NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 15, 2000

3:10 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

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

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

THE PRESIDENT: With us today to present us with an invocation is the Reverend Marek Suchocki, from St. Stanislaus Kostka Roman Catholic Church in Staten Island.

REVEREND SUCHOCKI: Let us pray.

O dear God, who has created and sustains all the events He guides and all of human works that are good and have a good purpose, prompt those who believe to praise and bless the Lord with sincere hearts. He is the source and origin of every blessing.

The church teaches in regards as worthy of praise and consideration the work of those who, as a service to others, dedicate themselves to the public good and undertake the burdens of this task. Public life on behalf of the person and society find its

basic standard in the pursuit of the common good as the good of everyone and as the good of each person taken as a whole.

The common good embraces the sum total of all those conditions of social life by which individuals, families, and organizations can achieve more totally their own fulfillment.

Almighty God, let the light of Your divine wisdom direct the deliberations of our State Senate and shine forth in all the proceedings and laws pertaining to our rule and government. May they seek to preserve peace and continue to bring us the blessings of liberty and equality.

May Almighty God pour out on us all his blessings and love. In the name of the Father and of the Son and of the Holy Spirit, amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 14, the Senate met pursuant to adjournment. The Journal of Saturday, May 13, 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.

The Secretary will read.

THE SECRETARY: Senator Lack, from the Committee on Judiciary, reports the following nominations:

As a judge of the Family Court for the County of Schenectady, Kathleen R. DeCataldo, of Niskayuna.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam Chairman.

I rise to move the Governor's nomination of Kathleen R. DeCataldo of Niskayuna as a judge of the Family Court for the County of Schenectady.

Her credentials have been examined by the staff of the Judiciary Committee. They have been found certainly to be in order. She

appeared before the entire committee this morning and was unanimously moved to the floor of the Senate for consideration this afternoon.

And I most respectfully yield to Senator Farley for purposes of a second.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you very much, Madam President.

I rise to support my friend Kathleen R. DeCataldo for the Family Court, a very important court and one that is very difficult.

And let me just say I can't think of anybody that is more eminently qualified to serve in the Family Court than Kathleen. She has an extensive legal background as a lawyer. She was also very significant in our community of Niskayuna, our hometown, where she served as supervisor for a number of years and also has been active in community affairs in the town.

But let me just say this. With her today is her husband, Bob, who is a distinguished attorney in Schenectady, and her

daughters, Devon and Audra, and also her mother and her mother-in-law.

And let me just say that Schenectady is indeed fortunate to have somebody that is so qualified to serve in this very, very important court. She has served as law guardian many, many times and handled all the difficult cases in family law, and, as I said, will make an outstanding judge.

And she goes -- as soon as we confirm her, she goes right on the bench. And we look forward to a long and successful career for Kathleen.

THE PRESIDENT: The question is on the confirmation of Kathleen R. DeCataldo as a judge of the Family Court for the County of Schenectady. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And congratulations, Judge DeCataldo.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a judge of the Family Court for the County of Westchester, Annette L. Guarino, of Rye.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam Chairman.

Madam President, I rise to move the nomination of Annette L. Guarino, of Rye, as a judge of the Family Court for the County of Westchester.

We received the nomination. The staff of the Judiciary Committee has examined the credentials of the nominee. They were found to be excellent. She appeared before the full committee this morning and was unanimously moved for consideration this afternoon.

And I respectfully yield to Senator Spano for purposes of a second.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Thank you, Madam President.

It is my pleasure to second the nomination of Annette Guarino to Family Court and, in doing so, commend the Governor on an outstanding appointment for someone who is an impressive attorney in the County of Westchester, a consummate professional, a close personal friend that I've known for more than well over a decade.

And by every account, she is a true success story, having run the real gamut in almost area of litigation, from commercial litigation to bankruptcy to family law.

Annette is an exceptional nominee for any judicial post. She has got the type of temperament, as a compassionate person, to serve in a very difficult situation in Family Court, to make very difficult decisions that impact the quality of life of our children across Westchester County and this state and in the families across Westchester County and in this state.

So we must have someone who has the -- that can be compassionate and who has got the tenacity to hear every case in a fair and in an objective manner. And that's why

Annette is the perfect person to be a member of the Family Court.

And it's my pleasure to second your nomination today and to offer my sincere congratulations to an outstanding attorney and friend as she starts this new section of her career, which so far has been one that has made us all proud.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: I too rise to second the nomination of Annette Guarino.

And I think it's telling that Annette and I two or three days ago were together at a breakfast meeting of the Westchester Children's Association. I say that because it shows what someone's interest is, where someone's heart is.

And this particular nominee is going to do a superlative job on the Family Court. She is a bright woman, graduated - though I didn't know this -- summa cum laude, which can be somewhat frightening. But she's a person that's practiced all variety -- all the variations that are possible, practically,

within the legal system.

And so not only does she bring compassion and understanding, intelligence and experience, but she's someone that really has the children's interests at heart.

So I applaud this nominee, and I wish Annette the very best.

THE PRESIDENT: The question is on the confirmation of Annette L. Guarino, of Rye, as a judge of the Family Court for the County of Westchester. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations, Judge Guarino, to you and your family.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a judge of the Dutchess County Court, Gerald V. Hayes, of Poughkeepsie.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise, once again, to move the nomination of Gerald V. Hayes, of Poughkeepsie. He's been nominated by the Governor as a judge of the Dutchess County Court.

Mr. Hayes' credentials have been examined by the staff of the Committee on Judiciary. They have been found to be perfectly in order. He appeared before the committee this morning, was unanimously moved from the committee to the floor for consideration by the entire Senate this afternoon.

And I most respectfully yield for purposes of a second to Senator Saland.

THE PRESIDENT: Senator Saland.

SENATOR SALAND: Thank you, Madam President.

It is an absolute pleasure for me to rise to second the nomination of Gerald Hayes to become a Dutchess County judge.

We have heard at various times

during the course of one or another nomination about the extraordinary quality of judges that Governor Pataki has sent to us for confirmation. Certainly in a field of exceptional candidates, none is more exceptional than Gerry Hayes.

If you have the opportunity to look at his resume, you will see that this is an individual who for more than 30 years has effectively been training for this moment. He has, since the day he graduated law school, been integrally involved in the criminal justice system, as a prosecutor and as a defense attorney, a public defender and in private practice. He has represented both the people of the State of New York and people appearing before our courts as defendants admirably, if not exceptionally.

If you look at his resume, you will quickly see that he is one of the few people in New York State that has been certified to serve as counsel to persons who have been charged with a capital crime and faced with the death penalty.

Notwithstanding his enormous

professional ability, his enormous commitment and extraordinary commitment to our justice system, he has managed to find the time to be very active in his church and to contribute years of service to various youth programs, both basketball and baseball.

I'd be remiss if I didn't acknowledge those who are here with him today: His wife, Sheila -- I've known Gerry and Sheila for nearly 30 years. All of their four sons are with them. I don't believe their daughters are with them today. And very importantly, last but far from least, Gerry's mom is also here to enjoy this extraordinary moment.

We, as I said earlier, have been blessed with some fantastic nominees. Gerry Hayes will do justice not merely to the people of the State of New York, he will do justice to the confidence that the Governor has placed in him and certainly will be a marvelous judge.

And I feel, as I said to one of my colleagues a bit earlier today, that there will be nobody who will come before Judge

Hayes who will not be treated fairly, evenly, and in the spirit in which justice was intended to be handled.

Best of luck. God bless.

THE PRESIDENT: The question is on the confirmation of Gerald V. Hayes, of Poughkeepsie, as a judge of the Dutchess County Court. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations, Judge Hayes, to you and your family.

(Applause.)

THE PRESIDENT: Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Bonacic, please remove the sponsor star from Calendar Number 686.

THE PRESIDENT: So ordered, Senator.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Rath, I wish to call up Senate Print Number 674A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 237, by Senator Rath, Senate Print 674A, an act to amend the Family Court Act.

THE PRESIDENT: Senator Fuschillo.

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

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: I now offer the following amendments.

THE PRESIDENT: The amendments are received, Senator.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Padavan, I wish to call up Senate Print Number 3597B, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 211, by Senator Padavan, Senate Print 3597B, an act to amend the Administrative Code of the City of New York.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed and ask that said bill be restored to the order of third reading.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is restored to the Third Reading Calendar.

Senator Fuschillo.

SENATOR FUSCHILLO: I now move to discharge, from the Committee on Cities, Assembly Print Number 6626B and substitute it for the identical bill.

THE PRESIDENT: Substitution ordered.

SENATOR FUSCHILLO: I now move that the substituted Assembly bill have its third reading at this time.

THE PRESIDENT: So ordered. The Secretary will read.

The substituted bill having been passed the first time before the Senate, the Secretary will read.

THE SECRETARY: Calendar Number 211, by Member of the Assembly Pheffer, Assembly Print Number 6626B, an act to amend the Administrative Code of the City of New York.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Madam

President, I offer the following amendments to the following Third Reading Calendar bills -

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 90 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR FUSCHILLO: The following amendments are offered to the following Third Reading Calendar bills:

On behalf of Senator Bruno, page number 32, Calendar Number 233, Senate Print Number 5752;

On behalf of Senator Morahan, page number 36, Calendar Number 383, Senate Print Number 6438;

On behalf of Senator Larkin, page

number 37, Calendar Number 434, Senate Print Number 5705A;

On behalf of Senator Spano, page number 45, Calendar Number 621, Senate Print 6550;

On behalf of Senator Volker, page number 62, Calendar Number 876, Senate Print Number 6973;

And on behalf of Senator Seward, page number 52, Calendar Number 747, Senate Print Number 6730.

THE PRESIDENT: The amendments are received, and the bills will retain their place on the Third Reading Calendar.

SENATOR FUSCHILLO: I now move that these bills retain their place on the Third Reading Calendar.

THE PRESIDENT: So ordered.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Yes, thank you, Madam President.

I know that we certainly don't have an opportunity to acknowledge people in our house, but I have some young people who are

looking in on us today to see just how we function in the Senate, the 61 of us who are here to pass legislation on their behalf.

So I did want to just let the members know that there is a group of young people who are looking at us today, trying to evaluate what we do and how we do it and how much we are working on their behalf.

They're from P.S. 335 in Brooklyn. They are accompanied by their teachers, Mr. Pierre Michel, Miss Brenda Cumberbatch, and their guidance counselor, Mr. Charles Goldberg.

So I hope that what they see today is a perfect illustration of how the 61 members of the New York State Senate are working very hard on a daily basis in our seats, up on our feet, debating legislation on their behalf.

Thank you, Madam President.

THE PRESIDENT: Senator Kuhl, we have substitutions at the desk.

SENATOR KUHL: Yes, Madam President.

I hope those young people who are

visiting us here don't -- will acknowledge the fact that there are members of this chamber who violate the rules and that they will take that to heart and are compliant with the rules in the future in their lives.

But in any case, yes, I understand there are some substitutions at the desk. And I wonder if we could take those up at this point.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 6, Senator Libous moves to discharge, from the Committee on Higher Education, Assembly Bill Number 7233 and substitute it for the identical Senate Bill Number 5723, First Report Calendar 1166.

On page 6, Senator LaValle moves to discharge, from the Committee on Higher Education, Assembly Bill Number 9951 and substitute it for the identical Senate Bill Number 6889, First Report Calendar 1170.

And on page 56, Senator Nozzolio moves to discharge, from the Committee on Consumer Protection, Assembly Bill Number 6340

and substitute it for the identical Senate Bill Number 5110, Third Reading Calendar 801.

THE PRESIDENT: The substitutions are ordered.

Senator Kuhl.

SENATOR KUHL: Madam President, at this time may we have the noncontroversial reading of the calendar, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 141, by Senator LaValle, Senate Print 807A, an act to amend the Education Law, in relation to community service.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

155, by Senator Padavan, Senate Print 1385, an act to amend the State Administrative Procedure Act, in relation to denial, suspension and revocation.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 157, by Senator Bonacic, Senate Print 4579B, an act to amend the Environmental Conservation Law, the Labor Law, and the Transportation Law, in relation to providing.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 234, by Senator Johnson, Senate Print 2788A, an act to amend the Vehicle and Traffic Law, in relation to motorcycle accident reporting.

SENATOR DUANE: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 273, by Senator Johnson, Senate Print 2812, an act to amend the Public Authorities Law, in

relation to requiring the Triborough Bridge and Tunnel Authority to provide.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 30 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 321, by Senator Bonacic, Senate Print 3906A, an act to amend the Public Authorities Law, in relation to the powers of the State of New York Mortgage Agency.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 476, by Senator Trunzo, Senate Print 6868A, an act to amend the Vehicle and Traffic Law, in relation to driving while ability-impaired by drugs.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 489, by Senator Volker, Senate Print 1455, an act to amend the Private Housing Finance Law, in relation to voluntary dissolution.

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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 552, by Senator Saland, Senate Print 6933, an act to amend the Social Services Law, in relation to authorizing.

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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 571, by Senator LaValle, Senate Print 6487B, an act to amend the Education Law, in relation to the terms of office.

THE PRESIDENT: Read the last section.

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 612, by Senator Marchi, Senate Print 4692A, an act to amend the Public Authorities Law and the Real Property Tax Law, in relation to securitization.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 15 -

SENATOR DOLLINGER: Lay that aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 625, by Senator Farley, Senate Print 2926, an act to amend the Banking Law, the Education Law, and the Surrogate's Court Procedure Act, in relation to providing.

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 723, by Senator Skelos, Senate Print 965A, an act to amend the Domestic Relations Law, in relation to disinterested persons.

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, 57.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 725, by Senator Saland, Senate Print 1828, an act to amend the Social Services Law, in relation to allowing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall -

SENATOR DOLLINGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 727, by Senator Morahan, Senate Print 5909B, an act to amend the Not-for-Profit Corporation Law, in relation to corporations.

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

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 730, by Senator Wright, Senate Print 7023A, an act to amend the Public Authorities Law, in relation to allowing the Town of Scriba, County of Oswego.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 762, by Senator Saland, Senate Print 7575, an act to amend the Social Services Law, in relation to making the home visiting program permanent.

THE PRESIDENT: Read the last section.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 776, by Senator McGee, Senate Print 5560, an act to amend the Vehicle and Traffic Law, the Environmental Conservation Law, and the Public Health Law, in relation to standards.

THE PRESIDENT: Read the last section.

SENATOR DUANE: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 789, by Senator Rath, Senate Print 7358, an act to amend the Municipal Home Rule Law, in relation to the enactment.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 817, by Senator Trunzo, Senate Print 1659A, an act to amend the Criminal Procedure Law, in relation to service of summons.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 828, by Senator Lack, Senate Print 3592, an act to amend the Civil Rights Law, in relation to personnel records.

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, 57.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 829, by Senator Skelos, Senate Print 5157, an act to amend the Criminal Procedure Law, in relation to permitting.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 864, by Senator Johnson, Senate Print 1074, an act to amend the Public Authorities Law, in relation to directing the New York State Thruway Authority.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 865, by Senator Larkin, Senate Print 1238B, an act creating the temporary state commission on the 50th anniversary of the Korean War.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 869, by Senator Trunzo, Senate Print 2551C, an act to amend the Education Law, in relation to payment of tuition.

THE PRESIDENT: Read the last section.

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

August.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 874, by Senator Meier, Senate Print 6472A, an act to amend the Executive Law, in relation to broadening.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 914, by Member of the Assembly Weinstein, Assembly Print Number 9525, an act to amend Chapter 729 of the Laws of 1994.

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, 57.

THE PRESIDENT: The bill is passed.

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

SENATOR KUHL: May we now have the controversial reading of the calendar, Madam President.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 155, by Senator Padavan, Senate Print 1385, an act to amend the State Administrative Procedure Act, in relation to denial, suspension and revocation.

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

SENATOR PATERSON: I actually didn't ask for an explanation, but I was thinking of asking for one. But the chair is so clairvoyant that she is correct, we would

like to hear an explanation.

SENATOR PADAVAN: Very good. I just wanted to make the record clear, Senator.

In 1986 the federal government adopted an act known as the Federal Immigration Reform and Control Act. Contained in that document were provisions for the knowingly hiring of illegal aliens.

Very comprehensive. Basically what it provides for are civil and criminal penalties for individuals who knowingly hire illegal aliens. However, it makes no mention -- as it cannot, obviously -- to any entity that may be licensed by a state that violates that law.

And so what we have before us is a proposed statute that would allow the revocation of a license for any entity, corporate entity, that in effect violates the federal law. It provides for a suspension up to five years for two or more separate occasions of violating the statute that I described briefly previously.

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Would Senator Padavan yield for a few questions?

THE PRESIDENT: Does the sponsor yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Senator, I turn your attention to Section 274 of the Federal Immigration Act of 1986 and ask you whether or not you interpret it to mean that actually we would not be able to pass this legislation because it would preempt the federal government's demand not to have states actually taking action against immigrants in this particular way.

SENATOR PADAVAN: I could not disagree with you more, Senator. The issuance of a state license, whether it be for selling alcohol or any other enterprise that requires a state license -- under the Labor Law, you name it -- that is our responsibility, our jurisdiction. The state has a right to issue it, and the state has a right to revoke it.

The conditions for revocation are a matter of law. In this case we are providing for a law.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President. If Senator Padavan would continue to yield.

SENATOR PADAVAN: Yes.

THE PRESIDENT: You have the floor, Senator Paterson. Go ahead.

SENATOR PATERSON: Senator, do you have any concern that because of the nature of the penalties that would be provided should we pass this legislation, that employers, upon viewing any prospective employee who might be speaking a foreign language or have a distinct ancestry of a different national origin, that there would be discrimination in that hiring?

Because one thing is assured. If you don't hire anyone who even appears to be an immigrant, you're not in any danger of violating this law -- e.g., a possible discrimination not necessarily because the employer is one that is biased, but because

the employer is actually frightened about breaking the law.

SENATOR PADAVAN: No, I don't have any concerns, Senator. If that were the case, half the restaurants in New York City would have to shut down, to say the least.

Senator, I have a number of newspaper stories, situations that have occurred throughout the state. One particularly caught my interest. It's written in the Buffalo News. It says "Assembly Democrats from Western New York call on three state agencies to investigate the use of illegal aliens to construct the Tops Market Distribution Center in Lancaster." It goes on and on to describe how this, in their view, this entity knowingly hired illegal aliens, and they want it stopped.

Now, these state agencies can do certain things. There's some things they can't do. One of the things I'd like them to be able to do, if there are any licenses involved, to revoke them.

And I have stories of abuses in sweatshops in the City of New York. It just

goes on and on.

However, the bill, to address your concern, says very explicitly -- it uses the word twice -- "knowingly," knowingly hires illegal aliens.

And as you and I know, coming from that part of the state where we come from, this goes on. And it shouldn't. Because those people are being put in jobs, being paid less than the minimum wage, are being put in sweatshops, working under conditions that should not be tolerated.

And frankly, there's very little a state agency can do about it. Even the Labor Department has limited jurisdiction.

We want to expand that in this one instance, that that entity, if it is licensed by the state for whatever purpose, that that licensure might be forfeited. There are no criminal penalties, nothing beyond the forfeiture of the license.

SENATOR PATERSON: Madam President, if Senator Padavan would continue to yield.

THE PRESIDENT: Does the sponsor

continue to yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Related to the term "knowingly," which would describe what is in the mind of the employer at the time that the employee is hired, would this also include becoming aware that the employee is an immigrant after the employment was agreed upon?

SENATOR PADAVAN: I'm not sure I understand your question.

In other words, if after they were hired the employer -- let's see if I can paraphrase your question so I can answer it. After they were hired, the employer found out subsequently that that person was an illegal alien and did nothing about it?

SENATOR PATERSON: Yes.

SENATOR PADAVAN: It would apply.

SENATOR PATERSON: Madam Paterson, if Senator Padavan would continue to yield.

SENATOR PADAVAN: Yes.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Senator Padavan, give me an example of how -- you certainly describe situations which are pretty egregious.

And of course the immigrant status is almost a blackmail, as you very accurately describe, where the employee has no real rights and no real ability to challenge anything the employer does, so you wind up working long hours, low wages. It's actually, in many cases, as much a danger to the employee as to the employer.

But what I want to know in this particular case is how it becomes known to the authorities that the employer knowingly hired individuals who are illegal aliens who are immigrants to this country. In other words, give me an example of how you prove that this is known.

SENATOR PADAVAN: Senator, as we said and as is clearly written in the bill, they have to have violated the federal law. And that law is enforced by federal agencies.

If you want an example, here is a story that I'm reading where a number of individuals had been working 60-hour weeks in a very unsavory environment, making clothes for some outfit that somehow or other was associated with Kathy Lee in her Kathy Lee Gifford's line of clothing. The federal government went in there and did something about it. That sweatshop was raided, fines were issued.

Another story in the New York Times, 1.5 million is levied by a federal agency and they are further seeking criminal penalties under the statute that we referred to at the federal level, and the one that would be the trigger for our action should this become law.

SENATOR PATERSON: Thank you, Madam President. I have one final question for Senator Padavan.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PADAVAN: Final question, Senator? Yes.

SENATOR PATERSON: Madam

President, I'm interested in what is a final determination, to go with my final question and Senator Padavan's final answer.

It says in the legislation that this would be handled administratively. Now, we don't have vis-a-vis what you might have immigration courts, so this would be handled administratively. I want to know who makes the final determination that there was a hiring of an illegal alien with the requisite knowledge of the employer.

SENATOR PADAVAN: Under the federal law, if the business has exhausted all of its appeals and has been found guilty of that federal statute that I know you're familiar with and that I briefly described, that is the final determination. That's what this bill says. And that's my final answer.

SENATOR PATERSON: It's wrong, Madam President.

(Laughter.)

SENATOR PATERSON: On the bill.

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

SENATOR PATERSON: No, I don't

think Senator Padavan is necessarily incorrect in his assertion. I think that I disagree with the premise of the legislation and really with what I think would be a chilling effect on employment.

He's absolutely right about the misuse of illegal aliens and how it occurs. I just think that what we're doing by passing this legislation is turning employers into IRS agents. The cases that he described are examples of egregious violations of the law. And I think perhaps on a count of how many employees, that might be a way to do it.

But just the fact that there are two violations, I think it could happen very uncommonly, not in the big clothing apparel, such as Kathy Lee Gifford's line, but in the smaller businesses where something like this could really injure a person that's trying to earn a living.

And so I would urge a no vote on this bill, Madam President.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: I don't want to extend this debate, but I do have to comment

on the final remark of my colleague here.

Senator, you referred to small businesses. Again, I remind you and anyone else who may be listening to us that this statute would be triggered if the federal government, under the Immigration Reform Act of 1986, took significant punitive action.

And they don't go around looking for one and two people. They're after the kind of folks that I referred to you a moment ago in some of these articles, where they're levying big fines, where there are large numbers of employees, where there's wholesale abuse.

So this is not something that would even remotely relate to your closing remarks.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 155 are

Senators Coppola, Duane, Hevesi, Mendez, Paterson, Rosado, Schneiderman, Seabrook, and Stavisky. Ayes, 50. Nays, 9.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 157, by Senator Bonacic, Senate Print 4579B, an act to amend the Environmental Conservation Law, the Labor Law, and the Transportation Law, in relation to providing.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, will the sponsor yield just for one question?

THE PRESIDENT: Does the sponsor yield?

SENATOR BONACIC: I do.

SENATOR DOLLINGER: Through you, Madam President, is this bill designed to create a new office of each of these agencies in the Catskill region?

SENATOR BONACIC: That is not my intent.

It's to create a branch office that

will cover the Catskill region of four counties -- Delaware, Greene, Sullivan, and Ulster -- because of its uniqueness. The uniqueness being the Catskill Park. And it comprises the watershed area for New York City.

And presently those four counties are covered by three DOT offices, two DEC offices, and three Labor offices. And for purposes of comprehensive planning, economic development, coordination, communication, we felt that it would be better for that region to have one branch office that could coordinate all their activities for those four counties.

It would be my desire that for the existing offices we would perhaps, you know, take one county away from one DOT office and give it to the other. So there would be some administrative reshuffling to accomplish the purposes that I've described.

SENATOR DOLLINGER: Through you, Madam President, just on the bill. I'll be very brief.

I appreciate Senator Bonacic's

intent here. But it seems to me if we're going to reorganize the departments of this state, the Department of Labor, the Department of Economic Development, we ought to do it in a wholesale fashion. We ought to look at the entire state.

Certainly the DEC office in my community is located in Avon, New York. I think we should look at perhaps creating one that has a greater focus towards the Great Lakes and Lake Ontario.

And while I applaud Senator Bonacic for doing it piece by piece, I would suggest the better approach is to do it as an entirety. If we're going to reorganize these departments because of geographic boundaries or new geographic preferences, I'm all for taking a good look at that. But I'm going to vote against this bill because I think by doing it piecemeal, despite the good intentions of Senator Bonacic, is a mistake.

We ought to do it as part of a complete reevaluation. The Governor has the clear power to do this. I would suggest that this is better put in the Executive's power to

reorganize these three departments, for the very laudable goals that Senator Bonacic has declared.

THE PRESIDENT: Senator Onorato.

SENATOR ONARATO: Madam President, will the sponsor yield for a question?

THE PRESIDENT: Does the sponsor yield?

SENATOR BONACIC: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Onorato.

SENATOR ONORATO: Senator Bonacic, will this new agency have any effects on diminishing the city's rights to protect its watershed? Will they be able to promulgate rules that would be contrary to the current rules that are in place protecting the New York City watershed area?

SENATOR BONACIC: No.

SENATOR ONORATO: Thank you.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: Madam President, to explain my vote.

THE PRESIDENT: To explain your vote.

SENATOR OPPENHEIMER: I'm voting in favor of this, and happily so.

Because we are in some regions, with Senator Bonacic, in spite of the fact that the county I'm in has close to a million people, we have to schlep halfway up -- quite a distance into Poughkeepsie in order to reach our offices, which we find rather a peculiar situation. A county of our size ought to have something much more convenient.

And I therefore think that by following your route, it would make our route easier, because it would put us in with neighbors who are closer to us. So I think this is a fine bill. I vote yes.

THE PRESIDENT: Senator

Oppenheimer, you will be so recorded as voting in the negative.

The Secretary will announce the results.

In the affirmative, excuse me, Senator.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 234, by Senator Johnson, Senate Print 2788A, an act to amend the Vehicle and Traffic Law, in relation to motorcycle accident reporting.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT McGEE: Senator Johnson, an explanation has been asked for.

SENATOR JOHNSON: By who, Madam President? Madam President, who seeks the explanation?

ACTING PRESIDENT McGEE: Senator Duane seeks the explanation.

SENATOR JOHNSON: Thank you.

Senator Duane, there was a report put out in 1999, just a year ago, that reported that of all the accidents in the city involving pedestrians or bicycles, there were only -- 90 percent of the time the auto driver was responsible, and yet there were very seldom summons. I think a similar relationship involves motorcycles.

Now, those of you who have a local paper certainly can read every week about the number of motorcyclists killed on that weekend on the roads. And almost invariably -- in fact, in an investigation several years ago, they found that out of 176 motorcycle crashes with an automobile and a motorcycle, 175 of them involved the auto driver making a left turn in front of the motorcyclist as he was proceeding legally down the road.

These things have been happening for years. In fact, by miles traveled, there are 20 times more motorcyclist deaths than deaths in automobiles. And by registration, there are three times as many.

And the reason is there's no procedure for investigating car/motorcycle

accidents or bicycle/auto accidents, even pedestrian/auto accidents.

So our bill says when any of these type of accidents occur, there shall be an investigation, and hopefully there will be summonses issued after they find out who is responsible.

And reports will go to the Motor Vehicle Department, and they will file a report within three years telling us what the procedure is, what happens, and what we can do to strengthen the law so people aren't killed willy-nilly on the road by absent-minded drivers or, even worse, people violating the law consciously in automobiles because they don't think motorcycles or bicycles should be there anyhow.

Well, I'll tell you the truth. Right now there's a big environmental movement out there regarding bicycles. And on some of the major highways we're rebuilding, we're having bicycle paths along those roadways. Those people deserve to be protected from careless drivers who can kill them willy-nilly without any summons or any prosecution.

I don't think it's right. I think everyone has the right to use the road and should give a consideration to the other vehicles, whatever they may be, on the road.

This bill just calls for investigating those accidents and filing a report and let's see what we can do about this terrible carnage on the highways.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Thank you, Madam President. Will the sponsor yield to a couple of questions?

ACTING PRESIDENT McGEE: Senator Johnson, will you yield to a couple of questions?

SENATOR JOHNSON: Yes, Madam President.

SENATOR DUANE: Thank you.

I'm wondering if the Department of Motor Vehicles has the resources to do this documentation and data collection.

SENATOR JOHNSON: In 1993, the federal government told this government pass a law investigating every commercial

tractor-trailer, commercial-vehicle accident on the highways. And they're required to do that.

Now, whether they have the resources at this moment or not, they will have the resources, because this is something that must be done. And I don't think you can put on a price on all these deaths being - occurring without any investigation or without any changes in laws to prevent this type of thing from continuing in the future.

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

ACTING PRESIDENT McGEE: Senator Johnson, will you continue to yield?

SENATOR JOHNSON: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: As I understand it, the sponsor has said that whether or not the state presently has the resources, he believes that a statewide database would be important to track this serious problem. Did

I understand you correctly, Senator?

SENATOR JOHNSON: That's correct.

SENATOR DUANE: Thank you.

On the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Duane, on the bill.

SENATOR DUANE: Thank you very much.

I think that this is an excellent bill. However, I would like to point out that whether or not the state at this moment has the resources to put together the documentation, the database to document these serious accidents, I fail to see why we can't do a database for other important issues involving serious personal injury in the State of New York -- for instance, by passing a hate crimes bill which would provide documentation of hate crimes around the state of New York.

So I'm voting yes on this just because it's an excellent bill, and also with the idea that it's entirely possible for us to create a similar database to track hate crimes in the state of New York.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Duane.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect 180 days.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 476, by Senator Trunzo, Senate Print 6868A, an act to amend the Vehicle and Traffic Law, in relation to driving while ability-impaired by drugs.

ACTING PRESIDENT McGEE: Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: I need to vote no, Madam President. I'll wait until the vote.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I am not going to ask for an explanation on this legislation, but I would like to comment that -

ACTING PRESIDENT McGEE: Senator Duane, on the bill.

SENATOR DUANE: I'm not sure that there's an ability right now to perform tests on someone to see if they have been sniffing glue or if they're under the influence of sniffing glue.

I'm not sure that there's enough knowledge within, for instance, the State Police and local police forces on what a person -- what mannerisms or how it would appear if they were under the influence of sniffing glue. And I'm not sure that we have the tests in place, as I say, for a police officer to administer such a test.

I mean, I'm not sure that we even know at this point how long glue stays in the body and whether a police officer could actually administer a test before the glue was passed out of their body.

I actually also -- I'm confused, because I'm interested in this issue. I would

have expected that it would go through the committee which you chair, Madam President, of which I'm a member, which is the Alcoholism and Substance Abuse Committee. Yet it went through a different committee. I might have been able to ask my questions at that point if it had been in that committee.

I'm going to vote for it, but I think that more work needs to be done and more information needs to be given before we can actually enact this legislation into law. Though, as I say, I think it's very well-intentioned, but I think it needs work.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Coppola.

SENATOR COPPOLA: Madam President, I'd like to ask a question of the sponsor of this bill, please.

ACTING PRESIDENT McGEE: Will the sponsor yield?

SENATOR TRUNZO: Yes, Madam President.

ACTING PRESIDENT McGEE: Senator Trunzo yields, Senator Coppola.

SENATOR COPPOLA: How is this going to be administered?

SENATOR TRUNZO: Actually, it's the same violation if you're caught under Section 1192 of the Vehicle and Traffic Law with certain solvents. What is happening, it would only be a violation.

What this will do is it would put into legislation the -- certain drugs that are in Section 3380 of the Health Law, which are the definitions of drugs as part of this 1192 of the Vehicle and Traffic Law. And then it would be, you know, impaired motorist, instead of -- if you're driving with ability impaired, it could be a misdemeanor rather than a violation.

ACTING PRESIDENT McGEE: Senator Coppola.

SENATOR COPPOLA: Madam President, can I ask another question?

ACTING PRESIDENT McGEE: Will you continue to yield, Senator Trunzo?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR COPPOLA: Will they do a blood test, Senator?

SENATOR TRUNZO: No, I don't believe so.

SENATOR COPPOLA: Well, then, what other -

SENATOR TRUNZO: It's just a matter of catching that you were sniffing drugs, you know.

SENATOR COPPOLA: What other method would there be, then, if they don't do a blood test?

SENATOR TRUNZO: It would be a field test.

SENATOR COPPOLA: A field test?

SENATOR TRUNZO: A field.

SENATOR COPPOLA: A feel test?

SENATOR TRUNZO: A field. F-I-E-L-D. Field. You know, in the field when the police stops you, they can do a field test right there and then to determine whether you were sniffing drugs.

SENATOR COPPOLA: Thank you, Senator.

Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Coppola, on the bill.

SENATOR COPPOLA: I'm going to support it because I think we should be doing a lot more in this category. But we shouldn't be as vague as we are. There should be more to this bill. Right now there isn't anything that's associated as far as good testing.

And I just think that we're attempting to do something but we really don't have any correct control over it. And it's going to be very vague. And I really hope that we can improve upon this.

But I will support this bill.

ACTING PRESIDENT McGEE: Thank you, Senator Coppola.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like unanimous consent to be recorded in the negative on Calendar Number 155.

ACTING PRESIDENT McGEE: You shall be so recorded. Thank you, Senator Montgomery.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 571, by Senator LaValle, Senate Print 6487B, an act to amend the Education Law, in relation to the terms of office.

SENATOR LACHMAN: Explanation, please.

ACTING PRESIDENT McGEE: Senator LaValle, Senator Lachman has asked for an explanation, please.

SENATOR LAVALLE: Senator Lachman, this bill, as you know, is not one of the big reform bills on the Board of Regents that I have introduced. But it simply tries to move the time that we vote and involve

ourselves in the Board of Regents from the month of March to the month of May.

Everything else in the process is the same. It's just a different time. It's a time when we should be able to cogitate and deliberate on something that is very, very important.

Members of the Board of Regents are the educational policymakers for this state. Everyone is aware in this chamber of the kinds of important policies that the Board of Regents have promulgated in the recent number of years. And so who we put on the Board of Regents is very, very important, and the process is important.

But I feel that they should be given the kind of attention that the position calls for. And that's why I would like to move it to a time of the year that is a little more sane here in terms of the Legislature.

But also, what are we voting on in the third Tuesday in May? Members of the school boards and the budgets. And so truly May would be education month in terms of selecting members of the Board of Regents, the

board of education, and voting on our school budgets.

That's why we changed to the month of May.

ACTING PRESIDENT McGEE: Senator Lachman.

SENATOR LACHMAN: Yes, on the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Lachman, on the bill.

SENATOR LACHMAN: Yes. This is a major improvement -- I thank you, Senator LaValle -- over last year's version, where many of my colleagues and I voted against it.

And one of the major improvements which the Senator did not mention was that truly this will be the third -- this has to be done by the third Tuesday in May, but in joint session, not in separate sessions, of both houses of the Legislature. And that, to me, is a very important measure, and is in keeping with the joint session philosophy that we have now.

I also agree with Senator LaValle that it will not create a situation of going

six or seven or eight hours in the midst of a budget process when conference committees are meeting.

And I also think that cutting the term of office of a Regent from seven to five years is important, because that makes the Regents more accountable to the State Legislature of the State of New York.

I therefore, unlike last year's legislation, support this year's bill by Senator LaValle. Thank you.

ACTING PRESIDENT McGEE: Thank you, Senator Lachman.

Read the last section.

Excuse me one moment. Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Will the sponsor yield to one other question?

ACTING PRESIDENT McGEE: Senator LaValle, will you rise for one question?

SENATOR LAVALLE: Yes.

SENATOR DOLLINGER: Through you, Madam President. Is it possible, Senator LaValle, that if we postpone the election of the Board of Regents till after April 1st the

appointment of the Board of Regents could become involved as part of the budget negotiations?

Is there a danger here that this could become entwined with our budget deliberations, the appointments of the Board of Regents? We've really handled them as sort of separate issues. Is there a danger that that could happen as a consequence of this legislation?

SENATOR LAVALLE: One of the things that we tried to do is the process really begins almost -- the way it is in law today, it runs almost concurrently with the delivering of the budget to the Legislature in which committees begin to look at the members. At that very same time, we are beginning, as a Legislature, to analyze the budget in the end of January, February -- and indeed, in March, we are passing budget resolutions.

And this year, at the very time when we were involved in passing the budget resolutions, we were dealing with multiple members, selecting, I believe this year, seven members to the Board of Regents.

Now, this was an anomaly, because we don't usually have that many. Usually it's two, three, maybe four. This year was quite unusual.

But nevertheless, when are we doing that? When we are very, very much involved - as Senator Lachman said, the budget conference committees are beginning to do analysis and even meet in the month of March.

So, you know, we could have picked June, I suppose, or -- you know, Senator, in all candor, I mean, when we look at the record of the last number of years -- just go to last year. We passed a budget in August. What month do you pick?

And so what was equally as important as trying to move it away from the statutory date in which we must pass a budget is to have everyone get tuned into Super Tuesday in May. This is a time when we get involved in thinking about education policy, both at a state level, if this bill were to become law, and at a local level, with school board elections and the school budget.

So that's why May was chosen,

Senator.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Madam President, I concur with Senator LaValle's explanation. It's fine with me. Thank you.

ACTING PRESIDENT McGEE: Thank you.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 612, by Senator Marchi, Senate Print 4692A, an act to amend the Public Authorities Law and the Real Property Tax Law, in relation to the securitization.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 15. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 625, by Senator Farley, Senate Print 2926, an act to amend the Banking Law, the Education Law, and the Surrogate's Court Procedure Act, in relation to providing.

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

SENATOR DOLLINGER: Madam President, will the sponsor yield just to one of my favorite questions?

ACTING PRESIDENT McGEE: Senator Farley -

SENATOR FARLEY: Certainly.

You have my memorandum over there?

SENATOR DOLLINGER: I do. I appreciate it.

I have only one question, Madam President.

Does this in any way affect what's left of home office protection in New York for small banks?

SENATOR FARLEY: Absolutely not.

SENATOR DOLLINGER: Thank you, Madam President. The bill is acceptable.

ACTING PRESIDENT McGEE: Thank you, Senator Dollinger.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 725, by Senator Saland, Senate Print 1828, an act to amend the Social Services Law, in relation to allowing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 762, by Senator Saland, Senate Print 7575, an act to amend the Social Services Law, in relation to making the home visiting program permanent.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT McGEE: Senator Dollinger.

Oh. Senator Duane, I'm terribly sorry. Are you asking for an explanation?

SENATOR DUANE: I took it in the best -

ACTING PRESIDENT McGEE: Senator Saland, may we have an explanation on the bill, please?

SENATOR SALAND: Thank you, Madam Chairman.

Madam Chairman, the -- Madam

President, excuse me, the home visitation program is a program which was initiated in 1995, modeled after the Hawaiian Healthy Start program, something which has, in effect, spawned a number of similar laws in a variety of states.

The purpose is to intervene as early as possible, particularly among children at risk, families at risk, to provide supportive serves, to provide medical services. Basically, it's a tool for providing preventive services.

What we would do in this legislation is to make the program permanent -- but, perhaps even more importantly, is to also expand these services, not merely to families but to expectant parents as well.

The program has run very effectively in the various sites in which it has been used. And in fact, according to some of the data that we've seen, the data from the Elmira home visiting program would indicate that there are government savings, in fact, from the reduced expenditures in public

assistance, food stamps, Medicaid, and child protective services.

The bill memo, for anybody who would care to read it, will show a very high level of successful interventions for immunizations as well as other necessary and appropriate tests relating to the health of young children.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Thank you, Madam President. Would the sponsor yield to a couple of questions?

ACTING PRESIDENT McGEE: Will you yield for some questions, Senator Saland?

SENATOR SALAND: Yes, Madam President.

ACTING PRESIDENT McGEE: He yields.

SENATOR DUANE: Thank you.

I think this is good that we're going to make this program permanent. However, that it hasn't been permanent would lead me to believe that we previously had allowed these visits under a temporary

program, "temporary" meaning that there would be some kind of report which would come to the Legislature on the effectiveness.

According to the memo which came out with the legislation, there's an evaluation of the program underway with the assistance of Rockefeller College of SUNY Albany; is that correct?

SENATOR SALAND: I'd be very happy to share that with you, Senator. It's here in my hand.

SENATOR DUANE: The study?

SENATOR SALAND: Yes.

SENATOR DUANE: Thank you. So through you, Madam President, the study is completed.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: So that means the study is completed?

ACTING PRESIDENT McGEE: All right. Senator Saland -

SENATOR SALAND: If you read the bill, the bill will tell you that the study will be ongoing, that every three years we

will getting reports.

The mere fact that there is very positive data here tells us that this is a very worthwhile program that has very appropriate social purpose issues to be met and in fact meets them effectively, it also meets them in a cost-effective fashion.

Paragraph 7 of the bill, beginning down around line 38, will tell you that beginning on December 1st of this year and every three years thereafter, there will be a report that will be required to be delivered to the Legislature.

And by way of additional information, as the Senate chair of the Human Services Budget Conference Subcommittee, we increased the amount of money that was being provided to home visitation programs, which last year was approximately $6.2 million, to $16.4 million. It was a priority of our Human Services Budget Conference Subcommittee, and certainly a priority of mine in this year's budget negotiations.

ACTING PRESIDENT McGEE: Senator Duane.

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

ACTING PRESIDENT McGEE: Senator Saland, will you continue to yield for Senator Duane?

SENATOR SALAND: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: As I read the legislation, it implies that the study which the sponsor is holding in his hand is the final report, although there will be ongoing reports after that. Is that correct, that this was the so-called final report that was supposed to be out after three years?

SENATOR SALAND: There was an interim report that was filed in 1997.

What I have in my hand is something entitled "Healthy Families: New York Home Visiting Program Data Findings." It's Dated May of 1999, Center for Human Services Research, Rockefeller College.

ACTING PRESIDENT McGEE: Senator

Duane.

SENATOR DUANE: Through you, Madam President, if the sponsor would yield for one more question.

ACTING PRESIDENT McGEE: Senator Saland, one more question from Senator Duane?

SENATOR SALAND: Yes, Madam Chair -- Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: Is the funding for the study a line item in the budget, or will we be approving that each year? Or is it state-funded at all?

SENATOR SALAND: I didn't hear the last part of your question. Or is it -

SENATOR DUANE: I'm wondering if the study being done by Rockefeller University is a line item in the budget or if we will be putting it in each year or if in fact -

SENATOR SALAND: I don't recall it as a line item. I'm assuming it comes from general budget expenditures.

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

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 776, by Senator McGee, Senate Print 5560, an act to amend the Vehicle and Traffic Law, the Environmental Conservation Law, and the Public Health Law, in relation to standards.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT McGEE: An explanation has been requested.

ACTING PRESIDENT MEIER: Oh, Senator McGee. An explanation has been requested of Calendar Number 776.

SENATOR McGEE: Thank you, Mr.

President.

This bill would amend the Vehicle and Traffic, the Environmental Conservation, and the Public Health Law to transfer regulatory authority for breath-testing equipment and operation standards from the Department of Health to the Division of Criminal Justice.

Over the last several years, the responsibility for training municipal officers has fallen to the Division of Criminal Justice. And they have supervised the functioning and education and ensuring the continued competence of breath-test operators.

Newer technology for assessing blood alcohol content from a blood alcohol sample has produced a variety, a wide variety of test equipment choices for the law enforcement community. Evaluating this equipment imposes a large burden on the Department of Health concerning a matter that's really not within the traditional health care domain.

Shifting the authority for breath equipment and operator standards to DCJS would

relieve the Department of Health of a task that is not directly related to issues of well-being, without disturbing the continuing authority to regulate blood, urine, saliva testing procedures. And it really will enable DCJS to more quickly meet the evolving technical developments and corresponding training needs in this specialized field.

In all honesty, to sum up the bill, the bill advances the efficiency and effectiveness of New York's response to drunk driving.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. Would the sponsor yield, please?

SENATOR McGEE: Absolutely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you. It sounds as if the sponsor believes that DCJS is in this case better-qualified to give tests or to be the final arbiter of test results and the way tests are administered than is the Department of Health; is that correct?

SENATOR McGEE: Through you, Mr. President, DCJS are the individuals who have been assigned the task of calibrating, evaluating, and making sure that the efficiency of the breath test equipment is correct and proper. They are the ones who by rights should administer the test.

It is not something that is done by the Department of Health. DCJS trains the officers in the field to be able to use this equipment. And we have a continuing changing of the equipment, bringing it more up-to-date.

So yes, DCJS is the one that should be the ones that do the reading and do the breath-test equipment.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator McGee, do you continue to yield?

SENATOR McGEE: Absolutely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Does the sponsor envision any Department of Health involvement in the breathalyzers from now on?

SENATOR McGEE: This does not take away any of the authority that the Department of Health has, as it continues to regulate the blood, the urine and saliva testing procedures.

SENATOR DUANE: But not - through you, Mr. President.

ACTING PRESIDENT MEIER: Senator McGee, do you continue to yield?

SENATOR McGEE: Absolutely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: But not breath?

SENATOR McGEE: Not at this point, no. Breath is taken on the spot, I believe.

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

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: I'm concerned about this legislation. I think that this function is better kept in the Department of Health.

I am reminded that recently at a

meeting of the New York State AIDS Advisory Committee, where we had asked people from DOCS and specifically from the Health Department of DOCS to come and testify before us regarding problems with AIDS care in the prisons, that DOCS sent no one to it.

I believe that the Health Department in that case as well as in this case is better able to take care of the health needs and testing needs on the body, no matter what they are. And whether it's DCJS or DOCS, I think that any function that has to do with the body is best kept with the Department of Health.

I actually would have been interested to hear what DOCS had to say, but they didn't show up at that hearing. But that's my position until I can be persuaded otherwise.

Thank you, Mr. President.

SENATOR McGEE: Mr. President.

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: I need to assure the Senator that the DCJS is not setting the

regulation or the rules for this. That still stays within the Department of Health. DCJS is the people who are responsible for calibrating and making sure that the equipment runs properly. The authority still stays with the Department of Health.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first day of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

ACTING PRESIDENT MEIER: The desk is clean, Senator Skelos.

SENATOR SKELOS: There being no

further business to come before the Senate, I move we adjourn until Tuesday, May 16th, at 11:00 a.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, May 16, at 11:00 a.m.

(Whereupon, at 4:30 p.m., the Senate adjourned.)