NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 5, 2000

10:04 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

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

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

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

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Thursday, May 4th, the Senate met pursuant to adjournment. The Journal of Wednesday, May 3rd, 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 Skelos.

SENATOR SKELOS: Madam President, I believe there's a substitution at the desk. If we could make it at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 45, Senator Stafford moves to discharge, from the Committee on Finance, Assembly Bill Number 9292A and substitute it for the identical Senate Bill Number 6292A, Third Reading Calendar 885.

And on page 46, Senator Stafford moves to discharge, from the Committee on Finance, Assembly Bill Number 9503B and substitute it for the identical Senate Bill Number 6403B, Third Reading Calendar 886.

THE PRESIDENT: The substitutions are ordered.

Senator Skelos.

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

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

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: I would just encourage the members to please come into the chamber to check in so that we can start voting on bills and get on and pass the budget within a reasonable hour today. And Senator Paterson concurs.

So please come into the chamber.

THE PRESIDENT: All Senators are directed to come into the chamber, please, so we can conduct business.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

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

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: Calendar Number 560, by Senator Larkin Senate Print 5676A, an act to authorize the Commissioner of the Department of Transportation to transfer and survey.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 771, by Senator Balboni, Senate Print 7268, an act to amend the Environmental Conservation Law, in relation to the special powers.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 781, by Senator Skelos, Senate Print 5120A, an act authorizing the assessor of the County of Nassau.

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, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 782, by Senator Morahan, Senate Print 6248A, an act to amend the General Municipal Law, in relation to creating.

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

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, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 783, by Senator Lack, Senate Print 6372A, an act in relation to authorizing the disposition of surplus monies.

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

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, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 784, by Senator Johnson, Senate Print 6877, an act to amend Chapter 371 of the Laws of 1999.

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

Read the last section.

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

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 785, by Senator Morahan, Senate Print 6952, an act to amend the General Municipal Law, in relation to creating.

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

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, 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 787, by Senator Stafford, Senate Print 7208, an act to legalize, validate, ratify and

confirm certain acts and proceedings.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees, I believe there's a report of the Finance Committee at the desk.

THE PRESIDENT: Yes.

The Senate will come to order.

We'll return to reports of standing committees.

The Secretary will read.

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

Senate Print 1B, by Senator Bruno,

an act to amend the Tax Law;

6291A, Senate Budget Bill, an act to amend the Education Law;

6400A, Senate Budget Bill, an act making appropriations for the support of government, Legislature and Judiciary Budget.

And Senate Print 6405B, Senate Budget Bill, an act making appropriations for the support of government, Education, Labor and Family Assistance Budget.

All bills ordered direct to third reading.

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

Senator Skelos.

SENATOR SKELOS: Madam President, we're waiting for messages. They should be here shortly, and then we'll continue with the calendar.

THE PRESIDENT: Thank you, Senator.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time call up Calendar 885.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 885, Assembly Budget Bill, Assembly Print Number 9292A, an act to authorize the Dormitory Authority of the State of New York.

SENATOR BRUNO: Is there a message at the desk?

THE PRESIDENT: Yes, there is, Senator.

SENATOR BRUNO: Move we accept the message.

THE PRESIDENT: The motion is to accept the message of necessity. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we now call up Calendar 886.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 886, substituted earlier today, Assembly Budget Bill, Assembly Print Number 9503B, an act making appropriations for the support of government, Transportation, Economic Development and Environmental Conservation Budget.

SENATOR BRUNO: Is there a message at the desk?

THE PRESIDENT: Yes, there is, Senator.

SENATOR BRUNO: Move we accept the message.

THE PRESIDENT: The motion is to accept the message of necessity. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message of necessity is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain your vote?

SENATOR DUANE: No, I'll wait until the roll is done.

THE PRESIDENT: Thank you, Senator.

The Secretary will announce the results.

THE SECRETARY: Ayes, 51. Nays, 2. Senators Duane and Schneiderman recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Madam President. I'd with unanimous consent like to

be recorded in the negative on S6292A as well.

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

For purposes of the record, Senator Duane, your vote will be recorded in the negative on the Assembly bill, which was substituted for the Senate bill. I thought you'd be in agreement with that.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. To explain my vote.

THE PRESIDENT: To explain your vote, Senator.

SENATOR SCHNEIDERMAN: There are a lot of good things in the bill that just came to the floor relating to transportation. However, I -

THE PRESIDENT: Senator, excuse me for interrupting. We're not on a roll call yet, so we'll -

SENATOR SCHNEIDERMAN: Oh, we're not? I apologize.

THE PRESIDENT: Apology accepted.

The bill has already been passed.

SENATOR CONNOR: Excuse me, Madam President.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Can Senator Schneiderman have perhaps unanimous consent to explain his vote for a minute on the last roll call?

THE PRESIDENT: Without objection, he may explain his vote after the roll call.

You may proceed, Senator.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

As I was saying, there are some very good things in this transportation bill. I am constrained to vote no because of the provisions relating to the capital plan for the Metropolitan Transportation Authority.

I realize that we are in the process of authorizing bond refinancings that are critical to the MTA's 2000-2004 capital plan, which also was approved in another context yesterday by our representatives.

In my view, the MTA's capital plan is a disaster for the City of New York, for

all the working people of the City of New York and for all the businesses in the City of New York. It is a plan that depends on $25 billion in refinancing and new bonds with no source of revenue other than the tokens of the straphangers. It is a lead balloon that will not fly.

In the last eight years, the actual state dollars for New York City's buses and subways have been cut by almost 25 percent. That's why we were having surpluses and funding all sorts of other good programs. And I think it is a tremendously bad example of shortsightedness that this Legislature and the Governor and the Mayor of the City of New York are not putting the money where we need it for future economic growth.

I am joined in my concerns not just by my old colleagues at the Straphangers Campaign, but I would urge that everyone look at the work of the Empire State Transportation Alliance -- it is opposed to this capital plan, urging us to take action -- which includes the New York Building Congress, the League of Conservation Voters, the Association

for a Better New York, the Long Island Association -- essentially every group concerned with the business and economic future of the City of New York.

I vote no. And I think if we do not take action to intervene and change the provisions of this transportation bill within the next year, we are going to be faced with large fare increases, service cutbacks, and the decline of our transit system back to the levels we were in in the 1970s. That's bad for business and bad for the working people of this state.

And I would request unanimous consent to be recorded in the negative, without objection.

THE PRESIDENT: Without objection, Senator Schneiderman, you will be so recorded as having voted in the negative on Calendar 885.

Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Madam President. I just want to rise to make, I guess, a vote of clarification, if I may. If I may have unanimous consent.

THE PRESIDENT: You may proceed.

SENATOR DUANE: I'd like to be recorded in the negative on Senate Print 885.

THE PRESIDENT: Senator Duane, as I already clarified to you, that bill was substituted for the Assembly bill already.

SENATOR DUANE: Calendar Number 885, then?

THE PRESIDENT: Calendar Number 885. And you have been so recorded as voting in the negative on Calendar Number 885. All right?

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time call up Calendar 887.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 887, Senator Bruno moves to discharge, from the Committee on Finance, Assembly Bill Number 11006 and substitute it for the identical Senate Bill Number 1B, Third Reading Calendar 887.

THE PRESIDENT: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 887, by the Assembly Committee on Rules, Assembly Print Number 11006, an act to amend the Tax Law.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, is there a message at the desk?

THE PRESIDENT: Yes, there is, Senator.

SENATOR BRUNO: Move we accept the message.

THE PRESIDENT: The motion is to accept the message of necessity. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message is accepted.

Read the last section.

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

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, on this bill, which is the tax bill that pertains to the budget, I want to explain my vote.

Last year we introduced a Senate 1, the college tax deduction. And to my knowledge, this is the first in the country where any state will allow up to $10,000, a tax deduction for students that go to any college in the country, with an unlimited income level.

So that is the right message for the people in New York State, that we encourage people to go to college and we recognize the hardship that it is for families.

This tax bill contains about $1.5 billion, and it includes things like the elimination, over a period of years, of the gross receipts tax, first on manufacturing and retailing and eventually to consumers. That's about almost $500 million that will remain with businesses and with people in this state. The college tuition deduction is about

$200 million that stays with people.

There is a whole litany of tax cuts -- Power for Jobs, helping to continue to stimulate the economy of this state. And that's a piece that is worth about $240 million.

And when we talk about those reductions, those are dollars that stay with people, they stay with businesses. And that's why New York State now is in the forefront in job creation, economic development.

And that's why we in New York, with the leadership of Governor George Pataki, assisted by his Lieutenant Governor, partnered with the Speaker and my colleagues here in the Senate, we have continually led the country in tax cuts. And we in this chamber can be proud that we have passed more tax cuts, year after year, than all other 49 states combined.

And that's why New York State now is in the forefront in economic development and job creation.

Thank you, Madam President.

THE PRESIDENT: You're welcome, Senator Bruno.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President. To explain my vote.

As Senator Bruno pointed out, there are significant tax cuts in here. And we on this side of the aisle are delighted, absolutely delighted to see it.

We've done significant things. We've enacted a number of things which members of this conference have for many years advocated for, have advocated in the ways Minorities advocate, by speaking out on the floor, by, oh yes, those nasty motions to discharge in past years and amendments and so on. These are the tools the Minority has to try and get the attention of the Majority, so to speak, and get some focus on issues.

And in the last five and a half years, as I said, when I first became Minority Leader and Senator Bruno was first Majority Leader, I wanted to join with the Majority in a tax cut program. There hasn't been a tax cut bill on this floor in the last five and a half years that I haven't voted for and that the majority of the Democrats haven't voted

for, as well as certainly the Republican Majority.

So that's a good partnership we've had. And as I've said before, imitation is the sincerest form of flattery. Or, as the former speaker, the former great speaker - not Newt -- Tip O'Neill once said, "There is no limit on what you can accomplish in politics if you're willing to let someone else take credit for it." So we've feel we've accomplished much.

And certainly Senator Bruno is to be congratulated on the college tuition tax deduction. It is, as he says, significant. Nationally significant.

We have an expanded TAP program that is good. Meaningful debt reform, we had a debate yesterday. It's not this house's fault, I guess, but we are disappointed we haven't closed that back door.

Eliminating the gross receipts tax is something that we have proposed in budget amendments for the past six or seven years. We're delighted to see that happen now. It's so important to job development and it's so

important to the upstate economy, which if - I guess, to fulfill my role, I disagree with Senator Bruno about one thing. The state overall is doing well. The upstate and western New York economy needs a lot of help. It's really downstate and the metropolitan area where we've had tremendous job growth. It hasn't been shared by all New Yorkers.

Eliminating the marriage penalty. My only regret is we didn't eliminate it. We almost eliminated it. There's still a little bit left there. But Senator Dollinger is certainly to be congratulated for the e-petition drive earlier this year, for getting that issue on the voters' minds and for bringing it forward.

Even in here in this budget we're making air travel in New York State more competitive and affordable. That's something that former Senator Abate, from this side of the aisle, advanced five or six years ago.

EPIC. EPIC, the only regret is the start date, not this house's fault. Something Senator Gentile has been speaking out on for these past four years.

So we're delighted that -- we're delighted that occasionally when the Majority runs out of ideas they're willing to take the good ideas that emanate from the Minority, embrace them, make them their own and move forward.

So we say go -- and, by the way, I shouldn't forget the beer drinkers. We have a slight decrease here for beer drinkers. On behalf of unnamed colleagues on this side of the aisle, we thank you, Senator Bruno. That's significant for many of our constituents.

So I'm delighted to vote aye, Madam President.

THE PRESIDENT: Senator Wright.

SENATOR WRIGHT: Madam President, to briefly explain my vote.

I would like to start by extending my congratulations and commend Senator Bruno for his leadership in the energy and telecommunications arena. By partnering with the Governor, as you go through this bill you will find a series of tax cuts directed to the energy industry -- the gross receipts, the gas

importation tax, and, last but not least, yesterday resolution of the sales and compensating use tax problem.

When you take that, couple it with the tax credits that you'll find in the telecommunications arena, couple that with Power for Jobs, you'll find that the Senator, under his leadership, has provided a level playing field for competition, reduced costs, all of which will enable New York to be far more competitive and encourage the energy and telecommunications industry to locate in this state, which in turn will maintain and grow jobs.

So, Senator Bruno, thank you very much for your help in this arena.

THE PRESIDENT: Senator LaValle.

SENATOR LAVALLE: Thank you, Madam President.

I too would like to rise and congratulate our Majority Leader, Senator Bruno, for being so focused on higher education, with -- not only with the tuition tax deduction that is so critical and so important to lead the nation, but also on the

Tuition Assistance Program. This is the first significant change in 25 years.

That, coupled with the SUNY scholarship program, truly in this budget makes the dream of every citizen of New York State possible to achieve, a higher education.

So once again, we started a number of years ago with the College Choice Program, the savings program which people are putting away. And in this session we add two incredibly important components with the tuition tax deductibility and the enhancements of the Tuition Assistance Program. It's a win-win for the students and the parents of New York State.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Thank you, Madam President. Just very briefly.

My distinguished colleague from Manhattan, Senator Connor, was talking about the state of the upstate economy. My district runs from roughly the Utica area to the Canadian border, which I think qualifies as upstate. The Utica-Rome area last year experienced job growth greater than the state

and national average, thanks to the policies incorporated and extended in this bill we're about to pass, thanks to the Governor's leadership, the leadership of this house.

Things upstate are getting better. So some folks may need to change their tune.

Thank you, Madam President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. I'll continue the spirit of brevity.

I want to applaud two things. One is I think that New York State, which we have often talked about being a leader in many areas, has reestablished its leadership. We are ahead of the United States Congress in the repeal of the marriage tax penalty, or at least the substantial reduction of it. And I think we're ahead of them with respect to the tuition tax credit that Senator LaValle and certainly Senator Bruno talked about.

I think New York has shown that we can innovate in our tax cuts, drive them to address middle-class needs, needs to build the

intellectual infrastructure of New York so that we secure our future not just with roads and bridges but by building people's brains. It's the brain power that will carry New York into the 21st century.

And I'll conclude, Madam President, on specifically with respect to the marriage tax penalty. I appreciate the Majority Leader and the Speaker agreeing with the Governor to reduce this. I think this is a sign that we can not only keep our word but, when we put out the e-petition and we brought that before this Senate, I think that's the new wave of democracy.

The next generation of democracy will be more participation by people electronically. And that, I think, is an important harbinger of the future of what government will look like.

And I applaud all of my colleagues today. I think this is a good bill. I think it reestablishes New York's preeminence as the innovator in governmental thinking.

THE PRESIDENT: Senator Coppola.

SENATOR COPPOLA: Madam

President, it's wonderful to hear all these lovely remarks today and all the accolades that are going around the room. But I want to remind everybody that we just took the monkey off of our back with the gross receipts tax. Now the utility companies can't point the fingers at the politicians for the high utility costs in New York State.

All our major utility companies that supply electric in New York State are still not doing their job. We are the second highest state in the country with the high utility rates, outside of Alaska.

So I would hope that each and every one of us reminds the utility companies to start doing their job and lowering the electric rates in New York States. They've caused us a tremendous amount of problem in New York State, and the facts prove me right.

So I would hope that after we get through with the gross receipt tax today that we put the onus on the utility companies in this State of New York. And that's where the problem lies, and that's where the problem has been.

Thank you, Madam Chair.

THE PRESIDENT: Senator Bruno, to close debate.

SENATOR BRUNO: Madam President, for clarification, we keep talking about the marriage penalty, marriage tax penalty. This is not a penalty for being married on this tax.

(Laughter.)

SENATOR BRUNO: This is the elimination of that tax penalty that used to exist. I just wanted that for clarification, because it's been said many, many times: the marriage tax penalty. Not a penalty. It's relief for people who are married with the tax table.

Thank you, Madam President.

(Laughter.)

THE PRESIDENT: Thank you, Senator Bruno, for that important clarification.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time call up Calendar 888.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 888, Senator Stafford moves to discharge, from the Committee on Finance, Assembly Bill Number 9291A and substitute it for the identical Senate Bill Number 6291A, Third Reading Calendar 888.

THE PRESIDENT: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 888, Assembly Budget Bill, Assembly Print Number 9291A, an act to amend the Education Law.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, is there a message at the desk?

THE PRESIDENT: Yes, there is, Senator.

SENATOR BRUNO: Move to accept the message.

THE PRESIDENT: The motion is to accept the message of necessity. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we call up now Calendar 889.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 889, Senator Stafford moves to discharge, from the Committee on Finance, Assembly Bill Number 9500A and substitute it for the identical Senate Bill Number, 6400A, Third Reading Calendar 889.

THE PRESIDENT: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 889, Assembly Budget Bill, Assembly Print Number 9500A, an act making appropriations for the support of government, Legislature and Judiciary Budget.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

THE PRESIDENT: Yes, there is, Senator.

SENATOR BRUNO: Move to accept the message, Madam President.

THE PRESIDENT: The motion is to accept the message of necessity. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up Calendar 890.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 890, Senator Stafford moves to discharge, from the Committee on Finance, Assembly Bill Number 9505B and substitute it for the identical Senate Bill Number 6405B, Third Reading Calendar 890.

THE PRESIDENT: The substitution

is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 890, Assembly Budget Bill, Assembly Print Number 9505B, an act making appropriations for the support of government, Education, Labor and Family Assistance Budget.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

THE PRESIDENT: Yes, there is, Senator.

SENATOR BRUNO: Move to accept the message.

THE PRESIDENT: The motion is to accept the message of necessity. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message is accepted.

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, 55. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, yesterday we in this house started the process to pass a budget for the people of this state. We have now proudly completed that process with the passage of this bill at this hour, in daylight, late in the morning. And it now goes to the Governor.

So I want to thank my colleagues here, I want to thank the Speaker and his colleagues in the Assembly, especially the Governor for his leadership in this process.

This budget that we send to the Governor is one of the best budgets that we have passed on behalf of the people of this state. And I am confident that it will continue the economic development, the prosperity, the job creation, and all of the other good things that have been happening to

this people of this state over the last five and a half years.

Thank you, Madam President.

(Applause.)

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, can we just stand at ease for just a very short period of time while we go through the rest of what should be done this morning.

THE PRESIDENT: The Senate stands at ease.

SENATOR BRUNO: Thank you.

(Whereupon, the Senate stood at ease at 10:52 a.m.)

(Whereupon, the Senate reconvened at 10:55 a.m.)

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, can we ask for an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee, Room 332.

(Whereupon, the Senate stood at

ease at 10:56 a.m.)

(Whereupon, the Senate reconvened at 11:09 a.m.)

ACTING PRESIDENT McGEE: Senator Skelos.

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

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills direct to third reading:

Senate Print 6077, by the Senate Committee on Rules, an act to amend the Social Services Law;

7788A, by the Senate Committee on Rules, an act to establish special equalization rates;

7837, by Senator Velella, an act to amend the Social Services Law and the State Finance Law;

And 7838, by Senator Padavan, an act to amend the Education Law.

All bills ordered direct to third reading.

SENATOR SKELOS: Move to accept the report.

SENATOR McGEE: The motion is to accept the report of the Rules Committee. All in favor say aye.

(Response of "Aye.")

SENATOR McGEE: Opposed, nay.

(No response.)

SENATOR McGEE: The Rules report is accepted.

SENATOR SKELOS: Madam President -- Madam President, if we could call up Calendar Number 861.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 861, by the Senate Committee on Rules, Senate Print 7788A, an act to establish special equalization rates.

SENATOR SKELOS: Is there a message at the desk?

THE PRESIDENT: Yes, there is, Senator Skelos.

SENATOR SKELOS: Move to accept.

THE PRESIDENT: The motion is to accept the message of necessity. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message is accepted.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Please recognize Senator Onorato for an explanation.

SENATOR ONORATO: I'd like a brief explanation of the bill, please.

ACTING PRESIDENT MEIER: I'm sorry, Senator, I didn't hear you.

SENATOR ONORATO: I'd like a brief explanation of it.

THE PRESIDENT: I'm sorry,

Senator Dollinger -

SENATOR DOLLINGER: Yes, Madam President. Senator Onorato would like an explanation of the bill, please.

Thank you, Madam President.

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

SENATOR WRIGHT: Thank you, Madam President.

This bill will establish a one-year temporary freeze of equalization rates. And it's a direct result of changes that are occurring within the energy industry with the sale of generating facilities and, more importantly, the corresponding changes that BORPS has recommended to local governments in terms of their assessing practices.

The concerns are that by virtue of changing some of the methodology when we're in a position that the industry itself is very much in flux at this point in time and very much in transition, it will have an adverse impact on a number of local governments because of a shift due to the change in

assessed values and the corresponding equalization rates used for apportionment purposes relative to school and county tax levies.

We had a experience in the City of Oswego a year ago where we had an equalization rate change from 180 percent to 100 percent, with an 80 percent shift in the taxes from one jurisdiction to another. It's not an experience I would encourage anyone to go through.

This bill is intended to provide mitigation to that situation, as a number of the municipalities are facing a like change this year. This provides for a freeze, allows things to stabilize within the market and the changes within the assessing practices, which in turn we believe will accrue to the benefit of the local governments and the local taxpayers.

THE PRESIDENT: Senator Coppola.

SENATOR COPPOLA: Yes, Madam President. Would the sponsor yield -

THE PRESIDENT: Does the sponsor yield?

SENATOR WRIGHT: Certainly.

THE PRESIDENT: You may proceed, Senator.

SENATOR COPPOLA: Senator Wright, does this reflect on the nuclear plants in New York State?

SENATOR WRIGHT: Does it reflect on the nuclear plants in New York State? At this point there have been no sales concluded on the nuclear facilities in New York State, so there have not been significant reductions in those assessed values.

Now, there have been negotiated reductions where the local governments have entered into agreements with Niagara Mohawk whereby they would see a reduced assessment. Dependent upon the size of that negotiated reduction, this could apply to them for one year in preventing the shift of that equalization.

SENATOR COPPOLA: On the bill.

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR COPPOLA: Specifically, Senator Wright, would this be for Nine Mile 2

sale?

SENATOR WRIGHT: No, this is not specifically directed at the Nine Mile 2 sale. That sale has not been completed. And as a result, there have not been new values established for that.

That's -- that assessed value I don't believe has been reduced. It's upon the roll. There are negotiations that have gone on with the local governments relative to that.

So it's not intended nor targeted to any one utility. In fact, it's intended to be statewide. There are some 167 different parcels across the state of New York that have either sold or are in the process of sales by virtue of divestiture of generating facilities. That would include hydros as well as fossil fuels.

SENATOR COPPOLA: Thank you, Senator.

My comment on the bill, Madam President. The fact of the matter is Nine Mile 2 is being proposed for sale of $150 million. It was built to the tune of

$6 billion. So right now we'll be helping Niagara Mohawk when we pass this piece of legislation. The fact of the matter is they had budgeted Nine Mile 2 for $350 million, and it cost them $6 billion. And now they're going to sell it for $150 million. And then we get blamed for the economy in western New York.

I'll support this because it includes other localities. But I just wanted to point out the mismanagement of some of the utility companies in the State of New York.

And those are facts, when you budget $350 million and then it goes up to $6 billion and now they're going to sell it for $150 million and they're asking us to help them lower the valuation of those plants.

Thank you, Madam Chair.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Madam President, will the sponsor yield to a question, please?

THE PRESIDENT: Does the sponsor yield?

SENATOR WRIGHT: Yes, I will,

Madam President, through you.

THE PRESIDENT: You may proceed, Senator Onorato.

SENATOR ONORATO: Senator Wright, how does this affect the City of New York, which is now in the process of Con Edison and Brooklyn Union selling off quite a bit of their utilities in the immediate area of Queens and New York City?

SENATOR WRIGHT: It will not affect them, because both the City of New York and Nassau County, that use class-assessing practices, are excluded from this bill.

SENATOR ONORATO: Thank you.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Wright.

SENATOR WRIGHT: To explain my vote. Thank you, Madam President.

THE PRESIDENT: Senator Wright, to explain your vote.

SENATOR WRIGHT: To explain my vote.

There are a couple of points that I would like to make. Number one, this bill is not intended to provide any relief to any utility. It's intended to provide relief to the taxpayers, real property taxpayers of a number of jurisdictions across this state.

Secondly, so that we have the facts accurately reflected on the record, the sale of Nine Mile 2 has not been completed at $150 million; in fact, it has been recently rejected by the PSC as recently as two weeks ago, and now they are entertaining an open competitive bid process that will be used to establish.

So once again, the Public Service Commission and the State of New York have looked out for the interests of the taxpayers of this state and are now providing a procedure that will ensure that taxpayers benefit.

Thank you.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if you could call up Calendar Number 891.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 891, by Senator Velella, Senate Print 7837, an act to amend the Social Services Law and the State Finance Law, in relation to enacting the Quality Child Care and Protection Act.

SENATOR MONTGOMERY: Explanation.

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

THE PRESIDENT: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

THE PRESIDENT: The motion is to accept the message of necessity. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message is accepted.

Senator Velella.

SENATOR VELELLA: Yes, Madam President. This bill has various provisions in it which will improve the daycare quality and safety of children that are entrusted to daycare workers within the state of New York.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. If the sponsor, Senator Velella, would yield for a question.

THE PRESIDENT: Senator Velella, do you yield?

SENATOR VELELLA: Certainly, Madam President.

THE PRESIDENT: You may proceed, Senator Montgomery.

SENATOR MONTGOMERY: Thank you.

Senator Velella, I am very pleased that you have introduced legislation which we anticipate will help to improve the quality. And there are a couple of areas that I would

take some exception to, and one of them certainly is the issue of the fingerprinting.

Now, I understand that the legislation that you have here will require fingerprinting of every single individual who is currently involved with childcare, all of their family members, and any person who is volunteering to work in a childcare setting or -- either group daycare or family care; is that correct?

SENATOR VELELLA: No, Senator, that's not accurate.

SENATOR MONTGOMERY: Okay.

SENATOR VELELLA: We would not require -- let me say first that this is a program bill that I introduced at the request of the Governor.

And this is his program bill to try and deal with some of the issues of daycare where both you and I and almost everyone, I believe, in this chamber is very much concerned about the people that we entrust our children and our grandchildren to during the day when the family goes out to work and help support them or whatever the purpose may be.

But no, we are not requiring that everyone related to a daycare worker be fingerprinted. That would be a little bit, I think, out of order. What we are requiring is that when a daycare facility is based in the home, that the people residing in that home should be fingerprinted.

And that is as a result of a case where a very dedicated woman was doing a daycare program within her home and her 18- or 19-year-old son had been a convicted rapist and raped one of the children.

Now, that was the extent that we went to. If you are living in the home where daycare and children are placed, those people residing in the home where the children are should be fingerprinted. Not if you're in a daycare facility and you work there, that your child or your son or your daughter who lives in your home on the other side of town should be fingerprinted.

It's only limited to where you have daycare in the home and you have family living in the home where the children are, that those people exposed to the children ought to be

checked for that kind of a background.

SENATOR MONTGOMERY: Senator -

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes. If Senator Velella would continue to yield.

SENATOR VELELLA: Yes.

THE PRESIDENT: Senator, do you yield?

You may proceed, Senator Montgomery.

SENATOR MONTGOMERY: All right, thank you.

Senator Velella, you also talk about electronic monitoring. Could you describe what that means? And is there any age limit? Is this every child must be electronically monitored, or is there -- are infants monitored as well? Does this relate to every child in the -

SENATOR VELELLA: Hang on a second.

SENATOR MONTGOMERY: Okay.

SENATOR VELELLA: The purpose of this -- and if you read the section, it would

explain it to you, Senator -- is that we don't want daycare workers simply relying on electronic monitors for the children entrusted into their care. So that a daycare worker cannot have a roomful of children, put on a monitor and walk out. That cannot be the exclusive means of supervising the child.

And that's prohibited right in page 6, section B, lines 10 through 12, where it cannot be the sole means. And that was the purpose of putting that in there, so that people would not be able to have large numbers of children supervised only by an electronic monitor.

SENATOR MONTGOMERY: Senator Velella, my question was, what is this electronic monitoring? What does that consist of? Who provides the electronic equipment?

SENATOR VELELLA: The intent here is not the same as you would think of a convicted felon who is bound in their house and has an ankle bracelet on or a wrist bracelet on that beeps when they go out.

Electronic monitors might be the type that, very simply, a mother might use or

a grandparent might use when watching their child sleeping upstairs and having a box on in the room and listening for some type of action up in the room so they could respond.

That's okay when it's a one-on-one or in a family setting. But electronic monitoring and listening to a room of kids to know if there's a problem I think would present a problem. And we don't want people to just rely on an electronic monitor. There ought to be human beings around to watch these young people.

SENATOR MONTGOMERY: One last - my last question, Madam President.

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

SENATOR VELELLA: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Montgomery.

SENATOR MONTGOMERY: Thank you.

Senator Velella, I'm happy to see that we have increased the requirements around training. And I think one of the issues for

the -- when it was under the Department of Social Services, and that we have talked about for many years, is how do we provide support for people who provide childcare in their homes and how do we encourage people to come from underground.

Because we had this huge underground childcare business where no one at any time was monitoring. So there was an attempt to encourage people to identify themselves as childcare providers and therein become certified, and then they could be monitored.

One of the ways that we came up with doing that was providing support to a network of childcare advocates and service providers that we call the Childcare Resource and Referral Network.

My question to you is, since we are increasing the training -- which we want to do, and I think is a very good thing -- and we also want to make sure that people not only receive their -- what are you increasing it to, 30 hours every two years, but that there is ongoing support for them, that they have

ongoing training, that there are people that they can reach out to to ask questions, local people that they can interact with and who can be there to monitor those homes on an ongoing basis -- what have we done to expand and strengthen the capacity of the Childcare Resource and Referral programs so that we can match your -- the other aspects of your bill with a group that is actually there to help people so that they don't make mistakes that are harmful to children?

SENATOR VELELLA: Senator, I'm glad you asked that question.

Because we not only have taken care of that problem of the referral agencies, which has money in the budget for it, but the Governor in his wisdom, in submitting the budget to us and submitting this bill, has provided an additional $40 million that hopefully you're going to be voting on very shortly in our budget that will allow for retention and expansion of these very workers, to allow them to have career paths in this.

So that those workers who start out as just watching a child can develop, have the

training and become professional daycare workers and have a career path and provide a career path for them.

So yes, there is already money in the system for the referrals. And yes, there is even more money in this budget, $40 million, that is going to go into developing career paths for those people who want to advance themselves in the daycare and childcare profession.

And that money is going to be implemented through a program that is going to be decided and has been pushed for by a number of very well organized unions within this state and that have been pushing very hard for this.

Social service agencies, religious groups, unions, they are going to be very pleased that you and I are putting this bill into law at the request of the Governor, because it's going to provide that career path and that service for their employees and for their communities.

SENATOR MONTGOMERY: Can I just ask one last question, to follow up on that,

Madam President?

THE PRESIDENT: Senator, do you continue to yield?

SENATOR VELELLA: Certainly.

THE PRESIDENT: Thank you, Senator.

You may proceed, Senator.

SENATOR MONTGOMERY: Could you tell me what percent of the 40 million will go specifically for the CCRRs, the child care resource and referral agencies in the state?

SENATOR VELELLA: No, I couldn't tell you. This is going to be -- and hopefully the Assembly, when they return - they didn't have the opportunity to act on this last night. But I believe when they return, they will be acting on this.

And OCFS will be implementing the regs to see how this is spent, with the advice of the boards that are in place and all of those groups that I mentioned -- social service agencies, unions that have an interest in this, religious organizations, various civic groups, various agencies that are funded and actually have an interest.

So that this is going to be one major accomplishment that you and I are going to be pointing to come around, I would think, November, to say that we were doing some very good things for the people in our communities.

SENATOR MONTGOMERY: All right, thank you.

Madam President, just briefly on the bill.

As I said, certainly we all are concerned about the quality of childcare and the safety of children and all. I'm just a bit disappointed, if you will, that we have approached it from a criminal justice angle rather than from the position that we want to provide support so that we can make sure that we prevent incidents from happening.

Our legislation really talks about or addresses something after it happens. And I would like to see us be more proactive in this area.

Number one, I believe that the emphasis on the fingerprinting of people, especially the fact that we are going to fingerprint everyone who is in a household, as

well as any volunteer, is going to drive people more underground.

Because if I were making a decision that I wanted to provide some childcare, and I knew that I was going to be fingerprinted, my son is going to be fingerprinted, my husband is going to be fingerprinted, I probably would have to make a decision to be an underground provider, because, number one, my husband would not agree to be fingerprinted, and I would not want my son fingerprinted.

So these -- this is going to really in fact, I think, work against what the purpose is.

And, number two, the issue of childcare resource and referral is very, very important. We have local not-for-profit groups. They have expertise in this area, they have been reaching out to encourage people not to be underground, to provide training for them, to provide services to them that they need, to answer questions that they have.

This is where we should be investing our money, in making sure that those

agencies can function because we're funding them adequately and we're making it possible for them to do more than they currently do.

So there are some clear shortcomings here. I understand that this is a response to an incident that was exposed recently. But we should know that this is not that incident. And that expose was just the last one in a long history of problems in this area. We've tried to address it and we will continue to try to address it, but I don't believe that this Child Care Protection Act is actually going to finally do that.

I hope that, Senator Velella, we can continue to work making sure that we have a mechanism in place where childcare people can feel comfortable going and saying, I don't understand this, I'm not sure what I should be doing, can you help me, help me fulfill the regulations, make sure I do the right thing before an accident happens.

So yes, I'm going to vote for this legislation, but I do have a number of questions and concerns about it. Thank you.

THE PRESIDENT: Senator

Dollinger.

SENATOR DOLLINGER: I yield to Senator Seabrook.

THE PRESIDENT: Senator Seabrook.

SENATOR SEABROOK: Yes, Mr. President. Will the sponsor yield to a question?

SENATOR VELELLA: Certainly, Senator.

THE PRESIDENT: You may proceed, Senator Seabrook.

SENATOR SEABROOK: Yes. Senator Velella, a quick question in reference to when does the clock start on this bill.

For example, if an individual who may have been involved in a crime 30 years ago and is a family member but not the licensee who is applying, when does that clock start and stop?

SENATOR VELELLA: Well, I would think as soon as the bill is signed into law, that this would take effect.

And if someone has a group of children in their home and they're providing daycare services and they have a son or

daughter or husband, it's a wife, a grandparent, or an individual, a friend, that lives in the home, that has a criminal record and has been fingerprinted and that criminal record is detected, then the supervising agency would look at it and see what was the offense.

Now, this may have been an offense that dealt with an embezzlement, not in any way endangering children. I don't believe the agency would be authorized -- we have some specific crimes here that are listed for what they would be subject to denial of their license. For example, felony sex offense, crime against a child, crime involving violence.

But the agency would make a determination. Obviously if someone made a mistake 30 years ago and has led a very good life and is a productive citizen and happens to reside in the home, the agency would look at that and I believe rational minds would determine that that did not present a clear and present danger to the children who were being supervised.

However, if someone was a sex offender and had molested children or had been abusive to children and had been convicted of that, and you're bringing a whole group of your grandchildren or children and my grandchildren or children into that home, I don't think that would be an appropriate setting.

And that's why in this bill the Governor has proposed that we limit it to relevant crimes like felony sex offenses, crimes against a child, or crimes involving some type of physical violence.

So the Governor hasn't just said if you've got a violation for crossing against a red light you're out of the box. He's said that if you have committed a crime and you have done something that relates to the safety of those children in the care of the individual running the program, then we ought to know about that, the licensee ought to account for that, and we ought to protect the children from any potential danger.

SENATOR SEABROOK: Madam President, will the sponsor yield?

THE PRESIDENT: The sponsor continues to yield?

SENATOR VELELLA: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Seabrook.

SENATOR SEABROOK: Senator Velella, is there a provision that's in this bill that would indicate that a son or a daughter-in-law who resides with the licensee who has been involved in an act and never exposed that, what are the liabilities of the registration if they have not put that information to the director of the center? If the director has no information about this that occurred, is that director still liable?

SENATOR VELELLA: Well, Senator, my only reaction to that would be if people are going to lie, cheat and conceal, we will -- the state in any case would have to make their best effort to determine what is going on at that facility.

Now, if someone is an applicant for a license to have daycare in their home and they don't want to tell you that they have a

son living there and they refuse to let him be fingerprinted, as soon as the supervising agency would know that there's someone in that home that wasn't fingerprinted or was hiding in there, they would have the grounds to terminate the license.

So, you know, there's some degree of what we don't know, we can't defend against. But right now there is no provision, there is no protection. And I don't know of a better way than having police go in and search your house every day to see who's in there.

So when a licensee applies, if they have a clean record and they have been an honest person, I would assume they would say "and the following people living in my home are" -- my son, my wife, my granddaughter, my cousin from another country, or whatever it is. And then the agency would say, "Well, they have to be fingerprinted."

If you don't disclose that and it's found out, then you lose your license because you've lied on your application. So we can't stop people from lying. But when we catch them, we can pull their license.

SENATOR SEABROOK: Madam President, just one other question.

THE PRESIDENT: And the Senator does continue to yield.

SENATOR SEABROOK: Just one other question.

THE PRESIDENT: You may proceed, Senator Seabrook.

SENATOR VELELLA: Thank you.

SENATOR SEABROOK: Senator, is there a real issue of this in the City of New York? Because in the past, in my involvement with daycare and family daycare for many, many years, this hasn't been a problem. Has there been a problem in New York City with this?

SENATOR VELELLA: Senator, let me respond to that. I might point out not only in the City of New York but in our own county that we come from, in Bronx County, there was a Yolanda Lenares who had been an approved daycare licensed worker and had been ruled as seriously mentally defective because she tried to burn her house down with a whole bunch of children inside it. And she was licensed by our state to take care of children like your

grandchild, my grandchild, and our children.

And we had nothing in the law when those parents turned around and looked at us and said, Why is she a licensed worker in New York State? She burned a house down with a bunch of children in it. She was ruled by a court to be a mentally defective person, and why are you giving her a license?

Because we didn't know. We didn't have the fingerprints. This bill will allow us to know.

There are many, many more cites of a lot of issues like that. The case I cited -- I don't know, maybe you didn't hear me, but the case where we had a good, dedicated woman running a daycare center and her son had been a convicted rapist and her son lived in the home with her and raped one of the little children. We want to know those things so we can provide the protections necessary.

And we're not looking to intrude on people's privacy, we're looking to protect our most innocent children that are in these daycare centers.

SENATOR SEABROOK: Thank you, Madam President. Just on the bill in question.

I would hope that we will really take a look at this. I think that it's moving in the right direction with some sense of some things have to be dealt with as to the amount.

But I would just hope that -- we've had an incident in a number of schools, public schools, where teachers the other day revealed that there's a teacher in the district that is addicted to eight bags a heroin a day.

So if we're getting into this business of fingerprinting, that perhaps we need to make this kind of broad-based, to expand and do all of that in other areas where we have tremendous violations, also in public and private schools as well, of those incidents that have taken place.

So if we're going to do this, let's just carry it across the board.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. If the sponsor would yield, please.

SENATOR VELELLA: Certainly.

THE PRESIDENT: The Senator yields.

You may proceed, Senator Duane.

SENATOR DUANE: Thank you. I notice that in the bill the maximum fine imposed on daycare providers is going from $250 per day to $500 per day. I'm wondering what the reasoning is for the increase in the fines.

SENATOR VELELLA: Well, my reason would be to help discourage people from violating the law. That's the purpose of fines or punishments. And if we see that people continue to violate the law at $250, we're hoping that the elevation to $500 might be a little bit more of a discouragement to them not to violate the law.

The fines will be going into a fund here administered by the Comptroller and the Commissioner of OCFS, and such funds will be used for health and safety grants and for training of daycare providers. So these funds will be put into a trust fund. The Governor has said we're going to take these monies from

the violators of the law.

But we're not just going to take them and put them into the general fund of the State of New York and let it go off into never-never land, we're going to take it and put it to a constructive use. We're going to say that we're going to use these dollars from these violators of the law for the health, safety and training of young people and the people who supervise them.

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

THE PRESIDENT: Does the sponsor continue to yield?

SENATOR VELELLA: That's not enough? Okay.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Following along that line, the other change in terms of that kind of administrative oversight is that presently an operator or a provider, if they are found to be doing something wrong, get a period of time to cure that. Under this

legislation, they immediately start paying fines. And as I say, the fines are now $500 per day.

I'm wondering why it is that there's no grace period provided for the provider to actually fix their -- any problems that are found.

SENATOR VELELLA: There is, in the regulations, an opportunity to cure the defect within 30 days. And that would be administered by the agency that imposes the fine. Except in cases of egregious safety violations such as fire violations, grievous health violations, something that puts the child in jeopardy.

You know, those are, in my mind, crimes that ought not to be forgiven so easily. And if we had a system where every time you did something wrong and put a child's life in danger or put the safety of someone in danger all you had to do was say "I'm sorry" and everybody forgives you, it would be a weakness in support of those laws.

So where we have serious violations of health and safety, yes, those fines are

imposed. And they would be imposed as a matter of fact because you have violated the law.

Where there are violations that are of a less severe nature, the administrative agency would have the authority, if it's cured within 30 days, to waive the fine.

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

THE PRESIDENT: Does the sponsor continue to yield?

SENATOR VELELLA: Yes.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I just want to clarify. The 30-day grace period, if you will, is not contained in the legislation, it's only contained within the agency's administrative code right now; is that correct? Is that what you said?

SENATOR VELELLA: Senator, I would refer -- I'm sorry, did you finish?

SENATOR DUANE: I'm just

wondering if that's what you said.

SENATOR VELELLA: Yeah. And again, I don't have every page memorized. So with the advice of counsel, page 15, line 20, imposition of the penalty -- within 30 days of notification of the imposition of the penalty, they may waive it, avoid payment of the penalty. If you read 17 to 21 on page 15.

Oh. I don't believe you have the same bill I have. You're reading off the printed bill. I'm reading off the draft. Section 9, paragraph C(i).

SENATOR DUANE: If you'll -- I'm having trouble finding it in my bill. Actually -

SENATOR VELELLA: I'm trying to find it in the bill now.

SENATOR DUANE: -- I was given a copy of the bill-drafting one, so it's okay. Thank you, I see it.

SENATOR VELELLA: Okay, it would be -- your copy would be page 7, line 55, 56, and going on to page 8.

I apologize for not having the right page.

SENATOR DUANE: That's fine. Thank you.

I was concerned about that, that issue, since we provide the same grace period for code violations and buildings, et cetera. So that's a good -- good thing.

Thank you. Madam President, on the bill. Oh, I'm sorry. One final question, I'm sorry.

SENATOR VELELLA: Last question.

SENATOR DUANE: Last one.

SENATOR VELELLA: I'm not yielding to any more.

THE PRESIDENT: The Senator yields for one last question.

You may proceed, Senator Duane.

SENATOR DUANE: You know, I notice that we're doing this with a message of necessity. And you referenced that the Assembly hasn't passed the bill. But I'm wondering if there was an agreed-upon -- if the Assembly has an exact agreed-upon bill which they just didn't have time to do.

SENATOR VELELLA: Senator, the bill was sent over last night. They did not

have time to act on it.

I have read this bill only briefly only this morning, so I had an opportunity to review it. I've prepared for the debate and looked through the issues that were discussed on it. And I have every belief in my mind, having been a former member of the Assembly, that rational minds will prevail and when they return they will welcome this bill with open arms as it's delivered to the Assembly and pass it unanimously.

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

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: I'm of course very happy to hear that the Senator had such a lovely experience in the Assembly. And I'm heartened by his joyous experience in the other house.

However, I'm skeptical that the legislation will pass in exactly the same form. There have been a few points -- I want to echo some of the comments made by my colleagues Senators Montgomery and Seabrook

about our concerns. And while there's a lot of really terrific things in this legislation, I think there are still some things that I would characterize as not in the best interests of public policy.

So even though it has a message of necessity, I actually don't think it's going to get passed that quickly, and that there will be some negotiations between the other house and this house.

So I'm going to vote in the negative in the hopes that we'll get another chance to vote on a bill in a slightly different form.

Thank you, Madam President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, will the sponsor yield to just a couple of quick questions?

THE PRESIDENT: Does the sponsor yield?

SENATOR VELELLA: Okay, yes.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Thank you.

Senator Velella, I agree with most of the premises of this bill, the fingerprinting and other steps. My question to you is, what's the practical effect of these measures? Is this going to increase the cost of childcare? Will it delay the retention or the hiring of childcare workers, and will it make it more difficult to retain them?

As you know, those are classic problems that we have in our childcare system. Will this bill, even though its proper intention -- and it will probably drive to greater institutionalization of childcare, which may or may not be a bad thing. But will it increase the cost and simply exacerbate some of the problems we've had before?

SENATOR VELELLA: In response, Senator, I don't know what value you place on the safety of children or their lives. But yes, there will be a little bit more of an increase.

And yes, we are providing for this in a balanced budget that we are voting on

today. The funds are there. The Assembly has agreed that there is a need to protect these children. We have some technical -- possibly technical differences as to how to best protect them.

But the money that needs to be spent to protect these young people has been agreed upon by both houses. If you want, I can give you the details of it. $6.5 million in the budget right now that we're going to be voting on, for inspections and improving the safety of these facilities. And 12 million will be the fingerprinting cost. And then the 40 million that I spoke to Senator Montgomery about to establish career paths for the people who are working in the daycare centers and to allow them to advance themselves, get better pay, and hopefully get better quality services.

So I think that yes, the answer is it is going to cost a little bit more. Every penny of it is worth it to help our young people.

SENATOR DOLLINGER: Okay. Second question, Madam President.

How long will it take from the time of application to the time of actual hiring to go through these prehiring screening processes? Will that create a problem for the daycare operators?

SENATOR VELELLA: Well, Senator, assuming that the Assembly acts responsibly and passes it quickly -

SENATOR DOLLINGER: Assumed.

SENATOR VELELLA: -- we would assume that, I'm sure -- and the Governor signs it quickly, as fast as humanly possible is the answer that I would have to give to you. These regs will be put into place, the dollars are there. As fast and as quickly as humanly possible, these safety provisions will be followed by the agency.

And I assure you that Governor Pataki will be amongst the first, since it is his bill, to see that his agencies immediately start implementing and spending this money for the purpose it's intended for.

SENATOR DOLLINGER: Again, through you, Madam President, if Senator Velella will yield. I obviously wasn't clear

with my question.

THE PRESIDENT: Does the Senator continue to yield?

SENATOR VELELLA: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR DOLLINGER: The question I wanted to clarify, Senator, is the practical consequence of after someone applies for a job in a daycare center, how much time will lapse before they go through this preemployment screening before they can actually begin employment?

SENATOR VELELLA: Senator, I'm trying to ascertain -- I couldn't tell you. I didn't bring my crystal ball with me today. But certainly the agency will move as quickly as possible to get those fingerprints back.

There is the possibility that after an interview, that that person could start working pending the return of the prints. If there's probable cause to believe that that person may have something wrong, they would possibly hold it up. But if they want to do an interview pending the return of the

fingerprints, they could start working immediately.

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

I'm going to vote in favor of this bill as well, although quite frankly I have practical concerns about the impact of more front-end fingerprinting and screening, which is certainly given with the right purpose but may have the adverse impact of slowing down the hiring process and building into delays before people can apply for jobs and have them filled.

We get into a balancing of the needs, the actual needs of the agencies versus their ability to deal with this regulatory framework.

And I will say one thing, I still think that the critical solution to childcare is not completely contained in this bill. We need more than $40 million for childcare. Childcare -- as everybody in this room knows, it's more expensive to pay for childcare for your child in a single year than the tuition

at the State University of New York. It's a pure and simple fact. It's far more expensive for childcare.

What we need to do is make childcare accessible and affordable, and that's going to take a lot more than $40 million.

My concern is that the increased burdens that we're placing upon childcare agencies -- all of them properly intended, all of them designed, as Senator Velella says, to better protect our children -- they come at a cost. And the cost is it's going to be more expensive to provide childcare across the board.

And until we have a statewide childcare policy where we say to the people of this state who want to protect their children that we as a state are going to make sure there's abundant subsidized daycare available so that people don't have to spend more for their child between birth and age 6 than they spend between 18 and 22 when they send them to college, that's the kind of statewide policy we need.

I would suggest, Senator Velella, that's going to be a lot more expensive than $40 million a year. But that is the right thing to do. That's the thing to do to provide high-quality, accessible, subsidized daycare for everyone in this state, so that we can make sure that our children are protected, that they're provided with high-quality experiences in childcare. But it's not going to happen without this state coming up with a statewide childcare policy that makes it accessible and affordable.

Thank you, Madam President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Madam President, briefly on the bill.

The concept of putting in more money, having greater impact on funding, is great. That's fantastic. We should put more money into childcare, it's absolutely necessary. Private industry is doing it. We see it happening all over the place. Daycare centers are opening up within corporations as part of the service. It's happening

everywhere.

However, all that being said, that doesn't account for the safety factor. We still have to check who's going in. We still have to check the background of the people involved.

You could have the greatest system in the world, the most widespread system in the world, but if you can't find out if there is a convicted rapist or a convicted felon who is going to be near those children, you've done nothing. The greatest system in the world falls down unless you check the people involved.

It's the service provider. And unless that person is free from guilt in some crime or free from a background, the parent who put their child in the childcare system has a right to know that the child is going into a safe situation and is going to be handled and treated and talked to and dealt with by people who are professionals and who are -- whose background is checked.

When I went into teaching, every time we passed another test and moved into a

different level -- that was back in the Stone Age. We were still carrying our loincloths and our stone tablets over our shoulders. But we were fingerprinting at every step of the way. And we would check so that everybody's background was full well known.

I see no problem in this fingerprinting. I see no risk added. If you want safe and quality childcare, then you've got to provide them with, yes, the funding, yes, the facilities, but the providers have to be good, quality people. There's no shortcut to that. There's no easy way to that. You just have to do it.

And I understand the people who are concerned about fingerprinting. But when it comes down to it, how else are you going to check? Take their word? Unfortunately, in the real world, people don't always tell the truth. So you have to check. And there is no substitute for a good clear check.

Madam President, I'm proud to be a sponsor of this bill. Senator Velella is doing a yeoman's work on this. And I give the Governor great credit for bringing this bill

to our attention. Thank you, and I vote aye.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Just on the bill, briefly, also.

I think this is a bill that has to be. And I've often said, I think -- maybe some of you have heard it, I've said it on the floor -- that in order to avoid the onus that seems to occur when there's fingerprinting - and, as I have mentioned before, my daughter is fingerprinted because she was seeking a job teaching in New York City. So, I mean, fingerprinting is really not -- should not be the onus.

And I had mentioned that if we could somehow devise a law that required fingerprinting at birth of every person in our country, we would then avoid this kind of onus which we now -- people seem to place on fingerprinting.

But my point in getting up is something else. And that is while I concur with Senator Dollinger that we want quality childcare and we want the very best we can

achieve for our children, the fact is until we as a state determine a policy that will pay our childcare workers more than they are currently being paid, we are not going to see some of our finest citizens coming into childcare.

And if you want to look at the crux of the problem, that is the crux of it, that you can't pay someone $15,000 or $14,000 coming out of college with a bachelor's and not elevate that over a period of a decade and expect to see really quality people coming in.

There were a lot of wonderful people who are now in their ages of 60s and 70s, and they just did it because they loved the work, and they got recompensed terribly. And that is not the situation that we are seeing with young people today.

So until we handle the main problem, which is the way we pay our childcare workers, we are not going to see an improvement.

SENATOR VELELLA: Would Senator Oppenheimer yield for a question?

THE PRESIDENT: Senator

Oppenheimer, will you yield for a question from Senator Velella?

SENATOR OPPENHEIMER: Of course.

SENATOR VELELLA: Senator, would it change your mind any if I told you that between the budget we will be voting on shortly and this bill, $40 million is being put in by the Governor of this state and the Legislature to upscale and retain and find a career path for those employees?

So exactly what you're saying, until we do that -- we're doing it now. $40 million for upscaling the job training and the development of a career path for those very workers you're talking about, who deserve it. Would that change your mind?

SENATOR OPPENHEIMER: Let me say that this is certainly a step in the right direction, and certainly the additional training is something that we have been begging for for a number of years now. It doesn't actually affect the salaries that will be achieved after this training is done.

It will perhaps give us a more professional work staff, but it still does not

address the issue of the salaries that are paid to our childcare workers. And it is still true that someone working in a zoo makes better money than a childcare worker.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 17. This act shall take effect in 90 days.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Yes, on the issue.

I echo some of the comments and statements that were made in the chamber, especially the last statement by Senator Oppenheimer and Senator Velella's response, the need for higher wages and the desire to create a higher standard of professionalization in this field.

And if this bill moves in that direction, then I am heartily supportive of it. I would hope the movement would be more rapid.

I would also like to speak on the issue of fingerprinting. I was faced with a very difficult decision on fingerprinting when

I was president of the New York City Board of Education. Theoretically, I was opposed to it. Theoretically, it turned me off. Theoretically, it made me review many of my basic principles, in theory.

But in reality, I discovered that fingerprinting does make a difference in the area in which we instituted it when I was president of the Board of Education, in the area of security guards.

And there is now, there has been for the last 20 years a fingerprinting bank throughout the fifty states. We were at one time hiring security guards in the state of New York, and we didn't realize that they had a criminal record in the state of Wyoming or Utah or Oregon.

And I no longer believe that fingerprinting is an onus. If handled properly and carefully, it can enhance the educational experience. And it has eliminated people from serving as security guards in the public schools of the City of New York who would do untold damage, not only to the schools but to our most precious possession,

the children who attend these schools.

Thank you.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 17. This act shall take effect in 90 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Montgomery, to explain your vote?

SENATOR MONTGOMERY: Yes, very briefly, Madam President.

I know that I said I would vote for this bill, but I understand that we don't have an agreement. And certainly there is an opportunity to vote again on this legislation. I hope that some of the comments and issues that were raised here today will be taken into consideration when we negotiate a final bill.

So I'm going to vote no on this version, because I understand we're going to have another opportunity. And thank you. I'm voting no. I changed my mind.

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 891 are Senators Duane, Montgomery, and Schneiderman. Ayes, 55. Nays, 3.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 892.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 892, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11005 and substitute it for the identical Senate Bill Number 7838, Third Reading Calendar 892.

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

THE SECRETARY: Calendar Number 892, by the Assembly Committee on Rules, Assembly Print Number 11005, an act to amend the Education Law, in relation to establishing.

THE PRESIDENT: Senator Skelos.

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

THE PRESIDENT: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

THE PRESIDENT: The motion is to accept the message of necessity. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message is accepted.

Read the last section.

SENATOR DOLLINGER: Madam President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Will Senator Padavan yield for a question? I think it's Senator Padavan's bill.

SENATOR PADAVAN: Yes.

SENATOR DOLLINGER: Rather than an explanation, Madam President, if he would just yield for a question.

SENATOR PADAVAN: Yes.

SENATOR DOLLINGER: Through you, Madam President.

Senator, I'm concerned about this bill, that one aspect of this bill is the definition of a teacher shortage, which triggers the application of the repayment of loans and the other incentives that are contained in this bill.

And my question is, does it apply in areas even though there's an abundance of teachers in the area but nonetheless the school district has a difficulty recruiting them because of working conditions or pay and benefits? Would that apply in this instance for these teachers?

SENATOR PADAVAN: First, Senator, the -- there are six different components of this legislation, which build upon the Senate program called TEACH and the Executive's Teachers of Tomorrow program. The State Commissioner of Education will make the determinations as to low-performing school districts and districts that are facing significant teacher shortage.

And, based on those determinations criteria, monies -- and this bill provides for $25 million in the budget to implement this program -- those monies would then be allocated in that fashion.

However, even within that grouping, there are levels of priority. First priority would be given to a school district under registration review, a school that is under registration review. The second priority would be to any school performing significantly below state standards, as defined by the Commissioner. The third level of priority would be to any school that is designated as a teacher-shortage area.

So what we have are specific criteria to be implemented by the Commissioner and the funds to be directed toward those areas that meet those criteria on a priority basis.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Padavan would continue to yield.

SENATOR PADAVAN: Yes.

SENATOR DOLLINGER: Do I

understand that this proposal is building-specific, then, and not school district-specific, that it can be actually building-specific -

SENATOR PADAVAN: Yes, it can be.

SENATOR DOLLINGER: -- if there are those three critical -

SENATOR PADAVAN: Absolutely. In the bill itself, if you turn to page 2, lines 24, where it outlines "within a school district, to a school under registration or a school performing significantly below." So it is school-specific within a district.

Now, there are districts in this state that obviously are facing a greater problem than other districts. And certainly that's true of the City of New York, which in the next five years we anticipate losing 54,000 teachers, for a variety of reasons. Statewide, there are over 11,500 teachers who do not meet the minimum standards.

So the need to provide all the various components that this bill provides - encourage teachers to work in underserved areas, to provide stipends to teachers so they

can take the courses, up to $2,100 per year, that are required to achieve their certification, to provide incentives for master teachers, $10,000 a year, so that they can help new teachers -- all of these issues and programs and components have one basic goal, to increase the number of teachers, to improve the level of their qualifications, and to encourage them to teach in areas that are fundamentally underserved.

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

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR DOLLINGER: What happens if both with respect to the schools under review or those that are significantly below state standards, what happens if we achieve the goal that we're hoping for, a dramatic improvement in importance? Will the benefits still flow to the teachers at those schools

even if they're no longer under review or they're no longer performing below standards?

SENATOR PADAVAN: In each of the stipends or awards that are given, there are time limits. For instance, the Master Teachers program, where there's a $10,000 addition to the base salary -- but it's up to three years. So at that point in time, obviously the award would be reviewed.

Similarly -- well, obviously for those who are getting up to $2,100 per year to meet their course requirements for certification, when they accomplish that goal, obviously that amount of money is no longer forthcoming.

So there are time frames as well as limits to these grants given to teachers for various reasons.

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

ACTING PRESIDENT MARCELLINO: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I appreciate Senator Padavan's cogent explanation of this

bill and the specifics with which it is drafted. That is, that we will deal with, building by building, teacher problems or teacher shortages or buildings or schools that are under review by the State Board of Regents. I know I have a couple of those in my districts.

And it seems to me it's critically important that we make sure that we drive these resources where they are most needed. It appears the bill does that.

I know Senator Padavan has said that the Board of Regents can define those teacher-shortage areas. That will be a difficult decision, I think, because in a community like Rochester, where we certainly have teacher shortages in some parts of our community, we do not have it in others.

But it seems to me this bill has the flexibility we need to bring teachers to where they are most needed. And I am going to vote in favor on the basis of that, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Lachman.

SENATOR LACHMAN: Through you, Mr. President, will the distinguished Senator be available for a question or two?

ACTING PRESIDENT MARCELLINO: Senator Padavan, do you yield?

SENATOR PADAVAN: I think you're talking about me, Senator Lachman.

SENATOR LACHMAN: I am.

ACTING PRESIDENT MARCELLINO: The distinguished Senator yields, Senator.

SENATOR LACHMAN: Okay. Certain technical words might need an elaboration or an explanation.

For example, you mention "such grants shall be awarded to school districts within the limits of funds appropriated thereof through a competitive process that takes into consideration the magnitude of any shortage of teachers in the school district."

How do you interpret "magnitude"?

SENATOR PADAVAN: The what, Senator?

SENATOR LACHMAN: How does one interpret "magnitude"?

SENATOR PADAVAN: The magnitude?

The criteria for determining, as in responding to the prior questioner, will be determined by the Commissioner on a priority basis. The priorities are articulated on page 2, beginning on lines 22, where these priority levels will become the basis by which the Commissioner will allocate.

And there are some limiting factors, and there obviously should be, such as the amounts that I discussed earlier which are individual grants to individual teachers.

So we have to rely upon the Commissioner to evaluate all the districts throughout the state -- as we know, there are 700 school districts -- and, further, those districts to determine, based on an individual school, where the need is justified.

SENATOR LACHMAN: Mr. President, through you, will the Senator continue to yield?

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR LACHMAN: Okay. On the issue that my colleague, Senator Dollinger, raised on the low-performing schools, and the

school buildings performing significantly below state standards, as defined by the Commissioner, does the Commissioner of Education have the authority to set throughout the state what those significantly-below state-standards are, be they 10 percent, 20 percent, 30 percent, 40 percent, 50 percent?

SENATOR PADAVAN: Well, as you know, Senator, standards are developed by the Board of Regents, and the Commissioner implements them. So obviously we have the relationship of both.

SENATOR LACHMAN: And this would be uniform throughout the State of New York?

SENATOR PADAVAN: Absolutely.

SENATOR LACHMAN: Okay. Mr. President, through you, will the Senator continue to yield?

ACTING PRESIDENT MARCELLINO: Senator, do you -

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR LACHMAN: The bill also

mentions that "not more than 60 percent of the funds allocated pursuant to this section shall be made available to any one school district, and provided further that a school district in a city with a population" -- et cetera, et cetera, et cetera, as a famous King of Siam used to say. On this issue, why 60 percent? Why was that selected?

And corollary to that, Senator, are we referring to local education authorities throughout the state and not specifically to community school boards in the City of New York?

SENATOR PADAVAN: Senator, that part of the 60 percent, that paragraph you were reading obviously relates largely, if not basically, to the City of New York. Because if we didn't have that limiting factor, this entire 25 million would probably end up in the City of New York, and that wouldn't be fair.

So we have 60 percent limited to a given school district, which for all practical purposes means the City of New York.

SENATOR LACHMAN: Mr. President, final question on this -

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR PADAVAN: Yes.

SENATOR LACHMAN: People from the City of New York sometimes interpret school districts to be community school districts.

SENATOR PADAVAN: Well, that's not -

SENATOR LACHMAN: You're referring in this to an LEA, as a local education authority -

SENATOR PADAVAN: School districts are defined by the -

SENATOR LACHMAN: -- the total school district of the City of New York?

SENATOR PADAVAN: School districts are defined by State Education Law. There are 700 school districts. The City of New York is a singular school district.

SENATOR LACHMAN: I agree. I know that.

Mr. President, on the item under consideration, I strongly support this. I think it's long overdue. It's a first step in many steps towards increasing the quality of

education in the City of New York and in devising innovative methods to do that. I support this legislation.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act shall -

ACTING PRESIDENT MARCELLINO: Senator LaValle.

SENATOR LAVALLE: Mr. President, I rise to explain my vote.

ACTING PRESIDENT MARCELLINO: May we call the roll first, Senator.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MARCELLINO: Please read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Senator LaValle, to explain his vote.

SENATOR LAVALLE: Mr. President, I rise to congratulate Senator Padavan,

Senator Bruno, the Governor.

I think this is a very, very important piece of legislation that will provide the kinds of incentives that we need to attract some of the best and brightest teachers to those areas of our state, within our Senatorial district and the state, that so sorely need help in the classroom for students who may not be getting the best guidance.

I have the opportunity to meet with Commissioner Mills on a regular basis. And we've talked about this teacher shortage issue. And both he and I came to a conclusion that if the Commissioner of Education and myself, because of our roles in education and the state, tried to attract 50 teachers, 50 individuals to serve in the areas that Senator Padavan delineates in this bill, that we would be playing a very important role.

So I rise in support of this bill to also extend to each and every Senator in this district to promote this legislation, to make individuals aware that there are incentives, that there are needs beyond the monetary value, that there is, for many people

who go into teaching, the humanitarian value, the thrill of advancing an individual so that they can achieve their dreams, their aspirations.

Those who have taught know perfectly well what I have just said. But we have in the Padavan legislation covered all of the bases in terms of the incentives. So I would hope that my colleagues would extend, through press releases and talking in your Senatorial district, so that we can attract the best and the brightest in our classrooms that need this kind of help.

Thank you. I vote aye, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator LaValle will be recorded aye on the bill.

Senator Stavisky, why do you rise?

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

ACTING PRESIDENT MARCELLINO: Senator Stavisky is recognized to explain her vote.

SENATOR STAVISKY: I'm going to

vote for this bill.

As a former high school teacher, I taught at some of the best high schools in the City of New York and also some of the most difficult. And the only reservation that I have about this legislation is the -- almost the encroachment upon the concept of merit pay, which I think is a mistake, as a former teacher who, as I said, has had not very many years of experience. I'm still out on maternity leave, so -

(Laughter.)

SENATOR STAVISKY: -- so I haven't been in the classroom in quite a while.

But like you, Mr. President, we are both former high school teachers. And I think this is a terrific bill, and I'm delighted to vote for it.

ACTING PRESIDENT MARCELLINO: Couldn't agree with you more, Senator.

Announce the results, please.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARCELLINO: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

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

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

SENATOR SKELOS: Mr. President, if you could call up Calendar Number 860, Senate 6077.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 860, by the Senate Committee on Rules, Senate Print 6077, an act to amend the Social Services Law, in relation to medical assistance exclusion.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Meier, an explanation has been requested by Senator Dollinger.

SENATOR MEIER: Thank you, Mr.

President.

Just a personal note first, if I could. Some of you know that my first association with the Senate was as counsel to the late State Senator James Donovan. And my only reservation at rising today is the apprehension that I may not be as eloquent as he was when it came to this very subject.

Senate 6077, simply put, provides that Medicaid will not pay for an abortion unless that abortion is necessary to save the life of the mother, the pregnancy results from a rape or act of incest that has been reported to a law enforcement agency, or if required under other conditions necessary as a condition for state participation in the Medicaid program.

That's the brief summary of the bill. But I suppose the question really is why.

This bill would bring New York into conformity with the federal government and 36 other states around the United States which provide Medicaid funding for abortion only under more limited circumstances, usually

including medical indications. So because of that, Medicaid in New York State, when it is used to pay for abortions, is paid for 50 percent by the state, 50 percent by the locality.

Generally speaking, we're talking about around 145,000 abortions per year, of which 40 to 45 percent are paid for out of Medicaid, at an annual cost of about $33 million.

Well, what, then, as I say, is the why involved in this proposed piece of legislation? Abortion is unlike just about any other medical procedure or service provided under Medicaid. If you examine the legislative history behind Medicaid, it is replete with references about providing health care for the purpose of curing illness and aiding people in infirmity.

Correspondingly, even under the most generous rendition of the menu of Medicaid optional services, you will find that not all medical procedures are covered under Medicaid.

Now, with regard to abortion, when

an abortion is performed in this state under the Health Law of this state, the physician must complete a fetal death certificate. Part of the certificate is named "indication for termination," and then it lists reasons for the physician to check. Those reasons include maternal medical condition, fetal abnormality, psychiatric. In other words, medical reasons.

If you examine the statistics that have been compiled over the last few years, those classifications that I just mentioned account annually for about 10 percent of the abortions performed in this state. The catchall reason, "patient request," consists of around 90 percent. In other words, for nonmedical reasons.

And yet we know from a New York Times survey, and from surveys and polls that have taken from around the country, that the American people and indeed the people of the State of New York oppose abortion for purposes of birth control and oppose public funding of abortion for elective reasons.

Now, it's sort of interesting that even those -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator.

SENATOR MEIER: Yes.

ACTING PRESIDENT MARCELLINO: If there are conversations, can we please take them outside the chamber so we can have some order in the house.

SENATOR MEIER: Thank you, Mr. President.

Now, let's be clear. Even under the greatest stretch of the term, abortion really doesn't cure anybody or anything in the usual sense of the word. And let's also be clear about what we're talking about and why public funding of abortions troubles many people, even those who might describe themselves sometimes as pro-choice.

Let me read for you a quote about this subject from the New York Times of February 26, 1997. The speaker is talking about the subject of abortion. Quote, it is a form of killing. You are ending a life, quote, unquote. That was not said by Cardinal O'Connor. It wasn't said by the head of the New York State Right to Life Committee. The

speaker was a gentleman named Ron Fitzsimmons, who was then executive director of the National Coalition of Abortion Providers.

Now, Mr. Fitzsimmons' candor did not permit him to extend to the point of the completing the thought. What kind of life are we ending, Mr. Fitzsimmons? A human life. And even many of those who would call themselves pro-choice would have to admit at least that we are talking about ending human life at a stage that, left undisturbed, would develop into a recognizable human being. For millions of New Yorkers, that is a troubling prospect.

Well, now some may say, and I anticipate we'll hear someone say, Well, that's your point of view, I respect it, but millions and millions of other New Yorkers disagree, and they should have the ability to exercise choice and we should resident that regardless of our point of view.

Well, that argument always interests me, that we should respect choice. I respond, what about the choice of the millions upon millions of New Yorkers who find

abortion under most circumstances abhorrent but who are compelled to pay for it with their tax dollars and to be complicit in it? What about their choice?

If I understand the position of some of the pro-choice advocates correctly, it is that government ought to keep its nose out of abortion except to pay for it. And we all know, if history teaches us anything, that the ability of government to tax and to spend public funds is indeed the most intrusive function that it can perform.

Now, let me briefly anticipate a couple of points that may well be made during the course of this debate, if there is to be one, and I'm anticipating, based on some of the transcripts of this discussion in years past, including last year.

Last year it was argued that Medicaid-funded abortion is the only alternative for many poor women who find themselves in an even more desperate circumstance because of pregnancy. And it was even argued last year and in past years that Medicaid-funded abortions are a great benefit

to the state's treasury because it prevents the births of people who would likely receive public assistance and become a burden on the public treasury.

Absolutely breathtaking. And probably nothing so chilling has been suggested since 1729 when Jonathan Swift authored "A Modest Proposal for Preventing the Children of Poor People in Ireland from being a Burden to their Parents or Country." And at least that was a satire.

What a bleak commentary. And what a chilling prospect. What -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator.

Senator Oppenheimer.

SENATOR OPPENHEIMER: If you would just -- I request an explanation of what you just said, because I don't believe it was ever said.

ACTING PRESIDENT MARCELLINO: Senator, the -

SENATOR OPPENHEIMER: Point of order, that's what it was. Sorry.

SENATOR MEIER: Mr. President, I

believe I have the floor.

SENATOR OPPENHEIMER: If you could yield for a question just so I could find out when it was said.

SENATOR MEIER: I'd like to complete my explanation, and then I'd be happy to yield for a question.

ACTING PRESIDENT MARCELLINO: The Senator has the floor, and he'll yield after he completes his statement.

Senator, you have the floor.

SENATOR MEIER: Thank you.

My point is this. And the thought I want to complete, because I think it's an important one, is that's a pretty chilling prospect for anyone whose condition in life, whatever it may be, puts them in jeopardy of becoming a burden on the public treasury.

And I will finish very quickly.

We have just passed a budget that makes some significant investments, makes some significant investments in childcare, in job creation, in medical assistance, in various kinds of assistance for the poor.

And I would suggest that based on

the great tradition of this state that we can certainly fashion a vision for the poor and for their unborn children that is more ennobling and more visionary than helping poor mothers and fathers to abort their children.

This bill, I submit to you, returns Medicaid to its original intent. And I thank my colleagues for the opportunity to explain it.

ACTING PRESIDENT MARCELLINO: Senator Goodman, why do you rise?

SENATOR GOODMAN: I'd like to speak on the bill, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Goodman, on the bill.

SENATOR GOODMAN: Mr. President, in 1970 this house took a revolutionary step in sharing in the responsibility for legalizing medically safe abortions. And since that time, unfortunately, repeated efforts have been made to chip away annually at that basic decision, which I'll remind this house preceded Roe versus Wade by approximately two years.

There is no question that the

policy of the state has been established to permit medically safe abortions in the trimesters which are prescribed by law. And in this instance we see once again the annual effort to attack Medicaid abortions. I'm sorry to say that this is unfortunately a most inhumane approach to this question. And the reason is very clear.

This house may recall, a few of you who were here in the time of that original debate, that I held in my hand a coat hanger, which was the familiar instrument being used for self-administered abortions in back rooms where butchers would frequently take women and unfortunately administer to them the former procedure, which was totally killing in every respect.

This is a tragedy which we sought to avert by legalizing abortion, and indeed we did so in a most humane and appropriate fashion. It seems to me a pity that every year it's necessary to go through what I must and simply cannot resist calling a charade. This is a charade because, as we well know, this house takes its action, it invariably

passes -- and I have no illusion that words of mine are going to change the outcome in the house today.

But I would remind you, ladies and gentlemen, that this never passes in the Assembly, and that what we are doing here today is essentially a symbolic effort to show protest to abortion generically, and it singles out the poor women who are aided by Medicaid as the objects of this particular target. And it's unfortunate that this is the way it is being done.

And I say it's unfortunate, but I'd rather use the word "tragic." If you can fancy yourself in the position of a poor woman in need of an abortion for the legitimate reasons envisaged by our law, you will recognize quite rapidly that this slams the door in her face. She is unable to find the money for the abortion, and what then is her option and her alternative? It is virtually nonexistent.

It is difficult enough to get an abortion legally. There are many procedures that one must go through, including the

medical arrangements which have to be made. But if you're a poor individual and especially a young one with little sense of capacity to deal with the bureaucracies involved, you have difficulty enough if it is a legal procedure. But if you cannot obtain Medicaid funding, you are absolutely estopped from any reasonable, humane termination of the birth as prescribed by law.

This goes against the law, and it goes against the clearly stated intention of this house, which dates back to 1970.

In my opinion, it's almost a tragic misstatement of aim to try to single out the Medicaid piece of this by suggesting that taxpayers are involuntarily paying for something which they do not believe. You can take a look at the year 2000-2001 budget and you could probably extract from it hundreds of items in which each of us may not have confidence and do not wish to see money expended for these purposes. But nonetheless, they are expended, because it is the will of the majority of both houses and the Governor that they become law.

The selectivity of expenditure is not something which has ever been excluded in this house. Something which to say should apply to abortion and not to any other area of expenditure is simply outrageous, in my judgment.

Mr. President, with all due respect, I must say to my distinguished colleague, Senator Meier, that he is a worthy successor to Senator James Donovan, who every year would bring this matter up and every year have the satisfaction of passing it in this house and every year understand the uselessness and futility of the procedure because it never goes anywhere beyond the Assembly.

Nor would it survive a gubernatorial veto, because the Governor has made it very clear, I think, what his position would be on this matter.

Ladies and gentlemen, just stop to consider it in terms of strictly human terms, and realize the extent of the damage that could be done were we to pass this into law. Let's be very specific. Medicaid-funded

abortions dramatically improve maternal and child health. Prior to 1970, the poor suffered disproportionately high maternal and infant losses due to illegal abortion, high-risk, closely spaced pregnancies, and too-frequent births.

Now, why are poor women more vulnerable? Be very clear about this. They're more vulnerable because they have poorer nutrition, they have anemia, they have excessive birth weights, they're more likely to -- their children are much more likely statistically, we know, to be born premature, to have low birth weights, and with birth defects or mental retardation.

Is it fair to withhold from this particularly underprivileged segment of our population the means by which to obtain legal abortion? I think not. And I beg the house to reconsider its votes. And perhaps with a few of you sympathetic to this point of view we might upset this annual charade, which I think is to no purpose of any public usefulness whatsoever.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer.

SENATOR OPPENHEIMER: If the sponsor will yield for a question.

ACTING PRESIDENT MARCELLINO: Senator Meier, do you yield?

SENATOR MEIER: Of course.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR OPPENHEIMER: I was questioning when you were speaking before, at what time did you take that quote about -- I believe you said that it was preferable to take the life of the fetus so there won't be welfare payments. If you could document when that was said on the floor. It sounds like a rather outrageous statement to me.

SENATOR MEIER: Senator Oppenheimer, not to belabor it, but I'd be happy to provide you with the transcripts of previous debates in this house and point it out to you.

SENATOR OPPENHEIMER: Well, if you can document that, I would be happy to see that.

SENATOR MEIER: Oh, I can document it, and I'll be pleased to hand it to you immediately after the debate.

SENATOR OPPENHEIMER: All right. Okay.

I guess I want to talk on the bill.

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: When the sponsor was starting to talk, it sounded more like this was a discussion of the validity of abortion -- pro-choice, anti-choice. Whereas this issue really does not have to do with that, because that has already been determined by the Supreme Court.

What this has to do with is do poor women have the same rights that more affluent women have. Because the basic issue has been decided. And in our state, the right to choose has never hinged upon whether a woman can afford it or not. We provide in our state equal access for either maternity care or abortion care, and that has been our very humane policy. And it's been a smart policy.

Funding for poor women's abortions

has definitely dramatically improved the health of mothers and the health of small children. Prior to 1970, the poor suffered disproportionate high maternal and infant deaths, due to a variety of things -- due to illegal abortion, to high-risk, closely spaced pregnancies, and just to too many, too frequent births. Poor women were more vulnerable to pregnancy complications -- and they still are, but there are options now.

And they were certainly, due to poor nutrition, due to anemia, due to a variety of causes, their health was poorer and their likelihood of a healthy birth, a healthy baby, was low. Their children were more likely to be born premature, with low birth weight, with birth defects, with mental retardation.

But two years after it became legal in New York State -- that was in 1970 -- two years later there was a study done, and it found that the annual rate of abortion-related deaths in our state had fallen by over 50 percent. If we're considering the health of women, we have to consider that fact.

We have very few deaths now because of abortion. Prior to 1970, when this enlightened policy was put in place in our state, we had a large number of women die because they were having abortions illegally.

Many of our poor have only gained access because of our Medicaid program. Poverty should not deprive women who are medically indigent from exercising what we believe is their basic health-care right. But as we all know, legal rights are useless if you are financially unable to exercise them.

We all, I think, would support the fact that unwanted, unloved, uncared-for children should not be the result. We want our families to care for their children, to love their children, to be able to support their children, to offer them the succor that children are entitled to.

I think we have to continue this enlightened and humane policy so that the poor can continue to exercise this most fundamental and legal right. Because abortion is not a luxury for most women, most families. When they make this choice, it isn't an easy one.

It is considered a necessary component of a woman's health care.

To deny poor women abortion services is simply unfair. It prevents reproductive freedom, and it defies both common sense and humane public policy, for which New York State has always stood.

So I'll be voting against this amendment.

ACTING PRESIDENT MARCELLINO: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

Senator Meier, you are a worthy successor to Senator Donovan, who always spoke so eloquently on this bill. And let me just say a couple of things -- Senator Goodman is not here -- this is no charade. This is something that a lot of people feel very deeply about, very passionately about.

And as so many talk about, we're not abolishing abortion. I wish we could, but the Supreme Court has spoken. This brings us into conformity with the rest of the United States, basically. Thirty-six states have

this law. What this does is restrict elective abortions. You know, former Senator Nolan, who always spoke so eloquently on this subject -- and this is a bipartisan issue. He said, you know -- he represented Albany County, and he said, "I have some of the more affluent and wealthier women of any Senate district, and also some of the poorest." And he says, "I have the very affluent women coming into my office saying that these poor women need a lot of abortions." He says, "I have a lot of poor women that come into my office. They have problems with their rent, they have problems with paying bills. They have all kinds of problems with health care. Many problems." He says, "I've never had one of them say, We need more abortions."

It's always -- I recall a former Congressman saying, "Either pay for them now, or you pay for them later." And a press person asked me what I thought of that. I said, "A lot of people grew up poor. I think it's an elitist statement."

Let me say something. Governor Pataki, Senator Goodman, voted for this bill

every time he sat here in this house. So I doubt very much if he would veto it.

Let me say something else. Partial birth abortion, which passes with 40-some-odd votes in this house, that would pass in a heartbeat over in that house if they ever let it on the floor. They're not going to let this bill on the floor either. This is a bill that goes over there and sits. They're not going to vote on it.

But I'll tell you, partial birth abortion would become the law of this state, because the Governor said he would sign it. As do about 85 to 86 percent of this state that think that that is infanticide, as Senator Moynihan once said.

You know, this is an issue I know that we bring up late, we bring it up with the budget every year. But ever since I have been here in this Senate, 24 years, it has always passed. It's been a statement of this house on both sides of the aisle. I think it's an important statement. We're not outlawing abortion. It is just bringing us into conformity with the rest of the nation.

Thirty-six states have this.

What we're doing is saying that abortion is a personal and a private decision and it should be paid for with personal or private funds, particularly elective abortions.

ACTING PRESIDENT MARCELLINO: Senator Maltese is recognized.

SENATOR MALTESE: Mr. President, first of all, I too, as one of the people in the house -- although not a senator at the time -- that had the pleasure of hearing Senator Donovan debate this issue, I too join my good colleague Senator Farley in commending Senator Meier.

Senator Meier's approach was not an emotional approach, although, as he's indicated, it is an issue of principle, it is an issue that arouses emotion in people on both sides, people of principle on both sides.

At the same time, Senator Meier's statement alluding to prior debate concerning legislators who would advocate abortion as a method to save money in the future on the backs of poor children, unwanted children, is

truthful but at the same time is a terrible commentary on us and our society. I think there are many people, many statements that are not made, many whispered statements and many people that have those thoughts.

I think the much more humanitarian approach is the approach that has been espoused by Senator Meier and Senator Farley, is not to pay for these abortions. Certainly some of the legislation that has come to the floor, especially in the last few years, and has been espoused by my colleague Senator Nancy Larraine Hoffmann and others, to provide that unwanted children at birth can be provided for by placing them under circumstances with a safe house, if you would, where they could be taken care of rather than put to death.

The daily newspapers just I think within the last week or ten days spoke about the discovery of a body of an unwanted baby girl that was disposed of in the woods. I think this is not only a commentary on the unfortunate mother -- because what mother in her right mind would dispose of her child

after, after birth in such a manner. And yet at the same time, it is a commentary on the ease of obtaining abortions, the partial birth abortion alluded to by Senator Farley, a heinous procedure that has no place in society.

I think we can't always cop out by blaming society and blaming others. This is an opportunity for all of us in this house and in the other house, if the Speaker chooses to free his members on this question of conscience, for us to speak out. It is not a charade. It is not something that is useless or inane. It is something very, very important, an opportunity for all of us to take a stand, literally and figuratively, on the side of the angels.

ACTING PRESIDENT MARCELLINO: Thank you.

Just to let the house know, we're keeping a list up here and we've got Senator Padavan, Schneiderman, Stavisky, Duane, and Marchi on the list. So that everyone knows the order.

Senator Padavan.

SENATOR PADAVAN: Yes, Mr. President. I will not repeat the words that were spoken by Senator Farley and Senator Maltese and others, except to repeat their words relevant to the excellent presentation you made, Senator Meier, in bringing this before us.

I don't think it's a charade at all. As a philosopher once said, those who would separate mortality from politics will never understand one or the other. And the fact that you bring up this issue, bring it before us so that we can express our view, is important irrespective of what does or does not happen in the other house.

And yes, there are many issues in our state budget that we would find troubling and not wish to have there. But not one of them, to my knowledge, deals with taking lives of the unborn.

And so I make a major distinction, Senator Goodman, when you draw that analogy. You were reading from a memo from, I believe, Planned Parenthood. Similar memos from NARAL and NOW. Well, I would take all these

dilettantes, all of these affluent ladies who are the most obvious members of those organizations and say, If you find this so troubling, why don't you take all that money you've got and you pay for it.

The Congress of the United States clearly -- and it wasn't a Republican Congress, it was a Democratic Congress -- said we're not going to pay for that half of Medicaid funding for this particular procedure. We'll pay for everything else but this.

So if it's the will of the land as reflected by the Congress of the United States, why should it not be the will of New York State, as it is, Senator Farley pointed out, in the case of the majority of states throughout the nation.

Senator Meier, thank you very much for leading the charge this year.

ACTING PRESIDENT MARCELLINO: Senator Schneiderman.

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

I respect the sponsor's

presentation on this also. I didn't hear the earlier sponsors, but I thought it was very candid. And I have to say that Senator Farley was also quite candid in expressing the fact that he would like, he wishes that we could eliminate abortions entirely.

I think that this is an issue as to which people of good conscience disagree. But anyone who wants to suggest they're at all pro-choice should not under any circumstances support this legislation, for a very simple reason. You may view abortion as this unjustifiable termination of life. I view abortion as a fundamental element of personal freedom. Women who cannot control their bodies are not free.

But whatever our philosophical disagreements are, the United States Supreme Court has ruled on what the law is. And the law is that it is a right in this country -

ACTING PRESIDENT MARCELLINO: Excuse me, Senator, for one second.

Senator Skelos.

SENATOR SKELOS: Mr. President, I've discussed this with Senator Padavan.

Excuse me, Senator Schneiderman.

If we could have the last section read for the purposes of Senator Saland voting.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

SENATOR SKELOS: Senator Paterson, I meant.

SENATOR PATERSON: Yes.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Senator Saland.

SENATOR SALAND: I vote in the affirmative. Aye.

ACTING PRESIDENT MARCELLINO: Senator Saland will be recorded in the affirmative.

Withdraw the roll call, please.

Proceed, Senator.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

As I was saying, whatever our personal philosophical disagreements are on this issue, the Supreme Court has ruled that abortion is a right in the United States.

So what we're talking about here is discrimination against poor people. What we're talking about here is taking money away so that poor women can't exercise this fundamental right.

I would urge on you that this is - there's been a lot of talk about bipartisanship. There's a lot of bipartisan support on what I believe is the only constitutionally and morally permissible side of this debate. And I would urge you to look at the very-well-thought-out position of Rudolph Giuliani on this issue, who is opposed to this legislation and is also opposed to the so-called partial birth abortion ban.

People of good conscience disagree on the fundamentals on the issue of abortion. But I don't really think there can be a disagreement on the fact that this is a right in the United States and that this legislation seeks to discriminate against poor people.

We are trying to move, and I think this house's position is to try and move towards more coverage for health care. Money we put into HCRA, the efforts nationally and at the state level, we're trying to expand health coverage for people. This legislation goes in the opposite direction, the wrong direction. This would deny the most desperate people their ability to exercise this fundamental right.

And I have to say I am astonished by the statements that this is a matter for the elite and that this is not something that poor women care about.

I mean, I guess as most people here know, I worked in an abortion clinic. Most of our clients were poor women. I am appalled by the suggestion this is a matter for the elite and that poor women don't care about it. This is a major issue for poor women in my district and in many of the districts around the state.

And I think that if you're one hundred percent anti-choice, as Senator Meier, Senator Farley are, okay, you want to take any means necessary to get rid of abortion. This

is a tactic. I may not like it; I can understand it.

But I would urge anyone here who wants to go back to their district and tell people that they are pro-choice at all, that you are not pro-choice if you vote no on this bill. And that it really violates the basic elements of conscience to say, oh, we're going to single out this one thing in a state where we all -- there are things in the state budget none of us like. We don't want to pay for things we don't like.

And I notice Senator Padavan corrected himself when he said this is the only thing in the state budget that takes away life. Well, you know, there are a lot of people of good conscience who oppose the death penalty who would disagree with that.

But if you're principled on this issue and you're consistent, I can understand it. This is a tactic to undermine abortion rights. And if you pretend you're pro-choice and you vote for this legislation, I think that you really have to look into your conscience about it.

I vote no. I urge everyone to vote no.

ACTING PRESIDENT MARCELLINO: Senator Stavisky.

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

ACTING PRESIDENT MARCELLINO: Senator Stavisky, on the bill.

SENATOR STAVISKY: I'm voting against this bill because it singles out one particular separate class of people, poor women. And I think that's terribly unfair.

It singles out, in a sense, a second class of people, and that's children, who -- unfortunately we have the situation of children having children, and that too is unfortunate and terribly unfair.

It's discriminatory against a class of people, and I think that is unfair. Studies have shown that where Medicaid funding has been disallowed, there has been a disproportionate share of poor women who have had to undergo the illegal abortions and the so-called late-term abortions.

And lastly, nobody has questioned

the motives on the other side of the aisle. We have a difference of opinion. And I know the members on this side who feel very strongly understand your position and respect it. And we are sure that you will respect our positions as well.

And lastly, one comment it did trouble me. Somebody said that this is a cost-saving measure. Nobody is inferring, nobody, that we are supporting Medicaid funding of abortion to save money in the budget. That is reprehensible, and I think it's wrong.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Duane.

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

ACTING PRESIDENT MARCELLINO: Senator Duane, on the bill.

SENATOR DUANE: My reasons for voting no on this piece of legislation are very simple. I believe very strongly that reproductive health care, including abortion, is something which should be accessible to all

women, regardless of their ability to pay. That is something which I think health care in general should be accessible to everyone in the State of New York, regardless of their ability to pay.

That we provide abortion as part of reproductive health services to anyone in our state is the correct thing to do. And we have to ensure that women that are not economically advantaged may also be able to receive reproductive health care, including abortion, when that service is necessary.

I also think this goes to the core of people's ability to and right to control their own body. Certainly it's something very important in my life. We've never witnessed taking away the ability of a man to control his body. I see no reason why it is that we should infringe on the rights of any woman to control her body.

I urge all my colleagues to vote no on this. It's a very, very simple issue. A woman's right to choose is fundamental and is protected by the Supreme Court, appropriately. And as part of health care, we have an

obligation to provide this service to all of the women of New York regardless of their ability to pay.

Thank you.

ACTING PRESIDENT MARCELLINO: Senator Marchi.

SENATOR MARCHI: Mr. President, I participated in an adversarial way with Senator DeWitt Clinton, who was an intimate - still is an intimate friend of mine. And I have endless affection for him. And, those of you who have never had the pleasure of knowing him, one of the great institutional senators of this or any century.

But the basic question, I think the question has been raised about the nature and quality of the proposal that is before us, whether it affects a particular class of people. Senator Meier is reflecting the concerns that were expressed here many times by Senator Donovan and others on this question. It is not a question that's going to come to rest.

Is this my choice, if I were -- if it were before me as a Governor, would I sign

it? I would have trouble because of some of the contentions that were raised here. But we are dealing with human rights and when can they be abrogated. By a Supreme Court decision? Tell Justice Taney in the Dred Scott case.

We've had so many circumstances that we have confronted on basic human rights, and we have confronted them and ultimately come to a decision. This was the product of a judicial determination. Today we have all kinds of questions on viability, on what is the post -- post-birth or -- natal -- partial birth abortion. There are so many questions that go to the original premises.

But the basic thrust is that the reproductive rights are there, and they're sacrosanct. Never established by Congress. It was never established by the set law of this country. It was a decision that was made in reflection, on very serious concerns which were raised here today on both sides.

I have the same feeling about life. Life. I've been against capital punishment as far back as I can remember. You cannot say

you must die and say that there are no reasons that we can advance in justification of that defenseless person. When does it become a person? When is that principle sacrosanct? There is a difference.

And I suspect that the answer is going to be when, through an evolutionary experience that we have, we raise the level of consciousness about this problem. I don't think it will be resolved on any other basis. These vehicles preserve the arena and the forum for a discussion, thoughtful discussion.

Do I assume that or presume that this will advance it to any measurable degree? No, I don't. But it's not going to die. It is not the prerogative of any person to say you are going to die, unless we have the very delicate question of the life of the mother or the child involved.

And I say the same thing with capital punishment. You cannot say you must die. And the same arguments. Do you save any money? I don't want to put a dollar sign on that. Human life is very precious, I don't care who it is or how bad they are.

But this is -- this is the basic question that we have to resolve. And I applaud you, Senator, Toby, you -- I think that we have a mutual respect for each other and our basic concerns. And I can identify and be sensitive to many of the arguments that have been made.

But I cannot reconcile that. There been over 40 million, 40 million abortions since Roe v. Wade was passed. Were all of them medically necessary? Were all of them in fulfillment of this great principle?

And certainly we cannot point accusing fingers at people, people who are faced with the frightful problem of life and how am I going to continue in the circumstances that I am in, with many children, perhaps. And this is not the ideal vehicle.

But is there an ideal vehicle to bring this level of consciousness raised and elevated about the importance of life? The only way we can address it is hopefully as we support life. If we don't, if we abandon the baby when it's born, if we are -- we have a

cold heart towards being compassionate and careful and supportive of people who are in want and need, that is in effect a death sentence too, or it can shorten life.

There are many ways in which we can manifest this. And I believe that this body as a body has done this traditionally and historically, and I hope with great profit, to the sustenance of life as we see it and recognize it.

But I am not going to accept a dicta that was never the product of our jurisprudence and simply does not, does not respond to many of the urgent questions that I believe even in the 40 million cases that there were 40 million experiences of self-examination and agony.

So I would hope, I would hope that the issues will draw down and we find better and more acceptable ways of sustaining life and not to anticipate the circumstances and draconian policies that run counter, I think, to our emotions, to our spiritual backgrounds, which all of us share. And it's essential, I think, that we keep these foremost.

This bill will pass, and as Senator Farley pointed out, will suffer an unlikely fate in the Assembly. But I don't exclude the possibility that the sensitization of the American public and the disinclination to give moral credence and support to the arbitrary termination of life -- very difficult to define.

You know, if we defined the bill, redefined it away from those targets which you outlined, I don't think it would change your vote, because there are certain fundamental feelings that you have about it. I've got to respect them. And we have to live with each other.

So that even if we change the law and we had something here that you would say, gee, this is beautiful now, it only applies to somebody else -- but it would not change your vote. You have certain basic feelings about this.

And until we reach a common ground where we can embrace each other in a more direct and beneficial way, I just say that we are going to continue to have this issue

before us in some fashion.

Now, I have a feeling that -- you know, it's a birth control measure in Japan. It's not -- it's the most availed use of birth control in Japan, according to what we read. I don't think that -- I don't think we're wedded to that. I think we have -- the very fact that certain arguments have been raised in opposition, have been raised because of concerns, honest concerns.

But nevertheless, the answer is not death. Death is not the answer to homicide. These are capricious resorts that I will not join. We must find better ways.

ACTING PRESIDENT MARCELLINO: Read the last section, please.

THE SECRETARY: Section 2 -

ACTING PRESIDENT MARCELLINO: Excuse me.

Senator Montgomery.

SENATOR MONTGOMERY: Yes. Mr. President, I just want to say briefly that -

ACTING PRESIDENT MARCELLINO: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: -- on this

issue, I think there are answers to this problem that we have with the 40 million abortions that Senator Marchi refers to. If we -- and it's been proven, because in other countries, in European countries, this is what they do. There is sex education from kindergarten through high school and beyond. And it is a matter of the regular curriculum.

It's not that you can decide whether or not there is sex education in the school, and you cannot decide whether or not you want to teach it, and you cannot decide whether or not you want your child to learn it. It is part of the curriculum.

So children begin to learn about their bodies, about sexuality and all of the other issues from the very beginning. So that by the time they get to the point where they're 13 and 14 and 15, they already have a base of knowledge about themselves and about how to prevent pregnancy, so that they do not engage in risk behavior, behavior that ends them up with premature and unwanted pregnancies. So that's one thing.

We also know that if we have

school-based health clinics where there is a staff of health professionals available to young people, they will have access to professionals who can help them navigate through some of the very difficult issues that adolescents, in particular, have in their lives, especially as it relates to their sexuality: how to say no, how to conduct yourself and your relationships so that you can abstain, in fact.

So we have the answers. If we did that, we would not have to stand up here every year and go through this absolutely horrendous, ridiculous ritual of arguing with each other about this particular aspect. Because we would have addressed it on the preventive end, and then we would not have 40 million abortions to worry about.

The second point that I want to make is we all know -- at least we, the women in this house, know that the one factor, the single factor that makes it possible for women to advance in history is the opportunity and the ability to have control over your body.

So if we want to remove that from

women, starting with poor women -- and poor women need it even more, because poor women are poor because they have children, period, that they cannot support and that we don't help them support. So if we -- if that is removed from women in this country, starting with poor women and moving up to all women, because that's where eventually we want to go, it means that we are going backwards.

And certainly I as a woman have no intention of supporting something that will take me backwards. Not me, but other young women.

So certainly, Mr. President, I'm voting no on this legislation. And I think all of us should vote no on it.

ACTING PRESIDENT MARCELLINO: Call the roll, please.

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

SENATOR CONNOR: Slow roll call. Slow roll call.

ACTING PRESIDENT MARCELLINO: A call has been made for a slow roll call. I see five Senators standing.

Can we call the roll slowly, please. Sound the bells. Let everyone know there is a slow roll call in process.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: Aye.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: No.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: No.

THE SECRETARY: Senator Bruno.

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

THE SECRETARY: Senator Connor.

SENATOR CONNOR: To briefly explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Connor, to explain his vote.

SENATOR CONNOR: I'm going to vote no on this because I don't like the economic discriminatory aspects of it, because as a matter of public policy I don't believe it's the best way to eliminate abortion, to make abortions unnecessary. And based on

that, I vote no.

ACTING PRESIDENT MARCELLINO: Continue the roll call, please.

THE SECRETARY: Senator Coppola.

SENATOR COPPOLA: No.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator Dollinger.

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

ACTING PRESIDENT MARCELLINO: Senator Dollinger is recognized to explain his vote.

SENATOR DOLLINGER: Mr. President, this isn't a bad thing to bring up. Senator Meier, it's not the wrong thing to bring up. It's not wrong to debate it, Senator Farley, you're absolutely correct.

We do have the power to eliminate Medicaid funding for abortion in the Supreme Court case, Senator Farley, you're absolutely correct. But it's a bad idea. And the reason is simple.

What the Supreme Court of the United States said in Roe versus Wade was that you couldn't use the power of a criminal sanction to force a woman to make a choice between her life, her health and the life of a fetus. You couldn't use the criminal sanction to effect that choice. It was unconstitutional to do it.

I would suggest, Senator Farley, what makes me vote against this bill is that what this bill seeks to do is to take that situation Roe against Wade was designed to prevent -- that is, using a coercive tool to force a woman to make a choice -- which is going to be rekindled if this bill passes.

Because at this point we will create a twofold process in which women will be forced to make that difficult choice because of their inability to pay for it. And desperate women will face desperate and enormously complicated choices, and they'll have the same powerful if not punitive measure of being unable to pay for it hanging over their heads.

I would suggest that what the

Supreme Court of the United States did was to say to women: We will not force you into the back alleys if you make this difficult choice.

I suggest if we pass this legislation for poor women, we will force them back into the back alleys again and have them face this difficult choice without their family, without their physician, without safe abortion choices available.

And that, whether it's constitutionally compelled or not, would be bad and wrong. I vote no.

ACTING PRESIDENT MARCELLINO: Continue the roll call, please.

THE SECRETARY: Senator Duane.

SENATOR DUANE: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Quickly to explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Farley, to explain his vote.

SENATOR FARLEY: The Supreme Court, Senator Dollinger, says that this bill is constitutional.

I also just want to say, you know,

they say this is a huge women's issue. The women in my life that have had the biggest influence on this issue to me -- my mother, my wife, my daughters -- feel even more strongly on this issue than I do. So it isn't just an issue that we're coming from.

Quite frankly, I think that the time has come that we do what the rest of the United States has done, and the vast majority of 36 states, and adopt this bill.

I vote aye.

ACTING PRESIDENT MARCELLINO: Continue the roll, please.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Aye.

THE SECRETARY: Senator Gentile.

SENATOR GENTILE: No.

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Goodman.

SENATOR GOODMAN: No.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hevesi.

SENATOR HEVESI: No.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: No.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Kruger.

SENATOR KRUGER: No.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: No.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Aye.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Aye.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Yes.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Aye.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: No.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator McGee.

SENATOR McGEE: No.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Aye.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: No.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Morahan.

SENATOR MORAHAN: Yes.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: To explain my vote, please.

ACTING PRESIDENT MARCELLINO: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I wanted to just address something to Senator Marchi, by saying that we concur that there are way too many abortions in our country.

And the way most family planing advocates have tried to address this -- and they're real focused now, for the last several years -- has been that we need more family planning information out there.

We have to avoid the pregnancies from happening in the first place. And once we avoid those pregnancies, we won't have to go back to discussing the two sides that we see here in this chamber on abortion.

All of us think it would be much better if we didn't have the abortions. It would be much better, and I support so highly what Senator Montgomery has said, it would be so much better if we had family life planning in all of our schools so that we would be more similar to Europe, where they have as much

sexual activity, if not more than we have in our country, but this problem that we have is totally unheard-of there.

I remember going around the state on this issue about eight years ago and having a German gentleman get up and say, "I don't understand what your problem is. We don't have this. I'm a science teacher in Europe, and I don't understand. What is this problem that you Americans have?"

Well, the problem is we aren't doing the right job on educating. We would not have this horrible abortion problem if we had the proper education and the proper tools available to young people. That's my first point.

When Senator Farley says that 37 states don't have this, remember, there are 13 states that do have Medicaid funding for abortion. And of those, several of them - I'm not sure, six or seven -- are under court order to have it. So this is not something that is unheard-of and we are the only example.

And I think it's -- I think

basically it is how do you view this procedure. I view this procedure of abortion as being one of the many choices available to us in women's health care.

And someone said this earlier, but if someone, a woman, has to go ahead with an unplanned pregnancy and truly doesn't want it and truly is not at a point in their lives when they support a child, when they can support them either financially or emotionally, they should not have that child and they should not end the options that are possible for their lives as young women because they have a child.

So I'll be voting no.

ACTING PRESIDENT MARCELLINO: Continue the roll call, please.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Rosado.

SENATOR ROSADO: Aye.

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

Senator Sampson, excused.

Senator Santiago, excused.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: To explain my vote.

ACTING PRESIDENT MARCELLINO: Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: I want to echo something that Senator Oppenheimer just mentioned. I think that you can't -- no one, I think, of good conscience could listen to Senator Marchi's remarks without reflecting on the fact that we're talking about an extremely difficult, serious, moral, spiritual issue here, as well as a legal issue.

But I would urge that anyone who takes seriously the desire that I think is shared -- certainly I think is shared by pretty much all of my colleagues that I've spoken to about it, to reduce the number of abortions, it is within our power to do that. This is not the way to do it.

But we've brought to the floor two

bills this session that have -- I hope will move before the end of the session to provide for more contraception, including to provide emergency contraception to rape victims.

Survivors of rape do not get emergency contraception in more than half the hospital emergency rooms in the State of New York. Some of those people are forced to have abortions of the babies of their rapists.

We have the power to do something about that. We have the power to require insurance companies to provide contraceptive coverage. Let's move forward and try to do something about this issue.

I vote no, and I hope we will see these other issues before the session is out.

ACTING PRESIDENT MARCELLINO: Continue the roll, please.

THE SECRETARY: Senator Seabrook.

SENATOR SEABROOK: No.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: No.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Aye.

THE SECRETARY: Senator A. Smith.

SENATOR ADA SMITH: No.

THE SECRETARY: Senator M. Smith.

SENATOR MALCOLM SMITH: No.

THE SECRETARY: Senator Spano.

SENATOR SPANO: No.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: No.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Aye.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT MARCELLINO: Call the absentees.

THE SECRETARY: Senator Gonzalez.

(No response.)

ACTING PRESIDENT MARCELLINO:

Please tabulate the results and announce them.

THE SECRETARY: Ayes, 33. Nays, 25.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos, why do you rise?

SENATOR SKELOS: 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 MARCELLINO: The Secretary will read the report of the Rules Committee.

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

Senate Print 7843, by the Senate Committee on Rules, an act to subordinate certain loans.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

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

ACTING PRESIDENT MARCELLINO: The motion is to accept the report of the Rules

Committee. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The Rules Committee report is accepted.

SENATOR SKELOS: Call up Calendar Number 893.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 893, by the Senate Committee on Rules, Senate Print 7843, an act to subordinate certain loans made to a nonprofit racing association.

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

ACTING PRESIDENT MARCELLINO: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO:

Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MARCELLINO: The bill is passed.

SENATOR SKELOS: Mr. President, is there any housekeeping at the desk?

ACTING PRESIDENT MARCELLINO:

Yes, there is, Senator.

Senator Nozzolio.

SENATOR NOZZOLIO: Yes, Mr. President.

I move the following bills be discharged from their respective committees and be recommitted with instructions to strike

the enacting clause:

Senate Number 7599, on behalf of Senator Spano.

ACTING PRESIDENT MARCELLINO: So ordered.

Senator Skelos.

SENATOR SKELOS: Please recognize Senator Paterson.

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Mr. President, with unanimous consent, I would like to be recorded in the negative on Calendar Number 885.

ACTING PRESIDENT MARCELLINO: You will be recorded in the negative, Senator Paterson, on Calendar Number 885.

Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business to come before the Senate, I move we adjourn until Monday, May 8th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MARCELLINO: The Senate will stand adjourned until Monday,

May 8th, at 3:00 p.m. Intervening days will be legislative days.

(Whereupon, at 1:26 p.m., the Senate adjourned.)