NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 31, 2000

2:45 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: In the absence of clergy, may we all bow our heads in a moment of silence, please.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 30th, the Senate met pursuant to adjournment. The Journal of Saturday, May 27, 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 justice of the Supreme Court for the Seventh Judicial District, David D. Egan, of Gates.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President. I rise to move the nomination of David D. Egan, of Gates, as a justice of the Supreme Court for the Seventh Judicial District.

We received the nomination from the Governor for Judge Egan. The staff of the committee has examined the judge's credentials. They were perfectly in order. He appeared in person before the committee earlier this afternoon and was unanimously moved to the floor.

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

THE PRESIDENT: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President.

Thank you, Senator Lack.

It's a great honor for me to get up and second the nomination of Judge David Egan of the Town of Gates. I have known Judge Egan just a short time, but I absolutely agree with Governor Pataki's nomination.

David Egan has a long history in the judiciary. Before he became a lawyer, he was a high school teacher and wanted an easy job, so he went to law school and then became a judge. And as Your Honor knows -- I don't know how much easier it is.

But seriously, Governor Pataki could not, I think, have made a wiser choice for the State Supreme Court in the Seventh Judicial District. Judge Egan has a great background in the law. He's got a great family and a great group of supporters, I know, in the town of Gates and in all of Monroe County.

His wife, Joan, is here today, his children, his grandchildren. And it's a great honor for them, and really it's a great honor

for the people of the State of New York to have such a fine individual selected by Governor Pataki.

Thank you, Madam President.

THE PRESIDENT: The question is on the nomination of David D. Egan, of Gates, as a justice of the Supreme Court for the Seventh Judicial District. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations on behalf of the Senate.

(Applause.)

THE PRESIDENT: As President of the Senate, I want to congratulate you on the huge responsibility, Judge Egan, which you are now undertaking and congratulate you on your achievements that have set you on this very honorable path.

I'd also like to acknowledge the presence of your wife, Joan, your children,

your grandchildren, and your friends who have joined you here this afternoon.

(Applause.)

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: 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.

The Secretary will read.

THE SECRETARY: As a judge of the Westchester County Court, Alphonse M. Naclerio, of White Plains.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I again rise to move the nomination of Alphonse M. Naclerio, of White Plains, nominated by the Governor to be a judge of the Westchester County Court.

Judge Naclerio's credentials have been examined by the Committee on Judiciary. He appeared earlier this afternoon before the

committee, was unanimously moved from the committee to the floor of the Senate for confirmation at this time.

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

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Thank you, Madam President.

Our Governor has a record of appointing some extremely qualified people to the bench, and it's been evidenced time and time again. Certainly, today is no exception. The appointment of Al Naclerio to the bench is just another in a long line of excellent choices.

I have known Al Naclerio for a long time. I knew his late dad for a long time. And I know that his dad spoke to me a number of times about how proud he would be to see his son on the county court. Unfortunately, he's not with us today to see that.

But I know he's watching from above and is very proud today to see the Senate confirm the appointment of someone who has had such an outstanding record, starting in the

military from back in 1971. He remains active as a member of the United States Army Reserve today. As a matter of fact, he just returned from Germany, where he was involved in a investigation of a murder case through the Judge Advocate General's office. He's got a proud record of accomplishments in the Army Reserve.

He went -- right out of law school, where he graduated from Fordham University, he went to work for Legal Aid, helping those who might not otherwise have the benefit and the financial means to qualified representation.

He's served as a partner in a number of reputable firms and now is working as principal law clerk to Westchester County Judge Ken Lange.

Al Naclerio will be an outstanding member of the county court representing Westchester County. He's got the experience on the bench as a first-rate prosecutor. He is the ideal person who will serve the people of Westchester in the best way possible. And it's my honor and privilege today to second the nomination of Al Naclerio.

Thank you, Madam President.

THE PRESIDENT: The question is on the nomination of Alphonse M. Naclerio, of White Plains, as a judge of the Westchester 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.

And on behalf of the Senate, I extend my congratulations to you and acknowledge the presence of your wife, Susan, your daughter, Michele, your mother, Nicoletta, and your friend Dr. Francis Brancaleone. Congratulations.

(Applause.)

THE PRESIDENT: The Secretary will read.

Senator Maltese.

SENATOR MALTESE: If we could go to motions and resolutions, Madam President, there is a privileged resolution, Number 4438, at the desk, by Senator DeFrancisco. May we

have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 4438, honoring the members of Team OHMS at Onondaga Hill Middle School, Syracuse, New York, for their participation in the 49th Senate District's "Good News! Good Kids!" Youth Responsibility Program for the year 2000.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Madam President.

I rise to congratulate the students from the Onondaga Hill Middle School who participated and won the middle school division of the "Good News! Good Kids!" program.

All too often we find situations where the public hears only of bad things that young people do. Well, this group of students, seventh- and eighth-graders from my

district, did many good things in the community, including feeding over 180 people at a rescue mission function, collecting funds to provide gifts for families at Christmastime. They collected new school supplies and auctioned them off for University Hospital's Center for Children, and visited senior citizens' centers in residential areas to make certain that they are still respected and have people to talk to.

Now, these are truly wonderful students who I'm proud that are from my district and representing the people of Central New York. And I'm very proud to present this resolution and request unanimous approval to honor them as good kids, truly good news in our state.

Thank you.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like to speak on the resolution.

I join my colleague in celebrating his students. I think this is something that

we should do. And I too have a class here from a middle school in my district, Junior High School 113, Ron Edmund's Center. And my class joins your students in really being students that we know, Senator, are going to be leaders who are going to take our places in this chamber someday, both your students and mine.

So I thank you for introducing this resolution. And thank you, Madam President, for entertaining our statements.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Maltese.

SENATOR MALTESE: Madam President, may we return to reports of standing committees and complete the Judiciary Committee report.

THE PRESIDENT: Reports of

standing committees.

The Secretary will read.

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

As a judge of the Putnam County Court, Thomas H. Scuccimarra, of Garrison.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President.

Once again, I rise to move the nomination of Thomas H. Scuccimarra, of Garrison, as a judge of the Putnam County Court.

We received the nomination from Governor Pataki. The staff of the Senate Judiciary Committee went over the credentials of the candidate. They were found to be excellent. He was presented to the entire Judiciary Committee earlier this afternoon and was moved unanimously from the committee to the floor for confirmation at this time.

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

THE PRESIDENT: Senator Leibell.

SENATOR LEIBELL: Thank you, Madam President. Thank you, Chairman.

I'm very pleased to have the opportunity today for a couple of minutes to speak about Judge Scuccimarra. As Senator Lack noted, we were in earlier this morning before the Judiciary Committee, and I had the opportunity, at the invitation of the chairman, to speak briefly there and to tell the committee members about Judge Scuccimarra.

I would also note that I'm joined by my colleague from the Assembly, Assemblyman Will Stephens, and our county legislator from home, Vinnie Tamagna, who's here with us also today.

We have had and received over the course of years many, many fine nominations from the Governor. Let me say that we are consistent with that today with Judge Scuccimarra. I've known Tom for quite a few years myself. In fact, in my last term in the Assembly, he administered the oath of office for me. And I was very honored by the fact that he did that.

Tom comes to us today with a long

and distinguished career as a judge in our local town of Philipstown. He has served there as the town justice for many years -- in fact, I believe, in his 16th year as the town justice -- and also served as acting village justice in Cold Spring and acting village justice in the Village of Nelsonville.

I would note also that besides having served and being greatly respected by his local judges, fellow local judges, he has had a very fine practive in the private practice of law in the city of Peekskill and is well-respected by every attorney in the Hudson Valley who has ever worked with him.

You know, as we look for the characteristics that make for a good judge - integrity, disposition, knowledge of the law, the ability to work so hard, as a judge is required to do -- we have all of those characteristics right here in Tom Scuccimarra. I know that he is going to be a wonderful judge. He's filling our vacancy. He is going to be a superb judge. He has the support of so many people at home.

I might also note that we've been

joined here today by one of my finest constituents, Mrs. Pataki, the Governor's mother. So welcome to the Senate chamber, Mrs. Pataki, who is, I know, also friends with the Scuccimarra family.

So I'm very pleased to have this chance to speak today. I wish Tom godspeed. I know he'll take good care of our county. And you'll be a great judge, Tom.

Thank you.

THE PRESIDENT: The question is on the nomination of Thomas H. Scuccimarra, of Garrison, as a judge of the Putnam 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.

And on behalf of the Senate, I extend our congratulations to you, and I acknowledge the presence of your wife, Barbara, your children, Eleanor and Kristopher, your mother, Eleanor, and your friend and the mother of our fine Governor,

Mrs. Margaret Pataki.

Congratulations.

(Applause.)

THE PRESIDENT: Senator Maltese.

SENATOR MALTESE: Madam President, if we could proceed in regular order, please.

THE PRESIDENT: Senator, we have substitutions at the desk. Would you like to proceed with those first?

SENATOR MALTESE: Please, Madam President.

THE PRESIDENT: All right. The Secretary will read.

THE SECRETARY: On page 5, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 1123A, and substitute it for the identical Senate Bill Number 5842A, Third Reading Calendar 107.

On page 8, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 323A and substitute it for the identical Senate Bill Number 6289, Third Reading Calendar 213.

On page 9, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 7199B and substitute it for the identical Senate Bill Number 4932B, Third Reading Calendar 288.

On page 9, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 75 and substitute it for the identical Senate Bill Number 1073A, Third Reading Calendar 292.

On page 16, Senator Lack moves to discharge, from the Committee on Rules, Assembly Bill Number 10421 and substitute it for the identical Senate Bill Number 6918, Third Reading Calendar 505.

On page 16, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 7140B and substitute it for the identical Senate Bill Number 3724B, Third Reading Calendar 525.

On page 29, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 8561B and substitute it for the identical Senate Bill Number 3453A, Third Reading Calendar 826.

And on page 35, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 9802A and substitute it for the identical Senate Bill Number 6884A, Third Reading Calendar 932.

THE PRESIDENT: The substitutions are ordered.

Senator Maltese.

SENATOR MALTESE: Is there any housekeeping, Madam President?

THE PRESIDENT: Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

Amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Wright, page number 6, Calendar Number 124, Senate Print Number 4501B;

Senator Maltese, page number 8, Calendar Number 222, Senate Print Number 4752A;

Senator Seward, page number 18, Calendar Number 617, Senate Print Number 7131;

Senator Leibell, page number 24, Calendar Number 743, Senate Print Number 7457;

Senator Bonacic, page number 32, Calendar Number 901, Senate Print Number 7310;

Senator Bonacic, page number 32, Calendar Number 902, Senate Print Number 7311;

Senator Maltese, page number 34, Calendar Number 927, Senate Print Number 4750;

Senator Trunzo, page number 41, Calendar Number 1028, Senate Print Number 6945;

Senator Fuschillo, page number 42, Calendar Number 1067, Senate Print Number 6875;

Senator LaValle, page number 43, Calendar Number 1081, Senate Print Number 7448;

Senator Skelos, page number 44, Calendar Number 1095, Senate Print Number 7066B;

Senator Rath, page number 45, Calendar Number 1109, Senate Print Number 722B;

Senator Nozzolio, page number 45, Calendar Number 1111, Senate Print Number

1586A;

Senator Fuschillo, page number 46, Calendar Number 1118, Senate Print Number 7361;

And Senator Kuhl, page number 31, Calendar Number 875, Senate Print Number 6767A.

I now move that these bills retain their place on the order of third reading.

THE PRESIDENT: The amendments are received, and the bills will retain their place on the third reading order.

Senator McGee.

SENATOR McGEE: Madam President, on behalf of Senator Meier, I wish to call up bill Senate Print Number 6272A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 185, by Senator Meier, Senate Print 6272A, an act in relation to adjusting.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

SENATOR McGEE: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received, Senator McGee.

SENATOR McGEE: Thank you, Madam President.

Madam President, on behalf of Senator Kuhl, I wish to call up bill Print Number 3243, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 307, by Senator Kuhl, Senate Print 3243, an act to amend the Alcoholic Beverage Control Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

SENATOR McGEE: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received, Senator McGee.

SENATOR McGEE: Thank you, Madam President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

On behalf of Senator Libous, I wish to call up his bill, Print Number 7139, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 709, by Senator Libous, Senate Print 7139, an act to authorize the City of Norwich.

SENATOR MARCELLINO: 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, 54.

SENATOR MARCELLINO: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received, Senator.

SENATOR MARCELLINO: Madam President, I move to recommit Senate Print Number 7021, Calendar Number 596 on order of third reading, to the Committee on Local Government, with instructions to said committee to strike the enacting clause out.

THE PRESIDENT: The enacting clause will be stricken. So ordered, Senator.

SENATOR MARCELLINO: Thank you, Madam President.

THE PRESIDENT: Senator Maltese.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

81, by Senator Seward, Senate Print 1061A, an act to amend the County Law, in relation to authorizing.

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 110, by Senator Farley, Senate Print 5281, an act to amend the Banking Law, in relation to including mortgage bankers and brokers.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 150, by Senator Marcellino, Senate Print 5878, an act to amend Chapter 548 of the Laws of 1995 amending the Environmental Conservation Law.

SENATOR MALTESE: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 164, by Senator Spano, Senate Print 4360, an act to amend the Workers' Compensation Law, in relation to the investment of the State Insurance Fund.

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

313, by Senator Padavan, Senate Print 6508A, an act to amend the General Municipal Law, in relation to urban development action areas.

SENATOR DOLLINGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 427, by Senator Alesi, Senate Print 84C, an act to amend the Vehicle and Traffic Law and the Insurance Law, in relation to devoting a component of the prelicensing and defensive driving courses.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 464, by Senator LaValle, Senate Print 6453, an

act to amend the Education Law, in relation to establishing.

SENATOR DOLLINGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 488, by Senator Libous, Senate Print 6954, an act to amend Chapter 723 of the Laws of 1989 amending the Mental Hygiene Law.

THE PRESIDENT: Read the last section.

SENATOR DOLLINGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 621, by Senator Spano, Senate Print 6550A, an act to amend the Retirement and Social Security Law, in relation to ordinary death benefits.

SENATOR DOLLINGER: Lay the bill aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 693, by Senator Maltese, Senate Print 5742B, an act to amend Chapter 164 of the Laws of 1907 relating to the incorporation of the Queens Borough Public Library.

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 814, by Senator Goodman, Senate Print 662A, an act to amend the Criminal Procedure Law, in relation to designating.

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, 53. Nays,

1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 815, by Senator LaValle, Senate Print 1619A, an act to amend the Criminal Procedure Law, in relation to designating.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 816, by Senator LaValle, Senate Print 1620A, an act to amend the Criminal Procedure Law, in relation to the designation.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 831, by Senator Larkin, Senate Print 5767A, an act to amend the Criminal Procedure Law, in relation to peace officer status.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 844, by Senator Wright, Senate Print 7011, an act to amend the Public Service Law, in relation to applications.

SENATOR WRIGHT: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 856, by Senator Rath, Senate Print 6790, an act to amend the State Administrative Procedure Act, in relation to access.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 915, by Senator Maltese, Senate Print 6694, an

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

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 13. This act shall take effect immediately.

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

Read the last section.

THE SECRETARY: Section 13. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 916, by Senator Maltese, Senate Print 6737, an act to amend the Administrative Code of the City of New York.

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

Read the last section.

THE SECRETARY: Section 13. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 932, substituted earlier today by Member of the Assembly Cahill, Assembly Print Number 9802A, an act to amend the Agriculture and Markets Law, in relation to the release.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1002, by Senator Volker, Senate Print 4483A, an act to amend the Criminal Procedure Law, in relation to designating.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1003, by Senator Nozzolio, Senate Print 5505A, an act to amend the Penal Law, the Vehicle and Traffic Law, and the Insurance Law, in relation to criminally aggressive driving.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1019, by Senator Velella, Senate Print 7810,

an act to amend the Penal Law and the Real Property Actions and Proceedings Law, in relation to the criminal sale.

SENATOR DUANE: Lay it aside, please.

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1039, by Senator Lack, Senate Print 6764, an act to amend the Correction Law, in relation to the preamble played before charges.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1042, by Senator A. Smith, Senate Print 5953, an act directing the Department of State to examine and investigate.

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1101, by Senator LaValle, Senate Print 2660,

an act to amend the Vehicle and Traffic Law, in relation to distinctive plates.

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, 54.

THE PRESIDENT: The bill is passed.

SENATOR VELELLA: Madam President.

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: There will be an immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room.

The Secretary will read.

THE SECRETARY: Calendar Number 1117, by Senator Alesi, Senate Print 7241, an

act to amend the General Business 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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1149, by Senator Farley, Senate Print 2925, an act to amend the Banking Law, in relation to increasing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1153, by Senator Farley, Senate Print 7583, an act to amend the Banking Law, in relation to increased penalties.

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1167, by Senator Nozzolio, Senate Print 5824A, an act authorizing the State University of New York to lease and contract.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 10. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

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

SENATOR VELELLA: May we proceed to the controversial reading of the calendar, Madam President.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 313, by Senator Padavan, Senate Print 6508A, an act to amend the General Municipal Law, in relation to urban development action areas.

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.)

SENATOR PATERSON: Explanation.

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

SENATOR PADAVAN: Thank you, Madam President.

What this amendment to existing law, section -- actually, Section 693 of the Municipal -- the General Municipal Law would

do, it would broaden and enhance and bolster the city's anti-abandonment initiative by broadening the number of residential properties and buildings and vacant lots throughout the city that would be eligible to receive city financing, low-interest new construction and rehabilitation loans.

Again, in an effort to deal with these properties, increase the housing stock, and to encourage particularly not-for-profit entities to develop those parcels and enhance the quality not only of their neighborhoods but to provide additional housing.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Padavan would yield for a question.

THE PRESIDENT: Does the sponsor yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Madam President, I'm interested in finding out whether there was a particular parcel of land

that was the catalyst for the idea that produced this legislation, or is this just a general idea that is something that we might do for a new sort of financing scheme where the city is concerned?

SENATOR PADAVAN: It's not a new financing scheme, Senator. This bill was generated by HPD, the Department of Housing Preservation and Development in the City of New York -- specifically, their office of planning and intergovernmental affairs -- for the broad reason that I explained.

There are specific -- three specific areas in this bill which are amendments to the existing law, which is very broad in terms of its applicability in the City of New York. It has no specific reference to any singular piece of property.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: Go ahead, Senator

Paterson.

SENATOR PATERSON: Addressing the last part of the question first, then this is something that's been utilized by HPD in the past?

SENATOR PADAVAN: That Section 693 has been utilized.

However, the attorneys within that agency, in order to make the existing law more effective, broaden its applicability, and deal with certain technical changes that they thought would be appropriate, recommended this legislation.

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

THE PRESIDENT: Does the Senator yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Senator, in addition to knowing -- wanting to know when the pictures are going to be ready, I'd also like to know, was there anything specific that

HPD was contemplating when they asked for this amendment?

SENATOR PADAVAN: When you say "specific," could you be more specific?

SENATOR PATERSON: In other words, is there a specific parcel of land -

SENATOR PADAVAN: No, I thought I answered that, Senator. I have my entire file here, which I'll place at your disposal at any time you wish. And in reading through it, you will see no reference to any particular parcel of land in the City of New York.

And I do believe that if you have not received it, you should have, the memorandum from the Mayor's office outlining the specifics of this legislation.

SENATOR PATERSON: Thank you, Madam President, I'll take that under advisement. If Senator Padavan would yield to one last question.

THE PRESIDENT: Does the Senator yield?

SENATOR PADAVAN: I certainly will.

THE PRESIDENT: You may proceed,

Senator Paterson.

SENATOR PATERSON: The change in the amount, the reduction in the figure now of 60 percent rather than 80 percent, would you be willing, Madam President, to have the Senator explain what is the magic of that figure? Why did HPD arrive at that amount?

SENATOR PADAVAN: Let me read the memo to you, Senator, because I think it's more concise than my explanation would be without it.

It says the term "municipally owned area" would be amended to "eligible areas." This change is needed because of the City of New York's recently enacted third-party-transfer program. This program allows the Department of Finance to convey a property in tax arrears that is defined as distressed to a third party. These third parties consist of not-for-profit and for-profit housing organizations selected by the New York City Department of Housing Preservation and Development to develop affordable housing.

This change in terminology to

"eligible areas" is needed to make clear that property now designated as an urban development area could be both municipally owned and privately owned, resulting from the third-party-transfer program.

Moreover, the change is needed to remain consistent with Chapter 95 of the Laws of 1997, which provides that private properties in the third-party-transfer program are eligible to receive low-interest city finance loans.

Now, here's the part that relates to your specific question: "This bill seeks to reduce the requirement for municipally owned property of an urban development action area from 80 percent to 60 percent. This change would allow a greater number of properties throughout the city to receive the designation as an urban development action area. Therefore, their placement in Section 693 would be appropriate, since Section 693 concerns area designation."

So what it says, very directly, is we broaden the scope of the program by making that change from 80 percent to 60 percent. We

increase the number of properties that would be saved, developed. More housing stock, less urban blight. Have I made my point?

SENATOR PATERSON: Not only, Madam President, has the Senator made his point, I think that the Senator missed his calling. He should have been a reader for Books on Tape. I thought that was brilliantly performed, Senator.

And what I got from it is that the lower figure of 60 percent will allow more properties to become eligible.

Thank you, Madam President.

THE PRESIDENT: Read the last section.

Senator Duane, excuse me.

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

THE PRESIDENT: Does the sponsor yield? Senator Padavan, do you yield?

SENATOR PADAVAN: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: If I understood

correctly, I thought that the sponsor said that making more -- by -- instead of putting a property through ULURP and putting it into UDAAP, that it would be eligible -- the property would be eligible to get low-income loans. Is that correct?

SENATOR PADAVAN: Based on the requirements of the existing section of law, Section 693, yes. These changes would broaden the scope of that current law.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: There isn't anything in the law, though, which says that if a property goes through ULURP that it would not also be entitled to receive these low-income loans; is that correct?

SENATOR PADAVAN: Let's see if I understand your question. If it goes through

ULURP, that it would not receive the loan? There's nothing here that I am aware of that does that.

SENATOR DUANE: And through you, Madam President, if the sponsor would continue -

SENATOR PADAVAN: ULURP is a separate provision of the City Administrative Code dealing with uniform land-use procedures. That stands on its own. This program stands on its own.

SENATOR DUANE: And through you, Madam President.

THE PRESIDENT: Does the sponsor yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: And so a property that has gone through the ULURP process would be eligible to receive a low-income loan?

SENATOR PADAVAN: Yes, as long as it meets the other requirements as stipulated in law.

SENATOR DUANE: And through you,

Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: And the UDAAP process does not contain the same level of public comment and involvement that a ULURP has; is that correct?

SENATOR PADAVAN: Does not what, Senator?

SENATOR DUANE: Does not contain the same level of public scrutiny and comment as does a ULURP.

SENATOR PADAVAN: As I said a moment ago, and certainly as I'm sure you've been exposed to ULURP procedures, that stands on its own. If a particular project falls under ULURP in terms of what is required - public hearings, broad range of actions - that remains.

This is a financing program. This is an urban development program. This is a

protect housing stock, build housing stock program. Neither conflicts. One does not diminish the other in any way.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: I'm going to preface my question so that the sponsor knows what it is that I'm trying to get at. In a former life, I dealt quite extensively with ULURPs and UDAAPs. ULURPs involved a public process of a thorough hearing by community boards, public notice -

SENATOR PADAVAN: I'm aware of that, Senator. You don't have to explain it to me.

SENATOR DUANE: -- whereas UDAAPs do not have the same threshold of public notification and public discourse; is that not correct?

SENATOR PADAVAN: You are right.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR PADAVAN: Yes.

SENATOR DUANE: My concern is that communities would not have the same notification of how the city is disposing of a parcel of property, would not have the same control or ability to advise regarding who it is and what it is that would end up in control of that piece of property, whether or not there would be a loan involved. Is that not correct? Or is that correct?

SENATOR PADAVAN: It's not correct in the sense that -- in the manner and the way you frame your question. If a parcel of property falls under the definition of a ULURP process, then obviously, as you and I have just discussed, the community at large - planning boards and everyone involved -- would have complete access to all information and have total opportunity for input. That stands

on its own.

If one of these properties being considered for this program was also a property that fell into the ULURP process, the ULURP process would still take place.

However, this is a financing mechanism. There is obviously public notice. However, the need for advisory opinions from community planning boards and whatever else is in that ULURP process is not necessary.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: What I'm trying to get at is that the properties which - there will now be more properties that will - potentially there will be more properties that will go through UDAAP and not through ULURP as a result of this legislation.

SENATOR PADAVAN: No, Senator.

There will be more properties eligible for UDAAP, no doubt. But that does not diminish those properties which rightfully must be subject to ULURP. There is no diminishing of that.

But the objective here is to make more properties in the City of New York available for this kind of financing, particularly for not-for-profit organizations that want to convert abandoned properties into viable housing, something I assume you would strongly support.

SENATOR DUANE: Through you, Madam President. So through this legislation, every property that is now going through ULURP will continue to go through ULURP?

SENATOR PADAVAN: Absolutely.

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

The reason that I wanted to verify that was that in my work with advocates for community gardens, often the advocates objected to properties just going through UDAAP and not through ULURP, because in the UDAAP process it was likely that they would

not be notified in time.

But if, as the sponsor has now clarified, all parcels of land that presently go through ULURP would continue to go through ULURP, then I have no problems with it at all.

Thank you, Madam President. I'll be voting yes.

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, 55.

THE PRESIDENT: The bill is passed.

Senator Velella.

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

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

The Secretary will continue to

read.

THE SECRETARY: Calendar Number 464, by Senator LaValle, Senate Print 6453, an act to amend the Education Law, in relation to establishing.

SENATOR ONORATO: Explanation, please.

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

SENATOR LAVALLE: Yes, Madam President. I'm really glad to have the opportunity to talk about this legislation. We had an opportunity during the budget conference committees to talk about this a little bit.

It establishes for the first time for the SUNY Maritime College a program that would allow for 284 scholarships for those individuals who would be admitted, who are qualified for admission to the college, to receive a four-year tuition scholarship.

Each member of the Legislature would have at least one appointment. And the legislation delineates the number of appointments by the members of the Senate and

the Assembly. The Governor would receive appointments, and the Majority Leader and Speaker also receive additional appointments, for a total of 84.

This legislation is supported by the State University and by the Alumni Association at the SUNY Maritime College.

The reason for this legislation is to give a shot in the arm to the college in recruiting and retaining individuals who would like to pursue an education dealing with the maritime industry. And of course that has changed, you know, over the years to involve a number of things other than receiving, although a critical part of the education is a license as a captain, to be able to captain a ship.

But there are other elements with the marine industry that the college has broadened over the years in terms of marine-science-type courses, in dealing with pollution and other kinds of activities.

But the most important element of this legislation is to retain the character of the college, and that is that it be

cadet-based. And I think this also involves each member of the Legislature, the Governor, and the leaders to fully promote what I think is a very specialized program within the SUNY system.

SENATOR ONORATO: Madam President.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Will the sponsor yield for one question?

SENATOR LAVALLE: Yes.

THE PRESIDENT: The sponsor yields. You may proceed.

SENATOR ONORATO: Senator LaValle, we noticed that there is no appropriation for this bill.

SENATOR LAVALLE: Yes.

SENATOR ONORATO: We were just wondering if you have any idea as to what it would wind up costing.

SENATOR LAVALLE: Yes. Senator Onorato, that is a good question.

That will obviously be prospective in next year's budget. The cost is $1 million. That was within our Senate

resolution that we passed this year but was not received by the Assembly.

You might also note that the last two sentences of the legislation talks about the tuition scholarships authorized by this section shall be made available so long as funds shall be made available for such purposes.

We certainly hope that will happen in the next budget. It has been a priority of ours since we passed it in our budget resolution. And I'm sure that the Assembly - Assemblyman Kaufman has been very high on this legislation as the Assembly sponsor.

So I'm looking forward to this becoming a reality by passing both houses this year and being funded within next year's budget.

SENATOR ONORATO: Read the last section.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, if the Senator would just yield to one quick question.

THE PRESIDENT: Does the Senator

yield?

SENATOR LAVALLE: Yes.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Senator, the $1 million figure that you put on the cost of operating this program -- and I'm very much in favor of it -- it would seem to cost out to about a little more than $3,000 per student. You don't think that it would actually cost a little more than that?

SENATOR LAVALLE: SUNY tuition is $3,400 per year per annum.

SENATOR PATERSON: Okay.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

488, by Senator Libous, Senate Print 6954, an act to amend Chapter 723 of the Laws of 1989.

SENATOR PATERSON: Explanation.

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

SENATOR LIBOUS: Thank you, Madam President.

This bill would extend the comprehensive psychiatric emergency program, commonly known in the business as CPEP, for four years, from July 1 of 2000 to July 1 of 2004.

Basically what it does is it allows these programs to be licensed by the Office of Mental Health. There is no budgetary amount dealt with in this bill, because the allocation has already been approved when the state budget was passed. This basically allows the licensing to take place so that these programs can continue for four additional years.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, on the bill.

Also included in this legislation

is a provision that corrects a statutory misreference that existed in the law pointed out by Justice Richard Braun, State Supreme Court of Manhattan, in a letter to Senator Connor. And at that point Senator Connor tried to make everyone aware that this is the case.

So we are happy that Senator Libous has noticed that and put forth this legislation.

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, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 621, by Senator Spano, Senate Print 6550A, an act to amend the Retirement and Social Security Law, in relation to ordinary death benefits.

SENATOR PATERSON: Explanation,

please.

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

SENATOR VELELLA: Lay that aside for the day, Madam President.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 815, by Senator LaValle, Senate Print 1619A, an act to amend the Criminal Procedure Law, in relation to designation.

SENATOR DUANE: Explanation, please.

SENATOR VELELLA: Madam President, please lay that aside temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 816, by Senator LaValle, Senate Print 1620A, an act to amend the Criminal Procedure Law, in relation to the designation.

SENATOR DUANE: Explanation, please.

SENATOR VELELLA: Again, can we lay that aside temporarily until Senator

LaValle returns.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 856, by Senator Rath, Senate Print 6790, an act to amend the State Administrative Procedure Act, in relation to access to data.

SENATOR PATERSON: Explanation.

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

SENATOR RATH: Senator Paterson, this is a technical change to a bill that has been passed, and the changes have been agreed to.

And it has to do with making the bill more streamlined and less complicated for all of the parties that would be involved in the disclosure of the information that was developed and used as the data -- as the rule-making was moving through the agencies and the data was being used.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President,

this bill actually eliminates five of the seven elements of Section 647 from last year, not the least of which is the provision that allows for the publication of the titles of reports and the names of the people who issued them.

And therefore, if Senator Rath would yield for a question.

ACTING PRESIDENT KUHL: Senator Rath, do you yield for a question?

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, I'm just wondering why we would at this point be passing an amendment to create a new Section 104 that in a sense almost eliminates all the things that we voted for on June 16 last year when we passed this bill 60 to nothing.

SENATOR RATH: Senator, the reason for the bill -- I think when you point out that it did pass 60 to nothing, the data access bill, as we call this in familiar terms, has been widely hailed as an extraordinarily important piece of legislation

in order to make sure that open government and freedom of access to data, when we are looking at how the rule-making process went along, has been extraordinary extraordinarily important.

But it was found by both the PSC and in agreement with the Assembly that what we had drafted originally was cumbersome and was not realistic. Maybe we went overboard somewhat on it.

And there was no one who was more anxious than I was to make sure that we got a piece of legislation that did what the intent was here. Because the legislative intent is for a free and open rule-making process.

ACTING PRESIDENT KUHL: Senator Paterson.

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

ACTING PRESIDENT KUHL: Senator Rath, do you yield?

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: The Senator yields to another question.

SENATOR PATERSON: Perhaps, Senator, we might have gone overboard a little

bit. It's certainly not uncommon that we in this chamber go overboard a little bit.

But why would we be eliminating the position of data access officer, who if anything would have broad supervisory power in that particular area and a decision-making capacity that would relate directly to what you just said, whether or not we're going overboard?

SENATOR RATH: My understanding of that particular provision, as requested that we drop back on that, was that there were others that would be equally able to handle that kind of a measure, and that it was going to be unduly -- what's the word I'm looking for -- an undue burden to have this kind of an officer available when other people could do the same job as that person could.

ACTING PRESIDENT KUHL: Senator Paterson.

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

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

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: Senator Rath, assuming that you're correct, could you tell myself and our other colleagues what happened between the time that we passed Section 647 last year and now that so instantly made us aware that we needed to rescind some of the regulations that we passed in such a short period of time?

SENATOR RATH: The question of one particular instance, Senator, I don't believe I can tell you that. But I do believe that the people who found themselves to be impacted by this bill went back through it and came back with recommendations that we could ease some of it.

But they were not looking to change the legislative intent, just the way that it would be implemented.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, I want to thank Senator Rath.

On the bill. I'm just a little

concerned that the legislative intent may still be stated in the bill, but in the sense that we've nicked it to death. In other words, we've cut so much out of it that I don't know that even though there's intent, that there's enough information that would be made available other than by request that we could actually find out as much as we would want to about data, quite frankly, which is a very important issue in this particular time.

I can understand that we might want to streamline some of what we had put forth last year. But it just seems to me that not even a seasonable period had passed before we could even determine whether or not we had gone overboard, as Senator Rath said.

I don't have any real problem with this legislation. Perhaps Senator Rath is right. But I would just certainly caution us that we are going to be voting for legislation that we all agreed, 60 to nothing, last year -- June 16th -- was important and vital and was certainly worthy of our consideration, that we probably be more scrupulous in our deliberations or perhaps that we -- when we've

made a decision that we at least give it some time to lend to whether or not we have actually erred in the process.

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

THE SECRETARY: Section 7. This act shall take effect on the same date as Chapter 647 of the Laws of 1999.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

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

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

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

Senate Print 1188B, by Senator Goodman, an act to amend the Penal Law;

1880B, by Senator Wright, an act to amend the Environmental Conservation Law;

2353, by Senator Velella, an act to amend the General Obligations Law;

2883, by Senator Skelos, an act to amend the Tax Law;

3009, by Senator Leibell, an act to amend the Civil Practice Law and Rules;

3019B, by Senator Saland, an act authorizing the reopening;

4203A, by Senator Trunzo, an act to amend the Highway Law;

4208, by Senator Trunzo, an act to amend the Transportation Law;

4268A, by Senator Trunzo, an act to amend the Highway Law;

4613, by Senator Maziarz, an act to amend the Vehicle and Traffic Law;

5199A, by Senator Bonacic, an act to amend the Environmental Conservation Law;

5675A, by Senator Larkin, an act to authorize the commissioner;

6147, by Senator Rath, an act to amend the Vehicle and Traffic Law;

6306A, by Senator Stafford, concurrent resolution of the Senate and Assembly;

6514, by Senator Marcellino, an act to amend in relation to granting;

6682, by Senator McGee, an act to amend the Criminal Procedure Law;

6898, by Senator Johnson, an act to amend the Tax Law;

7233, by Senator Saland, an act to amend Chapter 797 of the Laws of 1871;

7468, by Senator Velella, an act to amend the Social Services Law;

7576, by Senator Seward, an act to amend the Insurance Law;

7800, by Senator Hoffmann, an act to amend the Public Authorities Law;

7811, by Senator Rath, an act to amend the Local Finance Law;

7861, by Senator Spano, an act to amend the State Finance Law;

7864, by Senator Velella, an act to amend the Civil Practice Law and Rules;

7866, by Senator Skelos, an act authorizing the assessor of the County of Nassau;

7893, by Senator Padavan, an act to amend the General Municipal Law;

7909, by Senator Goodman, an act to amend the Tax Law;

And 7913, by Senator Sampson, an act authorizing the City of New York.

All bills ordered direct to third reading.

ACTING PRESIDENT KUHL: Senator Skelos.

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

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

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

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 1200, Senate 6306A, by Senator Stafford.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1200, by Senator Stafford, Senate Print 6306A, concurrent resolution of the Senate and Assembly proposing amendments to Article 7 of the Constitution.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation of Calendar Number 1200 has been requested by the Acting Minority Leader.

SENATOR STAFFORD: Who asked for the explanation?

SENATOR DOLLINGER: I did, Senator Stafford.

SENATOR STAFFORD: I would say, Mr. President, that this is very similar to

what we passed last year in this house. And these amendments to the State Constitution will strengthen the statutory debt reform amendments that were passed in the 2000-2001 budget.

And if passed by the Assembly, the voters will be offered the opportunity to approve these reforms, which would do the following:

Eliminate back-door borrowing; i.e., appropriation back debt. It would allow only voter-approved general obligation debt or, in other words, debt that is backed by specific revenues of the state. It would constitutionally cap new outstanding debt at 4 percent of the state's personal income. It would constitutionally cap new debt service at 5 percent of all funds received.

The proposal would also require that one-half of all new debt issued must be voter-approved general obligations debt. Also, it would constitutionally limit the issuance of debt to capital purposes only. Also, it would constitutionally limit the maturity on new debt to 30 years. And,

finally, allow multiple bond acts on the ballot.

I certainly think this is a real step forward and would hope it would pass this house and also the Assembly.

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

SENATOR DOLLINGER: Would the sponsor just yield to one question?

ACTING PRESIDENT KUHL: Senator Stafford, would you yield to one question from Senator Dollinger?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Through you, Mr. President, is there anything in this proposal that affects the borrowing by any other agencies other than agencies directly from the State of New York?

That is, as I'm sure Senator Stafford is aware, even when the construction of Rockefeller Plaza occurred, we used a mechanism to finance it through a county. That is my understanding.

Is there any restriction on the ability of the state government to borrow from other entities that may not be a part of the state, to use them as a means of back-door borrowing?

SENATOR STAFFORD: As far as that's concerned, that isn't really what's addressed here, no.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Stafford would just continue to yield for one other -

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Is there any provision in here that deals with a financial-catastrophe kind of emergency situation, such as existed in 1975 with respect to the City of New York, and the ability of the state to borrow money in dire financial circumstances if New York City or Troy or some of the other cities that have run into problems -- that would allow us to borrow money outside the cap and in essence go back through the back door in some emergency circumstances?

SENATOR STAFFORD: There are other emergency provisions in the Constitution, but not specifically in this proposal.

SENATOR DOLLINGER: Okay. And through you, Mr. President, this proposal does not affect the emergency borrowing powers granted to the state under the State Constitution, this simply affects the normal process of what we're familiarly calling back-door borrowing?

SENATOR STAFFORD: That's right.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the resolution?

The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be a meeting of the Health Committee in the Majority Conference Room at

4:00 p.m.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to the regular calendar active list, regular order.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1019, by Senator Velella, Senate Print 7810, an act to amend the Penal Law and the Real Property Actions and Proceedings Law, in relation to the criminal sale of controlled substances.

SENATOR DUANE: Explanation.

ACTING PRESIDENT KUHL: Senator Velella, an explanation of Calendar Number 1019 has been requested.

SENATOR VELELLA: Yes, Mr. President. Thank you.

The bill would increase criminal

penalties for those who sell controlled substances in public parks, very much the same as we did for those who sell controlled substances in our school system.

In addition, the bill would authorize tenant organizations, block associations, or neighborhood associations within a thousand feet of any property that is being used for illegal activities to serve the owner or landlord with notice to make an application for removal within five days. If the owner or landlord does not comply or does not diligently prosecute the tenant, it allows the organization to bring the action for removal instead of the landlord.

It would empower our community organizations that complain about improper and illegal use of properties in our districts and in our communities to bring these actions themselves if the landlord does not agree to do so.

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

SENATOR DUANE: Would the sponsor yield?

ACTING PRESIDENT KUHL: Senator Velella, do you yield for a question from Senator Duane?

SENATOR VELELLA: Certainly, Senator.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Thank you.

Section 2 and 3 amend the Penal Law by subjecting individuals who sell controlled substances in public parks to enhanced criminal penalties; is that correct?

SENATOR VELELLA: Yes, Senator.

SENATOR DUANE: I'm wondering, then, why it is -

ACTING PRESIDENT KUHL: Senator Duane, that was one question. Are you asking the Senator to yield to another question?

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

ACTING PRESIDENT KUHL: Senator Velella, do you yield to another question from Senator Duane?

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

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: I'm wondering if the sponsor feels that a sale of a controlled substance is a sale of a controlled substance or not, or whether there are special circumstances sometimes for the sale of a controlled substance that deserves an enhanced penalty.

SENATOR VELELLA: I'm not sure I understand the question, Senator.

My feeling is if it's a controlled substance, if it's under 220 and you break the law and you repeatedly break the law, you ought to be punished. That's my feeling.

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

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DUANE: Yet this legislation provides for enhanced penalties for the sale of a controlled substance in a

public park. Is it your position that there are differences, that the sale of a controlled substance is not always the same as the sale of a controlled substance, that there are sometimes special circumstances which require an increased penalty for the sale of a controlled substance; for instance, if the sale happens in a park?

SENATOR VELELLA: You know, sometimes I have trouble understanding how that side of the aisle thinks. Well, the other day Senator Dollinger kept asking me the same question over and over again, and I had to tell him what I will tell you again. If it waddles like a duck, if it quacks like a duck, it's a duck.

You know what? 220 is against the law to violate. If you violate it, you ought to be punished. If you keep violating it and you do it in public places, it ought to be punished more severely.

Like I believe you supported -- I'm not sure -- we did this when people sell drugs in schools. When they sell them in parks where kids are, where the least protected

members if our society are, they ought to be punished more severely.

How many times I can explain that to you I don't know. You can ask the question six different ways, I'm still going to answer it the same way. You violate 220, you ought to be punished.

ACTING PRESIDENT KUHL: Senator Duane.

SENATOR DUANE: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Duane, on the bill.

SENATOR DUANE: I agree with Senator Velella that sometimes there is a call for increasing penalties; for instance, in this case.

But what I am confused about is why it is that earlier in this session Senator Bruno said that, regarding hate crimes, that "We feel it's an important issue, it's one that should be addressed in some way here in this chamber, discussed and voted on, and we intend to do that in this session."

And in addition, Senator Goodman,

when speaking when Madam President was in the President's seat, said, "This is a matter of great gravity. And I would just like to say to you that after a careful discussion with the Majority Leader, I'm absolutely convinced that what you've have just heard from him will be a binding pledge. He has done this before, and he has stuck to every word of his, every bit of his commitment on anything that he's ever pledged to me personally. And I do have his pledge, as does our entire conference, that this matter will be taken you up in due course this year. And I'm also informed that it will involve the use of the sexual orientation with specificity, and not just a vague language to becloud the issue."

And so, Mr. President, what I'm confused about is why it is that we continue to have bills come before us which enhance penalties for crimes under certain circumstances and with certain intent and against various groups of people -- like police officers and code enforcement officers and the elderly and mentally impaired -- and yet, even though there was a whole discussion

on the floor and pledges put forward, we still have not yet had a vote on hate crimes.

I'll be voting yes on this, but I think the point needs to be made that there was a pledge made that we would be voting on hates crimes, including sexual orientation, which increases penalties for a certain type of crime. We have very little time left in this session. I'm looking forward to that pledge being kept.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Velella.

SENATOR VELELLA: Mr. President, just on the bill briefly. I would just like to -

ACTING PRESIDENT KUHL: Senator Velella, on the bill.

SENATOR VELELLA: I would just like to call to the attention of my colleagues that this bill is punishing people who repeatedly break the same law over and over again, who continue to flaunt their irresponsible conduct, their insistence on breaking the laws before us. And I believe

that we have to severely punish them.

I also believe very strongly that we need not be reminded that when the Majority Leader of this house or when Senator Goodman make a statement on the floor, they've always lived up to it. And I don't think that we need other members to constantly try to grandstand and remind them.

I think the Majority Leader will keep his word. I think Senator Goodman keeps his word. And I don't think it's very professional to try and insinuate that they need to be reminded about their word.

Thank you.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like to ask a couple of questions of Senator Velella.

ACTING PRESIDENT KUHL: Senator Velella, do you yield to a question from Senator Montgomery?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: Thank you, Senator Velella.

Your bill amends the law -- I just want to make sure this is what I'm actually reading -- that it amends the law to make it a Class E felony for a person who is convicted for the third time of selling marijuana; is that not correct?

SENATOR VELELLA: Not -- no, the third time for possessing. The second time for selling. The second time for selling, the third time for possessing.

SENATOR MONTGOMERY: And then it makes it a Class D felony for a person to sell marijuana -

SENATOR VELELLA: Excuse me, Senator, I just want to be correct when I give you the information. Counsel explained to me that it would be the fourth time, actually. They had to be convicted of three violations of possession for Section 220. It could be marijuana or it could be any other controlled substance.

But three convictions for the possession. The fourth time, you would have

the felony offense apply, an E felony.

And for the sale, two convictions and the third time it would be a felony offense.

SENATOR MONTGOMERY: So the fourth time -

SENATOR VELELLA: For possession.

SENATOR MONTGOMERY: -- for possession, and the third time for selling?

SENATOR VELELLA: Yes.

SENATOR MONTGOMERY: And then it makes it a Class D felony for any person to sell marijuana if he has previously been convicted of three or more crimes involving marijuana.

SENATOR VELELLA: Well, Senator, you know, maybe that may be the drug of choice you used, to use an example.

But the law as we're writing it says three or more times within a five-year period for violation of Section 220. Which might include marijuana and might include a lot of other different types of controlled substances.

So it could be, you know, a Chinese

menu of pick one from Column A and one from Column B. You could have marijuana, you could have some other kind of drugs, or you could have three sales of marijuana. And then it would be elevated to a felony on the fourth one.

SENATOR MONTGOMERY: Right. Mr. President, I'm just dealing with marijuana. I'm not dealing with the other.

(Laughter.)

ACTING PRESIDENT KUHL: Would you like the Senator to yield to another - Senator Montgomery.

SENATOR MONTGOMERY: I'm just talking about marijuana. I'm not talking about the other.

(Laughter.)

ACTING PRESIDENT KUHL: Senator Montgomery, would you like Senator Velella to yield?

SENATOR MONTGOMERY: Let the record show that I'm only talking about marijuana.

ACTING PRESIDENT KUHL: Would you like Senator Velella to yield to another

question?

SENATOR MONTGOMERY: Yes, Mr. President, if he will continue to yield.

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

SENATOR VELELLA: Certainly, Senator.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: My apologies, Senator.

SENATOR VELELLA: Oh, don't apologize. Feel free.

SENATOR MONTGOMERY: Senator, I would just like to know if, assuming that a person is arrested on a D felony under your law for marijuana -

SENATOR VELELLA: Okay.

SENATOR MONTGOMERY: -- what would be the minimum sentence for that person based on the Rockefeller Drug Laws?

SENATOR VELELLA: Under the Rockefeller Drug Law, I don't know. But under this law, a D felony would be, I believe, zero to 7 max.

This is the fourth sale. This is not some innocent kid who is just possessing a little bit for his personal consumption. This is the fourth sale to somebody that's maybe my son, my grandchild, someone I care about they've sold it to. Maybe it's someone that you care about.

You choose to talk about marijuana. The law doesn't -- Section 220 doesn't differentiate marijuana and the controlled substances that are listed in there. You choose to speak about marijuana, but it could be any other controlled substance.

So on their fourth sale, they've got a problem.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Senator, just -- I just want to make a brief statement on the bill.

ACTING PRESIDENT KUHL: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Thank you, Senator Velella.

On the legislation, I just want to point out to Senator Velella that we are -- I think the Governor has made some indication, as well as our Majority Leader -- certainly on our side of the house, we're trying to talk about reforming the Rockefeller Drug Laws.

And certainly one of the things that we understand is that the way that the law is written, it requires excessive sentencing disproportionate to the actual involvement.

And in fact, counsel tells me that actually marijuana is -- would not necessarily be covered under this section of the law.

But let me just say that rather than getting into the details of the law where it's covered and that sort of thing, because I'm not an expert in that -- but I certainly am an expert in understanding that we have this tremendously lopsided system of punishing people specifically, I'm talking about, in relationship to their involvement with marijuana.

So I would hope that we would leave some time and leave -- be open to the process

of reforming that whole battery of laws as it relates to marijuana before we go into establishing these harsh penalties and talking about if you sell it near the park or near the this or near the that.

I think that we -- one, if it's a crime, it should be a crime that stands anyplace. But certainly if we're going to talk about reform, it seems to me that we don't want to now talk about if you sell -- if you're caught three times, you're going to be -- we're going to increase the level of the penalty.

So, Mr. President, I'm just voting no on this because I've taken the position that I want to see the Rockefeller Drug Laws reformed. I think most of us in this house do. And for us to have these single approaches to escalating what we already know is wrong, to me just doesn't make any sense.

So I'm voting no. Certainly I'm not, you know, supporting drug addicts or people who sell drugs. But I do think that we absolutely have to address the reform of the Rockefeller Drug Laws. So I'm voting no, Mr.

President.

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

Excuse me. Senator Velella.

SENATOR VELELLA: If I might, just to clear up what might be a misunderstanding.

I believe that you and I are talking about the same thing. When you're talking about the proposals in this house to reform the drug laws that were instituted under Governor Rockefeller, those are some pretty harsh mandatory-jail-sentence provisions that the judge must sentence someone to jail if in fact they violate those laws.

This is what you're looking for. This gives the latitude to the sentencing judge to say, I'm looking at this, if this is somebody who's a bad person that I want to send to jail, I can send them to jail for a long time. And that can be to an E or a D felony.

If they're not, there's no requirement. It's not mandatory jail time.

It's permissive for the judge, the sentencing judge.

And with all due respect to your counsel who kneels at your side, your counsel says marijuana isn't covered. My counsel says marijuana is covered. What have you got a problem with? You want to talk about marijuana, it's not covered? Vote for the bill.

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

Excuse me. Senator Coppola.

SENATOR COPPOLA: Yes, Mr. President. Just one question to the sponsor.

ACTING PRESIDENT KUHL: Senator Velella, do you yield to a question from Senator Coppola?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR COPPOLA: Would this specifically be for parks and school grounds?

SENATOR VELELLA: Well, we already did schools. That's in the law. This would expand that same concept to parks.

And also the phase that has not been thoroughly discussed is it would allow community groups, tenant associations, civic associations in your district, in your community to say, We want to go in because we know that house has got drug activity going on, it's a place where they're selling marijuana or they're selling other controlled substances, and the landlord fails to take any action to dispossess those people. The community groups can now go and in and have the umbrella of protection under the name of a group so that there's no individual pointing the finger.

I think it's a very positive step forward.

SENATOR COPPOLA: Well, one more question, Mr. President.

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR COPPOLA: Well, I guess what I was concerned about is that if there

are -- you were putting barriers on this law. But apparently it's more than just parks. It could be used in neighborhoods also. I mean, if you got caught -

SENATOR VELELLA: That's another section, yes.

SENATOR COPPOLA: If you got caught across the street from a park, there wouldn't be -- it would still be in this?

SENATOR VELELLA: No, the additional elevation of the crimes to the felonies are for sales and possession on park property. You have to be on the property.

The other laws that we now have in effect for the rest of the state would take place if it was across the street or down the block.

In addition, this law is being expanded to allow these community groups within a thousand feet of a building to bring an action in court to have the tenant or the person that's selling drugs in a building - the second part of the bill -- to have them evicted from the building if the landlord fails to take action.

SENATOR COPPOLA: I'm obviously supporting the bill. I think -

ACTING PRESIDENT KUHL: Senator Coppola, are you asking Senator Velella to yield to another question, or do you want to speak on the bill?

SENATOR COPPOLA: I just want to speak on the bill, Senator.

ACTING PRESIDENT KUHL: Senator Coppola, on the bill.

SENATOR COPPOLA: I'm obviously going to support the bill. I think it's good to enforce and do things like Senator Velella is doing. I just think that we shouldn't have restrictions or barriers. I think everything should be covered.

And that's all I was concerned about, that everything would be covered with this bill. And I don't know if it is, and that's the whole thing.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

The Secretary will read the last section.

THE SECRETARY: Section 10. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR DUANE: To explain my vote.

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

SENATOR DUANE: Thank you. I just want to completely clarify that the issue that I was speaking to was that of enhancing criminal penalties to those who sell controlled substances in public parks.

And that it's yet another example that we have here in the Senate of increasing a penalty for a crime and thereby acknowledging and reinforcing that a crime is not always a crime, that different crimes are treated -- that the same crime directed in a certain place or against a certain person or groups of people can be punished with enhanced penalties.

I'll be voting yes on this, Mr.

President.

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

Announce the results.

THE SECRETARY: Ayes, 54. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1039, by Senator Lack, Senate Print 6764, an act to amend the Correction Law, in relation to the -

SENATOR MARCELLINO: Lay it aside for the day, please.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 815, by Senator LaValle, Senate Print 1619A, an act to amend the Criminal Procedure Law, in relation to the designation.

SENATOR MARCELLINO: Lay the bill aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 816, by Senator LaValle, Senate Print 1620A, an act to amend the Criminal Procedure Law, in relation to the designation.

SENATOR MARCELLINO: Lay that bill aside for the day, please.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

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

We do have a couple of housekeeping things at the desk, if you'd like to take those up now.

SENATOR MARCELLINO: Clean the house, please.

ACTING PRESIDENT KUHL: We'll return to the order of motions and resolutions.

The chair recognizes Senator McGee.

SENATOR McGEE: Thank you, Mr. President.

On behalf of Senator Skelos, would you please place a sponsor star on Calendar

Number 716.

ACTING PRESIDENT KUHL: Calendar Number 716 will be starred at the request of the sponsor.

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

ACTING PRESIDENT KUHL: Thank you, Senator McGee.

Senator Smith.

SENATOR A. SMITH: Thank you, Mr. President.

On page 41, I offer the following amendments to Calendar Number 1042, Senate Print Number 5953, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments are received and adopted, and the bill will retain its place on the Third Reading Calendar.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, if we could return to the reports of standing committees, I believe there's a report of the Finance Committee at the desk. If we can have it read.

ACTING PRESIDENT KUHL: We'll return to the order of reports of standing committees. There is a report from the Finance Committee at the desk. I'll ask the Secretary to read.

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

As a member of the Workers' Compensation Board, Michael Berns, of New York City.

ACTING PRESIDENT KUHL: Senator Stafford.

SENATOR STAFFORD: We've had fine appointments, Mr. President, this afternoon. Mr. Berns is one. I'm yielding to Senator Goodman. It's a pleasure to yield to Senator Goodman.

SENATOR GOODMAN: Mr. President, it's my pleasure this afternoon to speak on behalf of the nomination of Michael T. Berns, of the famed Silk Stocking district in New York City, who is at this point before us for consideration.

Mr. Berns is an individual I've

known for a long while, and I have the greatest confidence in his ability and integrity and think he'd make a very suitable addition to the Workers' Compensation Board.

May I say to you that he has had direct operating experience in several areas of significance. He's on the Roosevelt Island Operating Corporation. He has had various affiliations with electronics concerns in New York City, including Tiffany Electronics, the very name of which connotes high quality, no doubt, for those of you familiar with that great establishment -- with which this company has nothing whatsoever to do, I might add.

He is -- I'm not being facetious, Mr. Chairman. I believe very strongly that his various business experiences add up to a significant body of evidence that he would make a splendid addition.

And may I say to you also that knowing him as I do, he's an individual of great personal concern and sympathy for other human beings and as such would be a very suitable individual working within the ambit of this particular professional body.

Mr. President, may I say that he is also a noted member of Community Planning Board Number 8 -- Mr. Velella, please. And as a board member and chairman of coop boards, he's also had a record of good performance.

I believe he's with us today, and it's my great pleasure to place his name in nomination before this body with utmost confidence and belief in his ability, capacity, and integrity.

Thank you.

ACTING PRESIDENT KUHL: Is there any other member wishing to speak on the nomination?

Hearing none, the question is on the nomination of Michael Berns, of New York City, to become a member of the Workers' Compensation Board. All those in favor of the nomination signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominee is unanimously confirmed.

We're very, very pleased to have Mr. Berns in the chamber with us.

Mr. Berns, congratulations and good luck.

(Applause.)

ACTING PRESIDENT KUHL: The Secretary will continue to read.

THE SECRETARY: As a member of the Workers' Compensation Board, Jeffrey Sweet, of Peekskill.

ACTING PRESIDENT KUHL: Senator Stafford.

SENATOR STAFFORD: Mr. President, on behalf of Senator Leibell, it's certainly a pleasure to move the nomination of Mr. Sweet, who has done an excellent job also on the Workers' Compensation Board.

And he had experience as a personnel director at the Westchester Medical Center. And he understands the Labor Law and labor relations. And he has an outstanding record as far as working in his community. He graduated from Utica College of Syracuse University.

And again, it's a pleasure to move

the confirmation of Mr. Sweet.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the nomination?

Hearing none, the question is on the nomination of Jeffrey Sweet, of Peekskill, New York, to become a member of the Workers' Compensation Board. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominee is confirmed.

We're very pleased to have Mr. Sweet with us today.

Mr. Sweet, congratulations and good luck.

(Applause.)

ACTING PRESIDENT KUHL: The Secretary will continue to read.

THE SECRETARY: As a member of the Board of Trustees of the City University of New York, John J. Calandra, Esquire, of the

Bronx.

ACTING PRESIDENT KUHL: Senator Stafford.

SENATOR STAFFORD: It will be a pleasure to yield to the Senator from the Bronx, Senator Velella.

ACTING PRESIDENT KUHL: The chair recognizes Senator Velella on the nomination.

SENATOR VELELLA: Mr. President, it's my pleasure and my honor to place a nomination in the name of John Calandra for reappointment as a member of the board at CUNY University.

Certainly the name is no new name to this chamber. His dad served here for many years with some of the people who sit here today. Certainly Senator Stafford and many remember John Calandra, Sr., who had a very distinguished and outstanding career in this chamber.

His son has followed in his footsteps and become an attorney, a graduate of Cornell University, graduated third in his class, Law Review, magna cum laude, an excellent student, an excellent attorney, and

also an excellent member of the board at CUNY.

His public service career is beginning and has led to a distinguished career at CUNY, as his dad had a distinguished career in the Senate.

I'm pleased to place his name in nomination and urge my colleagues to support it.

ACTING PRESIDENT KUHL: Is there any other member wishing to speak on the nomination?

Senator Lachman.

SENATOR LACHMAN: I yield to Senator Goodman.

ACTING PRESIDENT KUHL: The chair recognizes Senator Goodman.

SENATOR GOODMAN: Mr. President, it's my pleasure also to add a word on behalf of Mr. Calandra, whom I've known for some time, and to say to you that he has indeed a distinguished career, having worked with the noted law firm of Cravath, Swaine and Moore in New York City for a few years.

And also the reports which emanate from the much-conflicted CUNY board are that

he is a very helpful and constructive member of that important body at a time of considerable difficulty which it confronts in attempting to solve the problems of our contemporary education picture and higher ed in New York.

So I strongly and enthusiastically support Senator Velella's nomination.

ACTING PRESIDENT KUHL: Senator Lachman.

SENATOR LACHMAN: Yes. As a Bronxite who at the age of one emigrated to Brooklyn, I also would like to second the nomination of Mr. Calandra. I believe this is his fourth year, or the beginning of his fifth year as a member of the CUNY Board of Trustees. But I would also like to add a few words.

About a week ago, the CUNY Board of Trustees adopted a master plan. At the very least, it was a controversial plan. But I must give the chancellor of CUNY and the members of CUNY credit that during the last academic year, many of the problems that had evolved previously have been in a sense met

head-on, and compromises have been raised and promulgated that do not please everyone, but prevent CUNY from exploding, which was the fear that many of us had previously.

Now, very briefly, the master plan that was adopted had programs that would lead CUNY into the 21st century, such as flagship colleges, greater research, honors programs, higher standards, upgrading of teacher education.

It is absolutely essential that the members of the CUNY Board of Trustees realize that we do mean that access must go together with excellence, that the CUNY tradition of access has permitted many of the members of this chamber, including me, to achieve a college education. At the same time, there is nothing in access that negates excellence if worked out properly.

Now, Henry Kaiser once said there is no such thing as a problem, a problem is only an opportunity in work clothes. Mr. Calandra can expect to look forward to several opportunities in work clothes. One would be negotiating with a new faculty union.

The faculty contract expires, I believe, next month. That will not be an easy task and will entail a great deal of Solomonic wisdom.

Two, Board of Education and CUNY articulation, which has already been started by Chancellor Goldstein and Chancellor Levy, who, as a member of the Board of Regents prior to his appointment as chancellor of the Board of Education, approved the long-range program.

And, three, an increase in faculty lines and positions, which is not the job of the CUNY Board of Trustees but is the responsibility of this State Legislature. It is my opinion unconscionable that the ratio of full-time faculty lines to adjunct positions has dipped below the 50 percent mark. A red signal appears.

Karen Hitchcock, the president of SUNY Albany, is concerned that she only has 70 percent of her faculty on full-time lines. Once you go below 50 percent, there is a great danger.

And I hope and pray that next year when we work on our budget, CUNY will receive the necessary full-time faculty lines that

will preserve it as a great institution of academic learning in the United States.

Thank you kindly.

ACTING PRESIDENT KUHL: Senator Seabrook, on the nomination.

SENATOR SEABROOK: Yes, Mr. President.

I rise in support of this nomination of Mr. Calandra, who is a fellow Bronxite, to continue on the CUNY board. And it is my hope that he will continue to do that particular mission that was set forth, as his father set forth, to bring about a sense of diversity in the City University system and to have a sense of Italian-Americans participating much more in the City University.

And so I rise to say that it is important to continue that thrust of diversity within the City University system and allow continued access for those members who are less fortunate to go to other private institutions and to become a part of this great diversity that's within the city of New York.

So that's why I rise in support of this nomination.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the nomination?

Hearing none, the question is on the nomination of John J. Calandra, Esquire, of the Bronx, to become a member of the Board of Trustees of the City University of New York. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominee is unanimously reappointed and confirmed.

Mr. Calandra is in the chamber with us. Mr. Calandra, congratulations and good luck.

(Applause.)

ACTING PRESIDENT KUHL: The Secretary will continue to read.

THE SECRETARY: As members of the Correction Medical Review Board, Michael M.

Baden, M.D., of New York City; David Barry, M.D., of Rochester.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominees are confirmed.

The Secretary will continue to read.

THE SECRETARY: As a member of the Saratoga-Capital District State Park, Recreation and Historic Preservation Commission, Monica Bell, of Loudonville.

ACTING PRESIDENT KUHL: The question is on the nomination of Monica Bell, of Loudonville, to become a member of the Saratoga-Capital District State Park, Recreation and Historic Preservation Commission. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: As a member of the Thousand Islands State Park, Recreation and Historic Preservation Commission, Christopher R. Booth, of Plattsburgh.

ACTING PRESIDENT KUHL: The question is on the nomination of Christopher R. Booth, of Plattsburgh, to become a member of the Thousand Islands State Park, Recreation and Historic Preservation Commission. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: As a member of the New York State Hospital Review and Planning Council, Craig A. Duncan, of Averill Park.

SENATOR FUSCHILLO: Move the nomination.

ACTING PRESIDENT KUHL: The question is on the nomination of Craig A. Duncan, of Averill Park, to become a member of the New York State Hospital Review and Planning Council. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: As a member of the Advisory Council to the Commission on the Quality of Care for the Mentally Disabled, Shirley B. Flowers, of Brooklyn.

SENATOR FUSCHILLO: Move the

nomination.

ACTING PRESIDENT KUHL: The question is on the nomination of Shirley B. Flowers, of Brooklyn, to become a member of the Advisory Council to the Commission on the Quality of Care for the Mentally Disabled. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: As a member of the Board of Visitors of the Binghamton Psychiatric Center, Joyce Gioia, of Binghamton.

SENATOR FUSCHILLO: Move the nomination.

ACTING PRESIDENT KUHL: The question is on the nomination of Joyce Gioia, of Binghamton, to become a member of the Board of Visitors of the Binghamton Psychiatric

Center. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: As members of the Creedmoor Psychiatric Center Board of Visitors, Alfred Koral, of Jamaica, and Joel A. Miele, Sr., of Howard Beach.

SENATOR FUSCHILLO: Move the nominations.

ACTING PRESIDENT KUHL: The question is on the nominations of Alfred Koral and Joel A. Miele, Sr., to become members of the Board of Visitors of the Creedmoor Psychiatric Center. All those in favor of the nominees signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominees are confirmed.

The Secretary will continue to read.

THE SECRETARY: As members of the Board of Visitors of the Kingsboro Psychiatric Center, Shirley B. Flowers, of Brooklyn.

SENATOR FUSCHILLO: Move the nomination.

ACTING PRESIDENT KUHL: The question is on the nomination of Shirley B. Flowers, of Brooklyn, to become a member of the Board of Visitors of the Kingsboro Psychiatric Center. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: As a member of

the Board of Visitors of the South Beach Psychiatric Center, Margaret Governo, of Staten Island.

SENATOR FUSCHILLO: Move the nomination.

ACTING PRESIDENT KUHL: The question is on the nomination of Margaret Governo, of Staten Island, to become a member of the Board of Visitors of the South Beach Psychiatric Center. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: As a member of the Board of Visitors of the Sunmount Developmental Disabilities Services Office, Richard W. Bossert, Ph.D., of North River.

SENATOR FUSCHILLO: Move the nomination.

ACTING PRESIDENT KUHL: The question is on the nomination of Richard W. Bossert, Ph.D., of North River, to become a member of the Board of Visitors of the Sunmount Developmental Disabilities Services Office. All those in favor of the nomination signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominee is confirmed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you take up Calendar Number 1181, please.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1181.

THE SECRETARY: Calendar Number 1181, by Senator Goodman, Senate Print 1188B, an act to amend the Penal Law, in relation to prohibiting and penalizing identity theft.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Fuschillo.

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

ACTING PRESIDENT KUHL: The house is clean.

SENATOR FUSCHILLO: The house is clean?

There being no further business to come before the Senate, I move we adjourn until Thursday, June 1st, at 10:00 a.m.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Thursday, June 1st -- note the time change -- at 10:00 a.m.

(Whereupon, at 4:37 p.m., the Senate adjourned.)