return of the Finance Committee.

(Whereupon, the Senate stood at ease at 2:37 p.m.)

(Whereupon, the Senate reconvened at 3:25 p.m.)

THE PRESIDENT: Senator Skelos.

The Senate will come to order, please.

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

And if we could return to reports of standing committees, I believe there's a report of the Finance Committee at the desk. I ask that it be read.

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

We will return to reports of standing committees. The Secretary will read.

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

As a member of the Capital District Transportation Authority, Arthur F. Young, Jr., of Delmar.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please. Thank you.

THE PRESIDENT: The question is

on the confirmation of Arthur F. Young, Jr., as a member of the Capital District Transportation Authority. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Arthur F. Young, Jr., is hereby confirmed as a member of the Capital District Transportation Authority.

The Secretary will read.

THE SECRETARY: As a member of the Ogdensburg Bridge and Port Authority, Mary M. Farley, Esquire, of Gouvernour.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: Thank you, Senator.

The question is on the confirmation of Mary M. Farley, Esquire, as a member of the Ogdensburg Bridge and Port Authority. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is confirmed.

The Secretary will read.

THE SECRETARY: As members of the Board of Directors of the Roosevelt Island Operating Corporation, H. Patrick Stewart, of New York City, and Susan A. Whitaker, of New York City.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of H. Patrick Stewart and Susan A. Whitaker as members of the Board of Directors of the Roosevelt Island Operating Corporation. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of

the Advisory Board on Public Work, Daniel J. McGraw, Esquire, of Clifton Park.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: Thank you, Senator Stafford.

The question is on the confirmation of Daniel J. McGraw, Esquire, as a member of the Advisory Board on Public Works. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the Empire State Plaza Art Commission, Mary B. Buchan, of Rochester; Georgiana G. Panton, of Rensselaer; and Norman S. Rice, of Albany.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Mary B. Buchan, Georgiana G. Panton, and Norman S. Rice as

members of the Empire State Plaza Art Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed. Thank you, Senator.

The Secretary will read.

THE SECRETARY: As members of the Central New York State Park, Recreation and Historic Preservation Commission, Stewart F. Hancock, III, of Syracuse, and Fred A. Reuter, of Cold Brook.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Stewart F. Hancock, III, and Fred A. Reuter, as members of the Central New York State Park, Recreation and Historic Preservation Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Genesee State Park, Recreation and Historic Preservation Commission, Dawn M. Keppler, of Medina.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Dawn M. Keppler as a member of the Genesee State Park, Recreation and Historic Preservation Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is confirmed.

The Secretary will read.

THE SECRETARY: As members of the Long Island State Park, Recreation and Historic Preservation Commission, Anthony J.

Bonomo, Esquire, of Franklin Square, and Paul J. Tonna, of Huntington.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Anthony J. Bonomo, Esquire, and Paul J. Tonna, as members of the Long Island State Park, Recreation and Historic Preservation Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Niagara Frontier State Park, Recreation and Historic Preservation Commission, Jean Read Knox, of Buffalo.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: Thank you, Senator.

The question is on the confirmation of Jean Read Knox as a member of the Niagara Frontier State Park, Recreation and Historic Preservation Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Fire Fighting and Code Enforcement Personnel Standards and Education Commission, James E. Oare, of Johnstown.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of James E. Oare as a member of the Fire Fighting and Code Enforcement Personnel Standards and Education Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Interstate Sanitation Commission, Gerard Kassar, of Brooklyn.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Gerard Kassar as a member of the Interstate Sanitation Commission. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Medical Advisory Committee, Michael C. Alfano, of New York City.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Michael C. Alfano as a member of the Medical Advisory Committee. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Advisory Council to the Commission on Quality of Care for the Mentally Disabled, James H. Bopp, of Garrison.

SENATOR MARCELLINO: Move confirmation, please.

THE PRESIDENT: Thank you, Senator.

The question is on the nomination of James H. Bopp as a member of the Advisory Council to the Commission on Quality of Care for the Mentally Disabled. All in favor

signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Mental Health Services Council, William L. Pollard, Ph.D., of Syracuse.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of William L. Pollard, Ph.D., as a member of the Mental Health Services Council. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Citizens' Policy and Complaint Review

Council, Nicholas D. LaBella, of Utica.

THE PRESIDENT: Senator.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: Thank you, Senator.

The question is on the confirmation of Nicholas D. LaBella as a member of the Citizens' Policy and Complaint Review Council. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Council on Human Blood and Transfusion Services, Gloria M. Rochester, of St. Albans.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Gloria M. Rochester as a member of the Council on Human Blood and

Transfusion Services. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As Major General, New York State Army National Guard, Michael R. VanPatten, of Schenectady.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: Thank you.

The question is on the confirmation of Michael R. VanPatten as Major General of the New York State Army National Guard. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As Major General, New York State Organized Militia, John P. Bahrenburg, of Poughkeepsie.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of John P. Bahrenburg as Major General of the New York State Organized Militia. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the New York State Home for Veterans and Their Dependents at Batavia, Paul E. Klett, of Webster, and Cathleen Macinnes, of Walworth.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Paul E. Klett and Cathleen Macinnes as members of the Board of

Visitors of the New York State Home for Veterans and their Dependents at Batavia. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the Buffalo Psychiatric Center, Jeanne Allison, of Jamestown; Margaret V. Lombardi, of Buffalo; and Ellen J. Maternowski, of Lakewood.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: Thank you.

The question is on the confirmation of Jeanne Allison, Margaret V. Lombardi, and Ellen J. Maternowski as members of the Board of Visitors of the Buffalo Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Capital District Psychiatric Center, Frederike Barker, of Albany.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: Thank you, Senator.

The question is on the confirmation of Frederike Barker as a member of the Board of Visitors of the Capital District Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As members, Creedmoor Psychiatric Center, Hector J. Battaglia, M.D., of Centerport, and Christine Spigner, of Jamaica.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: Thank you.

The question is on the confirmation of Hector J. Battaglia, M.D., and Christine Spigner as members of the Board of Visitors of the Creedmoor Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Elmira Psychiatric Center, Wendy Dailey, of Andover.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Wendy Dailey as a member of the Board of Visitors of the Elmira Psychiatric Center. All in favor signify by

saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Manhattan Psychiatric Center, Agnes A. Violenus, of New York City.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Agnes A. Violenus as a member of the Board of Visitors of the Manhattan Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of

the Middletown Psychiatric Center, M. Lori Schneider-Wendt, of Middletown.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: Thank you, Senator.

The question is on the confirmation of M. Lori Schneider-Wendt as a member of the Board of Visitors of the Middletown Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Mid-Hudson Psychiatric Center, John C. Schwartz, of State Hill.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of John C. Schwartz as a

member of the Board of Visitors of the Mid-Hudson Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Mohawk Valley Psychiatric Center, Anne M. Jackson, of Boonville.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Anne M. Jackson as a member of the Board of Visitors of the Mohawk Valley Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the New York State Home for Veterans and Their Dependents at Oxford, Herman G. Harrington, of Rensselaer.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: Thank you.

The question is on the nomination of Herman G. Harrington as a member of the Board of Visitors of the New York State Home for Veterans and their Dependents at Oxford. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the Queens Children's Psychiatric Center, Mary G. Holowin, of Rego Park, and Ralph M. Somerfield, of Floral Park.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

THE PRESIDENT: The question is on the confirmation of Mary G. Holowin and Ralph M. Somerfield as members of the Board of Visitors of the Queens Children's Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the Richard H. Hutchings Psychiatric Center, Myrlene M. Jones, of Syracuse; Patricia M. Okoniewski, of Fulton; and Carol F. Pushchaver, of Liverpool.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Myrlene M. Jones, Patricia M. Okoniewski, and Carol F. Pushchaver as members of the Board of Visitors

of the Richard H. Hutchings Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: As members of the Rochester Psychiatric Center, Eileen W. Farlow, of Pittsford; Pamela S. Frame, of Rochester; and Edward J. Sardisco, of Rochester.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: The question is on the confirmation of Eileen W. Farlow, Pamela S. Frame, and Edward J. Sardisco as members of the Board of Visitors of the Rochester Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are

hereby confirmed.

The Secretary will read.

THE SECRETARY: As a member of the Rockland Psychiatric Center, Walter C. Blount, Jr., of Orangeburg.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE PRESIDENT: Thank you.

The question is on the confirmation of Walter C. Blount, Jr., as a member of the Board of Visitors of the Rockland Psychiatric Center. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, I understand there's a report of the Rules Committee at the desk. Can that be read at this time.

THE PRESIDENT: The Secretary will read.

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

Senate Print 6182, by the Senate Committee on Rules, an act to amend Chapter 461 of the Laws of 1999;

Senate Print 6187, by the Senate Committee on Rules, an act to enact the New York Health Care Reform Act of 2000;

Senate Print 6188, by Senator Leibell, an act to amend the Administrative Code of the City of New York;

And Assembly Print 9094, by the Assembly Committee on Rules, an act to amend the Legislative Law.

All bills ordered direct to third reading.

SENATOR MARCELLINO: Move to accept the report of the Rules Committee, Madam President.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report is accepted.

Senator Marcellino.

SENATOR MARCELLINO: Could we at this time call up Calendar 63, Senate Print Number 6182.

THE PRESIDENT: The Secretary will read.

SENATOR MARCELLINO: I'm sorry, Calendar 1729.

THE PRESIDENT: The Secretary will read Calendar 1629 -

SENATOR MARCELLINO: 1729, Senate Print Number 6182.

THE PRESIDENT: -- Calendar 1729.

THE SECRETARY: In relation to Calendar Number 1729, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 9091 -

SENATOR MARCELLINO: Lay it aside, please.

THE SECRETARY: -- and substitute it for the identical Third Reading Calendar, 1729.

THE PRESIDENT: The substitution is ordered. The Secretary will read.

And the bill is now laid aside, Senator.

SENATOR MARCELLINO: Let's stand at ease momentarily.

THE PRESIDENT: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:46 p.m.)

(Whereupon, the Senate reconvened at 3:47 p.m.)

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: I believe there's some substitutions to be made at the desk, if we could do that at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 9093 and substitute it for the identical Senate Bill, 6187, Third Reading Calendar 1730.

THE PRESIDENT: The substitution

is ordered.

THE SECRETARY: And Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 9092 and substitute it for the identical Senate Bill Number, 6188, Third Reading Calendar 1731.

THE PRESIDENT: The substitution is ordered.

SENATOR SKELOS: Madam President, if we could stand at ease.

THE PRESIDENT: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:48 p.m.)

(Whereupon, the Senate reconvened at 4:20 p.m.)

SENATOR SKELOS: Madam President, if we could come to order, please.

THE PRESIDENT: The Senate will come to order.

Senator Skelos.

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

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: Calendar Number 1729, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 9091, an act to amend Chapter 461 of the Laws of 1999.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1730, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 9093.

SENATOR SKELOS: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1731, substituted earlier today by the

Assembly Committee on Rules, Assembly Print Number 9092, an act to amend the Administrative Code of the City of New York.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 23. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1732, by the Assembly Committee on Rules, Assembly Print Number 9094 -

SENATOR BRUNO: Lay it aside.

THE PRESIDENT: The bill is laid aside.

SENATOR BRUNO: Madam President, can we at this time take up the controversial calendar.

THE PRESIDENT: Yes, Senator Bruno. That completes the noncontroversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 1730, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 9093, an act to enact the New York Health Care Reform Act of 2000.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Thank you, Madam President.

This HCRA 2000 bill that we have before us is one of the most comprehensive health-care packages and will be a model for the rest of this nation, something that all of us in this chamber can be very proud of. Over a million people who are presently uninsured will have the ability to be insured through this program as the years go on.

There is cost containment in this bill that accrues to the benefit of counties. That, coupled with tobacco settlement money, will actually mean about $700-plus million in savings to the counties, some of it present law, some of it flowing through the tobacco settlement.

The cost of this program on an average basis is about $80 million a year, for

those that are concerned about the local cost. So there are dollars there for counties to help pay for the uninsured Medicaid portion of this legislation.

And we all know that there are substantial increases in the aid to rural hospitals, small hospitals, the HCRA pools, the charity pools, the teaching hospitals. This is a bill that takes us out over three years. It provides stability to the caregivers here in this state and to the people who receive that care. It is critically important.

Something like this is very difficult to do, very difficult to put together. There is about $31 billion worth of resources that are being made available to the people of this state through this legislation. It's complex. It's complicated. It has some aspects in it like a cigarette tax, a 55-cent per package increase. Do any of us in this chamber like that? I don't think so.

But if you take a look at the trade-off, that is funding the uninsured in this state, people at the lowest income

levels. Small businesses are receiving support where they can't presently afford insurance for the lowest-paid people that they employ. So that's the trade-off.

So we have to ask ourselves, is it worth it? If we are saving lives, if we are helping people access medical care and you do it with that tax, then if there's any validity for anyone to ever support a tax, it's that - over a million people receiving help through what we're doing here today.

So I am proud of the role that the Governor played in negotiating this. He personally, I know, spent a lot of time and a lot of energy to deal with this as an entire package.

Senator Kemp Hannon, our chair of Health, spent a lot of time. People on this side of the aisle, and others in this chamber. And I want to thank you for your efforts, putting aside a lot of your own opinions - and I know that there were opinions -- to bring together a package that does so much good for so many people.

And we're concerned with what's

going on with localities, and we're going to address that. As we go forward, we have a budget that we will be putting together. We have programs that we contemplate. And we're going to address that. We'll address it together. So that if the municipalities need relief as they go forward, we're going to address that and do what we can to provide that relief. And we'll do that together.

So I'm asking for your support for this. We all know that HCRA that we passed three years ago sunsets December 31st. So it's critically important, because there's a possibility of losing federal aid if HCRA sunsets even for a day, and none of us want to have that happen.

So I'm pleased that we're here. And that's why we're here, to advance this so that there's no interruption in providing medical services to the people in this state that desperately need that service.

Thank you, Madam President.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

I will be supporting this bill. I intend to vote against it [sic]. And the reasons are many of the whereases that Senator Bruno covered. Senator Bruno covered the whereas-it's-a-good-bill portions, and I'm going to cover the "notwithstanding whatever, I will vote for it."

You know, notwithstanding, Madam President, the fact that I think the increase in the cigarette tax is an invitation to bootleggers and others, such as on Indian reservations, who sell untaxed cigarettes.

I five years ago urged the Governor when we had a very difficult budget in 1995 to enforce the Supreme Court decision and collect cigarette sales taxes on cigarettes sold on Indian reservations to non-Native-Americans. And at the time they were estimating it was worth $80 million or $90 million. I've heard those estimates double. And I daresay after this tax is effective that the sales will zoom on those tax-free havens which really aren't legally tax-free, we just don't collect the taxes.

By the way, the answer I was given

then by Governor Pataki was, well, there was a danger of violence in collecting it. I remember scratching my head -- that's back when we had four leaders and the Governor at the meeting -- I guess it was five men in a room and a budget then. Or five men in a room and no budget. I think it was that year.

And I said to the Governor, "Violence from the distributors?" I mean, you do collect this tax upstream in the distribution thing.

So I have a grave concern that this cigarette tax increase will be counterproductive. The last time we did a 50-cent increase, we actually calculated that we lost a hundred million dollars in revenue in this state.

I also have a concern about -- and I'm privileged to include in my district, for example, Wall Street, lower Manhattan. We have some great restaurants in my district, some of the best in the world. In fact, I'm proud I represent the best steakhouse in America, consistently found to be so. And I see the wealthy young entrepreneurs; it's just

great in Silicon Alley, it's just great to see these 28- and 30-year-old multimillionaires that have started a high-tech company and gone public, and when they go out to dinner and afterwards, they smoke $20 cigars.

It's nice to know they won't be hit with this tax, because Lord knows, how would they afford it, Madam President? How would they ever afford -- how would they ever afford to pay a tax on those $20 cigars?

Indeed, seriously, that's a luxury. Unfortunately, the poor working stiff who's still addicted to his Camels is going to have to pay this tax. And the new wealthy entrepreneur who reads Cigar Afficionado magazine and fancies a $20 cigar every night will escape any impact. That doesn't make much sense to me, Madam President.

The other thing, the whole idea of a cigarette tax is a confused policy when you rely on the revenue for other purposes. What do I mean by that? Well, I think it's the policy of this state to discourage people from smoking cigarettes because it's so bad. Isn't it because it's bad for health? I mean, we

know that. We have antismoking measures. In fact, one of the good things about this bill is there will be some money in here for antismoking campaigns. Not enough, but more than we've had. And that's what the tobacco settlement's about.

Now, in theory, to me, I could see, okay, gee, $1.11 tax on a pack of cigarettes hopefully will discourage people from smoking. And if you take the revenue from that and put it back into antismoking efforts, your goal actually should be a zero sum. Isn't your goal that someday no one will be smoking cigarettes in New York State and there will no revenue from this tax? That's your goal.

This is a tax you're adopting where, according to the policy of the State of New York, you want -- ultimately you want an ever-shrinking revenue, ultimately right down to zero. And then all of our kids will be healthy, nonsmoking marathon runners, hopefully.

Yet we're depending on financing a large portion of our citizens' health-care needs through this revenue. And I don't know

what it is then. Is it when we succeed in getting cigarette consumption down to zero our health-care system will collapse, everybody will lose their health insurance? I mean, I don't understand the policy rationales that go into this.

Then we have what I find the inexplicable, and that is -- and someone just put the county-by-county costs. It said - enough to say we have a Governor who campaigned on the theme, over and over and over again, of being opposed to unfunded mandates. That campaign was so successful at winning the public attention and their votes that, indeed, many of us on this side of the aisle, many of us Democrats, became ever more fiscally conservative, ever more concerned about local government. We were happy to take your STAR proposal, the Governor's STAR proposal, enhance it -- which then got adopted, much to the credit of the Majority and the Governor, as the final STAR proposal to save our counties money. That was a good thing.

I don't quite understand giving

with one hand and taking with the other hand back from the counties. I don't understand it as a matter of policy.

Is it all in the pursuit of good? Yes. Is this a good bill? It's wonderful to provide insurance for a million more New Yorkers. It is good to provide all of the other goods that are in here. It's good to have the stability of a three-year plan with no cuts in Medicaid. It's good to have some of the cost containment in here. The positive things in this bill are all very, very good.

The policy message underpinning the funding, whether it be the increase in the cigarette tax or the unfunded mandate that's going to cost some counties literally millions of dollars, I think is just very confused public policy, a very confused political, governmental philosophy carrying forward. It's just plain sloppy in terms of that funding. It sends a funny message or a confused message to the public.

Those of us in our party who have tried to catch up with this new wave of concern for fiscal responsibility, respect for

local government, keeping property taxes down and so on, it leaves us very confused. Just about when you had our attention, just about when we were coming your way on these things, we see a reversal. I suspect some of us aren't quite ready to embrace that reversal so quickly.

All that said, for myself, I'm going to vote for the bill. I think the goods in it are good. I think the price to be paid for the bad things in it will be paid elsewhere than where I sit, Madam President.

Thank you.

THE PRESIDENT: Senator Hannon.

SENATOR HANNON: Thank you, Madam President.

A couple of things, just in general. Because I feel that this is a landmark piece of legislation. It takes something that was done in 1996, deregulating the hospital system, and builds on it. It strengthens our support for hospitals and clinics and therefore the health system of this state. It also happens to eliminate a burdensome fee that has been borne by

purchasers of lab services.

And it not only gives stability for 3½ years, it ensures something we lost for part of last year; namely, the containment of Medicaid costs to the state and to localities. It continues to do a number of other things. And I believe it generally helps.

I would rather there not have been anything on the local governments. But I'd have to point out to my friend Senator Connor that he's totally mistaken. I quote, I wrote down that he's catching up with the new wave of fiscal responsibility. But unfortunately, he hadn't read the current legislation we have in law. The STAR program doesn't give a cent to people who pay county taxes. It all goes through only the boards of education, and it goes to people who pay school taxes. I realize that's not something you realize outside the City of New York, but it's very important to those people.

So we are not taking away from one hand and giving to the other. In fact, we're really benefiting to a lot of people. And we are benefiting everybody in this state by

strengthening the health-care system. Whether you be rich or whether you be poor, you need that system strengthened.

It's also our understanding that no matter what the type of provider there is, that no future provider cuts in any health-care sector under the Medicaid program will be made for the next three years.

My final comments -- and there could be many. I'm sure that I see my colleague and the ranking member of the Health Committee chomping at the bit, Senator Dollinger. But someone was talking about, well, you know, you won't get as much revenue if you raise cigarette taxes. Well, I welcome that. Because if you don't get as much revenue, it means people will be smoking less.

And in fact, in the memo from the American Lung Association in support of this measure and in support of the increase, they talk about the amount of decrease in cigarette consumption that would result from this. And that's a good thing for the system.

And if someone says, well, you've built a slender reed of support if you're

going to be using the tobacco settlement as well as the cigarette revenues for health care -- well, okay, we're going to have to find something else to support health care. It's an essential part of what we do as governing.

And if we decreased the amount of people smoking. Smoking is -- you can get people to stop. If you can get people to stop, you prevent illness, you prevent death. Doing things that prevent illness and death is a good thing.

And I think, therefore, this is just an illustration of a very complex bill, certainly one that some people feel is not something they love totally but on balance is -- has more to support than not. And it should be supported by everybody in this room.

Thank you.

THE PRESIDENT: Senator Dollinger.

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

THE PRESIDENT: Senator, do you

yield?

SENATOR HANNON: Yes, I do.

THE PRESIDENT: Go ahead, Senator Dollinger.

SENATOR DOLLINGER: Let me preface my comments by saying these are just three very specific areas that I want to make sure I clarify, and then I'll address the bill generally.

First of all, my understanding is that the Family Health Plus program goes into effect January 1st of next year; is that correct?

SENATOR HANNON: No, in February -- I'm sorry, January 1st of the year 2001.

SENATOR DOLLINGER: Yes.

SENATOR HANNON: So there's at least 12 months in between now and then when it takes effect.

And -- and it goes into effect contingent upon the federal government granting waivers so that its provisions can take effect.

SENATOR DOLLINGER: Okay. Again,

through you, Madam President.

Is there any money in this bill to advertise the availability of that program? I know you and I have discussed this issue, and many members have, that one of the problems we ran into with Child Health Plus is that there wasn't enough public information to get people to apply for the program so that the full benefits of the program would be utilized.

Is there money in this program allocated to the kind of now public awareness campaign that's going on with respect to Child Health Plus? I know the Health Commissioner and the Governor are appearing in ads. There've been other efforts and outreach to get the message out. Is there money in this program for advertising to achieve that end?

SENATOR HANNON: I don't know if it's specifically earmarked, but I'm confident there is money available for not only Family Health Plus but the three aspects of the program that are devoted to private insurance. So that -- and they would have to be looked at as also part of what's going to be available. And I believe that in the monies available to

the Governor that they would be able to publicize it.

SENATOR DOLLINGER: Okay. The second question, again, through you, Madam President, if Senator Hannon will continue to media.

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

SENATOR HANNON: Yes.

THE PRESIDENT: Go ahead, Senator Dollinger.

SENATOR DOLLINGER: Under the prior version of HCRA, we had a requirement that hospitals produce a report card or that the Department of Health, in conjunction with hospitals, produce a report card for New York State's hospitals. It is my understanding that that is not included in this version of the bill. I'd just like to ask why.

And, secondly, the report on hospital report cards was due, I believe, the end of this year. Is it anticipated that we'll actually get that version of the report?

So it's a multiple question, Madam President, and I apologize for its compound

nature.

SENATOR HANNON: Let me start with the latter one first, because I can remember it best.

The members of the commission, which is the Task Force on Quality Outcomes, have been working in regard -- on a hospital report card and have chosen seven or eight procedures that they feel would be comparable for which there can be risk adjustment. And they're trying to -- I just spoke with the incoming president of the Medical Society, who's on that commission, and he was somewhat confident that they were moving forward with that. And that's consonant with everything else I know about it. So I'm looking forward to seeing that soon.

I am not -- one of the things I was dismayed about at the -- towards the end is that the funding for that committee of about $6 million was not continued forward.

Notwithstanding that, I believe the use of report cards, greater information for consumers, greater information about physicians, incentives to have our

institutions do better medical procedures - we just saw this Institute of Medicine make some reports using some old New York State information about the large number of failures we have -- there is a need to address quality.

We often talk about access, affordability. The third leg of the triangle is quality. And we need to do that. And we need to do it both in terms of practice by physicians and hospitals and institutions as well as taking that quality and taking information and making it accessible to institutions who buy health care, such as corporations, making it accessible to individuals, maybe taking the same type of information and presenting it in different ways -- print, Internet, TV, radio, hotlines, et cetera.

And it should be a major endeavor. It's not here, but it doesn't mean it's over. We have a budget, we have a legislative session. I intend to fully address that.

SENATOR DOLLINGER: I'll ask my final question and then comment on the chairman of the Health Committee's response,

which I appreciate.

My understanding is there's one other provision that was contained in the current version of HCRA. And as I understand it -- through you, Madam President -- it's a requirement that HMOs that are seeking to raise their insurance rates by more than 10 percent a year are required to both give notice and seek the approval of the Department of Insurance, and that that provision is not continued in this version of the bill as well. Is that correct?

SENATOR HANNON: No. But if I just left it at no, it would be a misleading answer.

It's not in the bill, but it never was in the bill. It was part of this body's and the Assembly's initiative on individual market access. It was a requirement that if you had a rate increase of greater than 10 percent, you must have a hearing.

It was never part of the original HCRA. It was not part of NYPHRM. It was something else we did with regard to health-care insurance. I think, as I best can

understand, it was briefly mentioned in some of the meetings, but -- or no, not in the meetings on HCRA, in terms of the course of the legislative session. And we were expecting it to be addressed in some initiatives on insurance by the Executive, but it is expiring. But it was not part of HCRA.

SENATOR DOLLINGER: I appreciate the candor and the spirit of the response of the chairman of the Health Committee.

I guess I look at this as one of those boxes of chocolates that Forrest Gump always talked about. You reach in, you're never quite sure which piece of it you're going to get, but when you look at the overall box and you figure it's got some different wrappings, some different color to it, you decide you want to keep the box of chocolates even though you may know that there a couple of pieces that you're going to bite into that you're not going to like.

And I guess from my point of view, the HCRA bill that's been compiled -- again, through the diligent work of certainly the chairman of the Health Committee and the

persistence of the Senate President -- I think comes out worthy of a yes vote.

There are certainly parts of it that I think I would find -- I find distasteful, parts of it that taste a little sour in my mind. Whether it's, as Senator Connor described it, the unfunded mandate to the counties -- and I know that Senator Bruno tells us that in the long run it won't be an unfunded mandate, or it's going to be offset by some other resources.

The only thing about that, Senator Bruno, that causes me concern is that this is a piece of candy we're offering to the counties and they're telling us vociferously that they don't want it, that they don't like the taste. So we can try to put a different taste into it and we can try to put sugar or we can put other confectionery on top of it, but the bottom line is they don't want it.

And that suggests to me that when they count up their pocketbook at the end of the year, that piece of candy is not going to be something that they're going to be able to digest or that they want.

I also think, however, that this bill has a number of good aspects to it. I actually agree with the chairman of the Health Committee that an increase in cigarette taxes in the long run, despite what fiscal implication it may have to us, in the sense of whether Senator Connor is correct -- in the long run, perhaps we expire, the revenues completely disappear when nobody's smoking. When that happens, I think our hospitals will be ecstatic, our health insurers will be ecstatic, the taxpayer will be ecstatic, because we won't be paying for all those smoking-related illnesses. That would be, in my opinion, the best thing that could ever happen in this state.

I'll conclude with one other fact. There were a number of amendments we did the last time we were here when we did the HCRA extension. It's good to see that this bill incorporates most if not all of them. And it's not so much that they were ideas that came from this side of the aisle, it's that they were good ideas. And I think that those good ideas are incorporated in this bill,

whether it's the Family Health Plus piece that I talked about, the EPIC increase that Senator Gentile talked about, additional funds for small businesses, additional contributions to allow small businesses that Senator Breslin talked about. All of those things -- the rural hospital piece -- those pieces are all a part of this. And I think that's the way good government ought to work: ideas get proposed, they get discussed, and eventually they're included in the final compromise.

I will close with only one other thing, Madam President. I hope that the passage of this bill tonight changes only one debate that we have every single year in this chamber. And I know Senator Saland has carried the bill, Senator Rath has carried the bill. I think there are a number of members who have carried the bill. You remember that bill: the omnibus unfunded mandate bill. We debate it every year. Every year it's put forward by the Majority and everybody says no more unfunded mandates, we'll never do it again, stop us if we ever even think about unfunded mandates.

As much sugar as we try to coat this with, let's recognize that's what we're doing. We're telling the counties that they've got to do something that they don't otherwise want to do. I think there's a rationale for it, I think there's an understanding for it. It does parallel the Medicaid system. It's something we've done for a long time.

But if the Majority -- if I could only ask for one thing in this whole new year, even for the millennium, please, now that we're doing this, let's not have the unfunded mandate debate anymore. Let's call it what it is. Let's pick up that piece of candy out of the box, let's take a bite out of it and all agree it's an unfunded mandate but we're doing to do it anyway.

And maybe next year when the chance comes for someone to pick that out of the box, put that old piece of candy out before the Senate so we can have a debate to fill the time in March or April, let's put it back in the box, close the box up and say, gee, remember when we did the HCRA thing, we

wrapped that box and put that old, stale piece of candy away forever.

That's all I would ask. I wish everyone a Happy New Year. I'm going to vote in favor of this bill.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

THE PRESIDENT: You're welcome, Senator.

SENATOR BRESLIN: On the bill, please.

THE PRESIDENT: Go ahead, Senator.

SENATOR BRESLIN: As Senator Dollinger so ably stated, although I'll stay away from the chocolate analogies, this bill has so many wonderful things in it for New Yorkers.

We live in a state where 1 in 5 are uninsured. In New York City, more than 1 in 4 are uninsured with medical insurance. But now we have a bill that will increase Child Health Plus, Family Health Plus, help our rural hospitals, do the kinds of things and take the

kind of steps that Democrats on this side have been arguing for for many years.

And I commend Senator Bruno, Senator Hannon for bringing this bill to the floor. But as others have said, and as I've spoken to so many county executives throughout this state, and even the one in Albany County, it's an unfunded mandate. And that unfunded mandate at a time when our counties are looking for economic development and at a time where we've cut the sales tax and at a time when we're telling them in order to get businesses in their community we have to cut what's left, and that's the property tax.

This bill doesn't do it. This bill doesn't do it. And at a time when those counties are suffering on the Island and down closer to New York and upstate, we're suffering for revenues to make sure our counties can survive. Yet we have an unfunded mandate when there's more than enough in our government surplus here to fund that $400 million that's been placed in there.

Despite this, for all the other good reasons, for all the other elements that

are contained in this bill, I will vote for it. But I hope all of us work in this coming year to eliminate that portion of a wonderful, wonderful bill and it will be known ultimately as HCRA without an unfunded mandate.

Thank you, Madam President.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Thank you, Madam President.

There's been a lot of discussion of counties here. And I think, other than Senator Wright, that I'm probably the only member of this body who has actually run a county government. And so some of the arguments that my friends and my former colleagues in county government have made resonate with me. In fact, they can probably go back and find some old speeches I made. And some of you in this chamber may remember some of the old speeches I made about Medicaid. And so I've had to weigh a great deal of things as we approach this issue here today.

But in this body, recognizing that this is a large and diverse state, we deal

with that which we are able to get done. And today what I think we are able to get done is we are to prevent the expiration of a law which could jeopardize the availability of millions upon millions of dollars for our health-care system. We preserve for several more years Medicaid cost containment set to expire at the end of this present fiscal year.

And at a time when counties are struggling, in partnership with the state, to pursue welfare reform, we address an issue that is a big one in terms of getting people to move from welfare to work. Many people are reluctant to move from welfare to work, not because they're lazy, but because to do so jeopardizes the availability of health care for themselves and their families. Or if they go to work in a low-paying job without benefits, they put themselves in the position, if there's a catastrophic illness that they face without health-care insurance, of literally having to spend themselves back into severe poverty.

And then there is the feature here of the assistance for rural hospitals.

And so I find there are a number of things in this bill that are compelling and persuasive. But I must say this -- and here I revert back to my former life. We in this chamber have to come to grips with the fact that the rate of increase of the county share of Medicaid has been increasing around the state to two and three and, in some counties, four times the rate of inflation. And counties pay for those through the real property tax.

Now, we recognized when we passed the STAR legislation that the property tax is the worst and most burdensome and the least fair of all forms of taxation. We recognized that and we dealt with it. And now I think we need to keep an eye on this increasing local share in Medicaid.

And that is something that as our leader, Senator Bruno, suggested, that we do need to look at as we get into next year and into the budget cycle. Senator Rath and I have already discussed a number of possible options and will be preparing legislation, in cooperation with the Majority Leader, to try

to address just that.

This is legislation which provides a human necessity to scores upon scores of our constituents. But as we do that, we need to be mindful that we will have accomplished very little if in providing health insurance to the working poor we place a property tax burden back upon them and we place the primary burden of paying for this legislation on those people it was primarily meant to help.

I'm going to vote for this legislation, understanding that it has good and that it has bad, but understanding also that I think this body has additional work to do as we move forward.

Thank you, Madam President.

THE PRESIDENT: Thank you, Senator Meier.

Senator Gentile.

SENATOR GENTILE: Thank you, Madam President.

I also am pleased to see that in this legislation many of the items that we brought to the floor two weeks ago, in terms of amendments, are now part of this HCRA 2000

bill. Particularly in two instances, one the lab surcharge on blood, urine, and other lab tests being eliminated, which has been most bothersome to constituents in my district. And I've heard that often enough, and rightfully so, and I'm glad to see that go. Certainly Family Health Plus, the tobacco prevention programs.

But also something that's very near and dear to my heart, the new funding for - additional funding for the EPIC program. And although HCRA 2000 does not specifically increase the eligibility levels for EPIC, I am confident, with the bipartisan support and the support of Senator Bruno, that in the year 2000 we will make those eligibilities law. And this is the first step in that direction. So I'm very excited and very pleased by that.

However, I must say that any tax increase is an anathema to me, even if it's an increase on sin taxes, like we have here with the cigarette tax. However -- and I believe the cigarette tax, as Senator Connor has pointed out, is an unfair burden to a certain segment of the middle class, when

particularly -- particularly -- we have not placed that same burden on tobacco sold in the form of cigars.

But yet I understand that we have come down to the wire, we are here at this late date with the expiration of HCRA facing us several days from now. And so we are constrained to weigh the benefits versus the disadvantages. And in that, the advantages of this bill far outweigh that one disadvantage that I see.

Hopefully the advocates for the increase in the cigarette tax are correct in that it will help the health of New Yorkers down the road by discouraging smoking. I hope that's true. I hope that works out. I have a concern about raising that tax.

Nevertheless, I will vote in the affirmative because of all the good measures that are in this bill.

Thank you, Madam President.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Thank you, Madam President.

I would like to know if Senator

Bruno or Senator Hannon would yield to a question regarding the bill.

THE PRESIDENT: Senator, do you yield?

SENATOR BRUNO: It depends on how hard the question is.

SENATOR ONORATO: I don't think it's hard.

THE PRESIDENT: That sounds like a yes.

SENATOR ONORATO: Senator Bruno, I'm a little concerned -- I intend voting for the bill. But I'm very perplexed about the aspect as to why we are not taxing the cigars and also we're not taxing loose tobacco or smokeless tobacco now.

Because it reminds me, back in World War Two when Lucky Strikes and Camels went to war and we couldn't get cigarettes around, we started rolling our own. Now, if everybody starts rolling their own, we're going to be losing the revenue that we're hopeful will pay for a lot of the benefits that are coming from this.

Do we intend revisiting this bill

again to include cigars, smokeless tobacco, and tobacco for pipes that you can roll into cigarettes, which are all cancer-causing products?

SENATOR BRUNO: Madam President, it's my understanding that if all of those things were included it might produce $18 million, $20 million in revenue, which is substantial. But to collect it, to enforce it, and to do all the kinds of things that would be necessary to implement it would take a lot of that revenue.

And so when this was constructed - because frankly there were people advocating to put it in -- that was the answer. And those advocating against made the case strongly enough so it was left out by way of compromise. But that's the answer as to why it's not in.

Can we revisit that? Certainly. There are, you know, a number of things that I think will end up getting revisited as we move into this coming session and the session after.

THE PRESIDENT: Senator Rath.

SENATOR RATH: Thank you, Madam President.

Much has been said, and I will not repeat so much of what has been said about the good points and the troublesome points. But Senator Dollinger raised a point that I think he and I have spoken about over the years. And Senator Meier spoke as a representative of -- as a county executive representing a county government.

And of course I came from county government, and I think most of us who came from county government know that we labored long and hard to attempt to reduce unfunded mandates, to scale them back, to not have them happen to us. We looked for bipartisan efforts at welfare and Medicaid reform. We struggled mightily with that for years. Sent resolutions to the State Legislature, don't know what happened to them.

But I guess we did finally manage to get the attention of some people who have certainly, along with the federal government, managed to get welfare to some extent tamed.

The next phase we are at now, at

the next phase. And it's very troublesome to county governments when they see us make suggestions like this. Do they not want to help the people who are ill and need the help, the coverage? Of course not. They're good guys, they're good men and good women. But we have a very delicate balance, and I don't think we've addressed that.

And as chairman of the Local Government Committee, I would say that if anyone has been remiss, maybe I have been remiss. Maybe I should have taken on that tiger the first thing I came into this legislature six years ago. But I intend to do it now. I intend to take a look at the balance between who levies the taxes and collects them, who provides the services and who takes credit for the tax cuts.

Because I think therein lies the rub. Who wants to be the good guy and who wants to make someone else pay for it while they're taking credit for being the good guy? Well, the local governments want to do it, the state governments want to do it, and I would even suggest the federal government has been

known at times to dip into that pot.

And so I think we've got to look at what I consider to be a very important balance. Because we can't take with one hand and give away with the other, and we can't have property taxes so high that businesses move out. Because then, as Senator Meier said, people are getting off of welfare but if the businesses aren't there, where are the jobs going to be there for them?

It's not a simple process. We've got a bill here that's going to do a lot of good things. I will support the bill. But I will not put, as Senator Dollinger said, that piece of stale candy back in the box. I should have been looking at it much more faithfully and with a lot more determination earlier.

I intend to join with Senator Meier and hope that there will be other colleagues who will want to take a look at what I consider the partnership between the local governments and the state government.

Thank you.

THE PRESIDENT: Senator

DeFrancisco.

SENATOR DeFRANCISCO: So far the debate seems to be unanimous. Everybody is voting yes, and everybody doesn't like parts of the bill.

The difficulty on my part with respect to this bill is the concept of taxing a specific industry because we feel that people should not do a certain thing -- making policy by taxation. There's just something basically philosophically wrong with that. People don't smoke because they love to smoke. Most of them are addicted to it. And to force an additional tax in order to change policy, to change people's minds, I'm not so sure that's the best way to do things.

For example, we have warnings all over cigarettes. You could put tumors on cigarettes and these people would still smoke, because they're addicted to it. So adding a tax isn't going to stop them from smoking, in my judgment, and it's not going to arrive at the policy that we're really trying to arrive at.

As far as the revenues that we're

going to generate, we spent years trying to get rid of the so-called Cuomo tax on real property, transactions over a million dollars. Because once it went in, those transactions almost stopped, and the revenues went down incredibly low.

With the additional tax, there are other alternatives -- they'd either go to Indian nations, buy bootleg cigarettes. One letter I got showed that every truck that comes into New York State from Virginia could make a $65,000 profit because of the savings in taxes. And don't think that people aren't going to do that.

So those who are trying to save by this policy are really not going to be saved at all. The only losers will be our own convenience stores, our own stores that have to pay taxes, unlike some of the other sources, the bootlegging and also the Indian nations. So this really bothers me an awful lot.

Also, we're relying on funds from a tobacco settlement. We're also relying on funds from this increase in taxes. I will

guarantee you that neither of those sources of revenue will be the amount that we're relying on. There's only a certain point in time that tobacco companies are going to be able to continue paying huge settlements without going bankrupt. Not that that might not be a good idea from a social standpoint. But the fact of the matter is the revenues aren't going to be there that we're relying on, so we're going to be back to the drawing board again, trying to fill various holes.

The counties, we've all talked about the counties, an unfunded mandate. That's also an important point. But, like everybody else, you can't just look at one of these pieces in a vacuum, because they all are interchangeable. And what's more important, the policy of having people insured and having people get health care that aren't getting health care right now by maintaining hospitals that are now caring for the poor? I mean, you've got to strike a balance in each one of these situations.

And I guess I have to strike the balance in favor of the bill, and despite all

of these provisions that really bother me for the various reasons that we've talked about.

The counties get a benefit that has been mentioned. But I think it's more significant than has been emphasized. We've got the cost-containment provisions now for three years. Last year we had one quarter when we didn't have cost containment, and they lost millions and millions of dollars. They at least have something they can rely on over the next three years with this bill.

Senator Gentile spoke about the 8.18 percent tax, which is also a big issue in my district.

But the bottom line is if we're going to provide health care for people that can't afford it, if we're going to provide affordable insurance for people that can't afford it right now, we've got to do something, and we're at the 11th hour. Unfortunately, we're at the 11th hour.

So in balance, as everyone else, there's parts of the bill that I don't like one bit. But the benefits from this bill outweigh the bad aspects of it, and I'm going

to vote in favor of it.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

A few years ago we had a budget bill that they called the "Big Ugly." This is kind of the "Big Ugly." It's a compromise. It's got all kinds of things that people have mentioned that are obnoxious in it. The tobacco tax, I don't think it's going to fund it. The Canadian experience with raising the cigarette tax was a disaster; they had to repeal it. So many things here -- what it's doing for counties.

But let me just say, this is something we have to do. We have to step up and do it. We'll lose hundreds of millions in federal aid if this isn't done. It's a compromise. We have to get it done before the end of the year. Nobody likes voting for this, but it's something that has to be done. It has a lot of good in it. It really addresses a lot. This house and Senator Bruno has helped a lot of upstate hospitals with this legislation. There's a lot of good

there. Certainly the Health Care Plus is very, very significant.

How it's funded, these are things that we may have to be revisiting. I'm confident, as Senator Rath and as Senator Meier said, that this house and this Legislature is not going to skew the counties. We're not going to let that happen. That will have to be addressed, I think, in the near future. But reluctantly -- but most importantly, I applaud my colleagues for standing up and voting for something that has to be done.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 138. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1732, by the Assembly Committee on Rules,

Assembly Print Number 9094, an act to amend the Legislative Law, in relation to enacting the Lobbying Act.

SENATOR LACHMAN: Explanation.

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

SENATOR BRUNO: Madam President, the legislation before us deals with extending the Lobbying Commission for eight years.

We passed a bill in this house a couple of weeks ago, and that bill we thought was more comprehensive than the bill that's before us -- banning gifts, banning meals, banning entertainment, with exceptions.

This bill bans all of those things over $75. This bill also contains increased penalties, which is a good thing -- a $50,000 fine for anyone that is willful in filing any false documents, and actually a Class E felony for anyone that does that twice within five years. It has an auditing procedure that does not exist in the present law, which we think is very, very meaningful in helping this be realistic.

So, Madam President, the only way

that we can presently extend the Lobbying Commission, which sunsets December 31st, is by passing this legislation. With that in mind, and with the aspects in this bill that are pluses in terms of the controls that are perceived as necessary to deal with lobbying in this state, I am urging my colleagues to support this.

And I at the same time, Madam President, reiterate on behalf of our conference here that we passed a ban on all meals, all gifts, all entertainment, and we are going to voluntarily abide by that ban. So we will have the best of a bill that extends the Lobbying Commission for eight years, does all of the things that are good that are in this piece of legislation, and at the same time dealing with an issue that has to do with public perception as relates to state officials.

Thank you, Madam President.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Madam President, the same thing.

(Laughter.)

SENATOR CONNOR: I'll be voting for the bill for the reasons Senator Bruno put forth. The simple fact that it's the only bill that can become law by the end of the year and keep the Lobbying Commission going.

And as a Lobbying Commission bill, it's not bad. It has a lot of good features to tighten up that system.

With respect to the actions this house took two weeks ago, I will not extend today, because it is a special session -- at that time I had noticed a rules change to be voted on for today. I haven't brought that forth and won't, because there are a lot of members missing and obviously it's a special election. I know a number of members here are excused, in both houses, that were out of the country and couldn't get back in time. And I know some of the ones on this side of the aisle want to be present for that discussion and vote.

So I will be, when we return in January, filing a notice to bring on a rules change for early in January to embrace effectively what both conferences have done

voluntarily. And in the meantime, certainly the Senate Democrats will continue as well as to observe the voluntary ban on meals, with the exceptions as set forth in the legislation that this house passed previously.

So that said, I urge all my colleagues to vote for this bill before us.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Thank you, Madam President.

I echo Senator Connor's remarks. I also want to say that I feel that the bipartisan bill that was adopted in this chamber a couple of weeks ago is far superior to the bill that will be adopted this evening.

Will the sponsor of the bill yield for a question or two? Thank you kindly.

THE PRESIDENT: Senator Bruno, do you yield?

SENATOR BRUNO: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator Lachman.

SENATOR BRUNO: This, by the way, is an Assembly Bill. We don't have a sponsor

in this house.

SENATOR LACHMAN: I understand. I understand.

SENATOR BRUNO: So it's before us; I will attempt to answer your questions. And if I can't, we'll call the Speaker.

(Laughter.)

SENATOR LACHMAN: Okay. And if he can't?

Just for the process of elucidation, the original S6184, which has your name on it, Senator, provides that nothing in the chapter precludes a locality from enacting a more stringent set of lobbying regulations. The A9094 bill deletes this provision.

Now, aren't we in essence interfering with local government if the local government wants to enact provisions in relation to lobbying that is stronger than this bill?

SENATOR BRUNO: Thank you, Senator.

They still -- we are not stepping on the toes of localities. Localities are in

this, they have all of the same powers that they presently have. And the aspects of this bill do not become effective for municipalities over 50,000 till a year from now. And in the interim, the bill that we have before us creates a study commission to study the ramifications on the localities of this legislation, because it doesn't become effective for a year.

So if there are any shortcomings, if there are any problems that we are not presently aware of, we'll be able to deal with them within that year.

SENATOR LACHMAN: On the bill, Madam Chair.

THE PRESIDENT: Senator Lachman, go ahead on the bill.

SENATOR LACHMAN: I think that, as I said before, this bill that we're voting on late this afternoon, early evening, is inferior to the bill that we voted on a couple of weeks ago, which would have been superior if the Democratic amendments had been adopted. But we'll go into that, as Senator Connor said, in the next session.

I feel very strongly that this bill does not prohibit, to the extent that it should, the offering of gifts to public officials. It makes a minor change in that, and the major change that we sought is absent.

I also believe strongly, following that line, that if there is no strong gift ban in any lobbying bill, then it is not really a strong bill. And it puts me in a very difficult position, because I would perhaps be voting against this bill. Because I look upon this bill not only as a bill to protect us from what occurred recently with Philip Morris -- and there will be other Philip Morrises in the future.

But I also look upon a bill that relegates lobbying not as a temporary measure but as a permanent measure. And I made this point two weeks ago. This temporary commission on lobbying should be made a permanent commission on lobbying. And what is this nonsense of having a sunset provision to a bill against lobbying? Does this mean that in five, six, seven, eight years from now we'll revisit the bill and we'll say it's

permissible to have these lobbyists do what they are doing now?

And primarily, even though this is not part of the lobbying bill, I feel very, very strongly that a strong lobbying bill is a first step in the direction of campaign finance reform.

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

SENATOR LACHMAN: And this is not a first step in that direction.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: It sounded as if you were asking a question on why we can't permanentize, and I was just going to answer that question.

Constitutionally, we cannot make that commission permanent. It's a constitutional prohibition. If there wasn't a constitutional prohibition, we would have made it permanent in our bill, the Speaker would have made it permanent in his bill. That's why we have eight years, and no other reason.

THE PRESIDENT: Senator Lachman.

Senator Bruno, do you continue to

yield?

SENATOR BRUNO: I do, Madam President.

SENATOR LACHMAN: I just want to say, Senator Bruno, I'm only an absent-minded professor, I'm not a legal scholar. But I have been told by other legal scholars that there are different interpretations of that provision. And perhaps if we revisit it in the next session we can find a loophole in this area, as we have found loopholes in other areas, to make it a permanent commission.

At the same time, let me conclude by saying that I look upon lobbying reform as a first step towards campaign finance reform. This is not a first step towards campaign finance reform. In doing what we're doing today, we're taking one step backward and a step and a half forward.

I have no alternative, since this will go into oblivion, any type of lobbying bill, at December 31st, but to vote for it. But I do hope we can revisit several of these provisions and strengthen it in a bipartisan fashion in this New York State Senate in the

future.

Thank you.

THE PRESIDENT: Thank you, Senator Lachman. Also for yielding.

Senator Morahan, do you wish to be heard on the bill?

SENATOR MORAHAN: Yes, I do, on the bill.

Madam President, I too want to express some dissatisfaction with the bill that's in front of us. And I had hoped that the bill that we had passed in our last meeting would have been the one that would have been sustained through the process of negotiation between the Speaker and with the Governor.

It seems to me that the $25 limit was a good limit to put on gifts and dinners and that sort of thing. I really don't like to see it go to $75. I don't like taking the state agencies out of it. I think perhaps that would even be more important, to keep them in.

It's unfortunate that we don't have the bill that we wanted. But as Senator

Lachman has said, we don't have much choice. This is the only game in town. This is the only bill that we'll be able to vote on. It's hard not to vote for some lobbying bill.

Frankly, I'm not disappointed that the commission will time out. It will always give us another opportunity to make a lobbying law stronger. If it became permanent, we probably would never see it again. So notwithstanding the eight years or who will be here at the time, it will come up again.

I just think we should have had a stronger law. I like the Senate bill. I will live by the Senate bill. And I wish that we could have sustained the battle. Unfortunately, we didn't, and we have this bill in front of us. And I'll support it, but not with my whole heart.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

What a curious situation this is. Just a few weeks ago we had a shining moment in this chamber when we passed a sweeping and very thoughtful lobby reform measure. And it

certainly appeared that it would be the bar that the other house would try to climb in addressing the issue of lobby reform.

Instead, the Assembly let down the taxpayers of this state and did a tremendous disservice to the many advocates of good government, some of whom are in the chamber today and have worked tirelessly on this issue.

What we have in front of us is a mere watered-down version that really gives very faint attention to the basic concept of appearance of impropriety. It's a very simple issue that we have to face day in and day out as we do our business: Is there anything that we are doing that would create even the appearance of impropriety? If there is, the activity should be changed.

If it appears that somebody could ever question our motives when we vote on a piece of legislation, we should revisit the circumstances that led to that point in time. And that obviously includes, most basically includes, the practice of having meals paid for by lobbyists. If the public worries that

we might be making a decision because we've had a friendly dinner with somebody who picked up the tab, then we should simply not engage in that activity.

Because in this chamber, and I'm sure in the other chamber, it is the desire to serve the taxpayers of this state to the highest possible level that motivates us to run for office. We should not be besmirched by any taint, nor should any future legislators be besmirched by any taint.

Let's get this behind us. It's time for the Assembly to understand that we passed an appropriate measure, and they should not try to kid somebody that doing any less is going to still be okay. I'm embarrassed that this is all we have before us today. I will vote for it reluctantly. And I note with some amusement so many of my friends on the other side of the aisle in the other house have voted against this same measure because they were utterly disgusted that this was all they had, and they wanted the Senate Bill and they said so.

I call upon the Speaker of the

Assembly to engage in the kind of good-faith negotiations that he should have when Senator Bruno first talked with him about this measure. It was a negotiated bill that we had in this house. It should have been the same bill or an even better bill in the other house. Instead we have a lesser bill today in order to keep the Lobbying Commission alive.

I will vote aye, but I certainly hope that we will be back sometime soon with a meaningful piece of lobby reform.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President.

I agree with Senator Hoffmann, except -- with everything except the result. And that is I don't think this bill is worthy of a yes vote until it has a gift ban included in it. And I think what we ought to do is stand up for the principle that we all stood up for two weeks ago. Senator Bruno went to the table to get it and didn't get it.

What I think what we ought to do - and I know it hasn't been done before -- is

simply tell the Assembly they got the wrong view on this bill, that the right thing to do is to ban gifts. And frankly, it's consistent with a message that I've heard in this house the whole time I've been here, and that is that we should have personal responsibility.

And it seems to me that if you take that general principle and apply it to the integrity of government in the eyes of our voters, they realize that the process of influencing government is dependent upon two things. It's dependent on the conduct of those who try to influence us -- which is what this bill does. This bill deals only with the giver. It doesn't deal with the recipient.

And it seems to me if we want to restore integrity, what we have to do is what Senator Hoffmann said, put restrictions on the givers but accept some restrictions on the recipients, ourselves, in order to say to the people that the notion that we meet with and talk to people who are influencing us, attempting to influence us on behalf of their interests, that we can stand up and say we don't take their gifts.

Frankly, at least in my neck of the woods, when a stranger gives you a gift, you should be very, very suspicious of their motive. And frankly, when someone who wants to influence you gives you a gift, you should even be more suspicious of their motive.

And it's unreasonable for us to say that we have no personal responsibility in restoring the public's -- "restoring" maybe is the wrong word -- in maintaining the public's confidence in us. It seems to me that's what it's all about. We should take the personal responsibility and put restrictions on us, the recipients, the same way we now put those restrictions on the giver alone.

I would strongly suggest that this bill only provides half of the equation for maintaining the public's confidence in us and the public's confidence in the integrity of government. I will not vote for this bill without a ban on gifts to members of the Legislature. I think Senator Bruno was right two weeks ago, this house was right two weeks ago, and to vote for this bill now is wrong.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 8. This act shall take effect January 1, 2000.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, is there anything left at the desk that should be attended to?

THE PRESIDENT: No, there is not, Senator Bruno.

SENATOR BRUNO: Then there being no further business to come before the Senate, I would move that we stand adjourned, subject to the call of the Majority Leader, and take this opportunity to wish all of you a Happy New Year and a happy new millennium, and we'll see you in the year 2000. Be safe.

Thank you, Madam President.

THE PRESIDENT: On motion, the

Senate stands adjourned until the call of the Majority Leader, intervening days being legislative days.

And as president of the Senate, I wish everyone a Happy New Year and millennium.

(Whereupon, at 5:30 p.m., the Senate adjourned.)