NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 14, 2000

11:14 a.m.

REGULAR SESSION

SENATOR PATRICIA K. McGEE, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT McGEE: 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.)

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

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

ACTING PRESIDENT McGEE: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, June 13th, the Senate met pursuant to adjournment. The Journal of Monday, June 12th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT McGEE: 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 Kuhl.

SENATOR KUHL: Yes, Madam President. On page 21 I offer the following amendments to Calendar Number 838, Senate Print 7081, and ask that said bill retain its place on the Third Reading Calendar. And that's at the request of Senator Nozzolio.

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

SENATOR KUHL: Also, Madam President, I wish to call up, on behalf of Senator Spano, his bill, Senate Print 7902, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number

1336, by Senator Spano, Senate Print 7902, an act to amend the General Business Law.

SENATOR KUHL: Madam President, I now move to reconsider the vote by which this bill was passed, and ask that said bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT McGEE: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

SENATOR KUHL: Madam President, I now move to discharge, from the Committee on Rules, Assembly Print 1511B and substitute it for the identical bill by Senator Spano.

The Senate bill, on first pass, it was voted unanimously. I now move that the substituted Assembly bill have its third reading at this time.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1336, by Member of the Assembly Matusow,

Assembly Print Number 1511B, an act to amend the General Business Law, in relation to providing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

SENATOR KUHL: Thank you, Madam President.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT McGEE: Yes, there are.

SENATOR SKELOS: If we could make them at this time.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: On page 37,

Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 4471A and substitute it for the identical Senate Bill Number 4896A, Third Reading Calendar 1445.

On page 37, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 1632C and substitute it for the identical Senate Bill Number 5423B, Third Reading Calendar 1447.

And on page 38, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 9574 and substitute it for the identical Senate Bill Number 6524, Third Reading Calendar 1452.

ACTING PRESIDENT McGEE: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar, with the exception of Resolution 4820.

ACTING PRESIDENT McGEE: All those in favor of adopting the Resolution Calendar, with the exception of Resolution 4820, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: May we please have the title read on Senator Breslin's resolution, 4820, and move for its immediate adoption.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator Breslin, Legislative Resolution Number 4820, celebrating the dedication of the newest original Torah in the Capital District, to be presented on June 25, 2000.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, Senator Breslin has indicated that he will open up that resolution. If anybody wishes to cosponsor it, they should notify the desk.

ACTING PRESIDENT McGEE: The resolution is open for cosponsorship. Anyone wishing to be put on the resolution as cosponsor, you should do so -- if you do not wish to be a cosponsor, please notify the desk.

Senator Skelos.

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

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 108, by Senator Farley, Senate Print 3554A, an act to amend the Banking Law, in relation to the voluntary and involuntary liquidation.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 18. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 213, by Member of the Assembly Schimminger, Assembly Print Number 323A, an act to amend the Local Finance Law, in relation to the sale of bonds and notes.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

394, by Senator Spano, Senate Print 3117A, an act to amend the Administrative Code of the City of New York, in relation to accepting certain campus peace officers.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 614, by Senator Kuhl, Senate Print 5963, an act to amend the Education Law, in relation to providing pupils.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

677, by Member of the Assembly Boyle, Assembly Print Number 9891A, an act authorizing the assessor of the Town of Islip to accept an application.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 751, by Senator Seward, Senate Print 7306, an act to amend the Insurance Law, in relation to risk-based capital requirements.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 7. This act shall take effect January 1, 2001.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 763, by Senator Fuschillo, Senate Print 7709, an act to amend the Social Services Law, in relation to daycare center safety.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 872, by Member of the Assembly Destito, Assembly Print Number 5463A, an act to amend the New York State Urban Development Corporation Act, in relation to the regional revolving loan trust fund.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1060, by Senator DeFrancisco, Senate Print 5880A, an act to amend the Tax Law, in relation to providing for business tax credits.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1118, by Senator Fuschillo, Senate Print

7361A, an act to amend the General Business Law and the Vehicle and Traffic Law, in relation to providing notice.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1141, by Senator LaValle, Senate Print 7769A, an act to amend the Public Health Law, in relation to authorizing HIV testing.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1270, by Senator Stafford, Senate Print 7645, an act to amend the Education Law, in relation to the power of a school district.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1294, by Member of the Assembly Weisenberg, Assembly Print Number 9603, an act to amend the Retirement and Social Security Law, in relation to authorizing.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect January 1, 2001.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1330, by Senator Leibell, Senate Print 7548A, an act to amend the Town Law and the Real Property Tax Law, in relation to water and sewer district tax payments.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1383, by Senator Saland, Senate Print 6174B, an act to amend the Parks, Recreation and Historic Preservation Law, in relation to establishing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1401, by Senator Wright, Senate Print 7897A, an act to amend the -

SENATOR COPPOLA: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1427, by Senator Farley, Senate Print 8061A, an act to amend the Banking Law, in relation to revising the qualifications.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1439, by Senator Spano, Senate Print 8111, an act to amend the Labor Law, in relation to requiring proof of payment.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1440, by the Senate Committee on Rules, Senate Print Number 8115, an act to establish equalization rates.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1445, substituted earlier today by Member of the Assembly Hochberg, Assembly Print Number 4471A, an act to amend the Public Health Law and the Tax Law, in relation to increasing.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 4. This act shall take effect September 1.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: To explain my vote, Madam President.

This is a very good bill, and I'm voting in favor of it.

I also want to add that I have a bill pending which would mandate that any establishment that sells lottery tickets would have to become accessible to persons with disabilities as a part of their getting renewal for their lottery -- permission to have the lottery on premises. And I would

encourage my colleagues to join me in trying to get that piece of legislation passed.

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

ACTING PRESIDENT McGEE: Senator Duane in the affirmative.

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1446, by Senator Balboni, Senate Print 5370B, an act to authorize the Village of Lake Success, County of Nassau.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1447, substituted earlier today by Member of the Assembly Jacobs, Assembly Print Number 1632C, an act to amend the Military Law, in relation to affording police officers.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1448, by Senator Spano, Senate Print 5714A, an act to amend the Retirement and Social Security Law, in relation to the application.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1449, by Senator Skelos -

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1450, by Senator Saland, Senate Print 6258A, an act to authorize the County of Dutchess to convey an easement.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1452, substituted earlier today by Member of the Assembly Vitaliano, Assembly Print Number 9574, an act to amend the Retirement and Social Security Law, in relation to contribution deficiencies.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1453, by Senator Hannon, Senate Print 6987A, an act to amend the Public Health Law, in relation to children's camps.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1454, by Senator Alesi, Senate Print 7240, an act to amend the General Business Law and the Civil Practice Law and Rules, in relation -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1455, by Senator Hoffmann, Senate Print 7824A, an act to amend the Public Officers Law, in relation to the defense and indemnification.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1456, by Senator Kuhl, Senate Print 7954A, an act in relation to the use of funds toward the construction of athletic fields.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1457, by Senator Leibell, Senate Print 7977, an act to amend the Retirement and Social Security Law, in relation to the employment.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1460, by Senator Volker, Senate Print 8085, an act to amend the Executive Law, in relation to the Commission on Forensic Science.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1462, by Senator Bonacic, Senate Print 8087, an act to amend the Environmental Conservation Law, in relation to municipal recyclables.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

SENATOR DUANE: Actually, Madam President, I was wondering if -- I was having a little bit of chair trouble -- if 1460 has not left the house. Did it just go out? I was hoping that we could withdraw the roll call so I could ask for an explanation.

ACTING PRESIDENT McGEE: The bill is gone, Senator. The bill is out of the house.

SENATOR DUANE: Through you, Madam President, I was momentarily distracted because my seat was falling apart and the maintenance man walked in just as that bill was coming up.

Is there any way that we could recall it?

ACTING PRESIDENT McGEE: I'm sorry, Senator, it's out of the house.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Is 1460 still in the house?

ACTING PRESIDENT McGEE: It's gone.

SENATOR SKELOS: It's gone.

Could we please proceed.

ACTING PRESIDENT McGEE: Announce the results on 1462.

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1463, by Senator Hannon, Senate Print 8089, an act to amend the Public Health Law, in relation to the establishment.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1464, by Senator Farley, Senate Print 8091, an act to enact the Privacy of Financial Information Act of 2000.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1465, by the Senate Committee on Rules, Senate Print 8094, an act to amend the Tax Law, in relation to the residential fuel oil shortage.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1466, by Senator Maziarz, Senate Print 8116, an act to amend the General Business Law and others, in relation to enacting the Telemarketing and Consumer Fraud and Abuse Prevention Act.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 6. This act shall take effect June 1, 2001.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Maziarz.

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

Madam President, this is an agreed-upon bill with the Assembly. It enacts the Telemarketing Fraud and Abuse Prevention Act. This bill has been a long time in coming, Madam President. It really, I think, makes New York State's anti-telemarketing fraud act one of the best, really, in the

nation.

It's a bill that had a great deal of support. Particularly I have to mention the American Association of Retired Persons, Statewide Senior Action Network, and many other senior citizen lobbying groups across the New York State.

It requires telemarketers to be bonded and registered with the Department of State. It prohibits telemarketers from accessing a customer's checking account numbers, savings account numbers, without the customer's express written -- written - authorization. It prevents courier pickups.

And for anyone who is convicted under this statute, it provides for some very stiff penalties.

I certainly want to mention my counterpart, the chair of the Assembly Aging Committee, Assemblywoman Barbara Clark. Both of our committees have spent a great deal of time and effort working with the AARP and other advocacy groups on this legislation.

Thank you, Madam President.

ACTING PRESIDENT McGEE: How do

you vote, Senator Maziarz?

SENATOR MAZIARZ: In the affirmative.

ACTING PRESIDENT McGEE: Senator Maziarz in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1467, by Senator Bonacic, Senate Print 8117, an act authorizing certain housing authorities to sell or lease.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1468, by Senator Fuschillo, Senate Print 8132,

an act to amend the Executive Law and others, in relation to establishing.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 6. This act shall take effect April 1, 2001.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1469, by Senator Spano, Senate Print 8141, an act to amend Chapter 640 of the Laws of 1997 amending the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill

is passed.

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

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

ACTING PRESIDENT McGEE: There will be an immediate meeting of the Crime Victims, Crime and Corrections Committee in the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the controversial calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 394, by Senator Spano, Senate Print 3117A, an act to amend the Administrative Code of the City of New York, in relation to accepting certain campus peace officers.

ACTING PRESIDENT McGEE: Shhh.

Senator Spano, an explanation has been requested.

SENATOR SPANO: Madam President,

this bill is one that provides that campus peace officers who are presently employed by the City University of New York would be subject to the same residency requirements as all other employees of the City University. They are the only CUNY employees right now who are required to live in the five boroughs.

ACTING PRESIDENT McGEE: Senator Paterson.

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

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

SENATOR SPANO: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Since the scope of the duty of the CUNY peace officers does well within the ambit of law enforcement apply, my question is that at a time when there's so much discussion about law enforcement officials living in the same communities that they serve, don't you think that in that respect that divorces the notion

of campus security or campus peace officers at CUNY being considered along with the other employees as the same?

SENATOR SPANO: Senator, when they were originally employed, originally hired, they were not required to be residents of the five boroughs. So what we're doing here is grandfathering in these specific employees.

All new hires would be subject to the rules. What we're saying is that you can't change the rules after the game has started.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: I certainly understand that, Madam President. And I don't think people should be victimized by having their circumstances changed. And I think Senator Spano's bill, in that light, has a great deal of merit.

Senator Spano, why did the regulations change for those employees?

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

SENATOR SPANO: Yes, I will.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SPANO: Frankly, the honest answer is I'm not sure why the City University changed the policy.

And I can't argue with the policy. All we're saying is that it should be made prospectively, and that if a person is hired and then if all of a sudden after the fact they want to change the conditions of employment and say that that person now has to live within the boroughs, we should, just as a matter of fairness, grandfather those employees who are there now.

We're not trying to change their policy. It's up to the City University to establish policies as they see fit with regard to employment. We're just saying that they should be consistent.

ACTING PRESIDENT McGEE: Senator Paterson.

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

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

SENATOR SPANO: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Madam President, I'm not asking Senator Spano a question as much as I'm trying to get him to reflect on my understanding of this issue.

So in other words, what you're saying is for employees that come to CUNY now, if they would like to change the rules, it's fine with you if the rules are changed. You do not want these rules to apply to individuals who were hired prior to the rules change.

SENATOR SPANO: That's correct.

SENATOR PATERSON: Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

Oh, I'm sorry. Senator Lachman.

SENATOR LACHMAN: Yes. Will the Senator yield for a question?

ACTING PRESIDENT McGEE: Senator

Spano, will you yield for a question from Senator Lachman?

SENATOR SPANO: Yes, Madam President.

SENATOR LACHMAN: Senator Spano, you state that initially all of these employees of the City University of New York, including the campus peace officers, were permitted to live out of the five boroughs of New York City.

SENATOR SPANO: That's correct.

SENATOR LACHMAN: All right. Do you know when and why there was a change that prevented the peace officers from leaving the City of New York?

SENATOR SPANO: I don't have the -

SENATOR LACHMAN: Why was that instituted?

SENATOR SPANO: I don't have the exact date in front of me, Senator. But it was a change that was authorized by the City University at some point over the last couple of years. But I don't have the exact date.

I could try to get it for you, but

I don't have that.

SENATOR LACHMAN: Because I would like to know if there was a rationale for it at that time.

Madam Chair, on the bill.

ACTING PRESIDENT McGEE: Senator Lachman, on the bill.

SENATOR LACHMAN: Since the new administration of the City University of New York favors this, I will vote for it even though I have certain reservations and would like to know more about this in the future.

Thank you.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR HEVESI: Madam President.

ACTING PRESIDENT McGEE: I'm sorry. Senator Hevesi.

SENATOR HEVESI: Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you, Madam President.

I would also like to have known

when it was that City University took it upon themselves to eliminate the residency requirement for their employees. I didn't know that they could take that action unilaterally. And had I known it, I would have opposed it, because I think it's wrong.

And Senator Paterson accurately reflects the broader concern here with law enforcement officers and those involved in similar-type activities residing in the communities in which they work and live. And I sponsored a residency requirement bill for uniformed employees of the City of New York.

So I'm going to oppose this piece of legislation. You could make an argument that it is fair to do this only prospectively, which is what this legislation accomplishes. But this seems to be somewhat of a mystery to me how this happened in the first place.

And since I'm uncomfortable with that and don't have the information as to how this was enacted in the first place, grandfathering in a question-marked number of individuals, because we -- obviously, if we don't know when this was enacted, we don't

know how many individuals would now be exempted, I can't in good conscience support this legislation.

And, Senator Spano, I would appreciate knowing subsequent to the presumed passage of this bill exactly what happened with CUNY.

And frankly, if CUNY has the independent authority to change residency requirements, I think that's something that we need to address. I don't think they should have that independent authority to do it. There are much broader questions here that are addressed by their ability to take that action.

So I vote no on this piece of legislation and hope to further investigate this, because I'm concerned about the issues surrounding this piece of legislation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Paterson, to explain his vote.

SENATOR PATERSON: Madam President, I feel like the tennis ball is being hit back and forth across the court at Wimbledon.

At first, Senator Spano did convince me that we should not be providing regulations and not allowing those employees that already exist there to continue under the terms of their original employment.

But I think that I am more persuaded by the value of Senator Hevesi's contribution, which is that all of the information is too vague at this point, and also the independent authority to make those decisions really should vest in a much more broader decision-making process which affects all of the employees.

I vote no.

ACTING PRESIDENT McGEE: Senator Paterson, in the negative.

Announce the results.

THE SECRETARY: Those recorded in

negative on Calendar Number 394 are Senators Coppola, Duane, Hevesi, Montgomery, Onorato, Sampson, Seabrook, A. Smith, and Stavisky.

Ayes, 47. Nays, 9.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Would you recognize Senator Paterson, please.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, I just voted no on the last bill, but I did not hear it read into the record.

ACTING PRESIDENT McGEE: Also Senator Paterson will be recorded in the negative.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, could we lay aside temporarily Calendar Number 1141 and at this point pick up Calendar 1401.

ACTING PRESIDENT McGEE: The Secretary will read 1401.

THE SECRETARY: Calendar Number

1401, by Senator Wright, Senate Print 7897A, an act to amend the Real Property Tax Law and the Education Law, in relation to the taxable status.

SENATOR COPPOLA: Explanation.

ACTING PRESIDENT McGEE: Senator Wright, an explanation has been requested.

SENATOR WRIGHT: Thank you, Madam President.

The bill provides for amendments to the Real Property Tax and Education Law, relative to the taxable status of nuclear plants, and provides local governments with the local option of negotiating a payment in lieu of tax agreement with the owners of the nuclear facilities.

ACTING PRESIDENT McGEE: Senator Coppola.

SENATOR COPPOLA: Madam President, would the sponsor be available to answer some questions, please.

ACTING PRESIDENT McGEE: Senator Wright, would you yield for some questions from Senator Coppola?

SENATOR WRIGHT: I will, Madam

President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR COPPOLA: Why is there a need for this legislation? The RG&E plant already has a tax agreement in place. And how will this legislation alter the expectation of those parties? The same is also true for Con Ed's Indian Point I and II plants, which have a short-term agreement in place.

Now, why is there a need for this legislation?

SENATOR WRIGHT: Well, this bill was advanced by the Office of Real Property Tax Services, based on a bill we passed a year ago, a law, signed into law by Governor Pataki, requiring a study of the impacts of the real property tax and the sale of generating assets throughout the state.

That then resulted in a report to the Legislature in December of '99. Ultimately it resulted in a program bill being introduced by ORPS that applied this concept of a payment in lieu of tax to all generating assets within the state, tied to an

equalization freeze.

We then took and segregated components of that bill, introduced them, and in turn are pursuing these alternatives.

What it does is provide an alternative for the local governments to negotiate these agreements outside a certiorari proceeding, so that they are not incurring the expense and the litigation of proceeding through a certiorari proceeding over the assessed value.

The intent is to provide local governments with a local option. It can only be exercised by local governments. It enables them to control their own destiny, if you will, relative to phasing down the assessed values and therefore the absence of revenue streams to those jurisdictions.

ACTING PRESIDENT McGEE: Senator Coppola.

SENATOR COPPOLA: I have another question, please, for the sponsor.

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

SENATOR WRIGHT: Yes, I will,

Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR COPPOLA: With an issue of this magnitude of importance, is there a home rule message, then, that goes along with this?

SENATOR WRIGHT: No. This is not a county-specific bill, Senator. This is statewide legislation available to all jurisdictions that would be host to a nuclear facility.

So it's not intended to be local legislation and therefore would not require a home rule message.

SENATOR COPPOLA: Well, right now there's negotiations going on with Nine Mile I, Nine Mile II. As you know, there was a stop to that agreement a couple of weeks ago. They were going to sell the nuclear plants for $150 million, and yet they were cost out at $8 billion. Now they're back to auctioning off those two plants.

Are we making provisions for the sale in the future of Nine Mile I and II right

now with this bill?

SENATOR WRIGHT: No. Again, Senator, I would point out we're not doing anything other than extending an option to local government. If local government exercises the option of negotiating with either Niagara Mohawk or the future owners of those facilities, that would be a local government prerogative. It would not be a decision made by this body.

More importantly, I think if you point out, as you do -- and we've discussed it before -- the differences between sale prices and book prices versus assessed value prices, we will conclude, and it's very evident, that most generating assets in this state are overly assessed.

That, ultimately, is paid for by the ratepayers. If we're going to have competitive electric rates in this state, we're going to need to have competitive taxing and assessing practices. We do not.

This would facilitate that process, because as those sales are concluded -- and we'll use the example of the recent Power

Authority sale of Fitzpatrick and Indian Point III. It's very evident that they have achieved the largest price per date of any nuclear asset sold in the nation. Yet if you look at that sale price, you'll find that it's 70 percent of book and would be significantly under-assessed value for comparable properties.

That would be all reflected in rates. So if we're going to make electricity and generation competitive in this state, we need to address the assessing practices.

SENATOR COPPOLA: Madam Chairman, can I ask the sponsor another question, please.

SENATOR WRIGHT: Certainly, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR COPPOLA: How will the sale of Nine Mile I and II, maybe 200 million and yet they owe $3 billion, come into play, then, with this bill?

SENATOR WRIGHT: It would have no bearing on this bill.

SENATOR COPPOLA: It would have no bearing on this bill?

SENATOR WRIGHT: No. This bill provides a procedure whereby local governments, if they choose to exercise a negotiation over real property values, would be exercised by the local government. The sale of Nine Mile I and II has no bearing one way or the other.

SENATOR COPPOLA: Thank you, Senator.

On the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Coppola, on the bill.

SENATOR COPPOLA: I respectfully disagree with the Senator.

I feel that the sale of Nine Mile I and II is going to have an tremendous impact on that area. I think the mismanagement of that company is showing right now, and it's being protected with this bill.

And if it was that important, we should have had a home rule message from that area, and requested one, because I think this is where we're zeroing in. We're throwing

everything into the mix here, but I really think the bottom line is to protect Niagara Mohawk.

And I think this is going to come back to haunt that whole area and possibly the government of the State of New York for some kind of assistance down the road, or the federal government for some kind of assistance down the road.

Because it's mind-boggling that you build a plant for $8 billion, you owe $3 billion at this point in time, and you're going to sell it for $200 million, approximately, because they weren't satisfied with $150 million -- which is on record, it's all public knowledge.

I just feel that we're making a mistake, and I'm going to be voting against this, Madam Chairman. Thank you.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Wright, to explain his vote.

SENATOR WRIGHT: Thank you, Madam President.

I represent one of the areas that will be impacted by this legislation. That area testified at a public hearing that we held specifically requesting this type of alternative be made available. And that would certainly be an action by that local legislature if they chose to exercise this option, if in fact it becomes available.

What we are attempting to do, as I did when I was a local government official, as I've heard on a regular basis, is not provide local governments with a mandated solution from Albany, but to provide them with a process that is flexible, that they can have the ability to negotiate and achieve their own solutions.

In doing so, we've secured the support of the New York State Association of Assessors, the New York State School Boards Association, the Business Council, the Farm

Bureau, as well as local government units.

So it clearly is a local government bill. It is not intended to address Niagara Mohawk, regardless of the Senator's preoccupation with that issue. That is not what we're doing. We're dealing with statewide legislation. And I would encourage my colleagues to adopt it.

Thank you, Madam President. I vote aye.

ACTING PRESIDENT McGEE: Senator Wright in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1401 are Senators Coppola, Duane, and Hevesi. Ayes, 57. Nays, 3.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1440, by the Senate Committee on Rules, Senate Print Number 8115, an act to establish special equalization rates.

ACTING PRESIDENT McGEE: Read the last section.

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

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Wright, an explanation has been requested.

SENATOR WRIGHT: Thank you, Madam President.

This is the same bill that was before the house a week ago and passed 59 to nothing.

As some of you may be aware, there's been a change in chairmanships in the Assembly relative to the Real Property Tax Committee. As a result, there was a modest amendment to this bill, and it has been reintroduced for passage.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1449, by Senator Skelos, Senate Print 6056B, an act to amend the General Municipal Law, in relation to a charge for the collection of parking tickets.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1454, by Senator Alesi, Senate Print 7240, an act to amend the General Business Law and the Civil Practice Law and Rules, in relation to the Uniform Trade Secrets Act.

SENATOR HEVESI: Explanation, please.

SENATOR PATERSON: Explanation.

SENATOR MARCELLINO: Madam President.

ACTING PRESIDENT McGEE: Senator Marcellino.

SENATOR MARCELLINO: Can we just lay 1454 aside temporarily and at this time pick up Calendar Number 1464.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1464, by Senator Farley, Senate Print 8091, an act to enact the Privacy of Financial Information Act of 2000.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT McGEE: Senator Farley, an explanation has been requested.

SENATOR FARLEY: Thank you, Madam President.

This is a privacy bill, one that I think it's very important for this house to pass, and one that can become law.

Basically, this bill enacts in state law certain protections and requirements regarding the privacy of financial information, very similar to the provisions in the recently enacted Gramm-Leach-Bliley Act. This bill supplements the federal law, though, in that New Yorkers are afforded similar protections through the state law.

You know, as a result, state residents now will be able to address any issues, problems or concerns through the state regulators and state courts.

As primary regulators of New York's insurance companies and many of its banking and other financial services companies, the Insurance Department and the Banking Department are provided with express statutory authority to develop regulations, enforce these provisions, and impose civil penalties for any violations. A state law will also allow the state regulators to tailor the privacy measures to respond or to address specific needs and concerns within New York State.

You know, the provisions of this bill actually requires that financial institutions annually provide customers with a copy of their privacy policies and practices. It ensures that consumers may opt out of having any personal information disclosed to a nonaffiliated third party.

I realize that there's concerns about opt-in. We may all feel that way, but we want to make sure that this privacy legislation can become law.

It prohibits the financial institutions from disclosing an account or

access number to a nonaffiliated third party for use in telemarketing, direct mail, or e-mail marketing. It prohibits nonaffiliated third parties from disclosing any information that they receive from a financial institution. It also directs the Banking Department and the Insurance Department to establish appropriate standards relative to administrative, technical, and physical safeguards.

And it ensures the security and confidentiality of customers' records and information. It also protects any anticipated threats or hazards to the security or integrity of such records, and it protects against unauthorized access to or use of such records and information.

Basically, in a nutshell, that's about what it does.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President.

Senator Farley, I may have missed this, but this is an opt-out bill. Could you

explain how the opt-out provisions work in this bill, just briefly how they work?

ACTING PRESIDENT McGEE: Senator Farley, do you yield for a question?

SENATOR FARLEY: Yes.

SENATOR DOLLINGER: Thank you, Madam President.

SENATOR FARLEY: It gives the choice to the consumer to opt out and say that you don't want any of this information disclosed.

SENATOR DOLLINGER: Through you, Madam President, there's an amendment at the desk. I'd ask that the reading of it be waived and I be allowed to speak on the amendment.

ACTING PRESIDENT McGEE: There's an amendment at the desk. The reading will be waived, and you may speak on the amendment.

SENATOR DOLLINGER: Thank you, Madam President.

ACTING PRESIDENT McGEE: You're welcome.

SENATOR DOLLINGER: This is a bill that does some interesting things. But

one thing that it does that it shouldn't do is it tilts on its head the issue of when privacy is best protected.

Privacy, individual privacy of nonpublic information such as would be available from these financial institutions is information that is actually technically owned by the financial institution, but the only person for whom it is relevant is the individual themselves.

And it seems to me that before - if this information were in my possession and I had not transferred it to a financial institution, I certainly think that before it becomes public someone should come to me and ask me not the question of whether we're going to release this information unless you do something -- instead, they should come to me and say, Rick, can we have your permission to release this information?

And because it's information about me that relates to me, no one should give that information away without my express approval.

After all, if Senator Smith came to me and said, Rick, I'd like to know your

Social Security number or your financial account information or information about your mortgage, I could look Senator Smith in the eye and say, Wait a second, that's none of your business, I'm not going to tell you. And, guess what, I'm not going to let you deal with that information unless you get my express written permission.

And it seems to me that the same thing is true even if I transfer that information to a financial institution. That institution should not be allowed to deal with this nonpublic information and disclose it without written permission from me.

Senator Farley's bill says if - this information, when you give it, when you disclose it to the bank, this personal information, the bank is required to tell you: Oh, by the way, we may give this information to someone else and, if you don't want us to give it away, tell us. Sign a statement that says you don't want it given away.

I would suggest, Senator Farley, while this bill does a couple of very good things, this provision is defective. Because

this is information about me. It's information about my constituents. It's information about you. And no one should give that information away without my express approval. And the banks should not be in position where they put together a little tiny form that says, at the bottom, Oh, by the way, Rick Dollinger, be very careful, we may give this information to someone else unless you tell us we can't.

I think it's time for us to deal with the Information Age and deal with information privacy and say to banks or insurance companies or anybody else: You want Rick Dollinger's nonpublic information, you've got to get his express written consent.

This amendment says let's do it that way, let's let people opt in before this vast well of information is compiled. Let's let the banks convince me that it's the right thing for me to do to give away my nonpublic information. Let's put the onus on them to tell me it's a good thing for me to give away my nonpublic information.

I would suggest that they would

have an enormously difficult time convincing this state senator or any one of the 61 people in this chamber that they should freely disclose or sell to a third party nonpublic information.

I would suggest that this amendment be tailored to this bill. I would move the amendment, Madam President, and ask for its consideration by the house.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT McGEE: The amendment is defeated.

Senator Dollinger.

SENATOR DOLLINGER: Madam President, will Senator Farley yield for just one other question on one other aspect of the bill?

SENATOR FARLEY: I will be delighted.

SENATOR DOLLINGER: Through you, Madam President. Does this bill create a private right of action on behalf of the individual whose nonpublic information is disclosed? Does this create a liability on the part of the bank or financial institution to the individual themselves?

SENATOR FARLEY: To my knowledge, it does not. I think that's the Bank Department's and the Insurance Department's prerogative to prosecute here.

SENATOR DOLLINGER: Okay. Again, through you, Madam President, I thank Senator Farley for his explanation and his response to the question.

I'm going to vote against this bill. I would urge everybody to vote against this bill. Not only does it not have the opt-in provision, which in my judgment is the better way to protect the privacy of everyone in this state -- and, I daresay, protect the privacy of everybody in this chamber. I would think if a bank asked any one of the 61 members of this Senate, Do you want nonpublic information about you disclosed or for sale,

everybody in this chamber would say no. I would suggest most people in this state would say no. And that's the reason why we should have an opt-in instead of an opt-out provision.

But even more importantly, Madam President, this bill leaves the victim, the person whose privacy is violated, with no direct recourse against the banks. This bill simply says that the Superintendent of Banks can fine or impose penalties against the banks if they violate this provision.

Well, I've got news for you. It's very little consolation to me personally if banks give out my information, whether I approved it or not, or violate this proposed bill, it will be very little consolation to me when they say, Oh, by the way, did you know that the bank that violated your privacy had to pay a $500 fine to the Superintendent of Banks?

I would suggest that that is absolutely no way to police the unlawful disclosure of information under this bill. Let's be candid with people. If we're going

to have an opt-out provision, if that's the way this bill is going to go, tell people if their rights are violated by the banks they've got to pay the victim, not pay the State Banking Department. Create a private right of action on behalf of people whose privacy is violated. Otherwise, the bill is defective.

ACTING PRESIDENT McGEE: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

Rick, nobody has got the perfect bill. And this certainly is not it. But it is a step forward. You've got a situation here where it mirrors the federal legislation. The federal legislation is opt-out. They are looking at the possibility of opt-in. There's some concern that people may be precluded, particularly lower-income people, from getting mortgages, and financial transactions that could be affected that way.

New York is not an island. We are still the financial center of the world, although the feds want to eat our lunch all the time in this area. But this is an

important step forward. It does move us forward in the area of privacy. It's not perfect. I don't have the perfect piece of legislation. I'm sure only my colleagues do.

But this is a piece of legislation that's been worked on, I think it's a reasonable one that addresses privacy. It is also a reasonable one that could become law. And as I said, it mirrors the federal legislation. It levels the playing field and brings New York into the area of addressing privacy. And I urge its passage.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 7. This act shall take effect November 13, 2000.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Madam President, I'll be very brief. I made my point about the bill earlier.

I just want to remind everyone what

the definition of nonpublic personal information is. It includes personally identifiable financial information provided by a consumer to a financial institution resulting from any transaction with the consumer or any service performed for the consumer.

I assume that this means someone could find out what I charge on my charge account. I just bought a new house, I just gave the bank my three years of income-tax returns. Quite frankly, Madam President, I don't want anybody to give that information to anyone without my personal consent. And the opt-out provision here doesn't do that.

ACTING PRESIDENT McGEE: How do you vote, Senator Dollinger?

SENATOR DOLLINGER: I vote in the negative.

ACTING PRESIDENT McGEE: Senator Dollinger, in the negative.

Senator Paterson.

SENATOR PATERSON: Madam President, I vote in the negative as well.

I think that we are chipping way at

the rights of privacy in this country. What we have now is a way in which companies and banks and other credit organizations can send something to you in the mail and they basically tell you've got it unless you indicate otherwise.

So the opt-out provision, even in this case, which is a little different -- but the opt-out provision really means that you've got to go public to say that you want to be private. I don't that that's actually privacy. I think that privacy means leave me alone and if I'm interested, I'll come forward.

And I don't think that this bill even begins to address the serious issue that you hear more and more of the public rebelling on, and a situation that we're going to have to address sooner or later. So I don't see any reason why we don't address it now.

ACTING PRESIDENT McGEE: How do you vote, Senator Paterson?

SENATOR PATERSON: I vote no.

ACTING PRESIDENT McGEE: Senator Paterson in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1464 are Senators Coppola, Dollinger, Gentile, Onorato, Paterson, Seabrook, and Stavisky. Ayes, 54. Nays, 7.

ACTING PRESIDENT McGEE: The bill is passed.

Senator LaValle.

SENATOR LAVALLE: Madam President, can I have unanimous consent to be recorded in the negative on Calendar Number 1401.

ACTING PRESIDENT McGEE: Without objection, so recorded.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, can we at this time take up Calendar 1141, by Senator LaValle.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1141, by Senator LaValle, Senate Print 7769A, an act to amend the Public Health Law, in relation to authorizing HIV testing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Thank you, Madam President. I'm explaining my vote.

ACTING PRESIDENT McGEE: To explain your vote.

SENATOR DUANE: Thank you.

I'm explaining my vote, which thanks to the sage advice given yesterday by Senator Kuhl, we were all reminded I can do - only do in two minutes. But fortunately, this bill is not really even worth two minutes of my time or anyone else's time.

I would like to applaud the sponsor for at least presenting this bill when I was actually in the chamber, as I am the only person in the chamber that we know of who does have HIV, as opposed to trotting the bill out

when the sponsor knew that I would not be in the chamber. But -

ACTING PRESIDENT McGEE: Senator Duane, just one moment.

Shhh.

SENATOR DUANE: Thank you, Madam President.

But I would have thought that a body such as this one, which so recently passed meaningful hate crimes legislation, would stay away from such stupid and completely unnecessary bills.

If people need some more information on HIV and its transmission, I would be more than happy to give any of my colleagues here an AIDS 101 lesson. Or if they would prefer, I could hook them up with a an AIDS educator from wherever you live in the state of New York, including and especially Long Island, which has some excellent AIDS education programs. I'm sure they will they would be more than happy to provide the most rudimentary AIDS education for those members in this body who need it.

I would encourage my other

colleagues in the body to join me in showing that we are not an uneducated body when it comes to AIDS and HIV transmission issues and vote in the negative on this, as I said before, stupid and unnecessary legislation, which I'm sorry to say doesn't even warrant two minutes of time.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Duane in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1141 are Senators Connor, Duane, Montgomery, Paterson, and Santiago. Ayes, 56 -- also Senator Mendez. Ayes, 55. Nays, 6.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, as a point of information to my colleague Senator Duane and anyone else who listens, bills are called up in this chamber in regular order as they are reported to the calendar.

No member has ever asked that a bill be put on the floor while another member is out of the chamber, so as to sneak it by anybody. I personally resent that particular comment, because it has never been done in this chamber and never will be done in this chamber, under the leadership of Majority Leader Joseph Bruno or any other member in this house.

It has always been the Majority's opinion that if a member has asked -- and we did it several times yesterday when one of the Minority members was out of the chamber and wished to debate a bill. We held the bill back so that person could be called back from his committee meeting and have the right to debate the bill as they saw fit.

Any characterization to the otherwise or to the contrary is simply wrong. And you frankly owe an apology to every member in the house for the comments.

That being said, those members who wish to be recorded on votes, please be in your seats, because the secretaries are having trouble finding people and knowing exactly how

you're voting. And if you're not in your seat, they can't tell.

And those members who have bills on the floor that have been laid aside, please be available so that when your bill is called, we can move the process and move the debate along as the day progresses.

With that being said, Madam President, can we now take up Senator Alesi's bill, 1454.

There will be a Rules Committee meeting in the Majority Conference Room at 12:30.

ACTING PRESIDENT McGEE: There will be a Rules Committee meeting in the Majority Conference Room at 12:30.

The Secretary will read.

THE SECRETARY: Calendar Number 1454, by Senator Alesi, Senate Print 7240, an act to amend the General Business Law and the Civil Practice Law and Rules, in relation to the Uniform Trade Secrets Act.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Alesi, an explanation has been requested.

SENATOR ALESI: Thank you, Madam President.

This bill allows New York State to join 41 other states since 1979 in the adoption of the Uniform Trade Secret Act.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President. Is Senator Alesi -- has Senator Alesi completed his explanation?

ACTING PRESIDENT McGEE: Senator Alesi, I believe you have completed your explanation; is that correct?

SENATOR ALESI: You believe that correctly, Madam President.

ACTING PRESIDENT McGEE: He has done so, Senator Paterson.

SENATOR PATERSON: Would Senator Alesi yield for a question.

ACTING PRESIDENT McGEE: Senator Alesi, will you yield for a question from Senator Paterson?

SENATOR ALESI: I always enjoy dialogue with Senator Paterson. And, yes, I will yield.

ACTING PRESIDENT McGEE: Senator Paterson, Senator Alesi yields.

SENATOR PATERSON: Madam President, my feelings are very similar.

I would like to inquire as to whether or not there have been any recent thefts of trade secrets that should concern us right now that might have prompted this bill. Or maybe was Senator Alesi thinking ahead? In view of the Los Alamos federal government documents being missing, maybe that might have motivated him.

But I'm just wondering if there were any trade secrets that would apply to this legislation that are -- that were stolen at this particular time.

SENATOR ALESI: Through you, Madam President. In response to my esteemed colleague, I generally do try to think ahead, and probably a portion of that is attached to my efforts on this bill.

Regarding any trade secrets that have been recently or currently under theft, I can't directly answer that, because it is not related to some specific action.

What this bill really does is it brings New York State into the realm of 41 other states that have understood the need for uniformity. Because as I understand it in this state, trade secrets and the misappropriation of same are handled in common law, and there's no uniformity in the way that they are dealt with.

This would also give New York State a tremendous advantage as we progress through the high-tech era that we don't have now that those other states do have in the protection of secret materials. And therefore, that is the major reason behind bringing this bill to the floor today.

SENATOR PATERSON: Madam President.

ACTING PRESIDENT McGEE: Senator Paterson.

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

ACTING PRESIDENT McGEE: Senator Alesi, do you continue to yield?

SENATOR ALESI: Yes, Madam

President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Actually, Madam President, although I raised the question earlier, I don't think that there has to be any recent activity that would be catalyst for the formulation of this legislation.

Senator Alesi is right, that we're moving into an age of greater communication and the opportunity and different types of ways in which very important information can be extracted from entities that are trying to protect themselves from violations. So in that respect, the fact that Senator Alesi wants to bring us in conformity with the Uniform Trade Secrets Act is quite commendable.

I'm concerned -- well, before I even address what I'm concerned about, just for edification, if Senator Alesi would explain to us how are entities protected from trade secret violations under the law right now.

SENATOR ALESI: Through you, Madam President. As I understand it, there is a federal patent law that does offer some protection. But in New York State, the situation of knowledge theft or technology theft is handled in common law. And again, as I understand it, there is no uniform approach for treating those issues.

The underlying reason for doing this, as I stressed earlier, is that 41 other states have done it.

And for those businesses that are doing business and engaging in enterprise not only in this state but across the country and internationally, providing some uniform treatment for the misappropriation of trade secrets is vitally important to the economy of New York State as it relates to those high-tech firms that either operating here or would consider operating here.

And for those that are considering operating here, if they recognize that there is a potential defect in the way that misappropriation of secret knowledge is treated in the law here, they might decide to

locate elsewhere.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President. Senator Alesi has addressed the ways in which this legislation protects industry. I'd like to turn the discussion to how we can protect the public and ask Senator Alesi to yield to a question.

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

SENATOR ALESI: I'd be happy to.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Senator, let's look at the possibility of civil litigation and criminal liability. Let's say that a company has some trade secrets that are actually contradicting what the company is telling the public.

For an example, let's take a tobacco company for a scenario, where an employee publicizes information showing that cigarettes, let's say, are harmful to a person's health and that a tobacco company has

documented this over a number of years but has actually lied to the public. So let's say an inside employee becomes a whistle-blower to the public.

Technically, there might not be any criminal liability, but there could certainly be a lot of civil litigation because of the disclosure of this information.

Would the Uniform Trade Secrets Act actually inure to the detriment of a whistle-blower who's coming forward with information that the public, we would assume, needs to know?

SENATOR ALESI: Through you, Madam President. As you know, under the leadership of this Majority, we have dealt with the issue of whistle-blower protection. And under those circumstances, anybody who is providing information for the benefit of the good of society in this state would be protected therein.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Alesi would continue to

yield.

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

SENATOR ALESI: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: For the purpose of clarity, I'm just wondering, Madam President, whether or not any of those protections are contained in this legislation and, if not, would it be possible perhaps for Senator Alesi to consider putting that in.

Because we really don't want to create a chilling atmosphere for people who would come forward with information that might lead to the prosecution of the heads of different companies that are engaging in an illegal activity, nor would we want to protect those who are creating a malfeasance of public responsibility in their companies by withholding evidence that would affect the safety or public health.

SENATOR ALESI: Thank you, Madam President. I'm advised that at least in terms of what this bill provides, as relates to the

Senator's question, that no other sections of the law that would cover the circumstances that he is defining for us would be affected.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: I'm sorry, Madam President, could the Senator just repeat that last part? I didn't hear it.

ACTING PRESIDENT McGEE: Senator Alesi -

SENATOR ALESI: I'd be happy to.

ACTING PRESIDENT McGEE: -- would you like to repeat the last part that he didn't hear.

SENATOR ALESI: That no other provisions of the law that would cover the circumstances such as the Senator has described would be affected by this particular legislation.

ACTING PRESIDENT McGEE: Senator Paterson.

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

ACTING PRESIDENT McGEE: Senator

Alesi, do you continue to yield?

SENATOR ALESI: I will, yes.

SENATOR PATERSON: Does the Senator see that a -- an employee of a company or a member of the public who would like to disclose information that they deem to be important to be held under the public scrutiny would in any way be dissuaded by the legislation?

SENATOR ALESI: Madam President, through you. Senator, if you would be kind enough to repeat that question for me.

SENATOR PATERSON: Madam President.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: My question relates to whether or not a member of the public or an employee of a company that sees an important public need that they feel would be sustained by court action, would that person or employee be impeded or feel in any way dissuaded from disclosing that information by the passage of this bill?

SENATOR ALESI: Through you,

Madam President. I don't believe that they would be impeded. And that is not the intent of this legislation, to create such an impediment.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, under the legislation it would appear to me that a person that would be revealing secret documents, secret information, would be liable for damages under this bill.

If Senator Alesi would yield for a question, my question is, is that a correct evaluation of the legislation?

ACTING PRESIDENT McGEE: Senator Alesi, do you yield?

SENATOR ALESI: I'd be happy to.

ACTING PRESIDENT McGEE: The Senator yields.

Would you repeat your question, Senator Paterson.

SENATOR ALESI: I'll be with you in just a minute, please.

ACTING PRESIDENT McGEE: Thank

you.

SENATOR PATERSON: While we're waiting, Madam President, how are you today?

SENATOR ALESI: Thank you, Madam President. Thank you for your patience, Senator.

I've been advised that under Section 279 of this particular bill, whistle-blowers, as you describe them, would be protected. And therefore there would be no impediment, as you asked in your previous question.

SENATOR PATERSON: Therefore, Madam President, as I assume the Senator would be willing to yield for another question -

SENATOR ALESI: The assumption would be correct, Madam President.

ACTING PRESIDENT McGEE: That is correct, Senator Paterson.

SENATOR PATERSON: -- the civil liability would be incurred by a person that is just releasing the documents out of some purpose other than for the public good?

In other words, the bill still does protect companies -- the bill would still

allow for the company to take action against individuals for civil damages for violation of this act; that's correct?

SENATOR ALESI: Through you, Madam President. I believe at least in terms of the circumstances described by the Senator regarding a whistle-blower would not -- would be covered, as I said, under this Section 279.

Let me also stress that the misappropriation of information or trade secrets that is covered in this bill, the thrust behind all of that is the misappropriation for the profit or for the self-aggrandizement of the person who is misappropriating the information.

And by disseminating information to the public for the public good, that would not be construed as misappropriating it for personal gain. And so therefore, even under those circumstances, this bill would not be an impediment.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, if we could move away from the

whistle-blower for a moment and just talk about someone who is violating the statute.

They would be liable for damages under this legislation, would they not, Senator?

ACTING PRESIDENT McGEE: Senator Alesi.

SENATOR ALESI: Someone who is - through you, Madam President, someone who is misappropriating trade secrets, as defined in this bill, for the purpose of self-enrichment would be in violation of the proposed Uniform Trade Secret Act.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President. I'm quite in agreement with the purpose of the legislation. If Senator Alesi would yield for one last question.

ACTING PRESIDENT McGEE: Senator Alesi, will you yield for one last question?

SENATOR ALESI: Only one? I'd be happy to.

ACTING PRESIDENT McGEE: I believe the Senator yields.

SENATOR PATERSON: There can be only one last question.

Senator, can you distinguish for those of us in the chamber where the bill indicates the protection for the whistle-blower under Section 279? Because there are a lot of subdivisions there, and I couldn't find it up to now.

Can you show us how you distinguish the whistle-blower from the violator who does it for self-enrichment under the statute? I just want to see where it is, for my own understanding.

SENATOR ALESI: Through you, Madam President, I'm advised -- and again, I'm referring to Section 279T -- that if you look at 2.3 that it does provide that -- other civil remedies that are not based upon a misappropriation of a trade secret or criminal remedies whether or not based upon a misappropriation.

So they are covered there, Senator.

ACTING PRESIDENT McGEE: Thank you.

Senator Hevesi.

SENATOR HEVESI: Madam President, would the sponsor yield to a question?

ACTING PRESIDENT McGEE: Senator Alesi, will you yield to a question from Senator Hevesi?

SENATOR ALESI: I'd be happy to.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: Thank you, Senator Alesi. I've got a question for you relating loosely to what Senator Paterson was talking about.

And if we accept that there is protection for whistle-blowers in this legislation -- and it's a little bit vague, but accepting that that's the case, I'd like to give you a hypothetical situation where not providing protection -- not in the case of a whistle-blower, but in a different case - would not be in the public interest and would potentially prevent a public protection as a consequence of your legislation.

So let me -- can I lay out the hypothetical and get your reaction to it, Senator?

SENATOR ALESI: Through you, Madam President, I'd be willing to entertain a hypothetical set of circumstances and a question attached thereto.

SENATOR HEVESI: Thank you, Senator.

ACTING PRESIDENT McGEE: Senator Hevesi.

SENATOR HEVESI: Let's say, Senator Alesi, I am a mid-level manager working for Ford Motor Company in New York State. I'm in the research and development unit, and I know that my unit is currently pioneering a new technology where a chemical substance, if introduced to another chemical substance, will turn this small amount of a substance into an unbelievably dense, foamlike substance and rapidly expand, instantaneously.

And we've tested this at my company in order to possibly use this substance, similar to the way an airbag is used, that the second you have some kind of impact on the side of the car, jets all over the passenger compartment and the driver compartment would stream this foam out, and it would have the

same kind of effect that an airbag would have, but it would provide greater protection for the entire body. Because, as you know now, an airbag only protects the upper body and the head.

And we test it and it works, and it works wonderfully. And it saves people from not only life-threatening injuries, it saves them from broken legs and what have you. Works wonderfully.

So we go and we test it to see can we produce this whole mechanism based on this chemical discovery which would be a trade secret in your bill, and we find out that at the current time it would cost -- it would drive up the cost of each individual automobile equipped with this safety device by several hundred dollars. And we're not sure whether we could do it profitably at this current time.

As a result, Ford Motor Company - and I know this -- now decides that they are not going to produce this and offer this to consumers in New York State for one year. I don't say anything, as the mid-level manager,

knowing that a technology now exists to protect people and, because we don't think it's profitable at Ford Motors, then people are not being protected.

A second year goes by. Still Ford does nothing with this new technology. And as we start the third year, I can't take it anymore. I'm not a whistle-blower. I take this new technology, and I go to another company. I leave my company, and I give it to General Motors for them to go market it.

And so General Motors now is given this technology, they market it, they do it in a profitable way, and now people are protected.

Under your bill, can Ford sue me personally and am I personally liable for this type of revelation of the technology? And if so, is that what we want to do here?

SENATOR ALESI: Through you, Madam President. Since that was a hypothetical question, let me give an answer relative to the circumstances that the Senator described.

Under common law, as I understand

it, such a lawsuit could occur in any event.

And in the hypothetical set of circumstances that the Senator described, he didn't indicate whether or not that employee might have a contract with the Ford Motor Company or whatever other company he or she would be working for.

But in view of the circumstances that he described, a person could be sued under common law, and he or she could be sued under this particular piece of legislation as well.

And I think that the hypothesis offered is a noble one in pointing out that there are possible benefits for anybody to take knowledge that is acquired and disseminate it for the common good and for the protection of society.

But I think that we're moving away from the main theme of this bill. And the main theme of this bill simply is to take the misappropriation of trade secrets for personal enrichment and put it into a uniform code so that New York State, like 41 other states and the District of Columbia, can have some

uniformity in the application of the law when it comes to the misappropriation of trade secrets.

And that would be a tremendous economic development boost to our state, which is continuing on a day-to-day basis to try to enhance the location of high-tech and other businesses in New York State and provide the necessary jobs for the quality of life for our residents and taxpayers in this state.

ACTING PRESIDENT McGEE: Senator Hevesi.

SENATOR HEVESI: Thank you, Madam President. If the sponsor would yield to one brief question.

ACTING PRESIDENT McGEE: Senator Alesi, will you yield to one brief question?

SENATOR ALESI: According to Senator Paterson, no. But according to myself, Madam President, yes, I will.

ACTING PRESIDENT McGEE: Senator Alesi yields. Senator Paterson, no.

SENATOR HEVESI: Thank you, Senator Alesi.

Last year this house unconscionably

repealed the commuter tax, denying New York City hundreds of millions of dollars in revenue in perpetuity. In that legislation there was a section which said essentially if any section of that law is ruled unconstitutional, the entire tax for everyone shall no longer apply.

You've got a severability clause which is loosely analogous to that in this bill, in Section 279V. My question to you is, do you anticipate or do you expect that there is a section of this legislation that might be unconstitutional?

SENATOR ALESI: Through you, Madam President. Without responding to the commuter tax, because that's irrelevant and immaterial to the bill at hand, I would answer to say, as far as the question of constitutionality is concerned, if I anticipated that that would be a defect in this legislation, I would not be bringing the legislation to the floor for consideration.

SENATOR HEVESI: Thank you.

On the bill, Madam President.

ACTING PRESIDENT McGEE: Senator

Hevesi, on the bill.

SENATOR HEVESI: Senator Alesi, since I know that you were not the sponsor of the commuter tax repeal, I respect that last comment.

Having said that, those who brought that legislation knew it was unconstitutional on its face and did it because it was unconstitutional and that as a result the entire tax would be denied to the City of New York, and it was the only way to remove that tax for New York State suburban residents.

Having said that, I like your bill. I think it's a good bill. I am concerned, however, because of the issue raised by Senator Paterson and myself in relation to wrongdoers and the other admittedly somewhat narrow circumstance that we could have a situation where somebody is dissuaded from protecting the public interest as a consequence of the possibility of a lawsuit against them for disclosing information that someone has deemed to be a trade secret.

I'd love to support this bill. And I would if it had just an exemption in this

case. And I guess we could define it somewhat narrowly, but if there was a public protection clause built in here, if we put wrongdoers - whistle-blowers, rather, directly in here and had some overarching exception so that we didn't have the unfortunate situation that I outlined, which I believe very realistically could occur, I'd be happy to support the bill.

In its absence, I'm going to vote no on this legislation. But I do commend the sponsor for bringing it. I understand the purpose. I think it's a well-intentioned piece of legislation, and I very much appreciate his taking the time to debate this important bill.

ACTING PRESIDENT McGEE: Senator Dollinger.

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

I also appreciate Senator Alesi bringing this bill up, because I think this is a critically important issue, the protection of trade secrets. But I'm going to vote against the bill because I believe that the definition of "trade secret" in the bill is

too broad. Let me tell you why.

It currently says that "a trade secret means any information, technical and nontechnical" -- any information -- and then it lists the standard phrasing we have in many of our statutes, "including but not limited to a formula, a pattern, a compilation, a program, device, method, technique or process," and then it says "that derives independent economic value, actual or potential, from not being available to the general public."

My biggest concern is that this is too broad, because this will include all customer lists maintained by any employer.

Generally the rule in New York is that a customer list, if it's comprised of names that are generally available in the telephone book, who are a drugstore or a - let's use an example like a furniture salesman, where you sell to furniture companies. Well, you can go to the telephone book, look under furniture companies, and you'll know who they all are.

Under most rules in most cases in

this state, they have held that that's not a trade secret if it's information that you can get from the telephone book.

My concern is that this, in essence, says any compilation of information maintained by the employer will be considered to be a trade secret. What that means as a practical matter is that almost every employee of every corporation will have access to some information that the employer could treat as a trade secret. Why is that critically important?

I believe in the free flow of ideas. We have a federal system that protects patents and trademarks and copyrights. But those patents can expire after 17 years. A trade secret could be kept secret forever. And as a consequence, the ideas that go into trade secrets, the free flow of ideas that has been such a boom to America in the last twenty years may be substantially restricted if employers begin to classify all their information -- their customer lists, the way they build specific products, the way they manufacture chairs -- they'll say this is a

trade secret right here, because you wouldn't know how to build a chair like this unless you went to work for me.

Well, my guess is that the actual trade secret included in building that chair is nonexistent. But an employer will claim it's a trade secret. And when the employee signs his employment agreement, there will be a statement in there that says, We consider all these things to be trade secrets, and therefore, if you ever leave us, you can never go to work for a chair-manufacturing company again.

What it will do is it will put substantial restrictions on the free movement of employees between a current employer and the employer's competitors. And the employee who has a better idea that the current employer doesn't accept will be unable to go to his new employer and take that better idea with him.

That kind of free flow of ideas is what's critical to the growth and development of America's economy. One guy going out and saying, I can do it better even than my

current employer. I think there was a guy named Bill Gates who once said to Xerox, "I've got a better way to do this. I think I'll take my idea that I developed while working for you and I'll go put it to good use."

I would suggest that the danger here is that with trade secrets so broadly defined, we're going to restrict that free flow of ideas.

I would suggest, Senator Alesi, the bill does some good things, and I think it's got some balance to it, but I would narrowly confine what a trade secret is only to those aspects of a business operation that are generated by the employer, that are vital to the employer's main business, and to which the employee would never be able to gain access unless he served under that specific employer.

Otherwise, we define trade secrets too broad, employers will push the envelope on trade secrets, we'll have less interchange of ideas, less free flow of ideas in our marketplace, and unfortunately in the long run, in my judgment, less economic development.

I would suggest the bill does some good things. If it's more narrowly tailored, I might vote for it someday in the future, but not today.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1454 are Senators Connor, Dollinger, Hevesi, Paterson, and Schneiderman. Ayes, 56. Nays, 5.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Meier.

I'm sorry, Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Yes, Madam President, thank you. I rise to request unanimous consent to be recorded in the negative on Calendar Number 394 and 1464.

ACTING PRESIDENT McGEE: Without objection, you will be so recorded.

Senator Meier.

SENATOR MEIER: Madam President, can we please call up Calendar 1090, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1090, by Senator Spano, Senate Print 6385A, an act to amend the Public Health Law, in relation to the establishment of a separate regional emergency medical services council.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, thank you, Madam President. I would request unanimous consent to be recorded in the

negative on Calendars 394 and 1464, following in the footsteps of Senator Smith.

ACTING PRESIDENT McGEE: Without objection, so recorded.

SENATOR SCHNEIDERMAN: Thank you.

ACTING PRESIDENT McGEE: Senator Meier.

SENATOR MEIER: Madam President, if we could return to the order of reports of the standing committees, I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT McGEE: Reports of standing committees.

The Secretary will read the report of the Rules Committee.

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

Senate Print 1802, by Senator Padavan, an act to amend the Criminal Procedure Law;

2716, by Senator Volker, an act to amend the Tax Law;

2719B, by Senator Nozzolio, an act to amend the Vehicle and Traffic Law;

2842A, by Senator Nozzolio, an act to amend the Vehicle and Traffic Law;

3584B, by Senator Seward, an act to amend the Insurance Law;

3924A, by Senator LaValle, an act to amend the Real Property Tax Law;

5398, by Senator Saland, an act to amend the Social Services Law;

6250C, by Senator Velella, an act to amend the Criminal Procedure Law;

6994A, by Senator Larkin, an act to create the Thrall Public Library District;

7504A, by Senator Balboni, an act to amend the Real Property Tax Law;

7636A, by Senator Velella, an act to amend the Agriculture and Markets Law;

7815, by Senator Breslin, an act in relation to allowing Nancy Jordan;

7863, by Senator Leibell, an act to amend the Public Authorities Law and the Retirement and Social Security Law;

7895, by Senator Hannon, an act to amend the Public Health Law;

7926, by Senator Rath, an act to amend the Transportation Law and the Vehicle

and Traffic Law;

7930A, by Senator Skelos, an act to amend the Public Authorities Law and the Tax Law;

7938B, by Senator Marcellino, an act to authorize the County of Nassau;

7978, by the Senate Committee on Rules, an act to amend the Retirement and Social Security Law;

7984, by Senator Trunzo, an act to amend the Tax Law;

7988A, by Senator Meier, an act to amend the Public Health Law;

7993, by Senator Stafford, an act in relation to water and wastewater;

7998, by Senator Kuhl, an act authorizing the trustees of the Steuben-Allegany Board;

8002, by Senator Velella, an act to amend the Civil Practice Law and Rules;

8013, by Senator Wright, an act to amend the Tax Law;

8029, by Senator Padavan, an act to amend the Real Property Tax Law;

8076, by Senator Velella, an act to

amend the Vehicle and Traffic Law;

8080, by Senator Meier, an act to amend the Civil Rights Law;

8096, by the Senate Committee on Rules, an act in relation to awarding;

8128, by the Senate Committee on Rules, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law;

8150, by the Senate Committee on Rules, an act to amend the Tax Law;

And 8167, by the Senate Committee on Rules, an act to amend the Tax Law and others.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Meier.

SENATOR MEIER: Madam President, I move to accept the report of the Rules Committee.

ACTING PRESIDENT McGEE: The motion is to accept the Rules report. All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed,

nay.

(No response.)

ACTING PRESIDENT McGEE: The report is accepted.

Senator Meier.

SENATOR MEIER: Madam President, could we stand at ease for a few minutes while they distribute the supplemental calendar.

ACTING PRESIDENT McGEE: We'll stand at ease for one moment, please.

(Whereupon, the Senate stood at ease at 1:20 p.m.)

(Whereupon, the Senate reconvened at 1:30 p.m.)

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, can we please take up the noncontroversial reading of Supplemental Calendar 57A, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1470, by Senator Padavan, Senate Print 1802, an act to amend the Criminal Procedure Law, in relation to the peace officer training

requirements.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1471, by Senator Volker, Senate Print 2716, an act to amend the Tax Law, in relation to providing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1472, by Senator Nozzolio, Senate Print 2719B, an act to amend the Vehicle and Traffic Law, in relation to providing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1473, by Senator Nozzolio, Senate Print 2842A, an act to amend the Vehicle and Traffic Law, in relation to providing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1474, by Senator Seward, Senate Print 3584B, an act to amend the Insurance Law, in relation to risk-based capital requirements.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1475, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 6997A and substitute it for the identical Senate Bill Number 3924A, Third Reading Calendar 1475.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1475 -

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1476, by Senator Saland, Senate Print 5398, an act to amend the Social Services Law, in relation to frequency.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1477, by Senator Velella, Senate Print 6250C, an act to amend the Criminal Procedure Law, in relation to erroneous arrests.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1478, by Senator Larkin, Senate Print 6994A, an act to amend the Thrall Public Library District.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1479, by Senator Balboni, Senate Print 7504A, an act to amend the Real Property Tax Law, in relation to making state aid payments.

ACTING PRESIDENT McGEE: A local fiscal impact statement is at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 2. Senators Kuhl and Larkin recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1480, by Senator Velella, Senate Print 7636A -

SENATOR MEIER: Lay it aside temporarily, please.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: In relation to Calendar Number 1481, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 10990 and substitute it for the identical Senate Bill Number 7815, Third Reading Calendar 1481.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1481, by the Assembly Committee on Rules, Assembly Print Number 10990, an act in

relation to allowing Nancy Jordan.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1482, by Senator Leibell, Senate Print 7863, an act to amend the Public Authorities Law and the Retirement and Social Security Law, in relation to granting.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1483, by Senator Hannon, Senate Print 7895, an act to amend the Public Health Law, in relation to the implementation.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1484, by Senator Rath, Senate Print 7926, an act to amend the Transportation Law and the Vehicle and Traffic Law, in relation to penalties.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1487, by the Senate Committee on Rules, Senate Print Number 7978, an act to amend the Retirement and Social Security Law, in relation to benefits payable.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1488, by Senator Trunzo, Senate Print 7984, an act to amend the Tax Law, in relation to providing.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 6. This act shall take effect December 1.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1489, by Senator Meier, Senate Print 7988A, an act to amend the Public Health Law, in relation to the distribution.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1490, by Senator Stafford, Senate Print 7993, an act in relation to water and wastewater control.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1491, by Senator Kuhl, Senate Print 7998, an act authorizing the trustees of the Steuben-Allegany Board of Cooperative Educational Services.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1492, by Senator Velella, Senate Print 8002, an act to amend the Civil Practice Law and Rules, in relation to fixed fees for sheriffs.

ACTING PRESIDENT McGEE: There is a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1493, by Senator Wright, Senate Print 8013, an act to amend the Tax Law, in relation to the definition of residential purposes.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1495, by Senator Velella, Senate Print 8076, an act to amend the Vehicle and Traffic Law, in relation to the designation of correction vehicle.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1496, by Senator Meier, Senate Print 8080, an act to amend the Civil Rights Law, in relation to the right of public petition and participation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1497, by the Senate Committee on Rules, Senate Print Number 8096, an act in relation to the awarding of contracts.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1498, by the Senate Committee on Rules, Senate Print Number 8128, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law, in relation to the franchise fee.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

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

SENATOR MEIER: Thank you, Madam

President. May we now have the reading of the controversial calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1470, by Senator Padavan, Senate Print 1802, an act to amend the Criminal Procedure Law, in relation to peace officer training.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT McGEE: Senator Padavan, an explanation has been requested.

SENATOR PADAVAN: Thank you, Madam President.

Currently there is a 35-hour course that's given for police officers and those who have peace officer requirements in the City of New York. In that 35 hours, which is an intensive program, there's training in the Penal Law, search and seizure, the laws and powers of arrests, the use of deadly physical force, witness interrogation and lineup, conflict resolution, crisis intervention, the ethics of law enforcement, Miranda rights, and so on. Virtually all of which has no

reference whatsoever to the duties of a firefighter.

Now, firefighters do need peace officer status because they issue summonses and they enter premises to do that. Now, what the Fire Department does, they give an 8-hour course where they cover all of the things that a firefighter should know about their role as peace officers.

But to send them away for 35 hours, virtually a whole week, in a training program that has no relevance to their responsibilities, is deemed to be unnecessary, a waste of manpower, a waste of resources.

So the City of New York, and specifically the Fire Commissioner, have asked that that requirement be waived. And that's what this bill is.

SENATOR HEVESI: Madam President.

ACTING PRESIDENT McGEE: Senator Hevesi.

SENATOR HEVESI: Would the sponsor yield to one or two questions, please.

ACTING PRESIDENT McGEE: Senator Padavan, will you yield for some questions?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: Senator Padavan, thank you for that explanation.

My first question for you is the Municipal Police Training Council, the curriculum that that they set up for the training of police officers, whom else does that apply to? Does it apply to all the other categories of peace officers in New York State?

SENATOR PADAVAN: I believe so. Where applicable, yes. But then again, I can't give you every category off the top of my head of peace officers. There are many in various and sundry positions working in district attorneys' offices and a variety of other law enforcement agencies who take that course, and properly so.

SENATOR HEVESI: Madam President, would the sponsor continue to yield?

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

SENATOR PADAVAN: Yes.

SENATOR HEVESI: Senator Padavan, yesterday this house, I believe unanimously, passed a piece of legislation sponsored by Senator Velella which gave New York City traffic enforcement agent level 3 and 4 employees the ability to extend the peace officer powers that they currently have when they're on duty to when they are off duty.

And the category of individuals also contained -- already contained with that coverage included taxi inspectors and other individuals who all wanted the additional power.

This legislation seeks to remove it, and I understand the training purpose of it. But can you account for that?

SENATOR PADAVAN: It doesn't remove the power of the peace officer status. What it removes is the requirement for a 35-hour course where much of the curriculum - virtually all of it -- has no relevance to fire officers and duties they perform.

In lieu of that, the department has an 8-hour program where they teach firefighters those things relevant to being a

peace officer that are applicable to the duties of a fire department.

SENATOR HEVESI: Thank you. Madam President, will the sponsor continue to yield?

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: Senator, my apologies. I didn't phrase that question correctly.

The purpose of me bringing up what happened yesterday was that since we are affording these other individuals the peace officer powers when they are off duty, we certainly wouldn't want to remove their training.

And what I'm suggesting to you is that if those individuals have those powers, and Senator Velella argued quite well that they need those powers when they're off duty, that firefighters every once in a while -- and I believe it happened again this year -- wind

up witnessing crimes in progress. Since there are thousands of New York City firefighters on the streets, they apprehend criminals all the time and may even be engaged in activities where training such as the training that they currently receive, but would no longer receive in this bill, would be a good idea.

And that's my concern. Can you address that?

SENATOR PADAVAN: Yes, I can.

Firefighters operate not only under the law but also under the regulations that are promulgated by that agency. In those regulations, they are expressly forbidden from involving themselves in what we would generally categorize as police activities - making arrests, intervening in armed or other types of assaults. So they are kept out of that on a very, very specific -- by very, very specific regulations.

So that brings us back to where we were a little while ago, to send them away for a week in an intensive course on something they have no relevance to, either on duty or off duty.

Senator Velella's bill the other day simply extended the hours that those peace officers -- namely, traffic officials -- would be protected by virtue of what they might have to do. He explained a traffic violation officer, leaving on their way home, still in uniform, might be attacked by someone. And that's happened. He wanted them to have the same ability off duty as they do on duty to deal with that circumstance.

So I would submit to you that has absolutely nothing to do with a firefighter.

SENATOR HEVESI: On the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Hevesi, on the bill.

SENATOR HEVESI: I appreciate the explanation.

The difference here is that we would now be removing training for firefighters but not removing their powers. And with respect to Senator Padavan, I understand that their guidelines encourage them not to intercede in particular situations. They do it. And they do it with

some regularity. So I'm not sure that this is the most prudent piece of public policy that's come before us.

Having said that, I know that Commissioner Von Essen supports this legislation and the administration of the City of New York support this legislation, in that it would provide much greater flexibility in the training schedule for firefighters in New York City.

So I'm going to support this legislation, with some slight reservations that I don't want to remove training without removing the powers that the training is supposed to come along with. That's what we're doing here.

So with reservation, I'm going to support this bill, doing so because I trust Tom Von Essen, the New York City Fire Commissioner, and the city administration, that they certainly would not have requested this were it not in the best public interest and if it would compromise public safety.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1475, substituted earlier today by Member of the Assembly Harenberg, Assembly Print Number 6997A, an act to amend the Real Property Tax Law, in relation to exempting.

ACTING PRESIDENT McGEE: Senator LaValle, an explanation has been requested.

SENATOR LAVALLE: Madam President, very simply, this is a first-time-homebuyers piece of legislation that would give that first-time homebuyer real property tax relief for a period of time. They would incur a 50 percent tax liability in the first year, and that would be increased by 10 percent over the next five years, until they would pay 100 percent real property tax.

This allows all of the municipalities -- county, town, school district -- to opt into this if they wish to do it, as we do with other real property tax abatement laws, particularly for senior citizens. We follow the SONYMA parameters for income qualification and the price of the home.

We allow in this legislation a 15 percent addition over and above the SONYMA standard for the cost of home. And we allow the locality, by local resolution, to increase that another 10 percent beyond our 15 percent addition.

And that's basically the legislation, Madam President.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Will the sponsor yield for a couple of questions, Madam President?

ACTING PRESIDENT McGEE: Senator LaValle, will you yield?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: The

Senator yields.

SENATOR DOLLINGER: Just explain to me, Senator LaValle -- I hurriedly read the bill. This applies to newly constructed residential homes. And I know there's a definition. I believe the definition says that that both means those who are constructed from scratch and some type of additional capital improvement. Could you just describe how that works for me?

SENATOR LAVALLE: Yes. Yes. If you purchased an older home -- and one of the -- in the bill that we passed in 1996, there was discussion on the issue of why are we doing this for only new construction. And so what we allow is for reconstruction, alteration or improvement for the value that exceeds $3,000 in assessed valuation to the primary residence.

And the tax abatement would be not on the home portion, but the tax abatement would be on the improvement.

SENATOR DOLLINGER: Again, through you, Madam President, if Senator LaValle would continue to yield.

Just so I understand that, if you bought a $100,000 house -- and I'm just using it as an example -

SENATOR LAVALLE: And put in another 100,000.

SENATOR DOLLINGER: If you put in another $100,000, the abatement would be on only the $100,000 -

SENATOR LAVALLE: That is correct.

SENATOR DOLLINGER: Okay. Through you, Madam President, if Senator LaValle will continue to yield.

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

SENATOR LAVALLE: Yes. Be pleased to.

ACTING PRESIDENT McGEE: Senator LaValle yields.

SENATOR DOLLINGER: Would you just explain -- again, briefly, and sort of in general terms -- who qualifies for this? I know we use the SONYMA program. I'm only concerned about the income level, because -

SENATOR LAVALLE: Yes, I'll take

Rochester. The SONYMA purchase price limits are in regions: Buffalo, Rochester, Syracuse, Binghamton, Mid-Hudson, Long Island -- Capital District, Mohawk Valley, and then downstate would be Long Island and New York City.

Let us take -- what is your county? Monroe.

SENATOR DOLLINGER: Rochester, Monroe.

SENATOR LAVALLE: For Monroe County, a targeted area -- that is, where HUD says this is an area that we want to improve -- we allow for a purchase price of 168,600. That is increased, remember, Senator, I said by another 15 percent factor. So we increase the SONYMA factor of 168,600 by 15 percent. In a nontargeted area, the price is $138,000.

Now let me go to the income qualification. In Monroe County, individuals in a targeted area would have incomes of $64,320 or less. In a nontargeted area, they would have an income of $53,600 or less for a one-or-two-person household. That increases if the number of persons are greater than two.

For instance, a three-plus-person household, the income in a targeted area could be $75,040 or less, and in a nontargeted area, $61,640. That is for Monroe County.

Each county, as you know, under the SONYMA program has different income levels and different purchase price levels.

SENATOR DOLLINGER: Okay. Again, through you, Madam President, if Senator LaValle would just help me think this through.

ACTING PRESIDENT McGEE: Senator LaValle, will you help Senator Dollinger think this through?

(Laughter.)

SENATOR LAVALLE: I am most pleased to do that.

ACTING PRESIDENT McGEE: Thank you.

SENATOR DOLLINGER: I'm trying to get a picture, Senator, of who is going to actually use this program. A $138,000 home is a relatively expensive house in Rochester, New York, or Monroe County. And my concern is, is the income level, the limation high enough so you can qualify to buy the house?

You know, my guess is that you probably need a relatively significant income to buy a $138,000 house. And my question is, you know, will somebody actually be able, given the limation on the kind of house you can buy and the income requirements, will they actually be able to qualify for the mortgage to qualify for this program?

SENATOR LAVALLE: Senator, the family in the home building industry and others who are supporting this certainly believe so.

As you might recall, whenever we discuss these issues, the Legislature, in terms of public policy, has taken the position that while we'd like to do this for everyone, it's just not practical. And so we try to limit that.

Here, we limit it in such a way in a tried and true program, which is the SONYMA program. And it's literally helped thousands and thousands of particularly young people, first starting out, to purchase that first home, their first dream.

So we didn't want to reinvent the

wheel. We wanted to go with something that is tried and established and proven. And while we may think that some of these incomes are low, it works. And people apply for these throughout the state.

On Long Island, for instance, the income is significantly higher. In a targeted area in both Nassau and Suffolk counties, the income qualification would be $87,960 and, in a nontargeted area, $73,300.

I'm reading these figures, Senator, right out of the SONYMA book. So these are not conjecture on my part, they are exact in terms of -- dated February 26, '99. So it's the latest book I could get available.

SENATOR DOLLINGER: One other question, Madam President, for Senator LaValle, if he will continue to yield.

SENATOR LAVALLE: Yes.

SENATOR DOLLINGER: How does the repayment position -- again, I read this briefly, Senator. I just want to make sure I understand.

The way I understand it is that if you buy the house and you get your 50 percent

tax deduction and you leave, then at that point the abatement ceases.

My question is, is there any provision in there that would require the first-time homeowner to repay it, since they have gotten -- as I understand it, the theory here is to require a five-year residency. In other words, to not only encourage first-home purchase, but to encourage owners to stay in those homes for a period of time.

SENATOR LAVALLE: The local law may provide for the recapture of any exemption that has ceased. The owner shall pay the amount of taxes from which they have been exempted. And if the amount were to remain unpaid, it would become a lien on the property.

SENATOR DOLLINGER: Just for my -- where is that in the bill, Senator? Do you have it in the bill here?

SENATOR LAVALLE: Yup. It's on page 3, Section 6B.

SENATOR DOLLINGER: I just want to ask this question -- again, through you, Madam President -- I don't see the recapture

provision there that you just mentioned. I see that the exemption shall cease when they move out, but I don't see the provision that suggests that there's a recapture of the benefit that the first-time owner had gotten.

That's why I asked.

SENATOR LAVALLE: We'll find it for you in a minute.

Page 2, Section 1, lines 24, 25.

SENATOR DOLLINGER: Got it.

SENATOR LAVALLE: Okay? The length of such exemption shall be set forth for local law or resolution, but in no event shall exceed five years. Okay. Such local law -- you found it.

SENATOR DOLLINGER: I did.

Through you, Madam President, if Senator LaValle will continue to yield.

ACTING PRESIDENT McGEE: Senator LaValle, do you continue to yield?

SENATOR LAVALLE: Yes, I do, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: This may not

be able to be attended to in this proceeding or at this time, but I would suggest that the lien may apply too late.

Because what happens is you sell the house, you own the house, you're getting the benefit of the exemption. I sell it to Senator Smith. You don't -- the government doesn't find out about the transaction until after I've left the property. Whereas I've gotten the benefit of the lien. The lien would be placed on the property subsequent to my sale to Senator Smith, and the lien will actually be on the property when she owns it.

In other words, for the benefit that I got as a first-time property owner, it could be foisted on the second -- the subsequent property owner.

SENATOR LAVALLE: Senator, I would think that that would -- I'm trying to think whether that would show up in the title report.

SENATOR DOLLINGER: That's a very good question, whether the exemption would show up in the title report. I'm not sure it would. I don't know that other exemptions

show up in the title reports.

SENATOR LAVALLE: That's my sense. It would show up in the tax search, and that would show up in the title report.

SENATOR DOLLINGER: Through you, Madam President, is there anything in this bill that suggests that the government -- the lien would have to be discharged prior to the transfer of the property?

SENATOR LAVALLE: No, Senator. But I think, as you know, that the bank -- any bank would not close with such a -- I think you would know that as -

SENATOR DOLLINGER: Right. That's probably true.

Just one final question, Madam President. And this is on a philosophical level for Senator LaValle, rather than a technical issue in the bill.

ACTING PRESIDENT McGEE: Senator LaValle, will you suffer a philosophical question?

SENATOR LAVALLE: Absolutely.

ACTING PRESIDENT McGEE: Thank you.

SENATOR DOLLINGER: One of the questions about first-time homeownership - and this bill, as I read it, is clearly driven to new construction of first-time homes. Because if you buy a new home that is newly constructed, you will get a tax exemption for 50 percent, a very significant amount of investment.

How does this affect older communities like the community I represent, the city of Rochester, which has an older housing stock? In many cases the homes are fully built out, they don't need significant new capital improvements. Wouldn't this take first-time homebuyers and drive them away from buying an older house in the city -

SENATOR LAVALLE: No.

SENATOR DOLLINGER: -- and instead driving them to build a house - again, I'll use an example close to Senator LaValle's home -- further out in Suffolk County, where there are more new homes?

Are we driving people away, perhaps unintentionally, from reinvesting in older cities and neighborhoods to suburban

communities where they're building brand-new homes?

SENATOR LAVALLE: Senator Dollinger, first I'd like to compliment you on the questions you've asked, because I think they've been very direct, focused, and things that I think this body should have information on before they vote on the bill.

SENATOR DOLLINGER: Thank you.

SENATOR LAVALLE: The last question, which you pass off as a philosophical question, is actually a very good question.

Today the number of properties that are available are actually quite low, the number of properties that any broker carries. They need properties. They are trying to get listings, because young people and also people of all ages are really out there trying to get into a home.

And what has happened -- and I can speak only for Long Island -- is that because they do not have an inventory that is big enough, people are buying an older home and then investing significant dollars into

retrofitting and expanding.

So the example that you used of a purchase of 100,000 and investing another 100,000 to expand that house is probably closer to reality in today's market as I can only speak of on Long Island.

So in previous discussions on this bill, when we addressed only new construction people said, "Well, what about older homes?" And actually today it becomes very, very relevant, because real estate people have very low inventories on new homes -- on all types of homes, as a matter of fact.

So this bill will go a long way, Senator, in helping particularly those young people who need a boost to get their first home.

SENATOR DOLLINGER: Thank you, Senator LaValle.

I'll commend Senator LaValle in response. Good answers, solid answers, good discussion.

Madam President, I'm going to vote in favor of this bill, but I would just -

ACTING PRESIDENT McGEE: Senator

Dollinger, on the bill.

SENATOR DOLLINGER: -- add a caution briefly to Senator LaValle's remarks.

I agree, and I think we've set the property investment number in order to qualify for the program low enough. It's only $3,000, it's low enough. But in essence, this bill still drives most of the focus toward the construction of new homes. And as a consequence, this bill may unintentionally drive the debate about growth more to the suburbs than reinvestments in the cities.

And I think that's a potential problem, because at least from my experience, Senator LaValle, people who struggle to get the down payment for their first home aren't in a position where they can put $100,000 of new investment in. Oftentimes their investment is very meager. Sometimes it can't be made within the 90-day period that this exemption will require.

You get -- people have to struggle to make the down payment, they get the keys to their first house, they anticipate a growth in their income so they'll be able to pay for it

easier two or three years from now, they'll be able to make the kind of capital investment in an old house that's necessary to modernize it and improve it.

And I'm just concerned -- and I'm going to vote in favor of this -- I'm just concerned that by drawing this somewhat narrowly, in an attempt to give an incentive to new construction and substantial remodeling and rehabilitation of housing, what you may do is you may end up simply promoting greater growth in the distant suburbs and diminishing the potential for the use of this program in our older, urban neighborhoods.

And so I, who represent a community loaded with older, urban neighborhoods, am very concerned about whether we're giving the same incentives for reinvestment in cities and in neighborhoods close to cities that we are giving to neighborhoods that are a long ways away from cities that have lots of open land.

I'll conclude with one other comment, Madam President. I appreciate that this bill may become law and that Senator LaValle's idea will be a part of the statewide

debate to encourage new homeownership. I still think, however, that the better idea, if we would get to it, would be to give a rebate of the mortgage taxes for those who are first-time homebuyers. Because that's an instantaneous savings right at the time of closing. We could do it very easily with respect with income limits.

It's, in my judgment, a better way to promote first-time home ownership, to rebate the mortgage tax. It's a one-time hit on local communities instead of a phasing-in of the assessment reduction. And I think that that would be a better spur to providing first-time home ownership.

I'm going to vote in favor of this bill, with some squeamishness about its impact on the growth issue and on sprawl questions that affect our cities and the future growth of our state. I think it's a good idea. I think it needs a little bit more refinement. I hope that will come. And I hope we'll just keep our eye on who utilizes the program to determine whether it has perhaps inadvertently caused greater flight from our cities.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

And may I take this opportunity to invite everyone present to wish Tom Testo, our Journal clerk, a happy birthday.

(Applause.)

SENATOR MEIER: Madam President.

ACTING PRESIDENT McGEE: Senator Meier.

SENATOR MEIER: A parliamentary inquiry. How old is the Journal clerk?

(Laughter.)

SENATOR MEIER: Withdrawn.

ACTING PRESIDENT McGEE: You'll have to file a FOIL.

The clerk will read.

THE SECRETARY: Calendar Number

1476, by Senator Saland, Senate Print 5398, an act to amend the Social Services Law, in relation to the frequency of patient plan.

SENATOR ADA SMITH: Explanation, please.

ACTING PRESIDENT McGEE: Senator Saland, an explanation has been requested.

SENATOR SALAND: Thank you, Madam President.

Madam President, this bill proposes to modify the existing reassessment process by which persons who live in an assisted living program in adult daycare facilities are currently assessed and then reassessed.

And the modification that's proposed is one that would say that whereas there's an initial assessment, subsequent reassessments that occur upon change of condition, but no later than 45 days, and then any change in condition thereafter, at no less than six-month intervals, this proposes to eliminate the 45-day mandate, which is believed to be both superfluous and costly.

It tracks language in the Governor's Assisted Living Reform Act, and

it's a proposal which is certainly strongly supported by the industry.

SENATOR HEVESI: Madam President.

ACTING PRESIDENT McGEE: Senator Hevesi.

SENATOR HEVESI: Would the sponsor yield for a few questions, please.

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

SENATOR SALAND: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: Thank you.

Senator, when this legislation was initially enacted, and I believe it was a chapter in 1991, the sponsor thought that a 45-day reassessment from the initial assessment was a good idea. I don't think they were contemplating costs; they were contemplating care.

Did something change that has necessitated this move?

SENATOR SALAND: As is the case with virtually any enactment, at the time

something is placed in law there's always the opportunity to review, to reassess and determine if in fact what was appropriate at that time remains appropriate in conditions as experienced.

And what has occurred here is that there is a sense that, particularly given the language that requires a reassessment upon any change of condition or status, that could well be ten days, two weeks, five weeks, eight weeks out. Nobody is being prejudiced, and what is basically being done, again, is to remove what has proven to be a costly and a time-consuming exercise.

And if you look at the definition of eligible persons under Section 461L, which this amends, we're talking about a group of people who are not necessarily ones who by definition are in need of intensive or emergency-setting-type care, or they wouldn't be in this congregate assisted living environment in the first place.

SENATOR HEVESI: Thank you, Madam President. Will the sponsor continue to yield?

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

SENATOR SALAND: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: Thank you for the explanation.

So I understand there are two issues: One is a cost issue; the other is that the care is not necessary because they're more frequently -- they're evaluated based on need.

But that calls into question the idea of cost. And if they are evaluated more frequently, then why is one mandated 45-day assessment cost-prohibitive if they're doing more frequent reevaluations?

So my question to you is, what is the cost-prohibitive nature of doing one assessment 45 days after the initial one?

SENATOR SALAND: I don't believe -- I don't recall using the term "cost prohibitive," Senator. I think that's your perhaps summary or personalization of my

comments.

What I said is that there is the opportunity, as would be required by the existing law or by the law as proposed to be modified, for a reassessment on any change in status. That could occur at any time.

But to arbitrarily pick a 45-day period for a reassessment has proven to be not what might initially have been expected when the bill was passed back in 1991.

SENATOR HEVESI: One final question, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Saland, will you yield for one final question?

SENATOR SALAND: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HEVESI: Senator Saland, I read the bill and I noticed that even if this legislation is enacted, there would have to be an assessment after six months.

SENATOR SALAND: No later than six months.

SENATOR HEVESI: No later than six months.

So there is some consideration in the legislation that there is appropriate within some time frame to do an assessment. I'm not concerned about the assisted living facility that is a good facility, that is conscientious as to the changing needs of the individuals who are living there. I'm concerned about the ones that are not.

And I believe that the original intent of the legislation, the 45 days, was to protect against assisted living facilities that may not be as responsive as this Legislature would like them to be.

And so essentially what I'm asking you here is, isn't this protection necessary for those facilities that might not be of the quality that we want them to be, and might we not leave somebody vulnerable if the assisted living facility is not on top of their game and only reevaluates once every six months?

SENATOR SALAND: Again, understanding the nature of the facility, we're talking about assisted living, where

there are nursing services that are provided. These are registered nurses who provide professional health services, people who I would like to believe would not risk their licenses by refusing to do an assessment.

The reason for the six-month remaining in the bill is rather basic. It may well be that after the initial intake and the initial assessment there's no change in condition or change in status. But nonetheless, after a period of time has transpired or expired, there is no reason not to, at some way down the line, which the original legislation provided for -- in this case, six months -- have that reassessment.

We are retaining that six-month reassessment as, in effect, a fail-safe. But what we are saying is it's, in effect, on an as-needed basis. The people who are providing the professional services, the nurses, those health-care providers who are providing those services will, upon some change in condition, be able to and be required to conduct that reassessment.

But 45 days, in effect, is a number

that was, with the best of intentions, assumed to have been an appropriate number. Experience has not dictated that to be the case.

SENATOR HEVESI: Thank you.

Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you.

I appreciate what Senator Saland is attempting to do with this legislation. Unfortunately for me, the fact that the six-month time frame is -- remains in the bill, that an assessment would have to be conducted after six months, suggests some kind of need for reassessment.

Now, if the argument is that you don't need to reassess more frequently because the person's condition might not change, if the person does not require a change in their course of treatment or care, then that reassessment I don't believe is going to cost very much. In fact, it's not going to cost anything, as far as I know.

So I don't know why we would want

to leave some folks open to an assisted living facility -- and this -- you know, this is - it's possible that this is not the type of situation that's going to occur frequently. But I don't know why it's such an impediment to require a reassessment after 45 days.

I believe that the individuals who initially sponsored this legislation thought that a time period of much less than six months was important for the care of individuals in these facilities. And I'm looking to protect somebody in the event that a facility is operated in a way that is not in their best interest.

I don't believe the 45-day reassessment is an onerous burden. I don't believe it's cost-prohibitive, which is suggested by this legislation, despite the fact that Senator Saland did not use those words. But cost is a factor with this.

And as a result, I'm going to oppose this bill, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 2. Senators Gentile and Hevesi recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1480, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 10335A and substitute it for the identical Senate Bill Number 7636A, Third Reading Calendar 1480.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1480, by Member of the Assembly Klein, Assembly Print Number 10335A, an act to amend the -

SENATOR MEIER: Lay it aside temporarily, please.

ACTING PRESIDENT McGEE: The bill

is laid aside temporarily.

THE SECRETARY: Calendar Number 1483, by Senator Hannon, Senate Print 7895, an act to amend the Public Health Law, in relation to the implementation of the Tobacco Master Settlement Agreement.

SENATOR DOLLINGER: Explanation, Madam President.

ACTING PRESIDENT McGEE: Senator Hannon, an explanation has been requested.

SENATOR HANNON: Thank you, Madam President.

This bill is essentially an implementation of the Master Settlement Agreement, in the specifics of it. It's in this house because it's a program bill of the Attorney General, the Attorney General, of course, representing the state in the litigation against the tobacco companies.

Specifically, it would do a number of different things. I'll just briefly summarize them.

Prohibiting advertising, promotion and marketing of tobacco products to children. Limitations on tobacco sponsorships.

Limitations on outdoor and transit advertising. Limitations on use of tobacco brand-name merchandise. Limitations on free tobacco products to children. Limitations on coupons to kids. Prohibits the licensing of tobacco brand names to third parties. Prohibits the use of non-tobacco brand names on tobacco products. Prohibits the manufacture or sale of cigarettes in packs of fewer than 20. Prohibits agreements to suppress research into health consequences of smoking, and prohibits material representations of fact regarding the health consequences of smoking.

Obviously some of these topics have been touched upon by either existing statute or other proposals before this house. But this is an implementation so that the provisions of the Master Settlement Agreement will apply to all companies selling or manufacturing tobacco.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Just one question, Madam President. And I appreciate

Senator Hannon's explanation.

ACTING PRESIDENT McGEE: Senator Hannon, will you yield?

SENATOR HANNON: Yes.

SENATOR DOLLINGER: Is there anything in this bill that alters the scope, goes beyond the scope of the Master Settlement Agreement? Is there anything in here that we've done that -- you know, there's been suggestion that they'll be doing some things here that are not specifically addressed.

SENATOR HANNON: There are a couple of things.

And about half an hour ago, I was handed a memo in regard -- from one of companies in regard to this. And I've had a chance to read the memo, and to the best of my legal ability to understand it, I would make a couple of comments to you, Senator.

It does raise basically the age to 21 in regard to purchasing and possessing cigarettes. But I'm trying to read this. It essentially raises it to 21.

The difficulty I have, and I need to get into the statutes, is we do have

sometimes what is sale and what is purchase. We define those differently both for cigarettes and alcohol. And you'll just have to give me a little lead time to get the specifics of that.

SENATOR DOLLINGER: That's fine. Again, through you, Madam President. My understanding generally is that it increases it to 21, which is a concept that I've supported.

SENATOR HANNON: Now -- I'm sorry. And to continue, there is a point in the memo that says that this bill, in regard to sponsorships, would not just ban brand-name sponsorships of all athletic goods. The memo claims that the MSA allows some tobacco companies to sponsor such things as music festivals. And it says that this bill omits this exception.

So to the extent of my knowledge about this that goes beyond the Master Settlement Agreement, those would be the two items.

SENATOR DOLLINGER: Through you, Madam President, the explanation is fully

satisfactory.

I know this is a project that the Attorney General has worked hard on. This is the Attorney General's program bill. It incorporates the provision both of his understanding of the Master Settlement Agreement and other provisions that are necessary to make the Master Settlement Agreement work.

And so under those circumstances, Madam President, I think it's the right thing to do, long overdue. I commend the Attorney General for bringing it this far and carrying this important piece of legislation forward.

Thank you.

SENATOR HANNON: Senator Dollinger's question -- and I -- frankly, I want to be sure. But his question points outside -- and since I'm only reading the memo in opposition, and I have -- which they failed to send to me except to give to me a half hour ago, I'd like to go to the library and get a full explanation of what you -- the questions you're asking, so that I can be fair.

This is something for the record.

And I'd just like to be accurate.

Could we lay this aside for the time being and bring it up later? And I will tell Senator Dollinger when we're going to bring it up so he can be sure to ask whatever questions are appropriate at that time.

ACTING PRESIDENT McGEE: The bill is laid aside at the sponsor's question.

SENATOR HANNON: Thank you.

THE SECRETARY: Calendar Number 1495, by Senator Velella, Senate Print 8076, an act to amend the Vehicle and Traffic Law, in relation to the designation.

SENATOR PATERSON: Explanation, please.

SENATOR MEIER: Lay it aside temporarily, please.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

Oh, remove the lay-aside.

Senator Velella, an explanation has been requested of 1495.

SENATOR VELELLA: If you'd allow me to come back to that in a minute.

ACTING PRESIDENT McGEE:

Temporarily lay the bill aside.

The Secretary will read.

THE SECRETARY: Calendar Number 1497, by the Senate Committee on Rules, Senate Print Number 8096, an act in relation to the awarding of contracts.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Meier, an explanation has been requested.

SENATOR MEIER: Madam President, could we lay that bill aside temporarily and call up Calendar 1498.

ACTING PRESIDENT McGEE: The bill has been laid aside temporarily.

SENATOR MEIER: Madam President.

ACTING PRESIDENT McGEE: Senator Meier.

SENATOR MEIER: Could we call up Calendar 1497.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1497.

THE SECRETARY: Calendar Number 1497, by the Senate Committee on Rules, Senate Print Number 8096, an act in relation to the awarding of contracts.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, this -- Madam President, I thought the lights were about to go out here.

Madam President, this bill allows for the school district, in the awarding of contracts, to do it by the request for proposal process rather than through competitive bidding. If Senator Meier would yield for a question, I wanted to know if he could explain to us why that would be the case.

SENATOR MEIER: Madam President, would you recognize Senator Kuhl for that purpose, please.

ACTING PRESIDENT McGEE: Senator Kuhl, there has been an explanation requested by Senator Paterson. Will you yield?

SENATOR KUHL: Yes, I yield for Senator Paterson. Happy to.

ACTING PRESIDENT McGEE: The Senator yields, Senator Paterson.

SENATOR KUHL: Senator Paterson, you had a question?

ACTING PRESIDENT McGEE: Senator Paterson, would you repeat your question?

SENATOR PATERSON: Madam President, through you to Senator Kuhl, by way of Senator Meier.

This is my question. The school district, in this legislation, will be allowed to award contracts through the RFP process rather than competitive bidding. Any of the three of you, but preferably Senator Kuhl, might want to inform me why this change is necessary.

ACTING PRESIDENT McGEE: Senator Kuhl.

SENATOR KUHL: As best I can, Senator Paterson. We currently have the availability of school districts to enter into energy-savings contracts. The Liverpool School District in this particular case has been discussing not only an energy-savings contract with a provider, but also there are some telecommunication provisions, like the provider is offering free computers and other -- some fiber-optic kinds of connections and things like that.

And we've had a problem with being able to get other providers participating in this, number one, but also getting the Education Department to agree that this is available under current statute.

So what we've done is come forth with a bill that will allow them to advance the contract that they're currently trying to enter into with this provider and the school district, in between the two of them, and also accomplish all the things that the provider is offering to the school district.

SENATOR PATERSON: Very good, Madam President. I was mired in confusion, but now I'm cool.

ACTING PRESIDENT McGEE: Are you unmired now, Senator Paterson?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill

is passed.

Senator Meier.

SENATOR MEIER: Madam President, could you call up Calendar Number 1495, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1495, by Senator Velella, Senate Print 8076, an act to amend the Vehicle and Traffic Law, in relation to the designation of correction vehicle.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT McGEE: Senator Velella, an explanation has been requested by Senator Duane.

SENATOR VELELLA: Yes, Senator. This bill will allow New York State Department of Correction vehicles, when operating within the city of New York, to be designated as emergency vehicles and have the same rights as vehicles that are operated by the New York City Department of Corrections.

These are vehicles which are used

to transport prisoners from one prison to another, back and forth to courts or to medical facilities. The New York City Department of Corrections is allowed to pass red lights, perform emergency movements as emergency vehicles.

The Department of Corrections for the State of New York, while in the city only, does not have that same right.

This would give parity to both the New York State Department of Corrections vehicle as a New York City Department of Corrections vehicle has.

ACTING PRESIDENT McGEE: Senator Duane.

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

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

SENATOR VELELLA: Sure. Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: Thank you, Madam President. If the sponsor would just tell me again what some of those rights are.

SENATOR VELELLA: Anything that an emergency vehicle would do. For instance, passing a red light, moving faster in traffic than would be the posted traffic designated speed limit. Only in emergency situations, which must be justified by the driver should he be called to account for them.

In other words, a State Department of Corrections bus transporting a group of prisoners cannot just come through the city and pass, willy-nilly, red lights and speed down the street. Only in emergency situations do they have that designation as an emergency vehicle.

Pretty much -- well, we have that same condition with New York City Department of Correction vehicles, but pretty much the way a police car should be operated: Normally obeying all the traffic regulations except in an emergency situation where it has to respond.

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

ACTING PRESIDENT McGEE: Senator

Velella, will you continue to yield?

SENATOR VELELLA: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: Thank you. Why would a state correctional vehicle ever have to drive through a red light?

SENATOR VELELLA: If a passenger on the bus were in some kind of an emergency situation, getting a heart attack, sick. If the bus was breaking out into a riot and they wanted to get somewhere. Somebody trying to get the guy out of the bus, break -- stop the bus and get a prisoner off the bus and free him.

Any -- whatever your imagination on any emergency situation could create, that would be it.

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

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT McGEE: The

Senator yields, Senator Duane.

SENATOR DUANE: Thank you, Madam President.

In my imagination, in those particular scenarios I don't see -- I mean, if anybody is having a heart attack in any vehicle, I would assume that they are provided with some leeway in terms of the traffic regulations. Or if there's an imminent birth or something like that, the police are usually very lax for those -

SENATOR VELELLA: If you'd suffer an interruption, Senator, I left out an important point which my counsel just told me about which probably would clear up your problem.

It also allows them to have the emergency flashing lights and emergency designations and sirens and whistles and whatever it is so that they could proceed through those traffic control devices or swiftly through traffic.

And it would allow state correction vehicles to use those in the city of New York, which now brings a lot more sense to the

subject that you were discussing.

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

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DUANE: Thank you, Madam President. I'm very, very grateful for the additional information of the lights and the sirens and everything.

But I still don't understand, in the scenarios which we're imagining, why there would be a use for those particular -- if there was someone having a heart attach or a prisoner giving birth, again, I believe the police would be lax in the enforcement of traffic laws and resolutions. If there's a riot breaking out on the bus, I actually think it probably is not a good idea to drive even faster. And I forget what the other scenario is, but I have just as good a comeback for that one.

So I'd like to -

SENATOR VELELLA: Is there a question mark at the end of this request to yield?

SENATOR DUANE: I'm yielding to you now, Senator.

SENATOR VELELLA: Oh, okay. Are you asking me is that correct? No, it is not.

SENATOR DUANE: That was not my question. But it's a good question.

I'm wondering how it is that it has come up -- are there any recent incidents which have made it so that this law is so necessary to be voted upon and so that the law is changed for the state correctional vehicles in the city of New York?

SENATOR VELELLA: Senator, I don't know if there are any current incidents that I could point to.

However, let me say that if the Department of Corrections of the State of New York is driving in the city of New York, which as I think you would know, having come from probably one of the busiest boroughs of the city of New York, traffic is very, very dense

in the city of New York. And if there is an emergency of any nature -- heart attack, diabetes reaction -- I mean, you can go on and on and on. A riot. Somebody trying to get one of these prisoners off the bus. Somebody throwing rocks at the bus. Whatever it is. That bus may decide to speed up and pass red lights and move quickly and get those prisoners moved somewhere else or get to a hospital to get assistance or get somewhere where they can get some additional manpower to help.

I would think that you, as a very responsible legislator, would want to give notice to the other passengers -- to the other people in cars around our city that here comes a bus in an emergency situation, look out, there's a siren going, there's a red light flashing, and the driver is a responsible correction officer who has decided that in the interests of the safety of the passengers and the people that are involved in this process, he needs to do an emergency action and pass red lights and speed the bus up and the red lights and the sirens and the whistles and the

bells will let the rest of the public know to get out of the way, we got an emergency here, move out of the way.

I don't think you, Senator, would want to stop the public from getting that knowledge that this big bus is bearing down on their little Volkswagen and they have to move out of the way so that this bus can get to a hospital to help some poor individual inmate who may be under some distress. Would you?

ACTING PRESIDENT McGEE: Senator Duane, do you yield for the question from Senator Velella?

SENATOR DUANE: Is the Senator asking me to yield?

SENATOR VELELLA: No, Senator, I don't have any questions. I understand the bill. That was a rhetorical question.

ACTING PRESIDENT McGEE: Senator Duane.

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

ACTING PRESIDENT McGEE: Senator Duane, on the bill.

SENATOR DUANE: I believe that

among all the members of the Senate I personally have the most experience riding in correctional vehicles.

(Laughter.)

SENATOR VELELLA: We'll have certain people excluded from the emergency provision if you are.

SENATOR DUANE: And I can't say that they were ever a comfortable ride. And traffic did delay my arrival at central booking from time to time. That is true, it did happen.

That said, I was never really in a big hurry to get to central booking, and when I got to central booking, no one ever seemed to be in a big hurry to get me out either, which I'm sure you can all understand as well.

That said, Madam President -

ACTING PRESIDENT McGEE: On the bill, Senator Duane.

SENATOR DUANE: On the bill, Madam President.

I'm going to vote no on the bill, although I do very much appreciate the clarification of the bells and the whistles

and the lights and everything, because that wasn't actually in the bill as I read it. But now that that's been clarified, it's helpful. But just for my purposes, not helpful enough.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

SENATOR HEVESI: Madam President.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Hevesi.

SENATOR HEVESI: I rise to request unanimous consent to be recorded in the negative on Calendar 1487, Senate Print 7978.

ACTING PRESIDENT McGEE: Without objection, you will be so recorded.

SENATOR HEVESI: Thank you.

SENATOR MEIER: Madam President, may we take up Calendar Number 1480 now.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1480, substituted earlier today by Member of the Assembly Klein, Assembly Print Number 10335A, an act to amend the Agriculture and Markets Law, in relation to special powers and duties.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT McGEE: Senator Velella, Senator Dollinger has requested an explanation.

SENATOR VELELLA: Madam President, this bill would require that supermarkets and places that serve foods would have to post their inspection reports and require additional inspections for them in retail food stores.

SENATOR DOLLINGER: Madam President, if the sponsor would yield to a question.

ACTING PRESIDENT McGEE: Senator Velella, will you yield to Senator Dollinger?

SENATOR VELELLA: Yes, I will.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Could you just describe the rationale for the legislation? I'm sure that there are extensive requirements under New York law for inspections of retail food establishments. Are these duplicative? Is there anything new in this legislation? Why do we need to do this at this time?

SENATOR VELELLA: As you can see, a distinguished member of the Majority in the Assembly is sitting here with me to assist me in this debate, because this was actually his bill, which I am very supportive of, and he knows the intricacies of it to assist me in the debate.

However, the fact of the matter is that 54 percent of the food stores in this state have failed their health requirement inspection. That's more than half, and a substantial increase over past numbers. It is a problem that is becoming much more dominant in the area. And we feel that acting

prospectively, as these numbers are rising and 54 percent of the supermarkets in our state are failing these health requirements, that we ought to be acting aggressively to help clean up the problem before it becomes a major problem.

There have been several exposes throughout the state on the condition and health safety standards of these stores that serve foods.

SENATOR DOLLINGER: Through you, Madam President, will the sponsor yield to a question?

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Senator, how much money, if any at all, did we add to the state budget this year to assist the Agriculture and Markets Department in inspecting retail food establishments?

SENATOR VELELLA: Four additional inspectors.

SENATOR DOLLINGER: Excuse me?

SENATOR VELELLA: Four additional inspectors.

SENATOR DOLLINGER: Through you, Madam President, if Senator Velella would continue to yield.

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Is this throughout New York State we added four inspectors?

SENATOR VELELLA: In addition to the existing force, yes.

SENATOR DOLLINGER: And through you, Madam President, if Senator Velella will continue to yield.

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

SENATOR VELELLA: Yes.

SENATOR DOLLINGER: How many inspectors do we have currently?

SENATOR VELELLA: 121.

SENATOR DOLLINGER: So we added about 2 percent to the inspection force; is that correct?

SENATOR VELELLA: If you did the math and that's what it comes to, yes.

SENATOR DOLLINGER: Close -- 2, 3, something like that.

SENATOR VELELLA: Yes.

SENATOR DOLLINGER: What incidence of additional inspections do you anticipate through the use of this bill, through the proposal in this bill?

SENATOR VELELLA: Well, first of all, I would expect the additional inspections by the additional manpower, whatever that can be.

I think that we are trying to get the agency itself to possibly lighten up some of the paperwork and administrative burden of inspectors so they could be out in the field a little bit more.

So I couldn't give you my projection on the numbers. What I am doing is saying by this legislation that we consider this a severe enough problem that we want to

inspect these facilities much more often and we want to have more inspectors out there, and it's an important health safety provision for the people of this state.

SENATOR DOLLINGER: A final question, Madam President, if Senator Velella would continue to yield.

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

SENATOR VELELLA: Yes.

SENATOR DOLLINGER: The bill requires that every retail food store be inspected at least once every 12-month period.

SENATOR VELELLA: Correct.

SENATOR DOLLINGER: Is there a current requirement in the statute for some annual inspection of these facilities?

SENATOR VELELLA: They do it now by regulation, and this would codify the regulation.

SENATOR DOLLINGER: Okay. Through you, Madam President, just briefly on the bill.

I'm going to vote in favor of this bill. And this is an issue which has plagued,

quite frankly, the community of Rochester, New York, that I represent as well. We don't have enough inspections in our retail food establishments.

We have small grocery stores, small convenience stores. Oftentimes, quite frankly, they're selling old and outdated food, and what they're really doing is selling drugs and guns under the table. And when we go in and do a food inspection, which unfortunately doesn't happen enough in Rochester, New York, they're cited for violations and nothing ever really happens. They are fronts as grocery stores, and they're really selling alcohol to minors under age and selling illegal and other substances both under, over and around the counter.

And the only thing I would suggest to Senator Velella is that this bill gives additional powers to a department that's woefully understaffed. What we ought to do is look at the budget and put more money in the budget. Hiring four more inspectors, which I think breaks down to less than one additional inspector per region in this state, isn't

enough. We've got to put our money where our language is.

This would be a great bill if we had, frankly, 50 percent more inspectors. I'm afraid that the additional requirements in this bill mean that it will become largely a piece of paper and not translate into real action to clean up these -- unfortunately, this proliferation of small neighborhood -- we used to call them mom and pops. They're no longer mom and pop, because your mom and pop wasn't selling, frankly, drugs and alcohol and other things over the counter in these stores.

But these stores nonetheless have proliferated in many neighborhoods, including in the city of Rochester. It's a good thing that we're turning our attention to them, but let's put more resources, a couple of million dollars more, into proper inspection so that the words on the paper have real teeth.

ACTING PRESIDENT McGEE: Senator Hevesi.

SENATOR HEVESI: On the bill.

ACTING PRESIDENT McGEE: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you, Madam President.

First, in reference to Senator Dollinger's comments, I hope to see a request, a budgetary request for the next fiscal year for additional resources so that the department can adequately implement the provisions of this legislation.

This bill is a terrific bill. I want to compliment Senator Velella and Assemblyman Klein for bringing this legislation before us. And I happen to know a little bit about the genesis of this legislation, since several months ago Assemblyman Klein exposed with a report a problem that I don't believe was -- really had been brought to the public attention prior to his research on this.

And it showed that so many supermarkets in New York City had horrendous conditions, including rodent infestation and just awful conditions. And that, worse than that -- and I bring this up because the bill addresses that -- that these establishments didn't seem to have as their highest priority

remedying these problems.

And so this bill is terrific in a number of ways, the first being that it codifies, as Senator Velella said, into law the annual inspections. But if an establishment fails the second inspection, they no longer are required to be inspected every 12 months but every six months, until they pass two consecutive ones. And on the third one, most importantly, you fail three in a row, that's it, you can be shut down.

And in that same vein, to provide an incentive for organizations that are running supermarkets to really do what they're supposed to do, now they have to have the inspection results posted conspicuously.

So this is terrific legislation. I want to commend Senator Velella, particularly Assemblyman Klein, for bringing this to everyone's attention. This is going to protect consumers who are now, as a result of this bill, going to have a much greater likelihood that when they go shopping in their stores, that those stores are safe and that the products they're buying are healthy, safe,

and up to par.

And it has teeth. Because if the people who are running the stores don't do it, they're going to be punished for it and punished severely.

So hats off to Senator Velella and Assemblyman Klein. This legislation is absolutely essential. I am proud to vote in the affirmative.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam President, on the bill. I just rise to show that -

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: -- to show that the rampant suck-uppery around here is not limited to family members.

I also would like to commend Assemblyman Klein, who has done an extraordinary job, not just on this but in other areas dealing with agriculture and markets and marketing.

And I also must commend, for his

work on this, Senator -- Senator Velella, for his fine work on this bill.

Thank you.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR VELELLA: Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Velella.

SENATOR VELELLA: I might want one second to rethink, in view of the new support that I've found, and praise for myself, my position on this bill.

But let's read the last section anyway.

ACTING PRESIDENT McGEE: Scary, yes.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill

is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you call up Calendar Number 1485.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1485, by Senator Skelos, Senate Print 7930A, an act to amend the Public Authorities Law and the Tax Law, in relation to creating.

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

ACTING PRESIDENT McGEE: There is a message of necessity at the desk, Senator Skelos.

SENATOR SKELOS: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The motion is accepted.

Read the last section.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT McGEE: Senator Skelos, an explanation has been requested.

SENATOR SKELOS: Madam President, this legislation, which is a Governor's program bill -- and certainly I thank Governor Pataki, as do the people of Nassau County, for the leadership that he has shown. I also thank Senator Bruno, Speaker Silver, and Tom DiNapoli, Assemblyman Tom DiNapoli, in the Senate delegation and the Assembly delegation who have worked very closely on a bipartisan basis to develop this legislation.

We have also received a home rule message from the county legislature in support of this legislation.

What it would do, it would create the Nassau County Interim Finance Authority. NIFA would have oversight and would have control board powers under certain circumstances.

A seven-member board would be appointed by the Governor. The State

Comptroller, the Senate, and the Assembly would each recommend one of these appointments. Nassau County residency would be required except for two of the appointments by the Governor.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

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

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

Senator Skelos.

SENATOR SKELOS: Madam President, would you call up Calendar Number 1486, by

Senator Marcellino.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1486, by Senator Marcellino, Senate Print 7938B, an act to authorize the County of Nassau and the Syosset School District.

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

ACTING PRESIDENT McGEE: Yes, Senator Skelos, there is a message of necessity at the desk.

SENATOR SKELOS: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(Response of "Aye.")

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you call up Calendar Number 1498.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1498, by the Senate Committee on Rules, Senate Print Number 8128, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law, in relation to the franchise fee paid.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

SENATOR DUANE: Explanation,

please.

ACTING PRESIDENT McGEE: Senator Larkin, an explanation has been requested.

SENATOR LARKIN: By whom?

ACTING PRESIDENT McGEE: Senator Duane.

Senator Larkin, do you yield for an explanation?

SENATOR LARKIN: Yes, Madam President.

ACTING PRESIDENT McGEE: Please proceed with an explanation.

SENATOR LARKIN: Well, this bill is a complement to the bill on subordination we did about a month ago that was passed unanimously.

But the key parts of this bill is the first 2 million that NYRA would take in goes to the horsemen for their purposes. The franchise tax out of this is paid at the corporate franchise tax rate, in accordance with the New York Tax Law, to the State of New York.

NYRA retains any money after the payment of the taxes to the state and federal

government. The additional monies, if there is any, would be used for additional improvements at the tracks and corporate purposes, to further racing.

One other point about this here. The racing at Aqueduct is reduced from 106 days to 95, at their request. And it is during the Christmas duration.

And the final part is to add to the subordination that was done here before with reducing the debt.

This is something that the tracks wanted, the horsemen wanted. It's a compilation of what everybody involved in racing wanted and accepted.

SENATOR DUANE: Okay.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill

is passed.

Senator Wright.

SENATOR WRIGHT: Madam President, I request unanimous consent to be recorded in the negative on Calendar Number 1479.

ACTING PRESIDENT McGEE: Without objection, so recorded.

Senator Wright.

SENATOR WRIGHT: Madam President, I wish to call up Calendar Number 754, Assembly Print Number 1213D.

ACTING PRESIDENT McGEE: Motions and resolutions.

The Secretary will read.

THE SECRETARY: Calendar Number 754, by Member of the Assembly Brodsky, Assembly Print Number 1213D, an act to amend the Social Services Law.

SENATOR WRIGHT: I now move to reconsider the vote by which this Assembly bill was substituted for Senate Print Number 1469D on June 13th.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR WRIGHT: I now move that Assembly Bill Number 1213D be recommitted to the Committee on Rules and the Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT McGEE: So ordered.

SENATOR WRIGHT: Madam President, I move to recommit Senate Print Number 5207A, Calendar Number 85 on order of third reading, to the Committee on Local Government, with instructions to said committee to strike the enacting clause.

ACTING PRESIDENT McGEE: So ordered.

ACTING PRESIDENT WRIGHT: Senator Skelos.

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

ACTING PRESIDENT WRIGHT: Yes, there is.

Senator Meier.

SENATOR MEIER: Mr. President, on behalf of Senator Leibell, I wish to call up his bill, Senate Print Number 7863, recalled from the Assembly, and which is now at the desk.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Calendar Number 1482, by Senator Leibell, Senate Print 7863, an act to amend the Public Authorities Law and the Retirement and Social Security Law.

SENATOR MEIER: Mr. President, I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR MEIER: Mr. President, I mow move to discharge, from the Committee on Rules, Assembly Print Number 11063 and substitute it for Senator Leibell's identical bill.

ACTING PRESIDENT WRIGHT: The substitution is ordered.

SENATOR MEIER: Mr. President, the Senate bill on first passage was passed unanimously. I now move that the substituted Assembly bill have its third reading at this time.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Calendar Number 1482, by the Assembly Committee on Rules, Assembly Print Number 11063, an act to amend the Public Authorities Law and the Retirement and Social Security Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Meier.

SENATOR MEIER: Thank you, Mr. President.

On behalf of Senator Leibell, I wish to call up his bill, Print Number 6315, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Calendar Number 349, by Senator Leibell, Senate Print 6315, an act to legalize, ratify and confirm the acts and proceedings.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

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

ACTING PRESIDENT WRIGHT: The amendments are received.

Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President. May I have unanimous consent to be recorded in the negative on Calendar 1464.

ACTING PRESIDENT WRIGHT: Without objection, Senator, you will be recorded in the negative.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please bring up active list number 2 -- Supplemental Active List Number 1.

ACTING PRESIDENT WRIGHT: Supplemental Active List Number 1.

The Secretary will read.

THE SECRETARY: Calendar Number 738, by Senator Goodman, Senate Print 7286, an act to amend the Tax Law, in relation to requiring.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 797, by Member of the Assembly Cahill, Assembly Print Number 7464B, an act to amend the Workers' Compensation Law, in relation to coverage.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 941, by Senator Hoffmann, Senate Print 7798A, an act to amend the Agriculture and Markets Law, in relation to authorizing.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 1242, by Senator Kuhl, Senate Print 7561B, an act to authorize the Department of Correctional Services or the Commissioner of General Services.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 1461, by Senator Velella, Senate Print 8086, an act to amend the Insurance Law, in relation to the definition.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT WRIGHT: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Skelos.

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

ACTING PRESIDENT WRIGHT: Reports of standing committees.

The Secretary will read.

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

As a member of the Crime Victims Board, Benedict Monachino, Esquire, of

Brooklyn.

SENATOR SKELOS: Please recognize Senator Nozzolio.

ACTING PRESIDENT WRIGHT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. It's with great honor that I rise in support of the nomination by Governor Pataki of Benedict Monachino to serve as a member of the New York State Crime Victims Board.

Mr. Monachino comes extremely well qualified to this position, has demonstrated a very active interest in the criminal justice process, and has served in a variety of capacities, in public and private capacities as a counselor, involved in criminal justice matters. That most recently as a clerk, principal law clerk, to the New York State Supreme Court.

That Mr. Monachino came before the Crime Victims, Crime and Corrections Committee, was very keenly interested in serving crime victims, demonstrated that keen interest to the committee, and the committee

was impressed with his willingness to serve and the energy which he will bring to the service of crime victims.

We ask the nominee to also keep this body apprised of crime victims matters and how we can make the Crime Victims Compensation Board a more effective and efficient advocate on behalf of crime victims. And his willingness to do that was certainly appreciated.

That we certainly are impressed and voted unanimously to endorse this candidate, and look forward to his full, complete confirmation by the Senate.

SENATOR SKELOS: Move the nomination, please.

ACTING PRESIDENT WRIGHT: The motion is on the confirmation of Benedict Monachino to the position of member of the Crime Victims Board. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: Confirmed.

Mr. Monachino, please rise. On behalf of Senator Bruno and all of the members of the New York State Senate, we offer our congratulations and best wishes and know that you will serve the people of New York State well.

Thank you.

(Applause.)

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, Robert Dennison, of -

ACTING PRESIDENT WRIGHT: I'm sorry.

Senator Skelos.

SENATOR SKELOS: Can we skip that for one moment and go on to the next appointment.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: As a member of the Adirondack Park Agency, James Frenette, of

Tupper Lake.

SENATOR SKELOS: Move the nomination.

SENATOR STAFFORD: Move the nomination.

ACTING PRESIDENT WRIGHT: The motion is on the nomination of James Frenette, of Tupper Lake, to be reappointed as a member of the Adirondack Park Agency. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The confirmation is approved.

The Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, Robert Dennison, of Eastchester.

ACTING PRESIDENT WRIGHT: Senator Stafford.

SENATOR STAFFORD: Mr. President, we had two fine nominees appear before the Finance Committee this morning -- or this

afternoon, I guess. And I certainly compliment the Governor on the appointments, and compliment them.

It's a pleasure for me now to yield to Senator Spano.

ACTING PRESIDENT WRIGHT: Senator Spano.

SENATOR SPANO: Thank you, Mr. President. It is my pleasure to stand in favor of the nomination of Robert Dennison to the State Board of Parole.

Robert Dennison is a resident of the town of Eastchester in Westchester County. He is a person who has a long history and career in Westchester, starting in Westchester County Probation, back in the seventies, up to right now, in working as a deputy regional director in parole.

He has held a series of different positions in parole over the years, and in corrections, has had an outstanding record in this area and knows the issues very thoroughly. In addition to that, he is a graduate of Iona College, which is my alma mater as well.

And it's my pleasure to thank the Governor for an outstanding appointment and to speak in favor of the appointment of Robert Dennison as a member of the State Board of Parole.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: The question is on the confirmation of Robert Dennison to be appointed as a member of the State Board of Parole. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The confirmation is approved.

Mr. Dennison, on behalf of Senator Bruno and all of the members of the New York State Senate, we extend our congratulations and best wishes to you, and wish you all good health in serving the people of the State of New York.

Thank you.

(Applause.)

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: As members of the Central New York Regional Transportation Authority, Robert E. Colucci, Jr., of Syracuse, and Joanne Reddick, of Syracuse.

As a member of the New York State Bridge Authority, Roderick O. Dressel, of New Paltz.

As a member of the Ogdensburg Bridge and Port Authority, Reverend Monsignor Robert J. Giroux, of Waddington.

As a member of the Rochester-Genesee Regional Transportation Authority, Marilyn Schutte, of Rochester.

As a public member of the State Banking Board, Michael R. Ambrecht, Esquire, of Point Lookout.

As members of the Correction Medical Review Board, John Rugge, M.D., of Glens Falls, and Barbara C. Wolf, M.D., of Albany.

As a member of the Lake George Park Commission, Mark C. Johnson, Ph.D., of Silver Bay.

As a member of the State Racing Commission, John A. Tesiero, Jr., of Amsterdam.

As a member of the Stewart Airport Commission, Drew A. Kartinganer, of Newburgh.

As a member of the State Council on the Arts, Mary B. Buchan, of Rochester.

And as a member of the State Fire Prevention and Building Code Council, Gunnar Neilson, of Ossining.

ACTING PRESIDENT WRIGHT: The question is on the confirmation of the nominees as read heretofore. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The nominees are hereby confirmed.

SENATOR DUANE: Madam President.

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

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

to be recorded in the negative on Calendar Number 1461, S8086, and also on Calendar Number 797, S4085B, which is another dumb bill.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Without objection, so recorded.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to the order of messages from the Assembly.

ACTING PRESIDENT McGEE: The chair hands down a message from the Assembly.

The Secretary will read.

THE SECRETARY: On motion of Mr. Bruno, and by unanimous consent, the rules are suspended, and said bill ordered to a third reading: Calendar Number 1502, by the Assembly Committee on Rules, Assembly Print Number 11096, an act to amend the Energy Law, in relation to energy performance contracts.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT McGEE: Yes.

SENATOR SKELOS: As we are doing the housekeeping, there will be an immediate conference of the Majority, in the Majority Conference Room, which should last until about 3:30.

ACTING PRESIDENT McGEE: There will be an immediate meeting of the Majority conference, in the Majority Conference Room. Immediately. The conference should last until approximately 3:30.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President. On behalf of Senator Velella, I wish to call up Senate Print Number 8002, recalled from the Assembly, which is now

desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1492, by Senator Velella, Senate Print 8002, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT McGEE: Senator Fuschillo.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, I now move to recommit the bill to the Committee on Rules.

ACTING PRESIDENT McGEE: So ordered.

SENATOR FUSCHILLO: Thank you.

ACTING PRESIDENT McGEE: Thank you.

SENATOR FUSCHILLO: No, thank you.

ACTING PRESIDENT McGEE: My pleasure.

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

ACTING PRESIDENT McGEE: The Secretary will read.

SENATOR SKELOS: If we could make them at this time. Thank you.

THE SECRETARY: On page 6, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 1448A and substitute it for the identical Senate Bill Number 5180B, Third Reading Calendar 159.

On page 12, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 9675A and substitute it for the identical Senate Bill Number 6243A, Third Reading Calendar 470.

On page 24, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 10971 and substitute it

for the identical Senate Bill Number 7660, Third Reading Calendar 923.

On page 25, Senator McGee moves to discharge, from the Committee on Rules, Assembly Bill Number 9460 and substitute it for the identical Senate Bill Number 6465, Third Reading Calendar 931.

On page 28, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 1035B and substitute it for the identical Senate Bill Number 1484A, Third Reading Calendar 1053.

On page 30, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 10392 and substitute it for the identical Senate Bill Number 7634, Third Reading Calendar 1106.

On page 33, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 7454A and substitute it for the identical Senate Bill Number 7608A, Third Reading Calendar 1147.

ACTING PRESIDENT McGEE: Substitutions ordered.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, is there any other housekeeping?

ACTING PRESIDENT McGEE: No.

SENATOR MARCELLINO: All right. The Senate will stand at ease.

And there will be an immediate meeting of the Majority Conference in the Majority Conference Room.

ACTING PRESIDENT McGEE: The Senate stands at ease. There is a Majority conference in the Majority Conference Room, immediately.

(Whereupon, the Senate stood at ease at 3:07 p.m.)

(Whereupon, the Senate reconvened at 4:04 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 390.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 390.

THE SECRETARY: Calendar Number 390, by Senator Alesi, Senate Print 6232B, an act to amend the General Obligations Law, in

relation to liability.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR SKELOS: Move to accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message of necessity is accepted. The bill is before the house.

SENATOR SKELOS: Please lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

SENATOR SKELOS: Mr. President, there will be a meeting of the Rules Committee at 4:10 in the Majority Conference Room.

ACTING PRESIDENT MEIER: Meeting

of the Rules Committee at 4:10 in the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: Please recognize Senator Smith.

ACTING PRESIDENT MEIER: Senator Smith.

SENATOR ADA SMITH: Thank you, Mr. President. I request unanimous consent to be recorded in the negative on Calendar Number 797.

ACTING PRESIDENT MEIER: Without objection, Senator Ada Smith will be recorded in the negative on Calendar 797.

SENATOR ADA SMITH: Thank you for recognizing the difference.

ACTING PRESIDENT MEIER: It's unmistakable.

Senator Skelos.

SENATOR SKELOS: Stand at ease.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:06 p.m.)

(Whereupon, the Senate reconvened

at 4:25 p.m.)

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, can we please have some order in the chambers, please, and shut the doors.

ACTING PRESIDENT MEIER: Can we have some order in the chamber, please.

SENATOR FUSCHILLO: Mr. President, can we return to reports of standing committees. I believe there's a report of the Rules Committee at the desk. Can we kindly have it read.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

Senate Print 1633A, by Senator LaValle, an act to amend the Tax Law;

2535A, by Senator Larkin, an act to amend the Insurance Law;

3132A, by Senator Leibell, an act to amend the Retirement and Social Security

Law;

3137A, by Senator Leibell, an act to amend the General Municipal Law;

3990, by Senator Velella, an act to amend the General Municipal Law;

4008A, by Senator Marchi, an act in relation to allowing;

4035A, by Senator Goodman, an act to amend the Alcoholic Beverage Control Law;

4197, by Senator Saland, an act to authorize the payment;

4540A, by Senator Farley, an act to amend the Banking Law and others;

4908A, by Senator Farley, an act to amend the Workers' Compensation Law;

4931A, by Senator Spano, an act to amend the Retirement and Social Security Law;

5012B, by Senator Seward, an act to amend the Executive Law;

5039A, by Senator Libous, an act to amend the Real Property Law;

5083A, by Senator DeFrancisco, an act to amend the Town Law;

5130D, by Senator Johnson, an act to amend the Public Authorities Law;

5785, by Senator Leibell, an act to amend the Education Law;

5998, by Senator Hannon, an act to amend the Public Authorities Law;

6176, by Senator Seward, an act to amend the Public Health Law;

6322A, by Senator Seward, an act to amend the Education Law;

6377, by Senator Padavan, an act to amend the Public Authorities Law;

6488, by Senator Velella, an act to amend the Insurance Law;

6732A, by Senator Seward, an act to amend the Insurance Law;

7047A, by Senator Farley, an act to amend the Banking Law;

7527, by Senator Velella, an act to amend the Criminal Procedure Law;

7547, by Senator Leibell, an act to amend the Not-For-Profit Corporation Law;

And 7956, by Senator A. Smith, an act to amend Chapter 239 of the Laws of 1995.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator

Fuschillo.

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

Senator Fuschillo.

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

ACTING PRESIDENT MEIER: Yes, we have some motions.

Senator Seward.

SENATOR SEWARD: I wish to call up, on behalf of Senator Velella, his bill Print Number 8086, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The

Secretary will read.

THE SECRETARY: Calendar Number 1461, by Senator Velella, Senate Print 8086, an act to amend the Insurance Law.

SENATOR SEWARD: Mr. President, I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR SEWARD: Mr. President, I now move to discharge, from the Committee on Rules, Assembly Print Number 11227 and substitute it for the identical bill.

ACTING PRESIDENT MEIER: Substitution ordered.

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

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1461, by the Assembly Committee on Rules,

Assembly Print Number 11227, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: The bill previously passed by a vote of 60 to 1.

The Secretary will announce the results.

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

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

ACTING PRESIDENT MEIER: Yes, there are.

SENATOR FUSCHILLO: Can we have some order in the chambers as well.

Please take them up.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 9, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 6662A and substitute it for the identical Senate Bill Number 4765A, Third Reading Calendar 362.

On page 19, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 6714B and substitute it for the identical Senate Bill Number 1594B, Third Reading Calendar 796.

And on page 37, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 8834A and substitute it for the identical Senate Bill Number 8144, Third Reading Calendar 1441.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, can we have the noncontroversial reading of Supplemental Calendar Number 57B, please.

ACTING PRESIDENT MEIER: The Secretary will read the noncontroversial calendar.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, if we can lay aside that calendar reading for the moment and return to Supplemental Calendar Number 57A. And please take up Calendar Number 1500.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1500.

THE SECRETARY: Calendar Number 1500, by the Senate Committee on Rules, Senate Bill Number 8167, an act to amend the Tax Law and others, in relation to the payment of state collected taxes.

SENATOR FUSCHILLO: Is there a message at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR FUSCHILLO: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

There is a home rule message at the desk.

The Secretary will read.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: This is a consensus by the Governor, the Assembly, and this house. New York City will increase its bonding authorization -- we will increase its bonding authorization by $4 billion, and this will be through the transitional finance agency. This will be to implement the city's ten-year capital plan, and it allows borrowing which will be adequate.

Also, Mr. President, this bill provides for funding assistance for the school districts of Buffalo and Yonkers.

And finally, Mr. President, this provides state transitional aid for Nassau County, initially $30 million of a total possibly up to $100 million.

And these monies, of course, will not be released without approval of an authority which earlier this Legislature created today. It has seven members, appointments by the Comptroller, the Senate, the Assembly, and the Governor.

ACTING PRESIDENT MEIER: Read the last section.

Senator Connor.

SENATOR CONNOR: Yes, Mr. President. This bill obviously combines a number of measures, including raising the allowed indebtedness for New York City. And overall, it addresses some fiscal problems that have cropped up in various parts of the state. The case of Buffalo results from what has been billed as an error in negotiating a collective bargaining agreement that put Buffalo in grave distress.

I'm concerned that some parts of the state may have turned to a

borrow-and-spend philosophy, particularly in the place like Nassau County, which is certainly one of the -- I guess the wealthiest county in New York State by many measures, one of the wealthiest counties in the United States by those same measures.

I think we ought to be aware of the fact that if we look at the per-capita indebtedness for the city of New York, it's $4,910 per capita; for the County of Nassau, it's $2,210 per capita. If you look at the rest of the state, upstate per-capita indebtedness is $311. It does say something about borrowing habits downstate and on Long Island.

The most interesting thing about this is, unlike what happened now some 25 years ago when New York City was in fiscal straits and this Legislature and the state it's always been billed as bailed out New York City, but in fact, yes, measures were taken to stretch out indebtedness, to guarantee bonds and other indebtedness, creation of the MAC bond to allow the city to get into a market, the bond market, which the city itself was

foreclosed from.

No one, not the state or federal government, ever gave New York City and its taxpayers a gift. Never a gift. And the taxpayers of New York City paid back every nickel with interest.

We have now -- and we've done it in the last couple of years for some of our smaller cities, but we are now embarking to larger degree on simply giving money to a locality to bail them out. Something that was not done before. And of course it begs the question that's been on everyone's mind for a year or more: What exactly is wrong in Nassau County?

And I think the answer to that question remains -- frankly, remains to be seen and will come. A lot is wrong there.

And what is good there seems to be an effort, a bipartisan effort on the part of a lot of people to get to that answer.

This bill, Mr. President, requires, in my opinion, a two-thirds vote because it involve a gift. It involves money going to a local purpose that's not going to be repaid.

Be that as it may, I urge my Democratic colleagues to join in supporting this, because the threat not only to the taxpayers of Nassau County but to the whole fiscal structure of the state is very, very real if one of our largest and wealthiest counties is permitted to founder.

Earlier today we took measures to ensure, as Senator Skelos then pointed out, fiscal accountability for the future. And in this bill we put up the money, so to speak.

And hopefully working together, as the Democrats and Republicans will in this house to ensure passage, we will see better days in the wealthiest county in the state with the highest local tax burden of anywhere in the state -- in fact, one of the highest local tax burdens in the country, that, in an era of great -- of high employment and high regional prosperity seems to have been unable to get its fiscal house in order.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr.

President, I rise because this bailout, this financial contribution and support from the State of New York not only for Nassau County but, frankly, for Buffalo and the City of Yonkers I think just merits at least one comment about the notion of public debt.

And while today we address the problems of public debt most apparently in Nassau County, there's a warning in what we do today that should not go unheeded.

The State of New York has more public debt than any other state, $37 billion worth. The City of New York has the second largest amount of public debt, $31 billion worth. The MTA and the TBTA have, respectively, about $7.8 billion and $5.4 billion in debt. Nassau County has now $2.7 billion in debts. Nassau County has more public debt than 12 states. New York State, if you add New York City, the MTA, the TBTA, and Nassau County, has more public debt associated with it than the next ten largest states.

We could -- our debt covers that of ten states. $77 billion in public debt is

being carried by those five levels of government at 5 percent interest. At 5 percent interest, those governments are paying $3.5 billion in interest payments. Is it any wonder that our debt rating is so poor?

Is it any wonder that if someday that bad old word that Alan Greenspan goes to bed each night thinking it will never happen -- inflation -- someday comes, a 1 percent change in the capital debt of New York State and New York City, the MTA, the TBTA, and Nassau County, a 1 percent change will cause $700 million in additional interest payments for those governments?

$700 million, things that we can do lots of good things with. 1 percent inflation will cost the levels of government that much money. And we will get nothing for it. We'll simply pay off the debts for things we've already bought.

In 1846, the state -- this state had undergone period of unprecedented prosperity in the wake of the construction of the barge canal, the Erie Canal. And in fact, we began a terrible trend. For ten years we

didn't raise any taxes. The New York State Senate never levied a tax for ten years. And what they did is they used public debt to pay the state's bills.

In the financial crisis of 1845, that house of cards came tumbling down, and the state was insolvent. They called a constitutional convention, and they did one critically important thing. They said no more government obligation debt without voter approval. Let the people decide how much money we borrow. We can't trust the State Legislature to borrow money.

I would suggest to all my colleagues, we're $37 billion in debt, most of that is not public debt. And surprise, surprise, in a period of tremendous prosperity, the public debt of this state has gone up since this man was Governor by 40 percent.

We're not paying our debts. We're increasing our debt load. In a period of prosperity when we've got lots of cash, we're borrowing more than we ever did. I wonder what we'll do if we someday run into a

recession.

The wisdom of 1848 -- 1846 and the constitutional convention couldn't be clearer to me now. If all this debt were voter-approved, it would be just like the debt in a place like -- I don't know, pick a state. Minnesota, $2.5 billion in public debt. Less than one-tenth what we have.

Despite that, Mr. President, I'm going to vote in favor of this bill, and let me tell you why.

I think the biggest problem we have in this state is the overreliance on property tax. And I believe that my experience in government suggests that what public officials do when they face the property tax, which is their scorecard for voters, that it is in their best interest to do everything possible to reduce property taxes. Because otherwise, they're politically challenged every time they raise them. It's apparent in everybody's tax bill every single year. It's not a quiet tax like a sales tax. Not even a quiet tax like withholding that you pay in federal income tax or state income tax. The property tax shows.

And it becomes the report card for public officials.

And when they're faced with that report card, there's every possible incentive to keep property taxes low, borrow as much money as you can, use every gimmick you can find in order to keep the property tax low.

This bill says that we're going to use broad-based taxes, sales and income taxes, to cover past debts of Nassau County, to set up the financial controls that they need to get back on their feet.

I would suggest to everyone in this room, we have done some things with respect to property taxes in the last four or five years. We need to do more. And what we should look to are things like the Medicaid pickup, where the state would use its broad-based taxes to reduce property taxes, to take away the temptation from local officials that they will connive and in some cases they may deceive their voters -- in some cases, they may deliberately mislead their voters -- because they're afraid of the consequences of raising property taxes.

And I would hope that this is a chance for us to look at broader use of broad-based taxes, fairer taxes, progressive taxes that will work better to resolve the problems of this state than the overreliance on property taxes, with all the political conniving that comes with trying to artificially keep them low.

That's what's happened in Nassau County. In my judgment, the political leadership there simply transferred to debt obligations that they were unwilling to raise local property taxes to pay for. In my opinion, that was deceptive, it was misleading, it was politically convenient. But that system -- they were trapped in the system, which is based on an overreliance on our property taxes.

Mr. President, I'm going to vote in favor of this. I think we have to do it. We did it to New York City, we're doing it in a different way, a slightly different way for Nassau County. But the danger of public debt looms. And I'm afraid that sometime in the next couple of years this Legislature will

have to look at enormous sacrifices for the people of our state because we have too much debt. And that debt will strangle the ability of this state to be competitive in the future.

We've got to do something about the problem. We're doing it now. We're increasing the cap for New York City. We're taking a step that I hope is just a step, an immediate remedial step. We need a bigger broad-based plan to reduce the reliance on property taxes and use broad-based taxes to solve our financial problems.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, I'll try to be brief. But I listened to all this debt argument, and it's all very interesting.

Senator Padavan and I were here back in 1974 and '75 when the City of New York collapsed under a sea of debt. Senator Dollinger, the alleged amount of our debt is 37 billion in the State of New York. The actually repay debt is somewhere, I

understand, at 30 billion, because of that debt is project-sensitive. For instance, the Thruway debt is paid for out of tolls, so that the taxpayers don't pay it except out of tolls. There's a great deal of debt that is paid for. UDC debt, which is also included.

A number of these debt issues that bounce around -- and by the way, the 37 billion is a little bit deception too, because it's not -- I checked into this sometime ago. Is this actually debt that we have actually acquired? Some of it is not. Some of it is debt that is available but has not necessarily become latched onto the state, as the saying goes.

Remember, the total budget of the State of New York is $78 billion. I only point that out because we are, I think, fifth or sixth in the country in the per-capita debt.

Now, look, is it a lot of debt? Yeah. In 1975, when New York City collapsed, their budget was $14 billion. Their debt was $18 billion. That's a problem. That's why the city collapsed. That's why we set up the

Big MAC. And that's we set up an emergency control board and that's why we did all the things that we did to recontrol the City of New York and get it back on track.

That was indeed a city that really was in deep trouble. The state almost went under. Senator Padavan and I were here when UDC essentially collapsed. In fact, there was a bill done what they call nunc pro tunc, which means it was technically signed after midnight. There were many who told us that if we let UDC collapse, the stock market would collapse, the economy of the country might go with it.

I realize that in a situation like we're in here, where there's been a lot of debt -- and, Senator, I was here during the Cuomo years when we used debt to keep the budget from surging because the Governor did not want to cut some of the taxes that we wanted to cut when we could cut taxes, and yet wanted to do some spending. And the major increase in debt, by the way, came in those years. And I frankly think we'd have been better not to do that if we could have avoided

that.

And I'm not disputing that there are some problems. The state still has a huge surplus, there's no question. We have a bigger surplus, as I understand it, than we do a structural deficit for next year by almost double, maybe triple. That's why when all these groups run around here telling us about structural deficit, what they fail to understand is that we have the money, in effect, in the bank to cover all that stuff. So there is no deficit, really.

Is it good policy? Not necessarily. But one of the pieces of this bill, as you know, has to do with Buffalo. And it has to do with a loan to the City of Buffalo for $45 million. And the details, I know the details of it. The problem is this. If we didn't do this now, the way the Constitution is, and the fact that we have to educate kids, Buffalo and the State of New York would have technically been in the same situation that we were in with Niagara Falls in the Love Canal time. The real responsibility for the Love Canal was the

school district in the Niagara Falls and the City of Niagara Falls, and that's why we eventually bailed out the City of Niagara Falls and the school district.

Same reason here. Because if we didn't move to do something now, the cost could be -- in Buffalo could have been as high as $150 million to $200 million, because it would have gone back to court. Ultimately, they probably would have settled for something less. That "something less" could have been anywhere from $70 to $100 million, which of course the city couldn't pay for, the school district couldn't pay for. So kids wouldn't be taught, school teachers would be laid off.

So who would have to do it? Well, the answer is you know who would have to do it. It would be us.

The only thing I'm pointing out is, and I'm using Buffalo as an example, is that this is a situation where, like it or not, in effect the Constitution and our responsibility to our constituents is involved here. And I don't have to tell you that.

So, sure, we are concerned about

many of the things that are happening here. We are concerned about debt. But the State of New York, I must tell you -- I've been in this Legislature for 28 years. I have seen us go up, and I have seen us go down big time. I saw this state almost go under in 1974, '75, and '76. I saw us in deep trouble in the late eighties.

I'll take this era over those eras anytime you want. Because despite the fact that we may have some debt, we have to pay it off -- and by the way, as I understand, our interest in debt service runs around 4 billion or something in that area on the state side in a $78 billion budget. I point that out. The federal government has a even much more huge problem than we have. We have to be careful.

But the point I'm trying to make is that this is something that a county -- the City of New York, of course, gets a benefit, a couple of other cities -- it's important that it needs to be done at this time. And I agree with you that we should be careful. In a couple of years, as I understand it, we're going to see a rather decided decline in our

debt because a number of the issues are coming up, reissues. What we should do when those reissues come up is let them fall and let our debt drop as much as 5 or 6 billion, I believe, or even more, just because those debts are going to begin running out from a few years ago, because it would be good to begin to bring our debt down.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Just to respond to Senator Volker ever so briefly.

The point Senator Volker makes about what the debt is, if you actually included the Thruway and all the other back-door borrowing debt, the number is actually closer to 90 billion, not 37 billion. The number just explodes when you get into that debt.

And I acknowledge, Senator Volker, that a lot of that has receipts pledged against it and other sources of revenue other than general tax dollars to support.

And the other thing I'll do -- I want to make sure I'm clear about Senator

Volker's work on this bill. I have privately praised Senator Volker for what I consider to be one of those things that as an elected official and a politician I look at it and say, what a really tremendous piece of work to fold the Buffalo teacher problem into this bill.

Which I think is good politics, tremendous community-based advocacy, with Senator Stachowski and Senator Coppola and Senator Rath and others who were able to marry these two concepts that you might at first blush look at and say what do they have in common. Well, they have in common the political exigency of a moment to put together an alliance, an allegiance to do the right thing.

And I've said, Senator Volker, I'm going to vote in favor of this bill. But I still think that the broader issue of debt matching with resources -- if we run into a recession, a lot of cherished things that I think both you cherish, other members of this house cherish, as well as myself, we're going to have to sacrifice. Because we've got a

huge nut to pay off when we talk about paying off and retiring as a state, including our subdivisions, $70 billion, $80 billion in debt. Nassau County debt, MTA debt, these are things that in the long run we may face some very dire consequences.

I'm willing to do it because of the reasons that Senator Volker said. It's the right thing to do now, but around the corner lurks a wolf. And let's hope that the bright sunshine keeps the wolf away from our door a little bit longer. But it's there, and we should realize it.

ACTING PRESIDENT MEIER: Senator Marchi.

SENATOR MARCHI: Mr. President, I welcome the spirit that motivates this Senate in its response, because it's evident to me that there is a determination to lock arms and not allow a further infringement on the credit of this state.

I played more than a cameo role many years ago, about a quarter of a century ago, in the resolution of the crisis in the City of New York. And there were cruel

disciplines that were inflicted at that time because of the enormity of it. The City of New York has never failed to meet its responsibilities under the terms that were then articulated and we anticipated in time in the City of New York, with the strictures that have been applied, that would have phased this out in the year 2008. We anticipated the events that were going to take place.

At that time there was a tendency to say, well, the situation should be allowed to resolve itself and if there was a pain to be suffered, it should be accepted as a resolution. It was not, because we felt that the credit of the state was involved.

And at that time we had the cooperation of Mayor Beame; after that, Mayor Koch, Felix Rodin. Many of you who went through it, and my two colleagues who were with us, and Senator Stafford, who was, rallied to that cause. We had a systemwide response that evoked, I believe, a positive impact on the course of future events.

Some things that were never taken into consideration. We have a fully funded

pension systems. Many states don't have that. That's over a hundred billion dollars in assets that we have that some states don't have.

The other thing is that when they go to market, they market very quickly, because they're very anxious to get our bonds, even in the worst of times. The public was very anxious to know -- to seize on those bonds, because they knew that there was a determination on the part of this state to respond and to respond affirmatively.

So I'd like to see the spirit that prevails here in substance. We may say things around it for a variety of reasons, but this underlying determination, I think, will resolve this problem and hopefully will inure to the conduct of future affairs.

Which are in the balance, in the balance. When you take into consideration the infrastructure that we have undergirded and developed in this state as compared to many states around the country, even the biggest, I think should give us more reason to view with pride than point with alarm.

As alarmed we should be. I think it's very appropriate to be alarmed, because if you abandon your vigilance, you lose the game.

But I think that we can take credit that, again, we reaffirm that faith in this state by responding affirmatively to the challenge that's been posed.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could have the noncontroversial reading of Senate Supplemental Calendar 57B.

ACTING PRESIDENT MEIER: Senate Supplemental Calendar 57B.

The Secretary will read the

noncontroversial calendar.

THE SECRETARY: Calendar Number 1503, by Senator LaValle, Senate Print 1633A, an act to amend the Tax Law, in relation to providing.

ACTING PRESIDENT MEIER: There is a local fiscal impact note at the desk.

Read the last section.

THE SECRETARY: Section 6. This act shall take -

SENATOR COPPOLA: Lay that aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1504, Senator Larkin moves to discharge, from the Committee on Insurance, Assembly Bill Number 2426A and substitute it for the identical Senate Bill Number 2535A, Third Reading Calendar 1504.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1504, by Member of the Assembly Gantt,

Assembly Print Number 2426A, an act to amend the Insurance Law, in relation to coverage.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1505, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 5864A and substitute it for the identical Senate Bill Number 3132A, Third Reading Calendar 1505.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1505 -

SENATOR COPPOLA: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1506, Senator Leibell moves to discharge, from the Committee on Rules,

Assembly Bill Number 5866A and substitute it for the identical Senate Bill Number 3137A, Third Reading Calendar 1506.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1506, by Member of the Assembly Vitaliano, Assembly Print Number 5866A, an act to amend the General Municipal Law, in relation to benefits.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1507, by Senator Velella, Senate Print 3990, an act to amend the General Business Law, in relation to making technical corrections.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section -

SENATOR COPPOLA: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1508, by Senator Marchi, Senate Print 4008A, an act in relation to allowing prior service credit.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1509, by Senator Goodman, Senate Print 4035A, an act to amend the Alcoholic Beverage Control

Law, in relation to imposition of civil penalties.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR COPPOLA: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1510, by Senator Saland, Senate Print 4197, an act to authorize the payment of ordinary disability benefits.

SENATOR PATERSON: Lay the bill aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1511, by Senator Farley, Senate Print 4540A, an act to amend the Banking Law, the Insurance Law, and the General Business Law, in relation to investment.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

SENATOR COPPOLA: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1512, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 8963A and substitute it for the identical Senate Bill Number 4908A, Third Reading Calendar 1512.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1512, by the Assembly Committee on Rules, Assembly Print Number 8963A, an act to amend the Workers' Compensation Law, in relation to authorizing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1513, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 8792B and substitute it for the identical Senate Bill Number 4931A, Third Reading Calendar 1513.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1513, by the Assembly Committee on Rules, Assembly Print Number 8792B, an act to amend the Retirement and Social Security Law, in relation to establishing.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR COPPOLA: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1514, by Senator Seward, Senate Print 5012B,

an act to amend the Executive Law, in relation to creating the emergency services council.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1515, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 1173C and substitute it for the identical Senate Bill Number 5039A, Third Reading Calendar 1515.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1515, by Member of the Assembly Brodsky, Assembly Print Number 1173C, an act to amend the Real Property Law, in relation to

disclosure.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1516, by Senator DeFrancisco, Senate Print 5083A, an act to amend the Town Law, in relation to the establishment of a park district.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1517, by Senator Johnson, Senate Print 5130D, an act to amend the Public Authorities Law, in relation to prohibiting.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act -

SENATOR COPPOLA: Lay this bill aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1518, Senator Leibell moves to discharge, from the Committee on Education, Assembly Bill Number 8370 and substitute it for the identical Senate Bill Number 5785, Third Reading Calendar 1518.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1518, by the Assembly Committee on Rules, Assembly Print Number 8370, an act to amend the Education Law, in relation to submitting and maintaining.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1519, by Senator Hannon, Senate Print 5998, an act to amend the Public Authorities Law, in relation to establishing a moratorium.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1520, by Senator Seward, Senate Print 6176, an act to amend the Public Health Law, in relation to directing the Commissioner of Health.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1521, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 9331A and substitute it for the identical Senate Bill Number 6322A, Third Reading Calendar 1521.

ACTING PRESIDENT MEIER:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1521, by Member of the Assembly Luster, Assembly Print Number 9331A, an act to amend the Education Law, in relation to requiring.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1522, by Senator Padavan, Senate Print 6377, an act to amend the Public Authorities Law, in relation to authorizing -

SENATOR COPPOLA: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1524, Senator Seward moves to

discharge, from the Committee on Rules, Assembly Bill Number 10398A and substitute it for the identical Senate Bill Number 6732A, Third Reading Calendar 1524.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1524, by Member of the Assembly Grannis, Assembly Print Number 10398A, an act to amend the Insurance Law, in relation to rebating.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1525, by Senator Farley, Senate Print 7047A, an act to amend the Banking Law, in relation to the requirements for licensure.

ACTING PRESIDENT MEIER: Read the last section.

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

January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1526, by Senator Velella, Senate Print 7527, an act to amend the Criminal Procedure Law, in relation to the carrying, possession, repair and disposal of firearms.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 60 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Thank you, Mr. President. Extremely briefly.

I can't understand why we would do this bill. It authorizes people to carry guns

in hospitals, when the Health and Hospitals Corporation of the City of New York doesn't think it's the right thing to do, did a pilot program and determined that it wasn't the right thing to do, and we're going to force them to do it.

I vote no.

ACTING PRESIDENT MEIER: Senator Dollinger will be recorded in the negative.

Senator Paterson, to explain his vote.

SENATOR PATERSON: Can we lay this bill aside, Mr. President?

ACTING PRESIDENT MEIER: We'll withdraw the roll call. The bill will be laid aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1527, by Senator Leibell, Senate Print 7547, an act to amend the Not-For-Profit Corporation Law, in relation to the sale or transfer.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1528, by Senator A. Smith, Senate Print 7956, an act to amend Chapter 239 of the Laws of 1995 relating to authorizing the City of New York.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos, that concludes the noncontroversial reading of the supplemental

calendar.

SENATOR SKELOS: Mr. President, I believe Calendar Number 1509 was inadvertently laid aside. Could we call that up at this time.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1509.

THE SECRETARY: Calendar Number 1509, by Senator Goodman, Senate Print 4035A, an act to amend the Alcoholic Beverage Control Law, in relation to the imposition of civil penalties.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe Calendar Number 1526 was inadvertently

laid aside. Could we please call up that bill.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1526.

THE SECRETARY: Calendar Number 1526, by Senator Velella, Senate Print 7527, an act to amend the Criminal Procedure Law, in relation to the carrying, possession, repair and disposal of firearms.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Only if you insist. Yes, Senator Dollinger.

SENATOR DOLLINGER: I don't insist, Mr. President. I think my objections to this bill were noted earlier.

I'd just point out that there was a pilot program, seven years' worth of pilot program, in which none of the officers ever used their guns. And, frankly, they

concluded, the Health and Hospitals Corporation concluded that they wouldn't need them.

I can't understand why we would do it when the people who are going to be protected say "We don't want it."

I vote no.

ACTING PRESIDENT MEIER: Senator Dollinger will be recorded in the negative.

The Secretary will record the negatives and announce the results.

SENATOR ONORATO: Mr. President, if you would recognize Senator Paterson.

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

SENATOR PATERSON: Mr. President, just to explain my vote.

ACTING PRESIDENT MEIER: Senator Paterson, to explain his vote.

SENATOR PATERSON: I vote no, Mr. President.

And the reason is that I understand that 85 percent of the incidents where the peace officers became involved in incidents involved patients who were already presumed

not to have weapons. For the few incidents, and there were apparently very few, that came up where there was outside intervention, very few required the use of firearms.

And again, as Senator Dollinger said, the entity who is policing any activities that would go wrong in the hospitals feels they can do it without the intervention of firearms.

ACTING PRESIDENT MEIER: Senator Paterson will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1526 are Senators Coppola, Dollinger, Duane, Mendez, Onorato, Paterson, Rosado, Sampson, A. Smith, M. Smith, and Senator Stavisky.

ACTING PRESIDENT MEIER: Record the negatives and announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1526 are Senators Coppola, Dollinger, Duane, Mendez, Onorato, Oppenheimer, Paterson, Rosado, A. Smith, M. Smith, and Stavisky. Ayes, 50. Nays, 11.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Calendar Number 1524 was inadvertently laid aside. Could we please call it up at this time.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1524.

THE SECRETARY: Calendar Number 1524, substituted earlier today by Member of the Assembly Grannis, Assembly Print Number 10398A, an act to amend the Insurance Law, in relation to rebating.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President,

could we go to the controversial part of this calendar.

ACTING PRESIDENT MEIER: The Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 1503, by Senator LaValle, Senate Print 1633A, an act to amend the Tax Law, in relation to providing an exemption.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT MEIER: Senator LaValle, Senator Coppola has requested an explanation of Calendar 1503.

SENATOR LAVALLE: Senator Coppola, under present law the commercial fishing vessels are exempted from motor fuel taxes, except they have to pay it and then apply for a refund. So for the average fisherman, they are paying, up front, about $13,000 on average, up front, fill out a form, send it to Tax to get their $13,000 back.

What they are doing is they are fueling up in Connecticut and Rhode Island, thereby hurting local businesses who would

normally sell them this. But, more importantly, it's a burden on our commercial fishermen on Long Island.

SENATOR COPPOLA: Mr. President.

ACTING PRESIDENT MEIER: Senator Coppola.

SENATOR COPPOLA: If the sponsor -- I'd like to ask a question, please.

ACTING PRESIDENT MEIER: Senator LaValle do you yield for a question?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR COPPOLA: Senator, what you're saying is that they'll be paying, then, up front?

SENATOR LAVALLE: This bill is fiscally neutral. Because what they do, as I indicated, is they pay it up front and then apply to Tax and Finance to get that -- the tax that they paid back.

The law -- and I can't tell you the reason. On one hand, we exempt them, so they are exempt from paying this. But we allow them to pay it up front, and then we ask them

to apply to Tax and Finance to get it back.

This legislation says let's stop that game, and an exemption is an exemption is an exemption. So they shouldn't have to pay it up front to only get it back.

SENATOR COPPOLA: So -- Mr. President, I'd like to ask another question.

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

SENATOR LAVALLE: Yes, I will yield.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR COPPOLA: So this will not hurt them, this piece of legislation?

SENATOR LAVALLE: This bill helps them.

SENATOR COPPOLA: What you're trying to do is help them. Like we have the same problem in Buffalo where everybody goes to the Indian reservation and buys their liquor and their cigarettes, and they don't pay the sales tax and it's hurting all of the surrounding businesses in the area. So is this similar to that, Senator?

SENATOR LAVALLE: Senator, I - no, not at all. Because under the law, they are exempt. We as a matter of public policy many years ago established that we wanted to help our commercial fishermen. So we exempt them from the fuel -- paying fuel tax. But for whatever silly reason, they pay it up front and then get a refund back.

This bill would help them. As a matter of fact, I'm just going to read you - I mean, I don't know if I need to spend the time. But I have one letter here from a fisherman who says that they are going to Rhode Island and Connecticut to avoid this silly game that we have imposed upon them in the State of New York.

SENATOR COPPOLA: And you have support, obviously, Senator.

SENATOR LAVALLE: I have broad support, Senator.

SENATOR COPPOLA: Thank you very much, Senator.

ACTING PRESIDENT MEIER: There is a local fiscal impact note at the desk.

Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first day of a sales tax quarterly period.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1504, substituted earlier today by Member of the Assembly Gantt, Assembly Print Number 2426A, an act to amend the Insurance Law, in relation to coverage.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: I believe there's an amendment at the desk.

ACTING PRESIDENT MEIER: Senator Duane, we need a minute to examine the amendment.

SENATOR MONTGOMERY: Mr. President.

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

SENATOR MONTGOMERY: Yes, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar 1526.

ACTING PRESIDENT MEIER: Without objection, Senator Montgomery will be recorded in the negative on Calendar 1526.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: I would ask unanimous consent to be recorded in the negative on Calendar 1141, Senate 7769A.

ACTING PRESIDENT MEIER: Without objection, Senator Schneiderman will be recorded in the negative on Calendar 1141.

SENATOR SCHNEIDERMAN: Thank you.

ACTING PRESIDENT MEIER: Senator Duane, we have -- can we have some order in the house.

Senator Duane, we've examined the amendment. The amendment, in the opinion of the chair, is out of order, inasmuch as it amends the Senate bill, and the Assembly Bill is before the house.

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

ACTING PRESIDENT MEIER: Do you

wish to appeal the ruling of the chair, Senator?

SENATOR DUANE: No, Mr. President, I want to comment on the ruling.

ACTING PRESIDENT MEIER: Well, you have -- no, that would be out of order, Senator.

Senator -- Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I'll bring the amendment forward at another time.

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

SENATOR PATERSON: Mr. President, might we appeal briefly the ruling of the chair?

ACTING PRESIDENT MEIER: Of course.

SENATOR PATERSON: Mr. President, I yield to Senator Duane.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

For far too long, people with

mental illness have also been ruled non-germane. And it's exactly those kinds of insurance policies which deem people with mental illness not to have germaneness to their health policies that continues the discrimination against persons in recovery from mental illness and people who are trying to avoid falling into mental illness.

I'm sad to say that it appears because of this ruling that the State Senate is agreeing with this by claiming that my amendment is out of order.

ACTING PRESIDENT MEIER: The question is on the motion to appeal the ruling of the chair. All those in favor of upholding the ruling of the chair will vote aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MEIER: The ruling of the chair is upheld.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect in 120 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: 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 MEIER: Immediate meeting of the Rules Committee, in the Majority Conference Room.

Can we have some order in the chamber.

Senator Bonacic.

SENATOR BONACIC: Mr. President, can we continue with the controversial calendar, Number 1505, please.

ACTING PRESIDENT MEIER: The Secretary will continue in regular order, beginning with Calendar 1505.

THE SECRETARY: Calendar Number 1505, substituted earlier today by Member of

the Assembly Vitaliano, Assembly Print Number 5864A, an act to amend the Retirement and Social Security Law, in relation to retirement plans.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT MEIER: Senator Leibell, Senator Coppola has requested an explanation of Calendar 1505.

SENATOR LEIBELL: Yes, Mr. President.

This bill would add a new section, 89U, to the Retirement and Social Security Law. Specifically, the bill would allow a county which has adopted a 25-year retirement plan for sheriffs, undersheriffs, deputy sheriffs, or correction officers to elect to provide an additional benefit of one-sixtieth of final average salary, the FAS, for a year of service in excess of 25 years.

Members would be limited to a cap of 15 additional years, making the addition up to 25 percent of FAS. It's a local option bill.

SENATOR COPPOLA: Thank you.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Order in the chamber, please. If you have a conversation, take it outside.

Will the sergeant-at-arms close the door, please.

THE SECRETARY: Calendar Number 1507, by Senator Velella, Senate Print 3990, an act to amend the General Business Law, in relation to making technical corrections.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT MEIER: Senator Bonacic.

SENATOR BONACIC: Mr. President, can we lay that aside temporarily and proceed to Calendar Number 1511, please, Senator

Farley's bill.

ACTING PRESIDENT MEIER: Calendar 1507 will be laid aside temporarily.

The Secretary will read Calendar 1511.

THE SECRETARY: Calendar Number 1511, by Senator Farley, Senate Print 4540A, an act to amend the Banking Law and others, in relation to investment and insurance activities.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT MEIER: If the members have a bill on the calendar, would they please come to the chamber so that we can proceed through the calendar.

Senator Bonacic, I believe Senator Farley is in the Rules Committee meeting.

SENATOR BONACIC: We ask that that be temporarily laid aside and proceed to Calendar Number 1510, please.

ACTING PRESIDENT MEIER: 1511 will be temporarily laid aside.

The Secretary will read Calendar 1510.

THE SECRETARY: Calendar Number 1510, by Senator Saland, Senate Print 4197, an act to authorize the payment of ordinary disability benefits.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT MEIER: Senator Saland, Senator Coppola has requested an explanation.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this bill would provide for the acceptance posthumously of the New York State retirement option form completed by Mr. Kim Harvey.

Mr. Harvey was a state employee in his mid-40s who was out on disability. His condition apparently deteriorated. He completed a retirement option, exercising an option making his wife his beneficiary for purposes of his benefits. And unfortunately -- and he not only signed it, but it was notarized. Unfortunately, in the events -- during the course of events surrounding his last illness, it was not

mailed until after he had died.

It was subsequently mailed and received, and the retirement system was unwilling to accept it under those circumstances.

And this basically is an effort at equity to try and ensure that this notarized statement completed prior to his death would be accepted, and thereby ensuring that his wife would receive his death benefits.

SENATOR COPPOLA: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bonacic.

SENATOR BONACIC: Mr. President, the remaining four bills on the controversial

calendar are by members who are presently attending a Senate Rules meeting. And we'd just ask that we stand at ease till that meeting is over and those members can address those bills when they come back.

ACTING PRESIDENT MEIER: The Senate will stand at ease pending the adjournment of the Rules Committee meeting.

SENATOR BONACIC: Thank you, Mr. President.

(Whereupon, the Senate stood at ease at 5:40 p.m.)

(Whereupon, the Senate reconvened at 5:45 p.m.)

ACTING PRESIDENT MEIER: Senator Bonacic.

SENATOR BONACIC: Mr. President, can we now go on the controversial calendar to Number 1507, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1507.

THE SECRETARY: Calendar Number 1507, by Senator Velella, Senate Print 3990, an act to amend the General Business Law, in relation to making technical corrections.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT MEIER: Senator Velella, an explanation has been requested of Calendar 1507 by Senator Coppola.

SENATOR VELELLA: Yes, Senator, this is exactly what the caption indicates. It's a technical correction.

When we passed the bill I believe a year ago or two ago, it made reference in that bill to the General -- the General Business Law, which prohibited the pawning of any weapon or instrument, as enumerated in Section 265.05 of the Penal Law. That was an error, and it should have read Section 265.00 of the Penal Law, which defines certain weapons. Section 265.05 refers to juvenile offenses.

So the reference in our original legislation which amended Section 47 of the General Business Law amended the wrong section. And this was a bill that was sent to me by the New York State Police to recommend that change and correction, as it was in error when we originally passed the bill.

SENATOR COPPOLA: I'm glad they

caught that mistake, Mr. President. Thank you.

SENATOR VELELLA: Senator, we're ever vigilant.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1511, by Senator Farley, Senate Print 4540A, an act to amend the Banking Law, the Insurance Law, and the General Business Law, in relation to investment and insurance activities.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT MEIER: Senator Farley, Senator Coppola has requested an explanation of Calendar 1511.

SENATOR FARLEY: Thank you, Mr. President.

Senator Coppola, in November of 1999 Congress passed the Gramm-Leach-Bliley Act, and this overhauled the nation's financial laws and removed many of the statutory barriers to affiliations between banks, security firms, insurance companies. In addition, this federal law preempts state restrictions on affiliations between financial companies.

Now, New York State law currently contains many limitations on affiliations between banks, security firms, and insurance companies. Federal laws supersede these laws. However, in order to clean up the law and to resolve any uncertainty or questions about the applicability of these laws, this bill would enact several technical and conforming amendments which are consistent with federal law.

All we're doing is making our law consistent with federal law, which it has to be because it's superseded. It's rather confusing if we have laws on the books which

are not effective.

For example, this bill -- the bill repeals New York's "mini Glass-Steagall Law," which restricts affiliations between banks and security firms, and it also limits affiliations between banks and insurance companies. It ensures that banks which engage in security activities are subject to the same regulations that apply to other security dealers.

Why was this bill amended just recently? I'm anticipating a question. Because there's other sections of the laws which are affected, and it just corrected them. It's more or less a conformity law and a cleanup bill. It's kind of technical.

SENATOR COPPOLA: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will read Calendar 1517.

THE SECRETARY: Calendar Number 1517, by Senator Johnson, Senate Print 5130D, an act to amend the Public Authorities Law, in relation to prohibiting.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT MEIER: Senator Johnson, Senator Coppola has requested an explanation of Calendar 1517.

SENATOR JOHNSON: Thank you, Mr. President.

Senator Coppola, this bill provides -- well, you may be aware that we have the national program called 1 Million Solar Roofs. And this state has similar encouragement for photovoltaics and alternative energy sources.

A bill passed last year that said if you hook up an alternative source of energy such as photovoltaics, you can do so and

actually turn your meter back during the day, generate additional electricity, and save some money.

But if you disconnect completely from the power grid and have your own source of energy, then the utilities generally charge you a substantial exit fee for getting off the line, because you're not using their service anymore.

This tactic by utilities discourages people from going into alternative energy, because it's not as cost-effective if you have an additional cost just -- besides the installation, the cost of disconnecting and paying the utility for that.

Now, we don't have a traditional utility on Long Island, we have what is called the Long Island Power Authority. And so this amends a different part of the law from the Utilities Law. But it essentially says they cannot charge us an exit fee if we decide to use alternative energy to save energy for others on the power grid if we have our own source of energy.

That's all it does. It's really

another encouragement to what we would like to do environmentally.

ACTING PRESIDENT MEIER: Senator Coppola.

SENATOR COPPOLA: Mr. President, a question for the sponsor, please.

ACTING PRESIDENT MEIER: Senator Johnson, do you yield for a question?

SENATOR JOHNSON: Yes.

SENATOR COPPOLA: Senator, was this part of the power choice that was implemented by the Public Service Commission two years ago?

SENATOR JOHNSON: I'm sorry, Senator, it's very hard to hear over here with the door open. Would you please repeat your question?

SENATOR COPPOLA: Was this part of the power choice agreement that was done with the Public Service Commission and all the utility companies in New York State when you pay the exit fees? Is that part of that?

SENATOR JOHNSON: I'm not familiar with the agreement to which you're making reference.

This is strictly limited to the Long Island Power Authority. They're not under the supervision of the Public Service Commission.

SENATOR COPPOLA: Well -- they're not under the supervision of the Public Service Commission?

SENATOR JOHNSON: That's correct. Because they're not a utility, they're an authority. Everyone in -- the chairman who released the bill understands it. Senator Wright understands the difference.

And this bill is designed in such a way it doesn't affect anyone except Long Island Power Authority. And they are unique in that respect.

SENATOR COPPOLA: Mr. President, another question, please.

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

SENATOR JOHNSON: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR COPPOLA: Senator, I'm just trying to distinguish between your

electric supplier and our electric supplier. We also have an exit fee that was imposed on us by the Public Service Commission. But your supplier is an authority, and they took it upon themselves to do it, so you're overruling the authority.

SENATOR JOHNSON: I believe you're inaccurate.

SENATOR COPPOLA: Well, then, would you please -- how are you implementing, then, this bill and overruling the exit fee with the authority? That's what I'm trying to understand. I'm not trying to argue with you, I'm trying to understand how you're correcting that.

And I agree with you that they shouldn't be charged an exit fee to go someplace else.

SENATOR JOHNSON: Senator, may I address a question to you?

SENATOR COPPOLA: Sure.

SENATOR JOHNSON: What is the name of your power company?

SENATOR COPPOLA: Niagara Mohawk.

SENATOR JOHNSON: Then I think

you should deal with Niagara Mohawk and get the same thing done for your utility customers.

SENATOR COPPOLA: Well, that's not my point, Senator.

ACTING PRESIDENT MEIER: Senator Coppola, would you address the chair, please.

SENATOR COPPOLA: Mr. President, I would like to know how this is being implemented, when -

ACTING PRESIDENT MEIER: Do you wish Senator Johnson to yield for another question?

SENATOR COPPOLA: Please.

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

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR JOHNSON: Well, I don't know what further question you have for me, Senator. What is your further question?

SENATOR COPPOLA: Well, it's my understanding that an authority is not

obligated to a government. And my point is they make their own rules and regulations.

So with your bill, you are now correcting that mistake of the exit fee that's charged to the ratepayers in your district. Am I correct?

SENATOR JOHNSON: Presently there's no exit fee being charged. The present management of the authority sets their own rates and their own conditions. They've assured us they're not going to do it. But that administration may not be there forever. So we'd like to get this in law as well as depend on the goodwill of the administrator of the power authority.

They set their own rates. No one tells them they have to or they cannot or they can charge this fee. Except this law.

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

ACTING PRESIDENT MEIER: Senator Johnson, do you yield for another question?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR COPPOLA: If they set their own rates, how is this bill going to go into effect if they are setting their own rates? That's all I'm asking. Can you clear that up?

SENATOR JOHNSON: Because we are putting a constraint in one aspect of their rate setting, in order to protect our ratepayers and to encourage the use of alternative energy.

And I think it's a good bill, Senator. You should definitely support it.

SENATOR COPPOLA: I agree with you, Senator. What I'm asking, though, is will this bill, will this bill overrule the authority and will this bill have some teeth in it and stop them from doing what you are now trying to do? Because they are an authority.

SENATOR JOHNSON: They have not imposed any exit fees to date. My counsel, who drafted this bill, said this will assure there are no exit fees in the future beyond what is -- I mean, for a conversion to

photovoltaics or alternative energy fuel cells.

There will be no fee there, they would not be paid for anybody who didn't just disconnect for any normal reason, like we sold the house, we moved out, or whatever. No special exit fee penalizing you for converting to an alternative source. That's a very important factor, I think.

SENATOR COPPOLA: Thank you, Senator.

On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Coppola, on the bill.

SENATOR COPPOLA: The Senator is absolutely right. No one should be charged an exit fee for leaving and going someplace else. And that's what he's trying to do in the future. But his job is he has an authority to deal with, as opposed to of the other companies around who have the exit fee.

That's all I was trying to point out that, there are these exit fees. And I don't know if the authority should respond to this bill, because they're an authority and

there's a legal question there. And I really don't know if that's clear with the bill. And that's all I was trying to point out, Mr. President.

Thank you. I support the bill, by the way.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Senator LaValle.

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

ACTING PRESIDENT MEIER: Let us call the roll, Senator.

SENATOR LAVALLE: Yup, absolutely.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR LAVALLE: Mr. President, I rise to congratulate Senator Johnson on this

legislation. It's very important. People should not be penalized an exit fee, particularly in an environment where new technology is readily available.

I vote in the affirmative.

ACTING PRESIDENT MEIER: Senator LaValle will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will call up Calendar Number 1513.

THE SECRETARY: Calendar Number 1513, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8792B, an act to amend the Retirement and Social Security Law, in relation to establishing.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT MEIER: Can we have some order, please, so we can get through the calendar.

Senator Spano, Senator Coppola has requested an explanation of Calendar 1513.

SENATOR SPANO: Thank you, Mr. President.

This bill is referred to as the firefighters' cancer bill. With the increase in cancer in firefighters that's due to the harmful carcinogens and chemicals that are being involved with fires that directly cause these cancers, all this bill does is presumes that a firefighter's disability or death from cancer was caused by an accident, not caused by the firefighter's negligence.

SENATOR COPPOLA: Thank you.

ACTING PRESIDENT MEIER: Read the last section.

Senator Duane.

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

ACTING PRESIDENT MEIER: Senator Spano, do you yield for a question?

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you very

much.

I want to preface my question by saying that generally I am supportive of bills which make presumptions regarding firefighters' health, particularly those having to do with the lungs and also those having to do with skin.

However, I'm just wondering if the sponsor could just provide some of the causes which -- some of the illnesses, cancer-related illnesses, that would be presumed to be caused by on-the-job performance in this bill.

SENATOR SPANO: It's the -- what we're looking at are the chemical products, the plastics that have come to start being used over the past two decades that have really resulted in a change in the nature of the type of fires that firefighters have had to fight.

So, I mean, it's the carcinogens as a result of the new type of plastics that have been introduced into the -- into buildings.

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

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

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: And the sponsor believes that it would be presumed that for all firefighters that a melanoma would be caused by their coming into contact with these chemicals?

And, frankly, I'm not so familiar with dermatology and oncology to know whether that's true. I associate melanoma more with exposure to the sun than to heat.

SENATOR SPANO: The answer to your question would be yes, Senator, that with -- especially with the new synthetic chemicals, with the plastics that have been introduced, the studies have shown that there's much more of a chance of firefighters coming down or getting cancer as a result of their exposure.

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

ACTING PRESIDENT MEIER: Senator Spano, do you yield?

The sponsor yields.

SENATOR DUANE: Who would it be who would potentially call into question in such a disability case that it was caused by these chemicals or plastic knockoffs? In other words -

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

SENATOR DUANE: Who would call into question this presumption that a melanoma or another condition had been caused by one of the new chemicals or the burning of the plastic or something like that? Would it be a fire department doctor?

Or how would that -- if there was some skepticism that the melanoma was an on-the-job disability, who would start that action?

SENATOR SPANO: The purpose of this bill is that we would not need anybody to call into question, that it would be deemed to be an accidental cause and not through the - through any type of -- not caused by any

negligence on the part of the firefighter.

SENATOR DUANE: Through you, Mr. President, just to clarify what my question is about. The bill says -- oh, I'm sorry, it actually is not in the bill. I'm reading from the fiscal note. So I apologize for that.

But what intrigued me about the fiscal note, it says "unless the contrary be proven by competent evidence." And I'm wondering how it is that that evidence could be introduced.

SENATOR SPANO: That language is also in the bill, Senator.

If there were evidence that a fire department or a doctor that was representing the fire department wanted to introduce, they would have the opportunity to introduce that type of evidence to dispute the claim.

What we wanted to do is give adequate protection to the overwhelming number of firefighters who are exposed during the course of their duties but at the same time give the opportunity, if someone felt that there was overwhelming, clear, convincing evidence that could disprove the claim, give

those departments the opportunity to come in and do that.

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

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

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: And so it would be up to a fire department doctor to make that contrary claim? I'm not -- that's what I'm trying to get at, who makes the contrary claim.

SENATOR SPANO: It would be a decision made by the disability system.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: Do you wish Senator Spano to yield?

SENATOR DUANE: Yes, please.

ACTING PRESIDENT MEIER: Senator Spano, do you yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: The fire department's own disability system?

SENATOR SPANO: It could be - the way the process would work, it could be a doctor that is -- has been assigned to the case. There would be -

SENATOR DUANE: By whom?

SENATOR SPANO: It could also be the -- let me talk to counsel.

In the cases -- as I'm advised by counsel, it would be the doctors that were assigned to the case who would then make this case.

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

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

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: By a doctor assigned by the fire department? Would they

be a fire department doctor or an outside doctor? Who is the doctor assigned by, and who do they belong to? Who do they work for?

SENATOR SPANO: It would be a doctor that's independent, an independent doctor assigned to look at disability cases of firefighters.

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

ACTING PRESIDENT MEIER: Senator Spano, do you yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Who would they be assigned by?

SENATOR SPANO: Who would they be decided by?

SENATOR DUANE: Assigned by. Who makes the assignment of the doctors?

SENATOR SPANO: The assignment of the doctors -- the assignment -- we're not - the honest answer is I'm not sure who makes the assignment of the doctor. We don't change

that. But the assignment of the doctor would be made by the fire department. And where they have independent physicians who are in the position of evaluating cases, disability cases, that are presented to each department.

SENATOR DUANE: Thank you, Mr. President.

SENATOR SPANO: Also, Senator, I think the Comptroller, the Comptroller of the state plays a role in the assignment of the doctors as well, as a check and balance in the system.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR DUANE: Mr. President, on the bill. I mean, to explain my vote.

ACTING PRESIDENT MEIER: To explain your vote.

SENATOR DUANE: I have to say I'm very torn on this. So I'm going to, within my I hope less than two minutes, decide my vote.

I am very, very sympathetic to the dangers that firefighters face every day in saving lives. I'm extremely concerned about what happens when they are unable to work to protect us any longer.

It does strike me, though, that this is an issue that would be better left to collective bargaining, and it's an issue which would be better determined in a more objective manner than having to prove that the cancer was not caused by a fire-related situation.

I totally understand and agree with lungs and other things, but firefighters wear protective gear. Certainly in the city of New York, they wear protective gear.

And so I -- I'm going to vote no on this. And in no way to denigrate or be unsympathetic to the wonderful work that firefighters do, but I believe that we need more -- a more finely tuned bill than this one to make it so that we can show that a melanoma or other malady is in fact caused by

on-the-job dangers.

Thank you, Mr. President.

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

The Secretary will announce the results.

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

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will read Calendar 1522.

THE SECRETARY: Calendar Number 1522, by Senator Padavan, Senate Print 6377, an act to amend the Public Authorities Law, in relation to authorizing the Triborough Bridge and Tunnel Authority.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT MEIER: Senator Padavan, Senator Hevesi has requested an explanation of 1522.

SENATOR PADAVAN: Thank you, Mr. President.

This bill would permit police

officers in the City of New York to travel the city without paying tolls on our bridges and tunnels.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Mr. President, would the sponsor yield for a few questions?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Senator Padavan, is there a requirement in this legislation that only tolls which are necessary for on-duty performance of the police officer's job are exempt?

SENATOR PADAVAN: No. No.

SENATOR HEVESI: Thank you.

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

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Senator Padavan,

am I to then understand that if this legislation is enacted it is possible for, let's say, a New York City police officer who lives in Nassau County and goes to vacation in the Catskills not to have to pay the toll either way on the Throgs Neck Bridge?

SENATOR PADAVAN: Yes.

SENATOR HEVESI: Mr. President, one final question.

ACTING PRESIDENT MEIER: Senator Padavan, do you yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Senator. Can you give me an idea of the fiscal implication that this might have for the TBTA?

SENATOR PADAVAN: No.

SENATOR HEVESI: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: Mr. President, I appreciate Senator Padavan's brief answers. I

would also answer them briefly.

This is really beyond the pale. And just to give a sense to my colleagues of the fiscal implications of this, I have performed a very sketchy, unscientific and unbelievably conservative fiscal estimate of what this might cost.

Since there are 40,000 New York City police officers, and somewhere in the neighborhood of 40 percent of them live outside of the City of New York, I automatically excluded the 60 percent who live in the city. So let's take the 40 percent who live outside of New York City. That's 16,000 police officers.

If we assume that each one of them will only make one round trip into the city and back, and they use the discounted E-ZPass, so it's not $7 for the round trip, it's $6, if they do one a week, all 16,000 of them, that will cost $4,992,000 per year. And that is an unbelievably conservative estimate.

This is more likely to cost somewhere in the neighborhood of $25 million to $30 million a year. And, you know, I don't

even know if I would consider this if it had an exemption in here that police officers while performing their duty should get the toll. I don't even know if I would do that. That's probably better left to collective bargaining.

Because from my own experience, I expend on E-ZPass, with the discount, somewhere in the neighborhood of between $800 and $1,000 a year to travel between the five boroughs of the City of New York. Which is outrageous to begin with.

So that's what we're talking about here. And I don't know how we would be able in good conscience to go back to our constituents and say we gave a huge tax break to police officers so that they can go through New York City on to vacation or, when they're coming in from Nassau County -- as so many of our wonderful police officers live -- into Manhattan, over the Mid-Town Tunnel or under the Mid-Town Tunnel, so that they can have dinner in the city, that they don't have to pay the toll anymore.

I mean, this is just outrageous.

Beyond the pale. And with all due respect to New York City police officers, who are the finest police officers in the world, this is something that should not be given to them. It should not be given to anyone in this fashion. It cannot be justified fiscally. It cannot be justified on the merits or on the substance. It's just wrong. And in my short time here in the New York State Senate, this one, next to the commuter tax repeal, this one takes the cake.

I will be voting no.

ACTING PRESIDENT MEIER: Senator Paterson.

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

ACTING PRESIDENT MEIER: Senator Padavan, do you yield for a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Senator, I just have to confide in you that this is beyond the pale.

(Laughter.)

SENATOR PADAVAN: You have to what?

SENATOR PATERSON: Confide in you that this is beyond the pale. And now, given Senator Hevesi's comments, three pales and you're out.

Senator, this I assume is analogous to the idea we had some years ago to allow for the police to ride the subways for free. Am I not correct?

SENATOR PADAVAN: Yes.

SENATOR PATERSON: But when the police are riding the subways, that already assumed that they were in the jurisdiction; is that correct?

SENATOR PADAVAN: Yes.

SENATOR PATERSON: What we're doing now is we're trying to find a way to take them outside of the jurisdiction to bring them into the jurisdiction. I guess that's the basis of the bill?

SENATOR PADAVAN: No.

SENATOR PATERSON: Madam President -- I mean Mr. President.

ACTING PRESIDENT MEIER: Yes.

SENATOR PATERSON: You know, ever since we passed this resolution calling for equity in the Constitution, I feel that half the time I should say "Madam President" regardless of who the president is.

(Laughter.)

SENATOR PATERSON: That makes up for the failure of this Senate to coincide with the number of women that should serve here.

But putting that aside, if Senator Padavan would yield for a question.

SENATOR PADAVAN: Yes.

SENATOR PATERSON: What is the basis of this bill?

SENATOR PADAVAN: As previously explained.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: While I'm consulting the seer or the shaman or whoever can tell me what the basis of the bill is, I wondered if Senator Paterson would yield for another question.

ACTING PRESIDENT MEIER: Senator Padavan, do you yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Senator, if there is this willingness to provide for this special honor that would be bestowed on police officers, why would we not just negotiate that into their contract?

SENATOR PADAVAN: All right, Senator, let me be a little bit more erudite and get away from the yeses and nos, only because you're such a dear friend and a close ally and we get often confused for each other.

The fact remains, yes, there are probably occasions when a police officer would be going over the Throgs Neck Bridge or the Whitestone Bridge or the Triborough Bridge and not going to employment, not going to his precinct, perhaps going, as someone said earlier, to have a dinner someplace. But much of the time he would be going to his place of employment, meaning to a precinct in the Bronx or over the Triborough Bridge to a precinct in

Harlem, in your district. This bill would preclude him having to pay a toll. Him or her.

Now, police officers do not get different salaries depending on where they are in the city of New York. If a police officer lives in Queens and works in a precinct in Queens, obviously he pays no tolls. But if he's assigned to a precinct in the Bronx and he lives in Queens, then he will. Or if he's in Brooklyn and he's assigned to Staten Island, then he'll have to go over the Verrazano Bridge, and he will. So what we're trying to do is deal with that inequity.

Secondly, I think as you pointed out, quite properly, that when police officers are in the subway system, they provide a level of security. Because, as you know, a police officer in the City of New York is always on duty. He must always respond to an illegality that takes place when he's aware of it, wherever he may be.

So obviously that would relate to him driving over the Triborough Bridge, sitting in traffic -- as we often are -- and

an incident occurs, he is there. So in a sense, there is a similarity.

He would be in the jurisdiction on any of those bridges of the City of New York. If he's going over the Whitestone or the Throgs Neck, he's somewhere between Queens and the Bronx. If he's going over the Triborough, he's between Queens and Manhattan. And if he's going over the Verrazano, he's between Brooklyn and Staten Island. So he is in the jurisdiction at all times.

So those, fundamentally, are the reasons.

Yes, there would be a preference if we could somehow do this. But I think it's impossible to have specific times and dates and so on and reimbursement as we do. But the fact remains, I think that would be impractical. And I would quarrel with the calculations as to the volume of occasions where the nontoll policy would result to a cost of the magnitude previously outlined.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr.

President. On the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: There are times when we ask questions on legislation to elicit responses that we want put on the record. But I'd have to say that this is somewhat of an exception.

I am actually indebted to Senator Padavan, because his further explanation of the bill to me beyond that that he gave to Senator Hevesi makes me understand exactly what the bill is about.

I thought previously that the primary notion was to try to bring more police officers into the city and to make it easier for them to be in the city. And although Senator Padavan does admit that that might be a by-product of the bill, it's really ancillary to the true meaning of the actual bill itself.

What Senator Padavan is in effect saying is we are not only not going to have a residency requirement in New York City, but we are going to add to that by making it easier

for those who live outside the jurisdiction to travel into the jurisdiction to come to work. So in other words, we're going to reward those officers who live the furthest away from their precincts by giving them free passage through our toll systems to actually get to work.

I think that is very much anathema to the spirit that we would want police officers, because we asked them to be on duty 24 hours a day, as Senator Paterson - Padavan -- I'm Senator Paterson -- averred. I think that what we really would want to do is to provide for all those encouragements making the officers feel more comfortable living in the actual areas in which they work -- not in the actual precinct, but in the city in which they work.

So what my original understanding of the bill was was actually enhanced by Senator Padavan's explanation. I agree with Senator Hevesi. I don't know whether those numbers -- and I don't think he tried to say those numbers were absolutely accurate. But in a cursory way, he gave us a very conservative estimate of how much this would

cost the city.

But I think that the expenditure in terms of dollars only pales in comparison to what it means to have New York City taxpayers in a sense being part of the sponsoring of individuals who, had they been living in the city, would have been on duty and there'd be more of them to perhaps stop crimes more of the time than what we have now, which is really what would be a state-sponsored living condition outside of the city.

Now, I grew up in Nassau County, where in most jurisdictions the police officers have to live where they work. You can't do anything in Nassau County unless you actually live there. The only way to get to a beach, a private beach in Nassau County if you're not a resident is to be born in the water.

So it's my opinion that if Senator Hevesi's point was correct, that this bill is actually beyond beyond the pale. So I obviously would urge a no vote on this bill. With the consent of Senator Padavan, of course.

ACTING PRESIDENT MEIER: Senator Marchi.

SENATOR MARCHI: I thought Senator Paterson was reinforcing my support of Senator Padavan.

But I think that the welcome presence and the easy access to law enforcement people who have experience and are more apt to not overreact but to emphasize the -- and reinforce the security that would flow from their very presence and their access to all parts of the city I think speaks eloquently for Senator Padavan's bill.

And you reinforced my views in an opposite direction. But I think we both identified areas that make this bill even more desirable.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator

Dollinger, why do you rise?

SENATOR DOLLINGER: Just to explain my vote, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: I'm persuaded by the comments of my colleagues Senator Hevesi and Paterson.

It seems to me that what this bill does, this is another time where we're inadvertently encouraging sprawl. We're telling people who work in cities that it's okay to live outside the city, because we're going to make it less expensive for you to get to work. We're going to remove part of the cost of living further away from the city.

I point out to everybody that under the IRS rules, nobody gets to deduct the cost of their commuting. We shouldn't be subsidizing commuting so that people can live further away from the place that they work.

If you believe in residency laws, this seems to me to take a step back from those, further back and further away from them.

I vote no.

ACTING PRESIDENT MEIER: The Secretary will record the negatives and announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1522 are Senators Breslin, Connor, Coppola, Dollinger, Duane, Hevesi, Montgomery, Onorato, Oppenheimer, Paterson, Rosado, Sampson, Schneiderman, A. Smith, M. Smith, Stachowski, Lachman, and Mendez. Ayes, 43. Nays, 18.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bonacic, that completes Senate Supplemental Calendar 57B.

SENATOR BONACIC: Thank you, Mr. President. I'd ask that we return to the reports of standing committees. I believe there's a Rules Committee report at the desk. And I ask it to be read.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

following bills:

Senate Print 6301, by Senator Paterson, an act authorizing the City of New York;

7093, by Senator Velella, an act to amend the General Business Law;

7099, by Senator LaValle, an act to amend the Environmental Conservation Law;

7172A, by Senator Morahan, an act to amend the Energy Law;

7284A, by Senator Marcellino, an act to amend the Environmental Conservation Law;

7559, by Senator Kuhl, an act to amend the Penal Law;

7686, by Senator Bonacic, an act to amend the Environmental Conservation Law;

7737, by Senator Hannon, an act to amend the Civil Service Law;

7835, by Senator Larkin, an act to establish a library district.

7850, by Senator Larkin, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law;

7881A, by Senator Nozzolio, an act

to amend the Vehicle and Traffic Law;

7882, by Senator Nozzolio, an act to amend the Correction Law and the Penal Law;

7908B, by Senator Volker, an act to amend the Public Authorities Law;

7924A, by Senator Volker, an act to amend the Vehicle and Traffic Law and the State Finance Law;

7929, by Senator Seward, an act to authorize the City of Cortland;

7946, by Senator Volker, an act to authorize the reopening;

7973, by Senator Larkin, an act to amend the Tax Law;

7996, by Senator Larkin, an act to amend the Executive Law;

8034, by Senator Stafford, an act to amend the Town Law;

And 8042, by Senator DeFrancisco, an act to amend the Economic Development Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Bonacic.

SENATOR BONACIC: I move to

accept the report of the Rules Committee, please.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report is accepted.

Senator Bonacic.

SENATOR BONACIC: Mr. President, I ask that we now take up the noncontroversial calendar for Supplemental Calendar 57C, please.

ACTING PRESIDENT MEIER: With regard to Supplemental Calendar 57C, the Secretary will read the noncontroversial calendar.

Senator Duane, why do you rise?

SENATOR DUANE: Mr. President, could we wait till we at least get the calendar on our desks?

ACTING PRESIDENT MEIER: Yes, we

could.

I'm sorry. Senator Stavisky.

SENATOR STAVISKY: Mr. President, I request unanimous consent to vote no on Calendar 1522.

ACTING PRESIDENT MEIER: Without objection, Senator Stavisky will be recorded in the negative on Calendar 1522.

SENATOR STAVISKY: Thank you.

ACTING PRESIDENT MEIER: You're welcome.

The calendars have been placed on the members' desks.

The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 1529, by Senator Paterson, Senate Print 6301, an act authorizing the City of New York to reconvey its interest.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1530, by Senator Velella, Senate Print 7093, an act to amend the General Business Law and the Penal Law, in relation to collateral loan brokers.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR COPPOLA: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1531, by Senator LaValle, Senate Print 7099, an act to amend the Environmental Conservation Law, in relation -

SENATOR BONACIC: Please lay it aside for the day.

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

THE SECRETARY: Calendar Number 1532, by Senator Morahan, Senate Print 7172A,

an act to amend the Energy Law, in relation to energy -

SENATOR COPPOLA: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1534, by Senator Kuhl, Senate Print 7559, an act to amend the Penal Law, in relation to defenses.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1535, by Senator Bonacic, Senate Print 7686, an act to amend the Environmental Conservation Law, in relation to permits for mining.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR COPPOLA: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to

Calendar Number 1536, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 11035 and substitute it for the identical Senate Bill Number 7737, Third Reading Calendar 1536.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1536, by the Assembly Committee on Rules, Assembly Print Number 11035, an act to amend the Civil Service Law, in relation to the determination.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1537, by Senator Larkin, Senate Print 7835 -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1538, by Senator Larkin, Senate Print 7850, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law, in relation to the compensation of directors.

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1539, by Senator Nozzolio, Senate Print 7881A, an act to amend the Vehicle and Traffic Law, in relation to minimum dimensions.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1540, by Senator Nozzolio, Senate Print 7882, an act to amend the Correction Law and the Penal Law, in relation to the conditional release.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1541, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 11104B and substitute it for the identical Senate Bill Number 7908B, Third Reading Calendar 1541.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1541, by the Assembly Committee on Rules, Assembly Print Number 11104B, an act to amend the Public Authorities Law, in relation to authorizing the Roswell Park Cancer Institute.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1542, by Senator Trunzo, Senate Print 7924A, an act to amend the Vehicle and Traffic Law and the State Finance Law, in relation to special license plates.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1543, by Senator Seward, Senate Print 7929, an act to authorize the City of Cortland to amend the city charter.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1544, by Senator Volker, Senate Print 7946, an act to authorize the reopening of the optional twenty-year retirement plan.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1545, by Senator Larkin, Senate Print 7973, an act to amend the Tax Law, in relation to the imposition of a hotel and motel tax.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1546, by Senator Larkin, Senate Print 7996.

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

SENATOR PATERSON: Mr. President, on the previous bill I believe Senator Dollinger voted in the negative.

SENATOR DOLLINGER: I was

recorded in the negative on 1545, Mr. President.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative with regard to Calendar 1545.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1546, by Senator Larkin, Senate Print 7996, an act to amend the Executive Law, in relation to the use of unmarked cars.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1547, by Senator Stafford, Senate Print 8034, an act to amend the Town Law, in relation to a publicity fund.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I'd like unanimous consent to be recorded in the affirmative on Calendar Number 1513, S4931A.

ACTING PRESIDENT MEIER: Without objection, you will be so recorded.

SENATOR DUANE: Thank you, Mr. President.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1548.

THE SECRETARY: Calendar Number 1548, by Senator DeFrancisco, Senate Print 8042, an act to amend the Economic Development Law, in relation to authorizing cross-border tourism promotion.

SENATOR COPPOLA: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

Senator Bonacic, that concludes the reading of the noncontroversial portion of Supplemental Calendar 57C.

SENATOR BONACIC: Mr. President, could we proceed with the controversial Supplemental Calendar Number 57C.

ACTING PRESIDENT MEIER: The Secretary will read the controversial calendar.

SENATOR BONACIC: Thank you.

THE SECRETARY: Calendar Number 1530, by Senator Velella, Senate Print 7093, an act to amend the General Business Law and the Penal Law, in relation to collateral loan brokers.

SENATOR COPPOLA: Explanation.

SENATOR BONACIC: We ask it that be laid aside temporarily.

ACTING PRESIDENT MEIER: Lay it aside temporarily.

The Secretary will continue to rode.

THE SECRETARY: Calendar Number 1532, by Senator Morahan, Senate Print 7172A, an act to amend the Energy Law, in relation to

energy efficient appliances.

SENATOR COPPOLA: Explanation.

ACTING PRESIDENT MEIER: Senator Morahan, an explanation has been requested by Senator Coppola of Calendar 1532.

While Senator Morahan is getting ready, may I ask members who have bills on the calendar to come to the chamber.

SENATOR MORAHAN: Yes, Mr. President.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: This bill requires the New York State Energy Research and Development Authority, in consultation with the Office of General Services, OGS, to establish minimum efficiency standards for appliances purchased by or for the state or by any other of its agencies or public authorities.

SENATOR COPPOLA: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you kindly call up Calendar Number 1548, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1548.

THE SECRETARY: Calendar Number 1548, by Senator DeFrancisco, Senate Print 8042, an act to amend the Economic Development Law, in relation to authorizing cross-border tourism promotion.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT MEIER: Senator DeFrancisco, Senator Coppola has requested an explanation of Calendar 1548.

SENATOR DeFRANCISCO: This is a bill that has passed the Assembly that I've

worked with with Assemblyman Tokasz in order to help the Buffalo and Niagara Falls areas. Because in those areas that are having difficulty competing with some casinos in Canada and other types of amusements that are going on across the border, and right now it's authorized -

ACTING PRESIDENT MEIER: Senator DeFrancisco, would you excuse me for a minute.

Speaking of people who are competing, people are competing with members who are debating bills. If you have a conversation, take it outside, or we're going to be here all night.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Mr. President.

And by enabling this cross-border tourism promotion, I think it will help areas that are competing with other states and also, more importantly for the Buffalo-Niagara Falls area, for other countries -- in this case, Canada.

ACTING PRESIDENT MEIER: Senator Coppola.

SENATOR COPPOLA: Will the sponsor yield to a question?

ACTING PRESIDENT MEIER: Senator DeFrancisco, do you yield for a question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR COPPOLA: Thank you.

What specifically are we going to do with this bill to attract more people to come in?

SENATOR DeFRANCISCO: This just authorized tourism funding to be used across borders. Right now it cannot be. Well, I shouldn't say it cannot be. It's by regulation that the Department of Economic Development could authorize such funding.

But this will put it in legislation so no matter who the administration is, they can use -- it could be "I Love New York" funding, it could be the local TPA funding - to actually take ads and advertise in another country or another state.

SENATOR COPPOLA: Mr. President.

ACTING PRESIDENT MEIER: Senator

Coppola.

SENATOR COPPOLA: Can I ask the sponsor one more question?

ACTING PRESIDENT MEIER: Does the sponsor continue to yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR COPPOLA: If we are fortunate enough to get casino gambling in the Niagara Falls area, Buffalo area, would these funds be available to -- for advertising?

SENATOR DeFRANCISCO: Well, that's a big if. I've been here for eight years, and we've been talking about casino gambling. And we need two separately elected legislative bodies plus a referendum.

If I'm here when that happens, I will assure you that I will do all I can to make sure that this bill will benefit Western New York and other areas to promote gambling.

SENATOR COPPOLA: Thank you, Senator. Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you return to the regular reading of the calendar, starting with 1534, please.

ACTING PRESIDENT MEIER: The Secretary will read in regular order, starting with 1534.

THE SECRETARY: Calendar Number 1534, by Senator Kuhl, Senate Print 7559, an act to amend the Penal Law, in relation to defenses.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT MEIER: Senator Kuhl, Senator Coppola has requested an explanation of Calendar 1534.

SENATOR FUSCHILLO: Mr. President, can we once again ask for some order in the chambers. It's getting loud in here.

ACTING PRESIDENT MEIER: I'm going to ask for order in the chamber.

Members and the staff, kindly take your seats. Members who have conversations should take them outside. Staff who have conversations should take them outside. Members are trying to debate bills and will require everyone's cooperation.

Senator Kuhl.

SENATOR KUHL: Thank you, Mr. President.

Senator, this is a very simple modification of current law. The current law is that in fact you're allowed to possess a slot machine if it is more than 30 years old. There are collectors of slot machines just like collectors of teapots, cars, and other items.

The thought is that the technology is transferring so fast that in fact a twenty-year-old slot machine is antiquated, no

longer used. And so the collectors have asked that we update the law to make it more specific and to have an affirmative defense against any kind of a violation if in fact they own a machine that is more than twenty years old.

ACTING PRESIDENT MEIER: Senator Coppola.

SENATOR COPPOLA: Would the sponsor yield for a question?

ACTING PRESIDENT MEIER: Senator Kuhl, do you yield for a question?

SENATOR KUHL: Certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR COPPOLA: Senator, thank you for the explanation.

Where are these slot machines located?

SENATOR KUHL: Pardon?

SENATOR COPPOLA: Where are these slot machines located?

SENATOR KUHL: All over the state, sir.

SENATOR COPPOLA: There are slot

machines -

SENATOR KUHL: These slot machines are owned by individuals.

Also, if you have read the bill, and I don't know that you have, there's a specific prohibition against using those for any gambling purposes. So the law already says you cannot use these machines for gambling purposes.

What we're simply saying is that you can now own one for collection purposes if it's more than twenty years old.

SENATOR COPPOLA: Will this affect the -

ACTING PRESIDENT MEIER: Senator Coppola, would you address the chair, please.

SENATOR COPPOLA: I'm sorry, Mr. President. Will the sponsor answer -

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

SENATOR KUHL: Certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR COPPOLA: Would this take into effect if we legalize slot machines?

SENATOR KUHL: It has nothing to do with that, sir.

SENATOR COPPOLA: Nothing to do with that?

SENATOR KUHL: Nothing to do with that.

SENATOR COPPOLA: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Coppola, on the bill.

SENATOR COPPOLA: I apologize for asking these questions. They're simple questions. But we get this information at the last minute. And I'd like to know a little bit, I'd more like some clarity to this. And maybe if you provided this side of the aisle the decency of giving us the information before at the last minute, we wouldn't have these times to ask.

Thank you.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Senator

Duane, why do you rise?

SENATOR DUANE: Thank you, Mr. President. Would the sponsor yield to a question?

ACTING PRESIDENT MEIER: Senator Kuhl, do you yield for a question?

SENATOR KUHL: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you, Mr. President.

Could the sponsor just explain a little bit more why -- I have read the bill - why -- I believe he said this has nothing to do with gambling. I don't understand that.

SENATOR KUHL: Mr. President, I didn't hear the question, I'm sorry.

ACTING PRESIDENT MEIER: Senator Duane, would you restate your question for the sponsor, please.

SENATOR DUANE: Thank you, Mr. President.

I did read the bill. And I want to commend Senator Coppola for raising terrific questions about the bill.

But I thought I heard the sponsor say that this bill had nothing to do with gambling. Maybe I misheard him. But I was wondering if he could explain what it was that he said, because I -

SENATOR KUHL: Senator, if you've read the bill, you'll notice that there are two word changes. In all of the law that deals with this issue, there are two word changes.

One is on line 5 of the bill where the word "chapter" is changed to "article." Not a significant change in the law. Then, if you go down to line 18, you'll see that there is another one-word change. The word is changed -- "30" is eliminated, and "20" is put in its place.

Very simple provision. It just says that there will be an affirmative defense to any allegations about ownership of slot machines if in fact it's more than twenty years old. That's the simple bill.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: Do you

wish to the sponsor to yield?

SENATOR DUANE: Yes, please, Mr. President.

ACTING PRESIDENT MEIER: Senator Kuhl, do you yield?

SENATOR KUHL: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm wondering if the sponsor could describe to us in real time how long this particular piece of legislation has been on our desks.

SENATOR KUHL: This one? On your desks? It was introduced the day before my 57th birthday, which was April 18. So about two months ago.

SENATOR DUANE: Through you, Mr. President, my question to the sponsor, if he'd continue to yield, was how long this -

ACTING PRESIDENT MEIER: Senator Kuhl, do you yield for a question?

SENATOR KUHL: If it doesn't deal with how I celebrated my 57th birthday, yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you. Through you, Mr. President, hoping that I make it that far.

I was wondering if the sponsor could tell us how long this has been on our desks since it was discharged as part of the supplemental calendar.

SENATOR KUHL: I have no idea, Senator.

SENATOR DUANE: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: Even though I did read the bill, the Senator made a very compelling argument that only two lines are necessary to have read on the bill.

But being a person who likes to do his job here on the floor of the Senate, and having had read the bill, and having had listened to Senator Coppola's excellent questions regarding the bill, I am now satisfied with the explanation, and I will be voting in the affirmative.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Coppola, to explain his vote.

SENATOR COPPOLA: No, not on this one. Go ahead. I'm sorry, I rose too quickly.

ACTING PRESIDENT MEIER: That's all right. Not a problem.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Coppola, do you wish to be recognized?

SENATOR COPPOLA: I'll yield to -

ACTING PRESIDENT MEIER: Senator Breslin, do you wish to be recognized?

SENATOR BRESLIN: Yes, Mr.

President. I request unanimous consent to be recorded in the affirmative on 1522.

ACTING PRESIDENT MEIER: Without objection, you will be so recorded.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you. If I may, I would like also to be recorded in the affirmative on 1522.

ACTING PRESIDENT MEIER: Without objection, you will be so recorded.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I also would like to be to get unanimous consent to be recorded in the affirmative on Calendar 1522.

ACTING PRESIDENT MEIER: Without objection, you will be so recorded.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I would ask for unanimous consent to change my vote from the negative to the affirmative on Calendar Number 1522.

ACTING PRESIDENT MEIER: Without objection, you will be so recorded.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Coppola.

SENATOR COPPOLA: Mr. President, I would also like to unanimously change my vote on 1522.

ACTING PRESIDENT MEIER: Without objection, you will be so recorded.

The Secretary will continue to read in regular order.

THE SECRETARY: Calendar Number 1535, by Senator Bonacic, Senate Print 7686, an act to amend the Environmental Conservation Law, in relation to permits for mining.

SENATOR COPPOLA: Explanation.

ACTING PRESIDENT MEIER: Senator Bonacic, Senator Coppola has requested an explanation of Calendar 1535.

SENATOR BONACIC: Thank you, Mr. President.

This is a bill that will amend the Environmental Conservation Law with respect to

permits for mining. This has been worked out with the DEC. It applies specifically to the bluestone industry. Back in 1991, we did the Mining Reclamation Act, which applied to sand and gravel operations. And in order to start exploration of materials, you had to go through extensive and expensive document preparation with an engineer, and you had to pay expensive fees -- literally, several thousand dollars, before you get started.

The bluestone industry is mainly in the Delaware County area, and it's upstate in the Catskills. And they got caught in the 1991 sand -- excuse me, the Mining Reclamation Act.

What we want to do for that industry, only the bluestone -- and the little guy -- we want to give him an opportunity on an acre of land to go in between six months and up to a year and a half, dig in the ground -- don't take any materials out -- to see what's there, to see if it's then proper to proceed with the expenses to undertake exploration.

If they decide to walk away,

there's a two-year reclamation period to fix that one acre. But if they like what they see, they file the -- then they proceed with the more costly application.

That's the bill.

SENATOR COPPOLA: Thank you.

SENATOR BONACIC: You're welcome.

ACTING PRESIDENT MEIER: Senator Duane.

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

ACTING PRESIDENT MEIER: Senator Bonacic, do you yield for a question?

SENATOR BONACIC: I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Who is responsible for the reclamation?

SENATOR BONACIC: The operator. In other words, the bluestone operator is responsible for the reclamation.

And they file, by the way - there's bonds to be filed, collateral to make sure that it gets done.

SENATOR DUANE: Through you, Mr.

President, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Bonacic, do you yield?

SENATOR BONACIC: I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: And the bond that they're required to put down is enough to ensure that if they fail to reclaim the land, that DEC would be able to use that money to fully reclaim the land?

SENATOR BONACIC: Oh, absolutely.

This, by the way, is very environmental-friendly. DEC has signed off on this. And I don't have to tell you, our regulations are one of the toughest in the world in the State of New York. And this has been worked out with the industry and that department.

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

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1537, by Senator Larkin, Senate Print 7835, an act to establish a library district in those portions of the Pine Bush Central School District.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR ONORATO: Explanation.

ACTING PRESIDENT MEIER: Senator Larkin, an explanation has been requested by Senator Onorato of Calendar 1537.

SENATOR LARKIN: Mr. President, Senator Onorato, this is a very simple bill. We have a town that doesn't have a library district. It's part of a five-town group that belongs to a unified school district. The population of that town now is about 30,000 people, and they're trying to create their own

library.

They were associated with the city library. The city library has so far not wanted to continue association with them because their library is overcrowded. So the townspeople voted, and they want their own library.

ACTING PRESIDENT MEIER: Senator Onorato.

SENATOR ONORATO: Mr. President, will the sponsor yield to a question?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR ONORATO: Senator Larkin, earlier today we passed a similar bill dealing with a library. How does your bill differ from the one that we passed earlier?

SENATOR LARKIN: We're giving them the opportunity -- there has been some conflict, as I mentioned, between the library and the City of Middletown. And they haven't been able to reach an agreement.

And it was decided that we would

put this in in order to enable the people in the town to start moving forward to have a library. Because what happened since we passed the other bill, the whole library has decided that the -- the people in the town of Wallkill will not be able to use that library.

SENATOR ONORATO: So in other words -- will you continue to yield?

SENATOR LARKIN: Yes.

SENATOR ONORATO: -- you're basically giving two different communities options to exercise the use of your legislation?

SENATOR LARKIN: Yes.

SENATOR ONORATO: Thank you.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR LACHMAN: Mr. President.

ACTING PRESIDENT MEIER: The bill

is passed.

Senator Lachman.

SENATOR LACHMAN: I'd like unanimous consent to change my vote on 1522 from the negative to the positive.

ACTING PRESIDENT MEIER: Without objection, you will be so recorded.

The Secretary will continue to read.

SENATOR COPPOLA: Mr. President.

ACTING PRESIDENT MEIER: I'm sorry. Senator Coppola.

SENATOR COPPOLA: I just was wondering, did we overlook Bill 1533? Can we ask that that bill be put aside?

ACTING PRESIDENT MEIER: That bill is high, Senator Coppola. In other words, it has not aged enough to be brought before the house.

SENATOR COPPOLA: Okay. Thank you very much.

ACTING PRESIDENT MEIER: Senator Onorato.

SENATOR ONORATO: I believe earlier on you recorded me incorrectly on

Calendar Number 1522. I was a yes, and I believe you have me recorded as a no. Will the record so indicate?

ACTING PRESIDENT MEIER: Senator, I believe we recorded you correctly. But we'd be happy to correct the correction, and you will be so recorded.

SENATOR ONORATO: Thank you, sir.

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: Calendar Number 1538, by Senator Larkin, Senate Print 7850, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law, in relation to the compensation.

SENATOR BRESLIN: Explanation, please.

ACTING PRESIDENT MEIER: An explanation has been requested, Senator Larkin, by Senator Breslin.

SENATOR LARKIN: Oh, my brother over there.

Mr. President, Senator, it's been twenty years ago since the OTB directors have had an increase in their per diem for their

daily wages. Since that time, the time consumed by the OTB directors has tripled in performance of their duties, the number of committees that they're assigned to and whatnot.

So what we're doing is just making it -- providing 250 for a regular scheduled meeting. It's twenty years since they've had any substance -- any raise, period.

SENATOR BRESLIN: Through you, Mr. President, a question or two.

ACTING PRESIDENT MEIER: Senator Larkin, do you yield for a question?

SENATOR LARKIN: I'd be delighted.

SENATOR BRESLIN: Senator Larkin, will this reduce the amount of monies that flow back to the counties as a result?

SENATOR LARKIN: There will be some reduction in it.

But they are convinced that the overhead administration that they are proposing will help to reduce the requirements of cutting back on what would be going to the municipalities.

SENATOR BRESLIN: Again, through you, Mr. President, one further question.

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT MEIER: Senator Larkin yields.

SENATOR BRESLIN: Can you tell us, if you know, whether the Capital District OTB, which is the one in this area that serves my Senate district -

SENATOR LARKIN: Mr. President, I can't hear.

ACTING PRESIDENT MEIER: First of all, can we have a little quiet in the chamber.

Senator Breslin, please restate your question.

SENATOR BRESLIN: Can you tell us if Capital District OTB, which in part encompasses this Senate district, has made a request for this increase?

SENATOR LARKIN: They all did. They came here directly to ask our assistance.

Because, as I said, we've been talking to members and directors, and people

do not seem to feel that they're being properly compensated for the requirements of the job. And in view of the fact that it's been twenty years, they all uniformly asked for this.

SENATOR BRESLIN: Through you, Mr. President, thank you very much, Senator Larkin.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of the first month next succeeding the date on which it shall have become a law.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 2. Senators Breslin and Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: Mr. Chairman, with unanimous consent I too would like to be

recorded in the affirmative on Calendar 1522.

ACTING PRESIDENT MEIER: Without objection, the record will so reflect.

The Secretary will return to Calendar 1538.

THE SECRETARY: In relation to Calendar 1538, those recorded in the negative are Senators Breslin, Duane, and Dollinger. Ayes, 58. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1540, by Senator Nozzolio, Senate Print 7882, an act to amend the Correction Law and the Penal Law, in relation to the conditional release.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Nozzolio, Senator Duane has requested an explanation of Calendar 1540.

SENATOR NOZZOLIO: The purpose of this measure, Mr. President, is to permit local conditional release commissions to authorize the conditional release of

terminally ill patients -- terminally ill inmates serving definitive sentences, without requiring them to serve at least 30 days prior to conditional release.

ACTING PRESIDENT MEIER: Senator Duane.

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you.

Can you tell me what the law is now and how this legislation changes the law?

SENATOR NOZZOLIO: Counsel just tells me the time period that current law deals with, Senator Duane. Currently, 30 days prior to the release, the application must be filed. So the release cannot take place less than 30 days from the application date, and the release itself has to be made 60 days within the sentence -- 60 days within the - 60 days for -- within the sentence period.

SENATOR DUANE: Through you, Mr.

President, if the sponsor would continue to yield.

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

SENATOR NOZZOLIO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: If I could just have a clarification. That's the way the law was previously that you just described, or that's what the change does?

SENATOR NOZZOLIO: Let me rephrase -- explain again the current law. Application can't be made within 30 days of the sentence itself.

There's a current requirement that he must serve at least 60 days of imprisonment before actually being permitted release, that that is being changed by this proposal.

SENATOR DUANE: So this legislation changes the amount of time you have to be incarcerated before applying from 60 days to 30 days?

SENATOR NOZZOLIO: That's correct.

SENATOR DUANE: Does this -

ACTING PRESIDENT LIBOUS: Senator Duane, would you like Senator Nozzolio to continue to yield?

SENATOR DUANE: I would. Thank you, Mr. President, for taking the words out of my mouth.

ACTING PRESIDENT LIBOUS: Senator Nozzolio, do you continue to yield?

SENATOR NOZZOLIO: Yes, Mr. President.

SENATOR DUANE: Thank you.

Does this legislation in any way change the current process for applying for release of a terminally ill-patient, aside from the time limitation?

SENATOR NOZZOLIO: No, Mr. President. This measure only deals with the time periods.

SENATOR DUANE: Thank you. And one final question, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Duane.

SENATOR DUANE: I was wondering if the sponsor knew approximately how many

people have been released under terminally ill -- this terminally ill procedure and whether he believes that this will allow more people to be released.

SENATOR NOZZOLIO: The answer to Senator Duane's question, Mr. President, is no, I do not know the numbers.

I do know, though, that this is an attempt to streamline the process. The city has requested this measure, is supporting the measure. And that we're trying to streamline the process for those who are terminally ill to be able to expedite the process.

SENATOR DUANE: Thank you.

Thank you, Mr. President. On the bill.

ACTING PRESIDENT LIBOUS: Senator Duane, on the bill.

SENATOR DUANE: Thank you. This bill is a very good bill, because I believe it will allow the possibility of more people to actually be released before they die. I say allow the possibility, because, sadly, there's been really a tremendous lack of efficiency - I hope it's only efficiency as opposed to, you

know, a bad intention for people to be released compassionately under the terminally ill standards.

If this will help more people to be released, it's a good thing. But I think that we need to take a very good look at why it is that so many people who are applying to be released under terminally ill procedures are actually dying before they get a chance to go home.

So I'm going to vote yes on this, with the hope that we will push to make it possible for more people to be released compassionately and die with their family.

Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Leibell.

SENATOR LEIBELL: Mr. President, there will be a Rules Committee meeting in the Senate Majority Conference Room at 7:15.

ACTING PRESIDENT LIBOUS: There will be a Rules Committee meeting in the Senate Majority Conference Room at 7:15.

Senator Rath.

SENATOR RATH: Mr. President, I wish to call up my bill, Senate Print Number 8042, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LIBOUS: The Secretary will read.

THE SECRETARY: Calendar Number 1548, by Senator DeFrancisco, Senate Print 8042, an act to amend the Economic Development Law.

ACTING PRESIDENT LIBOUS: Senator Rath.

SENATOR RATH: Mr. President, I now move to reconsider the vote by which this bill was passed. And I ask that the bill be restored to the order of third reading.

ACTING PRESIDENT LIBOUS: The

Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR RATH: Mr. President, I now move to discharge, from the Committee on Rules, Assembly Print Number 8915A and substitute it for the identical bill. Which in Senate on first passage was voted unanimously.

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

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1548, by the Assembly Committee on Rules, Assembly Print Number 8915A, an act to amend the Economic Development Law, in relation to authorizing.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, Mr. President. I would request unanimous consent to be recorded in the affirmative on Calendar 394, Senate Bill 3117A, please.

ACTING PRESIDENT LIBOUS: Without objection.

SENATOR SCHNEIDERMAN: Thank you.

ACTING PRESIDENT LIBOUS: The Secretary will read.

THE SECRETARY: Calendar Number 1546, by Senator Larkin, Senate Print 7996, an act to amend the Executive Law, in relation to the use of unmarked cars.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT LIBOUS: Senator Larkin, an explanation is asked for by Senator Dollinger.

SENATOR LARKIN: Yes, Mr. President.

Senator Dollinger, if you remember a few years -- about a year and a half ago, the Governor issued an executive order that members of the State Police could not use speeding runs in unmarked cars. And over the past two years, we've seen on national television incidents that have been reported on law enforcement stopping young women, older women, everybody else, unmarked car, some of their cars were driven by women who drove away because they were scared.

And what we're trying to do is to prevent something from happening. If we're going to have somebody out chasing speeders and we say the State Police can't do it, then no other law enforcement branch should be able to do it either.

ACTING PRESIDENT LIBOUS: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, will Senator Larkin yield for a couple of questions?

ACTING PRESIDENT LIBOUS: Senator

Larkin, will you continue to yield?

SENATOR LARKIN: Yes.

ACTING PRESIDENT LIBOUS: He will, Senator.

SENATOR DOLLINGER: This bill says that the State Police -- and I guess I'm most concerned about them -- that they cannot use unmarked vehicles for routine stopping. Is that correct?

SENATOR LARKIN: That's right.

SENATOR DOLLINGER: Or for apprehension of motorists. So they couldn't use an unmarked car for apprehension of anybody driving a car, regardless of what the crime was.

SENATOR LARKIN: Senator, we're using the same language that's in the Executive Order, which singled out the State Police. So we're not changing anything that's not in existence now, except for the fact that we're mandating this statewide for all other law enforcement officials.

SENATOR DOLLINGER: Okay.

ACTING PRESIDENT LIBOUS: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, on the bill.

ACTING PRESIDENT LIBOUS: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I appreciate the concern that Senator Larkin has about women being pulled over by unmarked cars.

SENATOR LARKIN: Profiling, too.

SENATOR DOLLINGER: Well, profiling may be a problem too.

But more importantly, once the vehicles are stopped, the person who gets out of the unmarked vehicle is dressed in their battle dress, they're ready to go. They have the little Smokey the Bear hats that our state police officers use, they step out in their brilliant gray uniforms with their sidearm, if they're wearing one, or other police paraphernalia.

It seems to me that concealed vehicles is one of the ways we enforce our laws, that we use unmarked cars as a tool for setting up a radar station so people speed by. If they see the car with the bubble on the top and the blue, they know they're going to slow

down. If they see an ordinary car parked by the side of the road, they don't slow down, and they go through a speedtrap with an unmarked or concealed vehicle.

And I'm concerned that while the Governor may be addressing the issue of women who would be afraid -- and I would also acknowledge, Senator Larkin, that there may be instances in which predators use unmarked vehicles and pretend to be police. But it seems to me that if you're breaking the laws of this state by speeding, whether you're caught by a concealed vehicle, an unmarked vehicle, or whether you're caught by one that's in its -- painted bright blue with a bubble on the top, you're breaking the laws of this state and you should be arrested by any police officer, regardless of whether they're concealed in a concealed vehicle or not.

I think it's a commonly used police technique. I think it's appropriate in many cases. I don't want anybody going faster than the speed limit in the state of New York. And whether they're caught by a concealed vehicle or an unmarked vehicle or not, they shouldn't

be speeding.

I think we're taking a step back from the rigorous enforcement of our traffic laws. And I'm going to vote against this bill, Mr. President, and I'd urge my colleagues to do likewise. This may be just increasing the license for people to go a little bit higher than 65. Which I know no member of this house has ever done. And I assume that we want to encourage our constituents to do the same and be like us and not go that extra mile an hour.

So I'm going to vote against this bill. I just think it's bad police work.

ACTING PRESIDENT LIBOUS: Read the last section.

Oh, I'm sorry. Senator Coppola, why do you rise?

SENATOR COPPOLA: Just one question to the sponsor of the bill, please.

ACTING PRESIDENT LIBOUS: Senator Larkin, would you yield to Senator Coppola for one question?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Coppola, he yields.

SENATOR COPPOLA: How would this impact on the drug enforcement officers in the state? Because a lot of them use -

SENATOR LARKIN: I can't hear you. You'll have to speak up a little bit more.

SENATOR COPPOLA: How would this impact on the drug enforcement officers who use unmarked cars?

SENATOR LARKIN: In drug enforcement, officers 90 percent of the time are not in battle address, as Senator Dollinger said.

But the drug enforcement officers who are out on the -- if you've noticed them, they always have a unit that is assigned to the local police department in their operation. So they would be right in the front end of it.

SENATOR COPPOLA: They can continue using the unmarked cars?

SENATOR LARKIN: Yes.

SENATOR COPPOLA: Okay. Thank

you.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Senator Dollinger.

SENATOR DOLLINGER: Just to explain my vote.

ACTING PRESIDENT LIBOUS: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Senator Coppola makes an interesting point. What about the routine traffic offense of driving while intoxicated or driving under the influence?

It seems to me that a concealed - an officer in an unmarked car should have the right, the obligation and the duty, if he sees somebody swerving on a highway, to pull him over, stop him, and, if he's convinced that they're under the influence of alcohol, either

administer a Breathalyzer test or arrest them for drunken driving.

Why we would discourage them from doing that through this bill seems to me to make no sense.

ACTING PRESIDENT LIBOUS: Results.

THE SECRETARY: Ayes, 59. Nays, 2. Senators Coppola and Dollinger recorded in the negative.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Leibell.

SENATOR LEIBELL: Do we have any housekeeping at the desk, Mr. President?

ACTING PRESIDENT LIBOUS: Yes, Senator, we do have some housekeeping at the desk.

Senator Seward.

SENATOR SEWARD: On behalf of Senator Volker, please remove the sponsor star from Calendar Number 218.

ACTING PRESIDENT LIBOUS: The star is removed from Calendar Number 218.

SENATOR SEWARD: And also, Mr.

President, on behalf of Senator Velella, I move to recommit Senate Print Number 7093, Calendar Number 1530, on the order of third reading, to the committee on -- well, back to committee.

ACTING PRESIDENT LIBOUS: The bill is recommitted.

SENATOR SEWARD: Thank you.

ACTING PRESIDENT LIBOUS: Senator Leibell.

SENATOR LEIBELL: Mr. President, we'll stand at ease momentarily.

ACTING PRESIDENT LIBOUS: The Senate will stand at ease momentarily.

(Whereupon, the Senate stood at ease at 7:21 p.m.)

(Whereupon, the Senate reconvened at 7:45 p.m.)

ACTING PRESIDENT LIBOUS: Senator Bonacic.

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

ACTING PRESIDENT LIBOUS: The Secretary will read the Rules Committee report at the desk.

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

Senate Print 6672D, by Senator Skelos, an act to amend the Civil -

ACTING PRESIDENT LIBOUS: I ask the members to please take their seats, staff to please sit down. If you have conversations, take them out of the chamber.

We will continue with the report of the Rules Committee.

The Secretary will read.

THE SECRETARY: -- an act to amend the Civil Practice Law and Rules, in relation to the venue;

Senate Print 7283A, by Senator Marcellino, an act to amend the Public Authorities Law;

7316A, by Senator Connor, an act authorizing a partial tax abatement;

7558B, by Senator Kuhl, an act to amend the Highway Law;

8041, by Senator Goodman, an act to authorize the conveyance;

8054, by Senator McGee, an act to amend the Vehicle and Traffic Law;

8058, by Senator Farley, an act to amend the Public Health Law;

8090, by Senator Farley, an act to amend the Banking Law and the Insurance Law;

8095, by Senator Lack, an act to amend the Uniform Commercial Code;

8099, by the Senate Committee on Rules, an act to amend the Administrative Code of the City of New York;

8100, by Senator Padavan, an act to amend the Retirement and Social Security Law;

8102, by Senator Goodman, an act to amend the Retirement and Social Security Law;

8103, by the Senate Committee on Rules, an act to amend the Retirement and Social Security Law;

8106, by Senator Leibell, an act to amend the Retirement and Social Security Law;

8110, by Senator Leibell, an act to amend Chapter 41 of the Laws of 1997;

8112, by the Senate Committee on

Rules, an act to amend the Workers' Compensation Law;

8122, by Senator Kuhl, an act to amend the Social Services Law;

8125, by Senator Farley, an act to authorize the city school district of the City of Schenectady;

8133, by Senator Spano, an act to amend the Labor Law;

8134, by the Senate Committee on Rules, an act to amend the Tax Law;

8135, by the Senate Committee on Rules, an act to amend the Labor Law;

8139, by Senator Morahan, an act to amend the Executive Law;

8143, by Senator Lack, an act to amend a chapter of the Laws of 2000;

8153, by Senator Padavan, an act to amend the Real Property Tax Law;

8169, by Senator Volker, an act to amend the Public Authorities Law;

And 8172, by Senator LaValle, an act to amend the Public Authorities Law.

All bills ordered direct to third reading.

ACTING PRESIDENT LIBOUS: Senator Skelos.

SENATOR SKELOS: Mr. President, move to accept the report of the Rules Committee.

ACTING PRESIDENT LIBOUS: The motion is to accept the Rules Committee report. All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The report is accepted.

Senator Farley, for a motion.

SENATOR FARLEY: Thank you, Mr. President. On behalf of Senator Goodman -- I don't know what page it's on, but anyway it's Calendar Number 1553, Senate Print 8041. I offer the following amendments to that bill and ask that it will retain its place on the order of third reading.

ACTING PRESIDENT LIBOUS: Amendments received. The bill will retain its place on the third reading order.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the regular calendar would you please call up Calendar Number 629, by Senator Nozzolio.

ACTING PRESIDENT LIBOUS: Number 629, by Senator Nozzolio.

The Secretary will read.

THE SECRETARY: Calendar Number 629, by Senator Nozzolio, Senate Print 143B, an act to amend the General Business Law and the Executive Law, in relation to the sale and use of certain smoke alarms.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 5. This act shall take effect January 1, 2001.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the regular calendar would you please call

up Calendar Number 754.

THE SECRETARY: Calendar Number 754, by Senator Spano, Senate Print 1469E, an act to amend the Social Services Law, in relation to unfounded reports.

SENATOR HEVESI: Explanation.

ACTING PRESIDENT LIBOUS: Senator Spano, an explanation is asked for by Senator Hevesi.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Skelos.

SENATOR SKELOS: On Calendar Number 754, is there a message of necessity at the desk?

ACTING PRESIDENT LIBOUS: Yes, there is.

SENATOR SKELOS: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

SENATOR DUANE: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Duane.

SENATOR DUANE: I'm confused. Could you tell me what calendar we're on?

ACTING PRESIDENT LIBOUS: Senator Duane, we are on the main calendar, the first calendar we took up this morning.

SENATOR DUANE: Mr. President -

ACTING PRESIDENT LIBOUS: Number 754, sir.

SENATOR DUANE: Thank you, Mr. President.

SENATOR SKELOS: Who requested the explanation, Mr. President?

ACTING PRESIDENT LIBOUS: Senator Skelos, Senator Hevesi requested an explanation.

SENATOR SKELOS: Please lay it aside temporarily.

ACTING PRESIDENT LIBOUS: We'll lay the bill aside.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Skelos.

SENATOR SKELOS: Would you call up Calendar 1006.

ACTING PRESIDENT LIBOUS: Calendar 1006.

The Secretary will read.

THE SECRETARY: Calendar Number 1006, by Senator Skelos, Senate Print 6781B, an act to amend the Penal Law, in relation to establishing.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT LIBOUS: Yes, Senator, there is a message at the desk.

SENATOR SKELOS: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 754, by Senator Spano. And I believe Senator Hevesi has asked for an explanation.

ACTING PRESIDENT LIBOUS: 754, by Senator Spano.

The Secretary will read.

THE SECRETARY: Calendar Number 754, by Senator Spano, Senate Print 1469E, an act to amend the Social Services Law, in relation to unfounded reports.

ACTING PRESIDENT LIBOUS: Senator Hevesi, would you still like the sponsor to yield?

SENATOR HEVESI: I would like an explanation, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Spano, Senator Hevesi would like an explanation, please.

SENATOR SPANO: Yes, Mr. President.

We -- I had a parent come to me, her name was Donna Devonne, who had a child who fell at a playground in clear view of their -- of the school officials. The child was injured, went home, the neighbors noticed an injury on the child, called Child Protective Services, turned in the parents for potential child abuse. They found that the child fell in clear view of the school officials, and everything was fine.

The bottom line, once that complaint of -- potentially of child abuse is put against that parent, there are no provisions to allow for expunging the records.

There was another case in Westchester of a tragedy of a child who had died and at the same time another child who died in a car accident. When they took the

results of the x-rays, they found that there was serious head trauma to one of the children -- one of the infants who had died. And as a result, they turned the -- called Child Protective Services.

ACTING PRESIDENT LIBOUS: Excuse me, Senator Spano.

If I could again ask members to please take their seats. A lot is going on. A bill is being debated, an explanation is asked for. Please take conversations outside the chamber.

Senator Spano has the floor.

SENATOR SPANO: I was saying that we had a parent now who was in an emergency room and their child was just pronounced dead. In walks Child Protective Services. They said, "We need to investigate this." The parents said, "It's impossible." They said: "No, there's head trauma." They said, "It's impossible." "We need to investigate this."

After keeping the parents at the emergency room for some six or seven hours, they found out that they inadvertently had switched the x-rays of two children, two

infants who had died, and that the parents who were being there being questioned had a child who had a history of problems and fragile bone problems and subsequently died from the disease that the child had, and that they had made a mistake and sent the x-rays from the other child, who was killed in a car accident.

These same parents had to endure this type of questioning and had to have their names included in a -- in the reports for ten years, and there were no provisions in the law to expunge the records.

Simply put, this bill puts a provision in place to allow for the expunging of the records if there is clear and convincing evidence that there were no cases of child abuse, no instances of child abuse.

SENATOR HEVESI: Mr. President, will the sponsor yield for a question?

SENATOR SPANO: Yes.

ACTING PRESIDENT LIBOUS: Senator Spano, Senator Hevesi has a question. Would you yield?

SENATOR SPANO: Yes, I do.

ACTING PRESIDENT LIBOUS: Yes, he

will, sir.

SENATOR HEVESI: Thank you.

Senator Spano, in the example that you just cited -- and it's a compelling case, and I agree with you on that case -- is it not possible to solve the problem a different way? And I'll tell you why I'm a little bit uncomfortable with this the way we're doing it here.

Isn't it possible to pass a piece of legislation which prevents them from being on this list for ten years but still would make available for some subsequent investigation if there was another allegation of child abuse, so that despite the fact that there was clear evidence this time around that there was no child abuse in this particular case that somebody at a later time might be able to determine that there was a pattern of abuse going on and, for whatever reason, there was a mistake that this one case showed unfounded child abuse?

SENATOR SPANO: I mean, to answer your question, sure. Sure, it would be possible for us to do that. But if we have

parents who -- and there's clear and convincing evidence that there were no cases of child abuse, why should we have those parents be listed on that central registry for ten years if they've had no previous history of child abuse?

And we looked at the standard here. One of the drafts that was presented to us by the Assembly had preponderance of evidence. What we said, that is a different standard. We wanted clear and convincing evidence, so that we would limit, severely limit the number of people who would come under this statute. Because we did not want to reduce or minimize the original statute, which was there to protect our children.

So I can understand, you're right in terms of the -- our concern about not minimizing the statute. But this does not do that, because of the high standard that we put in it.

SENATOR HEVESI: Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT LIBOUS: Senator Spano, will you continue to yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT LIBOUS: Yes, Senator Hevesi, he will.

SENATOR HEVESI: Senator, what I am in effect suggesting is that we pass a law that says that you do not place those parents' names in the child registry for ten years, you do nothing of the sort. You simply don't for all of eternity eliminate the record that showed that there was an unfounded, an unfounded case of child abuse -- or an unfounded report of child abuse.

And so the parents who were wrongfully accused are not subject to any unwarranted scrutiny or harassment or what have you, but in doing that, we still will ensure that if in the future there is a subsequent allegation of abuse against the same parents, that some investigative entity will know that there was another allegation at some point made. And they will still be able to read that record and know that it was unfounded, but it might be very helpful in piecing together some pattern of abuse to protect the child.

SENATOR SPANO: I really -

ACTING PRESIDENT LIBOUS: Excuse me.

Senator Saland, why do you rise?

SENATOR SALAND: Mr. President, would Senator Spano perhaps yield to me as the chairman of the Senate Children and Families Committee, inasmuch as we dealt with this issue at a time several years ago which preceded Senator Hevesi's becoming a member of this chamber? I don't believe he was here when we did the so-called Elisa's Law. And perhaps I may be -

ACTING PRESIDENT LIBOUS: Senator Spano, are you interested at this time to yield the floor to Senator Saland?

SENATOR SPANO: Sure.

SENATOR SALAND: Thank you, Mr. President. Thank you, Senator Spano.

Correct me if I'm wrong, Senator Hevesi. I don't recall your being a member of this body at the time we did the so-called Elisa's Law. Were you?

SENATOR HEVESI: If it was prior to January 1st of last year, I was not a

member.

SENATOR SALAND: Okay. That bill at the time was a response to a very tragic situation which occurred in the city of New York in which a child was severely abused. And it was a subject of considerable attention not only in the New York media, but I think probably nationally as well.

And in our zeal to deal with the issues surrounding that incident, we made far more stringent the law dealing with reporting and retaining of records in child abuse cases. And I won't go on at great length on what was done, but suffice it to say that until that point in time, records were expungable, and one could, where there was unfounded report, have their record expunged.

And the theory behind retaining the records was basically that there may be situations in which a subject of a report, a child, might not be -- let me rephrase that. Where the agency dealing with the abuse, the Social Services Department or, in the City of New York I guess it's HRA, might not be able to establish neglect or abuse, but nonetheless

the record should be retained to, as you suggest, establish a pattern of where these incidents may be unexplained.

And once you had established this pattern -- the child with the burn, the child with the bruise, with some degree of frequency or regularity -- you would then effectively have a different situation. Instead of a record that had been expunged, you'd be able to establish a pattern and thereby might be able to establish the neglect or abuse by reason of the pattern.

Therefore, it was determined that records should never be expunged.

I must say at the time that we introduced this legislation, and I was very much involved in negotiation of the legislation, I had some reservations about always retaining records, particularly where there was no finding and no evidence of trauma or anything physical that would show that there had been any kind of an injury.

Nonetheless, the bill passed and was signed into law. Senator Spano gave you examples that have occurred within Westchester

County, within his district, in which a report which was baseless was required to be retained under the existing law. There are others who have shared similar experiences with me. And I know Senator Kuhl, in his district a few years ago, had a very similar experience involving a young child who was reported -- an injury to the child was reported, I believe by a schoolteacher or a daycare worker, and it turned out to be baseless. The child had actually hurt herself in the schoolyard and was calling for her mommy, and the assumption was that mommy had somehow or other done something to this child.

Well, you can imagine the frustration of a parent with no history, with no intention, with nothing but the kind of affection that one would reasonably expect and hope a parent would devote to a child, suddenly finding themselves being accused of abuse or neglect, having it be dismissed as baseless, and not having the means by which to have a discharged.

This is a balanced approach, and I really commend Senator Spano particularly for

working as fervently as he has, as has Senator Kuhl, over the course of action of the past several years to try and deal with this issue.

And what they've done is, as he mentioned, created a standard above the more preponderance, a standard of clear and convincing that basically says you have to do more than merely be able to say, Well, look, you can't show me, you can't prove that I was guilty of abuse or neglect, there has to be something a little stronger than that -- in fact, a lot stronger than that. You have to be able to show the burden on you, by clear and convincing evidence, that you in fact were not the person responsible for the injury or the trauma.

So this is, I think, a giant step given where we've been. And I think it's something that many parents who have the misfortune of being wrongfully accused and unable to expunge will view as quite a saving device to spare them the agony and the pain associated not merely with being accused of this type of deed when it's erroneous, but also what it means in your community when

someone makes this accusation about you and your neighbors are aware and they see the people come to the house to do the investigations.

So I think it's balanced, it's equitable, and I think it responds in large part to a void in this law of several years ago.

SENATOR HEVESI: Mr. President, I don't -

ACTING PRESIDENT LIBOUS: Senator Hevesi.

SENATOR HEVESI: I would -- if Senator Saland has the floor and I'm able to, under the rules of the Senate, ask him to yield for a question, I'd like to do that.

ACTING PRESIDENT LIBOUS: Senator Saland has the floor, and under the rules of the Senate you can ask him to yield.

And, Senator Saland, will you yield?

SENATOR SALAND: I will certainly yield.

ACTING PRESIDENT LIBOUS: The Senator will yield.

SENATOR HEVESI: Senator, I appreciate the explanation. I don't disagree with just about everything you said.

I'm going to pose the same question to you that I posed to Senator Spano, which is the following.

The negative implications of not having your record of abuse, which was an unfounded allegation, of not having it expunged, is that you have your name placed on a registry, and that has negative implications. Okay? The investigation, the people at the door, is going to happen anyway because allegation that has to be investigated. There's nothing we can do about that.

I'm suggesting, simply change the law to provide for when the situation occurs where somebody is found to have not been guilty, there's an unfounded report of child abuse, that they do not go on any type of registry, there's no record disseminated to the public that this ever happened, and that what simply we do, instead of expunging - which my understanding of expunging means

there's no record, no one can ever find this record, it ceases to exist.

Instead of doing that, you simply seal the record and, in the same piece of legislation, you provide that if ever there is an allegation against the same parent, that that record can be unsealed for the scrutiny of the investigators and that unfounded record will still have all the details of that unfounded case.

I don't see how in any way that would disenfranchise a parent, someone who's been accused. But it at the same time might protect against the following situation, which is the logic behind the notion that there are all the time individuals who are falsely accused of child abuse.

If we accept that individuals are going to be falsely accused of child abuse, it logically follows that at least on some occasion there's going to be an unfounded report of child abuse that is actually founded, that actually occurred. And for whatever reason, the parent was able to explain it away satisfactorily to some

investigator or what have you, and that in fact abuse did occur.

And so the situation I'm outlining for you, Senator Saland, and I'd like to hear your comments on, would not compromise anything on behalf of the parents, but would maintain the integrity of an investigative process prospectively to protect the child, in order to establish a pattern sometime in the future.

SENATOR SALAND: Senator Hevesi, I think what you've done is effectively described the construct of Elisa's Law and the purpose for Elisa's Law.

And what I was trying to explain to you in my earlier comments was that there are circumstances in which beyond any question there is -- there has been a report made where there is no justification for the -- for that report to be lodged permanently as a record.

In all those other instances where those reports are made and there's no finding, and there's no justification for removing it by clear and convincing evidence, those records shall and should be retained.

What is being done here is where it rises to such a high level, where it's beyond doubt -- as given in the example of Senator Spano earlier, where records of two different children, two different children were crossed and tragically one child was identified as being the other child, the parent having been through enough trauma already with the death of their child, I mean, it certainly was beyond a doubt, beyond anybody's doubt, that this was an error.

So it would serve no justifiable social purpose or policy end to have that record retained. I mean, I think we can all agree on that.

And I don't envision this as somehow or other creating a mechanism whereby there will be wholesale expunging of records. Again, if you read the bill, and I would just call your attention particularly -- I mean, the first case is obvious, where there's a violation of 240.55. Somebody falsely reported the incident. I mean, why shouldn't that record be expunged?

You go to the second case, what

we're talking about is clear and convincing evidence that affirmatively refutes the allegation. But it goes on to say that the absence of credible evidence supporting the allegation of abuse or maltreatment shall not be the sole basis to expunge the report. That's pretty heavy. I mean, the burden is on you. You want to expunge your record, you've got to do that by clear and convincing evidence.

And I would submit to you that there are certainly a minority of cases -- you know, not clearly a majority, and I would assume it's a relatively slender minority of cases -- in which you will see the level of proof rising to that clear and convincing threshold.

And I'm not troubled, and I would speak as the chairman of the Senate Children and Families Committee, certainly having dealt with issues like this time and again for the past eight years now -- I'm not troubled by Senator Spano's proposal. In fact, I can only commend him for it.

SENATOR HEVESI: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT LIBOUS: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you. Mr. President, briefly on the bill, because I have articulated my feelings and thoughts on this issue in the course of my questioning of Senator Saland and Senator Spano, and I thank them for their very thoughtful and deliberative answers.

And I would agree with Senator Saland that in a case where somebody is convicted of falsely reporting an incident, that I have no problems in that case expunging. That's appropriate to expunge.

I certainly don't see why we can't achieve the same results, which is not to disenfranchise a parent who has been wrongly accused, why we can't achieve that without erasing forever, irreparably, for all time, the record that there was an allegation, though it was found to be unfounded.

Because we could really have a situation where there are two expunged records against the same parent where a child abuse

allegation was made and it was found to be unfounded, and then there's another allegation, and now the investigator on the third allegation can't even get the records of the first two allegations, which were found to be unfounded, so he could try and determine whether or not the third instance, the third allegation, bears any similarity to the other two, and in fact the unfounded reports in the first two instances maybe weren't unfounded.

So all I'm trying to accomplish here is to provide a trail for investigators to give the fullest protection to children possible. And I know, Senator Spano and Senator Saland, you're not trying to compromise that at all, and you don't believe that that's what this legislation does.

I believe we can establish the same ends in a better means, and for that reason I'm going to be voting no on this legislation.

ACTING PRESIDENT LIBOUS: Senator Gentile.

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

ACTING PRESIDENT LIBOUS: Senator

Gentile, on the bill.

SENATOR GENTILE: One of the reasons I supported Elisa's Law when we considered it was for this very provision. As a prosecutor dealing in child abuse cases, I understand that and had experience in dealing with unfounded child abuse findings, and coming to understand that that designation of unfounded doesn't necessarily mean that some abuse did not take place.

Because, as Senator Saland said, certainly in interviewing the -- or it might have been Senator Hevesi -- in interviewing the parent, interviewing the child - interviewing children in these situations is a very difficult matter. And as a prosecutor and as a law enforcement officer, having this opportunity to see what types of situations were considered unfounded can lead to the pattern that Senator Hevesi speaks about.

And unfortunately, unfortunately, there is no separate designation under the current law for those situations where a child abuse report was truly and sincerely unfounded and those instances where something might have

occurred but the investigators investigating that case could not substantiate enough to continue the investigation or to proceed with a prosecution.

So in those instances, that maybe Senator Hevesi speaks some wisdom in coming up with different designation for those cases which were truly, sincerely unfounded and those designations where something could not be substantiated yet there were still questions remaining as to the abuse or the injuries that were suffered and seen on the child.

Given that, I don't think we should be weakening Elisa's Law for the benefit of the children who fall into the category of not being able to substantiate something that happened but suspicions remain as to how those injuries were sustained.

So given that, I think Elisa's Law was right in the first instance, we should continue to do that, and maybe we should pursue a differing designation for the types of parents -- which there are some -- that Senator Spano speaks about. And certainly in

unfounded, truly unfounded cases, Senator Spano does have a point.

And I think what we need to do, something along Senator Hevesi's lines, is to come up with a different designation. But not to eliminate, not to expunge records, because that puts the child who is truly in danger at a loss here, because investigators will have nothing to look at in terms of a pattern.

So, Mr. President, I will be voting no on this legislation.

ACTING PRESIDENT LIBOUS: Senator Skelos, earlier today a message of necessity was accepted.

Would you read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Senator Montgomery, are you up on this piece of legislation?

SENATOR MONTGOMERY: I want to explain my vote.

ACTING PRESIDENT LIBOUS: Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes. Mr. President, I'm voting for this legislation. And the reason being is that I've certainly had -- I hate to disagree with my distinguished colleagues on my own side, but I've had experience with this situation. And I understand fully the need for us to be much more careful about how this -- these kinds of charges are handled.

And certainly in the event that there is clearly an unfounded case, we need to make sure that that person is not penalized, and sealing the record does not do it. Especially for people who don't have the means to defend themselves appropriately, adequately. And so a lot of people will be forever, forever tarnished by the fact that there is -- that there has been a report made, even though it's found to be unfounded.

So I'm voting for this legislation. Thank you.

ACTING PRESIDENT LIBOUS: Senator Montgomery will be recorded in the

affirmative.

Results.

THE SECRETARY: Ayes, 57. Nays, 4. Senators Coppola, Gentile, Hevesi, and Stavisky recorded in the negative.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the regular calendar would you call up Calendar Number 1197, by Senator Bonacic.

ACTING PRESIDENT LIBOUS: Regular calendar, Number 1197, Senator Bonacic.

The Secretary will read.

THE SECRETARY: Calendar Number 1197, by Senator Bonacic, Senate Print 5199B, an act to amend the Environmental Conservation Law, in relation to authorizing.

ACTING PRESIDENT LIBOUS: Read the last section.

Senator Coppola.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT LIBOUS: Senator Bonacic, Senator Coppola has asked for an

explanation.

SENATOR BONACIC: Thank you, Mr. President.

This is a piece of legislation that pertains to Belleayre Mountain Ski Area, which we own. It's a state asset. And what we want to do is to authorize the Commissioner of the DEC to be allowed to enter into an operating permit with a private entrepreneur to come to Belleayre and make substantial investments in order to make that mountain more attractive and bring economic vitality to that entire Route 28 corridor.

The area around Belleayre -- it's in the town of Shandaken, by the way, in Ulster County, and it's also in the town of Middletown, in Delaware County. It's in two counties. And there were more people in the town of Shandaken in the year 1900 than there is today, because there are no jobs there.

And we had an example -- and by the way, the market for people that ski here come from the metropolitan area, they come from northern New Jersey and the Island.

So that's what the bill does. It

was before us last year. It passed last year. We made certain amendments, which I will share with you.

If any improvement is over $50,000, it's a project labor agreement. They have seven employees there, permanent, and there are part-time employees. And we say in here that they must retain their jobs. Any money that the state receives from the operating permit will be spent in accordance with the purposes of the 1996 Environmental Bond Act and for planning along the Route 28 corridor.

That's the purpose of the bill.

ACTING PRESIDENT LIBOUS: Senator Coppola.

SENATOR COPPOLA: Yes. Mr. President, would the sponsor answer a question, please.

ACTING PRESIDENT LIBOUS: Senator Bonacic, would you yield to a question?

SENATOR BONACIC: Absolutely.

ACTING PRESIDENT LIBOUS: Senator Coppola, he'll yield.

SENATOR COPPOLA: What is the insurance coverage with this -

ACTING PRESIDENT LIBOUS: Senator Coppola, could you address the chair and could you speak a little louder so that we could all hear you please, into the microphone.

SENATOR BONACIC: The insurance coverage was the question?

SENATOR COPPOLA: I thought I spoke into the microphone.

SENATOR BONACIC: We own the assets, so we're self-insured.

SENATOR COPPOLA: So basically the state is going to be covering the insurance with this project?

SENATOR BONACIC: No, no, I'm sorry. I thought you meant the present status.

If this were to go forward? That would be negotiated with the operating lease.

In other words, if the state could -- and we're not there yet, but if this were to go forward, we would expect the DEC to get the best possible arrangement for the State of New York. They could get 4 percent of the receipts and/or, say, 3 percent, and you'd pay for the insurance. So that is

subject to be negotiated.

SENATOR COPPOLA: I think that's a very important issue, Senator. Because in my dealings in government, to hold any government harmless with insurance policies is important. Especially if we're self-insured.

And on the ski slopes, as you well know, there are a lot of accidents. And we could be looking at millions of dollars' worth of lawsuits here. And I'm concerned about that, that's all I'm saying. I'm raising that question, Senator.

SENATOR BONACIC: Senator, we own three ski areas in the State of New York. We own in Lake Placid and we own Gore and we own Belleayre Mountain. So, you know -- and they've been there, I guess, close to 50 years.

SENATOR COPPOLA: Thank you, Senator.

SENATOR BONACIC: You're welcome.

ACTING PRESIDENT LIBOUS: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Mr. President.

SENATOR BONACIC: Yes.

SENATOR SCHNEIDERMAN: If the sponsor will yield to a question.

SENATOR BONACIC: Yes, absolutely.

ACTING PRESIDENT LIBOUS: The sponsor will yield.

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

Do I understand that the amendments to this bill were intended to address some of the concerns some of us had, many of us who voted against a similar bill last year, that this was essentially taking a state asset and turning it over to a for-profit corporation?

SENATOR BONACIC: We still own the asset. And it's under the supervision of the DEC.

All we're trying to do is two things. We're trying to bring revenue to the State of New York, because this mountain has been losing money for many, many years. And the state has not funded to the level that it should to upgrade and keep this a viable asset.

We got $5 million when Senator Cook was here, my predecessor. They did a tremendous job in spending that money. But the last year's budget, there was no money. There's no money in this year's budget. And we're in good economic times. If the State of New York, you know, doesn't do as well, there's less money invested in recreation and more is put in health, education, the things that we generally deem are a higher priority.

SENATOR SCHNEIDERMAN: Through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT LIBOUS: Senator Bonacic, will you continue to yield?

SENATOR BONACIC: I would, sure.

ACTING PRESIDENT LIBOUS: Senator, he will.

SENATOR SCHNEIDERMAN: Is there any change in last year's bill that many of us had a problem with -- although understanding and sympathizing with the need for investment and economic development in this area -- is there any change in this year's bill that would deal with the fact that we're talking

about -- while we're not talking about turning over an asset in its entirety to a for-profit corporation, my recollection is up to a 40-year lease. Is that still the same in this year's bill?

SENATOR BONACIC: Yes. Because right now any of the three ski areas that I mentioned -- let's just keep it to Belleayre. They could enter into a ten-year operating permit without anyone's approval.

But to attract the kind of investment we need, just in Vernon Valley, in northern New Jersey, roughly 40 miles to our south, they invested $22 million in capital improvements. And that's the same market that we want to attract.

So in order to entice an operating -- operator, entrepreneur, a ski entrepreneur to invest that kind of money, he's got to get a return. And 39 years would be the length of the lease. It could be terminated with cause or without cause by our Commissioner of the DEC.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I thank the sponsor for his

answers.

ACTING PRESIDENT LIBOUS: Senator Oppenheimer.

SENATOR OPPENHEIMER: I understand the importance of this to Senator Bonacic. And, you know, I wish I could go along with it. But -- and I don't really recall the points that I made a year ago, because I wasn't prepared for this.

But as I do recall some things, one thing is that this is part of the Catskill Preserve. And it is land that is not supposed to be developed. It is part of our state land that is assured to stay natural and not have commerce inflicted upon it.

Also, as I recall, there is water that would be diverted that is being utilized by surrounding communities. Am I wrong in remembering some of these things, Senator Bonacic?

ACTING PRESIDENT LIBOUS: Excuse me. Senator Oppenheimer, are you asking Senator Bonacic to yield?

SENATOR OPPENHEIMER: Yes, if you would be good enough to ask him to yield.

ACTING PRESIDENT LIBOUS: Senator Bonacic, would you yield to -

SENATOR BONACIC: Of course. Of course.

ACTING PRESIDENT LIBOUS: Okay. Senator.

SENATOR BONACIC: Do you want me to address your concerns, Senator?

SENATOR OPPENHEIMER: Yes, if you would, please.

SENATOR BONACIC: Surely.

Right now, first of all, the land is in the Catskill Forest Preserve. Right now we have the constitutional authority to develop up to 25 miles of the ski area, and we are at roughly 17 miles. So we are not expanding what we have the authority to do. So that would answer the first question.

And in terms of intensification or economic development, you know, most of us view skiing as something that's healthy, that's compatible to the environment. And it doesn't do any harm to it.

And last but not least, as to the water, there is sufficient water there to make

snow, so . . .

ACTING PRESIDENT LIBOUS: Senator Oppenheimer.

SENATOR OPPENHEIMER: Yes, on the bill.

ACTING PRESIDENT LIBOUS: Senator Oppenheimer will speak on the bill.

SENATOR OPPENHEIMER: As I said, I don't have my information in front of me. But as I recall from last year -

ACTING PRESIDENT LIBOUS: Excuse me, Senator Oppenheimer.

Could -- ladies and gentlemen, could we have a little order in the chamber, please.

Senator Oppenheimer, you have the floor.

SENATOR OPPENHEIMER: On the bill.

As I recall, last year the environmental advocates felt this was very poor policy and that the areas that we are trying to reserve as open space should stay so. And this, mind you, I am saying as a skier. So I'm really putting my environmental

credentials even ahead of my hobby.

But as I recall, there were two smokestacks or three smokestacks on this particular issue. And so therefore, I think we have to take into consideration their objective, which is to maintain our environment as free from intrusion as possible.

I'll be voting no.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Senator Mendez, why do you rise?

SENATOR MENDEZ: I want to explain my vote.

ACTING PRESIDENT LIBOUS: Senator Mendez, to explain her vote.

SENATOR MENDEZ: I know the area. I'm satisfied with the reasons that have been given by the sponsor of the bill pertaining to

the water, pertaining to the nonintrusion into the already forest lands, and pertaining to the need for economic development.

I want to make -- yes, even if it is a two smoke whatever or a three smoke whatever, I think that all these wonderful people who are always defending our environment and we have to care for it because otherwise we're going to poison forever the planet Earth -- but I wish that they would take some time to deal with the issue of environmental racism that has not been dealt with and that occurs every single day in the City of New York.

And I know that in my district there has been examples of that. So I would be more inclined to support all those bills with one, two, three or a thousand smokestacks as long as -- at the time that I see that they also devote their energies to deal with the issue of environmental racism.

I vote yes.

ACTING PRESIDENT LIBOUS: Results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 1197 are Senators Breslin, Connor, Coppola, Dollinger, Duane, Gentile, LaValle, Marcellino, Oppenheimer, Paterson, Schneiderman, Stachowski, and Stavisky. Ayes, 48. Nays, 13.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Can we at this time call up Calendar Number 515.

ACTING PRESIDENT LIBOUS: Calendar Number 515.

The Secretary will read.

THE SECRETARY: Calendar Number 515, by Senator Stafford, Senate Print 4393A, an act to authorize the Ausable-Chesterfield Keeseville joint fire district.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT LIBOUS: Senator Bruno, there is a message at the desk.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT LIBOUS: The

motion is to accept the message. All in favor indicate by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Bruno.

SENATOR BRUNO: Can we at this time return to the reports of standing committees. I believe there is a report from the Finance Committee at the desk. I would ask that it be read at this time.

ACTING PRESIDENT LIBOUS: The Secretary will read the report of the Finance Committee.

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

Senate Print 8171, by Senator Leibell, an act to amend the Civil Service Law and the State Finance Law.

SENATOR BRUNO: Mr. President, can we take that bill up at this time.

ACTING PRESIDENT LIBOUS: The Secretary will read.

THE SECRETARY: Calendar Number 1501, by Senator Leibell, Senate Print 8171, an act to amend the Civil Service Law and the State Finance Law.

ACTING PRESIDENT LIBOUS: Senator Bruno, there's a message at the desk.

SENATOR BRUNO: Please move to accept the message.

ACTING PRESIDENT LIBOUS: The motion is to accept the message. All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS:

Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

THE SECRETARY: Section 21. This act shall take effect immediately.

ACTING PRESIDENT LIBOUS: Call the roll.

SENATOR COPPOLA: Explanation. Please.

ACTING PRESIDENT LIBOUS: Who's asking for an explanation?

Senator Coppola is asking for an explanation.

SENATOR COPPOLA: I withdraw it.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 21. This act shall take effect immediately.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Onorato.

SENATOR ONORATO: Mr. President, I'd like unanimous consent to be recorded in the negative on Calendar Number 1197.

ACTING PRESIDENT LIBOUS: Without objection.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we return to Supplemental Calendar Number 57C and take up Number 1533.

ACTING PRESIDENT LIBOUS: Calendar 57C.

The Secretary will read.

THE SECRETARY: Calendar Number 1533, by Senator Marcellino, Senate Print 7284A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT LIBOUS: Senator Bruno, there is a message of necessity at the desk.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT LIBOUS: All in

favor say aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

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

SENATOR HEVESI: Explanation.

ACTING PRESIDENT LIBOUS: An explanation is asked for by Senator Hevesi.

SENATOR HEVESI: A brief explanation, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Marcellino, Senator Hevesi is asking for a brief explanation.

SENATOR MARCELLINO: Thank you, Mr. President.

Senator, this is an extender. The ability of the EFC to invest its resources expires at the end of this year, and we have attempted to make this a permanent situation, but the other house insists that we renew it.

So we're extending it to 2003 so that they can continue the good work they do with the money that they have to invest.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up the noncontroversial Supplemental Calendar 57D.

ACTING PRESIDENT LIBOUS: Calendar 57D, noncontroversial.

The Secretary will read.

THE SECRETARY: Calendar Number 1549, by Senator Skelos, Senate Print 6672D, an act to amend the Civil Practice Law and Rules, in relation to the venue.

SENATOR BRUNO: Is there a

message at the desk?

ACTING PRESIDENT LIBOUS: Yes, Senator Bruno, there is a message at the desk.

SENATOR BRUNO: Move we accept the message.

ACTING PRESIDENT LIBOUS: The motion is to accept the message. All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1550, by Senator Marcellino, Senate Print

7283A, an act to amend the Public Authorities Law, in relation to the special powers.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1551, by Senator Connor, Senate Print 7316A, an act authorizing a partial tax abatement.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1552, by Senator Kuhl, Senate Print 7558B, an act to amend the Highway Law, in relation to certain highway.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1553, Senator Goodman moves to discharge, from the Committee on Rules, Assembly Bill Number 11402 and substitute it for the identical Senate Bill Number 8041A, Third Reading Calendar 1553.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1553 -

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

THE SECRETARY: Calendar Number 1554, by Senator McGee, Senate Print 8054, an act to amend the Vehicle and Traffic Law, in relation to increasing.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the first day of November.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1555, by Senator Farley, Senate Print 8058 -

SENATOR COPPOLA: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

THE SECRETARY: Calendar Number 1556, by Senator Farley, Senate Print 8090, an

act to amend the Banking Law and the Insurance Law, in relation to insurance activities.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1557, by Senator Lack, Senate Print 8095, an act to amend the Uniform Commercial Code, in relation to letters of credit.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the first day of November.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1558, by the Senate Committee on Rules, Senate Print 8099, an act to amend the Administrative Code of the City of New York, in relation to the rate of regular interest.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 26. This act shall take effect immediately.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1559, by Senator Padavan, Senate Print 8100, an act to amend the Retirement and Social Security Law, in relation to the determination.

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

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1560, by Senator Goodman, Senate Print 8102, an act to amend the Retirement and Social Security Law, in relation to increased take-home pay.

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

Read the last section.

THE SECRETARY: Section 2. This act shall take effect October 1.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number

1561, by the Senate Committee on Rules, Senate Print 8103, an act to amend the Retirement and Social Security Law, in relation to elections.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1562, by Senator Leibell, Senate Print 8106, an act to amend the Retirement and Social Security Law, in relation to disability benefits.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1563, by Senator Leibell, Senate Print 8110, an act to amend Chapter 41 of the Laws of 1997.

ACTING PRESIDENT LIBOUS: Senator Farley.

SENATOR FARLEY: Mr. President, I'd like to abstain on that bill, as it affects me personally.

ACTING PRESIDENT LIBOUS: Without objection, Senator Farley will abstain.

Read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1564, Senator Bruno moves to

discharge, from the Committee on Rules, Assembly Bill Number 11306 and substitute it for the identical Senate Bill Number 8112, Third Reading Calendar 1564.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1564, by the Assembly Committee on Rules, Assembly Print Number 11306, an act to amend the Workers' Compensation Law and Chapter 729 of the Laws of 1993.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1565, by Senator Kuhl, Senate Print 8122, an act to amend the Social Services Law, in

relation to establishing.

SENATOR COPPOLA: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

THE SECRETARY: Calendar Number 1567, by Senator Farley, Senate Print 8125, an act to authorize the city school district of the City of Schenectady.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1568, by Senator Spano, Senate Print 8133, an act to amend the Labor Law, in relation to prohibiting.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1569, by the Senate Committee on Rules, Senate Print Number 8134, an act to amend the Tax Law.

ACTING PRESIDENT LIBOUS: Read the last section.

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

THE SECRETARY: Calendar Number 1570, by the Senate Committee on Rules, Senate Print 8135 -

SENATOR BRUNO: Lay that aside for the day.

ACTING PRESIDENT LIBOUS: Lay that bill aside for the day.

THE SECRETARY: In relation to Calendar Number 1571, Senator Morahan moves to

discharge, from the Committee on Rules, Assembly Bill Number 10892 and substitute it for the identical Senate Bill Number 8139, Third Reading Calendar 1571.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1571, by the Assembly Committee on Rules, Assembly Print Number 10892, an act to amend the Executive Law, in relation to commemorating.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1572, Senator Lack moves to discharge, from the Committee on Rules,

Assembly Bill Number 11368 and substitute it for the identical Senate Bill Number 8143, Third Reading Calendar 1572.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1572, by the Assembly Committee on Rules, Assembly Print Number 11368, an act to amend a chapter of the Laws of 2000 amending the Arts and Cultural Affairs Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1573, by Senator Padavan, Senate Print 8153, an act to amend the Real Property Tax Law, in

relation to the definition.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT LIBOUS: Senator Bruno, there is a message at the desk.

SENATOR BRUNO: Move we accept the message.

ACTING PRESIDENT LIBOUS: The motion is to accept the message. All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the same date as a chapter of the Laws of 2000.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The

bill is passed.

Senator Bruno, that completes the noncontroversial calendar.

SENATOR BRUNO: May we at this time take up the controversial calendar.

ACTING PRESIDENT LIBOUS: The Secretary will read.

THE SECRETARY: Calendar Number 1553, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11402, an act to authorize the conveyance of certain lands.

SENATOR CONNOR: I'd like to request an explanation.

ACTING PRESIDENT LIBOUS: Senator Bruno.

SENATOR BRUNO: Mr. President, this is Senator Goodman's bill, and he had to be away from the chamber at this time.

This is a bill, according to the brief description, which is an act to authorize the conveyance of certain lands to the Brooklyn Academy of Music. Simply stated.

ACTING PRESIDENT LIBOUS: Senator Connor.

SENATOR CONNOR: Mr. President, the first time I've seen this bill is on this calendar here. And being from Brooklyn, I thought, why is Senator Goodman doing a conveyance in Brooklyn? He doesn't represent Brooklyn.

Because I read the bill. I recognize Hanson Place. I recognize that's in Senator Montgomery's district, just a couple of blocks outside of my district.

And I appreciate the fact that Senator Goodman can't be here for very good reasons. But I really, really wonder, my colleagues, what in the heck is the matter with this place when a Senator is given a bill and they notice it's not even in the county they represent and it conveys a little plot of land. Why shouldn't that be Senator Montgomery's bill?

How would you all feel, how would you all feel if you sat here and suddenly saw Senator Goodman was reconveying a block of land in your district to a not-for-profit organization in your district?

It doesn't really make any sense.

And frankly, frankly, it defies the traditions of this house.

ACTING PRESIDENT LIBOUS: Senator Bruno.

SENATOR BRUNO: Mr. President, not to prolong the discussion, but Senator Goodman is in New York because his wife is having minor surgery, and it may be major to them.

He is chairman of the Arts Council, as we all know. And if there is any justification, it would be that as a matter of the arts, they would go to him. Because there are other bills that have been assigned to Minority members when it's in their district that have passed in this house.

So I would guess that they would go to him because he is chairman of the Council of Arts, and I suppose he inadvertently would introduce it, trying to just create a convenience for them.

I am sure there was no malice on his part, and there is no malice on the part of anyone else here in the chamber.

ACTING PRESIDENT LIBOUS: Senator

Connor.

SENATOR CONNOR: Thank you, Mr. President.

I appreciate Senator Bruno's statement. And I appreciate the fact that particularly in the last couple of weeks, that probably quite a number of bills passed sponsored by Minority members, particularly ones that deal with problems in their district.

None of those bills were Senator Montgomery's bill. She hasn't passed a bill this year.

It just defies what's going on. I guess it's really -- I don't know why Senator Goodman wanted to do this to Senator Montgomery, but he did.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 1555, by Senator Farley, Senate Print 8058, an act to amend the Public Health Law, in relation to continuing.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT LIBOUS: Senator Farley, an explanation is asked for by Senator Coppola.

SENATOR FARLEY: Senator Coppola, this is a bill that passed last year at the request of the Funeral Directors Association. It was their number-one priority. It was vetoed by the Governor. And this is a three-way agreement, pretty much.

Basically what they've done is in the veto message it said that there wasn't enough fees to cover the cost of this continuing education and supervising, et cetera. So they raised the fee.

There seems to be -- there's no

opposition by the funeral directors -- as a matter of fact, it's their number-one and only priority, the Funeral Directors Association. And there seems to be no objection or opposition in either house or anyplace that I'm aware of.

ACTING PRESIDENT LIBOUS: Senator Coppola.

SENATOR COPPOLA: Question for the sponsor.

SENATOR FARLEY: Sure.

ACTING PRESIDENT LIBOUS: Senator Farley, will you yield to Senator Coppola?

SENATOR FARLEY: Certainly.

ACTING PRESIDENT LIBOUS: Senator, he will yield.

SENATOR COPPOLA: On the fee, who pays the fee, the directors? Or is it passed on to someone else, the fee that's -

SENATOR FARLEY: The funeral directors pay the fee. They pay it through their association and so forth.

SENATOR COPPOLA: And the funeral directors have no problem with this?

SENATOR FARLEY: No, that's -

they are the ones that asked for the bill, that are supporting it.

SENATOR COPPOLA: Well, that's why I wanted to get clarification for that, because -

SENATOR FARLEY: I understand. No, you would naturally, I think, be concerned that you're putting a mandate on the funeral directors.

This is what they want.

SENATOR COPPOLA: That's all I wanted to know, Senator. Thank you.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first day of January.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

The Secretary will continue to read.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Connor.

SENATOR CONNOR: May I have unanimous consent to correct the record a bit on my remarks before?

Senator Montgomery asked Senator Goodman to give her the bill, or at least let her cosponsor it. And he refused. And it's the second conveyance he's done of land in her district.

ACTING PRESIDENT LIBOUS: The Secretary will read.

THE SECRETARY: Calendar Number 1565, by Senator Kuhl, Senate Print 8122, an act to amend the Social Services Law, in relation to establishing.

ACTING PRESIDENT LIBOUS: Read the last section.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT LIBOUS: Senator Kuhl, Senator Coppola is asking for an explanation.

SENATOR KUHL: Senator Coppola,

this is a bill that would allow for a pilot project to be created for special needs people in the four-county district in my Senate district.

The counties have recognized that with the current managed-care system, that being that there are large urbanized HMOs, that the same kind of quality of care is not being provided to these special-needs people in the district.

So what they have decided, after a demonstration project, is that a better care program can be set up through the use of the counties. And this piece of legislation would allow them to do that for a two-year period.

SENATOR COPPOLA: Thank you.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The

bill is passed.

THE SECRETARY: Calendar Number 1569, by the Senate Committee on Rules, Senate Print Number 8134, an act to amend the Tax Law, in relation to the additional tax.

SENATOR ONORATO: Explanation.

ACTING PRESIDENT LIBOUS: An explanation is asked for.

SENATOR BRUNO: Lay it aside temporarily.

ACTING PRESIDENT LIBOUS: Lay that bill aside temporarily.

Senator Bruno, that completes the controversial reading of 57D.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we take up the noncontroversial Supplemental Number 2 at this time.

ACTING PRESIDENT LIBOUS: The Secretary will read.

THE SECRETARY: Calendar Number 312, by Member of the Assembly Silver, Assembly Print Number 9489, an act to amend Chapter 890 of the Laws of 1982.

ACTING PRESIDENT LIBOUS: Read

the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 460, by Senator LaValle, Senate Print 2709B, an act to amend the Education Law.

ACTING PRESIDENT LIBOUS: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 468, by Member of the Assembly Pheffer, Assembly Print Number 7248, an act to amend the General Business Law, in relation to the prepayment.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Just for a point of order, Mr. President. Could you direct me as to which calendar we're operating on?

ACTING PRESIDENT LIBOUS: Senator, we are on supplemental calendar - it's Supplemental Active List Number 2. Off of the main calendar.

It's Calendar Number 57, Senator, which is the main calendar. And it is the Supplemental Number 2 Active List.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time ask for a meeting of the Rules Committee in Room 332.

ACTING PRESIDENT LIBOUS: There will be an immediate meeting of the Rules Committee in Room 332.

The Secretary will continue to read the Supplemental Number 2 calendar.

THE SECRETARY: Calendar Number

468, by Member of the Assembly Pheffer, Assembly Print Number 7248, an act to amend the General Business Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 636, by Senator Spano, Senate Print 4117B, an act to amend the Workers' Compensation Law, in relation to charges.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 909, by Senator Velella, Senate Print 3762A, an act to amend the Administrative Code of the City of New York, in relation to membership.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 920, by Senator Leibell, Senate Print 7444, an act to amend the Retirement and Social Security Law, in relation to disability.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 931, by Member of the Assembly Destito, substituted earlier today, Assembly Print Number 9460, an act to amend the Agriculture and Markets Law, in relation to creating.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect April 1, 2001.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 935, by Senator Hoffmann, Senate Print 7121, an act to amend the Agriculture and Markets

Law, in relation to the definition of farm operation.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 970, by Senator Lack, Senate Print 5957, an act to amend the Estates, Powers and Trusts Law, in relation to enacting.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The

bill is passed.

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

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1068, by Senator Skelos, Senate Print 6931, an act to amend the Public Officers Law, in relation to the residency.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1174, by Senator LaValle, Senate Print 7315, an act to amend the Education Law, in relation to citizenship.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 3. This act shall -

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT LIBOUS: We're on the noncontroversial, Senator. Would you like to lay that bill aside?

SENATOR COPPOLA: Well, since it's the last bill -

ACTING PRESIDENT LIBOUS: It's not the last bill, Senator. We will lay it aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1189, by Senator Mendez, Senate Print 6828, an

act authorizing the City of New York to reconvey its interest.

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

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1212, by the Assembly Committee on Rules, Assembly Print Number 11223A, an act to amend the General Municipal Law, in relation to governing body.

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

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1441, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8834A, an act to amend the Education Law, the State Finance Law, and the Tax Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1444, by Senator Oppenheimer, Senate Print 4236B, an act authorizing the City of Rye, Westchester County.

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

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Paterson.

SENATOR PATERSON: Mr. President, with unanimous consent, may I be recorded in the negative on Calendar Number 1212.

ACTING PRESIDENT LIBOUS: Without objection.

The Secretary will read.

THE SECRETARY: Calendar Number 1451, by Senator Stachowski, Senate Print 6287, an act to amend the Vehicle and Traffic Law, in relation to the right-of-way.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1494, by Senator Padavan, Senate Print 8029, an act to amend the Real Property Tax Law, in relation to the determination.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Bruno, that completes the noncontroversial reading of Supplemental Number 2.

SENATOR BRUNO: Can we at this time take up the controversial reading of that same calendar.

ACTING PRESIDENT LIBOUS: The Secretary will read.

THE SECRETARY: Calendar Number 1174, by Senator LaValle, Senate Print 7315, an act to amend the Education Law, in relation to citizenship or immigration status.

SENATOR COPPOLA: Explanation, please.

ACTING PRESIDENT LIBOUS: Senator LaValle, Senator Coppola is asking for an explanation, sir.

SENATOR LAVALLE: Senator Coppola, some of the chain pharmacies are having a problem with pharmacists. And there are some pharmacists that are working in this country, and this bill would give them a one-time three-year waiver while they - because they're applying for citizenship while they are here under a limited permit.

So this would give the Board of Regents and the Pharmacy Board an opportunity to give them a one-time three-year waiver.

What we've also done in this bill is to ask for a study so that we can, if this comes before us if we need another extension,

I will or whoever has the sponsorship of the bill will be able to tell this body the number of people that we have in this state under waiver, the number of pharmacists that we need to fill gaps in our pharmacies throughout the state.

SENATOR COPPOLA: Thank you, Senator.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, Mr. President. I would request unanimous consent to be recorded in the negative on Calendar Number 1212, Senate Bill 7893A.

ACTING PRESIDENT LIBOUS: Senator Schneiderman in the negative on 1212, without

objection.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1569.

ACTING PRESIDENT LIBOUS: Calendar Number 1569.

The Secretary will read.

THE SECRETARY: Calendar Number 1569, by the Senate Committee on Rules, Senate Print Number 8134, an act to amend the Tax Law, in relation to the additional tax.

SENATOR ONORATO: Explanation.

ACTING PRESIDENT LIBOUS: Senator Stafford.

SENATOR STAFFORD: Mr. President, at the present time the city is authorized to impose a 14 percent personal income tax surcharge.

SENATOR ONORATO: Senator, I can't hear you.

SENATOR STAFFORD: At the present time, the city is authorized to impose a 14 percent personal income tax surcharge, that they can do that until the end of 2001.

This bill will allow them to reduce it and to eliminate it before that time.

ACTING PRESIDENT LIBOUS: Senator Onorato.

SENATOR ONORATO: Senator, would you yield to a question, please?

ACTING PRESIDENT LIBOUS: Senator Stafford, do you yield?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT LIBOUS: Yes, he will, Senator.

SENATOR ONORATO: From your brief explanation, I take it that there will not be a tax increase on the personal income tax; this will, in fact, decrease the tax.

SENATOR STAFFORD: Exactly.

SENATOR ONORATO: Thank you.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Can we call up Calendar Number 390.

ACTING PRESIDENT LIBOUS: Calendar Number 390.

The Secretary will read.

SENATOR BRUNO: And we'll ask to lay it aside for the day.

ACTING PRESIDENT LIBOUS: Senator Duane, we will recognize you in a second.

THE SECRETARY: Calendar Number 390, by Senator Alesi, Senate Print 6232B, an act to amend the General Obligations Law.

ACTING PRESIDENT LIBOUS: The message was accepted earlier today, and the bill is laid aside.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. If I could receive unanimous consent to vote in the negative on Calendar Number 1212.

ACTING PRESIDENT LIBOUS: Senator Duane in the negative on Calendar Number 1212,

without objection.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Yes, Mr. President, thank you. I rise to request unanimous consent on Calendar Number 1212 to be recorded in the negative.

ACTING PRESIDENT LIBOUS: Senator Smith, also on Calendar 1212, to be recorded in the negative, without objection.

SENATOR MALCOLM SMITH: Thank you.

ACTING PRESIDENT LIBOUS: Senator Onorato.

SENATOR ONORATO: Mr. President, I would like unanimous consent to be recorded in the negative on Calendar Number 1212.

ACTING PRESIDENT LIBOUS: Senator Onorato in the negative on Calendar 1212, without objection.

Senator Mendez.

SENATOR MENDEZ: Mr. President, there will be an immediate Minority conference in Room 314.

ACTING PRESIDENT LIBOUS: After the Rules report, I believe.

SENATOR MENDEZ: Yes.

ACTING PRESIDENT LIBOUS: After the Rules report, there will be a Minority conference immediately following the Rules report. In Room 314, for those of you who are unfamiliar with the room.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: No reason.

ACTING PRESIDENT LIBOUS: Senator Bruno.

SENATOR BRUNO: Mr. President, can we return to the reports of standing committees. I believe there's a report from the Rules Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT LIBOUS: Reports of standing committees.

The Secretary will read.

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

Senate Print 28A, by Senator LaValle, an act to amend the Education Law;

2572, by Senator DeFrancisco, an act to amend the Alcoholic Beverage Control

Law;

3081C, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

4086A, by Senator Nozzolio, an act to authorize;

4936B, by Senator Spano, an act to amend the Public Health Law;

5480B, by Senator Leibell, an act to amend the Retirement and Social Security Law;

5601A, by Senator Saland, an act to amend the Social Services Law and others;

6141, by Senator Morahan, an act to amend the Education Law;

6364, by Senator Maltese, an act to amend the Administrative Code of the City of New York;

6577B, by Senator Morahan, an act to amend the Real Property Tax Law;

6692, by the Senate Committee on Rules, an act in relation to authorizing;

6874, by Senator Fuschillo, an act to amend the State Finance Law;

7056, by Senator Morahan, an act to amend the Retirement and Social Security Law;

7079B, by Senator Marchi, an act to amend the Business Corporation Law and others;

7257A, by Senator Skelos, an act to authorize the state and local employees' retirement system;

7349, by Senator Balboni, an act to amend the Town Law;

7453, by Senator Larkin, an act to amend the General Municipal Law;

7545, by Senator Leibell, an act to amend the Retirement and Social Security Law;

8039, by Senator McGee, an act to reopen the special retirement plan;

8059, by Senator Padavan, an act to amend the Private Housing Finance Law;

8060, by Senator Bruno, an act authorizing Victor T. Greco;

8097A, by the Senate Committee on Rules, an act to amend the Alcoholic Beverage Control Law;

8126, by the Senate Committee on Rules, an act to amend the Public Health Law;

8138, by the Senate Committee on Rules, an act to amend the Insurance Law;

8152A, by Senator Lack, an act to

amend the Judiciary Law and the Uniform City Court Act;

8163, by Senator Rath, an act to amend the Executive Law;

8166, by Senator Padavan, an act to amend the General City Law and the Administrative Code of the City of New York;

8173, by the Senate Committee on Rules, an act to amend the Tax Law;

8174, by Senator Volker, an act to amend a chapter of the Laws of 2000;

8176, by the Senate Committee on Rules, an act to amend the Workers' Compensation Law;

8177, by Senator Fuschillo, an act to amend the Public Health Law;

8180, by Senator Velella, an act to amend the Retirement and Social Security Law;

8181, by Senator Padavan, an act to amend the Executive Law;

1882, by Senator Leibell, an act to amend the Retirement and Social Security Law;

8185, by the Senate Committee on Rules, an act to amend the Public Health Law and others;

And 8165, by Senator Padavan, an act to amend the General City Law and others.

All bills ordered direct to third reading.

ACTING PRESIDENT LIBOUS: Senator Bruno.

SENATOR BRUNO: Move to accept.

ACTING PRESIDENT LIBOUS: All in favor, say aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The Rules report is accepted.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time ask for a very short conference with the Majority.

It's my understanding that the Minority wishes to conference at this time. And I would defer to Senator Paterson for that purpose.

ACTING PRESIDENT LIBOUS: There will be a very short conference of the

Majority at this time in Room 332.

Senator Paterson.

SENATOR PATERSON: I concur with the Majority Leader.

ACTING PRESIDENT LIBOUS: Senator Paterson concurs with the Majority Leader.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 9:20 p.m.)

(Whereupon, the Senate reconvened at 10:00 p.m.)

ACTING PRESIDENT LIBOUS: Senator Bruno.

The Senate will come to order.

SENATOR BRUNO: Mr. President, can we call up Calendar Number 1610.

ACTING PRESIDENT LIBOUS: Calendar Number 1610.

The Secretary will read.

THE SECRETARY: Calendar Number 1610, by Senator Velella, Senate Print 8180, an act to amend the Retirement and Social Security Law and others, in relation to providing.

ACTING PRESIDENT LIBOUS: Senator

Bruno, there is a message of necessity at the desk.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT LIBOUS: All in favor, say aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

THE SECRETARY: Section 18. This act shall take effect immediately.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we take up the Supplemental Calendar 57E. E. E.

ACTING PRESIDENT LIBOUS: Supplemental Calendar E, noncontroversial. Calendar E.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1577, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 1166 and substitute it for the identical Senate bill Number 2572, Third Reading Calendar 1577.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1577, by Member of the Assembly Schimminger, Assembly Print Number 1166, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1578, by Senator Johnson, Senate Print 3081C, an act to amend the Vehicle and Traffic Law, in relation to driving restrictions.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 7. This act shall take effect 180 days.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1579, by Senator Nozzolio, Senate Print 4086A, an act to authorize William DeFisher to apply for retroactive membership.

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

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1580, Senator Spano moves to discharge, from the Committee on Health, Assembly Bill Number 7144C and substitute it for the identical Senate Bill Number 4936B, Third Reading Calendar 1580.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1580, by Member of the Assembly McLaughlin, Assembly Print Number 7144C, an act to amend the Public Health Law.

SENATOR BRESLIN: Lay the bill aside.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

THE SECRETARY: Calendar Number 1581, by Senator Leibell, Senate Print 5480B,

an act to amend the Retirement and Social Security Law, in relation to service credit.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1582, by Senator Saland, Senate Print 5601A, an act to amend the Social Services Law and others.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

THE SECRETARY: Calendar Number 1583, by Senator Morahan, Senate Print 6141, an act to amend the Education Law, in relation to certain BOCES programs.

ACTING PRESIDENT LIBOUS: Read

the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1584, by Senator Maltese, Senate Print 6364, an act to amend the Administrative Code of the City of New York, in relation to calculating.

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

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1585, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 9548A and substitute it for the identical Senate Bill Number 6577B, Third Reading Calendar 1585.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1585, by Member of the Assembly Colman, Assembly Print Number 9548A, an act to amend the Real Property Tax Law, in relation to notice.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 1586, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 8160A and substitute it for the identical Senate Bill Number 6692, Third Reading Calendar 1586.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1586, by the Assembly Committee on Rules, Assembly Print Number 8160A, an act in relation to authorizing the City of New York.

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

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

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

SENATOR DOLLINGER: Just briefly to explain my vote.

I'm pleased to see that General Grant's National Memorial will get attention under this bill.

I would just tell everyone that I'm

reading a fascinating book called "The Last Measure," which is the story of Ulysses Grant's campaigns as a Union general between July of '64 and the end of the war. It is absolutely riveting that a guy who was basically a broke store clerk when the battle of Fort Sumter occurred became America's most famous and most successful general.

It's only fitting that we should honor General Grant with this memorial and improving its quality.

Thank you, Mr. President. I vote aye.

ACTING PRESIDENT LIBOUS: Results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1587, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 9553 and substitute it for the identical Senate Bill Number 6874, Third Reading Calendar 1587.

ACTING PRESIDENT LIBOUS:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1587, by Member of the Assembly Englebright, Assembly Print Number 9553, an act to amend the State Finance Law, in relation to appropriation.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1588, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 5647B and substitute it for the identical Senate Bill Number 7056, Third Reading Calendar 1588.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1588, by Member of the Assembly Gromack, Assembly Print Number 5647B, an act to amend the Retirement and Social Security Law, in relation to retirement.

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

Read the last section.

THE SECRETARY: Section 6. This act shall take effect January 1, 2001.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1589, by Senator Marchi, Senate Print 7079B, an act to amend the Business Corporation Law and others, in relation to making technical corrections.

ACTING PRESIDENT LIBOUS: Senator Bruno, there is a message of necessity at the desk.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT LIBOUS: The motion is to accept the message. All in favor, aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

THE SECRETARY: Section 13. This act shall take effect January 1, 2001.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1590, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 9791A and substitute it for the identical Senate Bill Number 7257A,

Third Reading Calendar 1590.

ACTING PRESIDENT LIBOUS: Substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1590, by Member of the Assembly Weisenberg, Assembly Print Number 9791A, an act to authorize the state and local employees' retirement system.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1591, Senator Balboni moves to discharge, from the Committee on Rules, Assembly Bill Number 9921 and substitute it for the identical Senate Bill Number 7349, Third Reading Calendar 1591.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1591, by Member of the Assembly DiNapoli, Assembly Print Number 9921, an act to amend the Town Law, in relation to compensation.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1592, by Senator Larkin, Senate Print 7453, an act to amend the General Municipal Law, in relation to reconstituting.

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

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1593, by Senator Leibell, Senate Print 7545, an act to amend the Retirement and Social Security Law, in relation to refunding.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 2. This act shall take effect December 15, 2000.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1595, by Senator McGee, Senate Print 8039, an act to reopen the special retirement plan to

Stephen P. Fardink.

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

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1596, by Senator Padavan, Senate Print 8059, an act to amend the Private Housing Finance Law, in relation to advances.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The

bill is passed.

THE SECRETARY: Calendar Number 1597, by Senator Bruno, Senate Print 8060, an act authorizing Victor T. Greco to file for retroactive membership.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1598, by the Senate Committee on Rules, Senate Print Number 8097A, an act to amend the Alcoholic Beverage Control Law, in relation to the sale of alcoholic beverages.

ACTING PRESIDENT LIBOUS: Senator Bruno, there is a message of necessity.

SENATOR BRUNO: Move to accept.

ACTING PRESIDENT LIBOUS: Move the message. All in favor, aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1600, by the Senate Committee on Rules, Senate Print Number 8126, an act to amend the Public Health Law, in relation to the regulation of sharps.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1601, by the Senate Committee on Rules, Senate Print 8138, an act to amend the Insurance Law and Chapter 266 of the Laws of 1986.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1603, by Senator Rath, Senate Print 8163, an act to amend the Executive Law, in relation to establishing a DNA identification index.

SENATOR BRUNO: Is there a

message at the desk?

ACTING PRESIDENT LIBOUS: Yes, there is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT LIBOUS: All in favor indicate by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1604, by Senator Padavan, Senate Print -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

THE SECRETARY: Calendar Number 1605, by -

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

THE SECRETARY: Calendar Number 1606, by the Senate Committee on Rules, Senate Print 8173, an act to amend the Tax Law, in relation to hotel and motel taxes.

SENATOR BRUNO: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1607, by Senator Volker, Senate Print 8174, an act to amend a chapter of the Laws of 2000, as proposed in Legislative Bill Number S6590B.

ACTING PRESIDENT LIBOUS: That bill is high. We'll lay it aside.

The Secretary will read.

THE SECRETARY: Calendar Number

1608, by the Senate Committee on Rules, Senate Print 8176, an act to amend the Workers' Compensation Law, in relation to the investment.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT LIBOUS: Yes, there is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT LIBOUS: All in favor indicate by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1609, by Senator Fuschillo, Senate Print 8177, an act to amend the Public Health Law, in relation to the shipment of cigarettes.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT LIBOUS: Yes, there is, Senator.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT LIBOUS: All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

THE SECRETARY: Section 13. This act shall take effect on the 90th day.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1611, by Senator Padavan, Senate Print 8181, an act to -

SENATOR BRUNO: Lay it aside temporarily.

ACTING PRESIDENT LIBOUS: Lay that bill aside temporarily.

THE SECRETARY: Calendar Number 1612, by Senator Leibell, Senate Print 8182, an act to amend the Retirement and Social Security Law, in relation to clarifying.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT LIBOUS: Yes, there is, Senator Bruno.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT LIBOUS: All in favor indicate by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS:

Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

We'll read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

That completes the noncontroversial reading, Senator Bruno, of Supplemental Calendar 57E.

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

ACTING PRESIDENT LIBOUS: Controversial on 57E.

The Secretary will read.

THE SECRETARY: Calendar Number 1580, substituted earlier today by Member of the Assembly McLaughlin, Assembly Print Number

7144C, an act to amend the Public Health Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: May I have unanimous consent to be recorded in the negative on Bill Number 7930A, Calendar Number 1485, that was passed earlier today.

ACTING PRESIDENT LIBOUS: Without objection.

The Secretary will read.

THE SECRETARY: Calendar Number 1582, by Senator Saland, Senate Print 5601A, an act to amend the Social Services Law and others, in relation to child support enforcement.

ACTING PRESIDENT LIBOUS: Read

the last section.

THE SECRETARY: Section 62. This act shall take effect immediately.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1604, by Senator Padavan, Senate Print 8165, an act to amend the General City Law, the Tax Law, and the Administrative Code of the City of New York.

ACTING PRESIDENT LIBOUS: Excuse me. Can we have a little order in the chamber. Everybody is getting a little restless. We need to move forward.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT LIBOUS: There is a message at the desk.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT LIBOUS: All in

favor indicate by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

THE SECRETARY: Section 64. This act shall take effect November 1, 2000.

ACTING PRESIDENT LIBOUS: Call the roll.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

Senator Paterson, that bill is already laid aside.

SENATOR PATERSON: Mr. President, may I have an explanation on that bill, please.

ACTING PRESIDENT LIBOUS: Senator Paterson asked for an explanation on the bill, Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

This bill deals with the energy cost-saving program that currently exists in the City of New York. It makes a number of changes technical in nature, significant in others, that will enhance the effectiveness of this program as it promotes economic development and other positive gains for business opportunities in the City of New York, particularly in the area of Lower Manhattan.

There is a four-page memo from the City of New York which goes into great detail. Suffice it to say -- you must have a copy of it, Senator Paterson. Do you?

In any event, I'd be happy to answer any specific questions, having just laid a general outline of what we're dealing with here.

ACTING PRESIDENT LIBOUS: Senator Paterson.

SENATOR PATERSON: Mr. President, could I have a moment on that bill? Yeah, that's all I need is a moment.

SENATOR PADAVAN: This is an extender of a program that relates to the City

of New York.

SENATOR CONNOR: Citywide?

SENATOR PADAVAN: Citywide.

SENATOR CONNOR: Thank you. Explanation satisfactory.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 64, this act shall take effect November 1, 2000.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1605, by Senator Padavan, Senate Print 8166, an act to amend the General City Law and the Administrative Code of the City of New York.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT LIBOUS: Yes, there is a message.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT LIBOUS: The motion is to accept the message. All in favor indicate by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: I beg the indulgence of the house. I just voted no on the wrong bill.

ACTING PRESIDENT LIBOUS: Would you like to correct that, sir?

SENATOR DeFRANCISCO: I would like unanimous consent to be recorded in the affirmative on 1485, Senate Print 7930A, and consent to be recorded in the negative on Calendar Number 1549, Senate 6672D.

And I want to thank Senator Morahan for the advice.

ACTING PRESIDENT LIBOUS: Without objection.

Senator Bruno.

SENATOR BRUNO: Can we ask for an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT LIBOUS: There will be an immediate meeting of the Rules Committee in Room 332.

Could we have some order in the chamber. Order in the chamber.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1611, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 11162A and substitute it for the identical Senate Bill Number 8181, Third Reading Calendar 1611.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary shall read.

THE SECRETARY: Calendar Number 1611, by the Assembly Committee on Rules, Assembly Print Number 11162A, an act to amend the Executive Law, in relation to establishing.

ACTING PRESIDENT LIBOUS: Senator Bruno, there is a message of necessity.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT LIBOUS: All in favor indicate by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

We'll read the last section.

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

ACTING PRESIDENT LIBOUS: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

SENATOR BRUNO: Mr. President, I ask we at this time if we can go to the regular calendar and call up Number 744.

ACTING PRESIDENT LIBOUS: Regular calendar, Number 744.

The Secretary will read.

THE SECRETARY: Calendar Number 744, by Senator Leibell, Senate Print 7530A, an act to amend the Retirement and Social Security Law, in relation to granting members.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, Calendar Number 665.

ACTING PRESIDENT LIBOUS: Calendar Number 665.

The Secretary shall read.

THE SECRETARY: Calendar Number 665, by the Assembly Committee on Rules, Assembly Print Number 9008A, an act to amend the Correction Law, in relation to custody and supervision.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

The Secretary will read Calendar 665.

THE SECRETARY: Calendar Number 665, by the Assembly Committee on Rules, Assembly Print Number 9008A, an act to amend the Correction Law.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT LIBOUS: Senator Duane is requesting an explanation, Senator

Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

This measure ensures that the correctional system in the state remain in the hands of those who are most competent to entrust it to. This measure prevents the privatization of the security function of prisons.

SENATOR DUANE: Explanation satisfactory.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we take up Calendar Number 908.

ACTING PRESIDENT LIBOUS:

Calendar Number 908.

The Secretary will read.

THE SECRETARY: Calendar Number 908, by Member of the Assembly Harenberg, Assembly Print 6903B, an act to amend the Retirement and Social Security Law, in relation to providing.

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

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. On behalf of Senator Alesi, I wish to call up Print Number 97, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LIBOUS: The Secretary will read.

THE SECRETARY: Calendar Number 862, by Senator Alesi, Senate Print 97, an act to amend the Executive Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR NOZZOLIO: I now offer the following amendments.

ACTING PRESIDENT LIBOUS: Amendments received.

Senator Onorato, why do you rise?

SENATOR ONORATO: Mr. President, will Senator Bruno call up my bill, S492, that's been languishing in committee for two months.

(Laughter.)

SENATOR ONORATO: Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: We're waiting for the Rules report, so the Senate

will be at ease just temporarily.

(Whereupon, the Senate stood at ease at 10:34 p.m.)

(Whereupon, the Senate reconvened at 10:35 p.m.)

ACTING PRESIDENT LIBOUS: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. With unanimous consent, I'd like to be recorded in the negative on Calendar Number 1582.

ACTING PRESIDENT LIBOUS: Senator Duane in the negative on Calendar 1582, without objection.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Bruno.

SENATOR BRUNO: Mr. President, I believe, if we can return to the reports of standing committees, that there is a report of the Rules Committee at the desk. And I would ask that it be read at this time.

ACTING PRESIDENT LIBOUS: Return to the reports of standing committees, and we will read the Rules report.

The Secretary will read.

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

Senate Print 768A, by Senator Maltese, an act to amend the Retirement and Social Security Law;

1652C, by Senator Seward, an act to amend the Education Law;

5760A, by Senator Goodman, an act to amend the Administrative Code of the City of New York;

6935, by Senator Marcellino, an act to amend the Labor Law;

7068, by Senator Padavan, an act to amend the General City Law and others;

7302, by Senator Leibell, an act to amend the Retirement and Social Security Law;

7981A, by Senator Libous, an act to enact the Mental Health Special Needs Plan Reauthorization Act of 2000;

Senate Print 8079, by Senator Meier, an act to amend the Social Services Law;

8129, by Senator Leibell, an act to

amend the Retirement and Social Security Law and the Education Law;

8130, by Senator Leibell, an act to amend the Retirement and Social Security Law;

8131, by Senator Leibell, an act to amend the Retirement and Social Security Law;

4301, by Senator Maltese, an act to amend the Administrative Code of the City of New York;

4350A, by Senator Leibell, an act to amend Chapter 422 of the Laws of 1991;

6366, by Senator Velella, an act to authorize retroactive membership;

7720A, by Senator Velella, an act to allow Adelaide Peduzzi;

7979, by the Senate Committee on Rules, an act to amend the Administrative Code of the City of New York;

8031, by Senator Johnson, an act to require the Department of Environmental Conservation;

8072, by Senator Breslin, an act authorizing William P. Soronen, Jr.;

8107A, by Senator Hannon, an act to amend the Public Health Law and the Social

Services Law;

8179, by the Senate Committee on Rules, an act authorizing the state comptroller to withhold;

8186, by Senator Goodman, an act to amend the Penal Law;

8183, by Senator Leibell, an act to amend the Civil Service Law and the State Finance Law;

492, by Senator Onorato, an act to amend the Labor Law;

8188, by Senator Leibell, an act to amend the Civil Service Law and the State Finance Law;

7500A, by Senator Alesi, an act to amend the Retirement and Social Security Law;

6428, by Senator Saland, an act to authorize Thomas F. Salmon;

7884A, by Senator Kuhl, an act to amend the Education Law;

8055, by Senator Leibell, an act to amend the Public Lands Law;

And 8119, by the Senate Committee on Rules, an act to amend the General Municipal Law.

All bills ordered direct to third reading.

ACTING PRESIDENT LIBOUS: Senator Bruno.

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

ACTING PRESIDENT LIBOUS: The motion is to accept the report of the Rules Committee. All in favor, aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The Rules Committee report is accepted.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we return to motion and resolutions. I believe that there are four resolutions at the desk. I would ask that they be read in title and move for their immediate adoption.

ACTING PRESIDENT LIBOUS: The Senate will return to motions and resolutions.

And the Secretary will read.

THE SECRETARY: By Senator Bruno,

Concurrent Resolution of the Senate and Assembly 4851, authorizing the Temporary President of the Senate and the Speaker of the Assembly to file an election to make certain officers and employees of joint legislative employers eligible for the retirement incentive offered by Chapter 41 of the Laws of 1997, extended by a chapter of the Laws of 2000, as proposed in Legislative Bill Numbers S8110 and A10873A.

ACTING PRESIDENT LIBOUS: The Secretary will call the roll on the resolution.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The resolution is adopted.

The Secretary shall read.

THE SECRETARY: By Senator Bruno, Senate Resolution Number 4852, authorizing the Temporary President of the Senate to file the election required to allow employees of the Senate and components of the Senate to be eligibility for the retirement incentive offered by Chapter 41 of the Laws of 1997, as

extended by a chapter of the Laws of 2000, as proposed in Legislative Bill Numbers S8110 and A10873A.

ACTING PRESIDENT LIBOUS: The Secretary will call the roll on the resolution.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The resolution is adopted.

The Secretary will read.

THE SECRETARY: By Senator Bruno, Concurrent Resolution of the Senate and Assembly Number 4853, authorizing the Temporary President of the Senate and the Speaker of the Assembly to file an election to make certain officers and employees of joint legislative employers eligible for benefit enhancements as provided by a chapter of the Laws of 2000, as proposed in Legislative Bill Numbers S8142 and A11418.

ACTING PRESIDENT LIBOUS: The Secretary will call the roll on the resolution.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The resolution is adopted.

The Secretary will read.

THE SECRETARY: By Senator Bruno, Senate Resolution Number 4854, authorizing the Temporary President of the Senate to file the election required to allow employees of the Senate and components of the Senate to be eligible for benefit enhancements as provided by a chapter of the Laws of 2000, as proposed in Legislative Bill Numbers S8142 and A11418 amending the Retirement and Social Security Law, relating to providing benefit enhancements.

ACTING PRESIDENT LIBOUS: Call the roll on the resolution.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe that there is a resolution at the desk by Senator LaValle. I ask that the title be

read and move for its immediate adoption.

ACTING PRESIDENT LIBOUS: The Secretary will read the resolution by Senator LaValle.

THE SECRETARY: Legislative Resolution Number 4855, by Senators LaValle and Bruno, commemorating the life of Mike Van Ryn for his many years of dedicated service to the citizens of the State of New York.

ACTING PRESIDENT LIBOUS: On the resolution, all in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, please call up Calendar Number 470.

ACTING PRESIDENT LIBOUS: Calendar Number 470.

The Secretary will read.

THE SECRETARY: Calendar Number 470, substituted earlier today by Member of

the Assembly DiNapoli, Assembly Print Number 9675A, an act to amend the General Business Law, in relation to warranties.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Bruno.

SENATOR BRUNO: Mr. President, can we call up Calendar Number 1614.

ACTING PRESIDENT LIBOUS: Calendar Number 1614.

The Secretary will read.

THE SECRETARY: Calendar Number 1614, by the Senate Committee on Rules, Senate Print 8185, an act to amend the Public Health

Law, the Social Services Law, the Insurance Law, the Workers' Compensation Law, and Chapter 1 of the Laws of 1999, relating to the New York Health Care Reform Act of 2000.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT LIBOUS: Senator Bruno, there is a message of necessity at the desk.

SENATOR BRUNO: Move we accept that message of necessity.

ACTING PRESIDENT LIBOUS: All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

THE SECRETARY: Section 70. This act shall take effect -

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT LIBOUS: Lay

that bill aside.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, could we have an explanation of that bill now?

ACTING PRESIDENT LIBOUS: Senator Dollinger is requesting an explanation.

Senator Hannon, Senator Dollinger is requesting an explanation, sir.

SENATOR HANNON: This is a series of technical changes to the HCRA statute that was passed in December of 1999, and necessary to make sure that lengthy bill is correct and that the monies that were set forth therein are flowed to the appropriate accounts.

SENATOR DOLLINGER: No objection.

Read the last section.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 70. This act shall take effect immediately.

ACTING PRESIDENT LIBOUS: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we take up the noncontroversial Supplemental Calendar 57F.

ACTING PRESIDENT LIBOUS: We will take up the noncontroversial Supplemental Calendar 57F.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1566, Senator Onorato moves to discharge, from the Committee on Labor, Assembly Bill Number 4779 and substitute it for the identical Senate Bill Number 492, Third Reading Calendar 1566.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1566, by Member of the Assembly Butler, Assembly Print Number 4779, an act to amend the Labor Law, in relation to contents.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 3. This act shall take effect in one year.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1594, by Senator Johnson, Senate Print 8031 -

SENATOR BRUNO: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

SENATOR BRUNO: For the day.

ACTING PRESIDENT LIBOUS: For the day.

THE SECRETARY: Calendar Number 1613, by Senator Leibell, Senate Print 8183, an act to amend the Civil Service Law and the State Finance Law, in relation to compensation.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT LIBOUS: Yes,

Senator Bruno, there is a message of necessity at the desk.

SENATOR BRUNO: Move we accept the message.

ACTING PRESIDENT LIBOUS: All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

THE SECRETARY: Section 21. This act shall take effect immediately.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1615, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11131 and substitute it

for the identical Senate Bill Number 7979, Third Reading Calendar 1615.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1615, by the Assembly Committee on Rules, Assembly Print Number 11131, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1616, by Senator Leibell, Senate Print 4350A, an act to amend Chapter 422 of the Laws of 1991 relating to prior service credit.

ACTING PRESIDENT LIBOUS: Read

the last section.

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

ACTING PRESIDENT LIBOUS: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1617, by Senator Maltese, Senate Print 4301, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT LIBOUS: Read the last section.

SENATOR BRUNO: Lay it aside for the day. There is no home rule message.

ACTING PRESIDENT LIBOUS: Lay that bill aside for the day. There is not a home rule message.

THE SECRETARY: In relation to Calendar Number 1618, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 9378 and substitute it for the identical Senate Bill Number 6366,

Third Reading Calendar 1618.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1618, by Member of the Assembly Hochberg, Assembly Print Number 9378, an act to authorize retroactive membership.

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

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

1599. The Secretary will read.

THE SECRETARY: Calendar Number 1599, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 1284A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT LIBOUS:

Substitution ordered.

The Secretary will read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1619, by Senator Velella, Senate Print 7720A, an act to allow Adelaide Peduzzi to recover past service credit.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The

bill is passed.

THE SECRETARY: Calendar Number 1620, by Senator Breslin, Senate Print 8072, an act authorizing William P. Soronen, Jr., to file for retroactive membership.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1621, by Senator Seward, Senate Print 1652C, an act to amend the Education Law, in relation to creating the profession of medical physics.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1622, Senator Goodman moves to discharge, from the Committee on Rules, Assembly Bill Number 6742A and substitute it for the identical Senate Bill Number 5760A, Third Reading Calendar 1622.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1622, by Member of the Assembly Vitaliano, Assembly Print Number 6742A, an act to amend the Administrative Code of the City of New York and the Retirement and Social Security Law.

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

Read the last section.

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

ACTING PRESIDENT LIBOUS: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1623, by Senator Saland, Senate Print 6428, an act to authorize Thomas F. Salmon to transfer certain prior service credit.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1624, by Senator Marcellino, Senate Print 6935, an act to amend the Labor Law, in relation to records.

ACTING PRESIDENT LIBOUS: Read

the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1625, by Senator Padavan, Senate Print 7068, an act to amend the General City Law and others.

SENATOR BRUNO: Please recommit it to the Committee on Rules.

ACTING PRESIDENT LIBOUS: So ordered.

THE SECRETARY: In relation to Calendar Number 1626, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 10797 and substitute it for the identical Senate Bill Number 7302, Third Reading Calendar 1626.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1626, by the Assembly Committee on Rules, Assembly Print Number 10797, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1627, by Senator Alesi, Senate Print 7500A, an act to amend the Retirement and Social Security Law, in relation to retirement.

ACTING PRESIDENT LIBOUS: Read the last section.

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

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

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: And the bill is passed.

THE SECRETARY: Calendar Number 1628, by Senator Kuhl, Senate Print 7884A, an act to amend the Education Law, in relation to ensuring.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 180th day.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1629, by Senator Libous, Senate Print 7981A,

an act to enact -

SENATOR DUANE: Lay it aside, please.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT LIBOUS: We'll lay that bill aside.

THE SECRETARY: Calendar Number 1630, by Senator Leibell, Senate Print 8055, an act to amend the Public Lands Law, in relation to the payment of state aid.

ACTING PRESIDENT LIBOUS: There is a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1631, Senator Meier moves to discharge, from the Committee on Rules, Assembly Bill Number 8475A and substitute it

for the identical Senate Bill Number 8079, Third Reading Calendar, 1631.

ACTING PRESIDENT LIBOUS: Substitution ordered.

The Secretary shall read.

THE SECRETARY: Calendar Number 1631, by the Assembly Committee on Rules, Assembly Print Number 8475A, an act to amend the Social Services Law, in relation to clarifying.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 5. This act shall take effect in 60 days.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1632, by Senator Hannon, Senate Print 8107A, an act to amend the Public Health Law and the Social Services Law, in relation to authorizing Helen Hayes Hospital.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT LIBOUS: Senator Bruno, there is a message of necessity at the desk.

SENATOR BRUNO: And I would move that we accept that message of necessity.

ACTING PRESIDENT LIBOUS: All in favor indicate by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

We'll read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number

1633, by the Senate Committee on Rules, Senate Print Number 8119 -

SENATOR PATERSON: Lay it aside.

SENATOR BRUNO: Lay it aside temporarily.

ACTING PRESIDENT LIBOUS: Lay that bill aside temporarily.

THE SECRETARY: Calendar Number 1634, by Senator Leibell, Senate Print 8129, an act to amend the Retirement and Social Security Law and the Education Law, in relation to credit.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1635, by Senator Leibell, Senate Print 8130, an act to amend the Retirement and Social

Security Law, in relation to member benefit.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1636, by Senator Leibell, Senate Print 8131, an act to amend the Retirement and Social Security Law, in relation to death benefits.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: And the bill is passed.

THE SECRETARY: Calendar Number 1637, by the Senate Committee on Rules, Senate Print Number 8179, an act authorizing the state comptroller.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT LIBOUS: Senator Bruno, there is a message of necessity at the desk.

SENATOR BRUNO: I would move that we accept the message.

ACTING PRESIDENT LIBOUS: All in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1638, by Senator Goodman, Senate Print 8186, an act to amend the Penal Law, in relation to prohibiting and penalizing identity theft.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT LIBOUS: Senator Bruno, there is a message at the desk.

SENATOR BRUNO: And I move that we accept that message.

ACTING PRESIDENT LIBOUS: All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is carried.

Read the last section.

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

ACTING PRESIDENT LIBOUS: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1639, by Senator Leibell, Senate Print 8188, an act to amend the Civil Service Law and the State Finance Law, in relation to compensation.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT LIBOUS: Senator Bruno, there is a message at the desk.

SENATOR BRUNO: I would move we accept the message.

ACTING PRESIDENT LIBOUS: All those in favor indicate by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LIBOUS: Opposed, nay.

(No response.)

ACTING PRESIDENT LIBOUS: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LIBOUS: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

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

SENATOR BRUNO: Mr. President, can we at this time take up the controversial reading of that calendar.

ACTING PRESIDENT LIBOUS: Controversial reading of the calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 1629, by Senator Libous, Senate Print 7981A, an act to enact the Mental Health Special Needs Plan Reauthorization Act of 2000.

ACTING PRESIDENT LIBOUS: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I have an amendment at the desk,

and I ask that the reading be waived and to speak on the amendment.

ACTING PRESIDENT LIBOUS: The reading is waived, Senator Duane. You may be heard on the amendment.

SENATOR DUANE: Thank you very much.

The amendment that I have before us provides health insurance policies and health maintenance organizations -- it says that they must treat patients with mental illnesses the same as patients with physical ailments. And in fact, it's a mental health parity bill.

The amendment would require that all group or blanket accident or health insurance policies provide mental health coverage for inpatient care. And if they're already doing that now, they must provide it under the same guidelines as it sets for other illnesses.

And outpatients may not be restricted to a certain number of visits. In fact, that's one of the more ridiculous ways that we treat mental health in this state, that we believe we know exactly how long it

takes to treat mental illness.

Now, remember, the bill and the amendment does not provide greater coverage for mental illnesses, it provides for equal treatment. For too long, mental health and mental illnesses in people who are seeking treatment for mental illnesses have had to live with stigmatization. And even today, people are afraid to seek treatment for fear that that will forever label them as being somehow flawed.

If we were to pass my amendment, it would mean that we would become the 31st state in the nation to have a mental health parity bill. I know there's broad-based support for this legislation in our house, and I ask my colleagues to vote to add my amendment to the bill.

Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: The Secretary will call -

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Hevesi, on the amendment.

SENATOR HEVESI: Thank you, Mr.

President. The hour is late; I'll be very brief.

I just rise to add my voice to join Senator Duane and my other colleagues calling for this mental health parity legislation that Senator Libous sponsors and I believe is cosponsored by 23 members of the Majority and would receive a close to if not unanimous support from members on this side of the aisle.

It's absolutely essential that we have this legislation. There is really no meritorious argument opposed to it. 31 other states, as Senator Duane has pointed out, have it. This is equity that is not only the right thing to do, but our failure to do it penny-wise and pound-foolish. Denying people adequate treatment on the front end is going to cost us a lot more in the long run.

This is something we need to do. We have an opportunity to do it right now. I commend Senator Duane for bringing the amendment, and I request respectfully that all my colleagues support it.

ACTING PRESIDENT LIBOUS: On the

amendment, all those in favor -

SENATOR CONNOR: Party vote in the affirmative.

SENATOR BRUNO: Party vote in the negative.

ACTING PRESIDENT LIBOUS: Call the roll for the party vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 25. Nays, 36. Party vote.

ACTING PRESIDENT LIBOUS: The amendment is defeated.

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1633, by the Senate Committee on Rules, Senate Print Number 8119, an act to amend the General Municipal Law, in relation to public works

contracts.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT LIBOUS: Explanation requested.

Senator Velella.

SENATOR VELELLA: Mr. President, this is a bill which will help to alleviate problems that have arisen as a result of court decisions, and deals with public and private work.

Public contracts that may be let to bid -- for example, if streets had to be repaired -- are bid by companies for public purposes pursuant to the law, and they are awarded contracts. If you're repairing a street and you open up the street and you're doing your public work and you find, for example, telephone lines or utility lines in there, that has been determined to be private work. And those repairs, if you have to move those lines, would be done not pursuant to your publicly bid contract but pursuant to a private contract or private agreement with the utility company.

Originally these programs and these

projects used to be bid out as one, the public and private work together. The Court of Appeals said you cannot do that, it's improper to do it, you have to split the work.

As a result, the public contract starts -- a contract defines there's private work and then has to negotiate with the utility company to do the private work. That delays the job, because the utility companies very often realize that they have the contractor at a disadvantage. He's in the middle of a job, and he has to do the job for a very, very low price.

What this bill says is that we will put in place a procedure where, when this event happens, that a publicly bid job has the problem of hitting work that the courts have said has to be privately done, that we will put in place a mechanism whereby the company will have to negotiate the job with the contractor within 60 days and then, if they cannot agree on a price, the utility company can either perform that work themselves or they would go to an arbitration or a binding arbitration for the interference work.

They're called -- the work is called interference work if it's for the utility company.

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

SENATOR DOLLINGER: Mr. President, on the bill.

ACTING PRESIDENT LIBOUS: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I accept Senator Velella's explanation.

But I guess I'm astounded that at this dawn of the time of deregulation of our utilities, we're about to enact a measure which is going to significantly drive up utility construction costs for the exact kind of interference work that Senator Velella mentions.

Frankly, I guess I'm astounded that here we are at 11:30 on the last night of session, and the Energy Association of the State of New York comes in and says, Memorandum of opposition, it's going to drive up costs if this bill passes, it's going to drive up the cost of electrical rates because

it's going to drive up their construction costs for just this kind of interference work.

They're telling me that this is something that will be devastating because it will put contractors in a position where in essence they can hold the utilities hostage and significantly drive up the cost and increase the cost of construction projects for utilities.

I would just ask everybody in this chamber, are these the same utilities that we want to free from mandates? Are we about to put an unfunded mandate onto our utility companies? We're trying to get them in an era of competition. We've done a number of bills during this session -- Senator Wright has sponsored the deal with the implications of going to a free market with respect to the ownership of utilities and the real property taxes that they pay.

And sure enough, here we are, the Energy Association is telling us, don't do this, it's going to drive up the cost of energy.

Right back in my hometown,

Rochester Gas & Electric, trying desperately to get into the free market and be competitive, reduce rates to utility ratepayers. And sure enough, what do they say? It's a bad idea. It's going to drive up rates. Unfunded mandate for Rochester Gas & Electric.

Lo and behold, I see a memorandum on my desk that I've almost never seen before. My gosh, it's the New York City Partnership, all those good business groups. You know, that group that leads the New York City Partnership of Business Alliance. What do they come to the table and say? Bad idea. Going to drive up utility rates. May drive up the cost of doing public work. Drive up the cost.

I thought we were trying to be a low-cost state. I've heard that mentioned so many times during this session when we cut business taxes, when we provided extra incentives for businesses. We created a public market for utilities. And lo and behold, the New York City Partnership, the premier business organization in the state,

says, Bad idea, going to drive up utility rates, going to drive up the cost to government.

Then, lo and behold, I come to the organization that has the most experience with this kind of construction project: The City of New York, the very place where the experiment that Senator Velella talked about. What do they write? They write a memo of opposition that says this is bad for the taxpayers in the city of New York and it's going to be bad for taxpayers everywhere.

My only comment would be, what are we really here to do? I thought we were here this session to reduce taxes, cut costs for business and make us a more competitive state, reduce the overall cost to our citizens, both the ratepayers who pay their electrical bills and the real property tax payers, who are paying their bills for construction.

Sure enough, five highly respected organizations come in at 11:30 at night and say, It's a bad idea and it's going to actually drive up costs. Not only the utilities will be held hostage by these

companies, but it's going to drive up the cost to local government.

I may be mistaken, but I would suggest that this is an unfunded mandate. This is a mandate to another level of government. You can't do it the way that saves you money, and you can't do it the way that saves payments on your utilities. You can't do it either way.

You know what? It's going to cost the utilities more, so it's going to drive up rates, it's going to drive up property taxes. I thought this session we've had a number of debates about unfunded mandates. We've gone back and forth on this one a kazillion times. And here we are, the last thing we're going to do, the very last thing we're going to do is drive up the cost to local government and drive up to the cost to ratepayers, all in the same fell swoop.

I know it's late. The lights are burning. The rates will up in the city of Albany. The rates are going to go up everywhere. Our cost to public employers is going up. It's worth debating, Mr. President,

even at this very late hour.

If there's a way to drive the cost of utility rates down, we ought to do it. If there's a way to drive the cost to local government down, we ought to do it. And the best way to do it right now, at 20 minutes to 12:00 on the last day, vote no on this bill.

ACTING PRESIDENT LIBOUS: Read the last section.

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

SENATOR SCHNEIDERMAN: Mr. President, will the sponsor yield to a question?

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

SENATOR SCHNEIDERMAN: Would the sponsor yield to a question?

ACTING PRESIDENT LIBOUS: Senator Velella, would you yield to Senator Schneiderman for a question?

SENATOR VELELLA: Of course.

SENATOR SCHNEIDERMAN: Thank you.

Through you, Mr. President. I note that in spite of all the purported benefits of

this legislation, there's an opt-out provision for all the cities in the state of New York except for the City of New York. If this is something that other cities can opt out of, why is the City of New York to be burdened with all these additional costs?

SENATOR VELELLA: Well, Senator, I don't agree with your categorization of the fact that this is a burden to the City of New York, nor do I agree with Senator Dollinger's characterization.

This is actually going to save the taxpayers money, because jobs will not be delayed, there will not be a whole battery of change orders.

And obviously, Senator Dollinger, you don't know how the construction industry works. Time is money to a construction job. When you are delayed because Con Ed is holding you by the throat and saying that they won't allow you to do this work unless you do it for a very low rate, it costs the contractor a tremendous amount of money. That reflects in change orders. That reflects in additional costs to the municipality and to the people

paying for that work, and brings the cost of the contract up.

So, Senator, one way or the other, the public will pay, because they will be paying larger taxes to do the kind of work that's needed in their municipality to repair the roads, to do the work that public contracts are bid for.

And this is a result of a Court of Appeals decision. This isn't because we decided that we would like to do this. We have no choice, unless we want to just let the streets of our cities rot away and not be able to get the repair work done. So we are saddled with a tough decision.

We are choosing to help the municipalities by not elevating the costs on the burden of the taxpayers and letting the utility companies do a fair procedure. What is the real cost? They can either opt out by doing the work themselves, or they can go to a procedure where there's an arbitration and a reasonable amount for the cost of the work is arrived at.

There is no great big balloon here

that's blowing up. We are giving the opportunity for other localities to opt out because it may not be as severe a problem in some of the different localities around this state as it is in the City of New York. And in the City of New York, it is a major problem. Other communities may decide it is not a major problem.

That is why.

SENATOR SCHNEIDERMAN: Thank you.

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

ACTING PRESIDENT LIBOUS: Senator Schneiderman.

SENATOR SCHNEIDERMAN: So if I understand correctly, then, the City of New York, which has written a memorandum in opposition -- based in large part on the fact that it already has an arbitration process, known as Section U, that would be gutted by this legislation -- why don't we give the City of New York the opportunity to opt out? Why don't we give the great Republican Mayor of the City of New York the opportunity to make the decision about what's best for the people

of his city?

SENATOR VELELLA: Senator, I just hope that you will follow your principles and support all the memos as loyally as you are supporting this, including the ones that - the city issues that you have voted against almost -- I think probably more so than you have voted for.

However, that section that you cite, very simply -- and sometimes when we're up here in Albany, we lose sight of this. It doesn't work. The jobs are not getting done in the city. We have holes in the street that are open forever. We have those little steel plates that everybody rides over and wrecks their cars, because Con Ed, telephone companies -- all of those five memos that Senator Dollinger said are so important from upstanding citizens, those are the utility companies that are the upstanding citizens. And if you believe their memos, Senator, I got a bridge I want to sell you in Brooklyn.

(Laughter.)

SENATOR VELELLA: But anyway, they are not -- it is not working. And that

is what why we want to change it.

ACTING PRESIDENT LIBOUS: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Okay, thank you. I believe that bridge -

ACTING PRESIDENT LIBOUS: Senator Connor, why do you rise?

SENATOR CONNOR: That bridge is in my district. I don't think Senator Velella should be selling it.

(Laughter.)

SENATOR VELELLA: Point of order.

Mr. President, when we put the bill in to do the transfer, we will yield to Senator Connor to sponsor it.

ACTING PRESIDENT LIBOUS: So noted for the record.

Senator Schneiderman.

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

With all due respect to Senator Velella, I don't agree that this is the reason we have such a bad situation with regard to the streets in the city of New York. It is beyond me to understand why putting the

contractors in a situation to essentially extort any price for their work is a benefit to the city. And I think it just -- the gravity of the situation is demonstrated by the fact they're letting everyone else opt out.

I respectfully submit this is another instance of discrimination against the City of New York. It's going to drive up costs. It is something else that if it's good for New York City, it should be good for the rest of the state. It's not. And I think that we're ending this session again having not done right by the city on schools, on our transit system, and on a variety of other issues.

And I think this is one other example, and I urge everyone to vote no.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Just briefly, Mr. President.

I appreciate the vantage point that Senator Velella has on the City of New York from his perch in the Bronx. I would suggest that the Mayor of the City of New York has a better understanding of what's going on in the entire city, and that when he says this is a bad idea, we ought to follow his advice.

And I would just suggest that here it is, it's wonderful at the tail end of this session we're taking the concept of home rule and we're flipping it on its ear. It's now, we say, We rule your home. I don't quite understand it.

I vote no.

ACTING PRESIDENT LIBOUS: Results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1633 are Senators Breslin, Connor, Coppola, Dollinger, Duane, Gentile, Hevesi, Montgomery, Onorato,

Oppenheimer, Paterson, Sampson, Schneiderman, A. Smith, M. Smith, Stachowski, Stavisky, and Wright. Ayes, 43. Nays, 18.

ACTING PRESIDENT LIBOUS: The bill is passed.

The Secretary will read 1459.

THE SECRETARY: Calendar Number 1459, by Senator Velella, Senate Print 8075, an act to amend the Tax Law and the Administrative Code of the City of New York, in relate to exempting.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 5. This act shall take effect in 60 days.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT LIBOUS: Senator Connor is asking for an explanation, Senator Velella.

SENATOR VELELLA: This is a correction to the bill which was passed a while back where the city put on a parking tax. And this bill would apply the same exemptions to co-ops that apply to other properties if they hire out and have a manager

that manages their parking lot.

I believe some of the Senators on that side of the aisle, it will help their districts considerably.

SENATOR DOLLINGER: Explanation satisfactory.

ACTING PRESIDENT LIBOUS: Read the last section.

THE SECRETARY: Section 5. This act shall take effect in 60 days.

ACTING PRESIDENT LIBOUS: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LIBOUS: And the bill is passed.

Senator Seward.

SENATOR SEWARD: Mr. President, if I could ask unanimous consent, I would like to be recorded in the negative on Calendar Number 1566.

ACTING PRESIDENT LIBOUS: Without objection.

SENATOR SEWARD: Thank you.

ACTING PRESIDENT LIBOUS: Senator

Connor.

SENATOR CONNOR: Thank you, Mr. President.

Well, it does appear that the hustle and bustle of the regular session is coming to a close. We're just ready to step over the finish line, but I don't think we can put that other foot down over the line quite yet.

So we've certainly accomplished much this session; many, many important pieces of legislation. And as I said earlier in the session, the greatest compliment is imitation, I guess, the greatest form of flattery. And we in the Minority are indeed flattered by the fact that so many of our ideas -- in fact, we're gratified by the fact that so many of the ideas we advanced earlier in this session have actually come to fruition in the form of legislation passed by this house.

I suppose before we put that other foot down, we'll see each other quite soon to complete the business of the Legislature. So I will -- while we bid adieu to the hustle and bustle of, I suspect, members' bills and

one-house bills and bills with the hope and the wish that they'll go somewhere in the other house, we do have more work to do, as I'm sure Senator Bruno will point out.

And therefore, I would close my real closing remarks -- or hold my real closing remarks until that time and not wish all of you a great summer quite yet.

Thank you.

ACTING PRESIDENT LIBOUS: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

We adopted a calendar, I believe late December, all of us together, and that calendar suggested that we would close officially the legislative session on June 14th. It is June 14th, and it will cease to be in nine minutes, I believe, by our clock. So I'm very pleased that we can do that.

And as my colleague here Senator Connor indicates, we will be back, because there are some things that we just don't have time to finish. And we -- our expectation is

that we will come back probably next Thursday, a week from tomorrow, at some time, finish what we have to finish hopefully in a short period of time, and then we can close the session as we might want to appropriately.

And with that thought in mind, Mr. President, I would ask that we recommit all of the outstanding bills to the Rules Committee. Because when we get back together, we are going to have some very specific items to discuss. We will not have an open agenda, because our calendars are closed.

And we will do the kinds of things that might be important for us to do that we have agreement on or that be important that we deal with before we leave for the summer.

So there being no further business to come before the Senate at this time, I would move that we stand adjourned, subject to the call of the Majority Leader, and intervening days to be legislative days.

Thank you, and have a good weekend.

ACTING PRESIDENT LIBOUS: The Senate stands adjourned, at the call of the Majority Leader.

(Whereupon, at 11:53 p.m., the Senate adjourned.)