NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 12, 2000

3:15 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

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

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

THE PRESIDENT: With us today to give an invocation is Rabbi Shmuel M. Butman, from Lubavitch Youth Organization, in Brooklyn, New York.

Rabbi.

RABBI BUTMAN: Let us pray together.

It is the custom that every year we open the New York State Senate in honor of the Rebbe's birthday, the birthday of the Lubavitcher Rebbe, Rabbi Menachem M. Schneerson.

The Rebbe has always emphasized that education means not just teaching knowledge, but above all guidance for all, for adults and especially youth, to become better human beings, even more ethical and more

caring. Education, says the Rebbe, should be a lifelong process of self-improvement, of advancing in those ethical principles upon which our great state and our great nation were founded.

Now, on the Rebbe's 98th birthday, we start singing Psalm 99. And there the psalmist talks about the utopian era, which, as the Rebbe says, is upon us. And there King David says, and I quote: "God will be great and exalted over all the nations. They will acknowledge Your great and awesome Name. Mighty is the king who loves justice."

The Rebbe also tells us that we live in a special generation, the last generation of exile, the first generation of Redemption. But we must prepare for that great day by doing more goodness and kindness.

And our Sages teach us an Eye that sees, an Ear that hears, and all our deeds are recorded. For only when ethical principles are determined by criteria which is higher than that of our subjective minds can we be sure that we will have eternal truth.

I must tell you, friends, that it

is indeed a pleasure being here, listening how you paid Allegiance to the Flag, one nation under God. The Rebbe always taught us something. And the first time I came here, I went to see the Rebbe. And he said, "When you are there in front of everyone, I want you to do something special. I want you to take out a dollar bill and offer that as -- in a tzedakah box."

And he pointed out that in the chart on the dollar bill it says "In God we trust." Which is means this is what our society is based upon, in God we trust. We pay allegiance to the Flag, under one God. In God we trust.

And therefore he said, "We should put in a dollar in the charity box. That proves that we have an obligation not only to ourselves, we have an obligation to all human beings and to all society."

You were chosen by Almighty God to be the representatives, the custodians of peace and justice in the great State of New York. You are the envy of the entire world. The entire world looks up at the United States

of America for the prosperity that we have to offer. You are the custodians of the peace and justice in the great State of New York and, by extension, to the entire world.

And I want you to know that when we go to shul every Saturday, we say a special prayer for you. We say it in Hebrew, and in Hebrew we say: [speaking in Hebrew].

I'm not going to ask the chairman to repeat that. She had enough trouble with my name.

However, it means that we offer a special prayer for all those who devote their lives for public service. You devote your lives for public service.

And we ask -- every Saturday in our synagogues we ask for you for good health, for prosperity, not only in your communal affairs, but also in your private lives, that you should have health and good luck in everything that you need. With long life, you should have a chance to serve the people as you have until now.

And let us all say amen. Thank you.

THE PRESIDENT: Thank you, Rabbi.

Reading of the Journal.

THE SECRETARY: In Senate, Sunday, June 11, the Senate met pursuant to adjournment. The Journal of Saturday, June 10, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: I would be happy to yield to Senator McGee.

THE PRESIDENT: Senator McGee.

SENATOR McGEE: Thank you, Senator Marcellino.

THE PRESIDENT: Oh, Senator

Skelos.

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

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

Senator McGee, you have the floor.

SENATOR McGEE: Thank you, Madam President.

I wish to call up my bill, Print Number 4322, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 872, by Senator McGee, Senate Print 4322, an act to amend the New York State Urban Development Corporation Act.

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 on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

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

THE PRESIDENT: The amendments are received.

SENATOR McGEE: Thank you, Madam President.

On behalf of Senator Bonacic, please remove the sponsor star from Calendar Number 995.

THE PRESIDENT: So ordered.

SENATOR McGEE: On behalf of Senator Skelos, please place a sponsor star on Calendar Number 811.

THE PRESIDENT: The bill is starred.

SENATOR McGEE: Thank you, Madam President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

On behalf of Senator Goodman, I wish to call up his bill, Print Number 7909,

recalled from Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1213, by Senator Goodman, Senate Print 7909, an act to amend the Tax Law.

SENATOR MARCELLINO: 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, 42.

SENATOR MARCELLINO: I now move to recommit the bill to the Committee on Rules.

ACTING PRESIDENT BALBONI: So ordered.

SENATOR MARCELLINO: Thank you, Mr. President.

Mr. President, on behalf of Senator Marchi I wish to call up his bill, Print Number 4457, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: Calendar Number 987, by Senator Marchi, Senate Print 4457, an act to amend the Not-For-Profit Corporation Law.

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

ACTING PRESIDENT BALBONI: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

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

ACTING PRESIDENT BALBONI: Amendments received.

SENATOR MARCELLINO: Thank you, Mr. President.

On behalf of Senator Volker, I wish to call up his bill, Print Number 3508, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: Calendar Number 419, by Senator Volker, Senate Print 3508, an act to amend the Civil Practice Law and Rules, in relation to requiring.

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

ACTING PRESIDENT BALBONI: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

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

ACTING PRESIDENT BALBONI: Amendments received.

SENATOR MARCELLINO: Thank you, Mr. President.

On behalf of Senator Farley, I wish to call up his bill, Print Number 7025, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT BALBONI: The

Secretary will read.

THE SECRETARY: Calendar Number 609, by Senator Farley, Senate Print 7025, an act to amend the Public Authorities Law.

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

ACTING PRESIDENT BALBONI: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

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

ACTING PRESIDENT BALBONI: The amendments are received.

SENATOR MARCELLINO: Thank you.

ACTING PRESIDENT BALBONI: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

Amendments are offered for the following Third Reading Calendar bills:

On behalf of Senator Alesi, page

number 11, Calendar Number 390, Senate Print Number 6232A;

On behalf of Senator Volker, page number 11, Calendar Number 396, Senate Print Number 6590A;

On behalf of Senator Maziarz, page number 33, Calendar Number 1032, Senate Print Number 2280C;

On behalf of Senator Volker, page number 37, Calendar Number 1114, Senate Print Number 4719D;

On behalf of Senator Velella, page number 42, Calendar Number 1190, Senate Print Number 2353;

On behalf of Senator Padavan, page number 42, Calendar Number 1212, Senate Print Number 7893;

On behalf of Senator Skelos, page number 43, Calendar Number 1232, Senate Print Number 5504;

On behalf of Senator Johnson, page number 43, Calendar Number 1296, Senate Print Number 6742A;

On behalf of Senator Volker, page number 46, Calendar Number 218, Senate Print

Number 1992B;

And on behalf of Senator Volker, page number 15, Calendar Number 592, Senate Print Number 5653.

I now move that these bills retain their place on the order of Third Reading Calendar.

ACTING PRESIDENT BALBONI: Thank you, Senator Fuschillo. Those amendments are received, and those bills will retain their place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, are there any substitutions at the desk?

ACTING PRESIDENT BALBONI: Yes, there are.

SENATOR SKELOS: Would you please make them at this time.

ACTING PRESIDENT BALBONI: The Secretary will read the substitutions.

THE SECRETARY: On page 44, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 5372A and substitute it for the identical Senate Bill Number 1182A, Third Reading Calendar

1318.

On page 44, Senator Larkin moves to discharge, from the Committee on Insurance, Assembly Bill Number 6834A and substitute it for the identical Senate Bill Number 1580A, Third Reading Calendar 1320.

On page 44, Senator Oppenheimer moves to discharge, from the Committee on Rules, Assembly Bill Number 9642 and substitute it for the identical Senate Bill Number 6696, Third Reading Calendar 1325.

And on page 45, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 10242 and substitute it for the identical Senate Bill Number 7865, Third Reading Calendar 1335.

ACTING PRESIDENT BALBONI: Substitutions ordered.

Senator Skelos.

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

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: Calendar Number

150, by Senator Marcellino, Senate Print 5878A, an act to amend the Environmental Conservation Law, in relation to authorizing.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 185, by Senator Meier, Senate Print 6272B, an act in relation to adjusting certain state aid payments.

ACTING PRESIDENT BALBONI: A local fiscal impact note is at the desk.

Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 250, by Senator Skelos, Senate Print 12B, an act to amend the Penal Law, in relation to failure to report a sexual assault of a child.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 280, by Senator Hannon, Senate Print 1253B, an act -

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

ACTING PRESIDENT BALBONI: Lay

the bill aside for the day.

THE SECRETARY: Calendar Number 466, by Senator Skelos, Senate Print 902F, an act to amend the General Business Law and the Town Law, in relation to dealers.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first day of January.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 471, by Senator Goodman, Senate Print 1105B, an act to amend the Vehicle and Traffic Law, in relation to requiring motor vehicle repair shops.

ACTING PRESIDENT BALBONI: Read the last section.

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

January.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 559, by Senator Volker, Senate Print 4659C, an act to authorize the Commissioner of General Services to transfer and convey.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 617, by Senator Seward, Senate Print 7131A, an act in relation to adjusting certain state aid payments.

SENATOR PATERSON: Lay that aside.

ACTING PRESIDENT BALBONI: Lay it aside.

THE SECRETARY: Calendar Number 624, by Senator Meier, Senate Print 6972, an act to amend the Social Services Law, in relation to the Learnfare program.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT BALBONI: The bill is laid aside.

THE SECRETARY: Calendar Number 652, by Senator Volker, Senate Print 3419, an act to amend the Criminal Procedure Law, in relation to issuance of a warrant.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 678, by Senator Marcellino, Senate Print 6929A, an act in relation to authorizing the town boards of the Towns of Oyster Bay and North Hempstead.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 715, by Member of the Assembly Gottfried, Assembly Print Number 3573A, an act to amend the Public Health Law and the Insurance Law, in relation to physical therapy.

SENATOR PATERSON: Lay that aside.

ACTING PRESIDENT BALBONI: The

bill is laid aside.

THE SECRETARY: Calendar Number 722, by the Assembly Committee on Rules, Assembly Print Number 10893, an act to amend Chapter 314 of the Laws of 1984 amending the Public Health Law.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

Senator Skelos.

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

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

The Secretary will continue to read the noncontroversial calendar.

Ladies and gentlemen, could we please keep the noise down a little. We're trying to hear the calendar. Thank you.

Please continue.

THE SECRETARY: Calendar Number 733, by Senator DeFrancisco, Senate Print 4239A, an act to amend Chapter 679 of the Laws of 1992 authorizing the Commissioner of General Services.

ACTING PRESIDENT BALBONI: Read

the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 736, by Senator Trunzo, Senate Print 7181B, an act to amend Chapter 719 of the Laws of 1982 relating to authorizing the Commissioner of General Services.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number

742, by Senator Leibell, Senate Print 6866A, an act to amend the General Municipal Law and the Retirement and Social Security Law, in relation to increasing.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 3. This act shall take effect July 1.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 745, by Senator Leibell, Senate Print 7538, an act to amend the Retirement and Social Security Law, in relation to the Northern Westchester Joint Water Works.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 749, by Senator Seward, Senate Print 7082A, an act to amend the Insurance Law, in relation to the licensing of insurance agents.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 840, by Senator Nozzolio, Senate Print 7156A, an act to amend the Criminal Procedure Law, in relation to deputy sheriff.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 946, by Senator Oppenheimer, Senate Print 5256C, an act to authorize the County of Westchester to transfer an easement.

ACTING PRESIDENT BALBONI: A home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 948, by Senator Saland, Senate Print 6351A, an

act to amend the Real Property Tax Law, in relation to providing.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 961, by Senator Volker, Senate Print 7188A, an act to authorize the transfer of certain escrow funds to the Buffalo Raceway horsemen's purse account.

ACTING PRESIDENT BALBONI: Read the last section.

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

THE SECRETARY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 977, by Member of the Assembly John, Assembly Print Number 10428, an act to amend the New York City Civil Court Act and others, in relation to perfecting appeals.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first day of November.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 992, by Senator Marchi, Senate Print 6981A, an act to amend Chapter 393 of the Laws of 1994 amending the New York State Urban Development Corporation Act.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 994, by the Assembly Committee on Rules, Assembly Print Number 10950, an act to amend the Business Corporation Law, in relation to permitting.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1005, by Senator Skelos, Senate Print 6153A,

an act to amend the Civil Rights Law and others, in relation to a change of name.

ACTING PRESIDENT BALBONI: Read the last section.

SENATOR DUANE: Lay the bill aside, please.

ACTING PRESIDENT BALBONI: That bill is laid aside.

THE SECRETARY: Calendar Number 1011, by Senator Nozzolio, Senate Print 7380A, an act to amend the Penal Law, in relation to recruitment.

ACTING PRESIDENT BALBONI: Read the last section, please.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number

1012, by Senator Balboni, Senate Print 7382A, an -

ACTING PRESIDENT BALBONI: Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, I was going to lay that bill aside. But upon further review, I not only support this bill but I'd ask that my 56 other colleagues present here adopt it and adopt it unanimously.

ACTING PRESIDENT BALBONI: Senator, that's really terrific, but which bill are talking about? Oh, my bill? You are a fine gentleman. Thank you very much.

But, hey, I think we need to call the bill first, if you don't mind. We're going to do that right now, Senator, if that's okay. If you want to say it again, you can.

Please read.

THE SECRETARY: Calendar 1012, by Senator Balboni, Senate Print 7382A, an act to amend the Penal Law.

ACTING PRESIDENT BALBONI: Read the last section, please.

SENATOR LIBOUS: Lay the bill

aside, please.

(Laughter.)

ACTING PRESIDENT BALBONI: You want to reconsider that, Senator?

SENATOR LIBOUS: Mr. President, I misspoke.

ACTING PRESIDENT BALBONI: Okay, fine. Thank you.

Call the roll, please. You did that already? Last section.

THE SECRETARY: Section 6. This act shall take effect on the first day of November.

ACTING PRESIDENT BALBONI: Now call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed. Thank you.

THE SECRETARY: Calendar Number 1013, by Senator Velella, Senate Print 7397B, an act to amend the Penal Law, in relation to increasing.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1024, by Senator Skelos, Senate Print 5434B, an act to amend the Vehicle and Traffic Law, in relation to the appointment.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number

1048, by Senator LaValle, Senate Print 7251B, an act to amend the Parks, Recreation and Historic Preservation Law, in relation to the state-designated heritage area.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1050, by Senator DeFrancisco, Senate Print 7474A, an act to amend the Navigation Law, in relation to United States Coast Guard-approved personal flotation devices.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed, please.

THE SECRETARY: Calendar Number 1072, by Senator Goodman, Senate Print 7118, an act to amend the Public Lands Law, in relation to the sale and conveyance of unappropriated state lands.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1074, by Senator Goodman, Senate Print 7431, an act to amend the Public Lands Law, in relation to the sale of unappropriated state lands.

ACTING PRESIDENT BALBONI: Read

the last section.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT BALBONI: The bill is laid aside.

THE SECRETARY: Calendar Number 1083, by Member of the Assembly Destito, Assembly Print Number 4209B, an act to amend the Executive Law, in relation to creating a state area.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1084, by Senator DeFrancisco, Senate Print 5138A, an act to amend the State Finance Law and the Public Authorities Law, in relation to discriminatory jurisdictions.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1138, by Senator Hannon, Senate Print 7523A, an act to amend the Public Health Law, in relation to granting coverage.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 3. This act shall take effect in 30 days.

THE SECRETARY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1155, by Senator Farley, Senate Print 7748A,

an act to amend the Banking Law, in relation to the appointment of appraisers.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1156, by Senator Skelos, Senate Print 7281B, an act to amend the Vehicle and Traffic Law, in relation to the ownership or operation of a motor vehicle.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT BALBONI: That bill is laid aside.

THE SECRETARY: Calendar Number 1163, by Senator LaValle, Senate Print 2046C, an act to amend the Education -

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT BALBONI: Lay it aside for the day.

THE SECRETARY: Calendar Number 1165, by Senator LaValle, Senate Print 3024B, an act to amend the Education Law and others, relating to the State University health care facilities.

ACTING PRESIDENT BALBONI: Read the last section, please.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1166, by Member of the Assembly Hoyt, Assembly Print Number 7233, an act to amend the Education Law, in relation to the role of the universities.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect on the first day of January.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1169, by Senator Farley, Senate Print 6728B, an act to authorize the trustees of the State University of New York.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1176, by Senator Lack, Senate Print 7648A, an act in relation to authorizing the State

University at Stony Brook to lease certain lands.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 12. This act shall take effect immediately.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1188, by -

ACTING PRESIDENT BALBONI: Senator Skelos, why do you rise?

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

ACTING PRESIDENT BALBONI: There will be an immediate meeting of the Senate Transportation Committee in the Majority Conference Room.

Thank you, Senator Skelos.

Please continue to read.

THE SECRETARY: Calendar Number 1188, by Senator Wright, Senate Print 1880C, an act to amend the Environmental Conservation Law, in relation to hospital or medical environmental disinfectants.

ACTING PRESIDENT BALBONI: Ladies and gentlemen, could we please have a little quiet. Thank you.

Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1206, by Senator Seward, Senate Print 7576A, an act to amend the Insurance Law, in relation to permitting.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 9. This

act shall take effect in 90 days.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1218, by Senator Seward, Senate Print 2861A, an act to amend the Education Law and the Criminal Procedure Law, in relation to appointment.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1224, by Senator LaValle, Senate Print 4000A,

an act to amend the General Obligations Law, in relation to the authority of caregivers.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1317, by Senator Kruger, Senate Print 273, an act to amend the Penal Law, in relation to increasing the penalties.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays,

1. Senator Duane recorded in the negative.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1318, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 5372A, an act to amend the New York City Charter in relation to service.

ACTING PRESIDENT BALBONI: A home rule message is at the desk.

Please read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1320, substituted earlier today by Member of the Assembly Perry, Assembly Print Number 6834A, an act to amend the Insurance Law in relation to reimbursement.

ACTING PRESIDENT BALBONI: Read

the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1321, by Senator Kuhl, Senate Print 2311, an act to amend the Vehicle and Traffic Law, in relation to authorizing.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1322, by Senator Paterson, Senate Print 3475, an act to amend the Tax Law, in relation to exclusion of certain earnings from gross income.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1323, by Senator Alesi, Senate Print 4125, an act to amend the Labor Law, in relation to relieving persons not entitled.

ACTING PRESIDENT BALBONI: Read the last section.

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

THE SECRETARY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1325, substituted earlier today by Member of the Assembly Hochberg, Assembly Print Number 9642, an act to amend Chapter 17 of the Laws of 1930 entitled "An Act to Incorporate the Scarsdale Foundation."

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1326, by Senator Balboni, Senate Print 6851, an act authorizing the reopening of the 20-year retirement plan.

ACTING PRESIDENT BALBONI: A home

rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1327, by Senator Maziarz, Senate Print 7231A, an act to authorize the Village of Medina to discontinue the use of certain lands.

ACTING PRESIDENT BALBONI: A home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1328, by Senator Leibell, Senate Print 7351, an act to amend the Retirement and Social Security Law, in relation to additional pension benefits.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1329, by Senator Leibell, Senate Print 7352, an act to amend the Retirement and Social Security Law, in relation to contributions.

THE SECRETARY: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1331, by Senator Maziarz, Senate Print 7566A, an act to amend the General Municipal Law, in relation to bingo admission fees.

ACTING PRESIDENT BALBONI: Read the last section.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT BALBONI: The bill is laid aside.

THE SECRETARY: Calendar Number 1332, by Senator Meier, Senate Print 7816, an act to amend the General Municipal Law, in relation to prize awards for certain games of chance.

ACTING PRESIDENT BALBONI: Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT BALBONI: I'm sorry, Senator. Lay that bill aside.

THE SECRETARY: Calendar Number 1333, by Senator Seward, Senate Print 7823, an act to amend Chapter 607 of the Laws of 1999 amending the County Law.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1334, by Senator Larkin, Senate Print 7834A, an act to amend the Highway Law, in relation to designating a portion of the state highway system.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1335, substituted earlier today by Member of the Assembly Dinowitz, Assembly Print Number 10242, an act to amend the Mental Hygiene Law, in relation to the definition of "director of community services."

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1336, by Senator Spano, Senate Print 7902, an act to amend the General Business Law, in relation to providing.

ACTING PRESIDENT BALBONI: Read

the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2001.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

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

Senator Breslin, why do you rise?

SENATOR BRESLIN: Mr. President, I would request unanimous consent to be recorded in the negative on Calendar Number 466.

ACTING PRESIDENT BALBONI: So ordered.

SENATOR BRESLIN: Thank you very much.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT BALBONI: Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Marchi.

ACTING PRESIDENT BALBONI: It would be a privilege.

Senator Marchi.

SENATOR MARCHI: You recognize me, sir.

ACTING PRESIDENT BALBONI: Yes, I am.

SENATOR MARCHI: We have - earlier in the conduct of this session we had a resolution presented for the anniversary celebration of the Rabbi Menachem Schneerson, introduced earlier by Rabbi Butman, who is with us today.

I think it would be appropriate if we recognize what this group means throughout the world. As the resolution states, from Holland to Argentina, from Moscow to Jerusalem, all around the world they have led an enlightened activity in behalf of education and added immeasurably to the knowledge that we have today of philosophy and the celebration of the rendition of the Mishnah Torah in written form by Maimonides over 1300 years ago. This is an historic development.

I had the pleasure of knowing Rebbe

Schneerson some years ago before he passed away. And he was a most enlightened individual who had about five or six degrees in almost every discipline from leading universities in Europe, and managed with infinite care and the greatest grace and display of civility the fortunes here in New York. And those of us who had the pleasure of meeting him rejoice in that fact.

It was a monumental contribution that was made, and indeed the revived interest that we had for Aristotelian philosophy and the rendering of the Torah in written form in permanent language is attributable to the group that he represents and that are throughout the world.

So I believe that this is a wonderful occasion to welcome the rabbi here and to reflect our sentiments, a very warm, supportive feeling that we have to the work that you are doing, sir.

And I'm very privileged to have Senator Lachman, who -- I will yield to him for additional comment. But I'm sure that we all treasure the feeling that we hold for the

Rebbe and his colleagues throughout the world. And there are 1300 centers, I believe, around the world.

SENATOR LACHMAN: I thank the distinguished Senator from Staten Island for yielding.

I'd like to just say a few words about the Lubavitcher movement and stress some things that Senator Marchi did not emphasize in his eloquent remarks.

The Lubavitch movement is over 200 years old. It arose in Europe as a reaction against the despondency and despair that the Jewish community in certain European countries had because of the extreme anti-Semitism of the populations where they lived.

It was transported and transplanted to America in 1950 by the Alter Rebbe, the father-in-law of Rebbe Menachem Schneerson of blessed memory, and it took hold and grew in a land of opportunity where very few people had dreamt that the Lubavitch movement would grow.

New York is now the international headquarters of this religious movement that emphasizes joy and outreach to individuals who

are in need of spiritual reawakening. It has created major impacts at university campuses with young people around the nation and around the world. It has established kosher kitchens. It has established minyanim, which means prayer groups, Jewish prayer groups, at these universities. And it has made a major impact on American Jewish life.

But I would like to add as an addendum that it also has made a major impact since the fall of Communism in the former USSR, especially in Russia, where a Lubavitcher rabbi is now being considered for the position of chief rabbi of Russia.

This all came about through the leadership and guidance of Rabbi Menachem Mendel Schneerson of blessed memory, who served from approximately 1950 to 1994 as a spiritual leader and sage of the Lubavitcher movement.

And we hope and pray that for many more years this movement will flourish in the freedom of America and in other countries throughout the world.

Thank you.

ACTING PRESIDENT BALBONI: Thank you very much, Senator Lachman.

Senator Marchi, as you know, the resolution was adopted previously. But I had spoken with the rabbi just recently and remarked at how when I arrived at the Assembly back in 1990, I remember the rabbi being the most inspirational speaker that we would hear during the year.

And again, congratulations on returning year after year and contributing so much positively to this chamber. Thank you, Rabbi.

(Applause.)

ACTING PRESIDENT BALBONI: Senator Skelos, what be your pleasure?

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

ACTING PRESIDENT BALBONI: The Secretary will please read.

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

following bills:

Senate Print 3201A, by Senator Paterson, an act authorizing the City of New York;

5629A, by Senator Santiago, an act authorizing the City of New York;

6688B, by Senator Hoffmann, an act to amend the Family Court Act and others;

7440A, by Senator LaValle, an act to amend the Environmental Conservation Law;

7982, by Senator McGee, an act to amend the Executive Law;

8008, by Senator Goodman, an act to amend Chapter 83 of the Laws of 1995;

8101, by Senator Morahan, an act to amend the Retirement and Social Security Law;

And 8142, by Senator Marcellino, an act to amend the Retirement and Social Security Law.

All bills ordered direct to third reading.

ACTING PRESIDENT BALBONI: Senator Skelos.

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

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

(Response of "Aye.")

ACTING PRESIDENT BALBONI: Opposed, nay.

(No response.)

ACTING PRESIDENT BALBONI: The report is accepted.

Senator Skelos. No, sorry.

Excuse me, the Secretary will read the Finance report.

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

Senate Print 7952, by Senator Leibell, an act implementing agreements;

7962, by Senator Leibell, an act to amend the Judiciary Law;

7963, by Senator Leibell, an act to amend a chapter of the Laws of 2000;

And 7964, by Senator Leibell, an act to amend a chapter of the Laws of 2000.

All bills ordered direct to third reading.

ACTING PRESIDENT BALBONI:

Without objection, all bills will be ordered directly to third reading.

Senator Skelos.

SENATOR SKELOS: Mr. President, can we take up Senate Supplemental Calendar 55A.

ACTING PRESIDENT BALBONI: The Secretary will read Supplemental Calendar 55A.

THE SECRETARY: Calendar Number 1338, by Senator Paterson, Senate Print 3201A, an act authorizing the City of New York to reconvey its interest.

ACTING PRESIDENT BALBONI: A home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number

1339, by Senator Santiago, Senate Print 5629A, an act authorizing the City of New York to reconvey its interest in certain real property.

ACTING PRESIDENT BALBONI: A home rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1341, by Senator LaValle, Senate Print 7440A, an act to amend the Environmental Conservation Law, in relation to the adoption of certain regulations.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT BALBONI: The bill is laid aside.

THE SECRETARY: Calendar Number

1342, by Senator McGee, Senate Print 7982 -

SENATOR PATERSON: Lay that aside, please.

ACTING PRESIDENT BALBONI: The bill is laid aside.

THE SECRETARY: Calendar Number 1343, by Senator Goodman, Senate Print 8008, an act to amend Chapter 83 of the Laws of 1995 amending the State Finance Law.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT BALBONI: The bill is laid aside.

THE SECRETARY: Calendar Number 1344, by Senator Morahan, Senate Print 8101, an act to amend the Retirement and Social Security Law, in relation to providing credit.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1345, by Senator Marcellino, Senate Print 8142, an act to amend the Retirement and Social Security Law, in relation to providing benefit enhancements.

ACTING PRESIDENT BALBONI: Senator Skelos.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT BALBONI: Yes, there is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT BALBONI: The motion is to accept the message of necessity. All those in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT BALBONI: All those opposed, nay.

(No response.)

ACTING PRESIDENT BALBONI: The message is accepted.

Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1347, by Senator Leibell, Senate Print 7952, an act implementing agreements between the State and the employee organization.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 20. This act shall take effect immediately.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1348, by Senator Leibell, Senate Print 7962, an act to amend the Judiciary Law, in relation to terms and conditions.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 15. This act shall take effect immediately.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1349, by Senator Leibell, Senate Print 7963, an act to amend a chapter of the Laws of 2000 entitled "An Act to Amend the Judiciary Law."

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2000.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BALBONI: The

bill is passed.

THE SECRETARY: Calendar Number 1350, by Senator Leibell, Senate Print 7964, an act to amend a chapter of the Laws of 2000 entitled "An Act to Amend the Judiciary Law."

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2000.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BALBONI: The bill is passed.

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

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT BALBONI: Senator Larkin, why do you rise?

SENATOR LARKIN: On Calendar Number 1344, I'd like to abstain.

ACTING PRESIDENT BALBONI:

Without objection, so ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the Supplemental Calendar 55A, if we could go to the controversial part of it.

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: Calendar Number 1341, by Senator LaValle, Senate Print 7440A, an act to amend the Environmental Conservation Law, in relation to the adoption.

SENATOR DOLLINGER: A brief explanation, Mr. President.

ACTING PRESIDENT BALBONI: A brief explanation has been requested, Senator LaValle.

SENATOR LAVALLE: Senator, this is a bill that has strong support from the Lung Association and the environmental community.

What it would do is -- under the present law personal watercraft, or jet skis, are presently regulated by the EPA under the Clean Air Act. What this would do is under the Clean Air Act, it allows states to opt in

for higher standards under the California standards.

This would allow the commissioner of the DEC to promulgate regulations consistent with the California standards which would hopefully contribute to better air quality and less particles from the -- that the jet skis emit that land on the water.

So it really is two. It's primarily an air quality control legislation, but secondly I think the particles that come from the engines also land on the water, so it also is a water quality issue.

ACTING PRESIDENT BALBONI: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just briefly on the bill.

I commend Senator LaValle for bringing this bill forward, and I hope that it becomes law and that the Assembly will join in this effort.

The issue that we've spoken about before -- and it was partly addressed with Senator Marcellino's bill with respect to restrictions on MTBEs, which are a form of

water-borne pollution that is largely generated as a result of two-stroke engines, two-cycle engines. These engines which power most personal watercraft -- jet skis, as they're commonly called in our neck of the woods -- these craft have a disproportional polluting effect, not only on our reservoirs and drinking resources but I think, as Senator LaValle properly points out, they cause significant and disproportionate air pollution as well because of the inefficiencies in the combustion of these engines.

I also think this is the right thing to do from a federal perspective. Because, as I understand this bill, what we're saying is that California has got the right idea. They've got a standard that's tougher than the federal standard. And what we're going to do is join the California standard, ideally to try to begin a nationwide trend in the purchase and sale of these personal watercraft.

So that we'll use our buying power in New York State to drive all of these manufacturers to a far more efficient

two-cycle engine or what I believe is the better solution, which is to come up with a small four-cycle engine for personal watercraft so both air pollution and water pollution, especially in our lakes -- the Finger Lakes that we use as reservoirs for drinking water -- that the standards for pollution will be higher, they'll be more rigorous, and we'll have less both air- and water-borne pollution.

Again, I commend Senator LaValle. This is clearly the right thing to do. I think it's the right approach. It's consistent with our principles of federalism and will make cleaner air and water in New York. And I hope it becomes law.

ACTING PRESIDENT BALBONI: Thank you, Senator Dollinger.

Please read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT BALBONI: The bill is passed.

Senator Bonacic, why do you rise?

SENATOR BONACIC: Mr. President, we'd like to have an immediate meeting of the Housing Committee in the Senate Majority Room, please.

ACTING PRESIDENT BALBONI: There will be an immediate meeting of the Senate Housing Committee in the Majority Conference Room.

Thank you, Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

ACTING PRESIDENT BALBONI: The Secretary will read, please.

THE SECRETARY: Calendar Number 1342, by Senator McGee, Senate Print 7982, an act to amend the Executive Law, in relation to the DNA identification index.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT BALBONI: Senator McGee, an explanation has been requested.

SENATOR McGEE: Yes. Hold on just one moment.

This bill -- we've now come to notice the importance of the DNA testing and identification bank. And this extends the - expands the scope of the DNA identification index to include all the misdemeanor convictions and felonies.

ACTING PRESIDENT BALBONI: Senator Duane.

Senator Paterson, you were up first. I apologize.

SENATOR PATERSON: Mr. President, if the sponsor would yield for a question.

ACTING PRESIDENT BALBONI: Senator McGee, do you yield for a question?

SENATOR McGEE: Certainly.

ACTING PRESIDENT BALBONI: Senator Paterson, she yields.

SENATOR PATERSON: Mr. President, I do not dispute the tremendous value of having DNA testing done in certain cases, especially because it can help us locate the perpetrators of crimes who were heretofore unknown. But in addition, in some cases it's

actually been used to exonerate people who were convicted of crimes and were later established that they could not have been involved.

Right now in New York, 65 percent of our felony convictions are covered by the DNA evidence that -- or covered by the opportunity to use DNA testing. But to expand it to the point where we're going to cover every felony and then every misdemeanor -- I would certainly feel that in the cases of felonies, my colleagues and myself would not object to that. But when we got down to misdemeanor convictions, some of these convictions are really not, in my opinion, within the framework of what we'd really be looking for to conduct DNA testing.

And so my question, if the sponsor is yielding, is what is the value of using DNA testing to those cases that are really misdemeanors where the DNA evidence would really be not used as much for the actual crime that just occurred but for future events?

SENATOR McGEE: It's a form of

identification, Senator Paterson. And I think it's a good idea to expand that bank of identification.

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

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

SENATOR McGEE: Certainly.

ACTING PRESIDENT BALBONI: She does.

SENATOR PATERSON: Senator McGee, the question I think I really want to ask is why would we not, just for purposes of identification, if we wanted to have national identification, just take a sample of everyone's fingerprints or their DNA?

And that way we would have, for the purpose of crimefighting, we would have a record of every single citizen in the United States that we could go through every time a crime is committed.

And if we're not going to do that, then the question is where do we draw the line. And would we draw the line at the felony level, which I think is perfectly

acceptable, or would the next step be to draw the line at criminal violations such as trespass?

SENATOR McGEE: Thank you, Senator Paterson. I certainly think the idea of doing it for everyone is an excellent idea, and I would suggest you may wish to submit that particular bill.

That is not this bill. This bill calls for covering DNA identification to include all misdemeanor convictions and felonies.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT BALBONI: Yes, Senator Paterson.

SENATOR PATERSON: On the bill.

ACTING PRESIDENT BALBONI: On the bill.

SENATOR PATERSON: I think I'm going to sit down and vote against the bill before I give anybody any new ideas.

(Laughter.)

ACTING PRESIDENT BALBONI: Thank you, Senator Paterson.

Senator Duane, why do you rise?

SENATOR DUANE: If the sponsor would yield for some intelligent questioning.

SENATOR McGEE: Semi-intelligent questioning, Senator?

SENATOR DUANE: I didn't say "semi."

SENATOR McGEE: Oh, I'm sorry. Yes, of course.

ACTING PRESIDENT BALBONI: Before we engage in some intelligent questioning, if we could just have a little bit of order in the chamber.

Senator McGee, you've been asked to yield to a couple of questions. Is that okay with you?

SENATOR McGEE: Certainly. Certainly.

ACTING PRESIDENT BALBONI: Thank you.

Senator Duane, go ahead.

SENATOR DUANE: Thank you. I'm wondering why this was not included last year when we voted on DNA. We had a whole debate and discussion and lots of discussions about DNA, and I'm wondering why it is that we

didn't include this in that bill.

SENATOR McGEE: I really can't - Senator Duane, I can't explain that or answer that for you.

This was submitted this year, and that's why it's here now.

ACTING PRESIDENT BALBONI: Ladies and gentlemen, particularly members who are coming into the chamber, if you could please be cognizant of the fact that there's a debate proceeding.

As we go into the last couple of days of session, if we could please be mindful of the level of noise in the chamber, it would be greatly appreciated. Thank you.

Senator Duane.

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

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

SENATOR McGEE: Certainly.

SENATOR DUANE: I'm wondering if the sponsor has any idea about what would be next for this DNA if -- last year we did it

for many felonies; this year there's a bill for all misdemeanors. The sponsor has mentioned the idea of getting everyone's DNA. I'm wondering what legislation might be coming up next.

SENATOR McGEE: I beg to differ with you, Senator Duane. I believe it was Senator Paterson who suggested DNA samples from everyone. Mine merely covers those who have all misdemeanor convictions and felonies. It was Senator Paterson, I believe, who suggested that.

SENATOR DUANE: Through you, Mr. President, my apologies. I thought that the sponsor said that that was a good idea.

SENATOR McGEE: A good idea, but it was Senator Paterson's idea. And I would never want to steal a senator's idea.

SENATOR DUANE: Through you, Mr. President -- though I think it would be okay with him.

Is there any provision in the legislation for the DNA to be destroyed when a defendant is deemed not guilty?

SENATOR McGEE: This only applies

to convicted felonies and misdemeanors.

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

ACTING PRESIDENT BALBONI: Senator, do you continue to yield?

SENATOR McGEE: Certainly.

SENATOR DUANE: And is there any point at which the DNA would be destroyed after, for instance, the person that served their time?

SENATOR McGEE: Only -- I would assume, Senator Duane, it would only be pursuant to a court order.

SENATOR DUANE: I'm sorry, could you say it again?

SENATOR McGEE: That it would be pursuant to a court order.

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

ACTING PRESIDENT BALBONI: Senator McGee?

SENATOR McGEE: Certainly.

ACTING PRESIDENT BALBONI: The

Senator yields.

SENATOR DUANE: At what point is the DNA sample taken, at what point after conviction?

ACTING PRESIDENT BALBONI: One moment, please.

SENATOR McGEE: If you will look at the bill on page 2, lines 6 through, well, 17, actually it says the designated offender "required to provide a sample appropriate for DNA testing pursuant to the provisions of this article who knowingly fails to provide such sample within 30 days of being notified by a court, state, or local corrections officer or employee, probation officer, parole officer or other law enforcement official of his or her obligation to provide such a sample shall be guilty of a Class E felony. Any such knowing failure to provide a sample appropriate for DNA testing shall also be deemed to violate the conditions of probation or parole and shall be a basis for the revocation of probation or parole in accordance with Article 410 of the Criminal Procedure Act, Article 3 of the Family Court Act, or Section 259I of

this chapter."

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

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

SENATOR McGEE: Certainly. Absolutely.

ACTING PRESIDENT BALBONI: Senator Duane, please proceed.

SENATOR DUANE: What would cause this notification by a correction officer, employee, et cetera, et cetera?

SENATOR McGEE: I'm sorry, I can't hear you.

SENATOR DUANE: Through you, Mr. President. What would cause this notification to occur on the part of a correction official or employee, probation, parole, et cetera, et cetera, et cetera? What is it that makes whoever that is notify the -

SENATOR McGEE: What would cause them to do this, Senator?

SENATOR DUANE: To notify the person that's been convicted of a misdemeanor

that they have to give up a DNA sample. I understand it's 30 days from notification, but what starts the notification? Why is notification given?

SENATOR McGEE: I don't think there's -- I don't think we can give a date on it.

It's a normal process. It's a normal procedure that once the notification goes to the DCJS, that it's a procedure that just begins to take place.

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

ACTING PRESIDENT BALBONI: Senator Volker, why do you rise?

SENATOR VOLKER: Mr. President, can I just interject for just a second to answer that question, if I might?

ACTING PRESIDENT BALBONI: Senator Duane, would you accept Senator Volker's stepping in for just a second?

SENATOR DUANE: (Nodding.)

SENATOR VOLKER: I think what occurred -- and I don't think Senator McGee

quite understood it -- I think what you're saying is why would there be notification because if you were convicted of a felony or a misdemeanor, you would automatically have to give up your DNA.

The answer is if you are in jail at the time -- in other words, if your sentence is still being carried out, if you're in jail for a misdemeanor or a felony, in that case the person who is in jail for a misdemeanor or a felony would then be notified. Because that person would not have been -- obviously prior would not have given up a DNA sample.

So that provision relates to the fact that you have a person who is still under the jurisdiction of the criminal justice system, who has been convicted of a felony or a misdemeanor, and that person would then have 30 days in effect to give a DNA sample.

Once you get through this whole thing and everybody has given up their DNA sample, then from there on you would only have people that were convicted who would then presumably give up their DNA samples right after they're convicted. I think that's what

that's about, because that's the people who are prior, are in jail, for instance, now.

Because what this section would do, as I understand it, is even if you are presently in jail on a felony or a misdemeanor, you would be required to give up a DNA sample.

SENATOR DUANE: Through you, Mr. President, if the -

ACTING PRESIDENT BALBONI: Senator Duane, was that clarification helpful?

SENATOR DUANE: It was helpful, Mr. President, but I'm actually going to pursue a different avenue.

ACTING PRESIDENT BALBONI: Senator Volker, thank you for that clarification.

Senator Duane.

SENATOR DUANE: Thank you. If the sponsor would continue to yield for this new avenue.

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

SENATOR McGEE: Certainly.

THE SECRETARY: Senator Duane.

SENATOR DUANE: My question goes to if a person has been convicted of a misdemeanor and then they appeal their sentence, does the notification that they have to give up their DNA, is that held pending their appeal? Or -- because there is no mention of that in the legislation, so I'm wondering what that impact would be.

SENATOR McGEE: An appeal would stay the proceedings, Senator.

SENATOR DUANE: Through you, Mr. President. Could the sponsor tell me where in the bill, though, it says that?

ACTING PRESIDENT BALBONI: Senator Duane is asking for a specific point in the -

SENATOR McGEE: Certainly.

I don't think it appears in this bill, Senator. It's in the appeals law. It doesn't appear in this particular piece of legislation, Senator. That appears in the appeals law.

ACTING PRESIDENT BALBONI: In the common law, she means, Senator.

SENATOR McGEE: Common law, I'm

sorry.

ACTING PRESIDENT BALBONI: Nonstatutory law.

SENATOR McGEE: The appeals section of the Criminal Procedure Law. That's my understanding.

SENATOR DUANE: Through you, Mr. President, I would be surprised to hear that there's anything about DNA sampling in the appeals CPLR or whatever the appeals thing is.

ACTING PRESIDENT BALBONI: I'm sorry that you are surprised by that. Do you have a question?

SENATOR DUANE: Yes. Is the sponsor quite sure that this appears, this DNA being held pending -- when a person is convicted of a misdemeanor and they go up for appeal, is she quite certain that the appeals case law says that they don't have to give up their DNA? Since there isn't much case law about that, as far as I know, since we only passed it last year, any DNA law.

ACTING PRESIDENT BALBONI: If you would give the Senator a moment.

SENATOR DUANE: Absolutely.

SENATOR McGEE: Just one moment, Senator.

My learned counsel tells me that the defense can seek an order limiting the processing of the evidence pending the appeal.

I'm not an attorney. My learned counsel is telling me that.

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

ACTING PRESIDENT BALBONI: Senator Duane -- Senator McGee.

SENATOR McGEE: Certainly.

ACTING PRESIDENT BALBONI: Just one more question.

SENATOR DUANE: One of the reasons that I'm going to vote against this is I don't think that a defendant could necessarily get it together within 30 days to launch their appeal.

And so my final question, then, has to do with if the person does win their appeal, what is in place then to destroy their DNA, or is their DNA not destroyed?

If it turns out that they are

actually innocent, their DNA has already been collected, how is it that their -- will their DNA automatically be destroyed because they are deemed innocent, or will they still have to get a court order?

SENATOR McGEE: My understanding is that it's part of the court order. Once the court order -- if the appeal is confirmed or okayed, then it's a part of the court order to destroy the DNA. Just like fingerprints.

SENATOR DUANE: Just a final clarification, Mr. President.

ACTING PRESIDENT BALBONI: Senator Duane.

SENATOR DUANE: Is that in law? Is that in a statute?

SENATOR McGEE: I understand it is.

SENATOR DUANE: Thank you.

ACTING PRESIDENT BALBONI: The motion to expunge. This is a suggestion.

Senator Duane, thank you very much.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect November 1, 2000.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

SENATOR DUANE: Thank you, Mr. President.

I'm going to vote no on this. I believe that we dealt with DNA last year. And while I disagreed with what we did, I don't think that we should be amending our laws about DNA without even seeing how the original DNA legislation worked out.

This is a very expensive process we would be undertaking, and one that's fraught with problems in terms of civil rights and civil liberties.

I also renew my objections from last year's bill to this bill, because I don't see a clear way for those who may be wrongfully incarcerated to be able to clear their name by getting access to the DNA database.

I also believe that we have embarked on a slippery slope. I'm concerned

about what's next after this, and I think that we're embarking on a very problematic road in terms of criminal justice and its impact on everybody that lives in New York State.

So I'll be voting no on this, Mr. President.

ACTING PRESIDENT BALBONI: Senator Duane will be recorded in the negative.

Senator Volker, to explain his vote.

SENATOR VOLKER: Mr. President, to explain my vote.

Let me just say Senator McGee's bill is a Governor's program bill. It's -

ACTING PRESIDENT BALBONI: Please allow the Senator to explain his vote. Thank you.

Please continue.

SENATOR VOLKER: It's an expansion, obviously to everyone, of the DNA process that we have slowly been expanding over the last three or four years. I think back in 1989 I did the statute that created the DNA data bank.

There's interesting arguments on both sides, Senator Duane, about expanding the data bank, by defense attorneys as well as prosecutors.

Some people believe that by expanding the data bank, you'll actually create a data bank that will exonerate additional people as well as very possibly convict them. Because by establishing the bank, obviously if you have somebody that may be involved or at least allegedly involved in another crime and you compare the DNA and find out that the DNA left at the scene is not that person, that person can be exonerated.

And the one thing about that is the prosecutor can have that information potentially before he ever or she ever moves ahead to convict that person.

So the argument, I guess, is that the more complete data bank actually could act in terms of both sides.

The other proposal that Senator Paterson suggested is actually suggested by the City of New York. The City of New York, Mayor Giuliani's people, had sent us up a bill

earlier this year that proposed, as I remember, that all people arrested for felonies and for, I think, all A misdemeanors, I think -- I don't think it was all misdemeanors, but I think for all of the major misdemeanors -- would also be part of the data bank.

So that wasn't something that Senator Paterson thought of just by himself, although he could easily have done it, there's no question about it.

But this bill is an expansion, is a Governor's program bill, and it's another progression, I think, in our modern era of DNA.

I vote yes.

ACTING PRESIDENT BALBONI: Senator Volker will be recorded in the affirmative.

Will the Secretary please announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1342 are Senators Duane, Montgomery, Paterson and Sampson. Ayes, 54. Nays, 4.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1343, by Senator Goodman, Senate Print 8008, an act to amend Chapter 83 of the Laws of 1995 amending the State Finance Law.

SENATOR DOLLINGER: Explanation, Mr. President.

THE SECRETARY: Senator Goodman, an explanation has been requested.

SENATOR GOODMAN: Yes, Mr. President. This provides a five-year extension for the basic ground rules which regulate procurement in the State of New York.

One of the urgent reasons why this should be passed would, for example, relate to the fact that there are certain groups that provide services to the blind and other eleemosynary purposes which are permitted to buy goods on the basis of a discounted price structure.

Should we fail to renew this timely, we'd be in a position where these organizations would not have that advantage.

Generally speaking, the procurement

act that this extends is one which regulates the entire state procurement structure with respect to special pricing due to quantity discounts and the like. And therefore, as you can see, it's a fundamentally basically important bill.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Senator Dollinger.

SENATOR DOLLINGER: On the bill, please.

ACTING PRESIDENT BALBONI: On the bill.

SENATOR DOLLINGER: Mr. President, I'm going to vote against this bill because this is an opportunity missed. This is an opportunity to use the buying power of the State of New York to accomplish goals and objectives that I think the Majority in the this house would support.

What about a bill that would eliminate the procurement of anything from what we define as a sweatshop? I know there are many legislators in this house who have

carried bills that would outlaw sweatshops in New York.

Well, let's make this clear to everybody across the nation and around the world that New York would not be buying any goods under its procurement policies using our tax dollars to buy goods from a sweatshop.

What about companies that provide living wages? Shouldn't we also include in our procurement policies a provision that says we would only buy goods that are manufactured with living wages?

What about a provision that says we would only buy goods that are manufactured by companies or produced by companies that provide adequate health insurance for their employees?

We're spending billions of the taxpayer dollars every single year when we buy goods, and yet we don't seem to come forward and say we only ought to buy goods from companies that provide adequate health insurance for their employees.

What about prevailing wages? Maybe we should require that there be some form -

instead of minimum wage, that there be a prevailing wage paid to every company that provides goods and services that are bought by New York State.

And lastly, I'd close with one other thing that we're missing a chance to do, something that this house has already done. And that is, Senator Saland carries a bill which should be a part of our procurement policies.

That bill says -- it's sponsored by 22 Republican Senators in this house, and it says that the rules for procurement should include a provision that anyone who lobbies for procurement ought to be covered by the disclosure requirements and the rules of the New York State Lobbying Commission.

I would suggest that this house has already extended those rules, or at least voted in favor of those rules last December when we debated the Lobbying Commission extension and we agreed, this house agreed, that the bill ought to include restrictions on lobbying the government on procurement contracts -- that we should know who's

lobbying the executive, that we should have disclosure of what they spend, and that we should know what other contributions they may give.

This house voted unanimously for that concept. Yet here we are, we get to the procurement bill, the bill that extends the authority of the State to buy products in the marketplace, and we're backing away from our earlier commitment that the Lobbying Commission would apply to procurement policies of this state.

I would suggest, Mr. President, and I would recommend that we vote against this bill. We are losing an enormous opportunity to use the buying power of the State of New York to stand up for the principles that we've articulated in this house.

This is an opportunity to do it. Send the bill back to committee, have them consider discussing, if not approving, amendments that will eliminate purchases from sweatshops, only buy from companies that are environmentally safe and secure, for companies that are providing small business protection,

and that included within the lobbying law.

It's that simple, Mr. President. This is an opportunity we've missed completely.

ACTING PRESIDENT BALBONI: Thank you very much, Senator Dollinger.

Please read the last section.

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

THE SECRETARY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Dollinger and Onorato recorded in the negative.

ACTING PRESIDENT BALBONI: The bill is passed.

Senator Skelos -- whoops. No, that's Senator Fuschillo.

Senator Fuschillo, we are done with the reading of the supplemental calendar. What would be your pleasure?

SENATOR FUSCHILLO: First an apology, Senator Balboni.

ACTING PRESIDENT BALBONI: I'm terribly sorry. Senator Skelos is much better

looking, for the record.

Object. Go ahead, I dare you.

SENATOR FUSCHILLO: They're challenging the ruling of the chair.

(Laughter.)

SENATOR DOLLINGER: Withdrawn.

SENATOR FUSCHILLO: It's withdrawn.

Can you please return to the original reading of the controversial calendar, starting by taking up Calendar Number 617.

ACTING PRESIDENT BALBONI: The Secretary will read Calendar Number 617.

THE SECRETARY: Calendar Number 617, by Senator Seward, Senate Print 7131A, an act in relation to adjusting certain state aid payments.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT BALBONI: An explanation has been requested, Senator Seward.

SENATOR SEWARD: Certainly, Mr. President.

Now, this legislation before us deals with the Cobleskill-Richmondville Central School District. It simply says that the repayment by the school district of overpayments of state aid that were made to the school district in the years 1994-'95 and as recent as '97-'98, that the repayment of this state aid will be done in installments over a six-year period instead of a one-time lump sum, which would cause difficulty for the district's ability to meet its annual budgetary requirements.

And also I might add, Mr. President, that in addition to that, the reporting requirements included in this bill should provide a greater accountability in the filing of claims and assist the Cobleskill-Richmondville School District in improving its business practices.

ACTING PRESIDENT BALBONI: Thank you, Senator.

Senator Hevesi, why do you rise?

SENATOR HEVESI: Mr. President, if the sponsor would yield to a few questions, please.

ACTING PRESIDENT BALBONI: Senator Seward, do you yield?

SENATOR SEWARD: Certainly.

SENATOR HEVESI: Thank you.

Senator, can you tell us the payment schedule over the next five years - which I believe the aggregate amount is $189,522 -- does that include any interest payments in consideration for the state having expended that money several years ago?

SENATOR SEWARD: No. The repayments will be in equal installments of one-sixth of the amount due the state.

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

ACTING PRESIDENT BALBONI: Senator Seward, do you continue to yield?

SENATOR SEWARD: Certainly. Certainly.

ACTING PRESIDENT BALBONI: The Senator yields.

SENATOR HEVESI: Thank you.

Senator, the sponsor's memo provides as a justification that the

Cobleskill-Richmondville School District received overpayments. That's a very passive term. I was wondering if you could clarify for us whether or not the receipt of that money came as the fault of some mismanagement or accounting problem with the school district or with the State Education Department.

Which entity was it that was responsible for the overpayment?

SENATOR SEWARD: Well, Mr. President, it's my understanding that the - there were errors in the filing of paperwork to the state on the part of the school district which resulted in the overpayments.

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

ACTING PRESIDENT BALBONI: Senator Seward, do you continue to yield?

SENATOR SEWARD: Yes.

ACTING PRESIDENT BALBONI: Yes, he does, Senator Hevesi.

SENATOR HEVESI: A final question for you. If you could tell us how this mistake ultimately was caught so that we can remedy it here today. How was the problem

recognized?

ACTING PRESIDENT BALBONI: Senator Seward, do you yield?

SENATOR SEWARD: Certainly.

I would respond, Mr. President, by saying that in a combination of obviously the State Education Department reviewing the accounts with the school district and also with a subsequent business manager at the school district, the error was determined by both the State Ed Department and the local school district.

And obviously there's no question that this money is owed to the state. This legislation simply deals with making that repayment to the state in a manner which the local school districts can do without causing budgetary problems for the school district.

And I might add that, by repeating what I had already said, to prevent this from happening in the future we are requiring the school district to work with the State Ed Department in developing business practices which will prevent this from happening again. That, I think, is a significant piece in this

legislation.

SENATOR HEVESI: Thank you.

ACTING PRESIDENT BALBONI: Thank you, Senator Seward.

SENATOR HEVESI: On the bill, Mr. President.

ACTING PRESIDENT BALBONI: Senator Hevesi, on the bill.

SENATOR HEVESI: This is one of several similar pieces of legislation that have come before us this legislative session and I believe last legislative session.

I'm going to vote yes for the bill, because in fact the school district does need a protracted time frame within which to repay this money. Which, and that being true, leads us to believe that the school district made a mistake in that they expended the $188,000 and didn't catch the problem in the first place.

So there are several problems here. And it doesn't just lie with this particular school district, it lies with many different school districts and how we address it, and it lies with the State Education Department. And I believe the first thing that we need to do

in remedying these -- and I'm addressing the larger issue here, because we keep seeing these bills to remedy a situation that I believe are perfectly avoidable in the first place.

The first issue here is that the state is owed interest on this money which was overpaid to a school district several fiscal years ago and which the state will not recoup until ultimately the last one-sixth, until the year 2005. That's an injustice to every one of the taxpayers in the State of New York, because we're forfeiting that money.

The second problem with this remedy -- and although I appreciate Senator Seward's inclusion in this legislation, unlike some of the other bills that we've seen, a provision which requires the Cobleskill-Richmondville School District to form a program which will require tighter fiscal controls. Terrific idea -- there should be a more global solution requiring other school districts, since this is not an isolated case, requiring other school districts or every school district throughout

New York State to provide the same kind of fiscal integrity through this type of a program.

And lastly, the State Education Department has repeatedly made these overpayments. And I'm not sure whether their accounting practices and their bookkeeping is on the money if they simply acquiesce to any request by a local school district for a particular amount of aid. There should be, on the front end, some checking to make sure that we don't make these overpayments.

And I'm willing to suspect that right now there are many other overpayments which have been made to school districts, the interest on which the taxpayers of New York State are not going to recoup and are never going to coup if we continue to remedy this problem with a piecemeal approach.

So it's a well-intended piece of legislation. I don't want to compromise the ability of this particular school district to repay the money by requiring them to repay it all in one shot, so I'm going to vote for this legislation.

But I would request the sponsor and the chair of the Senate Education Committee to really take a look at the larger problem here so that we don't have to keep approaching this on a piecemeal basis and we can come up with a solution that's appropriate for every school district in New York State, for the SED, and that doesn't in any way disenfranchise either schoolchildren or the taxpayers of New York State.

I vote aye.

ACTING PRESIDENT BALBONI: Thank you, Senator Hevesi.

There is a local fiscal impact note at the desk.

Please read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number

624, by Senator Meier, Senate Print 6972, an act to amend the Social Services Law, in relation to the Learnfare program.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT BALBONI: Senator Meier, an explanation has been requested by Senator Duane.

SENATOR MEIER: Thank you, Mr. President.

Mr. President, this amends the existing Learnfare law. Presently the law pertains to the school-age children of individuals who are receiving benefits under either the safety net or the Family Assistance Program.

Under the existing law, which would continue under this bill, an accumulation of three unexcused school absences in an academic quarter without good cause results in the child being referred for counseling.

If there are more than four unexcused absences in an academic quarter, the family grant is reduced on a pro rata basis for a period of three months. That would be

$60 for a period of three months. If in the following quarter the child has no unexcused absences, the amount is returned. In other words, the family is made whole.

This bill amends that and makes really two basic changes. One is it adds the parent or other head of household to the counseling session. The present law involves only the child. So now we add the parent to the counseling session.

The second change is it extends the termination of the program from July 31st of this year to July 31st of the year 2005.

ACTING PRESIDENT BALBONI: Thank you.

Senator Duane.

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

ACTING PRESIDENT BALBONI: Senator Meier, do you yield to a question?

SENATOR MEIER: Gladly.

ACTING PRESIDENT BALBONI: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I'm wondering if there's any evidence that children in New York whose families receive TANIFF funding attend school at a lower rate than non-TANIFF students.

SENATOR MEIER: Well, Mr. President, there is plenty of evidence that one of the greatest single predictors of a life of poverty and therefore of a life of dependency on welfare is a failure to graduate from school.

ACTING PRESIDENT BALBONI: Senator Duane.

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

ACTING PRESIDENT BALBONI: Senator Meier.

SENATOR MEIER: Yes, Mr. President.

ACTING PRESIDENT BALBONI: Please proceed.

SENATOR DUANE: While I very much appreciate the answer given to the question that I didn't ask, I was wondering if the sponsor knows of any evidence that the rate of

attendance lower for a TANIFF -- children who receive TANIFF assistance than otherwise. If such documentation doesn't exist, I can accept that answer as well.

ACTING PRESIDENT BALBONI: If you know.

SENATOR MEIER: Thank you, Mr. President.

I believe there's a direct correlation between the failure to attend school and therefore the failure to graduate, and I thought I did answer the question.

ACTING PRESIDENT BALBONI: Senator Duane.

SENATOR DUANE: Through you, Mr. President. I think I'll just leave my question hanging, then, and go on to another question.

Has there been any -- let's see, what word shall I use -- evaluation by a nongovernment agency, by an academic group, on the effectiveness of Learnfare in pilot districts, in the pilot districts?

ACTING PRESIDENT BALBONI: Senator Meier.

SENATOR MEIER: Well, there have been a number of commentaries on Learnfare both in New York State and around the United States, and they arrive at different conclusions.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT BALBONI: Yes, Senator Duane.

SENATOR DUANE: Could any of those evaluations -- could any of those be deemed to be a scientific evaluation or documentation?

ACTING PRESIDENT BALBONI: Senator Meier.

SENATOR MEIER: Well, Mr. President, I'm not sure what Senator Duane means by "scientific." But let me give you some statistics.

For the most recent figures that we have, which would be the second quarter of the '99-2000 academic year, 3216 referrals to counseling were made. There have been only 236 grants reduced, and 16 grants have been reinstated.

For the preceding quarter, there have been 1,057 references to counseling, 82 grants were reduced, 8 grants were reinstated from the previous quarter.

So if you look at the numbers, one of the significant things that seems to happen here is that the counseling does seem to encourage school attendance. And we have very few -- we've got about a 93 percent success rate when we look at the cohort of those who go into counseling and those who have grant reductions.

ACTING PRESIDENT BALBONI: Senator Duane, was that specific enough? Good answer?

SENATOR DUANE: Through you, Mr. President, it was specific but it didn't really answer the part of my question having to do with an independent group doing an evaluation.

But we'll move along anyway, Mr. President.

ACTING PRESIDENT BALBONI: Terrific. Terrific.

SENATOR DUANE: If we can agree

that Learnfare guidelines are different in each school or they can vary in each school district, I'm wondering whether this bill might -- perhaps it needed the flexibility to include the different guidelines in each school district for Learnfare.

ACTING PRESIDENT BALBONI: Senator Meier.

SENATOR MEIER: Mr. President, I really -- let me put it this way. There is only differences from school district to school district to the extent that each school district determines what an unexcused absence is.

And I don't think any of us, if we're going to have Learnfare, would have it any other way. We're not going to set up a giant attendance monitor here in Albany for the entire state.

But although each school district can determine what an unexcused absence is, I think you would find general uniformity among school districts around the state. Illnesses are an appropriate excuse. A death in the family is an appropriate excuse. Some kind of

long-planned family activity is normally an appropriate excuse.

SENATOR DUANE: And finally, Mr. President, I should probably know the answer to this, but I don't, so I was wondering if the sponsor could answer this.

I'm wondering if in the budget which we recently enacted if money was put aside for the attendance improvement and dropout prevention program as part of our trying make it so that young people go to school on a more regular basis.

SENATOR MEIER: $4 million in TANIFF appropriations, Mr. President.

SENATOR DUANE: Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Thank you very much, Senator Duane.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you, Mr. President. I would like to ask a couple of questions of the sponsor.

ACTING PRESIDENT BALBONI: Senator Meier, you're popular today. Would you like to answer another couple of

questions?

SENATOR MEIER: Sure, Mr. President.

ACTING PRESIDENT BALBONI: Terrific. Please.

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

Senator Meier, I think, has indicated that we have some statistics but we don't have others. And the ones that I'm wondering about is, it was my understanding that when we initially passed this legislation the purpose was -- as Senator Meier has stated, I believe -- if it's correct, that we were attempting to improve the attendance rate of children on welfare. And we were trying to force the parents by using this as a punishment for them not in fact getting the children to school.

Was that your recollection, Senator Meier? Am I correct -

ACTING PRESIDENT BALBONI: Senator Meier.

SENATOR MONTGOMERY: -- that was the basis of our passing this Learnfare?

SENATOR MEIER: Well, Mr. President, I would characterize it differently, but Senator Montgomery is free to characterize it the way she would.

SENATOR MONTGOMERY: Okay. If that's the case, then, Senator Meier, I just would wonder if we have up to this point been able to make any kind of analysis based on this legislation and its impact on improving attendance rates.

ACTING PRESIDENT BALBONI: Senator Meier.

SENATOR MEIER: Mr. President, of the statistics that we have from the school districts that have implemented and reported, we get, of the cohort that go to counseling, 93 percent of those students have attendance in the next quarter which includes no unexcused absences.

So what I would suggest that this data demonstrates is that the counseling process works, the intent of this bill in part is to expand that counseling process to make mandatory that the parent or other responsible adult in that child's life be included in that

counseling process.

I would characterize this differently. I don't think this is intended to be punitive.

And quite frankly, the way I view it, if I can be permitted to take a couple of seconds to explain it from a philosophical point of view, is that this views a public assistance program as a social contract, which is really what it is.

Our end of the contract representing the people of this state is that we believe that we need to have programs in place so that there is some level below which materially people ought not to have to live, that we as a society believe that and we are willing to do that.

I think what Learnfare attempts to implement is that contracts are two-sided arrangements, and that part of the arrangement that we have a right to expect from people who are temporarily receiving that kind of assistance, among other things, is that they will see to it, to the extent that they can, that their children attend school. We're just

people to do something as their end of the social contract. And I don't view it as punitive as well.

ACTING PRESIDENT BALBONI: Senator Fuschillo, why do you rise?

SENATOR FUSCHILLO: Thank you, Mr. President. There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT BALBONI: Immediate meeting of the Senate Rules Committee in the Majority Conference Room.

Sorry for the interruption.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you, Mr. President. If I may be allowed to ask the Senator another question.

ACTING PRESIDENT BALBONI: Senator Meier, do you yield?

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

ACTING PRESIDENT BALBONI: Go ahead, Senator.

SENATOR MONTGOMERY: Senator Meier, in my district one of the -- most of

the school districts, the local school districts have -- are those school districts where there are large numbers of children whose families are in shelters or other kinds of unstable temporary arrangements for living.

There is a high turnover rate. These are very dysfunctional situations for children and their parents. They may be in one school for a month and suddenly, because for circumstances way beyond their own control, they may be in another school and several other schools during the year.

So I'm just wondering what do we do for those families who find themselves in these kinds of situations where they may not be really able to call the school and say "I've just been displaced from my present location. I now have to go to the Bronx, where I -- where I've been living in Brooklyn for the last month."

SENATOR MEIER: Mr. President, the legislation provides that if the absence is with good cause, then the school may not use that as the basis -- or when they report an unexcused absence, that the school can

factor that in.

And I think certainly if someone is in a situation where they have an unstable home environment or no home environment, if there's homelessness involved, if someone is displaced because of an act of violence, if there is some personal emergency, the school, remember, is going to make this determination initially.

If something like that were to fall through the cracks, there is an additional safety mechanism for the family in that before benefits can be stopped there must be at least a ten-day notice and the opportunity for a fair hearing.

And, Senator, as you know, in the City of New York there are some nice folks in Legal Aid who are quite successful with those.

SENATOR MONTGOMERY: One last question, Mr. President, for Senator Meier.

ACTING PRESIDENT BALBONI: Yes, Senator Montgomery.

SENATOR MONTGOMERY: I'm reading here from the Bar Association where they say that failure to -- there is a mandatory -

it's mandated that anyone receiving assistance must sign a release waiving their right to privacy, so that any record of their child can be divulged by the education -- the Board of Ed.

Failure to sign this release results in the entire public assistance case being closed, despite the language of the statute that states that as a condition of eligibility of assistance for any child, the parent of any such child shall consent to the release of any school attendance report records.

So in fact, it appears that the local department is moving to close the case of the entire family as opposed to just that case of the child.

Now, I know that your legislation targets the particular child, but it seems - it sounds like we have a problem with the interpretation between the intent of your bill and its interpretation by the department. Is there any way that we can address that vis-a-vis your legislation, Senator Meier?

SENATOR MEIER: Well, Mr.

President, first of all, it is the attendance record. It's not any record of the child, it is just the attendance record that's necessary to implement this.

Since the program has been in effect, we've had 157 case closings in the entire State of New York for failure to sign the waiver.

Now, remember, someone can have their case closed for any number of reasons, most of which are associated with a failure to cooperate with a number of elements of welfare reform. One of them might be a willful failure to show up for a work assignment, a willful failure to show up for a scheduled appointment with a caseworker.

And again, this is not intended to be a punitive measure. And I think what you see here is that that has not been a significant number in the larger universe. The data that I don't have, and I can't tell you what it is, those 157 refusals relating in case closures, I don't know how many of them were reopened upon the individual later deciding to comply, or perhaps winning a fair

hearing if there wasn't a willful refusal.

SENATOR MONTGOMERY: Just briefly, Mr. President.

ACTING PRESIDENT BALBONI: Senator Montgomery, are you on the bill.

SENATOR MONTGOMERY: One other point that I would like to raise with Senator Meier, not necessarily as a question but just as a point, that there is a level of discrimination, Senator Meier, I think you would agree, that if one of our children was -- had three or more unexcused absences, I don't think -- I don't want to make any suggestions that may be taken up later -- but I don't think at the present time our salaries would be reduced based on that child -- our own child being absent without us giving what the Board of Ed would consider to be valid.

But we would do that with poor families, with very, very vulnerable and at-risk families.

So I think we should consider that in the least, it's discriminatory, as it works itself out in fact in reality.

SENATOR MEIER: Mr. President, I

assume that was a question.

And I don't view it as discriminatory at all. We are dealing with a group of people, many of whom -- most of whom, through no fault of their own, find themselves within the welfare system. We know historically there is a direct correlation between the failure to complete school and an almost cyclical and generational entrapment within that system.

This goes right to a problem where we know there's a direct correlation. It is an attempt to address it in a humane way, using counseling, which proves to be effective in 93 percent of the cases that go to counseling. There are due process measures so that folks who have emergency situations and other extenuating circumstances are not hurt.

I think this is not discriminatory, it is based on getting at that direct correlation between the failure or the inability to complete school and a lifetime of dependency poverty. It's meant to address the problem of poverty -- not to beat up poor people, not to stigmatize them, but to address

one of the things that we know is true.

The other difference here, of course, is once again this is part of the contract. We have an obligation as a society to assist people along who, for whatever reason, cannot at some point in their lives help themselves.

I don't think it's asking too much, I don't think it's unfair, I don't think it's onerous to say there are certain obligations in terms of behavior and work and other things that we should expect in return so long as it's done humanely and so long as people are not punished without due processes or without good reason.

SENATOR MONTGOMERY: Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Senator Schneiderman, why do you rise?

SENATOR SCHNEIDERMAN: Mr. President, if the sponsor would yield for a question.

ACTING PRESIDENT BALBONI: Senator Meier.

SENATOR MEIER: Certainly.

SENATOR SCHNEIDERMAN: Thank you. Through you, Mr. President.

I was very interested to hear the social contract argument that you presented before, that, you know, the state conveys benefits and the state also conveys obligations.

Would you be receptive -- because we all benefit from the state, not just those who receive public assistance, but get tax deductions that the state authorizes. Would you favor a program to either raise the taxes or eliminate deductions or impose some other penalty to expand the state contract to parents who aren't on public assistance?

SENATOR MEIER: Well, Senator Schneiderman, it's an imperfect -- nice try, but it's an imperfect comparison.

What we are talking about is people who are in a circumstance -- and again, many of whom, most of whom through no fault of their own are in a circumstance of complete dependency upon the state and the local municipality for their subsistence.

And under those circumstances -

and again, there's a direct correlation there between that group in our population, the failure to complete school and staying in a life of poverty and therefore dependency on welfare.

SENATOR SCHNEIDERMAN: Through you, Mr. President.

I am unaware of the basis for some of the statistics you cited. But I'm wondering, are you familiar with the study done on Wisconsin's program, similar to the Learnfare program, by the University of Wisconsin in Milwaukee?

SENATOR MEIER: I have not read the study. I have seen some secondhand accounts of that study.

SENATOR SCHNEIDERMAN: All right, thank you. Through you, Mr. President, on the bill.

ACTING PRESIDENT BALBONI: On the bill.

Thank you, Senator Meier.

SENATOR SCHNEIDERMAN: We have a lot going on today, so I'm not going to stretch this out. I appreciate the sponsor's

responsiveness to questions.

Unfortunately, I feel very strongly that this is a bad program. The University of Wisconsin at Milwaukee study on Wisconsin's program found that after one year, sanctioned students had the highest dropout rate of any group of students and that after two years, there was no significant increase in overall attendance.

I think what we're looking at here is obviously a very serious problem of children who grow up in poverty not attending school. And I think there is some sincerity in this effort. But I think we are looking at a situation where there's no demonstrable, positive impact and, in fact, what we're looking at is something that does discriminate against poor people.

I get lots of benefits from the state. I'm not on public assistance. My whole life I've gotten the benefits of tax assistance, of all kinds of rebates for my coops. The state conveys benefits, more benefits on rich people that it conveys on poor people.

And I assure you, if you look at the array of people sitting in the lobby outside here today, they're not all out here trying to get us to do things for poor people before the end of the session.

So I would suggest that if we're going to impose any sort of social contract - which I like. I like rights and responsibilities. I go -- you know, I'm with it. But let's make it something that is equitable. Let's not penalize the people who are the least capable of making sure that their kids get into school. Let's do something that really has some sense of equity.

And I think this program, as it's presently structured, penalizes the least stable and does nothing to help the students. So I urge a no vote.

Thank you.

ACTING PRESIDENT BALBONI: Please read the last section.

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

ACTING PRESIDENT BALBONI:

Senator Meier, to explain his vote.

SENATOR MEIER: Yes. I'm still going to vote yes, the interesting report from the State of Wisconsin notwithstanding.

Two points. The Wisconsin study deals with a program where you're dealing with children junior high school through high school. New York's program is grades one through six. And these figures show that 93 percent of the kids who go into counseling wind up with no unexcused absences in the following quarter.

It's too bad Wisconsin, which normally is quite successful in welfare reform, failed on this one. We're doing better than okay.

I vote aye.

ACTING PRESIDENT BALBONI: Senator Meier will be recorded in the affirmative.

Please call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 624 are Senators Coppola, Duane, Markowitz, Mendez,

Montgomery, Onorato, Paterson, Rosado, Schneiderman, Seabrook, A. Smith, M. Smith, and Stavisky. Ayes, 47. Nays, 13.

ACTING PRESIDENT BALBONI: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you please call up Calendar Number 1074.

ACTING PRESIDENT BALBONI: Before we do that, Senator Seabrook, why do you rise?

SENATOR SEABROOK: Yes, Mr. President. With unanimous consent, I'd like to be recorded in the negative on Calendar 1342.

ACTING PRESIDENT BALBONI: 1342. Without objection, so ordered. You will be recorded as such.

Senator Fuschillo, I'm sorry.

SENATOR FUSCHILLO: Thank you, Mr. President. Will you please call up Calendar Number 1074, by Senator Goodman.

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: Calendar Number

1074, by Senator Goodman, Senate Print 7431, an act to amend the Public Lands Law, in relation to sale of unappropriated state land.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President. Will you please call up Calendar Number 1331, by Senator Maziarz.

ACTING PRESIDENT BALBONI: The Secretary will please read.

THE SECRETARY: Calendar Number 1331, by Senator Maziarz, Senate Print 7566A, an act to amend the General Municipal Law, in relation to bingo admission fees.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT BALBONI: Senator Maziarz, an explanation has been requested.

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

Yes, Mr. President. This bill would allow licensed bingo establishments the opportunity to set their own minimum admission fees. Currently the New York State Racing and Wagering Board sets these fees. However, this was viewed by many establishments and participants to be both a financial and an administrative burden.

I want to emphasize, Mr. President, that this allows the organizations to set the minimum fee. The maximum fee is still set by the New York State Racing and Wagering Board. Currently that maximum fee is $5.

Thank you.

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

SENATOR DOLLINGER: Will the sponsor yield to a question, please?

ACTING PRESIDENT BALBONI: Will

the sponsor please yield?

SENATOR MAZIARZ: Absolutely, Senator.

ACTING PRESIDENT BALBONI: He yields.

SENATOR DOLLINGER: Through you, Mr. President, what's the current minimum fee that's set by the Racing and Wagering Board?

SENATOR MAZIARZ: The current fee is $2. It was $1, and the Racing and Wagering Board increased that to generally $2, depending on the number of face cards, bingo face cards that are on the board.

But the standard number of face cards is two. And the admission fee, when the Racing and Wagering Board changed the guidelines, went from $1 to $2, which inconvenienced many people, including many, many senior citizens, Senator Dollinger. Many who live in your district, Senator Dollinger.

SENATOR DOLLINGER: Well, potentially, Mr. President. We'll debate that in a second.

If the sponsor would yield to one other question, Mr. President.

ACTING PRESIDENT BALBONI:

Senator Maziarz, would you continue to yield?

SENATOR MAZIARZ: Absolutely, Mr. President.

ACTING PRESIDENT BALBONI:

Senator Dollinger, proceed.

SENATOR DOLLINGER: Is the fee that's charged a minimum entry fee for the person, or is it a minimum purchase fee per card?

SENATOR MAZIARZ: Per card. It's a per card fee, Senator. There's no entrance fee to go in. It's per card.

And it was -- the standard admission in New York State, Senator -- I don't mean to interrupt you -- the standard admission was two cards for $1. And the Racing and Wagering Board changed that at the request of some of the larger bingo operators to be $1 per face, so that the competition of smaller organizations that ran bingo would be eliminated.

This really is a bill that's going to favor the smaller bingo organizations.

SENATOR DOLLINGER: Through you,

Mr. President, if the sponsor will continue to yield.

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT BALBONI: The Senator yields. Thank you.

SENATOR DOLLINGER: I'm intrigued by your response that this will favor the small bingo operators. Doesn't this give any bingo operator the right to set no fee at all for cards?

SENATOR MAZIARZ: Yes. Yes, it would. Yes, it would.

SENATOR DOLLINGER: So how would that impact big operators versus smaller operators? Again through you, Mr. President.

SENATOR MAZIARZ: Well, the big operators for the most part right now charge the $2 fee.

They were very happy -- in fact, they were the ones that lobbied, advocated the State Racing and Wagering Board to set this higher fee, we think to the detriment -- and the smaller organizations think to the detriment of their -- the number of

participants at their bingos.

SENATOR DOLLINGER: Okay. Again through you, Mr. President.

SENATOR MAZIARZ: Surely, Mr. President.

SENATOR DOLLINGER: Is the effect of this bill, Senator, that there would be virtually no fees charged for admission to bingo then at all?

SENATOR MAZIARZ: No.

SENATOR DOLLINGER: Wouldn't there be a tremendous competition for everybody to waive their fees?

SENATOR MAZIARZ: It would be - that would be competitive. You know, the organizations would be -- I mean, if they wanted to raise their fee -- but there's no fee admission. I mean, it's a fee for the number of bingo boards that you would get.

I mean, they couldn't let you play bingo for nothing, or they wouldn't be able to give anything away, Senator.

SENATOR DOLLINGER: Right. That's the final question I have, Mr. President, just so I make sure I understand

this.

How are the prides awarded, how is the money raised for prizes at a bingo event? Is it simply through the purchase of a card, or do you pay to play every game?

SENATOR MAZIARZ: Senator, I have to tell you I do not know the answer to your question. I assume that it's from the price of admission. But I have never been to bingo in my life, Senator, so I really don't have any idea.

SENATOR DOLLINGER: Through you, Mr. President, just on the bill.

ACTING PRESIDENT BALBONI: On the bill, Senator Dollinger.

SENATOR DOLLINGER: I've never been to a bingo game either. But it seems to me that one of the things we're doing is we're taking away a power of the Racing and Wagering Board that we gave it to establish certain minimum fees for participation in a bingo game. It's part of our regulation of gambling.

And I think rather than give it up to the private enterprise to allow some kind

of competition to the bottom with this cost, it seems to me that there was a policy reason to put it there in the first place. And I think that the Racing and Wagering Board should continue to monitor games of bingo, games of chance, and should continue to have the right to set a minimum fee.

So I'm going to vote against this bill, Mr. President.

ACTING PRESIDENT BALBONI: Senator Volker.

SENATOR VOLKER: Mr. President, not that I'm an experienced bingo player, but I have been to some bingo games. And let me tell you that my understanding is that the Catholic Church thinks this is a very good idea, because it's what I call a loss leader kind of thing.

The problem is they're trying to get people into the bingo places -- some of which, by the way, have been discouraged to come in because of some legislation that we passed here and legislation that's been passed by local governments having to do with smoking and a lot of other things has just

devastated -- particularly, for instance, I know in Erie County and parts of Western New York where many of the churches have had to abandon bingo because the fact that they couldn't have smoking and they couldn't divide the places up because of the rules that have been passed have simply devastated them.

What they do is the admission is only a piece of the money that is raised. They have what they call specials where you put in a couple of dollars and you buy an additional card.

I was there a couple of times in my law enforcement days, way back when, when people -- I remember -- I hesitate to tell you this story -- a woman died during the bingo game. The difficulty we had is that people were playing right around her and we couldn't, you know, take her out immediately. And people actually literally had cards lying all over the place. They'd get special cards - one woman next to her bought ten cards and had them lined up and was irritated that we were trying to treat this woman.

If you don't think that this is

serious business, you're wrong.

They also sell food. They sell all sorts of things at these bingo games. In reality, the admission is only a very small part of the bingo revenue. The major revenue, as I say, comes from specials, from prizes, from food, from drink and all that other stuff.

So I think that's what this is really all about, I believe.

ACTING PRESIDENT BALBONI: Senator Dollinger, are you raising your hand -- are you waving at me for some reason?

SENATOR DOLLINGER: No, Mr. President. I'll yield to Senator Stavisky.

ACTING PRESIDENT BALBONI: Ah, Senator Stavisky.

SENATOR STAVISKY: Mr. President, one question through you for the sponsor, if he will yield.

ACTING PRESIDENT BALBONI: Senator Maziarz, will you yield to a question?

SENATOR MAZIARZ: Oh, absolutely, Mr. President.

SENATOR STAVISKY: Who are the

people, Mr. President, who come to play these games?

SENATOR MAZIARZ: Primarily senior citizens.

SENATOR STAVISKY: Exactly.

SENATOR MAZIARZ: Every one of them have called me from my district to ask me to do this bill. And from Senator Dollinger's district too, by the way.

SENATOR STAVISKY: Exactly. And for that very reason and for the reason that Senator Volker described, I intend to vote no on this bill.

ACTING PRESIDENT BALBONI: Can't get you to take a chance on it, huh?

(Laughter.)

ACTING PRESIDENT BALBONI: What? Senator Dollinger.

SENATOR DOLLINGER: O-67 was never so lucky.

I just rise to respond, actually, to Senator Volker's point. And I understand the sort of strange allegiance of the Catholic Church and bingo, and I understand that it's critical for many parishes now to make up

revenues.

But I still think that what this bill does is it steps us further away from regulating games of chance. And while many churches are involved in it, what's also happened is we have professional bingo parlors. We have entrepreneurs who are starting bingo operations and running them like straight games of chance.

I would suggest that by taking a step further away from regulating games of chance, we're making a mistake. There may even be a justification for doing this specific step, but the further away we get from regulating these games, the worse off our people will be.

I vote no.

ACTING PRESIDENT BALBONI: Thank you, Senator Dollinger.

Read the last section, please.

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

THE SECRETARY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in

the negative on Calendar Number 1331 are Senators Connor, Dollinger, Duane, Kruger, Montgomery, Rosado, Seabrook, A. Smith, Stavisky, and Senator Lachman. Ayes, 50. Nays, 10.

ACTING PRESIDENT BALBONI: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, lay aside for the day the bills remaining on the controversial calendar.

May we please return to the reports of standing committees. I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT BALBONI: The Secretary will read.

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

Senate Print 663, by Senator Goodman, an act to amend the Environmental Conservation Law;

1731D, by Senator Bonacic, an act to amend the Vehicle and Traffic Law;

2093A, by Senator Libous, an act to

amend the Vehicle and Traffic Law;

2150, by Senator Marchi, an act to amend Chapter 154 of the Laws of 1921;

2375A, by Senator Stafford, an act to amend the Lien Law;

2895B, by Senator McGee, an act to amend the Public Authorities Law and the Transportation Law;

3057A, by Senator LaValle, an act to amend the Criminal Procedure Law;

3598, by Senator Velella, an act to amend the Vehicle and Traffic Law;

5925C, by Senator LaValle, an act to amend the Education Law and the Economic Development Law;

6239, by Senator Marchi, an act authorizing the City of New York;

6353, by Senator Marchi, an act authorizing the City of New York;

6670, by Senator Marcellino, an act to amend the Education Law;

6679A, by Senator Seward, an act to amend the Insurance Law;

6703, by Senator Nozzolio, an act to amend the Penal Law;

6825, by Senator Morahan, an act to amend the Public Authorities Law;

6857, by Senator Seabrook, an act authorizing the City of New York;

6893A, by Senator Hannon, an act to amend the Lien Law;

6985A, by Senator Alesi, an act in relation to redistributing;

6995, by Senator Markowitz, an act authorizing the City of New York;

7091, by Senator Meier, an act to authorize Kevin Collins;

7256, by Senator Maziarz, an act to amend the Estates, Powers and Trusts Law;

7295, by Senator Seward, an act to amend the Insurance Law;

7327B, by Senator Seward, an act to amend the Insurance Law and others;

7533B, by Senator Spano, an act to amend the Social Services Law;

7540A, by Senator Leibell, an act to amend the Town Law;

7606A, by Senator Spano, an act to amend the Banking Law;

7618B, by Senator Bonacic, an act

in relation to the alienation;

7854A, by Senator Bonacic, an act to authorize the Village of Saugerties;

7927A, by Senator Johnson, an act authorizing the assessor of the Town of Babylon;

And 7947, by Senator Padavan, an act to amend the Criminal Procedure Law.

All bills ordered direct to third reading.

ACTING PRESIDENT BALBONI: Senator Fuschillo.

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

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

(Response of "Aye.")

ACTING PRESIDENT BALBONI: Opposed, nay.

(No response.)

ACTING PRESIDENT BALBONI: The report is accepted.

Senator Fuschillo.

SENATOR FUSCHILLO: Please

recognize Senator Stachowski.

ACTING PRESIDENT BALBONI: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, can I have unanimous consent to be recorded the negative on Calendar Number 1331.

ACTING PRESIDENT BALBONI: Without objection, you will be recorded no.

And Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, I would like unanimous consent to be recorded in the negative on Calendar Numbers 1011, 1012, 1013, and 1317.

ACTING PRESIDENT BALBONI: Without objection, you shall be so recorded.

Senator Fuschillo.

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

ACTING PRESIDENT BALBONI: Yes, there is.

Senator Ray Meier.

SENATOR MEIER: Thank you, Mr. President.

Amendments are offered to the

following bills:

On page number 23, Calendar Number 788, Assembly Print 2714;

On behalf of Senator LaValle, on page 12, Calendar Number 460, Senate Print 2709A;

On behalf of Senator LaValle, on page number 41, Calendar 1163, Senate Print 2046C;

And on behalf of Senator Saland, on page number 5, Calendar Number 57, Senate Print 1031E.

And I ask that each of these bills retain their place on the Third Reading Calendar.

ACTING PRESIDENT BALBONI: Amendments are received and adopted, and they will retain their place on the Third Reading Calendar.

Senator Fuschillo, there are substitutions at the desk. Shall we do them?

SENATOR FUSCHILLO: Please read.

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: On page 9,

Senator McGee moves to discharge, from the Committee on Rules, Assembly Bill Number 8281B and substitute it for the identical Senate Bill Number 4620B, Third Reading Calendar 310.

On page 23, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 7464B and substitute it for the identical Senate Bill Number 4085B, Third Reading Calendar 797.

On page 24, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 2820A and substitute it for the identical Senate Bill Number 1619A, Third Reading Calendar 815.

On page 24, Senator Trunzo moves to discharge, from the Committee on Rules, Assembly Bill Number 4042A and substitute it for the identical Senate Bill Number 2548A, Third Reading Calendar 820.

On page 26, Senator Trunzo moves to discharge, from the Committee on Rules, Assembly Bill Number 3564A and substitute it for the identical Senate Bill Number 2072A, Third Reading Calendar 904.

On page 27, Senator Leibell moves

to discharge, from the Committee on Rules, Assembly Bill Number 5617A and substitute it for the identical Senate Bill Number 3059A, Third Reading Calendar 907.

And on page 28, Senator Lack moves to discharge, from the Committee on Rules, Assembly Bill Number 812A and substitute it for the identical Senate Bill Number 6332A, Third Reading Calendar 930.

ACTING PRESIDENT BALBONI: The substitutions are ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, there being no further business to come before the Senate, I move we adjourn until Tuesday, June 13th, at 11:00 a.m.

ACTING PRESIDENT BALBONI: The Senate is hereby adjourned until tomorrow, June 13th, at 11:00 a.m.

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