NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 21, 2001

10:45 a.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order.

I ask everyone to please take their places and join me in reciting the Pledge of Allegiance.

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

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

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

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, June 20, the Senate met pursuant to adjournment. The Journal of Tuesday, June 19, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT MEIER: 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, Mr. President. Are there any substitutions at the desk?

ACTING PRESIDENT MEIER: Yes, we have one, Senator.

SENATOR KUHL: Could we make that at this time, please.

ACTING PRESIDENT MEIER: The Secretary will read the substitution.

THE SECRETARY: On page 33, Senator Trunzo moves to discharge, from the Committee on Elections, Assembly Bill Number 2422 and substitute it for the identical Senate Bill Number 1683, Third Reading Calendar 925.

ACTING PRESIDENT MEIER: Substitution ordered.

Senator Kuhl.

SENATOR KUHL: Move for the adoption of the Resolution Calendar.

ACTING PRESIDENT MEIER: All those in favor of adopting the Resolution Calendar in its entirety signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar is adopted.

Senator Kuhl.

SENATOR KUHL: Could we now have the noncontroversial reading of the calendar, please.

ACTING PRESIDENT MEIER: The Secretary will read the noncontroversial calendar.

Senator Kuhl.

SENATOR KUHL: Before we have the noncontroversial reading of the calendar, it's my understanding that Senator Breslin would like to make an announcement relative to a resolution that was just adopted.

So if you would recognize Senator Breslin, who has now reached his seat, that would be wonderful.

ACTING PRESIDENT MEIER: Good morning, Senator Breslin. You're recognized.

SENATOR BRESLIN: Thank you, Mr. President.

On the Resolution Calendar there is a resolution honoring Paul Weafer, who as you all know is one of the heads of bill drafting for so many years. And I would like to open it for everyone in the house, on both sides, to be a part of it.

ACTING PRESIDENT MEIER: Resolution 2479, then, is opened up. Any member who wants to cosponsor that resolution can inform the desk.

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

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: May we now have the noncontroversial reading of the calendar.

ACTING PRESIDENT MEIER: Senator Kuhl, on the resolution, rather than -

SENATOR KUHL: Good idea. I think we put everybody on, and then those who do not want to go on will then notify the desk. Thank you.

ACTING PRESIDENT MEIER: We'll follow our usual custom, then. Any member who does not wish to be on, notify the desk. Otherwise, you'll be listed.

And may we now have the noncontroversial reading of the calendar.

THE SECRETARY: Calendar Number 63, by Senator Skelos, Senate Print 400A, an act to amend the General Business Law, in relation to the sale, use and application.

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, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 269, by Senator McGee, Senate Print 3187B, an act to amend the General City Law, the Town Law, and the Village Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 546, by Member of the Assembly Luster, Assembly Print Number -

SENATOR LACK: Lay it aside.

ACTING PRESIDENT MEIER: The bill is laid aside.

THE SECRETARY: Calendar Number 623, by Senator Velella, Senate Print 4325, an act to amend the New York City Civil Court Act, in relation to housing court judges.

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, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 943, by Member of the Assembly Cymbrowitz, Assembly Print Number 6976, an act to amend the Public Housing 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.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 946, by Senator Padavan, Senate Print 5B, an

act to -

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1031, by Senator Stachowski, Senate Print 2558A, an act to amend the General Municipal Law, in relation to notification.

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.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1125, by Senator Leibell, Senate Print 2360, an act to amend the Public Authorities Law, in relation to the oversight.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1274, by Senator Stafford, Senate Print 5642, an act to authorize certain health care professionals.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1313, by Senator Wright, Senate Print 5639, an act to amend the Public Authorities Law and the Energy Law, in relation to energy efficiency.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

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

ACTING PRESIDENT MEIER: The noncontroversial calendar having been completed, the Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 546, by Member of the Assembly Luster, Assembly Print Number 980, an act to amend the Labor Law.

SENATOR KUHL: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 946, by Senator Padavan, Senate Print 5B, an act to amend the Education Law and the Administrative Code of the City of New York.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT MEIER: Senator Padavan, an explanation has been requested by Senator Dollinger.

SENATOR PADAVAN: Thank you, Mr. President.

Before I talk about the bill before us, I'd like to just report to you briefly on something we did a year ago that was signed into law last June by the Governor called Teachers-2. In it we tried to address a number of ways of attracting teachers into our systems, our school systems in New York State.

We wanted to see the result of that effort, and we turned to the city of New York, where certainly a significant problem related to teacher shortages exists. We determined that last summer there were 192 young people in colleges and universities in New York State and elsewhere who did their internship last summer in the city of New York. And currently, applications of almost 400 have been received for this summer under that bill.

Over a thousand teachers opted into

that provision encouraging them to work in schools that have not been performing to Regents standards, because we provided a $3,400 stipend in that bill of last year.

There are a number of other provisions of Teachers-2 which were put into effect that have worked extremely well.

However, despite those good efforts, we still have an enormous problem looming up ahead. It's estimated that in New York State over the next five to seven years we will lose, as a result of retirement, primarily, over 100,000 teachers, 54,000 of them over the next five years in the city of New York alone.

So obviously we have to do many more things to encourage teachers to work in our systems here in this state. And that's what the bill before you does. Its provisions are outlined in the bill, but let me go over them very briefly and then I'll answer any questions you might have.

One provision of the bill, acronym STAY, allows one additional month of credit for each year a teacher has been an inactive

member of the retirement system. For instance, a teacher who is 55 and has taught for 24 years would receive 24 months of additional service credit for remaining in the classrooms for three more years. And here is an attempt to encourage teachers not to retire, to stay in the system.

Another provision, called START, State Teacher Attraction and Retention, encourages teachers from other states and other systems, perhaps employed in nonpublic schools, by allowing them to purchase pension credit in these systems for up to ten years for their earlier service elsewhere.

The third component deals with the salary earnings waiver. Here we allow retired teachers to return to the system without having imposed upon them the income limitation of $18,500 currently in the law. Which means a teacher who is retired, receiving a pension, now can come back and earn whatever the salary is for that teaching position without impacting on their previously earned pension. Obviously their pension doesn't increase or is not affected. But this is a way of getting

teachers back into the system.

The bill would provide a $3,400 bonus to teachers who successfully complete the National Board for Professional Teaching Standards. As part of the Teachers of Tomorrow program, which we enacted last year, a $10,000 annual was provided last year, and this particular provision would bring it up to $13,400.

Teachers today who seek their certification, State of New York certification, have to pay a fee. The current fees for taking these two exams is $140. As an encouragement to them to take the test, we are waiving the fee in this bill.

And then, finally, we have the Teacher of the Year awards of $10,000 to Teachers of the Year in recognition of their achievement.

Those are the essential components and provisions of this bill.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Yes. Through you, Mr. President, will the Senator 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 LACHMAN: I admit I haven't read the entire bill. I just was reading through it when you spoke. And I think that the -- Mr. President, I think that the description of the bill, 946, S5B, is inadequate in that it does not describe the bill in total. That's beside the point.

This bill, Senator Padavan, is, as I gather, not for a limited amount of time but is a bill that will be law from now on?

SENATOR PADAVAN: No, there are certain parts of the bill which expire at various time frames.

The effective date for the STAY and START program -- those are the two provisions that I described -- shall be effective June 30, 2001. The START program, the START program, that was the one that allows teachers to come into our system from elsewhere and buy

in, that will sunset in 2006.

The salary earnings waiver program and the waiver of certain testing fees would sunset five years from the effective date of this enactment.

So there are time limits. However, we obviously will have the option, when those sunsets arrive, to extend it, amend it, do whatever we wish. Obviously I think it's important to see how it works and to see what the benefits are. And obviously, again, I repeat myself, we will do that.

SENATOR LACHMAN: Mr. President, through you, will the Senator yield for a question?

ACTING PRESIDENT MEIER: Senator Padavan, do you yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LACHMAN: I look upon this bill as having many components. But the major component that it has is that the heretofore limit of $18,500 that a retired teacher would earn will now be eliminated, and

that teacher can come back to the school system, collect his or her pension, and earn a salary at his or her seniority ranking for five years. Is that correct or incorrect?

SENATOR PADAVAN: That's correct.

SENATOR LACHMAN: Okay.

On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Lachman, on the bill.

SENATOR LACHMAN: I think this is a very major piece of legislation. I think it's a most important piece of legislation. And it puts our pockets where our mouths usually are.

We all talk about teaching and teachers as being the most important element in the American firmament in terms of the growth of the Union, in terms of knowledge, in terms of competence, and in terms of fulfillment of the American dream.

Now, this is going to cost money, there's no question about it. Because you might have a teacher earning, at retirement, $70,000, under what is known as Tier 1, and collecting a pension of $50,000. Which means

that we will pay that teacher $120,000 a year. Am I correct, Senator Padavan?

SENATOR PADAVAN: Pardon me?

SENATOR LACHMAN: Am I correct in those numbers?

SENATOR PADAVAN: Yes.

SENATOR LACHMAN: Okay. Some people might be frightened by this, but I'm not. Because we call the teaching profession the most noble profession in the nation, and we don't pay them that. We pay them as if they're the least noble profession in the nation.

And 50 percent of teachers that are now under Tier 1, which is the highest pension rate, will be retiring in the next few years. I hope, Senator Padavan, that this changes that process. And we will have five years in which to review it.

So I want to commend Senator Padavan and his colleagues for sponsoring this bill. And I can assure you that the supervisors, the assistant principals, and principals will shortly demand a bill of their own, and we should give them equal

consideration.

Congratulations.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: This is a good bill, and I support it. But I have some questions, if the sponsor would yield.

ACTING PRESIDENT MEIER: Senator Padavan, do you yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR OPPENHEIMER: What is the cost of this bill to the local school districts?

SENATOR PADAVAN: The costs being borne here are state costs, and it's $4 million. There are no costs to the local school districts. There will be some impact, obviously, on various pension programs, as people buy in, things of that sort. But there are no costs to local school districts. This is state funding.

The costs figure in the fiscal note for this coming fiscal year is $4 million.

SENATOR OPPENHEIMER: Okay, that raises another question.

ACTING PRESIDENT MEIER: Senator Padavan, do you yield for another question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR OPPENHEIMER: Do you think that $4 million is a sufficient response to the need to draw in thousands and thousands of teachers? Do you feel that's a sufficient commitment by the state?

SENATOR PADAVAN: Senator, this is not the state aid bill, nor is it the budget.

SENATOR OPPENHEIMER: I know.

SENATOR PADAVAN: The costs are directly relevant to those things that will be incurred by individuals and districts relevant to the proposal.

There is no cost to a local district for allowing a teacher to transfer into our system from another state by allowing them to buy into a pension program for up to ten years. There is obviously impact on that

pension system, but there's no cost to the school district. There is no cost to the school district to allow a teacher to collect his or her pension and continue to work as a teacher. There's no cost associated with that.

But yet we hope that in doing these things as we've described them we will encourage teachers not to retire, we will encourage teachers who have retired to come back into the system and encourage teachers from other systems to come into our public schools. There's no cost associated with that. We're facilitating this.

There are costs when we waive fees for certification tests, a variety of other things. The stipends we're providing to teachers who excel, teachers of distinction, yes, and that's where the $4 million comes in.

SENATOR OPPENHEIMER: Another question, if the Senator will yield.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR OPPENHEIMER: Am I correct, then, that the cost that's being borne by those teachers coming into the system from, let's say, another state is then being borne by the teachers? They will be purchasing those pension credits?

SENATOR PADAVAN: Yes, they will have the option of buying into the pension system up to ten years. And obviously, it's their costs.

SENATOR OPPENHEIMER: Okay. Thank you, Senator.

SENATOR PADAVAN: You're welcome.

SENATOR OPPENHEIMER: On the bill.

ACTING PRESIDENT MEIER: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: I think we have to do everything we can to provide incentives. And this has a variety of options, both for the new teacher and for attracting teachers to our state who have had experience.

This meets one of the goals that I

was interested in. I always saw that what we were trying to do in attracting students to go into teaching was a good avenue, a good way to hopefully draw them down that path. But then I was concerned what would happen in the three to four years till these young women or men graduated and went into teaching.

And this is certainly a partial answer to what will happen in year one, two, three, and four to sustain us while we wait for these young people to enter the teaching profession.

So it's a very good bill, and I certainly pray it begins to answer some of our serious need.

ACTING PRESIDENT MEIER: Senator Duane.

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

ACTING PRESIDENT MEIER: Senator Padavan, do you yield for a question from Senator Duane?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR DUANE: Thank you.

I just wanted to clarify something. I understood the sponsor to say that there would not be a cost to the municipality. I'm just wondering if I heard accurately.

SENATOR PADAVAN: That's correct.

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

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I am concerned, though, in the bill there is a fiscal note that says that the cost to the City of New York in fiscal year 2001-2002 if this is enacted would be approximately $125 million and would remain constant as a percent of the payroll, which means it would be that year after year. Is that not correct?

SENATOR PADAVAN: This has to do with the teacher's retirement program. That's

what I said before. The actual out-of-pocket costs associated with this bill and its provisions would not be borne by the City of New York or any locality. There would be impact on the pension system, but that's all somewhat prospective because you really don't know how many teachers are going to opt in, buy in, and do the -- continue to work even though they're collecting their pension.

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

ACTING PRESIDENT MEIER: Senator Padavan, do you yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Though the bill also says that the annual cost to the members of the New York State retirement system is estimated to be $350.1 million, or 3.18 percent of the payroll, which I think is what refers to what happens with the pension system.

However, the bill seems to quite

clearly say, unless it's an error, that the cost to the City of New York -- it doesn't say to the pension plan, it says to the City of New York -- is approximately $125 million.

SENATOR PADAVAN: I'm sorry, I don't understand your question. Will you repeat it?

SENATOR DUANE: In the two paragraphs above the fiscal note, which is the very end of the bill, there's a paragraph which talks about the annual cost to the New York State Teachers Retirement System, which it says is estimated to be $350.1 million, or 3.8 percent of the payroll. Then in the fiscal note it talks about the cost to the City of New York, which is $125 million.

So it is true that the larger cost is to the pension fund, but the bill quite clearly states that at least in the case of the City of New York -

SENATOR PADAVAN: Well, there are two pension systems, obviously. We have a state one and we have a city one.

SENATOR DUANE: Well, through

you, Mr. President, if the sponsor would continue to yield.

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Then the bill should be changed to say -- the fiscal note of the bill should be changed to say the cost to the pension plan of the City of New York is $125 million.

SENATOR PADAVAN: If everyone took advantage of those opt-in provisions of continuing to work while drawing a pension, or buying into the system, these would be the costs associated with those pension systems.

But keep this in mind, Senator. If we didn't do this bill at all and somehow we were to hire 100,000 teachers statewide, we'd have the same costs. There would be no difference.

Keep in mind also, we have teachers who we anticipate retiring in great numbers. And that is the genesis of the issue that we're attempting to solve.

SENATOR DUANE: Through you, Mr.

President, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Padavan, do you continue -

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I may be mistaken, but I read this to mean that because a teacher would continue to get their pension, which means that the cost would be the same, the $125 million refers to the salary that those teachers would be making if they joined the system -- I mean, if they started to teach again, and that would just be their basic salary.

And so then either the fiscal note is wrong and it should say there's no cost to the city, or there will be an additional cost of $125 million.

SENATOR PADAVAN: I don't know how to answer your question, Senator. It is what it is. The costs will be associated with those hirings and those people who opt into pension systems.

Which would be exactly the case if they came from other means, meaning they didn't opt in, having already retired, or they didn't decide to stay rather than take their retirement and leave. Either way, there would be obvious costs associated with replacing teachers with other teachers.

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

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: You know, it's always difficult when, you know, you see a bill for the first time and then you're expected to vote on it. And even if there is a cost to the City of New York, I would still -- I'm still in favor of this bill and have been in favor of this policy for a long time to encourage retired teachers to come back or, for that matter, other workers, including police, et cetera, to be able to come into the schools and teach and not have their pension suffer. So on that I have no problem at all.

But I am concerned that the bill is

unclear about what the cost is going to be. And if the bill is unclear about that, I'm wondering if some of the other language in the bill is not clear also. I mean, that just stood out in, you know, sort of a big way, the fiscal note.

You know, I'm going to vote for the bill because of the principle of the bill, but I do think maybe we all better take a longer look at this bill to make sure that it's actually written in the right way.

And one of my colleagues also said that he hadn't had a chance to go all the way through it and had some questions based on that. So I just -- I want to caution us that while our intentions are very good, I am concerned that this bill might come back to us again with amendments to fix what the problems are.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: We're keeping a list.

Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President. Will the sponsor yield to a

couple of questions, please?

ACTING PRESIDENT MEIER: Senator Padavan, do you yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Senator Padavan, if we pass this bill are we abandoning our practice of establishing a annual teachers' retirement incentive as part of what we've done in this Legislature?

SENATOR PADAVAN: Are we abandoning -

SENATOR DOLLINGER: Well, as you know, Senator Padavan, just about every year I've been here we've put in, at the tail end of the year, an incentive for teachers to retire. We allow them to buy extra years in the pension system to retire.

My question is, if we pass this bill are we never going to do that again? Because, after all, we're now saying we don't want them to retire.

SENATOR PADAVAN: Senator, I would suggest that your question is somewhat

rhetorical if not somewhat facetious.

We're not repealing anything here, we're trying to encourage them to stay and not retire. So if they do that, if they opt into those options then obviously they're not taking advantage of any incentives to retire.

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

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Is there anything in this bill that prevents a teacher from taking a retirement incentive and then going back to work under this bill?

SENATOR PADAVAN: If someone is already retired under any prior program that this Legislature or the State may have adopted, and is sitting out there retired and wants to come back, there's obviously nothing we can do to undo historically what has taken place.

SENATOR DOLLINGER: 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 DOLLINGER: Senator Padavan, does a teacher who retires and then is rehired give up their tenure under this plan?

SENATOR PADAVAN: There are no tenure provisions included in this legislation, and therefore that is not provided for by either giving or taking away. That would presumably, in my view, be a decision that local school districts would make relevant to that person's position in regard to tenure.

SENATOR DOLLINGER: 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 DOLLINGER: What about their collective bargaining rights? Will they still be members of the bargaining unit in the teachers system if they've retired and gone back to work? Will they be entitled to participate and able to avail themselves of all the protections including, as you know, in most cases the right to be fired only for just cause, the protections of 3020-A of the State Education Law? Will all those benefits and protections be available to teachers who come back to work?

SENATOR PADAVAN: My understanding is that the teacher in the system is afforded the same protections as any other teacher, irrespective of how he or she may have come into the system. So obviously, whatever protections exist would apply. It also obviously would be subject to any collective bargaining agreements that took place.

SENATOR DOLLINGER: Okay. Thank

you.

Mr. President, just briefly on the bill.

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I appreciate Senator Padavan's candor.

I think this bill, while it has many good aspects to it, needs a little additional thinking about some of the issues that I just raised. The question of to what extent the teacher would benefit from tenure and therefore, when they're retired and they're rehired, do they automatically assume their new tenure? Are they hired as a probationary teacher like we allow school districts to hire other teachers for a two-or-three-year period before they get tenure? It's not addressed in this bill.

The question of the collective bargaining rights, not addressed in this bill. What rights do they have? They've already been through the system, they've already taught in the system, they've retired, they're now serving a whole new tenure as employees.

I think that needs to be thought about.

Lastly, I guess I'm somewhat intrigued by the possibility that we have retirement incentives currently for teachers. Those were put in largely at the request of either the teachers' unions or school districts because we wanted highly paid teachers to retire in order that school districts could save some money and hire new teachers and try to get them through the system and save some of the money in the difference between hiring a new teacher at $30,000 and paying an experienced teacher at $70,000.

I wonder whether we're going to abandon our practice of providing retirement incentives. And, if we provide a retirement incentive, what happens if we have a teacher who decides to retire, we let them buy more retirement time, and then they go back to work the next week? It seems to me that that needs to be thought about as well.

I also agree with Senator Duane that the fiscal note that attaches to this bill should just remind us of one thing,

Senator Duane. If we're going to do this bill and make it law, we need to put far more than a billion dollars to work in education in this state. Because as I read it, if we only give them $350 million in new education aid and pass this bill, we're not giving them a nickel. Because we're going to tell them that they're going to have to pick up $350 million, $360 million in new costs to pay for the costs associated with this bill.

If we want to pass this bill, if we want to make this bill a reality, I think this house needs to sit down and come up with a number for education that's $350 million higher than we originally thought it was. Because, Senator Duane, based on the fiscal note in this bill, which takes into account the anticipated numbers that would apply, the numbers that would use it, if we pass this bill and pass this very costly mandate - that's what it is, it's a mandate onto local school boards in this state, we've got to give them $350 million in additional funds just to get them to break even.

I'm not necessarily opposed to

doing that, Senator Duane. I just think if we look at the big picture, that's the real cost. We need to realize that either they're going to pay it or we're going to give them the money to pay it. I would toss that additional $350 million this year, to show that this bill is a reality, I would throw it into the Senate's education number as we continue our discussions with the Assembly over a budget.

Because if we don't do it, Senator Duane, all we're doing is telling the school districts around the state: We like this bill, but you have to pay for it. Where I come from, that's called a mandate. It may be a beneficial one, but it's a mandate nonetheless, and we should be well aware of what we're doing before we do that.

ACTING PRESIDENT MEIER: Senator Padavan.

SENATOR PADAVAN: Mr. President, I just want to clarify for Senator Dollinger's benefit. The provision that he talked about, the state provision which allows teachers to continue to teach -- or those who have retired, rather, to come back and teach would

be optional in terms of the local school district's decision. Meaning the school district will decide whether or not they want to opt into this program.

So it's not a mandate on the school districts. It's something they can take advantage of. The City of New York, from the discussions we've had with the Chancellor and his representatives, this is something they very much want to take advantage of, because they're losing 54,000 teachers.

So when he talks about mandates, I'd like to clarify it is not a mandate.

ACTING PRESIDENT MEIER: Senator Onorato and then Senator Stavisky, according to our list.

Senator Onorato.

SENATOR ONORATO: Mr. President, will Senator Padavan yield to a couple of questions?

ACTING PRESIDENT MEIER: Senator Padavan, do you yield for a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR ONORATO: I'm concerned about the -- when you're referring to the out-of-state teachers, or out of the district coming in to be able to go into the system and purchase up to ten years' of past service. Is that only their particular cut, or are you dealing with a portable system where they can transfer the pension built up in the other system to here?

SENATOR PADAVAN: No. No.

SENATOR ONORATO: Also, do they have to pay the city's portion, the matching funds to it, what they contributed and what the city would have been contributing during that ten-year period of time?

SENATOR PADAVAN: The pension system will determine what the cost to the individual will be to, in effect, accrue up to ten years' of retirement benefit, whatever that amount may be.

As an example, as you know, during the fiscal crisis when many police, firemen, sanitation people were laid off, we passed a bill allowing them to buy that time back because they had not been laid off due to

their own -- it wasn't their fault.

And there have been other things over the years where we've allowed people to buy time in a pension system in which perhaps they unwittingly -- there have been many bills that I've been aware of over the years -- did not sign up for a pension system, now found out they hadn't signed up and they wanted to get in that system, and we allowed them to buy back that time.

Same thing occurred here.

SENATOR ONORATO: Will the Senator continue to yield?

ACTING PRESIDENT MEIER: Senator Padavan, do you yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR ONORATO: Now, assuming that the teacher that comes in with a ten-year buyback comes into the system, what is their starting salary? Are they starting brand-new in the system, or are they credited at the starting salary of a person with ten years of experience?

SENATOR PADAVAN: That would be determined by the school district.

SENATOR ONORATO: Thank you.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: If the sponsor would yield to a couple of questions.

ACTING PRESIDENT MEIER: Senator Padavan, do you yield for a question from Senator Stavisky?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: Do you have any idea how many people might participate in either return -- or you have no -- do you have any idea?

SENATOR PADAVAN: No, Senator, I don't. I did give you a brief report on Teachers-2 last year -

SENATOR STAVISKY: I know.

SENATOR PADAVAN: -- in the sense to give you an idea that when we did that, it did produce some positive results.

How many teachers who have not

retired stay, how many will come from other states or other nonpublic school systems I have no way of knowing. That's why we have sunsets here, so that we'll evaluate the effect, make a determination at those time frames as to whether or not to continue the program.

SENATOR STAVISKY: If the Senator will yield for a couple more questions.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: You're talking here about two different pension systems, the New York City retirement system and the New York State retirement system.

Is there going to be any problem in switching from one pension system to another or carrying over accrued pension benefits?

SENATOR PADAVAN: I'm sure there will be issues that will have to be resolved by the pension system administrators and local governments that administer those pension

systems, in the case of the City of New York. But those problems obviously are those -- they are to be resolved by them. We're not going to be able to resolve them here.

SENATOR STAVISKY: That was my next question. Are we going to have to pass legislation for each person to enable them to transfer within pension systems?

SENATOR PADAVAN: Not to my knowledge, no.

SENATOR STAVISKY: I have a couple more questions.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: Since this is optional on the part of the school district, is there going to be a disparity between school districts? Are we going to have a greater differential between the so-called better school districts and the poorer school districts?

SENATOR PADAVAN: I'm not sure I

understand your question. Would you restate it, please?

SENATOR STAVISKY: Let's assume that School District A is doing very well and School District B is not. Are we encouraging more teachers to return to School District A and fewer to come to School District B?

And the reason I asked the question was based on the lengthy discussion we had yesterday on the Roosevelt School District, where it seems to me that the better teachers -- really, we ought to be encouraging the better teachers to return to the Roosevelt School District or school districts that are having problems, where they need the better, more experienced teachers.

SENATOR PADAVAN: I would presume, Senator, that if a school district has needs that relate to getting more teachers into their systems, such as the City of New York, that they would want to opt into these programs and in so doing enhance the quality of the education being provided in those districts.

The State Education Commissioner

would continue to have the prerogatives he has. He has mandated that certified teachers in the City of New York go to certain schools.

SENATOR STAVISKY: That's right. I know that. That was my next question.

SENATOR PADAVAN: Okay? That would apply.

So obviously if the Board of Educations encourages certified teachers to come from another system, a nonpublic school system into the Board of Education, that would still apply. And no waiver on these requirements.

SENATOR STAVISKY: That was my next -- Mr. President, if the Senator would continue to yield.

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

SENATOR PADAVAN: I'm pleased to anticipate whenever I can.

Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: In other words, in the case of the City of New York we

can assume that the teachers either returning or from nonpublic schools or teachers from outside the City of New York will be sent to the SURR schools?

SENATOR PADAVAN: If they are certified teachers under the state regulations currently in effect, the answer is yes.

And by the way, we provided an incentive in the Teachers of Tomorrow program last year by giving them a $3,400 stipend in addition to their salary, and a thousand teachers in the system have voluntarily done that in the City of New York.

SENATOR STAVISKY: And my last question -

ACTING PRESIDENT MEIER: Senator Padavan, do you yield for a last question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: Does this apply to teachers who may have left during the fiscal crisis that you described and who never returned to the school system?

SENATOR PADAVAN: Did they

retire?

SENATOR STAVISKY: People who may not have taught long enough. As you know, the younger teachers are the ones who started and they're the ones who are excessed during the fiscal crisis and, let's say, left education completely and became the firefighters and the police officers.

SENATOR PADAVAN: There's nothing to stop them from coming into the system whether we pass this bill or not. I'm at a loss to understand the nature of the question as it relates to the legislation.

SENATOR STAVISKY: It doesn't give them any incentives to return, that's what I'm saying.

SENATOR PADAVAN: Well, the incentives here are for retired teachers to return. There's incentives here for teachers not to retire. The incentives here are for teachers in other systems to join our public school system. That's where the incentives are.

SENATOR STAVISKY: Thank you.

On the bill very briefly.

ACTING PRESIDENT MEIER: Senator Stavisky, on the bill.

SENATOR STAVISKY: I think this is a terrific bill, and I certainly hope that it will help stem the tide of retirees. And I agree with Senator Lachman, I certainly hope we have incentives for retired administrators also to return to teaching and to supervision.

Thank you.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard?

Read the last section.

THE SECRETARY: Section 13. 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: Thank you, Mr. President.

As I said before, I am going to vote for this bill. But just as the debate went on, I found myself more and more confused, and I didn't find the answers to my

questions by listening to the answers or by reading the bill myself as the questions came up.

I still don't know what the cost is to New York City. The more I thought about it, the more I thought maybe the cost would be less to New York City because teachers who are coming back in to teach won't be contributing to the retirement system the way that new teachers will, so the city will have to kick in less money. So there may be a savings for those teachers coming in. Maybe I'm wrong; I don't know.

I can't really tell if we're going to need to pass special legislation based on the unique circumstances of different teachers wanting to utilize the system.

So these are just, you know, three of the questions.

You know, I'm sure that we're going to vote on amendments to this bill because this bill wasn't drafted as well as it could be. Which is why -- and I know people get tired of me saying it -- it would be helpful if we actually had a committee meeting on this

so that we could talk to the people from the pension fund and the Board of Education and find out -- and, for that matter, the city's Office of Management and Budget or the Independent Budget Office, for that matter, just to find out what the real fiscal impact could be. Because, in fact, this may be a cost-saver, not a cost -- you know, not something that's going to cost more or, you know, cost-neutral.

So we're going to pass this bill not knowing the answer to that question, and I just think that we could do better here in the Senate. And again, I'm going to vote for it, but believe me, I have no doubt but that this bill is going to come back to be fixed at least once if not more times.

Thank you, Mr. President.

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

Senator Lachman, to explain his vote.

SENATOR LACHMAN: Just briefly to explain my vote. I think I spoke sufficiently in favor of the bill previously.

There are, of course, minor details to be worked out on the financial basis. But in my opinion, I think we all agree with the words of Abe Lincoln that the only thing more expensive than education is ignorance. And unfortunately, we haven't acted in that direction in this Legislature.

This could be an expensive bill, but it's worth it for the sake of educating our children. Thank you.

ACTING PRESIDENT MEIER: Senator Lachman will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Could we at this time place a sponsor's star on Calendar Number 546, by Senator Lack.

ACTING PRESIDENT MEIER: At the request of the sponsor, place a star on Calendar 546.

Senator Kuhl.

SENATOR KUHL: Then could you call up Calendar Number 1274, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1274.

THE SECRETARY: Calendar Number 1274, by Senator Stafford, Senate Print 5642, an act to authorize certain health care professionals.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect July 22, 2001.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, now could we do a noncontroversial reading of the Supplemental Active List Number 1 which is on all the members' desks, consisting of three bills.

ACTING PRESIDENT MEIER: With

regard to Supplemental Active List Number 1, the Secretary will read the noncontroversial portion.

THE SECRETARY: Calendar Number 414, by Senator Nozzolio, Senate Print 222B, an act to amend the General Business Law and the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 647, by Member of the Assembly Grannis, Assembly Print Number 235B, an act to amend the Vehicle and Traffic Law.

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, 53.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl, that completes the noncontroversial portion of Supplemental Active List 1.

SENATOR KUHL: Now could we have the controversial reading of the supplemental list.

ACTING PRESIDENT MEIER: Of course.

SENATOR KUHL: Thank you.

ACTING PRESIDENT MEIER: The Secretary will read the controversial portion of Supplemental Active List 1.

THE SECRETARY: Calendar Number 414, by Senator Nozzolio, Senate Print 222B, an act to amend the General Business Law and the Executive Law.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT MEIER: Senator Nozzolio, Senator Dollinger has requested an explanation with regard to Calendar 414.

SENATOR NOZZOLIO: Mr. President, this measure before us amends the General

Business Law and the Executive Law relative to the sale and use of certain smoke alarms with long-life batteries. This measure defines long-life batteries.

And what we are trying to do -- the measure is supported by a number of organizations that we have. The National Home Safety Project, the New York State Professional Firefighters Association, the Firemen's Association of the State of New York, and Kidde, which is a nationwide producer of smoke and fire alarms, have all joined together to support this legislation because they believe that the most essential element of the smoke alarm is often overlooked, and that's the battery that powers that smoke alarm.

The firefighters have all too often found that defective smoke alarms have led to the deaths and serious injuries of individuals trapped in fires. Fires may have been certainly mitigated if people had adequate smoke-alarm warnings. And the problem is the battery. The batteries are not long-life, they're not lasting, and as a result serious

injury and death have been the occurrence.

This is an effort to ensure that a long-life battery is placed in a smoke alarm and that battery in effect powers that smoke alarm and protects the individual from death or serious injury.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will yield just to a couple of questions.

ACTING PRESIDENT MEIER: Senator Nozzolio, do you yield for a question?

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

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Through you, Mr. President, one of the questions that's been raised by at least a couple of parties about this bill is the question of freezing the technology at a particular point. That what we should do is not dictate what kind of batteries ought to go in fire alarms or smoke alarms, but that we should require that the

people use the best, most affordable battery and not pinpoint a particular type of battery.

Is that a fair -- I just -- I don't want to cripple innovation in not only battery production but in these smoke alarms themselves by putting it into statute. Is that a fair observation on their part, or -

SENATOR NOZZOLIO: Mr. President, I am certainly not pretending to be an expert on the scientific definition and composition of batteries.

SENATOR DOLLINGER: Neither am I, Senator Nozzolio, as you well know.

SENATOR NOZZOLIO: Well, I know the learned Senator from Rochester is a technocrat and gets into much more of the detail of these measures than I normally do.

But I can say that the reaction of those in the fire service are what committed me to push this legislation. And it was - certainly the technology is not the issue, it's the length and strength of the battery. And that if somebody can make it a longer-lasting battery through different chemical and physical properties, that's fine.

I don't think this bill impedes that at all, Senator Dollinger.

However, certainly I am tending to listen to the expertise of the firefighters and the fire-fighting community in looking to the length and strength of a battery as opposed to whether or not it uses a particular technology.

SENATOR DOLLINGER: Just one other final question, Mr. President, if the sponsor will yield.

ACTING PRESIDENT MEIER: Senator Nozzolio, do you yield for another question?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Senator, what about the cost factor of all of this? Are these batteries going to be significantly more expensive? Would the implementation of this bill create a cost disincentive for people to arm their smoke alarms and fire alarms with these type of batteries?

SENATOR NOZZOLIO: Mr. President,

that the information we have provided us by the fire-fighting community -

SENATOR DOLLINGER: I'm having some difficulty hearing Senator Nozzolio.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Yes, Mr. President.

The fire-fighting community has provided us with some information regarding the cost of conventional smoke-alarm batteries that don't need to be replaced annually. That it's estimated that some have a one-year life span that can cost as high as $40 during that 10-year life span. The retail price of most 10-year batteries is anywhere from a third to a quarter of that price.

So it -- you'd be buying one battery, Senator Dollinger, for 10 years as opposed to 10 batteries each year. The cost averages out that it would be far less, actually, to have the cost of a 10-year battery than 10 one-year batteries.

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

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I guess I'm willing to go along with the explanation from my colleague from Monroe County that the introduction of these batteries will give continued life to smoke alarms and fire alarms, especially in our urban communities.

I'm concerned about the cost, because I know that that oftentimes can be a big deterrent to keeping the batteries up-to-date. But it seems to me that this measure works in the right direction.

I would just suggest, if the bill ends up in discussions with the Assembly, that the question of the technology -- I think that some of the opponents are the NEC, the national electrical association, which makes a valid point when they talk about the freezing of technology at a particular point.

I would like to think that that technology should be more fluid. That if we come up with a better mousetrap as respects the operation of smoke alarms and fire alarms, I wouldn't want to see the Legislature impede

the development of that technology.

With that caveat, I'll vote in favor of this bill.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard?

Read the last section.

THE SECRETARY: Section 5. This act shall take effect January 1, 2002.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: May we return to the order of motions and resolutions. I understand that Senator Wright has a motion to make.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator Wright.

SENATOR WRIGHT: Mr. President, I move to recommit Senate Print Number 5448A, Calendar Number 1106, on order of third

reading, to the Committee on Rules, with an instructions to said committee to strike the enacting clause.

ACTING PRESIDENT MEIER: So ordered.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Looking at the time on my watch, because I note that the Senate clock is not working, but -- and I have at this point about 11:45. So I would like to announce at this time that there will be a Rules Committee meeting in the Majority Conference Room, Room 332, at 11:50, in five minutes, and that the Senate will stand at ease pending the report of the Rules Committee.

ACTING PRESIDENT MEIER: There will be a meeting of the Rules Committee at 11:50 in the Majority Conference Room.

The Senate will stand at ease pending the report of the Rules Committee.

(Whereupon, the Senate stood at ease at 11:45 a.m.)

(Whereupon, the Senate reconvened at 12:02 p.m.)

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. May we now come back to order.

It's my understanding that there are several messages on several bills that have arrived at the desk. And what we'd like to do before the next Rules calendar comes out is to take those up, starting on the Supplemental Active List Number 1.

Would you call up Calendar Number 186, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 186.

THE SECRETARY: Calendar Number 186, by Senator Hannon, Senate Print 2820A, an act to amend the Public Health Law, in relation to establishing.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Is there a message at the desk?

ACTING PRESIDENT MEIER: Yes, there is, Senator.

SENATOR KUHL: Move we 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 is accepted.

The bill is before the house.

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: Hold it a minute. Did you ask to be recognized, Senator?

SENATOR HASSELL-THOMPSON: I had just asked for an explanation.

SENATOR KUHL: Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the

bill aside.

SENATOR KUHL: Mr. President, could you call up, on the Active List Number 1, the original active list, Calendar Number 1011.

ACTING PRESIDENT MEIER: The Secretary will read the original active list, Calendar 1011.

THE SECRETARY: Calendar Number 1011, by Senator Saland, Senate Print 4895A, an act to amend Chapter 566 of the Laws of 1967.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR KUHL: Move we 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 is accepted.

The bill is before the house.

The Secretary will read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR KUHL: Would you call up Calendar Number 1261.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1261.

THE SECRETARY: Calendar Number 1261, by Senator Fuschillo, Senate Print 5545, an act to amend the Vehicle and Traffic Law, in relation to equipping.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR KUHL: Move we accept the message.

ACTING PRESIDENT MEIER: All in favor of accepting the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

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: Those recorded in the negative on Calendar Number 1261 are Senators Kuhl, Meier, and Wright. Also

Senator Farley. Also Senator Seward. Ayes, 50. Nays, 5.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Mr. President, would you now call up Calendar Number 1312.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1312.

THE SECRETARY: Calendar Number 1312, by Senator Kuhl, Senate Print 5634, an act to amend the Town Law and the Public Officers Law.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR KUHL: Move we 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: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Could you call up Calendar Number 1314, by Senator Seward, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1314.

THE SECRETARY: Calendar Number 1314, by Senator Seward, Senate Print 5649, an act authorizing the reopening.

ACTING PRESIDENT MEIER: Senator

Kuhl.

SENATOR KUHL: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR KUHL: Move we 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: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

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

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Mr. President, would you now call up Calendar Number 1315, by Senator Bonacic.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1315.

THE SECRETARY: Calendar Number 1315, by Senator Bonacic, Senate Print 5666, an act to amend the Public Authorities Law, in relation to the power.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR KUHL: Move we 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: Those

opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Would you call up now Calendar Number 186, which was previously before the house, and the message was accepted, which was laid aside temporarily.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 186.

THE SECRETARY: Calendar Number 186, by Senator Hannon, Senate Print 2820A, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Senator

Hannon, Senator Hassell-Thompson previously requested an explanation of Calendar 186.

SENATOR HANNON: Yes. Thank you very much, Mr. President.

This bill would establish a program to be run by the Governor so that there would be an annual public recognition of organ donors, their families. It would also include bone marrow donors.

The point would be to publicize the need for organ donation, to commemorate those who have been donors, and to elevate this issue in terms of public awareness. This is in harmony with what we have put in this resolution of this house for our budget resolution, which is a part-year payment of a comprehensive program to increase organ donation in the state.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you. If the Senator will yield just for a couple of questions.

ACTING PRESIDENT MEIER: Senator Hannon, do you yield for a question?

SENATOR HANNON: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HASSELL-THOMPSON: Thank you. Mr. President, through you.

Senator, since the current Public Health Law only codifies the work of the Transplant Council, how will the Medal of Life be funded?

SENATOR HANNON: I'm sorry, I didn't hear the question because of chatter around me. Would -

SENATOR HASSELL-THOMPSON: Okay. Since the current Public Health Law only codifies the work of the Transplant Council, how will the Medal of Life be paid for?

SENATOR HANNON: I would presume out of the monies available to the department.

Since we're not talking about a valuable medal, but more of an honorary commemoration, I do not believe there's much of a cost to this program.

SENATOR HASSELL-THOMPSON: Okay. It was just an interesting concern because it's a codifying agency as opposed to a funded

agency.

SENATOR HANNON: Senator, we appropriate billions of dollars to the department. There are over a hundred different councils that we appropriate -- that are existing in the department. We have them staffed through the general administration monies that go to the department. I am confident that in those monies this program would be fully funded.

SENATOR HASSELL-THOMPSON: Good. Okay. Thank you.

On the bill.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson, on the bill.

SENATOR HASSELL-THOMPSON: I just asked that question because -- again, for the purpose of the concern that I raised.

But I think the bill itself has tremendous merit, and I commend you for this bill, Senator Hannon, and the Governor. As a person who has a family member who has constantly been on a list looking for and seeking a donor for a kidney, for a proper match, I think that anyone who comes forward

and who does bone marrow participation and anything that helps to enhance the quality of life for people should in some way be recognized.

And I think that the Governor has done a tremendous thing in helping to raise the consciousness of us about the need to participate in a donor's program as well as recognizing and acknowledging those who participate.

Thank you.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard?

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. May we now return to the order of

reports of standing committees. I understand there's a report of Rules Committee at the desk. I ask that that be read.

ACTING PRESIDENT MEIER: 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 2227A, by Senator Morahan, an act to amend the Vehicle and Traffic Law.

2312A, by Senator Kuhl, an act to amend the Parks, Recreation and Historic Preservation Law.

2383C, by Senator Marcellino, an act to amend the Education Law.

2402B, by Senator Seward, an act to amend the Public Health Law.

3978, by Senator Stafford, an act to amend the Public Officers Law.

4014, by Senator Marcellino, an act to authorize the New York State.

4304, by Senator Spano, an act to

amend the Public Health Law.

4639A, by Senator Farley, an act to amend the State Finance Law.

5006B, by Senator Farley, an act to amend the Banking Law.

5279A, by Senator Leibell, an act to amend the General Municipal Law.

5376A, by Senator Mendez, an act to authorize the commissioner.

5397, by Senator Meier, an act to authorize the Town of Verona.

5514, by Senator Lack, an act to amend the Surrogate's Court Procedure Act.

5535A, by Senator M. Smith, an act authorizing the City of New York.

5583, by Senator Seward, an act to amend the Vehicle and Traffic Law.

5617, by the Senate Committee on Rules, an act to amend the Labor Law.

5651, by Senator Gonzalez, an act to authorize the New York Public Library.

5658, by Senator Velella, an act to amend the New York City Charter.

And 5659, by Senator Nozzolio, an act in relation to authorizing.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Move to accept the report of the Rules committee.

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.

All bills directly to third reading.

Senator Kuhl.

SENATOR KUHL: Yes, the members have had placed on their desks Senate Supplemental Calendar 57A. May we now have the noncontroversial reading of that calendar.

ACTING PRESIDENT MEIER: With regard to Supplemental Calendar 57A, the Secretary will read the noncontroversial

calendar.

THE SECRETARY: Calendar Number 1300, by Senator Morahan, Senate Print 2227A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1316, by Senator Kuhl, Senate Print 2312A, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1317, by Senator Marcellino, Senate Print 2383C, an act to amend the Education Law and others.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 11. This act shall take effect in 18 months.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1318, by Senator Seward, Senate Print 2402B, an act to amend the Public Health 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.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1319, Senator Stafford moves to discharge, from the Committee on Finance, Assembly Bill Number 8932 and substitute it for the identical Senate Bill Number 3978, Third Reading Calendar 1319.

ACTING PRESIDENT MEIER: Substitution ordered.

THE SECRETARY: Calendar Number 1319, by the Assembly Committee on Rules, Assembly Print Number 8932, an act to amend the Public Officers 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.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1320, by Senator Marcellino, Senate Print 4014, an act to authorize the New York State and Local Police and Fire Retirement System.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1321, by Senator Spano, Senate Print 4304, an act to amend the Public Health 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.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1322, by Senator Farley, Senate Print 4639A, an act to amend the State Finance Law -

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1323, by Senator Farley, Senate Print 5006B, an act to amend the Banking 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.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1324, by Senator Leibell, Senate Print 5279A, an act to amend the General Municipal Law.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1325, by Senator Mendez, Senate Print 5376A, an act to authorize the Commissioner of General Services.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1326, by Senator Meier, Senate Print 5397, an act to authorize the town of Verona, Oneida County.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1327, Senator Lack moves to discharge, from the Committee on Judiciary, Assembly Bill Number 7345 and substitute it for the identical Senate Bill Number 5514, Third Reading Calendar 1327.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1327, by Member of the Assembly Rivera, Assembly Print Number 7345, an act to amend the Surrogate's Court Procedure Act.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1328, Senator M. Smith moves to discharge, from the Committee on Rules, Assembly Bill Number 9133B and substitute it for the identical Senate Bill Number 5535A, Third Reading Calendar 1328.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1328, by the Assembly Committee on Rules, Assembly Print Number 9133B, an act authorizing the City of New York.

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, 54. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1329, by Senator Seward, Senate Print 5583, an act to amend the Vehicle and Traffic 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.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1330, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 9202 and substitute it for the identical Senate Bill Number 5617, Third Reading Calendar 1330.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1330, by the Assembly Committee on Rules, Assembly Print Number 9202, an act to amend the Labor Law.

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.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1331, by Senator Gonzalez, Senate Print Number 5651, an act to authorize the New York Public Library.

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, 54. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1332, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 4283 and substitute it for the identical Senate Bill Number 5658, Third Reading Calendar 1332.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1332, by Member of the Assembly Nolan, Assembly Print Number 4283, an act to amend the New York City Charter.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. May we now have the controversial reading, beginning and ending with Calendar Number 1322, by Senator Farley.

SENATOR SPANO: Mr. President.

ACTING PRESIDENT MEIER: Senator Spano, why do you rise?

SENATOR SPANO: On Calendar 1323 I would like the record to reflect I'd be

voting in the affirmative.

ACTING PRESIDENT MEIER: The record will so reflect, Senator.

The Secretary will read Calendar 1322.

THE SECRETARY: Calendar Number 1322, by Senator Farley, Senate Print 4639A, an act to amend the State Finance Law.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Senator Farley, an explanation has been requested of Calendar 1322 by Senator Dollinger.

SENATOR FARLEY: Thank you, Mr. President.

Senator Dollinger, this is a bill that will encourage the placement of state deposits by the Comptroller in local community banks. You know, this should help stimulate economic development throughout the state and the communities by supporting the ability of local banks to make these commercial loans. This is based on a very successful program in California.

This is an opportunity for New York to stimulate the local economy by expanding

the placement of state deposits with eligible New York financial institutions.

Now, let me just say this. One of the concerns is, and I suspect-- anticipate a question, why aren't the savings banks into it? Well, this bill was drawn by the independent bankers. They did all the work on it. And at this stage I'm more than happy, and I spoke with my ranker on that, to introduce legislation to include the savings bank and maybe a bill to even include the credit unions.

Could the Comptroller do this? He probably could do it right now, except he would like authorization. He feels uncomfortable doing it without the express consent, if you will, or direction of the Legislature.

It's a good piece of the legislation, and it's one that will allow the Comptroller to help economic development, in my judgment, throughout the state.

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

ACTING PRESIDENT MEIER: Senator

Dollinger, on the bill.

SENATOR DOLLINGER: Senator Farley raised properly the question that I was going to air, which was why we didn't provide for the savings bank and other depositary institutions in this state that would be - clearly have the same kinds of benefits that the community bankers enjoy through this bill.

That's no reason to vote against it, Senator Farley. I think it's a good idea. But I would encourage that amendment to come forward as quickly as possible. Because it seems to me if we're going to, in essence, give the Comptroller the ability to lay out more of our cash in community banks, which is a good idea, it would be appropriate that we do it throughout the spectrum of our banking alternatives in this state.

So I'll vote in favor and encourage that maybe next year we'll see an amendment that will allow that to happen.

SENATOR FARLEY: -- instead of a separate bill.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard?

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.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl, that completes the controversial reading of Supplemental Calendar 57A.

SENATOR KUHL: Thank you, Mr. President. My colleagues, the members, have been so attentive to their bills and being here to debate them and to ask questions and to pass them quickly that we are temporarily out of work. So we will stand at ease pending a call of another Rules Committee meeting shortly.

But the members should be around, because as the messages of necessity arrive from the second floor we will be taking those bills up as they come up, and hopefully we'll move to conclusion.

So the Senate will stand at ease.

(Whereupon, the Senate stood at ease at 12:25 p.m.)

(Whereupon, the Senate reconvened at 12:35 p.m.)

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Mr. President, another batch of outstanding messages has arrived from the second floor. So could we call up Calendar 1333, by Senator Nozzolio, at this time.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1333.

THE SECRETARY: Calendar Number 1333, by Senator Nozzolio, Senate Print 5659, an act in relation to authorizing.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Yes. Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR KUHL: Move we 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: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: Explanation, please. Just in case anybody wants one.

ACTING PRESIDENT MEIER: Senator Nozzolio, an explanation has been requested by Senator Stachowski.

SENATOR NOZZOLIO: Thank you, Mr. President.

I am very pleased to provide an explanation of this legislation. It's something we have worked long and hard to achieve, and that is the establishment of an ag-tech park adjacent to the lands of Cornell's experiment station in Geneva.

This is part of the biomed-biotech revolution that we have seen in New York State that was discussed in this chamber just two nights ago regarding the future of biomed and biotech. And this is a biotech plant development where Cornell University is the repository of the Germ C. plasm that is essential to the major crops and continuation of the major crops and is world-renowned in terms of its agricultural research.

What this project is about is marrying what is done with the ag research at Cornell, the plant research at Cornell, and the development of agribusiness and other business related to life sciences. It is an exciting prospect to be able to develop jobs at a place where agricultural research has been in existence now for over 150 years.

This language was developed in

conjunction with Cornell University and the State University of New York.

It does have an Assembly companion; Assemblyman Magee is the sponsor. And I'm certainly excited by this prospect of bringing jobs to Geneva and the Central Finger Lakes to this ag-tech park.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: If Senator Nozzolio would yield to one question, please.

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

SENATOR NOZZOLIO: I'd be happy to yield to Senator Stachowski.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STACHOWSKI: Senator, do you know if there's any truth to the rumor that besides the land exchange that OGS will get one plant to be named later?

SENATOR NOZZOLIO: I am not an expert in botany or biology, Senator Stachowski, but I'm sure there will be a place for a "Senator Stachowski tomato" or some type

of offspring that we could develop there.

(Laughter.)

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. We will be having a Rules Committee meeting in 15 minutes. My time right now is approximately twenty minutes of 1:00. So at 12:55, five minutes of 1:00, there will be a Rules Committee meeting in the Majority Conference Room, Room 332.

And we should stand at ease until the report of the Rules Committee.

ACTING PRESIDENT MEIER: There will be a meeting of the Rules Committee at 12:55 in the Majority Conference Room.

The Senate will stand at ease pending the report of the Rules Committee.

(Whereupon, the Senate stood at ease at 12:40 p.m.)

(Whereupon, the Senate reconvened at 1:05 p.m.)

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, may we please return to the reports of standing committees, for the report of the Rules Committee.

ACTING PRESIDENT MEIER: 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 2231, by Senator Padavan, an act to amend the Vehicle and Traffic Law.

3799A, by Senator Padavan, an act to amend the Vehicle and Traffic Law.

3917, by Senator Saland, an act to

amend Chapter 748 of the Laws of 1991.

4168A, by Senator Bruno, an act to amend the Vehicle and Traffic Law.

4399, by Senator Spano, an act to amend the Retirement and Social Security Law.

4541, by Senator Leibell, an act to amend the General Business Law.

4550A, by Senator Leibell, an act to amend the County Law.

5062, by Senator Saland, an act to amend the County Law.

5063A, by Senator Saland, an act to amend the Public Officers Law.

5293, by Senator Seward, an act to amend the Insurance Law.

5327, by Senator Morahan, an act to amend the Education Law.

5383, by Senator Larkin, an act to amend the General Municipal Law.

5454, by Senator M. Smith, an act authorizing the City of New York.

5464A, by Senator Balboni, an act to amend the Judiciary law.

5503, by Senator Hannon, an act to amend the Public Health Law.

5506B, by Senator LaValle, an act to amend the Education Law.

5543, by Senator Lack, an act to amend Chapter 689 of the Laws of 1993.

And 5549, by Senator Farley, an act to amend the Banking Law.

All bills ordered direct to third reading.

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 is accepted.

All bills directly to third reading.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on the first active list, will you

kindly call up Calendar Number 1232.

ACTING PRESIDENT MEIER: The Secretary will read, from the first active list, Calendar 1232.

THE SECRETARY: Calendar Number 1232, by Senator Velella, Senate Print 842A, an act to amend the Insurance Law.

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: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR FUSCHILLO: Mr. President.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: May we please have the noncontroversial reading of the Supplemental Calendar 57B, please.

Before we start, could we have some order in the chamber.

ACTING PRESIDENT MEIER: Can we have some order in the chamber. Senator Fuschillo is very upset that we don't have order in the chamber.

SENATOR FUSCHILLO: Thank you, Mr. President. You may proceed.

ACTING PRESIDENT MEIER: The Secretary will read the noncontroversial portion with regard to Senate Supplemental

Calendar 57B.

THE SECRETARY: Calendar Number 1334, by Senator Padavan, Senate Print 2231, an act to amend the Vehicle and Traffic 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.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1335, by Senator Padavan, Senate Print 3799A, an act to amend the Vehicle and Traffic Law and the Public Officers Law.

SENATOR DOLLINGER: Lay that bill aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1336, by Senator Saland, Senate Print 3917, an

act to amend Chapter 748 of the Laws of 1991.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1337, by Senator Bruno, Senate Print 4168A, an act to amend the Vehicle and Traffic Law, in relation to distinctive license plates.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1338, by Senator Spano, Senate Print 4399, an act to amend the Retirement and Social Security Law.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1339, by Senator Leibell, Senate Print 4541, an act to amend the General Business Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2002.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1340, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 6987A and substitute it for the identical Senate Bill Number 4550A, Third Reading Calendar 1340.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1340, by Member of the Assembly Galef, Assembly Print Number 6987A, an act to amend the County 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.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1341, by Senator Saland, Senate Print 5062, an act to amend the County 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.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1342, by Senator Saland, Senate Print 5063A, an act to amend the Public Officers Law, in relation to residency.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to

Calendar Number 1343, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 8950 and substitute it for the identical Senate Bill Number 5293, Third Reading Calendar 1343.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1343, by the Assembly Committee on Rules, Assembly Bill Number 8950, 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.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1344, Senator Morahan moves to discharge, from the Committee on Rules,

Assembly Bill Number 7913 and substitute it for the identical Senate Bill Number 5327, Third Reading Calendar 1344.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1344, by Member of the Assembly Vitaliano, Assembly Print Number 7913, an act to amend the Education 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.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1345, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 7310A and substitute it for the identical Senate Bill Number 5383,

Third Reading Calendar 1345.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1345, by Member of the Assembly Gromack, Assembly Print Number 7310A.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1346, by Senator M. Smith, Senate Print 5454, an act authorizing the City of New York to reconvey its interest.

ACTING PRESIDENT MEIER: Read the last section.

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

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

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1348, by Senator Hannon, Senate Print 5503, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1350, by Senator Lack, Senate Print 5543, an act to amend Chapter 689 of the Laws of 1993.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1351, by Senator Farley, Senate Print 5549, an act to amend the Banking Law, in relation to

credit unions.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo, that completes the noncontroversial reading of the calendar with regard to Supplemental Calendar 57B.

SENATOR FUSCHILLO: Can we now take up the controversial reading.

ACTING PRESIDENT MEIER: The Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 1335, by Senator Padavan, Senate Print 3799A, an act to amend the Vehicle and Traffic Law and the Public Officers Law.

SENATOR DOLLINGER: Explanation.

SENATOR LACK: Senator Padavan,

Senator Dollinger has requested an explanation for Calendar 1335.

SENATOR PADAVAN: Thank you, Mr. President.

This bill, which applies only to New York City, would allow a demonstration project that would sunset in five years that during the first year would allow 10 speed cameras, and in the second year 20, and no more than 20 thereafter, to be put in place in certain critical locations in the city of New York.

Now, speed cameras are not a new thing. They've been used in various capital cities throughout Europe for over 30 years. In this country, places like Denver, Colorado, the city of Washington, and a couple of other places have used them to good effect for a number of years.

We have some problems in some of the major thoroughfares in the city of New York. Despite the best efforts of traffic police and others, we've had people killed and injured. One major boulevard, called Queens Boulevard, in my county, this year alone over

63 people were killed or injured due to speeding.

And so while this is not a panacea or an ultimate answer to that problem, we think it may help. However, it is a pilot program, and we'll see if our thoughts are on proper course.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President.

I'm pleased to be supporting this bill that's before us. This is an important bill for residents in New York City. We've got a real problem with slowing people down on the roadways. I've spoken about it a number of times on the floor of this house.

I actually sponsor a similar bill to the one that we're now considering. But to be honest with you, I really -- I care less about the politics and more about the policy.

So the fact that we're going to have a policy that enables the City of New York to go ahead and install speed cameras in New York City, which will, we know -- based

on our experience with the red light camera, we know that the speed camera program will be a deterrent, it will slow people down. And this is one of the leading factors in fatal car crashes and in auto accidents that result in death and serious injuries to people in cars -- and to pedestrians, by the way.

And as the State Senator representing the greatest share, the greatest portion of Queens Boulevard, a ten-lane boulevard in my district, which is really more analogous to a highway, where we've taken ten or fifteen measures to make the streets safer for people, this is yet another measure that I think will go a long way to making the roads safer for drivers. We've got to stop cars from violating the law flagrantly, and this is one of the ways we're going to do it.

And it's not Big Brother, for all those who are concerned about it. These cameras only photograph the license plate of the automobile. There's no points put on the person's driver's license, because there's no way to know who actually was driving the vehicle. This is not somebody looking over

your shoulder or government intruding, this is government protecting the citizenry in a very, very responsible way.

I commend the sponsor for bringing it. I don't care whether it's my bill or Senator Padavan's bill. I care that it gets done and that it saves people's lives.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: Will Senator Padavan yield to a question, please?

ACTING PRESIDENT MEIER: Senator Padavan, do you yield to a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR BALBONI: Senator Padavan, I have, as I think many people in the chamber have always had, some concerns about the use of cameras for traffic enforcement, though I understand that the program with the cameras and the lights has been very successful for the city of New York.

And just to be clear, and I know

Senator Hevesi had mentioned it, this program now and the demonstration project, the pilot project specifically for Queens Boulevard, if an individual is given, issued a ticket as a result of traveling in excess of the speed limit -- in any excess; in other words, whether it's 5 miles over or 25 miles over - they'll be issued a ticket and then the fine will be assessed by the traffic or parking violations agency in the city of New York?

SENATOR PADAVAN: Right.

SENATOR BALBONI: It's an administrative proceeding.

SENATOR PADAVAN: It is administrative, that's correct.

SENATOR BALBONI: But no points will be assigned -

SENATOR PADAVAN: No points assigned, for obvious reasons. You don't know who's driving.

And that's very similar -- not identical -- to the program that's in effect, as you mentioned, going through red lights, where you get a photograph of your vehicle with your license plate and a ticket to pay,

but no points or anything else associated with that.

SENATOR BALBONI: Thank you.

On the bill, Mr. Speaker -- sorry, Mr. President. Sorry about that.

ACTING PRESIDENT MEIER: Senator Balboni, on the bill.

You're in the Senate now.

SENATOR BALBONI: Thank you for the reminder.

I understand very much what Senator Padavan is doing and the concern, particularly of the Queens delegation, over the tragedies that have occurred on Queens Boulevard in particular. My constituency also drives in the great city of New York. And as a representative from the suburban communities, I have great concern over the use of photoelectronics to enforce traffic regulations.

I support the concept as it is here in a demonstration program in a very limited sense. Without doing points, you will get rid of some of the problems attendant to trying to prosecute a case when you can't be sure of

who's driving. However, there's a difficulty associated with this scheme. And that is that if you have somebody who drives recklessly and at such a speed -- so let's say they're doing 100 miles an hour down Queens Boulevard, and then the picture is taken of the vehicle.

You're going to have law enforcement put in a peculiar situation, because now it's not just a traffic infraction, it's reckless endangerment. And so now you're going to -- the DA might want to get involved.

See, the thing with running a red light is that very rarely is there a potential of a felony violation involved with that incident. Speeding at a certain level can become a felony offense, depending upon the circumstances. And so I think that what we have here is a potential conflict in the prosecutorial capabilities when it comes to enforcing traffic violations in excessive situations.

With that reservation, I support the concept, but I'm going to be voting in the negative.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard?

Senator Velella.

SENATOR VELELLA: Mr. President, may I explain my vote briefly?

ACTING PRESIDENT MEIER: We'll have to do the roll call first.

SENATOR VELELLA: Oh, I'm sorry, I thought we were on it. I'm sorry.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, I didn't have an opportunity to talk to the sponsor. Will he yield for a question?

ACTING PRESIDENT MEIER: Senator Padavan, will you yield for a question from Senator Fuschillo?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR FUSCHILLO: Senator Padavan, just one quick question. And I'm looking at the bill itself, and it mentions

photographs, microphotographs, videotape, or other recorded images produced by the speed-limit photo device.

My one question to you is, what is the privacy policy that is associated with this as far as who maintains the photos and where the photos go after the violation has been sent to the driver?

SENATOR PADAVAN: As I understand it, again, very similar if not identical to that procedure that's followed with going through a red light, a program that's been in effect for a number of years. The photos and the other documents associated with the infraction would remain in the possession of the Traffic Violations Bureau.

SENATOR FUSCHILLO: Thank you, Senator. Thank you, Mr. President.

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

Read the last section.

THE SECRETARY: Section 16. This act shall take effect on the 30th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Velella, to explain his vote.

SENATOR VELELLA: Mr. President, I sympathize with the problem that Senator Padavan has in his district. And we've been talking about this bill almost all session.

I have seen what the Parking Violations Bureau has done and what the Motor Vehicle Department has done with the permission we gave them to put cameras in to catch people passing red lights in the city. Many of our colleagues in the chamber have called my office to ask me what I can do to help them because their constituents are getting tickets for passing red lights when they weren't even there.

I know there's supposed to be a photograph, and I know there's supposed to be a visible view of the license plate. I have seen a lot of people try to fight these and get the short end of the stick and have to wind up paying for these tickets. I don't believe, in spite of what the city says or what the sponsor may say, that sufficient

technology is available to make this accurate and make it a secure type of conviction for a person. I don't believe we have the right to impose these fines on people with the slipshod type of photography that goes on. I don't think they're accurate.

I think a lot of the people in this chamber are going to have constituents contacting them and saying they got tickets, they were cited. And probably the answer, unfortunately, is going to be your best bet is to pay the fine because it doesn't go on your license.

I'm not going to vote for this. But I ask all of my colleagues, when you get the calls from your constituents, don't call me; remember, I voted against it.

SENATOR LACK: Senator Velella will be recorded in the negative.

Senator Lachman, to explain his vote.

SENATOR LACHMAN: Several of my colleagues have spoken through the box in my office. I ran over to explain my vote.

I strongly endorse the speed-camera

approach. It has not been tried out in any city in the United States as of now, but it has been successfully used in many European countries. And I think, as several of my colleagues have said, it will probably cut down the rate of accidents in this country.

What I don't completely understand, there are two methods of using this. There's the method of rubberizing part of the streets -

ACTING PRESIDENT MEIER: Excuse me a moment, Senator.

Can we have some order in the chamber so the stenographer can hear.

Go ahead, Senator Lachman.

SENATOR LACHMAN: -- to rubberize part of the streets where you have the speed camera, or through radar. But I'm sure that will be more fully explained afterwards.

I think this is a major safety issue for the city of New York, for major areas of crossings such as has been mentioned, Queens Boulevard in Queens, Ocean Parkway in Brooklyn, and the Grand Concourse in the Bronx, plus every other street in the city of

New York.

I think it's a worthy experiment, and I commend the sponsor of the bill.

ACTING PRESIDENT MEIER: Senator Lachman will be recorded in the affirmative.

Senator Stavisky, to explain her vote.

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

As the representative of the western part of Queens Boulevard that has been such a dangerous roadway, I am delighted to vote for this bill. I saw it in operation last winter, in the outskirts of London, and it seemed to be working very, very well. And I'm delighted to vote in the affirmative.

ACTING PRESIDENT MEIER: Senator Stavisky will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1335 are Senators Balboni, Bonacic, Farley, Fuschillo, Lack, Larkin, LaValle, Leibell, Marcellino, Maziarz, McGee, Meier, Saland, Skelos, M.

Smith, Stachowski, and Senator Velella. Ayes, 39. Nays, 17.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1342, by Senator Saland, Senate Print 5063A, an act to amend the Public Officers Law.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Saland, an explanation has been requested of Calendar 1542 by Senator Duane.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this is a bill which attempts to deal with the number of 30-some-odd -- in fact, somewhere between 30 and 35 is the exact number -- City of Yonkers police members who currently reside in Dutchess County or beyond the current residential limits, as would otherwise be required of them as City of Yonkers police employees.

This bill, which has been supported by a resolution of the Yonkers City Council,

would enable these 30-plus City of Yonkers policemen to continue to reside in the communities that they're currently residing in. I believe they've been there anywhere from five to approximately thirty years.

It is limited in its scope to only those employees, effectively grandfathering them in. It does not expand that opportunity to anybody else.

And it effectively also prevents these people from being placed in a situation in which they effectively would have to sell the most valuable asset that they probably possess, which is their home, at what would be a fire sale, to buyers who might be apprised of the situation that their positions were at risk and they were required to leave their current homes.

ACTING PRESIDENT MEIER: Senator Duane.

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

ACTING PRESIDENT MEIER: Senator Saland, do you yield for a question?

SENATOR SALAND: Yes, I do, Mr.

President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Under what circumstances did those 30 or 35 officers move out of Yonkers?

SENATOR SALAND: I don't have any idea whatsoever, Senator.

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

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

SENATOR SALAND: I'm advised by a member of my staff that at least some of these people may have been residing in Dutchess County prior to their employment with the City of Yonkers. That, I would assume, would apply to some of the folks at the very least who have been there the longest, but that's just an assumption on my part.

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

ACTING PRESIDENT MEIER: Senator

Saland, do you continue to yield?

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

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: So it is possible that some of the officers have broken the law by not living in Yonkers?

SENATOR SALAND: I wouldn't hazard a guess as to what they did or didn't do. I would say that under the law that - under the Public Officers Law it certainly would raise a question at this point as to whether their residences are appropriate.

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: What is the thinking about giving these particular

officers only the chance to remain in their homes but not extending this to other officers to not live in Yonkers?

SENATOR SALAND: I'm not sure I understand the question.

SENATOR DUANE: Why is it only these officers who are going to be allowed to live in Dutchess County and not other officers?

SENATOR SALAND: This is an effort, in as limited a fashion as possible, to address a problem that affects 30-some-odd families that in the absence of this legislation could find themselves at risk under the Public Officers Law. It's not an effort to open the door to have other folks seek the opportunity to find residences that might not comport with the Public Officers Law.

It's the narrowest possible application that we could come up with that would address the needs of these people, who to some extent are at financial risk, without opening the entire system to wholesale questions of whether people should be residing

in certain locales or not. This is as limited as limited could be.

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Can the sponsor tell me what the vote was in the Yonkers City Council on the resolution on this matter?

SENATOR SALAND: I don't know how many members of the council -- how many members comprise the council. But according to the copy of the resolution, it was unanimous, seven to nothing.

SENATOR DUANE: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

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

ACTING PRESIDENT MEIER: Senator Saland, do you yield for a question?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

You'll forgive me, I want to be totally clear about this. And I don't have the sponsor's memo here, because this is one of the bills that came out of the Rules Committee.

So is the reason this bill is necessary because Yonkers enacted a residency requirement that was not prospective and now we have to go back and grandfather in individuals who are currently residing outside of the city of Yonkers but have already been employed by the Yonkers Police Department? Is that accurate?

SENATOR SALAND: Senator, I can't tell you whether it was not prospective. I don't know when whatever action was taken by the City of Yonkers may have been taken.

I am basically attempting to deal with a situation in which a number of people who reside in my district, many of whom have been there for prolonged periods of time, have been advised that they are in violation of the Public Officers Law.

As I mentioned in response to the questions by Senator Duane, we've attempted to do this in a fashion that would not impose or attempt to interfere with the City of Yonkers, only attempting to deal with these 30-some-odd people who are currently living in Dutchess County who would find themselves in a situation in which, were they forced to comply with the Public Officers Law, they would be required to put their homes up for sale in certainly a situation in which the transactions would be less than arm's length.

It doesn't take much for the word to get out that people are required to sell their residences. If those residences are, as would commonly be the case, the most valuable asset that most families have, these people would be put at great financial risk.

Again, it's an effort to deal with

the problems that these people have, enable them to continue to be employed as law enforcement personnel within the City of Yonkers. It's been unanimously supported by the City of Yonkers. And we've attempted to do it in a fashion that is so limited as to not provide a precedent for repetition.

If there are others in other communities that have similar problems or similar situations, then certainly it's incumbent upon them, if they wish to address it, to seek similar local legislation.

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

I'm still not clear. And the reason I have a concern here, and I know some of my colleagues do, I'm the sponsor of a bill

that would allow New York City to adopt a residency requirement prospectively for newly hired police officers. And while I understand the explanation you gave, I need to know why it is that this is necessary now for these individuals.

So I guess -- you know, we can do it -- I could ask several questions that I guess would lead us down that road. So let me do that, then.

My first question, does the City of Yonkers have a residency requirement for police officers?

SENATOR SALAND: I thought I had answered your question. I'm not aware of what the City of Yonkers may have for its residency requirement. I'm attempting to deal with the Public Officers Law, which seems to be what is at issue here.

If there is a City of Yonkers residency requirement, then this similarly would take care of the problem. I'm not aware of it. If it's been enacted, I couldn't tell you when, how long ago. I mean, it's truly beyond my capacity. I'm not attempting to be

disingenuous. It came to me as a Public Officers Law problem, and that's what I'm attempting to deal with.

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

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

SENATOR SALAND: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you.

Through you, Mr. President, I don't mean to be difficult here, but it's very difficult for us to know whether or not we should support this bill, which would essentially exempt, I believe, from a residency requirement police officers who are current police officers in Yonkers who live elsewhere. And we don't even know whether or not there is a residency requirement in Yonkers, when it happened, whether or not it was prospective.

So I don't understand why we're doing this, Senator Saland, without that knowledge. How do we vote on this without

knowing that?

SENATOR SALAND: Well, if that's the question, let me suggest to you that you try and focus on what I'm saying, and that may be helpful for you. So listen carefully. I'll do it once more.

There are 30-some-odd Dutchess County residents who are members of the City of Yonkers police force.

Are you with me so far?

SENATOR HEVESI: I've been with you since the beginning, Senator.

SENATOR SALAND: Okay. There's a resolution, which I'll be happy to share a copy, passed unanimously by the City of Yonkers. It makes no mention whatsoever of a City of Yonkers residency requirement. It does, however, mention a Public Officers Law requirement.

If you'd care to check the Public Officers Law, Section 3, perhaps -- why don't you have somebody get a copy -- that will show you where the issue lies. And that's what we're attempting to deal with.

If there is in fact a City of

Yonkers residency requirement, as I explained to you before, I'm not aware of it, nor do I believe anybody else in this chamber is aware of it. But regardless of whether it exists or not, this resolution, passed unanimously, attests to the will of the City of Yonkers City Council. If in fact there's such a city requirement, they are saying with respect to these 33 people -- and it specifically mentions 33 people -- with respect to those 33 people, they are willing to waive that requirement.

I am the Senator from the 41st Senate District. Dutchess County is part of that district. This is a request that comes to me by local residents, supported by the affected community. I am doing what I'm supposed to do. I am taking, effectively, a request from the local residents, supported by a home rule request by the affected community, and attempting to provide the enabling legislation to make this happen.

Now, if you don't understand that, ask all of the questions that you'd like to ask. I'll be very happy to answer them. But

I think I've explained to you how we got here.

SENATOR HEVESI: Mr. President, I'm going to speak on the bill here.

ACTING PRESIDENT BALBONI: Senator Hevesi, on the bill.

SENATOR HEVESI: Based on that response -

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

SENATOR DUANE: I was hoping the Senator would yield for a question.

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

SENATOR HEVESI: Sure, I'd be happy to yield.

SENATOR DUANE: Thank you.

Senator Hevesi, is it your concern on this bill that perhaps -- or is one of your concerns that potentially -- and no one in the chamber seems to know, even the ones that claim to be doing their jobs, whether or not these officers have actually broken perhaps local law or, even worse, the State Public Officers Law. Is that one of your concerns?

SENATOR HEVESI: It's one of the

six or seven concerns I have about this, Senator Duane. Since we don't know whether or not these police officers who we are now going to exempt from a section of the Public Officers Law, and maybe local law in Yonkers which requires them to live inside the district, whether or not these officers are currently in violation, whether or not there are any other officers who are currently required to live in the city of Yonkers because they are current police officers but live in other counties and now we're going to have an equity issue, and only Dutchess County police officers who live there but work in the Yonkers Police Department are going to be extended this benefit -- where somebody else, in Orange County, perhaps, who works for the Yonkers Police Department now will have to move into the district to be in compliance.

That may not be a problem, because maybe they should be in compliance; I don't know. I don't even know if there's a residency requirement for Yonkers police officers. But it certainly opens the door for a slew of questions, including the equity

question.

And frankly, Senator Duane, I don't understand -- and I was not trying to be antagonistic towards the sponsor, but I don't understand why I received a hostile response, that it was disconcerting for me to ask whether or not there was a residency requirement for Yonkers police officers in a bill that seemingly would exempt them from not only the Public Officers Law but, by extension, a requirement that they should live in the city of Yonkers.

And I'm very concerned about it, since I fully support a residency requirement, prospective -- and this is a major issue in the bill that I sponsor, because in the bill that I sponsor current police officers who work for the City of New York but live outside the city of New York are grandfathered in.

So the third or fourth question I would have asked the sponsor was when the Yonkers residency requirement was enacted - and I believe there is one; otherwise, none of this makes sense -- did they forget to grandfather certain people in, did they mean

to, were the same seven people who voted yes for this resolution, are they the ones who voted not to grandfather people in, did they mean to do that or did they make a mistake?

And there are a slew of questions here that I and my colleagues -- and I believe you too, Senator Duane -- need answered before we know whether or not we should be voting on this bill.

ACTING PRESIDENT BALBONI: Senator Duane.

SENATOR DUANE: And through you, Mr. President, if the Senator will continue to yield.

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

SENATOR HEVESI: Thank you, Mr. President, I'd be happy to yield.

ACTING PRESIDENT BALBONI: Please proceed, Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

First let me just first say how pleased I am that even in these closing, rushed days of our time here in Albany that

you, Senator Hevesi, have continued to keep an air of civility. Which, as you know, was one of the rules which were touted so much at the beginning of this session. And I'm glad that you haven't forgotten that rules change from earlier on in this session which encouraged us to be so very civil, particularly when we're asking questions.

And with that, Senator Hevesi, though I know if this had been your bill you would have known all the answers to these questions -- but I'll try anyway, since you seem to be the person most willing to actually engage in a discussion about this bill, which has implications not just for police officers in Yonkers but in fact having to do with residency requirements for people in all kinds of professional categories throughout the state.

Saying all that, Senator Hevesi, do you also feel that this has implications for other employees in other job categories in Yonkers who may or may not be living in the city of Yonkers and what would happen in terms of the Public Officers Law or local Yonkers

law?

SENATOR HEVESI: Thank you, Senator Duane. It's another excellent question.

And I should like to point out for everyone that the bill that I sponsor does not enact the residency requirement for New York City police officers. What it does, and it's much more broad, which is why I'm answering your question this way, it enables the City of New York, if they choose to, to enact a prospective residency requirement for any member of the uniformed services in New York City.

And again, I don't know -- because the sponsor has not shared with us, and I don't know if he knows -- whether or not there is a residency requirement, prospective or otherwise, for not only police officers in the City of Yonkers but firefighters or sanitation workers or corrections officers or anybody else.

So it certainly would beg the additional question -- and I commend you, Senator Duane, for realizing that and bringing

it up. That's another equity issue -- are we now providing a benefit, an exemption here for police officers, not just in one county - which could disenfranchise individuals who live in other counties but are still required to live in Yonkers because they work in the police department -- but folks in the same situation, irrespective of the county where they work in, depending on whether or not they are corrections officers or some other type of municipal employee in Yonkers?

The answer to your question is I don't know, because we don't have the information on the purpose of this bill.

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

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

SENATOR HEVESI: Thank you, Mr. President, I'd be happy to continue to yield.

ACTING PRESIDENT BALBONI: Please proceed, Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

There is a scenario that occurred to me that is really quite distressing, and I'm not sure whether it's true or not, but I feel it's important to put it out there so that we can think about it as we decide how we want to vote on this particular piece of legislation.

We've all heard stories of politicians who had fake addresses and that sort of thing. And I guess other people do it, not just politicians, civil or uncivil.

And I'm wondering if perhaps some of these officers had fake addresses in the city of Yonkers, got caught, and are now trying to legislatively rectify their having done something inappropriate about their residences.

SENATOR HEVESI: Thank you for raising that point, Senator Duane. The answer is I don't know whether that's the situation.

Presumably, if that was the case, there has been for some time a residency requirement for Yonkers police officers. And under that potential scenario, which I don't know if that's true, I'm not suggesting it's

true -- and I don't think you have suggested it's true, you've simply raised the possibility -- it is possible.

And if that's the case, then there was a residency requirement, though we don't know when that was enacted, and these individuals were probably in violation of the law in that scenario.

And if that's true and it's been discovered for some reason and we're now exempting these police officers who have been in violation of the law for some time, my question is not only do we not know if that's the circumstance that has led to this bill, I want to know whether the seven members of the city council in Yonkers know that that's the situation or we're just doing this as a gift to some individuals who may have been in violation of the law without our knowledge, without the sponsor's knowledge, and possibly even without the knowledge of the local city council members.

It's an excellent question. I don't want to suggest or disparage in any way anybody who works for the Yonkers Police

Department. I'm sure that they are terrific and fine public servants who put their lives on the line every single day. But, you know, when we don't have the answers to the questions as to what that bill is all about and why it's necessary and what its implications could be, we are forced to explore in our own minds -- and this is not to do a mental exercise here, but this is because it's our responsibility to ascertain the full ramifications of the policy measures that we adopt here -- whether or not that situation that you outlined, Senator Duane, which to me, if that occurred -- and I hope that's not the case. I don't even think it is the case, because that would just be too egregious to think about.

But if it was the case and we were voting on this without that knowledge and did in fact grant an exemption to individuals who knew they were in violation of the law, that would be wrong.

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

ACTING PRESIDENT BALBONI:

Senator Hevesi, do you continue to yield?

SENATOR HEVESI: Yes, Mr. President.

ACTING PRESIDENT BALBONI: Please proceed, Senator Duane.

SENATOR DUANE: I know that Senator Hevesi shares a concern that I have, and has voiced it, about precedents on something like that. And one of the more interesting and unique qualities of this bill, which the sponsor did mention, as it had to do with an area that he represents, is that the exemption only goes for a distance of two counties.

And I'm wondering if we've gotten the full idea of what -- we know that Dutchess County is potentially two counties away from the city of Yonkers. But what if you were, for instance, to look at -- are each borough, each county in the City of New York considered one county?

I'm wondering how that works and whether or not, for instance, Staten Island then would be included in this and, if a

police officer had an address in Staten Island but worked in Yonkers, would that count?

SENATOR HEVESI: Thank you. Through you, Mr. President, that's another question that I don't have the answer to.

And which leads me to ask another question, which is though I understand why Senator Saland is the sponsor of this bill, because he is the individual who represents the individuals who are seeking, presumably, an exemption, it does raise the question as to why we don't have as the sponsor an individual who actually represents Yonkers.

And if we had a sponsor who represented Yonkers, you know, we might then have the answer to the question of why we have this contiguous -- two-county contiguous provision. The answer is I don't know.

And now I think we're up to five or six different questions which we now don't have the answers to. And as I explore this, and I'm sure as you explore it, it's becoming increasingly unlikely that I'm going to support this bill. There are too many unanswered questions here. And I don't know

the answer to that question too, Senator Duane. It's a good question.

SENATOR DUANE: Thank you.

Mr. President, I'm having some trouble hearing, though.

ACTING PRESIDENT BALBONI: Ladies and gentlemen, could we please have some order in the chamber.

Please take your conversations outside. There's a debate that's proceeding. Thank you very much.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. If the Senator would continue to yield.

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

SENATOR HEVESI: Yes, Mr. President, I continue to yield.

ACTING PRESIDENT BALBONI: Please proceed, Senator Duane.

SENATOR DUANE: Thank you.

And may I just preface this. I very, very, very much appreciate your patience with my questions, Senator Hevesi. And I'm

really learning a great deal from your answers. It's terrific in this body, in this chamber when we can have civil debates on issues when I guess it has to be acknowledged that we don't always know as much about our bills as perhaps we should know about our bills. And that is embarrassing, but really nothing to get testy and nasty about.

And I very much appreciate, though you're not an expert on this bill, that you're to the best of your ability answering my questions in a civil and polite manner.

Saying that, let me continue with my question, if I may, Senator Hevesi. I know that you also share a concern with me on the issue of localities being able to control their destiny and that you're concerned about local control. We both represent districts in the City of New York. A lot of what happens in the City of New York is controlled by the State of New York. I assume that's a similar situation in Yonkers, that so much of what happens in Yonkers is also controlled by the State of New York.

And I'm wondering what your

thinking is, as we debate this bill, as to the impact of how we vote on this bill in terms of local control in Yonkers, particularly insofar as there's confusion about what the intent of this bill is.

SENATOR HEVESI: That's a good question. I again thank Senator Duane for raising a number of good questions here.

And, you know, I don't know if this is out of order, but the questions that we have are questions that we need to have answered about the law in Yonkers. And though the sponsor of this bill, which deals with the law in Yonkers -- even though the bill doesn't have that language, that's what this bill does.

I know that Senator Spano, who is in the chamber right now, represents that area. And I'm sure he knows whether or not there's a residency requirement, whether or not it was prospective, whether or not there are other police officers who would be -- who need to be grandfathered in or whether or not these offers should have been living in Yonkers in the first place. I'm sure he can

answer all those questions. And I'd be happy, Senator Duane, to yield the floor to him at some point.

But the question that you directly asked regarding local control is one that seems to me would indicate that there should either be cosponsors of this measure or that the Senator representing the area where the police officers work should be the one who actually brings this legislation. At the very least we would have our questions answered, which we now do not.

ACTING PRESIDENT BALBONI: Senator Hevesi, would you like to proceed on the bill? You were on the bill.

Senator Duane, are you still -

SENATOR DUANE: Thank you, Mr. President.

SENATOR HEVESI: Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Senator Hevesi, on the bill.

SENATOR HEVESI: Yeah, I'm going to continue on the bill here.

This is a somewhat distressing

situation. Let me tell you why. In all sincerity, in all sincerity, Senator Saland is one of the most knowledgeable Senators in this chamber. He is always up-to-date and up to speed on the bills that he brings to the floor, has a complete understanding of the policy issues not just on bills which he sponsors but on other pieces of legislation, and has always been exceptionally patient in answering the questions.

So I'm a little troubled by today's exchange. I know that he didn't mean anything personally by it. But I'm surprised that the Senator, and I take him at his word on this, doesn't know the ramifications of this bill as it pertains to what the current law is in Yonkers.

So I'm going to stop on that point, having said that. I think it's clear where I'm heading with that.

On the bill, it seems to me that it would be -- a couple of things. And I'm just going by logic here, since I don't have the answers. One, there is a residency requirement for Yonkers police officers. It's

hard to believe that there wouldn't be.

Number two, that residency requirement may not have been a prospective residency requirement, or it may have been. I'm still not sure whether that's the case, because I'm not even sure whether the police officers that we're exempting under this legislation, whether these officers are ones that we are anticipating are going to be hired or whether they are current police officers in Yonkers.

If they are current police officers in Yonkers and they're living in this other county, then we'd have to know, wouldn't we, Mr. President, when in fact Yonkers enacted a residency requirement, and we'd have to know whether or not it was a prospective requirement to know whether these individuals are currently in violation of the law and whether or not we are then exempting them from these requirements.

And if we're not, then why are we doing this, and how did the inconsistency arise in the Public Officers Law -- that is the one point that Senator Saland was

absolutely clear on -- if there is a conflict right now where these individuals who live in Dutchess and work for the Yonkers Police Department, where these individuals are currently in violation of the Public Officers Law.

So that's the one inconsistency. But I'd like to know how they came to be in violation of the Public Officers Law and whether or not they're in violation of any other law. And it may be prudent to take this action, what Senator Saland is suggesting.

But I can't vote for this, having articulated a number of times, and again today, whether or not I'm going to support this bill, because I support residency requirements, but only prospectively, for newly hired police officers. I don't want to take a vote on a measure here today that is in fundamental conflict with my position that would in any way undermine bringing that bill to the floor and passing it, which is something we have not been able to do in this chamber for years and years and years - which, by the way, is a tremendous, tremendous

problem.

It is one of a series of measures that we need to take in New York City to better diversify our police force in a day and age when we have a great problem with fractured relationships between the minority communities and police officers in New York City.

And I want to know, by extension, what's the implication in Yonkers if we go ahead and do this? What kind of message are we sending? Is this the message that the Yonkers City Council, who voted seven-nothing to do this, is that the message they want to send? Do they, as Senator Duane brought up, do they in fact know what they're doing here? I know that they wanted to create this exemption. But is the question of Senator Duane a valid one, or could it be valid? Has anybody investigated whether or not these individuals are currently in violation of the law and were just caught doing it right now?

And then all the further questions. What's the ramification of doing this in terms of equity for any other police officer who's

employed by the City of Yonkers and who may live in Orange or Putnam or any other of the other counties -- what's the implication for them? What happens if there suddenly become other police officers who move to Dutchess County? Are they in violation of the residency requirement of Yonkers? I don't know. Is it only prospective or is it not? I don't know.

The bottom line, Mr. President, is I think we've now raised probably 12 or 13 questions surrounding this legislation. And I'll state again, this may be a good idea. I have no way of knowing.

And since I have no way of knowing and I haven't heard any responses to any of the questions I've asked or any of the questions that Senator Duane has asked -- and I'd be happy to yield the floor to anybody who wants to shed light on this -- I will not be supporting this bill, because I don't know whether or not this is a good idea, for all of the reasons that I've enumerated here.

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

ACTING PRESIDENT BALBONI: Thank you, Senator Hevesi.

Senator Duane.

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

ACTING PRESIDENT BALBONI: On the bill.

SENATOR DUANE: Let me collect my thoughts. It's been a long week here in the chamber of the State Senate. And I know it's sometimes difficult for us to keep our good humor and to not take out our frustrations on others.

In fact, yesterday, two days ago I was annoyed about something and I feel as if I said something nasty to a staff member. And not to pat myself on the back, but just to show an example of something, I did go back and apologize to him for having been so unpleasant to him when in fact it wasn't that person's fault.

And I think actually that's the kind of thing that plays into what we call civility here in the Senate chamber. And civility can't just be a one-sided thing,

civility really has to be something that's shared by everyone. And sometimes civility entails saying you're sorry when you've been uncivil.

That said, perhaps it's because I haven't been here as long as some others that I'm able to keep somewhat better humor about some of the ironies that go on here in the Senate chamber. Certainly I'm frustrated that we're doing bills like this one when unfinished business, like all the poor people who are languishing in state prisons under the Rockefeller Drug Laws more than two counties away from their homes are not getting any redress here.

I don't want to begrudge these police officers redress for what may or may not have been a mistake on where they have gone to live. But I am concerned that we're sending a bad message, maybe a message about Yonkers, the City of Yonkers. It seems to me it's possible that a better sort of exception would be to say that someone would live in the county and not to live within two counties. It's hard to -- it's really hard to determine

that.

You know, I'd like to start, you know, banging the desk and just say how sad it is that, you know, when someone has made a mistake they're completely unwilling to say that they're sorry and they maybe spoke too sharply or too quickly. But instead I think I'll just voice my disapproval for that kind of behavior, especially from someone that I respect so much.

All of that said, there are way too many questions about this piece of legislation which have not been answered. And I don't even think that there could be a claim made that there was a hearing about this bill, since it came out of Rules. And I just would encourage my colleagues to vote no.

Thank you.

ACTING PRESIDENT BALBONI: Is there any other Senator wishing to be heard on this particular item?

If not, please read the last section.

Senator Hassell-Thompson, why do you rise?

SENATOR HASSELL-THOMPSON: I rise to hopefully -- Mr. Chairman, on the bill - to hopefully bring a little bit of -

ACTING PRESIDENT BALBONI: Senator Hassell-Thompson, on the bill.

SENATOR HASSELL-THOMPSON: On the bill.

I was in and out of the chamber during the discussion because I was attempting to get some clarity from the City of Yonkers before I voted on this bill. Because I live in the city of Mount Vernon, and the City of Mount Vernon does in fact have a residency requirement.

However, the City of Yonkers does not have a residency requirement, but it only has the state law that there is an attempt here to clarify -- to change and to clarify in order to rectify and to allow the ability of police officers who may or may not live within the City of Yonkers, but to give them the appropriate latitude in Yonkers.

I think the only reason I'm participating in the discussion is, as someone who lives in a contiguous city, there is

always the concern on the part of local government to attempt to look for and to attract police officers, any uniformed municipal workers, from a larger stream than may locally be available. Many times we find ourselves, however, being very parochial, in that we feel in some ways that we're not giving our local residents the best opportunities to apply for and to be given the best incentives in order to work in those localities.

I am normally opposed to lifting the ban on the ability of police officers and some other municipal workers from living outside the locality because it is my sense that we get a better quality of officer or worker who has a commitment to that community.

However, having had an opportunity to talk with one of the cosponsors of the bill, I have a better sense that some of the concerns that I raised earlier have been dissipated, particularly because once I was clear that the city council in the city of Yonkers in total had approved this, then I have no discomfort -- I am at least alleviated

from the fact that there is an awareness on the part of the local government to make that kind of decision for themselves.

And I would be in dereliction - particularly since I stood here so eloquently yesterday and talked about Roosevelt having the ability to make these decisions for themselves, I certainly would not vote against the right of the city council in Yonkers to support this bill.

Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Any other Senator wishing to be heard on this bill?

If not, read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BALBONI: Announce the results.

THE SECRETARY: Ayes, 55. Nays, 2. Senators Duane and Hevesi recorded in the negative.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 1345, substituted earlier today by Member of the Assembly Gromack, Assembly Print Number 7310A, an act to amend the General Municipal Law and the Executive Law.

SENATOR DUANE: Explanation, please.

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

SENATOR LARKIN: Mr. President, this bill is going to amend the General Municipal Law to decriminalize many aspects with respect to the conduct of free bingo.

I didn't know it, and a lot of others didn't know it, that you can't have free bingo. Under the current law, when 15 or more persons play bingo in a residential home, or individuals play bingo without paying, this is considered to be a misdemeanor. And it was brought to my attention by a town clerk. So that is how this all came about, Senator.

This legislation allows any number

of people to play bingo in a residence as long as participants do not pay money to participate. In addition, this bill broadens the exempt organizations that can conduct it. The bill broadens the kinds of organizations that conduct free bingo to include bona fide religious, charitable, educational, fraternal, civic.

It also imposes stricter standards to ensure that these free bingo games are conducted purely for the amusement of participants and not for the profit of charitable organizations, other for-profit companies, or the participants.

The bill makes a technical amendment to the Executive Law so that no license is required to sell or distribute bingo supplies used in the lawful conduct of a free bingo.

This bill allows TV or Cablevision to broadcast live, free bingos into nursing homes, hospitals, and private homes for the free entertainment of the elderly and those in nursing homes.

I personally, Senator, as I

explained to Senator Padavan and Senator Dollinger, have gone into the Office of the Aging in the two counties that I represent, and to about a half a dozen nursing homes. They would greatly accept this as a medium of entertainment for those confined therein.

SENATOR DUANE: Thank you.

ACTING PRESIDENT BALBONI: Thank you, Senator Larkin.

Is the explanation satisfactory?

SENATOR DUANE: Yes.

ACTING PRESIDENT BALBONI: The explanation is satisfactory.

Please read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT BALBONI: The bill is passed.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number

1347, by Senator Balboni, Senate Print 5464A, an act to amend the Judiciary Law.

SENATOR FUSCHILLO: Is there a message at the desk?

ACTING PRESIDENT MARCELLINO: There is, sir.

SENATOR FUSCHILLO: Move to accept.

ACTING PRESIDENT MARCELLINO: All in favor of accepting the message signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The message is accepted.

The Secretary will read.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The

bill is passed.

THE SECRETARY: Calendar Number 1350, by Senator Lack, Senate Print 5543, an act to amend Chapter 689 of the Laws of 1993.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MARCELLINO: If we can have some order in the house, we can get this done.

If we can have some order in the house. Take the conversations out of the chamber, please.

Senator Lack, an explanation has been asked for.

SENATOR LACK: This is a three-year extender of the Electronic Court Appearance Law.

SENATOR DUANE: I didn't hear that, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator, Senator Duane did not hear the explanation. Could you kindly repeat it for him?

SENATOR LACK: This is a three-year extender of the Electronic Court

Appearance Law.

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

ACTING PRESIDENT MARCELLINO: Senator Lack, would you yield?

SENATOR LACK: Yeah.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR DUANE: Are there any test results from the original test, pilot program?

SENATOR LACK: I can't hear him.

ACTING PRESIDENT MARCELLINO: Senator Duane, Senator Lack is having a problem hearing you now.

SENATOR DUANE: Are there any results from the original pilot program?

SENATOR LACK: Are there any results? Is that what you're asking, Senator?

Yeah. Works great.

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

ACTING PRESIDENT MARCELLINO: I'm sorry, Senator Duane on the bill.

SENATOR DUANE: I'm sorry for the

pause. I'm just collecting my thoughts so that I can speak with a civil tongue.

Mr. President, I'm not going to speak at this time.

ACTING PRESIDENT MARCELLINO: Any other Senator wish to be heard on the bill?

Read the last section, please.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Fuschillo, why do you rise?

SENATOR FUSCHILLO: Mr. President, at this time could we please take up Supplemental Active List Number 2, the noncontroversial calendar.

ACTING PRESIDENT MARCELLINO: The Secretary will read the noncontroversial calendar, Supplemental List Number 2.

THE SECRETARY: Calendar Number

496, by Senator Padavan, Senate Print 4331, an act to amend the General City Law and Chapter 772 of the Laws of 1966.

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

Read the last section.

THE SECRETARY: Section 25. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 587, by Senator Maziarz, Senate Print 1905A, an act authorizing the Town of Greece.

SENATOR FUSCHILLO: Is there a message at the desk?

ACTING PRESIDENT MARCELLINO: There is, sir.

SENATOR FUSCHILLO: Move to accept.

ACTING PRESIDENT MARCELLINO: The motion is to accept the message of necessity

at the desk. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The message is accepted.

There is a home rule message at the desk also.

The Secretary will read the last section.

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

ACTING PRESIDENT MARCELLINO: Senator Paterson.

SENATOR PATERSON: Lay that aside, please.

ACTING PRESIDENT MARCELLINO: Lay the bill aside, please.

THE SECRETARY: Calendar Number 1027, by Senator Kruger, Senate Print 917, an act authorizing the City of New York to reconvey its interest.

ACTING PRESIDENT MARCELLINO:

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 MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1030, by Senator M. Smith, Senate Print 2342, an act authorizing the City of New York to reconvey its interest.

ACTING PRESIDENT MARCELLINO: 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 MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1128, by Senator Velella, Senate Print 3316, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT MARCELLINO: 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 MARCELLINO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Paterson, have you risen?

SENATOR PATERSON: Yes. Just recently, Mr. President.

(Laughter.)

SENATOR PATERSON: Mr. President, is Senator Malcolm Smith's bill out of the house?

ACTING PRESIDENT MARCELLINO: Yes, it -- it has passed.

We could recall it, and you could lay it aside.

SENATOR PATERSON: Nah, that's all right.

ACTING PRESIDENT MARCELLINO: I think it's a bill worthy of lengthy discussion.

SENATOR PATERSON: That's all right.

ACTING PRESIDENT MARCELLINO: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, please call up Calendar Number 587.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

We've already accepted the message of necessity.

THE SECRETARY: Calendar Number 587, by Senator Maziarz, Senate Print 1905A, an act authorizing the Town of Greece.

ACTING PRESIDENT MARCELLINO: As we said before, there is also a home rule message at the desk.

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

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

SENATOR DOLLINGER: Thank you, Mr. President.

In my nine years in this chamber there have been big indignities, being a member of the Minority of this house, there are small indignities that sort of happen from here to there, and then there's the indignity of having a bill that originates in your own community, in your own district, that you're not even asked to be a sponsor of.

I guess those indignities are part and parcel of this house. We have a rule that requires civility between members. I'm not quite sure I understand what it means when that kind of action occurs. I guess someday I'll appreciate what this house, maybe, in its courtesy to its members means, but for some reason I doubt it will happen when I'm still a member.

I'll vote in favor, Mr. President, because it's the right thing to do, even though I don't understand it.

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

Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President, to explain my vote.

I'm also going to vote yes on this bill and take my lead from the home Senator of the town of Greece, who's Senator Dollinger, and just acknowledge that I know that I'll be able to sleep tonight with a clear conscience that I've done the best job I can today and tried to be as good to my fellow woman and man as I possibly can. And I hope that Senator Dollinger will sleep well tonight as well, knowing that he's a gentleman and a person with a very civil tongue.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: You're welcome.

Announce the results, please.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Fuschillo, why do you rise?

SENATOR FUSCHILLO: Mr. President, could we just restore order to the chambers.

Will you please recognize Senator Alesi.

SENATOR LACK: Senator Alesi.

SENATOR ALESI: Mr. President, I ask unanimous consent to be recorded in the negative on Calendar 1335.

ACTING PRESIDENT MARCELLINO: So ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, could we restore order in the chambers?

Upon restoring order, please recognize Senator Spano.

ACTING PRESIDENT MARCELLINO: Senator Spano.

SENATOR SPANO: Mr. President, I'd like the record to reflect that I'd like to be voted in the negative on Calendar 1335.

ACTING PRESIDENT MARCELLINO: The record will so reflect.

SENATOR SPANO: Thank you.

ACTING PRESIDENT MARCELLINO: Senator Fuschillo.

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

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

Senator Paterson.

SENATOR PATERSON: Mr. President, there will be an immediate meeting of the Minority in the Minority Conference Room.

SENATOR FUSCHILLO: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Paterson, could you repeat that, please?

Senator Paterson.

SENATOR PATERSON: Mr. President, upon reflection, it's come to me that maybe we

don't need to have a Minority conference just yet. But I have a feeling that one will come eventually.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Just to repeat the announcement, the Finance Committee will be meeting in the Majority Conference Room immediately.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, can we restore order to the chambers.

ACTING PRESIDENT MARCELLINO: I believe we have order, sir.

SENATOR FUSCHILLO: Will you kindly call up Calendar Number 786.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 786.

THE SECRETARY: Calendar Number 786, by Member of the Assembly Sidikman, Assembly Print Number 1722A, an act to amend the Public Health Law.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the 180th day.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MARCELLINO: Can we lay the bill aside, please.

SENATOR FUSCHILLO: Mr. President.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Will you lay the bill before the house aside temporarily.

ACTING PRESIDENT MEIER: Calendar 786 will be laid aside temporarily.

SENATOR FUSCHILLO: Thank you. Mr. President.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: 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.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr.

President, could we restore order to the chambers and return to Calendar Number 786, please.

ACTING PRESIDENT MEIER: The Senate will come to order.

The Secretary will read Calendar 786.

THE SECRETARY: Calendar Number 786, by Member of the Assembly Sidikman, Assembly Print Number 1722A, an act to amend the Public Health Law.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Marchi, Senator Duane has requested an explanation of Calendar 786.

SENATOR MARCHI: I'm groping desperately, Mr. President, for the fact sheet on it.

But in any event, the requirement is that certain listed places that -- on premises where food is served, you must have this resuscitation equipment available. You don't have to have somebody available to use it, but when something happens and a life or

death situation -- and I'm just going from memory. And if I -- if you're not satisfied with it, I'll -- oh, okay, very good. Thank you.

Availability of resuscitation equipment in certain public places. And by that is devoted to where there's the sale of alcoholic beverages for on-premise consumption, and also food. And it includes health chubs and owners and operators of restaurants.

So that if you need mouth-to-mouth resuscitation, you can still do it, but you have to have the equipment available. So if there is someone there that can operate it, it would facilitate matters.

So at this point, I would assume that after we've had some experience with it, that there will be further address to it on either rules and regs and amplification by other means of its utilization.

But at this time if you have it on the premises, that will be sufficient. So that if there is someone available within the premises that can use it or knows how to

operate it, they can do so.

You also invoke the Good Samaritan law, so that you're not exposed to a lawsuit by reason of your use of that equipment.

So I think that it's desperately needed to have it at least available, at this point, for as much as we know about it. It does beg further amplification, I think. But with the provisions that are in there, it does not expose anyone to greater liability. But on the other hand, its availability may save lives. Certainly if it's available and there are people who can see that it functions, it will save lives.

So I think it's a good bill, Mr. President. And I would hope that most of you can support it. The Assembly, I believe, has passed it.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard?

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, may we please return to the reports of standing committees. I believe there's a report of the Rules and Finance Committees, respectively, at the desk.

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 1582, by Senator Rath, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

And Senate Print 1894A, by Senator Libous, an act to amend the General Business Law.

Both bills ordered direct to third reading.

SENATOR FUSCHILLO: Move to

accept the report of the Rules Committee.

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 is accepted.

All bills directly to third reading.

The Secretary will continue to read.

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

Senate Print 5680, by the Senate Committee on Rules, an act to amend Chapter 20 of the Laws of 2001.

ACTING PRESIDENT MEIER: Without objection, directly to third reading.

Senator Fuschillo.

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

Number 1352.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1352.

THE SECRETARY: Calendar Number 1352, by the Senate Committee on Rules, Senate Print 5680, an act to amend Chapter 20 of the Laws of 2001.

SENATOR FUSCHILLO: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: Yes, there is a message at the desk.

SENATOR FUSCHILLO: Move to accept.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

SENATOR FUSCHILLO: Lay it aside

temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you please call up Calendar Number 1353.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1353.

THE SECRETARY: Calendar Number 1353, by Senator Libous, Senate Print 1894A, an act to amend the General Business Law.

ACTING PRESIDENT MEIER: Read the last section.

Senator Dollinger.

SENATOR DOLLINGER: May I be heard on the bill, Mr. President? I'll waive the explanation from the sponsor.

SENATOR DUANE: Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger has the floor. Just a minute, Senator.

SENATOR DOLLINGER: If Senator Duane wants an explanation, I'll yield to him.

ACTING PRESIDENT MEIER: Senator

Duane.

SENATOR DUANE: Explanation, please, Mr. President.

ACTING PRESIDENT MEIER: Senator Libous, an explanation has been requested by Senator Duane.

SENATOR LIBOUS: Thank you, Mr. President.

This is a piece of legislation that was before us a couple of years ago. And like many things that come before this house, sometimes the second time around is much better.

We have made a number of amendments to the legislation, and what we have here is a piece of legislation that is consumer-friendly and it protects the car rental industry but at the same time protects the consumer.

And some of the safeguards that we put in this bill that we didn't have last time was protection for the consumer against discrimination by car rental agencies, where there would be fines if discrimination took place; posting of the nature of the collision damage waiver, not only on the contracts but

also well-posted within the car rental facility.

And what it does is it lifts the hundred-dollar cap. Right now in New York State if you rent a car, you are liable for only up to a hundred dollars. And what that has caused is a tremendous problem where we have lost hundreds of rental agencies, particularly small ones who basically would rent a car, the car might cost them $25,000 or $30,000, the car would be totaled, and the consumer was only liable, under present law, for a hundred dollars.

This corrects that. This provides opportunities for coverage. And we believe that it will be good for the car rental industry, it will bring car rental rates down, and at the same time will protect the consumer from any discrimination that may have taken place in the past.

ACTING PRESIDENT MEIER: Senator Duane.

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

ACTING PRESIDENT MEIER: Senator Libous, will you yield for a question?

SENATOR LIBOUS: Certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you.

I'm wondering, is there an Assembly sponsor of this bill?

SENATOR LIBOUS: Mr. President, the Assembly version is active on the Assembly calendar today. It is a same-as.

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

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

SENATOR LIBOUS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Does that mean it's a Rules bill in the Assembly at this time?

SENATOR LIBOUS: No, it is not.

Assemblyman Klein has the bill on the calendar.

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

SENATOR LIBOUS: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: On page 10, line 40, starting on line 40, there is a notice about discrimination. Is that language that's only -- is that new language?

SENATOR LIBOUS: That language covers current law, Mr. President.

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

SENATOR LIBOUS: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I understand it covers current law. But is this law a part of the actual text of the legislation?

SENATOR LIBOUS: Yes, it is. But it refers to current law.

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

to yield.

ACTING PRESIDENT MEIER: Senator Libous, do you yield?

SENATOR LIBOUS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: In the discussions about this bill was any thought given to including discrimination based on sexual orientation?

SENATOR LIBOUS: Mr. President, the discussions during the bill dealt with current law.

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

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

SENATOR LIBOUS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Then am I to assume that the issue of discrimination based on sexual orientation did not come up?

SENATOR LIBOUS: Mr. President,

if it is covered under current law, then it would be covered under this bill. If it is not covered under current law, therefore it would not be covered under this bill.

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

ACTING PRESIDENT MEIER: Senator Libous, do you yield?

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

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: If I make the assertion that current law does not include sexual orientation, then am I safe to assume that it did not come up in the discussions regarding this law as well?

SENATOR LIBOUS: That is correct, Mr. President.

SENATOR DUANE: Thank you.

If the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Libous, do you yield?

SENATOR LIBOUS: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Right now, under New York State law is there a charge for insurance for rental vehicles?

SENATOR LIBOUS: Right now, under the current law, Mr. President, as I stated earlier, if you rent a vehicle in New York State you are only liable for up to a hundred dollars for damages.

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

SENATOR LIBOUS: Yes, I will, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Under current law -- let me phrase it a different way.

As a result of this legislation, what would the liability be to the consumer?

SENATOR LIBOUS: Mr. President, under this legislation it lifts the hundred-dollar cap. Therefore, the consumer's

present auto policy would cover, as it does now. The only difference is right now the insurance company is only liable for up to a hundred dollars.

They would be covered under their credit card companies if they do not have personal auto insurance. Or they could purchase optional vehicle insurance at the counter. That's what the postings and the notifications would refer to.

That optional vehicle insurance could cost them up to $9 a day on a vehicle that is valued at $30,000 or under, or it would be capped at $12 a day for a vehicle that would be over $30,000.

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

SENATOR LIBOUS: Yes, I will, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm wondering if the sponsor has put together a list or can give me an idea of how many states use the

system presently used in New York State and how many states use the system that is proposed in the legislation.

SENATOR LIBOUS: Mr. President, we are the only state with the hundred-dollar cap.

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

ACTING PRESIDENT MEIER: Senator Libous, do you yield?

SENATOR LIBOUS: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Are there protections in the law which would protect the consumer from onerous insurance charges if the consumer chooses to buy insurance from the rental car company?

SENATOR LIBOUS: If the consumer chooses to buy the insurance from the rental car company, it would cost them, as I said, Mr. President, $9 a day or $12 a day, depending on the value of the car.

SENATOR DUANE: And through you,

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

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

SENATOR LIBOUS: Yes. Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIBOUS: Absolutely, Mr. President.

SENATOR DUANE: Are the rental car companies doing business in New York State, will they be required to inform the consumer that their own insurance or their credit cards may cover the cost -- may already include insurance protections?

SENATOR LIBOUS: Absolutely, Mr. President. Senator Duane brings up a very good question.

That was one of the provisions we put in this bill through notification. There will be adequate notification available at the counter and through the contracts. And, yes, that is one of the provisions here, that they would be notified.

SENATOR DUANE: Thank you.

And, Mr. President, if the sponsor would continue to yield.

SENATOR LIBOUS: Yes, I will, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: What are the various types of insurance coverage that will now be offered by the rental car company when a consumer goes in to rent a car?

SENATOR LIBOUS: Well, they will offer them coverage on the vehicle, to protect both the consumer and the company from any damages. So it would be a policy based on the rental of that vehicle for the time that the vehicle was rented.

SENATOR DUANE: Mr. President, for the moment I'm finished with my questions. But I think I'll have some more a little bit later on.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR FUSCHILLO: Mr. President.

ACTING PRESIDENT MEIER: Senator

Fuschillo.

SENATOR FUSCHILLO: For the purpose of allowing Senator Dollinger to vote, could we read the last section and then call the roll.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Record me in the negative, Mr. President.

Could I just explain my vote for 20 seconds? If I could.

ACTING PRESIDENT MEIER: Certainly.

SENATOR DOLLINGER: I'll be very brief.

Senator Libous, I agree this is a better bill. I still don't think it's a good consumer bill. I think the $9-per-day charge

will result in a very significant cost to consumers.

And, two, the problem that gave rise to this originally, the danger is that at the time of the point of sale there will be tremendous pressure on the individual to make sure they've got insurance coverage. They won't know what their primary coverage is, they won't know what their credit card coverage is. And you may find that the primary insurance rates are raised to cover this cost.

For those reasons, I vote no.

Thank you, Mr. President, and I thank the Majority for its courtesy.

ACTING PRESIDENT MEIER: Senator Dollinger will be recorded in the negative.

We'll withdrawal the roll call now.

SENATOR FUSCHILLO: Withdraw the roll call, thank you.

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

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

ACTING PRESIDENT MEIER: Senator Libous, do you yield?

SENATOR LIBOUS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Just a quick question or two to clarify this.

If I go to rent a car and I own a car, I'm therefore covered for the rental car on my own insurance. If I don't own a car and therefore don't have that coverage, am I required in current law to be covered through an additional policy such as the $9 or $12 a day?

SENATOR LIBOUS: No.

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

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

SENATOR LIBOUS: Yes. Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Okay. And as a result, if I then don't have any coverage and I go and wreck that car, I only have to pay a

hundred dollars to the rental car company; is that correct?

SENATOR LIBOUS: That is correct, Mr. President.

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

ACTING PRESIDENT MEIER: Senator Libous, do you yield?

SENATOR LIBOUS: Certainly, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: By extension and logic, if we do this, then it could result in increases -- I think Senator Dollinger was just alluding to this -- in premiums for everybody, because they might at some point rent a vehicle -- not that this might not be justified, but they might rent a vehicle and now they would actually -- these folks would be forced to have additional -- provide additional coverage.

Am I correct in that assumption?

SENATOR LIBOUS: Mr. President,

I'm a little unclear on the question. When you say these folks would have to have additional coverage -

SENATOR HEVESI: Well, let me do it this way.

Mr. President, would the sponsor continue to yield?

SENATOR LIBOUS: Yes, I will, Mr. President.

ACTING PRESIDENT MEIER: He yields.

SENATOR HEVESI: Who is required to underwrite the $9 or $12 a day insurance?

SENATOR LIBOUS: The car rental will underwrite that.

SENATOR HEVESI: Okay, the car rental underwrites the -

SENATOR LIBOUS: It's a waiver, it's a collision damage waiver that they would underwrite, that's correct.

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

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

SENATOR LIBOUS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Let me do it as just an open-ended question, and then I -- I'm pretty satisfied with my understanding of the bill.

SENATOR LIBOUS: Mr. President, let me try to clarify that. Staff has advised me that it's a waiver, is what it is.

SENATOR HEVESI: Okay. I believe the sponsor -

SENATOR LIBOUS: It's purchased through the car rental company.

SENATOR HEVESI: I'm sorry?

SENATOR LIBOUS: If it's purchased through the car-rental company.

SENATOR HEVESI: An open-ended question, if you would.

Do you anticipate any ramifications for auto insurance rates as a result of the passage of this bill? Whether it's for individuals who are already covered through their own insurance or the increase by the insurance companies covering the rental car

companies.

SENATOR LIBOUS: Actually, Mr. President, in all of the other states that have provided this a number of things have happened. Rates did not go up, and at the same time car rental costs came down, because it was more active to the marketplace.

And we see that the same thing would happen here as happened in all the other states that it took place in.

SENATOR HEVESI: Mr. President, one last question.

ACTING PRESIDENT MEIER: Senator Libous, do you yield?

SENATOR LIBOUS: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: My understanding is that most car rental companies support this bill. I'm also privy to information that certain insurance companies don't support the bill.

Am I correct in my assumption that the insurance companies that don't support the bill are the insurance companies who are not

underwriting the insurance for the car rental companies, they are -- they have other interests in this matter? Is that a correct assumption?

SENATOR LIBOUS: Mr. President, I'm not sure of the answer to that question, to be perfectly candid.

SENATOR HEVESI: Okay. Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane.

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

SENATOR LIBOUS: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Why is there a five-year sunset on the legislation? Why was five years chosen and not two years?

SENATOR LIBOUS: We thought that that would be a reasonable time, Mr. President and Senator Duane, to evaluate the entire bill. There are many times when we pass legislation here in New York State that a

sunset provision is always wise to put in.

So that in the wisdom of this Legislature, and if the house across the street here for some reason felt that it wasn't working properly, then the sunset would give us an opportunity to review it. Or, as we have with other legislation, if we think it's doing a grand job, we would then continue it.

So the sunset provision we thought was reasonable to evaluate the status of the bill.

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

SENATOR LIBOUS: Yes.

ACTING PRESIDENT MEIER: Senator Libous?

The sponsor yields.

SENATOR DUANE: Thank you.

In that this is in effect in, as the sponsor has said, in all other states, I'm wondering if any groups likes the AAA or other organizations like that have actually done a study on the effectiveness of doing the

insurance coverage in this manner.

SENATOR LIBOUS: We have gotten data from other states, Mr. President, in working with those advocates who support this legislation. And as I said, to the best of our knowledge we believe that this will have a positive effect in New York State, as it has in other states, whether it be reducing the cost of rentals or being consumer-friendly and protecting the consumer against discrimination when the car is rented.

I must add too, Mr. President, that we had had involved in this negotiation the Attorney General's office, who also supports this legislation. They too think that it is a better bill than it was a few years ago and it is protection for the consumer.

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

SENATOR LIBOUS: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: If a renter declines to take the insurance and to pay the

$9 to $12 for the insurance, will the rental company be allowed to look at the finances of the renter to see if they are capable of paying or if they could afford to cover the loss?

SENATOR LIBOUS: I'm sorry, Mr. President, what was that about the loss?

ACTING PRESIDENT MEIER: Senator Duane, I think he's asking you to repeat the question.

SENATOR DUANE: If a consumer declines to take the coverage and pay the -

SENATOR LIBOUS: They would be liable.

SENATOR DUANE: No, I understand that. But will the insurance company be allowed to look at the finances of the consumer to see if they're capable of covering the loss?

SENATOR LIBOUS: I believe that credit checks are involved in this process.

SENATOR DUANE: Through you, Mr. President. And if the consumer, if their credit check doesn't go through, then can the rental company decline to rent the car?

SENATOR LIBOUS: No, sir.

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

ACTING PRESIDENT MEIER: Do you yield, Senator Libous?

SENATOR LIBOUS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: How much time will the rent-a-car company have to check on the credit of the renter?

SENATOR LIBOUS: Mr. President, I would assume that if an individual needs to rent the vehicle, that that could be checked in a short period of time.

But again, there are so many options available I would make the assumption that if I were renting a vehicle and I weren't covered under my present policy or under the credit card that I use, that I would then purchase the waiver for a mere $9 or $12 a day.

In some states, the extra taxes alone on rental vehicles are much more than

the protection of insurance.

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

ACTING PRESIDENT MEIER: Senator Libous, do you yield?

SENATOR LIBOUS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm just trying to understand it. If you can't discriminate against someone based on their income, then even if someone had no credit, why would you even bother to check their credit if you couldn't deny renting them a car anyway?

SENATOR LIBOUS: Well, that's certainly up to the option of the car company. Some may choose to check it, some may choose not to.

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

ACTING PRESIDENT MEIER: Senator Libous, do you yield?

SENATOR LIBOUS: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: But as I understand it, they wouldn't be allowed to not rent the car to anyone, regardless of their credit. So even if someone had bad credit, you couldn't deny them the ability to rent the car; is that correct?

SENATOR LIBOUS: Yeah, Mr. President, I would ask Senator Duane if he might yield. I'm a little confused as to the point of his question.

ACTING PRESIDENT MEIER: I believe Senator Libous is asking if he can ask you a question.

SENATOR LIBOUS: I'm confused as to the point of your question. Where are you taking us with this, Senator Duane?

SENATOR DUANE: Through you, Mr. President, I'm just trying to find out specifically how the legislation is going to work, particularly because I do have concerns about people who don't have enough credit to buy a car or good enough credit or no credit and can't buy a car and therefore, due to

economic circumstances, need to rent a car. And I'm wondering whether -- I'm trying to ascertain what happens to that consumer.

SENATOR LIBOUS: Well, that consumer, Mr. President, is liable. I mean, whether that consumer chooses to purchase the optional vehicle coverage or not, that consumer is liable. And if that consumer in good faith rents a car with the intention that, God forbid, something happens and they can't pay for that car, well, then, that is an issue between the company and the consumer. I would assume that the company will go back and sue the consumer.

But by no means is this legislation designed to keep someone from purchasing a car. What it is is good, common sense to allow the fact that we have lost several hundred rental car companies because of the provisions that now exist, and what we're doing now is protecting the right of an individual.

You know, it's no different if you were to go and rent a tuxedo and pay for an insurance policy on that tuxedo for one

evening.

I just think that we're not looking here -- I would hope that Senator Duane is not confusing the legislation. We are not looking not to rent vehicles, we are looking to protect the consumer and we are looking to protect the car rental company.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: If that was a question, I'm not -

SENATOR LIBOUS: That was an answer, Mr. President, to his last question.

SENATOR DUANE: No, he was asking me a question.

SENATOR LIBOUS: No, I asked you the question and you answered it.

SENATOR DUANE: I'm confused about that, not about the bill.

ACTING PRESIDENT MEIER: Well, I believe the exchange consisted of Senator Libous wanted to ask you where your line of questioning was headed, and you responded and he then responded to your overall thrust of questions. And you now -

SENATOR DUANE: It's my turn.

ACTING PRESIDENT MEIER: Proceed, Senator.

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

ACTING PRESIDENT MEIER: Senator Libous, do you yield?

SENATOR LIBOUS: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Then is the intent of this bill that the actual rental of the car and ability to rent the car is at the discretion of the consumer, not the company?

SENATOR LIBOUS: Yes.

SENATOR DUANE: Thank you.

And if the sponsor would continue to yield.

SENATOR LIBOUS: Sure.

ACTING PRESIDENT MEIER: Senator Libous yields.

SENATOR DUANE: I'm anticipating also that it's possible that we would need to enact legislation dealing with renters who get into accidents and are unable or unwilling to

pay.

Has any thought been given to that scenario and whether or not car rental companies will come back to us and ask us for legislation making it so that they can collect damages?

SENATOR LIBOUS: No, Mr. President. I believe, Mr. President, that this legislation is a responsible piece of legislation. Whenever an individual, a consumer, is to rent a car, what we're asking here is that there be good faith on both parties. And that under current law, the consumer is liable for up to a hundred dollars.

We're saying that that is not fair, that the consumer has availability for coverage. If they have an insurance policy, it is already law that it is covered for a rental car. If they have a credit card, it would be covered under the credit card. And if they didn't have a credit card, they can certainly purchase the policy.

I would then say that if someone did not have coverage or could not pay the

optional insurance, then certainly that's a situation -- God forbid, if an accident were to happen, that's going to be between the rental company and the individual later on.

SENATOR DUANE: And through you, Mr. President, if the sponsor would yield for one final question.

ACTING PRESIDENT MEIER: Senator Libous, do you yield?

SENATOR LIBOUS: Yes, I would.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I know that the original vehicle rental protection law -- or not the original, but the last vehicle rental protection law was enacted in the late '80s, I think 1988. I'm wondering if there have been any hearings on the efficacy of that law or any hearings on this legislation before us today.

SENATOR LIBOUS: I can tell you, Mr. President, that there were no formal hearings. But there were dozens of meetings with people who rent cars, with the car rental industry, with the insurance industry, with

individuals -- I can share with you, if I may -- and I'd like to, actually -- meetings that took place over the last six years.

And in talking with companies and individuals who own companies and people who rent cars, you know, it was brought to our attention -- and, by the way, this bill has been discussed publicly in the media, it was written on in the New York Times and in other publications. And I can tell you that it was pretty compelling to me, after spending countless hours and listening to individuals and meeting with them and listening to stories like a Thrifty rental company owner from Long Island who told me that 60 days after the original $100 cap was instituted that he had $60,000 in damage in rental vehicles. Or from a Budget car owner in Buffalo who told me that one week after it took place, three of his SUVs were wrecked and cost him $100,000 because of the $100 cap. Or an owner in Westchester that told me that the damages that keep coming in are to the point where he may have to go out of business.

These kinds of discussions took

place over, I would say, a six-year period. They were open discussions. And as I say, the bill actually -- a version of this bill passed this house two years ago. It was openly debated at that time.

So I believe that there was a lot of discussion. And I think sometimes it's time to end the discussion and take action, and that's where we are today.

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

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

SENATOR LIBOUS: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you.

I'm curious as to what happens in the following -- well, let me ask the blanket question to begin with. Why didn't we just go ahead and mandate that anyone who doesn't have insurance because they own a car, when they go to rent a car, why wouldn't they be required -- we could haggle about how much it

should cost. Why didn't we just go and mandate they take a rider our or a waiver out and buy insurance for the $9 or $12 a day? Why do we allow this -

SENATOR LIBOUS: Mr. President, I don't think we would do that, for a couple of reasons. Number one, if you are an automobile owner, you already have coverage in your policy. So why make you pay twice?

And why would we mandate? I mean, this is not something we want to do, to mandate this issue, because I just think that it would be the inappropriate way to move on legislation. I think this is an open, free-market way of protecting renters.

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

SENATOR LIBOUS: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Maybe I was not clear. What I'm suggesting is if you don't have your own insurance through your own vehicle, and so you go in to rent a car and you don't have that, why wouldn't we require

anybody who rents a car who doesn't have any other coverage to buy additional coverage?

SENATOR LIBOUS: Well, the cost may be prohibitive. I would think the insurance companies would have a field day with that, Mr. President.

SENATOR HEVESI: Okay. Mr. President, one final question for the sponsor.

ACTING PRESIDENT MEIER: Senator Libous, do you yield?

SENATOR LIBOUS: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: What happens in the following situation? I go to rent a car, I don't have insurance from the purchase of my own car, I don't take the rider. I go out with the rental company's car and I crack it up and damage somebody else's car.

Two questions. One, if I injure somebody, the insurance carrier of the rental company would pay for that, would cover that; is that correct?

And the second is if I don't have any money because I was destitute or what have

you, or because they didn't do a credit check, what have you, I didn't take out the rider, now I go and crack up the car, I understand that I'm liable if we've removed the cap. Who pays for the guy's damage who I went and damaged his car? Who pays his damage?

SENATOR LIBOUS: I would believe the car rental company does.

Yes, to your first question, Mr. President, you're correct. And I would believe that the car rental company does.

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

SENATOR LIBOUS: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Whose car rental company? The car rental company I rented the car from, or the insurance company -- oh, I'm sorry, the car rental company would be liable for the damage that I did to somebody else's car even though I haven't taken out insurance?

SENATOR LIBOUS: Yes.

SENATOR HEVESI: Thank you, Mr. President. Thank the sponsor.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard?

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Breslin, to explain his vote.

SENATOR BRESLIN: Thank you, Mr. President. I rise to compliment Senator Libous on his patience, but I also rise to oppose this bill.

A consumer who comes into a car rental agency, if they do in fact have insurance through their credit cards or through their own car insurance is confused and will often duplicate that coverage, which makes the car rental $9 or $12 a secondary insurance. Which means it's a windfall for the car rental places.

Secondly, the car rental places have the ability to evaluate their risk when they rent to people, to make sure they're

fastidious and careful when they rent to people. And that risk is borne, then, by the car rental place and their insurance companies and not passed on, through the waiver, to the insurance companies in general.

This is not a consumer-friendly bill, and I urge the members of both sides to vote against this bill.

Thank you.

ACTING PRESIDENT MEIER: Senator Breslin will be recorded in the negative.

Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President. I echo my colleague Senator Breslin. I also agree and had intended to ask about which was primary and secondary coverage.

I believe that really the only groups that feel that the system that we have in New York State now is broken are the car rental companies. And I think that while they may have legitimacy for some of their concerns, I believe that this bill has swung too far in opposition to the rights and needs of consumers, particularly in urban areas

where a lot of people don't own their own cars.

This legislation I think is very problematic for those people who need to, from time to time, rent a car. And they tend to be people that don't have credit cards and have other things which prevent them from having the same opportunities and options that other, more well-heeled people might have.

So on balance, though I appreciate the efforts to make a bill which balances the needs of consumers and insurance companies and the rent-a-car company, I don't think that this bill is doing that. And I'm going to be voting no on it.

Thank you, Mr. President.

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

Senator Balboni, to explain his vote.

SENATOR BALBONI: Mr. President, I have supported this measure in the past. I believe this is a bill that was long overdue.

This year, however, I believe timing is important. In this bill we're

putting the cart before the horse. We have not dealt with the rise in auto insurance rates. We have tried mightily. Jim Seward has carried the ball on that. We have not found a way to reduce the fraud that is agreed to by both houses. We do not know what rates are going to be this next year.

To do anything to change the climate of automobile insurance rates this year before we have solved that issue I think is premature. I'll be voting in the negative, Mr. President.

Thank you.

ACTING PRESIDENT MEIER: Senator Balboni will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1353 are Senators Balboni, Breslin, Brown, Dollinger, Duane, Fuschillo, LaValle, Marcellino, Gonzalez, Onorato, Padavan, Paterson, Santiago, and Stavisky. Ayes, 43. Nays, 14.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you please call up Calendar 194.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 194.

THE SECRETARY: Calendar Number 194, by Member of the Assembly Schimminger, Assembly Print Number 4693A, an act to amend the Real Property Tax 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.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. I ask unanimous consent to be recorded in the negative on Calendar Number 1535, Print Number 3799A.

ACTING PRESIDENT MEIER: Without

objection, Senator Nozzolio will be recorded in the negative on Calendar 1535.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT MEIER: Senator Seward.

SENATOR SEWARD: Yes, while we are awaiting our next action I would ask unanimous consent to be recorded in the negative on Calendar Number 1335. It passed earlier today when I was unavoidably out of the chamber.

ACTING PRESIDENT MEIER: Without objection, Senator Seward will be recorded in the negative on Calendar 1335.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Mr. President, I rise to request unanimous consent to be recorded in the negative on Calendar Number 1353.

ACTING PRESIDENT MEIER: Without objection, Senator Hassell-Thompson will be recorded in the negative on Calendar 1353.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President.

ACTING PRESIDENT MEIER: Excuse me. Can we have some order in the chamber.

SENATOR FUSCHILLO: Mr. President, there will be a meeting of the Rules Committee at ten minutes after 4:00.

The Senate will stand at ease.

ACTING PRESIDENT MEIER: A meeting of the Rules Committee in the Majority Conference Room at ten minutes after 4:00.

The Senate will stand at ease.

SENATOR FUSCHILLO: Mr. President.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Will you please recognize Senator Bonacic.

ACTING PRESIDENT MEIER: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President. I'd ask for unanimous consent for Bill Number 1353, I'd like to be recorded in the negative on that bill.

SENATOR LACK: Without objection, Senator Bonacic will be recorded in the negative on Calendar 1353.

SENATOR BONACIC: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: The Senate will continue to stand at ease.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:58 p.m.)

(Whereupon, the Senate reconvened at 4:15 p.m.)

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Please restore order in the chambers.

ACTING PRESIDENT MEIER: The Senate will come to order.

SENATOR FUSCHILLO: May we please return to the reports of standing committees.

I believe there is a Rules report at the desk.

ACTING PRESIDENT MEIER: 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 3875, by Senator Santiago, an act authorizing the City of New York.

4296, by Senator Spano, an act to amend the Uniform City Court Act.

5099A, by Senator Rath, an act to amend the Public Authorities Law.

5379, by Senator Bonacic, an act authorizing.

5577A, by Senator Johnson, an act to amend the Alcoholic Beverage Control Law.

5593, by the Senate Committee on Rules, an act to amend the Administrative Code of the City of New York.

5652, by Senator Hoffmann, an act authorizing the City of Rome.

And 5667B, by the Senate Committee on Rules, an act to amend the Election Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator

Fuschillo.

SENATOR FUSCHILLO: Move to accept.

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 is accepted.

All bills directly to third reading.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, could we return to motions and resolutions for the adoption of Senate Resolution Calendar Number 2.

ACTING PRESIDENT MEIER: Motions and resolutions.

All those in favor of adopting Resolution Calendar Number 2 signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: Senate Resolution Calender Number 2 is adopted.

Senator Fuschillo.

SENATOR FUSCHILLO: Is there any other housekeeping at the desk?

ACTING PRESIDENT MEIER: Yes, we have some housekeeping, Senator.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Sampson, I wish to call up his bill, Print Number 1720, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 960, by Senator Sampson, Senate Print 1720, an act authorizing the City of New York.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FARLEY: On behalf of Senator Balboni, Mr. President, I wish to call up his bill, 4208A, which was recalled from the Assembly, and it's now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 813, by Senator Balboni, Senate Print 4208A, an act to amend the Environmental Conservation Law.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, from the original active list, will you please call up Calendar 1297.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1297.

THE SECRETARY: In relation to Calendar Number 1297, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 2358B and substitute it for the identical Senate Bill Number 4624A, Third Reading Calendar 1297.

ACTING PRESIDENT MEIER: Substitution ordered.

THE SECRETARY: Calendar Number 1297, by Member of the Assembly Sweeney, Assembly Print Number 2358B, an act to amend the State Technology Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect 180 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

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

ACTING PRESIDENT MEIER: Immediate meeting of the Majority Conference in the Majority Conference Room.

Senator Mendez.

SENATOR MENDEZ: Mr. President, there will be an immediate conference of the Minority, Room 314.

ACTING PRESIDENT MEIER: Immediate meeting of the Minority Conference in the Minority Conference Room.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, the Senate will stand at ease.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:19 p.m.)

(Whereupon, the Senate reconvened at 6:15 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: The Senate will come to order. I ask the members to find their places, staff to find their places.

Senator Skelos.

SENATOR SKELOS: Would you please call up Calender Number 1354, by Senator Rath.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1354, Senator Rath moves to discharge, from the Committee on Rules, Assembly Bill Number 2164 and substitute it for the identical Senate Bill Number 1582, Third Reading Calendar 1354.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1354, by Member of the Assembly Tokasz, Assembly Print Number 2164, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

SENATOR CONNOR: Explanation.

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

SENATOR RATH: Thank you, Mr. President.

The item before us is a bill that deals with, as it says, the racing and wagering industry in Western New York. And the purpose of it is to give the off-track betting, Western Off-Track Betting an opportunity to run a track which it purchased, Batavia Downs, as it had gone out of business and was available, with the property and the attendant buildings.

And more than that, though, as this was coming to a place where the economic impact became more than aware to everyone involved -- it was not only Batavia that was going to be impacted but Buffalo Raceway was going to be impacted, to the amount that

$40 million that could be recognized as an economic engine in Western New York, 15 or so of it in the Batavia area, the other 25 in the Buffalo area -- it became extremely important that the opportunity go forward for Batavia to, through economics of scale and through Western Region OTB, to work with Buffalo Raceway and be able to make this happen.

There are a number of other issues that were caught up in it with other tracks around the state. All of those have been put to rest, all of the other tracks that had concerns in terms of their signal, et cetera.

The counties, 11 counties have sent in resolutions in favor of this. And frankly, if harness racing is to stay alive in the western part of New York State, and through the oldest lighted nighttime harness track in America, Batavia Downs, acting as the agent for -- working through OTB to keep Buffalo Raceway alive and well also, then we need to pass this.

All of the racing and wagering legislation that runs Racing and Wagering through the OTBs, under the Racing and

Wagering Board, will be in effect. They will be no different than any other track owner, and they'll come under all of those regulations.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: If Senator Stachowski had a question, so -- I just want to speak on the bill, so -

ACTING PRESIDENT KUHL: Okay, fine.

Senator Stachowski, why do you rise?

SENATOR STACHOWSKI: If Senator Rath would yield to a couple of questions.

ACTING PRESIDENT KUHL: Senator Rath, do you yield to a question from Senator Stachowski?

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STACHOWSKI: Senator, I'm struck by the $40 million number. And I see in the memo you're taking that from a study that was done by Arizona State University that

was given to the people up here, I believe, by Western OTB.

If opening Batavia would mean $40 million to Erie County and Genesee County because of harness racing, then why is it that Batavia closed in the first place if everyone is making so much money with harness racing?

And why is it that the agricultural society had to underwrite the racetrack at Buffalo Raceway for the last three years for close to a million dollars, if not over a million dollars, if in fact harness racing is such a beneficial money-making proposition, according to that study?

And I quite honestly am baffled by how someone could write that study, put their name on it, and why they would want to put their name on it.

So if you could basically -- if that wasn't -- if I didn't cloud that question too much, if you could answer that for me.

SENATOR RATH: I know where you are, Senator. And I appreciate the question.

The $40 million is the spinoff revenue that would happen as the two tracks

are functioning at a level that neither of them can function there alone. It has to do with the whole industry of the horsemen in the area that go to both tracks and the agribusiness and the attendant kinds of things that happen in the tourism world, the restaurants, the -- all of the kinds of things that happen if the lights are up at Batavia and they're running again and Batavia is able to, through economies of scale, help Buffalo Raceway.

Because I agree with you, Senator, the agricultural board and the fair board at Buffalo Raceway, which has been something that we've all been concerned about since the days you and I served in the Erie County Legislature together, they've been laying off their costs that they weren't able to cover against the fair board. The fair board isn't going to go along with that anymore. They're either going to have to make it or not make it as Buffalo Raceway.

They can't make it without better purses. They can't have better purses unless the horsemen are doing better. And the

horsemen can't do better unless there are more races. There won't be more races unless Batavia is running.

SENATOR STACHOWSKI: Thank you.

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

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

ACTING PRESIDENT KUHL: Senator Connor, on the bill.

SENATOR CONNOR: I'm opposed to this bill because frankly, Mr. President, I think it's bad public policy. It's bad public policy to permit an OTB to operate a racing facility.

In effect, what we're doing here, we're taking about a half a million dollars from Erie County and giving it to a racetrack. Because we're taking the surcharge money that ordinarily would go to the counties and we're putting it into operate a racing facility.

Realistically, it's a publicly funded bailout of what should be a private financial rescue. The Erie County and Genesee County governments are putting up their money

to promote gambling. And the reason they have to do this is there is no private investor. Because you can't make money, unfortunately, operating Batavia under the current economy of harness racing in this state.

Harness racing over the past 15 years has been going steadily downhill. There are a number of reasons for that, Mr. President: an aging fan base, support base for what's one of the oldest sports in America.

Secondly, the fact of the matter is that throughout this state OTBs have not been supporting the track to the extent that they should.

What we're really doing here is allowing public investment in a racing facility. And I know all the arguments, Mr. President -- save jobs, standardbred breeding industry generates jobs, that kind of economy. But the reality is Batavia won't make it under this arrangement. There's a reason it's been closed for three years. It's unfortunate, it's sad, but it's economic reality.

Mr. President, maybe I'm just an

old-fashioned conservative, but Batavia couldn't make it in the private market. The market forces worked against it, unfortunately, the market forces that govern harness racing. And I just don't think the government should be coming in here and using public money to bail out what was a failed private enterprise.

Mr. President, I'm just a very old-fashioned free-market person. I think the free market spoke. Batavia couldn't make it. I don't think the government should be bailing it out, take money away from Genesee and Erie Counties and put it in this racing facility.

And frankly, Mr. President, absent VLTs, the video lottery terminals, in a harness racing facility, it's not going to make it. It's just not going to make it. No matter who owns it, no matter who operates it, the market won't sustain this operation. It hasn't in the past. Nothing we're doing here will sustain it. All we're doing here is a government subsidy, a government bailout. Indeed, harness racing welfare, if you will, Mr. President.

That doesn't mean I'm in favor of VLTs in harness racetracks. I agree with the decision that was made earlier, apparently by the Majority Leader, that we shouldn't do that.

And I harken back to a few years ago when someone made a pitch and said, "But, Senator, if you give us slot machines for harness racetracks, we'll make money. Harness racetracks are in trouble." And my answer to this person was, "You know what? The hospitals in my district are in trouble. And if you gave them shot machines, they'd make money and they'd be out of trouble."

I don't think we ought to do that kind of cross-subsidization. Enterprises ought to make it based on the market, based on how they respond to the market. And if there is no market, it's unfortunate, but that's capitalism, Mr. President.

I'm voting no because I don't think the answer to every economic failure or problem is a government subsidy or a government bailout.

ACTING PRESIDENT KUHL: Any other

Senator wish to be heard on the bill?

Senator Stachowski, do you wish to speak on the bill?

Senator Stachowski, on the bill.

SENATOR STACHOWSKI: Just briefly on the bill.

I happen to agree with Senator Connor in the fact that I don't know that we should put an OTB in charge of a racetrack. The problem I have with that is that OTBs were created to generate another revenue stream for local governments.

In this package and only listed in this bill is the fact that OTB is going to get a license to run a racetrack and then the profits will be shared among the counties. Net profits, that is, after all of their expenses. Some of their expenses are $300,000 a year guaranteed at Buffalo Raceway for the next five years, $300,000 to Finger Lakes, $200,000 to Monticello. That's $800,000 up front.

Now they got to pay to have a racetrack run. They bought the track by floating bonds that their board okayed. I

don't know that the municipalities, if asked was that a good idea, would have been in favor of it.

Genesee County would have been, and I can understand that. I can understand Senator Rath carrying the bill. She represents Batavia, and it's a serious loss to them.

This particular answer for harness racing I don't think is the right answer. We've been trying to find an answer to help harness racing since I've been here. There were a lot of good suggestions. Pass a bill that would give the tracks and the horsemen a better takeout out of the OTB revenues that they generate from the bets on the various tracks that need that money.

We could have done that. We always refused. I find it interesting that the same people that refused to vote for an issue like that, or even put it on the floor, now are suggesting to us the way to save the harness tracks, both Buffalo and Batavia, is to let OTB run it.

And I understand the horsemen are

desperate. Most of the Western New York horsemen now aren't -- there are still a few racing at Buffalo. Their purses are minuscule. Most of the drivers are taking their good horses and racing at Delaware, because Delaware is flourishing. And the reason it's flourishing is VDTs, video display lotteries or video -- whatever they call those. And that's why they're making money and have bigger purses there.

Obviously, on this end of the state, if they don't like the New York tracks -- and fortunately, some people running the tracks on this end are doing better -- but they can take their horses to Meadowlands, where they still have large, large purses. And crowds, by the way.

The interesting thing is most persons that bet harness tracks bet it at the OTBs. The main reason that harness tracks are on their knees now, Batavia closed and Buffalo Raceway gasping for breath, is from the stake that OTB's driven through its heart. It's taken all their fan base. Those people now go to the local OTB, they don't have to drive all

the way to the track. They bet the same races, they get the same money, more or less, and the only loser are the horsemen and the racetrack itself.

And we've had many opportunities, as I said earlier, to change that, but nobody would take that -- those kinds of suggestions up. Nobody would do any bills for harness racing in particular that would really make a difference. And by changing OTB's structure, we could have done that. But we were concerned about taking the revenue stream away from the localities.

And so it's really strange to me at the same time all those people that were concerned about taking some of the revenue stream away are thinking nothing about taking most of the revenue stream away to keep a harness track open.

Quite frankly, in my honest opinion, and another reason why I can't vote for this is the only reason Western OTB wants this track is because they believe that within this five-year agreement with the other tracks they'll get video lotteries, that the

terminals will come to the harness tracks. And I think they're willing to bet on it, so to speak.

And I think if they don't get them, that within a couple of years they're going to too close this racetrack. Maybe sell it, maybe use it for something else, maybe develop something else there themselves or sell it to a developer that he can develop something else there.

But I don't believe for a minute that they think that with the nature of things as they are they can successfully run a harness track when no one else can. I just have a real problem with that. I think that in the end result, after a few years, Batavia is going to close, Buffalo is going to close if we don't do some changes in the way they get purses. And only people that will have made any money will be the increased salaries of the people that currently get paid to run Western OTB.

It's my understanding, and I don't know if that's -- we'll see if this comes true or not, that they're going to create another

corporation that's going to run the racing and pay themselves another salary, maybe be smart enough to hire at least a manager that knows how to do horse racing, and that way they'll try to run the track.

So the real winners tonight are going to be the people that get paid to run Western OTB. I wish there was a way to help Buffalo Raceway other than this. I would do it in a heartbeat. I wish there was a way to help all the harness tracks. But this is not the way. It's a bad idea. Putting an OTB in charge of a racetrack is just not a good idea.

If this bill said let's let Batavia and Buffalo Raceway take over Western OTB, I would vote for it in a heartbeat. But not vice versa. I suggest we vote no.

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

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

ACTING PRESIDENT KUHL: Senator Volker.

SENATOR VOLKER: I'm sorry.

ACTING PRESIDENT KUHL: So am I.

(Laughter.)

SENATOR VOLKER: Very quickly.

I know that.

(Laughter.)

SENATOR VOLKER: But I -- my good friend Senator Stachowski and I rarely disagree, but on this one we disagree. And it's interesting that when we started out, I guess in many ways I was on the other side. But I understand the problems that Senator Stachowski has, and he knows the industry fairly well.

Let me give you just a couple of things. First of all, it is not just the salaries of the OTB people but something like 400 to 600 jobs that are involved here in the Batavia area, which is a small city. It once was the largest employer.

Let me just say to you that the reason, the main reason they couldn't make out very well at Batavia had to do with, it's true, it had bad leadership. We all knew that. We saw it coming. It was years that Batavia was going down.

I think the thing that convinced me

was that here you have a small city that has a track that's not functioning. A nonfunctioning track is about as useless as a nonfunctioning stadium, which unfortunately some people have. A track obviously is useful when it's open and running.

Now, I don't particularly like the idea that the Off-Track Betting Corporation is coming in when you're talking about public money. But let's remember, you're using - when you say "public money," you're essentially using the money of the people, ironically, who bet. And you're churning it in, to a great extent, into this track.

I've been told by people who know racing -- I'm not an expert on racing, but in my district is Hamburg Raceway, Buffalo Raceway. The people there tell me that if this bill does not pass, if Batavia does not open, then almost certainly Buffalo Raceway will be right behind. But the feeling is that if Batavia does open and is able to survive and do reasonably well, that actually Buffalo Raceway, because of the way horses are -- I'm not really sure about that sort of thing -

the way horses come into the state, that they will actually do better than they are doing now, that the take will be bigger and that the amount of money that is given to the horsemen, which will bring in better horses, will increase.

So I think, much as I -- I voted against OTB, by the way, years ago. I was here that long. But I have to say that this bill is important to Senator Rath's district. I think it's important to Western New York. And whatever misgivings some people may have, it needs to be passed.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives and announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1354 are Senators Bonacic, Breslin, Connor, Duane,

Mendez, Montgomery, Onorato, Oppenheimer, Paterson, Santiago, Schneiderman, Stachowski, and Stavisky. Ayes, 45. Nays, 13.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Schneiderman, did you wish to be recognized?

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I'd request unanimous consent to be recorded in the negative on Calendar 1353, Senate Bill 1894.

ACTING PRESIDENT KUHL: Without objection -

SENATOR SCHNEIDERMAN: Thank you.

ACTING PRESIDENT KUHL: - hearing no objection, Senator Schneiderman will be recorded in the negative on Calendar Number 1353.

Senator Sampson, why do you rise?

SENATOR SAMPSON: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar 1353.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Sampson will be recorded in the negative on

Calendar Number 1353.

Senator Marcellino.

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

ACTING PRESIDENT KUHL: Yes, there is.

SENATOR MARCELLINO: Can we take care of that, please.

ACTING PRESIDENT KUHL: We have two substitutions at the desk, Senator Marcellino. We'll take those at this time.

SENATOR MARCELLINO: Please take up the substitutions also.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: On page 33, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 7211A and substitute it for the identical Senate Bill Number 3498A, Third Reading Calendar 932.

And on page 12, Senator Goodman moves to discharge, from the Committee on Rules, Assembly Bill Number 2650 and substitute it for the identical Senate Bill

Number 733, Third Reading Calendar 326.

ACTING PRESIDENT KUHL: The substitutions are ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Nozzolio, on page number 18 I offer the following amendments to Calendar Number 523, Senate Print Number 5110, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 523 are received and accepted. The bill will retain its place on the Third Reading Calendar.

Senator Marcellino, that takes care of the housekeeping.

SENATOR MARCELLINO: Just wait one second, sir.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. May we have the noncontroversial reading of Calendar Number 57C.

ACTING PRESIDENT KUHL: The

Secretary will read.

THE SECRETARY: In relation to Calendar Number 1355, Senator Santiago moves to discharge, from the Committee on Rules, Assembly Bill Number 7436 and substitute it for the identical Senate Bill Number 3875, Third Reading Calendar 1355.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1355, by Member of the Assembly Towns, Assembly Print Number 7436, an act authorizing the City of New York.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: In relation to Calendar Number 1356, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 2988 and substitute it for the identical Senate Bill Number 4296, Third Reading Calendar 1356.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1356, by Member of the Assembly Tokasz, Assembly Print Number 2988, an act to amend the Uniform City Court Act and the Civil Practice Law and Rules.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: In relation to Calendar Number 1357, Senator Rath moves to discharge, from the Committee on Rules, Assembly Bill Number 8486A and substitute it for the identical Senate Bill Number 5099A, Third Reading Calendar 1357.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1357, by the Assembly Committee on Rules, Assembly Print Number 8486A, an act to amend the Public Authorities Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 1358, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 8871 and substitute it for the identical Senate Bill Number 5379, Third Reading Calendar 1358.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1358, by the Assembly Committee on Rules, Assembly Print Number 8871, an act authorizing Gary Weyant.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1361, by Senator Hoffmann, Senate Print 5652, an act authorizing the City of Rome, County of

Oneida.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: Can we take that up.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1361. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

There is a home rule message at the desk.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1362, by the Senate Committee on Rules, Senate Print 5667B, an act to amend the Election Law.

SENATOR CONNOR: Lay it aside.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: For the 1362, is there a message of necessity?

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1362. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

And the bill is laid aside.

Senator Marcellino.

SENATOR MARCELLINO: May we now have the controversial reading of the calendar.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1362, by the Senate Committee on Rules, Senate Print Number 5667B, an act to amend the Election Law.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT KUHL: Senator Maltese, an explanation of Calendar Number 1362 has been requested by the Minority Leader, Senator Connor.

SENATOR MALTESE: Yes, Mr. President.

This is a bill that we've spent considerable time refining, and at the present time it seems to contains the main thrust of the bill as it was originally was, to alleviate problems that were generated as a result of a case called the Gelb case. And these bills are at the request of the Board of

Elections, Danny DeFrancesco and his assistant, Joe Gentili, which they are the Democratic and Republican directors of the City Board of Elections.

The first portion was refined so that what it enables us to do is react to court decisions, federal court decisions and state court decisions which would mandate write-in votes for all party and public office candidates.

The New York City Board of Elections has machines, lever-action machines with 40 spaces for votes. And as a result, they are unable to provide enough spaces in the forthcoming elections for the September primary so that they can accommodate not only the offices, the public offices on the ballot but the party offices on the ballot.

As a result, they have come up with the first portion of this multipurpose piece of legislation, which would provide that in any county where the Board of Elections deems it necessary, and then they have some reasons, that the ballot shall provide a slot or device to permit voters to write in the name of an

undesignated person with respect to public office. And that would accommodate all the public offices on the primary ballot for the September primary.

Second, they shall provide a slot on the ballot for only those party officers where a petition for opportunity to ballot has been filed, based on the decision by -- and I think it's a well-founded decision by the Commissioners of the Board of Elections that it would simply be impossible for the board to have all the elections, both party and public office, on the ballot and provide for the voting by paper ballot in those cases.

Second, if the voting machine - this is something that in the past has been mandated in the law and not observed. And that was that all the paper ballots were supposed to be counted at the actual voting site. In the past, what has been happening, because -- and it's a combination of causes, but basically it is extremely difficult for persons who have been either untrained or inadequately trained, in situations where we have such great difficulty having election

inspectors in the City of New York, to train people to properly count write-in ballots from the back of machines on paper rolls.

As a result, where attempts have been made, the paper ends up on the floor, it ends up incorrectly counted, the paper roll gets ripped, and it does not provide a fair and efficient count of the write-in votes.

As a result, this provision would provide that where, if the voting machine records write-in votes on a register or roll in a separately sealed compartment, and that is the case on all these lever-action machines in the City of New York, a Board of Elections may, by resolution adopted 30 days before, either count the votes at the polling site, where you may have people with the knowledge and the ability to count it, or count them back at the warehouse where the machines would be brought. All safeguards -- providing that members of both parties be there, that members of Board of Elections observe the count - would be observed.

The third section in this omnibus bill would provide for a problem that has been

brought up in this house before, a problem where there was a hiatus between the term of -- the conclusion of the term of a commissioner of the Board of Elections for the State of New York, where the person in question was not able to continue her health insurance. And it was an inequity in that where an appointment was not made under the Public Officers Law, that at the conclusion of the term or a reappointment, the term would end and there would be a hiatus before somebody else took over. That is corrected in this.

And in the last portion, it would provide also an inequity, a severe inequity that the terms of the chairman and the vice chairman of the State Board of Elections, where they change positions -- one would become the chairman, the vice chairman would move up to chairman, and vice versa -- the inequity was that the Democratic member of the board was able to serve an extended term, I believe it was something like 17 or 18 months, and the Republican member would only serve six months. This bill would correct that.

And there are some other prohibitions that were worked out with the Executive branch and with the Senate, and I believe there were discussions -- in fact, I know there were discussions held with the Senate Minority. And we appear to have a bill that meets -- would meet muster in this house.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

The fact is, we don't have a bill that meets muster in the house. And I'll explain why.

And let me say generally, on the background, Senator Maltese's explanation of the need for this is on the mark.

If my colleagues would suffer a little more details, Irving Gelb is one of these gadfly candidates, he's a cab driver in the Bronx, and he ran for borough president in the Democratic primary and was kicked off the ballot. He went to federal court complaining of being denied his rights under the 14th Amendment.

Unfortunately, the corporation counsel of the City of New York, in answering that -- and I've answered similar cases involving the general election. One of the things the federal courts look to, if you're complaining that your voters are being totally denied of the opportunity to vote for someone, is the federal courts will say: You don't have a need a ballot line, they can write you in. Those voters who want to vote for you aren't losing their franchise right.

That works in a general election, Mr. President. Unfortunately, the corporation counsel must have used an old brief from a general election case and went in there on this primary case and represented to the federal court "They can write in Mr. Gelb."

The federal judge dismissed the case, Mr. Gelb went to vote for himself on election day as a write-in in the primary, found out he couldn't do it on the Shoup machine, went back to federal court. Actually, Mr. Gelb also ran for U.S. Senate, I think, last year.

The litigious Mr. Gelb went back

into court and complained that he couldn't write in himself. And suddenly the city's attorneys reversed themselves and said, Well, there are no write-ins in a primary in New York City.

Mr. President, as much election law as I have done for the last 30 years, I believe that must be the law: No write-ins in a primary in New York City. What we learned in the Gelb case was that 46 years ago, when the city bought the present Shoup machines, the City Board of Elections realized they could not accommodate write-ins in most primary elections, so they made a rule, no write-ins in primary elections in New York City.

And they used to justify that the rationale that the law provides for an opportunity to ballot petition. And therefore, unless you file an opportunity to ballot petition for a write-in, there will be no write-ins.

Actually, Mr. President, state law provides for write-ins in primaries everywhere, including New York City. So for

46 years, everybody in New York City believed there were no write-ins. Mr. Gelb demonstrated to the federal court that in fact state law -- he had been denied equal protection because state law did, in fact, provide for write-ins in a primary.

That left with the city with a dilemma that it can't possibly, in a primary -- I mean, this year we have primaries in more than one party citywide. We at least citywide have Republican and Democratic primaries. There may be in other parties, I don't know. There's a lot of parties now. Seven of them, I think? Eight. Eight parties.

And we have party offices in some counties all the way down to county committee, in both the Democratic and Republican parties, and maybe in other parties. A crowded ballot in any event. But to accommodate write-ins, even trickier. It can't be done on these machines.

The answer, the preferred answer, I think on a multipartisan basis, has been to take party offices and provide that you can't

write in for those unless you file an opportunity to ballot petition.

Obviously the opportunity to ballot petition always afforded people, even in New York City, a write-in opportunity in a primary, but it was really intended to apply to an otherwise uncontested primary where the office wouldn't even appear on the ballot, but for the OTB.

The problem is the bill we all looked at at the beginning of this week said no write-ins for party office applied only to New York City. Okay. Except, Mr. President, in some political parties. I believe the Conservative Party elects its state committee from Congressional districts. I'll hold that as an example. I think the Right to Life Party does a similar thing. I think other parties do that.

Except the Congressional districts, Mr. President, run -- one runs from Westchester through the Bronx into Queens, one runs from Queens to Nassau and Suffolk. They don't respect the city's borders.

That would give rise, Mr.

President, to a similar equal protection - oh, I know, my Republican colleagues are going to say: Equal protection in an election? No court ever applied equal protection to an election. And that was true until last December. And we now have the very close decision in Bush v. Gore which suggested equal protection considerations do apply to the conduct of elections. Not to access to the system, but to the conduct of elections on Election Day.

Ergo, Mr. President, it doesn't take much of a stretch to say if we had passed that version of early this week, someone running for party office in one of those Congressional districts, they or their supporters would have been able to go to federal court and say: Equal protection. My supporters in Westchester can write in my name, my supporters in the Bronx can't write in my name, and so on.

We then got a second draft that provided statewide, statewide, no write-ins for party office. And that solved our problem.

For some reason -- I suspect for the reason that many bills that have passed this house have not seen the light of day in the other house -- that got ignored in the other house, notwithstanding the obvious merits.

The reaction is this B print, which says county option. But, Mr. President, the problem with allowing each county to decide this is the same equal-protection problem. Only it's more. There are parties that elect their party officials from Assembly districts, and there are Assembly districts that include more than one county.

And as soon as you -- say you had -- for example, electing someone to a party office from a certain Assembly district and one county said write-ins are permitted and the other county in that Assembly district said they're not, you have a federal equal protection problem. That's why we are opposed to this bill in this print.

If you go back to the A print -- or the straight print, the statewide feature, then we support it.

As to the second provisions about straightening out the term of office of the chair of the State Board, I won't mention his name but last year I pointed out the esteemed Republican lawyer who drafted that in 1974 and made a drafting error that has for these last 27 years cost his party untold months enjoying the chairmanship or chairwomanship of the State Board of Elections. A situation that somehow or other has been uncorrectable ever since.

I might point out that the provision, Mr. President, which has so offended the Republican Party and which time and again has been attached to bills in an effort to bring equity to the Republican Party was passed by a Republican-controlled Senate, a Republican-controlled Assembly, and signed by a Republican Governor. And I'm sure all they were trying to do, because they owned everything in this Capitol, was give the Democrats a break. I think it was intentional, Mr. President, that they let the Democrats serve as the chair for 18 months versus a six-month Republican chair.

But I have no problem with that provision, and I appreciate addressing the holdover problem that has not recently, thanks to the late, great Republican chair -- and I don't mean late in the sense that he's demised, but he's not the Republican chair anymore. We did not have any holdover problem this year with respect to Senator Berman's reappointment; we had had it the two previous times.

But I have no problem with those provisions. I think it's silly, Mr. President, to attach those provisions to this bill, because this bill must pass both houses and be signed in an acceptable fashion that doesn't violate the equal protection clause, or else the elections, particularly in New York City this September, are going to be utter chaos, utter chaos.

In many and most council districts there are six, seven, and eight candidates running for City Council in the Democratic primary. In some districts there are more than one candidate running in the Republican primary. There are party offices down to

county committee. We have four candidates running for Mayor on the Democratic line, two, at least, on the Republican line, who knows how many other people for other offices.

We are actually, in our usual petty partisan Albany way, dancing on the edge of disaster with respect to the right of the public to a relatively error-free, smooth election. And if chaos ensues because whole elections have to be put off onto paper ballots, there is no way, with respect to citywide offices, there can be a resolution in time to effectuate the run-off provisions of law with respect to those offices.

So, Mr. President, I urge -- and I apply this not just across this aisle, I apply it across this Capitol. We have all the other things that are caught up in that large, huge morass that someday this summer we'll come back and see explode into reason. I urge people in both houses, take this out of that play. Let's just straighten this out and do it right, because too much is at stake.

And if we miscalculate and those elections are a disaster, after all the task

forces and joint commissions and whatever we've had to study the fairness of New York's elections, we ought not dance on the head of this pin. We shouldn't be playing with the possibility of disastrous elections. It will render everything, so many people in both houses and in the second floor, all the lip service as well as the genuine hours spent in hearings will look like a big joke if we mess up this year's elections because we don't in both houses adopt the correct bill to address this federal court decision.

Mr. President, I'm voting no, because this doesn't do it.

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

Hearing none, the Secretary will read the last section.

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

SENATOR CONNOR: Party vote in the negative.

SENATOR MARCELLINO: Party vote in the affirmative.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the party-line votes and announce the results.

THE SECRETARY: Ayes, 36. Nays, 22. Party vote.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. At this time can we take up Calendar Number 1360, please.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1360.

THE SECRETARY: Calendar Number 1360, by the Senate Committee on Rules, Senate Print Number 5593, an act to amend the Administrative Code of the City of New York.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, at this time can we take up Calendar Number 1352, please.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1352, by the Senate Committee on Rules, Senate Print Number 5680, an act to amend Chapter 20 of the Laws of 2002.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation has been requested of Calendar Number 1352 by Senator Connor.

SENATOR STAFFORD: Mr. President, everyone probably would not remember here in this chamber, but a number of years ago we had what is called a banker's decision. And therefore, after that, we had to have legislation which would be language that is

connected to the budget.

Everyone has such a blank look, I had to make sure that I was correct. But fortunately, I was correct. Now -- because I'm not using my notes, as you can see.

This bill includes continued extensions for the Lower Manhattan Commercial Revitalization Program, the Quick Draw lottery game, and the legislation known as the Loft Law. The bill extends provisions of the Insurance Law relating to excess medical malpractice insurance coverage, but excludes the Executive's proposed tax on insurance companies.

The bill also authorizes a payment of up to $54.5 million for CHIPS, capital aid to localities, and extends the life of legislative commissions.

I could go and do much more detail, but I already see people nodding their heads. And therefore, I think it's time for us to vote on the bill.

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

SENATOR CONNOR: Yes, Mr.

President, I have an amendment to the bill at the desk.

ACTING PRESIDENT KUHL: Yes, Senator Connor, there is an amendment at the desk.

SENATOR CONNOR: Thank you. I'd like to waive its reading and explain it.

ACTING PRESIDENT KUHL: We will waive the reading of it, and you're now afforded the opportunity to explain it.

SENATOR CONNOR: Thank you, Mr. President.

This amendment relates to one section of this bill that deals with the extension of the life of the Legislative Task Force on Demographic Research and Reapportionment, a commission in whose -- a task force, I should say, a joint task force on which I had the privilege of serving from probably 1979 till 1990, 1991.

The task force, as generally in its various renewals, and it's been renewed from time to time, consisted of six members, two of whom are appointed by the Majority Leader of this house, one of whom may not be a member of

the Legislature, and two of whom are appointed by the Speaker, one of whom may not be a member of the Legislature, and one member appointed each by the Minority Leaders of each house.

In hearings, some witnesses raised the issue of the lack of diversity in the present composition of the task force. And I don't think that lack of diversity, by the way, is the result of any calculated effort. I think it's just the result of a confluence of factors.

In a letter I received last week from Senator Skelos, he raised this issue. And I think his focus in that letter, which I've answered, was misfocused. Both majorities, as their nonmember appointee -- at least in the case of the Assembly, they've appointed a staff member who's in charge of redistricting. The Majority Leader in this house has appointed someone who has in the past been a staff member and has been a consultant. Both of whom are very competent, by the way, at doing what they do, extremely competent.

And I respectfully suggested to both majorities that those individuals could do what they do for their conferences without being members of the task force, thus affording each majority, each of whom gets two appointments, the opportunity to search for more diversity in their appointments, keeping in mind that they are forbidden from appointing another member of the Legislature, so the ethnic, racial, or whatever -- gender composition of each of those conferences is irrelevant.

I know there are out there in the public good and loyal African-American Republicans, good and loyal active Republican women, and so on and so forth. And I know in the case of the Assembly the same is true. There is, out there in the public, good and loyal Democratic Puerto Rican and Latino and African-American and women and so forth. Both parties have, among their membership, certainly individuals who reflect the diversity of our great state.

This amendment is designed to alleviate that situation another way. And let

me come right to it. Of the six individuals, there is no African-American, there is no Puerto Rican or Latino, there is no woman. And indeed, there is no one from New York City. Which I think, if it hasn't been pointed out, somebody is going to point it out sooner or later at one of these hearings.

And this task force is really about listening, developing a record, hearing what the public wants to say as well as making proposals. And again, it did a very good job ten years ago and is on the path now of soliciting public participation in the process. And part of that ought to be just a comfort level to the public that, gee, they seem to represent the rainbow that's New York State -- geographically, genderwise, racially, ethnically, in all ways.

So what my amendment would do is simply give each of the legislative leaders another appointment. In the case of the two majorities, they would appoint three members, one of whom may not be a legislator. In the case of the two minority leaders, they would get two appointments, one of whom must be a

member.

So you would certainly end up with maybe anywhere from four to six members of the Legislature on it, and at least four nonmembers of the Legislature. I wish I could do something about this, but the majorities would still be the majorities and still have a majority on it. And I don't think the politics, the partisan politics would change at all, but more people would get to participate as members.

And presumably -- I know all four legislative leaders, I know, are concerned about this situation. And we could use these additional appointments to address those concerns.

So, Mr. President, I humbly suggest I don't see any legal downside to this. I don't think it has any effect on the legal position in redistricting or anything else. I mean, there's no trick here. It's just a straightforward let's put four more people on the task force.

You know, regrettably, the majority in this house will still be the majority and

the majority in the other house will still be the majority, but we'll get some more people involved in the process, and that will be good.

Thank you, Mr. President.

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

Senator Malcolm Smith, on the amendment.

SENATOR MALCOLM SMITH: Thank you very much, Mr. President.

You know, this is an exciting amendment. And it's exciting to talk about it because, if you will forgive me for presenting this analogy, but for the trial lawyers in the room, one of the things that's very interesting for them when they're going to trial, in the very short version, is they try to make sure they present enough evidence so by the time the jury hears everything and the judge charges the jury, they hope the decision comes back in their favor.

And I guess the challenge that attorneys have in that regard is they have to try to convince the jury about their position.

And in order to do that, you have to present evidence. And the evidence has to be so compelling and so overwhelming that those 12 individuals, assuming that's the size of that jury, will then, after the charge from the judge, say: You know something? I agree with that attorney; he gave a compelling argument.

It all works. But you have to have good evidence.

Well, Mr. President, what's so good about this particular amendment is that the evidence is standing in front of you. Maybe you can call it a conscience clause manifested in its own way.

Now, you'll probably say, Malcolm, what are you talking about? How are you calling yourself a conscience clause and how are you the manifestation of a conscience clause?

Well, I had the pleasure of testifying at a hearing regarding reapportionment. And when I testified, one of the points that I raised to Skelos and a few others that were there was just the fact that Senator Connor brought up.

And that was I went in front of a panel that was deciding on how they're going to reapportion the State of New York, but yet and still there was no representation from the female persuasion, there was no representation from any ethnic persuasion of my background, or Hispanic or Asian or East Indian or others.

So the question was raised. And then, subsequently, letters were communicated to Senator Skelos, to Shelly Silver, to Marty Connor. And as a result of that, there was a response. And the response kind of manifested itself today with this amendment.

So what I'm trying to explain to you, Mr. President, is the interesting thing about all of this is what occurred was exactly what we wanted to happen. And what we wanted to happen and was trying to show everybody was there has to be some representation of another ethnic persuasion on this particular panel because there needs to be some kind of conscience.

And it was interesting, I received a letter from Assemblyman Ortloff -- and let me just read what he said real quickly. He

says: "Your proposal raises serious concern about the balance of representation and, if implemented, would set a dangerous precedent for both minority party conferences into the future."

Now, what's interesting about this, if we were talking about Democrat and Republican, this would be an interesting document with some real insight. However, we're not talking Democrat/Republican, we're talking about an ethnically diversified panel that needs to happen. So unfortunately, Assemblyman Ortloff didn't get it.

The bottom line is you need to have some type of ethnic persuasion on this panel because it's just the right thing to do. Now, it's the right thing to do because if you look around the city of New York, you look around the state of New York, you know ethnic diversity is the state of affairs today. There's nothing new about it, everybody knows about it.

At one point in time immigrants were -- people were saying to them, You are taxying our system because you don't vote.

Now, because of immigration, it's going to allow us to change the demographic reapportionment lines in our state that may be to the favor of one party or another.

But the bottom line, as I stand before you, Mr. President, is very simple. This is not about Democrat or Republican. This is just the right thing to do. And, if you will, what you see standing before you is a conscience clause. Just simply by raising the issue to Dean Skelos, to Marty Connor, all of this has come about.

So while we may not pass this amendment today, what everybody in the room needs to understand is this is not going to go away. It's not going to go away because it's not about Malcolm, it's not about Byron, it's not about Senator Santiago, it's not about Dean Skelos, it's not about Senator Marchi. It's about fairness and just doing the right thing.

So when we complete this day -- and I'm assuming that the other side of the aisle will say, Sorry, we're not going to do this. That's okay. That's okay, because this

particular problem represents itself in the larger scheme of things. It represents itself in the larger scheme of things because it is the right thing to do. Everyone in the state knows it's the right thing to do.

And you have to, you just have to, by balance, show representation. Not just for the individuals who may have the intellectual capacity to make some right decisions, but you have to have some representation of what surrounds this state as it relates to the ethnic population.

So I'm just simply saying, Mr. President, that just simply by raising the issue one time in a very small way made the entire task force respond. And they responded because someone of another ethnic background raised it at the time when it needed to be raised.

And so I'm simply saying to you, when the time comes for the lines to be drawn, not that Dean Skelos, not that my good colleague Senator Dollinger, who I respect, not that any other person on that panel does not have the intellectual capacity to make the

right decision with the right data.

The bottom line is, you have to have some conscience that represents what Olga Mendez looks like, just what Senator Montgomery looks like, what I look like. We don't have an Asian in here, but what they look like. It's just the right thing to do. It's not a matter of, well, we got to do this because we are oppressed or anything else is happening. The bottom line is it's just the right thing to do.

So, gentlemen, ladies, I know what you're going to do with the amendment. I've talked to Silver on the other side, I've talked to some of the people on this side, and we know where it's going. This is again part of the conscience clause manifestation.

Because after today, it's not going to go away. After today it will manifest itself again, whether it is in the media, whether it is in more testimony, whether it is in when the lines are drawn, whether it is in the legal courtrooms. Wherever it is, it is not going to go away, because it's the right thing to do. And you can't get around the

right thing to do. It is just that simple.

It is not a difficult equation. It is not some fantastic econometric model that you got to try to figure out whether it's on the beta side or the alpha side. It's just simply the right thing to do.

So when you finish and you've done all that you have to do, remember that this is going to be the right thing to do.

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

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos, on the amendment.

SENATOR SKELOS: Yes, I would like to speak on the canvass.

What I'd like to point out, just to the body and for the transcript, is the problem that Senator Connor raises and Senator Smith raised at a task force hearing and other individuals had raised can be solved very simply by Senator Connor appointing Olga Mendez and replacing Senator Dollinger as a member of that task force. He has the ability, as the Minority Leader -

ACTING PRESIDENT KUHL: Senator Connor, why do you -

SENATOR SKELOS: -- to make an appointment.

SENATOR CONNOR: Would Senator Skelos yield for a question?

SENATOR SKELOS: No.

ACTING PRESIDENT KUHL: The Senator refuses to -

SENATOR CONNOR: My question would have been, Have you no shame, Senator? Have you no shame?

SENATOR SKELOS: Senator Connor, you had the ability -- just as you have the ability to go to the general budget conference committee, you have the ability to appoint a person such as Senator Mendez, such as Senator Paterson as the representative of the Minority on the task force.

In the last three redistrictings there was a member of the minority from the Assembly: Angelo Del Toro, David Gantt, and Larry Seabrook. At no time -- and the Speaker also has the ability to appoint an individual so that there would be the diversity.

As I pointed out in the letter to you, we as a conference at times, including twice against Senator Dollinger, have run individuals of color, and they have not succeeded. And unfortunately, they have not succeeded, because they would be welcomed into our conference.

There is no member of color in the Minority Conference in the Assembly, despite the fact that they have tried to elect individuals.

The bottom line is you complain about no representation from the city. Well, Speaker Silver is from the city. Why hasn't he appointed a member to the task force from the city of New York?

So I really believe the problem can be solved very simply. Rather than adding a number of members so that all of a sudden we have to charter a plane to go around the state with our hearings, very simply, Senator Connor, appoint a person from your conference. You have so many capable individuals to do that. Speaker Silver, very capable individuals, as he had in the past. He could

do it. But both of you have opted not to do it, so it's in your conscience that this has not occurred.

SENATOR CONNOR: Mr. President.

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

SENATOR CONNOR: You know, I raised this not as a partisan thing. I think we've all heard what he said, what the Deputy Majority Leader said. I am thankful he doesn't get to appoint anybody to the task force. I hope he never will.

The fact of the matter, since he raised it, is those fine African-American Republicans that ran against Senator Dollinger, let Senator Bruno appoint them to the task force instead of Senator Skelos's sidekick Vinnie Bruy from Nassau County. That's the way this place ought to operate.

I am ashamed that he politicized and made this partisan. It's typical of what we've come to expect from the Deputy Majority Leader.

SENATOR SKELOS: Mr. President -

ACTING PRESIDENT KUHL: Senator

Skelos.

SENATOR SKELOS: -- if I could respond to that, very simply. You can replace Mr. Bruy, who has the institutional knowledge, but the bottom line is then you're satisfied with crumbs.

I would rather have an elected official from your conference as a member of that task force, or the Speaker could do it, rather than a person who's a nonelected official.

SENATOR CONNOR: Mr. President.

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

SENATOR CONNOR: We've run a lot of Democrats for office who have lost, but I never call them crumbs. I think those fine African-Americans that have run for State Senate as Republicans, if they were appointed to the task force, wouldn't be crumbs.

SENATOR SKELOS: No -

SENATOR CONNOR: And I'm offended that Senator Skelos said we'd be left with crumbs.

SENATOR SKELOS: Senator Connor,

that is your interpretation. What I said is the nonelected members of the task force, and you know it. It would be settling for a nonelected person on that task force rather than the fine elected officials that you have on your side of the house like Senator Mendez, like Senator Paterson, like Senator Montgomery, like Senator Smith, and I can go on and on. That's what I'm saying.

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

Hearing none, the question is on the amendment. Those Senators in agreement with the amendment please signify by raising your hand.

THE SECRETARY: Those recorded in agreement are Senators Breslin, Brown, Connor, Duane, Hassell-Thompson, Hevesi, Mendez, Montgomery, Onorato, Oppenheimer, Paterson, Sampson, Santiago, Schneiderman, M. Smith, Stachowski, and Stavisky.

ACTING PRESIDENT KUHL: The amendment is lost.

Senator Marcellino, the Assembly

bill has arrived. Could we substitute that at this time?

SENATOR MARCELLINO: Please take up that substitution, sir.

ACTING PRESIDENT KUHL: I'll ask the Secretary to read the substitution.

THE SECRETARY: In relation to Calendar Number 1352, Senator Stafford moves to discharge, from the Committee on Finance, Assembly Bill Number 9268 and substitute it for the identical Senate Bill Number 5680, Third Reading Calendar 1352.

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

Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President. What I'm about to say is going to appear mild compared to this previous dialogue.

One provision of this bill -- and by the way, this bill has a great many good things in it -- relates to the extension of Quick Draw.

There are three entities that have something in common. One of them is the State

Commission on Problem Gambling, the other is the Office of Mental Health, and the third is the National Gambling Impact Study Commission. All three organizations in recent years, recent time frames, put out reports that addressed directly the issue of Quick Draw.

And I'll read just very briefly, because I know the hour is late -- and parenthetically, let me say if you want to know all there is to know, at least all that we feel there is to know, this report is available to you and you can look it up.

But the fact remains last year the Quick Draw study conducted by the Office of Mental Health -- at our bidding, it was in the law -- found that regular players at Quick Draw are three times more likely to be problem gamblers than players of other lottery games. Which, as we know, also has its own inherent problems.

The New York State Council on Problem Gambling in their study determined that New York has the nation's highest percentage of lifetime problem gamblers. And they identified a relationship between alcohol

abuse and problem gambling, which is of particular concern because Quick Draw is largely played in bars and taverns.

And the third that I referred to is the national commission, where they stated that Quick Draw is an example of the rapid-fire electronic gambling that should be rolled back. And they said the states should no longer do this, and those that have it should withdraw, because of the inherent problems that relate to people, compulsive gambling, the silent addiction, on and on it goes.

So in the face of what we have asked to be done -- the OMH study, State Council on Problem Gambling, and so on, telling us that this is a mistake -- we continue to do it, because we know better, apparently. The State Lottery is just addicted to figuring out ways of raising more money.

The only people who are making out on this deal is GTECH -- those are the folks that operate Quick Draw -- and the lobbyists who represent them here in the Capitol. Those

are the ones that make out.

Because if you look at where these Quick Draw outlets, 3200 of them, are, virtually all of them are in low- to low-middle-income communities, people who can least afford it.

So regrettably, I will vote against this bill, despite all the other good things in it, because I cannot be hypocritical and accept this part. Which, if it stood on its own, I think would have a great deal of trouble passing this house and this Legislature.

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

THE SECRETARY: Section 3 -

ACTING PRESIDENT KUHL: Excuse me. Senator Schneiderman, did you wish to speak on the bill?

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I will be brief.

I am -- I feel that I am constrained also to vote against this bill. Something else that's incomprehensible to me is the fact that we have once again failed to

include any funding for the State Superfund program or any directive of how to proceed.

The Commissioner of the Department of Environmental Conservation declared that the department was in a crisis mode on March 30th of this year. On April 4th, I wrote to Senator Bruno, copy to Senator Marcellino. No action.

And if you are someone in a community that has a toxic site as to which action has stopped because the Superfund has run out of money, this is not a minor matter. We should take action on this.

My second point that I made earlier this week is, again, these extensions are way too long. We need to pass a budget. We need to stay here and do our work. I do not accept the notion that it will not put more pressure on us if we stay here. I think that just staying here late tonight seems to have put pressure on a lot of my colleagues.

We need to work on passing a budget, and I think these extensions of time reduce the pain. You reduce the pain and you don't get the public's business done.

I will be voting no.

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

Oh, excuse me. Senator Brown.

SENATOR BROWN: Thank you, Mr. President.

In all due respect, I'm going to have to be compelled to vote no as well. I was recently informed that my Senate district has 20 Superfund sites. One site is near a church, near a community that is full of residential homes.

And people are fearful, people are afraid, people are concerned about their health, their well-being, the health and well-being of their children and loved ones and neighbors. And when they call me, as their Senator, I have to tell them there's no money to clean up this Superfund site. And I'm not happy about that.

Like Senator Schneiderman, I think that this one-month extender is too long. I think we should be doing our work on this budget. I voted against the emergency appropriation bill a couple of days ago, and

the month before I voted against that emergency appropriation bill, because I don't believe that the negotiations that should be taking place right now around this budget are taking place.

Another thing that disturbs me about this bill is provisions are not being made for summer jobs for our youth. And as I mentioned a couple of days ago, there are many youth across this state that would like to work for the summer, that have worked through the Department of Labor and the funding that is provided in that agency. And this bill doesn't provide the kind of funding at the level that we think it should be at to provide the kind of jobs that our youth are looking for.

And so because of those two reasons and many others, and because of the length of this extender being a month, this emergency-language bill being a month, I'm going to be compelled to vote in the negative.

Thank you, Mr. President.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives and announce the results.

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Just as a way to make one minor correction to my colleague. To my knowledge, and we've just been doing some checking, there have been no sites shut down for lack of funds or for any money that's been lost. All the money that's been necessary has been appropriated and will continue to be appropriated.

I vote aye.

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

Senator Schneiderman, to explain your vote.

SENATOR SCHNEIDERMAN: Just to respond briefly to my colleague, who I know

shares my concern that we have not been able to resolve the gridlock over Superfund extension, Commissioner Crotty herself that stated that there are sites awaiting cleanup. Inspection has stopped. Cleanup on sites that wasn't already underway is not going forward.

So there is a serious effect from this. I hope we will be able to work something out in the next month, and maybe next month we can get something done. I know that Senator Marcellino is working trying to negotiate things with the Assembly, and that's not been easy. But I think there is a concrete effect to this.

ACTING PRESIDENT KUHL: How are you voting, Senator Schneiderman?

SENATOR SCHNEIDERMAN: I'm voting no.

ACTING PRESIDENT KUHL: Senator Schneiderman will be recorded in the negative.

Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Mr. President. Just briefly to explain my vote on one area of the extender.

ACTING PRESIDENT KUHL: Senator

Duane, to explain his vote.

SENATOR DUANE: I just think it's a terrible miscarriage of justice that we're doing such a puny and punitive extension of the Loft Law. Clearly, people that have rejuvenated such a large part of the city of New York deserve to feel safe and secure in their homes. And to extend only until the end of August their ability to stay in their homes is just a disgrace.

And while I know that this extender will extend the length of time they can stay in their homes, to not -- to make it so they're going to have to come back here and fight to stay in their homes is just an outrage. If there was a real extender in here, I would vote for it.

I also think it's just a -- it's a disgrace that we tie Quick Draw together with something like the ability of people to stay that their homes and lofts. It's just, you know, one of the many outrages that we see here in this Legislature, that we combine such totally disparate issues as extending the Loft Law and extending the life of Quick Draw.

I'm voting no on it, and I know that the loft dwellers in my district will understand why I'm casting this vote.

Thank you, Mr. President.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1352 are Senators Brown, Duane, Montgomery, Padavan, and Schneiderman.

Ayes, 53. Nays, 5.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR HEVESI: Mr. President.

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

SENATOR HEVESI: Thank you, Mr. President. I rise to request unanimous consent to be recorded in the negative on Calendar 1354, Senate Print 1582.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Hevesi will be recorded in the negative on Calendar Number 1354.

Senator Fuschillo, why do you rise?

SENATOR FUSCHILLO: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 1354.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Fuschillo will be recorded in the negative on Calendar Number 1354.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we at this time take up Supplemental Active List Number 3.

ACTING PRESIDENT KUHL: The Secretary will read, beginning with Calendar Number 540.

THE SECRETARY: Calendar Number 540, by Senator Paterson, Senate Print 4764, an act to amend the Public Authorities Law, in relation to authorizing.

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

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 813, by Senator Balboni, Senate Print 4208B, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 813. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1286, by the Senate Committee on Rules, Senate Print 5619, an act to amend Chapter 141 of the Laws of 1994.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Marcellino, an explanation of Calendar Number 1286 has been requested.

SENATOR MARCELLINO: Yes, Mr. President. This bill simply extends for one year the duration of legislative commissions.

ACTING PRESIDENT KUHL: Senator

Paterson, explanation satisfactory?

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, I'm sorry, what was your question?

ACTING PRESIDENT KUHL: Is that explanation satisfactory?

SENATOR PATERSON: If you'd give me just a second, Mr. President.

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

SENATOR PATERSON: Related to this bill, we are going to offer the same amendment in the -

ACTING PRESIDENT KUHL: I would note for the record, Senator Paterson, that there is an amendment on this bill at the desk that has the same substance as the amendment before that was offered up on Calendar Number 1352.

It's my understanding that you're waiving the explanation and -- for the record, you waive the reading of it and you're afforded an opportunity to explain it, but that you don't feel the necessity to explain the amendment because you did -- or Senator

Connor did it before.

So with that, the question is on the amendment. Those Senators in agreement with the amendment signify by saying aye.

Senator Paterson.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: We can record the same vote as was recorded on the prior amendment if that is your desire and the desire of the Majority Leader.

SENATOR MARCELLINO: We have no objection.

ACTING PRESIDENT KUHL: Same vote on the amendment.

SENATOR PATERSON: Mr. President, how do you know the answers to my questions before I ask them?

ACTING PRESIDENT KUHL: In the words of a former basketball coach, Senator Paterson, you telegraph real well.

The amendment fails. Prior vote - same as on Calendar Number 1352, I should say. The vote is the same.

The bill is before the house.

Is there any other Senator wishing

to speak on Calendar Number 1286? Then the debate is closed.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President, we are anticipating something at this point.

Mr. President.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: At this time could we call up Calendar Number 1349 on Supplemental Calendar 57B.

ACTING PRESIDENT KUHL: If the members go to Calendar 57B, the Secretary will read Calendar Number 1349.

THE SECRETARY: Calendar Number 1349, by Senator LaValle, Senate Print 5506B, an act to amend the Education Law.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Is there a message of necessity at the desk, sir?

ACTING PRESIDENT KUHL: There is.

SENATOR MARCELLINO: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1349. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

The Secretary will read the last section.

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

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT KUHL: Senator LaValle, an explanation of Calendar Number 1349 has been requested by Senator Duane.

SENATOR LAVALLE: Mr. President.

ACTING PRESIDENT KUHL: Senator LaValle.

SENATOR LAVALLE: Senator Duane, this bill really -- since 1947, the scope of practice in dentistry has not been changed. This legislation would allow for common practices in dentistry, such as implants, that this would allow for and cover in the new definition that was provided for here in this legislation.

And I believe that everyone -- this has been a negotiated bill and has everybody on board. I believe it's passed the -- I don't know whether it's passed the other house, but I believe that everyone is on board on this new definition.

SENATOR DUANE: Thank you. Explanation satisfactory, thank you.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: If we could stand at ease for a few moments, Mr. President.

ACTING PRESIDENT KUHL: The Senate will stand at ease for a few moments.

(Whereupon, the Senate stood at ease at 7:47 p.m.)

(Whereupon, the Senate reconvened at 8:04 p.m.)

ACTING PRESIDENT BALBONI: Senator Skelos.

SENATOR SKELOS: Mr. President Balboni, there will be an immediate conference of the Majority in the Majority Conference Room.

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

Senator Paterson.

SENATOR PATERSON: The last President could guess what I was going to say.

ACTING PRESIDENT BALBONI: You're going to call for a conference, aren't you, of the Minority?

SENATOR PATERSON: There you go.

Thank you, Mr. President. Immediate conference of the Minority. Brief, very brief. Thank you.

ACTING PRESIDENT BALBONI: The Senate stands at ease for a brief period of time while both Majority and Minority conference.

(Whereupon, the Senate stood at ease at 8:05 p.m.)

(Whereupon, the Senate reconvened at 8:49 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Yes, at the

direction of Senator Bruno, our Majority Leader, we will be starting session promptly at five to 9:00.

ACTING PRESIDENT KUHL: And what time do you have right now, Senator?

SENATOR SKELOS: Right now I have about 10½, 11 of 9:00 right now. So in six and a half minutes we will be starting session.

So I would urge all members, members of the Minority and the Majority, to be in session in six and a half minutes.

ACTING PRESIDENT KUHL: Session will reconvene in six and a half minutes.

The Senate will continue to stand at ease.

(Whereupon, the Senate stood at ease at 8:50 p.m.)

(Whereupon, the Senate reconvened at 8:56 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: The Senate will come to order. I ask the members to find their places, staff to find their places.

Can we have quiet in the chamber.

Senator Skelos.

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

ACTING PRESIDENT KUHL: Immediate meeting of the Rules Committee, immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Would the members please take their places in their chairs.

Senator Saland -- Senator Saland, if you have to have a conversation, take it out of the chamber, please. If not, sit in your chair.

Thank you, Senator Leibell.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 523.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 523.

THE SECRETARY: Calendar Number

523, by Senator Nozzolio, Senate Print 5110A, an act to amend the Executive Law and others, in relation to making funds of a convicted person available.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 523. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

The Secretary will read the last section.

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

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT KUHL: Senator Duane wishes to have an explanation.

Senator Nozzolio, an explanation of Calendar Number 523 has been asked for by Senator Duane.

SENATOR NOZZOLIO: Yes, Mr. President. I'd be glad to explain this measure.

That this measure before us expands the Son of Sam Law, expands victims' rights to recover funds received by convicted criminals. In our view, this is a major victory for the crime victims of the state, Mr. President. It's going to enhance their ability to obtain compensation from convicted criminals for the wrongs done to them.

This legislation improves the Son of Sam Law by allowing crime victims or their representatives to sue convicted criminals who cause them harm, and it provides them an opportunity to ensure that those who are in prison and receive a windfall, whether that be from a lottery winning, whether it be from a

judgment in their favor -- that those crime victims, who were left in many cases destitute, in a number of other cases without any recourse whatsoever -- and certainly the criminality scars the victim far beyond the prison sentence for particularly violent crimes -- we allow, under this statute, crime victims to seek redress, to obtain monetary compensation from the perpetrator of their crime when that perpetrator, while in prison, reaps an economic windfall from a variety of sources.

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

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

ACTING PRESIDENT KUHL: Senator Nozzolio, do you yield to a question from Senator Duane?

SENATOR NOZZOLIO: Mr. President, I'd be happy to yield.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Thank you.

Under the proposed legislation I'm hoping that you can tell me what would happen in a case where a convicted person received a settlement as a result of some kind of brutality on the part of law enforcement.

SENATOR NOZZOLIO: Mr. President, the statute before us does not discriminate for the types of awards that a perpetrator of a crime may receive. If that perpetrator of the crime is in prison for a violent act enumerated under the statute, that criminal, be he or she the recipient of a judgment, the recipient of a largesse coming in to them beyond the scope of the original Son of Sam Law -- which this legislature enacted to prohibit those criminals to receive a windfall from the profits of their crime, be it profits from a book, a movie, newspaper articles, whatever that source may have been as a result of the notoriety caused by the crime -- we believe that that same criminal who receives a judgment while they're in prison, by a federal court or a state court, that the profits or the amount of that money should first go to the crime victim, minus 10 percent which the

statute allows the criminal to keep.

So this is a major step that the crime victim, in effect, would receive compensation for the damages which Senator Duane had asked about, Mr. President, that the criminal in effect would receive 10 percent of that damage award. And that is an incentive to continue their efforts in pursuing litigation when they are in fact damaged.

But frankly, the bulk of their crime, 90 percent of the largesse, would be going right directly to the crime victim.

SENATOR DUANE: Thank you.

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

ACTING PRESIDENT KUHL: Do you yield to another question, Senator Nozzolio?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Does the proposed legislation -- well, let me ask the question this way. If the sponsor would give me an outline of the categories of crimes that are

covered under this legislation.

SENATOR NOZZOLIO: Mr. President, would Senator Duane be so kind as to repeat the first part of that question.

SENATOR DUANE: I was wondering if the sponsor would be able to give us an outline of the categories of crime which are to be covered under this legislation.

SENATOR NOZZOLIO: Mr. President, I'd be happy to.

That all violent felony offenses, offenses for which merit time is not allowed under the Correction Law, all Class B felony offenses, any offense titled as a first-degree offense in the Penal Law, certain grand larceny and criminal possession of stolen property offenses, offenses in federal or out-of-state courts involving a state resident which have the same elements as any of the above-referenced crimes.

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

ACTING PRESIDENT KUHL: Senator Nozzolio, do you continue to yield to another

question?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: The question has come up with members of our conference regarding coverage for crimes, so-called white-collar crimes -- securities fraud, cases where older people's savings have been wiped out through unscrupulous activities on the part of others -- are these so-called white-collar criminals also covered in the legislation?

SENATOR NOZZOLIO: Mr. President, it's a very good question by Senator Duane.

Yes, the answer is they could very well be. That any offense titled in the first degree under the Penal Law, whether that be a white-collar crime in effect perpetrated in the first degree, and certain grand larceny and criminal possession of stolen property offenses are also included in this statute.

And I'm not sure -- there is no legal definition of a white-collar crime. But

those certainly are, in effect, of the major larceny nature, less likely to be of the violent nature, but would be nonetheless covered by this statute.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: So it does seem that the intent of the legislation is not just to cover perpetrators of violent crime, but also perpetrators of crimes against property?

SENATOR NOZZOLIO: Mr. President, if the offense is a first-degree offense, rises to the level of a first-degree offense, the answer to the question is yes.

SENATOR DUANE: Thank you.

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

ACTING PRESIDENT KUHL: Senator

Nozzolio, do you yield to another question?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: In the case of persons who are convicted of a crime but have had a funding stream coming in with which they have shared the revenue with their spouse, under this legislation would the revenue that's been dedicated to the spouse in a partnership also be subject to the terms of the legislation?

SENATOR NOZZOLIO: Mr. President, the statute exempts income, wages from a spouse from seizure or recovery by the crime victim.

However, if the spouse becomes the recipient or, I should say, a representative of the criminal spouse, that those sources of revenue would in fact be obtainable to the crime victim under this provision -- under these provisions.

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

yield.

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Thank you. In a case where there's a death benefit being paid to a spouse or a family, is that money subject to confiscation as well?

SENATOR NOZZOLIO: Mr. President, under that hypothetical presented by Senator Duane, the monies as I understand them would be paid -- payable to the spouse under this hypothetical inheritance example. That would be payable to the spouse, it would not be payable to the criminal, and therefore it would not be subjected to garnisheement under this statute.

ACTING PRESIDENT KUHL: Senator Duane.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Under circumstances where an action may have been started on the part of the perpetrator before they were a perpetrator on a completely unrelated matter in which both the perpetrator and his or her spouse could also be the beneficiary, in a case such as that would the spouse be able still to get his or her share of the proceeds of an action that was begun prior to the commission of the crime?

SENATOR NOZZOLIO: Mr. President, under this hypothetical I'm not certain whether Senator Duane means an action by coplaintiffs in a lawsuit. I would respectfully ask him to further elaborate on his hypothetical.

SENATOR DUANE: Through you, Mr. President, if the sponsor would allow me to give more detail.

For instance, in a case where there had been an accident and the perpetrator and the spouse had both been injured in that and an action was commenced to deal with hospital bills and pain and suffering, et cetera, and if that accident and the suit began before the commission of the crime, would the spouse still be eligible or, for that matter, the perpetrator still be eligible to collect in the case of the success of the suit?

SENATOR NOZZOLIO: The answer to that question, Senator Duane, I believe would depend on whether this was in fact a joint action.

And the judgment from that action, directing funds to either both spouses in an apportionment or one spouse in a direct way, if the judgment delineated the amount of recovery for each individual spouse under this statute, the criminal spouse would in effect have their portion of the judgment taken from them, minus 10 percent, under this provision.

If it was to the noncriminal spouse, it would not be subjected to seizure under this statute.

If it was unclear as to the apportionment, then it certainly would be incumbent upon the plaintiffs' attorneys to make it clear through the alternate judgment.

Barring all that, I believe the Crime Victims Board then would have to make an individual assessment. And they are so empowered to do so under this statute.

SENATOR DUANE: Thank you.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Thank you.

In a case where a person who has been incarcerated for a crime is assaulted while incarcerated or injured while incarcerated and, frankly, against all odds is able to wage a lawsuit based on what had happened while they were incarcerated, is the -- are the -- whatever settlement

resulting from that, is that also eligible to be garnished, and at what level?

SENATOR NOZZOLIO: Mr. President, I believe we have covered that ground before, but let me try to plow it again.

That this statute clearly covers those items where a convicted criminal is behind bars and seeks, through a private court action, their remedy, for whatever reason. That 90 percent of the eventual award, if there is one, would go to the crime victims under Senator Duane's hypothetical. Ten percent would be retained by the criminal themselves.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Is there a point at which the garnishing of an award -- is

there a point at which the perpetrator can be made whole or have -- finish paying off their debt? Or is the debt paid in perpetuity?

SENATOR NOZZOLIO: Mr. President, this measure is designed to make as whole as possible the crime victims who are injured by dangerous actions, significant actions against them.

This measure does not limit the amount of recovery a crime victim could have. Just as, in effect, if this was a civil litigation, if the perpetrator of a civil wrong was a wealthy individual, they certainly would be subjected to a large amount of potential liability, damages, based on their ability to pay.

The crimes that we're talking about and the injured victims here in all likelihood will never be compensated. That the time period of which the recovery is severed is after the sentence and parole is over. And for three years -- after three years, that there is no requirement that the criminal give notice to the Crime Victims Board of any recovery.

That this is intended to ensure that those damaged are in fact given compensation should that ability to pay ever arise by the perpetrator of the crime. Let's face it, in most cases that ability doesn't exist or will ever exist. But we are going to make every effort to ensure that day trading in prison, or that the Arthur Shawcrosses who are sharing and selling their artwork, that the monies coming in to those individuals, for whatever purpose, are going to be designated in some part -- in most part to the crime victims.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Thank you. And I am grateful for the indulgence that the sponsor is giving on this.

But just to help me, I'm going to, if I may, give another example, just so that I can help understand how this law would work. In the case of someone who, say, has been convicted of robbing a bank of $100,000 and is incarcerated for having done that, and there isn't specifically a person that's been harmed by that but perhaps a class of people, the people who have deposited money in the bank or the -- whoever they may be, and this particular perpetrator is sentenced to, you know, a finite period of time and parole, and in the course of that is left a sum in excess of that $100,000 -- say their aunt died and left them $500,000 -- are they made whole after they've paid the hundred thousand dollars? Or do they have to continue to pay $100,000 plus interest? Or do they have to continue to pay after they have made up the - what they've stolen?

SENATOR NOZZOLIO: Pardon my indulgence -- pardon me, Mr. President, as I needed to consult with counsel on that hypothetical.

I've been informed that it would

work this way, Senator Duane. That the crime victim in a sense would be the bank, on behalf of all the depositors in the bank. That the bank, or victim, would make application to the Crime Victims Board. And the amount of damages would be certainly the $100,000 plus costs, maybe interest, and that that in effect would be the aggregate that the crime victim would be able to recover under the circumstance.

SENATOR DUANE: Then through you, Mr. President, just to nail it down for me, that means that once they've paid back the hundred thousand dollars -

ACTING PRESIDENT KUHL: Senator, I don't understand what that means, just to nail it down for you.

Are you asking the Senator to yield to a question?

SENATOR DUANE: I am asking the Senator to yield to another question.

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

SENATOR NOZZOLIO: I will, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Thank you.

Just to help make it clear to me, when -- after the $100,000 plus interest has been paid back, then the perpetrator is entitled to keep the rest?

SENATOR NOZZOLIO: Mr. President, after the damage award is satisfied, the perpetrator would be able to -- after they've made the victim whole -- and really, that's the intent of this legislation. That's why we're here standing here, that's why we are here debating this measure, is to make the crime victim whole.

And that would occur, under Senator Duane's hypothetical, after that $100,000, plus interest, plus costs, whatever the court would ultimately decide what the damage is, after that damage is compensated for, the perpetrator then would be able to keep whatever they earned or made or received on their own.

SENATOR DUANE: Thank you. And through you, Mr. President, if the sponsor

would continue to yield.

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Are any of the funds that are -- that the victim or the Crime Compensation Board is able to garnish, are any of those funds -- can any of those funds be from employment while incarcerated?

SENATOR NOZZOLIO: Mr. President, the answer is no, not under the statute.

SENATOR DUANE: Thank you.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Thank you.

In a case where after the funds

have been paid back, if there is, on top of that, civil litigation on the part of the crime victim, does this in any way make it so the crime victim would not be able to collect money that they may win in such a civil suit?

SENATOR NOZZOLIO: Mr. President, that question at the end became vague. And I would respectfully ask Senator Duane if he could reiterate the part about after the judgment.

SENATOR DUANE: If I may, Mr. President -

ACTING PRESIDENT KUHL: Proceed.

SENATOR DUANE: After the, say, the hundred thousand dollars that's been robbed from the bank has been paid back, plus interest, if then the bank were to sue the perpetrator, does -- would this legislation in any way inhibit the bank from recovering any money they might win in the civil suit after the $100,000 has been paid back?

And actually, the bank is not such a great instance. It would probably be more fitting in a violent crime.

SENATOR NOZZOLIO: Senator Duane,

let me try to help you in this dialog here.

That there would have to be two causes of action to have two recoveries. That once a recovery was made, as I understand your hypothetical, you're suggesting another cause of action or that the bank may sue under the same cause of action.

We're not saying that you get that many bites at the apple under this statute. We're saying that the intent of this legislation is to make crime victims whole. It's very difficult to make a crime victim, particularly of a violent crime, ever compensated for their damages. Just think of those who have been the recipients of violent crime.

But here, in the hypothetical you mention about the theft from a bank, I believe that after that cause of action was satisfied the bank would be precluded from bringing additional action, certainly under that cause of action.

SENATOR DUANE: Thank you.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: In the case, for instance, of Shawcross, is there anything in the legislation that would make it so that this person -- that would prohibit the Department of Corrections from punishing in any way in addition to this civil action, if you will?

For instance, as I understand it, Mr. Shawcross was also sentenced to an SHU for his actions on putting his painting on eBay. And I'm wondering if this will supplant the ability of DOCS to use that kind of physical punishment.

SENATOR NOZZOLIO: Mr. President, let me try to answer that question by saying that it certainly does not address, under the statute, any administrative remedies that DOCS, the Department of Correctional Services, may impose on an inmate who violates

correctional policy.

In the case of Arthur Shawcross, a multiple murderer convicted of many murders, he in effect was engaging in unauthorized activity by selling or trading his paintings for compensation, directly or indirectly. And that's why Shawcross was given additional sentencing within -- punishment within DOCS in being sent to solitary confinement.

What this statute is designed to do, Senator Duane and my colleagues, is to provide a method, a process for victims of crime to be compensated for that victimization. It does not extend to all prison activity or to all criminal behavior. What it tries to do, though, is to say simply that any prisoner who reaps an economic windfall while behind bars should first and foremost make compensation in some part, if not whole restitution, to the victim of the crime that put them behind bars in the first place.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: I wanted to go into the area of notice. And perhaps before I ask my questions it might be more prudent just to ask the sponsor if he would describe for me the notice which needs to be given when there's any kind of a windfall, if you will.

SENATOR NOZZOLIO: The perpetrator of the crime, the criminal, is under compulsion, under this statute, to provide the Crime Victims Board with simple written notice that they received compensation or received such a windfall.

SENATOR DUANE: Through you, Mr. President, if the sponsor would yield, then, so I can question in that area.

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Thank you.

In a case where funds are being paid to a spouse or another person involved with the perpetrator, is the onus of providing the notice on the perpetrator or on the person who's actually received the remuneration?

SENATOR NOZZOLIO: Mr. President, on the perpetrator. On the perpetrator.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Where does the burden of proof, then, lie if the perpetrator is unaware that funds are being given, on their behalf, someplace else, so through no fault of their own money is being made and they don't know about it? What redress does

the perpetrator have, or what right of redress would the perpetrator have in a situation like that?

SENATOR NOZZOLIO: Mr. President, the Crime Victims Board is under obligation, by this statute, to prove by a preponderance of the evidence that the perpetrator engaged in fraudulent activity.

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The sponsor continues to yield to another question.

SENATOR DUANE: And what is the -- if the perpetrator has paid off the debt but they continue to receive money, are they under any obligation to give notice to the Crime Victims Board?

SENATOR NOZZOLIO: Yes, Mr. President. The answer is in the affirmative, that the Crime Victims Board still must receive that information. They are the

arbiter of whether compensation is adequate to the victim, not the perpetrator.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: If the Crime Victims Board has determined that compensation, full compensation has been achieved, is the sponsor saying that the perpetrator is still under obligation to continue to give information to the Crime Victims Board?

SENATOR NOZZOLIO: Mr. President, yes, that's exactly what I'm saying. That remember, there may be multiple victims. There may be a situation where more than one was hurt. That the Crime Victims Board is the arbiter.

The inmate is under the obligation

to report such largesse during the time of his incarceration and for a period of -- during the time of his parole and during a period of three years thereafter.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: In the occasional circumstances where a conviction is reversed but compensation has already begun to be paid, what is the mechanism by which the perpetrator can -- or the now-not-perpetrator can be paid back for funds that they may have received in the course of that?

In other words, does the Crime Victims Board take the money away from the victim, or does the Crime Compensation Board pay the money out of its own funds?

SENATOR NOZZOLIO: Mr. President,

I'm informed by counsel that this is one of those -- of the many hypotheticals Senator Duane has provided us this evening, that this is a hypothetical that's akin to a circumstance like the O.J. situation, where there was two sets of standards, a criminal standard, a civil standard. That one who was not convicted under a criminal statute could still be subject to compensation or liability under a noncriminal situation, a civil trial. So there's a lower level of proof in the civil versus the criminal.

But under that circumstance, I'm informed that the -- this statute would apply.

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

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

SENATOR NOZZOLIO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Thank you.

I very much appreciate that response and that scenario, and I should have

been more specific. I was actually more thinking in a case where, for instance, DNA or some other evidence has proven that a perpetrator in fact was not the perpetrator, despite the fact that they had been paying compensation to the victim.

How -- under what mechanism and from where do the funds come for the person that's no longer considered the perpetrator to be refunded the money they've paid in?

SENATOR NOZZOLIO: Mr. President, that I must hark back to a comment I made earlier: this is a separate cause of action. As such, the statute would be tripped once per cause of action.

That if there are many multiple causes of action that Senator Duane in his hypothetical has put forward, that there would be recovery based on each individual cause of action, not double recovery on a single cause of action.

Also, while I may answer Senator Duane's question, that this statute -- a question or two earlier -- the criminal's obligation triggers at $10,000 items. That in

fact, if a criminal receives $10,000, he's obligated. Under $10,000, he's not obligated to register with the Crime Victims Board for that amount.

SENATOR DUANE: Thank you. Thank you.

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

SENATOR MONTGOMERY: Mr. President, I would like to ask Senator Nozzolio a couple of questions, if he would yield.

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: Yes. Senator Nozzolio, would you clarify the - what exactly do the funds -

ACTING PRESIDENT KUHL: Senator Montgomery, would you excuse me just a minute. As close as I am to you, it's very difficult

for me to hear. And I know that Senator Nozzolio is even farther away from you than I am. And there is a little motion and a little activity, more than needs to be in this chamber.

So if we could just have our staff who have conversations, take them out of the hall. Members, if you could take a chair. Like Senator Libous, Senator Farley. Hughie. Hughie.

Senator Schneiderman, your chair is over here, or outside.

Thank you for allowing me to interrupt, Senator Montgomery. If you would proceed with your question, please.

SENATOR MONTGOMERY: Yes. Thank you. Mr. President, through you.

Senator Nozzolio, it says in the bill "funds of a convicted person means all funds and property received from any source." Is there an amount -- is there any limit on the amount that a person should receive before -

SENATOR NOZZOLIO: Mr. President, I believe this question was asked and answered

two or three times. I'd be glad to answer it for Senator Montgomery again.

That the amount that an inmate must report, a criminal must report is any amount above $10,000. That the amount of recovery is based on the, as determined by the Crime Victims Board, the amount of compensation depending on the nature and extent of the crime.

The Crime Victims Board, Senator Montgomery, would be the arbiter of the amounts going to individual crime victims. The source of monies would be from any source derived directly to the criminal in the amount -- it must be registered in any sum greater than $10,000.

SENATOR MONTGOMERY: So if it's less than 10,000, it does not fall within this law?

SENATOR NOZZOLIO: I've been informed by counsel, Senator Montgomery, that the statute requires a reporting of aggregate amounts above $10,000. However, amounts under $10,000 may very well be subjected, and they are subjected, to seizure by the Crime Victims

Board.

That the inmate is likely to receive that money in a prison account. The Department of Correctional Services manages those prison accounts. That they are under review. The Crime Victims Board does not decide how much the victim gets, it's the court that is the arbiter, final arbiter of that decision.

So certainly we have set in motion a process for the crime victim in compensation, and that those are the procedural steps.

SENATOR MONTGOMERY: Through you, Mr. President, if Senator Nozzolio would continue to yield.

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: In another section of the bill it talks about -- I think you may have already answered it. It talks

about a legacy, some inheritance that an inmate may receive from, you know, some family situation or other situation that -- and it's totally unrelated to that inmate's crime or the victim. And it also talks about damages that are awarded to an inmate.

So are you saying that any compensatory damages that the inmate may receive, any inheritance that may come to the inmate, even though it's not maybe even directly deposited in any account that the inmate may have but is part of some inheritance of the inmate that may be available to that person once they're out, that's also included?

SENATOR NOZZOLIO: Mr. President, the answer to Senator Montgomery's question is yes, it's included.

SENATOR MONTGOMERY: If Senator Nozzolio would continue to yield.

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

SENATOR NOZZOLIO: I'd be happy to yield to Senator Montgomery.

ACTING PRESIDENT KUHL: The

Senator yields.

SENATOR MONTGOMERY: I note that one of the crimes that you list, or one of the classes of crimes is a Class B felony offense, some of which are nonviolent offenses. Is that also -- does that kind of -- is that class of inmate included? Under the section "Specified Crimes," and it says "a Class B felony offense."

SENATOR NOZZOLIO: Yes, Mr. President, they are -- Class B felony offenses are included.

SENATOR MONTGOMERY: All right. And, Mr. President, one other question for Senator Nozzolio, if he would yield.

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

SENATOR NOZZOLIO: I'd be happy to yield.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: I think that -- I apologize for repeating the same question that Senator Duane asked. But recently we've had several cases where people

have spent a dozen or more years in prison and then once they have the opportunity to prove their innocence, through DNA and whatever additional evidence that they have, their conviction is overturned.

In an event such as that, inmates in those categories who may have already been subjected to this particular law, what happens to them in those instances? Are they allowed restitution based on any other law that we have in the state that would cover them? And would that include any monies that you may have seized from them based on this statute?

SENATOR NOZZOLIO: Mr. President, Senator Montgomery's hypothetical, a very important one but nonetheless pretty complicated, is dealt with in this process by the courts intervening. It would be a judicial prerogative, if not responsibility, to determine the degree of responsibility, the degree of culpability, the degree or amount of damages that should be apportioned.

We mentioned earlier, in Senator Duane's colloquy, regarding the likelihood of an O.J. situation, where a victim is there

that is held to be a civil -- in a civil court held to be victimized, in a criminal court held, because of a different standard of evidence, a different standard of guilt, in effect, the amounts -- one could be not convicted or determined acquitted, determined not guilty, yet at the same token be subjected to a large amount of personal damage.

Now, that is to be arbitrated by the courts. And that the process is what we establish here, and it's up to the courts to determine it and to properly adjudicate it.

SENATOR MONTGOMERY: Mr. President, through you, I would like to ask Senator Nozzolio another question.

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

SENATOR NOZZOLIO: I'd be happy to yield to Senator Montgomery.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: So, Senator Nozzolio, there is no automatic restitution in an event that a person has been falsely accused and convicted and served time, you

seem to be saying -

SENATOR NOZZOLIO: Mr. President, again -

SENATOR MONTGOMERY: -- other than through the courts.

SENATOR NOZZOLIO: -- that would be an item that would require judicial determination, review, and apportionment.

SENATOR MONTGOMERY: One other question for you, Senator Nozzolio.

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

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

Is there any way that damages are determined prior to a person, say, falling into this category? I mean, is -- are there any limits at all, or is it just to be determined by who determines the extent of the damages and whatever may or may not be left over from monies that would be seized in

this -- based on your bill?

SENATOR NOZZOLIO: Again, Mr. President, that this would be determined - Senator Montgomery's question would be determined by the courts, apportioned by the courts, by the victim bringing an action in court, to determine the amount of damages that should be obtained. If you wanted to establish an upper threshold.

Obviously, the larger the victimization, the larger incentive there will be for victims to take their matters to litigation.

SENATOR MONTGOMERY: And 50 percent automatically goes to the comptroller? Mr. President, through you, there is a 50 percent that goes to the comptroller and the other 50 percent is what we're talking about determining damages for?

SENATOR NOZZOLIO: Mr. President, I am confused by Senator Montgomery's question. Would you instruct her to rephrase it, please?

SENATOR MONTGOMERY: It's my understanding that there is a portion of the

funds that you refer to in your bill that goes to the comptroller automatically, and the other 50 percent goes to the Crime Victims Board. Maybe I'm reading it wrong.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, through you, I'm sorry.

ACTING PRESIDENT KUHL: We're getting a slow rumble underneath, several conversations going on. I think there are three or four other Majority members who are trying to answer your question before you even ask it. So if we can just have a little quiet in the chamber.

You'd like Senator Nozzolio to yield again; is that correct?

SENATOR MONTGOMERY: Yes, please.

ACTING PRESIDENT KUHL: Senator Nozzolio, do you yield again?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: My question

to you, Senator Nozzolio, was I thought that I saw in the legislation a reference to a percent going to -- automatically to the comptroller, and another -- and I thought that was 50 percent, and the rest going to the Crime Victims Board, and that is the portion that you're looking to settle the damages with. Is that correct, or am I misreading your bill?

SENATOR NOZZOLIO: Mr. President, I'm not exactly certain where Senator Montgomery is looking in the statute. But there is a civil penalty that the Crime Victims board may impose when there is an unreported payment. And that assessment could be up to the full amount of the payment.

That there is -- if the assessment is not used to pay the crime victim's claims, 50 percent is returned to the person who failed to give notice and 50 percent is paid into the State Criminal Justice Improvement Fund. That's probably where Senator Montgomery is focused on.

And I hope that answers your question.

SENATOR MONTGOMERY: Thank you, Senator Nozzolio. Thank you.

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

SENATOR SAMPSON: Mr. President, would the sponsor yield for one question?

ACTING PRESIDENT KUHL: Senator Nozzolio, do you yield to one question?

SENATOR NOZZOLIO: I'd be happy to yield, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SAMPSON: Through you, Mr. President, what position would a crime victim take in conjunction with, say, perhaps a secured creditor with respect to this defendant, according to this bill?

SENATOR NOZZOLIO: Mr. President, Senator Sampson's question is a very good one.

This statute, Senator, does not reorder the priorities of lienholders. It would be subjected to the law that exists today. This does not interfere or change that priority whatsoever.

SENATOR SAMPSON: Through you,

Mr. President, would the sponsor yield for a last question?

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

SENATOR NOZZOLIO: Mr. President, I yielded the last time to what I thought I heard you say was one question. But I'd be happy to yield to Senator Sampson's second question.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SAMPSON: I just wanted to clarify what you had just said.

So basically this has nothing to do with the other secured creditors, it would just be in accordance with whatever the -- the other positions of any other secured creditor?

SENATOR NOZZOLIO: Mr. President, there again, asked and answered, but I'll be glad to elaborate that this does not reorder the position that a secured creditor would have. It does not establish a different order of priority.

It does put a priority of crime victims, though, into a system that

heretofore, until this statute is passed, did not exist.

SENATOR SAMPSON: Thank you.

SENATOR CONNOR: Last section.

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

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives and announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 523 are Senators Duane, Montgomery, and Santiago. Ayes, 55. Nays, 3.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 728.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 728, by Senator Seward, Senate Print 5213B, an act to amend the Insurance Law.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 728. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect January 1, 2002.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we take up Supplemental Calendar 57D, noncontroversial reading, please.

ACTING PRESIDENT KUHL: We'll return to the order of reports of standing committees.

There is a report of the Rules Committee at the desk. The Secretary will read.

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

Senate Print 1754, by Senator Leibell, an act to amend the Administrative Code of the City of New York.

2765, by Senator Maltese, an act to amend the Administrative Code of the City of New York.

2813, by Senator Saland, an act to amend the Education Law.

3080, by Senator McGee, an act to amend the New York State Urban Development Corporation Act.

3211, by Senator Spano, an act authorizing.

3386B, by Senator Balboni, an act to amend the Environmental Conservation Law.

3564, by Senator Marcellino, an act to amend the Environmental Conservation Law.

3616, by Senator Morahan, an act to amend the Retirement and Social Security Law.

3962, by Senator Maltese, an act to amend the Administrative Code of the City of New York.

4469A, by Senator Spano, an act to amend the Retirement and Social Security Law.

5140, by Senator Padavan, an act to amend the Administrative Code of the City of New York.

5288, by Senator Leibell, an act to amend the Administrative Code of the City of New York.

5491, by Senator Rath, an act to

amend the Civil Practice Law and Rules.

5499, by Senator Alesi, an act to amend the Public Health Law.

5568, by Senator Connor, an act to amend the Parks, Recreation and Historic Preservation Law.

5580, by the Senate Committee on Rules, an act to amend the Penal Law.

5581, by the Senate Committee on Rules, an act to amend the Civil Service Law.

5599, by Senator Velella, an act to amend the Administrative Code of the City of New York.

5611A, by Senator Stafford, an act to amend the Executive Law.

5621, by Senator Marcellino, an act to amend Chapter 405 of the Laws of 1999.

And Senate Print 5682, by Senator DeFrancisco, an act to amend the Executive Law and others.

All bills ordered direct to third reading.

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

ACTING PRESIDENT KUHL: The

motion is to accept the report of the Rules Committee. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The Rules report is accepted.

All bills directly to third reading.

The Secretary will read the noncontroversial reading of the Supplemental Calendar 57D.

SENATOR CONNOR: Excuse me, Mr. President, we don't have a calendar. We have the bills, but we don't have the calendar to go with.

There it is. If we could just -

ACTING PRESIDENT KUHL: We'll wait until you have it on your desk.

Any member who doesn't have a copy now of Supplemental Calendar 57D?

Hearing none, the Secretary will read the noncontroversial reading of Calendar

Number 57D, beginning with Calendar Number 1363, by Senator Leibell.

THE SECRETARY: In relation to Calendar Number 1363, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 2833 and substitute it for the identical Senate Bill Number 1754, Third Reading Calendar 1363.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1363, by Member of the Assembly Vitaliano, Assembly Print Number 2833, an act to amend the Administrative Code of the City of New York.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: In relation to Calendar Number 1364, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 5115 and substitute it for the identical Senate Bill Number 2765, Third Reading Calendar 1364.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1364, by Member of the Assembly Vitaliano Assembly Print Number 5115, an act to amend the Administrative Code of the City of New York.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1365, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 5306 and substitute it for the identical Senate Bill Number 2813, Third Reading Calendar 1365.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1365, by Member of the Assembly Tokasz, Assembly Print Number 5306, an act to amend the Education Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1366, Senator McGee moves to discharge, from the Committee on Rules, Assembly Bill Number 5862 and substitute it for the identical Senate Bill Number 3080, Third Reading Calendar 1366.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1366, by Member of the Assembly Gunther, Assembly Print Number 5862, an act to amend the New York State Urban Development Corporation Act.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 1367, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 6232 and substitute it for the identical Senate Bill Number 3211, Third Reading Calendar 1367.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1367, by Member of the Assembly Paulin, Assembly Print Number 6232, an act to authorize the reopening.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 1368, Senator Balboni moves to discharge, from the Committee on Rules, Assembly Bill Number 5352B and substitute it for the identical Senate Bill Number 3386B, Third Reading Calendar 1368.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1368, by Member of the Assembly Grannis, Assembly Print Number 5352B, an act to amend the Environmental Conservation Law.

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

THE SECRETARY: Section 4. This act shall take effect the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I don't mean to slow down this freight train, but I have to stand up to say

this is a terrific bill.

Senator Dollinger and I held a press conference last week calling on the Governor and legislative leaders to finally do something about the need for conservation legislation in New York State. I'm sorry this is the only two-house conservation bill we have done.

But, as usual with Senator Balboni, this is something with true statewide implications, and I'm glad we're passing it tonight.

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

Record the negatives and announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1368 are Senators Libous, Meier, Nozzolio, Seward, and Wright. Ayes, 53. Nays, 5.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1369, by Senator Marcellino, Senate Print

3564, an act to amend the Environmental Conservation Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1370, by Senator Morahan, Senate Print 3616, an act to amend the Retirement and Social Security Law.

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

The Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect January 1, 2002.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1371, by Senator Maltese, Senate Print 3962, an act to amend the Administrative Code of City of New York.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1372, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 8498 and substitute it for the identical Senate Bill Number 4469A, Third Reading Calendar 1372.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1372, by the Assembly Committee on Rules, Assembly Print Number 8498, an act to amend the Retirement and Social Security Law.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1373, by Senator Padavan, Senate Print 5140, an act to amend the Administrative Code of the City of New York.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1374, by Senator Leibell, Senate Print 5288, an act to amend the Administrative Code of the City of New York.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: In relation to Calendar Number 1375, Senator Rath moves to discharge, from the Committee on Rules, Assembly Bill Number 9113 and substitute it for the identical Senate Bill Number 5491, Third Reading Calendar 1375.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1375, by the Assembly Committee on Rules, Assembly Print Number 9113, an act to amend the Civil Practice Law and Rules.

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

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1376, by Senator Alesi, Senate Print 5499, an act to amend the Public Health Law.

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

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1377, by Senator Connor, Senate Print 5568, an act to amend the Parks, Recreation and Historic Preservation Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1378, by the Senate Committee on Rules, Senate Print Number 5580, an act to amend the Penal

Law.

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

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1379, by the Senate Committee on Rules, Senate Print Number 5581, an act to amend the Civil Service Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number 1382, by Senator Marcellino, Senate Print 5621, an act to amend Chapter 405 of the Laws of 1999.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1383, by Senator DeFrancisco, Senate Print 5682, an act to amend the Executive Law and others, in relation to establishing.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a motion at the desk?

ACTING PRESIDENT KUHL: There is a message of necessity at the desk.

SENATOR BRUNO: There is a motion and there is a message, and I would move that we accept the motion and the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1383. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the

noncontroversial reading of Calendar Number 57D.

Before we go to the next step, we will recognize Senator Schneiderman.

Senator Schneiderman, why do you rise?

SENATOR SCHNEIDERMAN: I rise because I guess I was a little slow on the draw. I'd request unanimous consent to be recorded in the negative on Calendar 1383.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Schneiderman will be recorded in the negative on Calendar Number 1383.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up the controversial calendar.

ACTING PRESIDENT KUHL: The Secretary will read the controversial reading of Calendar Number 57D, beginning with Calendar Number 1375, by Senator Rath.

THE SECRETARY: Calendar Number 1375, substituted earlier today by the Assembly Committee on Rules, Assembly Print

Number 9113, an act to amend the Civil Practice Law and Rules.

SENATOR STACHOWSKI: Explanation.

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

SENATOR RATH: Mr. President, this particular bill provides that the assets of a plan which satisfy the requirement of Section 457, or a deferred comp plan, will be exempt from satisfaction money judgments.

And I know there was some concern that it was looking to deal with one particular individual, and that's not the case. It has to do with the fact that there's an ongoing issue in court, and it is -- has been pointed out by the Deferred Comp Board that we needed to do it this way rather than having it wait until this particular case is finished. But it's not -- you know, it's not directed towards only one case. It's in general.

ACTING PRESIDENT KUHL: Senator Rath, excuse me.

Senator Bruno.

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

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

Senator Stachowski, wait just a minute until we get the room cleared.

SENATOR STACHOWSKI: I've got to clear with it, so . . .

ACTING PRESIDENT KUHL: Thank you for the interruption, Senator Stachowski. Why do you rise?

SENATOR STACHOWSKI: Would Senator Rath yield for a couple of questions?

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

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STACHOWSKI: Senator, in the committee, in going through the memo -

and I don't know if that's just the memo was wrong, because I -- ah, here it is.

Here it says, in line 24, Section 2, it says "This act shall take immediately and shall be applicable to any case decided on or after October 1, 2000."

And the thing that strikes me is you're saying it doesn't have to do with any particular case. Then why are we making this applicable to any case that is decided on or after October 1, 2000?

SENATOR RATH: Senator Stachowski, the bill is not limited to any one specific case. The case that you're noting there was what brought the issue to our attention.

ACTING PRESIDENT KUHL: Senator Stachowski.

SENATOR STACHOWSKI: If the Senator would continue to yield, please.

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

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STACHOWSKI: I understand it's not limited to one particular case, but it's directed with that effect. That date that it takes in encompasses, has a direct effect on a particular case. Otherwise you would have just had a bill that says takes effect immediately and then it would be for all cases from this point on.

And I just have trouble with the fact that it was brought to your attention for one bill and that it affects that particular case.

And it seems to me like -- I don't -- I always thought that when we get a letter like that and we handle an issue like that we always have a situation where we can't help you but we can make sure this doesn't happen to anybody after you.

What makes this different?

SENATOR RATH: My understanding, Senator, was that this was not done to make it a specific remedy for the person who's caught up in this individual case. We were not asked to do that.

But it was asked that we would

extend it. That case may be concluded by that time. This person may not be eligible for the remedy.

SENATOR STACHOWSKI: Thank you, Senator.

Briefly on the bill.

I don't mind the bill so much. I still have trouble with that date. And I'll probably have to come in and be recorded in the negative afterwards. But I have to go to Rules, so -

Thank you. I'll come back and vote.

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

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negative votes.

THE SECRETARY: Ayes, 57. Nays,

1. Senator Duane recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Mr. President. I was hoping to get unanimous consent to be recorded in the negative on Calendar Number 1383.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Duane will be recorded in the negative on Calendar Number 1383.

Senator Breslin, why do you rise?

SENATOR BRESLIN: Mr. President, I would request unanimous consent to be recorded in the negative on Calendar 1383.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Breslin will be recorded in the negative on Calendar Number 1383.

Senator Maltese, why do you rise?

SENATOR MALTESE: Mr. President, I ask unanimous consent to be recorded in the negative on Calendar Number 1368.

ACTING PRESIDENT KUHL: Without

objection, hearing no objection, Senator Maltese will be recorded in the negative on Calendar Number 1368.

Senator Saland, why do you rise?

SENATOR SALAND: Mr. President, I would also request unanimous consent to be recorded in the negative on Calendar 1368, Senate 3386B.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Saland will be recorded in the negative on Calendar Number 1368.

Any other member wishing to change a vote or record a vote?

The Secretary will read Calendar Number 1379.

THE SECRETARY: Calendar Number 1379, by the Senate Committee on Rules, Senate Print Number 5581, an act to amend the Civil Service Law.

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

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, would you please at this time call up Calendar Number 179.

ACTING PRESIDENT KUHL: For the benefit of the members, this is on the original calendar for the day.

Calendar Number 179. The Secretary will read.

THE SECRETARY: Calendar Number 179, by Member of the Assembly Sidikman, Assembly Print Number 6958A, an act to amend the Election Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Maltese, an explanation of Calendar Number 179 has been requested by the Acting Minority Leader, Senator Paterson.

SENATOR MALTESE: Yes, Mr. President.

First of all, a word of explanation. Earlier this evening we passed an election bill, an omnibus election bill including four sections that I went over in great detail.

It has now been considered by this Majority that the great importance of this bill, to the City of New York especially, mandates that with the responsibility of having the election in September, the primary election in September and the general election in November, go as flawlessly, efficiently and fairly as possible, we in the Senate are quite willing to pass this additional bill so that the Assembly, in its wisdom, can consider both as alternatives and decide which of the two bills they could most responsibly pass to effectuate this laudatory purpose.

This particular bill provides that, just as the omnibus bill did, that where a - the ballot in a primary election in a city with population of one million or more shall provide a slot or device to permit voters to write in the name of an undesignated person for public office, and that for party

position, as I said earlier, there would have to be a valid petition for an opportunity to ballot so that the Board of Elections, with the old-style lever Shoup machines, can adequately provide, prepare and conduct a valid election.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Maltese would yield for a question.

SENATOR MALTESE: Yes.

SENATOR PATERSON: Senator, I'd just like you to react to this. I am confused. It just seems to me that this legislation would be contradicting what was set forth in legislation we passed earlier today.

That the party primaries I thought were -- that the write-ins would be excluded from them, because in New York City we're going to have such overcrowding, especially in this term-limited year where you're going to have six and seven city council candidates running, four mayoral candidates, five or six public advocate candidates.

There just isn't going to be the space on the voting machine to do this, and the write-in becomes very difficult in this kind of a process.

SENATOR MALTESE: Mr. President, Senator Paterson is indeed quite correct.

But the bills are not inconsistent, because what we're doing in this case is passing both versions, essentially, of the same legislation so that the Assembly would have the choice. And so that where the interests of the voters of the city of New York and the state of New York are paramount, this house is quite willing, in the spirit of compromise, to pass both pieces of legislation, which would provide that the party positions would only have a write-in if a petition for opportunity to ballot is collected and submitted to the Board of Elections.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator

Paterson, on the bill.

SENATOR PATERSON: It just seems to me that you would have sometimes, say, in the same Congressional district people in Westchester would be allowed to write in and people in New York City might not. In other words, you'd have within places, Congressional districts that transcend counties, different rules operating for the same voters who are voting for the same candidates in the same Congressional district.

And therefore, it would seem to me that it would violate the equal protection clause of the Constitution. And I just don't think we can pass this bill, because I don't think it would meet a court challenge.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negative votes.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, party vote in the negative.

SENATOR BRUNO: Party vote in the affirmative.

ACTING PRESIDENT KUHL: Record the party-line vote and announce the results.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 36. Nays, 22. Party vote.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Stachowski, why do you rise?

SENATOR STACHOWSKI: Mr. President, can I have unanimous consent to be recorded in the negative on Calendar 1375, please.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Stachowski will be recorded in the negative on Calendar Number 1375.

Senator Bruno.

SENATOR BRUNO: At this time can we take up Calendar Number 699.

ACTING PRESIDENT KUHL: The Secretary will read Calender Number 699 on the regular calendar.

THE SECRETARY: Calendar Number 699, by the Assembly Committee on Rules, Assembly Print Number 8463, an act to amend the Election Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to reports of standing committees.

I believe there's a report from the Rules Committee at the desk, and I ask that it

be read at this time.

ACTING PRESIDENT KUHL: We'll return to the order of reports of standing committees.

There is a report of the Rules Committee at the desk. The Secretary will read.

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

Senate Print 2538, by Senator Leibell, an act to amend the Retirement and Social Security Law.

2551, by Senator Padavan, an act to amend the Public Authorities Law.

5095, by Senator Maltese, an act to amend the Retirement and Social Security Law.

5276, by Senator Leibell, an act to amend the Retirement and Social Security Law.

5686, by the Senate Committee on Rules, an act to amend the Executive Law and others.

And Senate Print 5688, by the Senate Committee on Rules, an act to amend a chapter of the Laws of 2001.

All bills ordered direct to third reading.

ACTING PRESIDENT KUHL: Senator Bruno.

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

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The Rules report is accepted.

The bills are ordered directly to third reading.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 932.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 932 on the original calendar of the day.

THE SECRETARY: Calendar Number 932, substituted earlier today by Member of the Assembly E. Sullivan, Assembly Print Number 7211A, an act to amend the Education Law and the Public Health Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, we have some housekeeping we could take up while we're waiting for the calendar.

SENATOR BRUNO: Would you at this time do that, Mr. President.

ACTING PRESIDENT KUHL: Thank you.

We'll return to the order of motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. I wish to call up Calendar Number 144, Assembly Print Number 5121.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 144, by Member of the Assembly Green, Assembly Print Number 5121, an act to amend the Social Services Law.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Mr. President, I now move to reconsider the vote by which this Assembly bill was substituted for the present Senate bill, 393, on May 31st.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Mr. President, I now move that Assembly Bill 5121 be recommitted to the Committee on Rules and that

the Senate bill be restored to the order of the Third Reading Calendar.

ACTING PRESIDENT KUHL: So ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1388.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1388.

THE SECRETARY: Calendar Number 1388, by the Senate Committee on Rules, Senate Print Number 5686, an act to amend the Executive Law, the Penal Law, and the General Municipal Law, in relation to certain gaming.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message of necessity at the desk, Mr. President?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity

on Calendar Number 1388. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

The Secretary will read the last section.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Bruno, an explanation of Calendar Number 1388 has been requested by the Acting Minority Leader, Senator Paterson.

SENATOR BRUNO: This bill is a bill that allows the Governor to negotiate an agreement with the Senecas to allow for two casinos, one in Niagara and one in Buffalo, and a third casino, when and if there's an agreement someday in the future, that could be placed on tribal land.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PADAVAN: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Padavan, I had Senator Paterson ahead of you.

Senator Paterson.

SENATOR PATERSON: Mr. President, I would defer to my colleague Senator Padavan.

ACTING PRESIDENT KUHL: Senator Padavan, Senator Paterson has waived.

SENATOR PADAVAN: We often get mistaken for each other.

(Laughter.)

SENATOR PADAVAN: Mr. President, out of deference to everyone's psyche, and obviously to the hour, I will try to be as brief as I possibly can.

If you put ten economists in a room and give them one issue to deliberate on, invariably they'll come out with ten different opinions, except on the issue of gambling and casinos. Every economist throughout this country, in every state, that has evaluated this matter in detail and written about it - books, articles, pamphlets, memoranda -- all come up with one inescapable conclusion, that

this is not true economic development in any sense, Keynesian or otherwise.

And they label it a zero-sum game, that you move money from people's pockets into corporate entities and stockholders and operators of casinos, and others make money and the people lose.

Now, this is not hypothetical. In New York State we have a casino recently - many of you received a letter from the mayor of a town near there. It was a two-and-a-half-page letter. I'll just read one sentence: "I'm writing to you with the hope of making you aware of the harsh realities that are undermining the financial integrity and social fabric of our communities, specifically the City of Oneida." And that letter was written by the mayor, who had come to Albany previous to writing that letter and told us about all the problems that he's experiencing in his city as a result of the casino.

Now, the promise of Atlantic City is well known to everyone. I think it's twenty years ago, something like that, the

people in the Atlantic City, New Jersey, were told: This will solve all your problems. We will provide jobs. There will be economic development. We will have revenues. There will be great things in store for you. As the people in Buffalo and Niagara are being told today.

And they bought into it there, as they're buying into it here. But what happened? Well, the only economic development is about a dozen different pawnshops, plus another twenty-some-odd, total of 50, where they'll just buy stuff from you, period. Over 50 establishments grew up as a result of casinos.

What happened to all the other businesses -- the restaurants, the theaters, the shops? They all evaporated. What happened to employment? Unemployment went up. What happened to crime? Crime went up, dramatically. As a matter of fact, people tell me who go to Atlantic City that you're advised by the casinos not to go out at night, not to leave the grounds of the casinos at night because of the crime problem.

And political corruption, as evidenced by five of the last seven mayors of Atlantic City going to jail, directly related to activities on their part involving either the casino industry but, more generally, those industries that feed into it.

Now, there's a great deal more that could be said. If you want to read about it, it's in this report. It's a few years old, but what's in there is as relevant today as it was then.

Obviously this is going to pass this house. What happens thereafter is problematic.

One of the things in the bill before you which underpins much of what is attempted here is the fact that slot machines are being legalized. Now, there have been a number of discussions on this point as to whether or not constitutionally, and if you look at our State Constitution, whether or not constitutionally you can legalize slot machines, which are currently illegal by statute. And that issue, I'm afraid, will be joined at some point in time should this

legislation become law. Or perhaps even before.

Now, why is this critical? Slot machines are the major revenue-producing element of every casino. They produce much of the gains that a casino operator would realize. Why? Because they're programmed. There's no faith involved. Those machines are programmed that X amount of the people playing them will lose and X amount will win.

Now, if the slot machines go down, this whole deck of cards is significantly diminished and it will go down. So I would - and no pun intended. Thank you, Senator.

So I would certainly suggest to anyone who may be listening to us that that be examined very, very carefully. Economic development is something we all need. And we all took pride, and said so, when our Majority Leader, only days ago, presented to us one of the most comprehensive economic development programs this state has ever seen, GE-NY-SIS. And you applauded him for that, and rightly so. That is the economic development this state needs. That is the kind of thing

Buffalo needs. And that is the kind of Niagara needs.

As far as tourism is concerned, people were going over that bridge to Canada before Canada had casinos, because Niagara wasn't doing what it could do to keep the tourists on this side of the border, on this side of the river. Yes, they're going over there, and you'll hear that said. They're going over there and they're spending their money. Let them stay in New York and do the same thing.

We had the same argument with Atlantic City. They're getting on buses and they're going to Atlantic City. Let them stay in New York and spend their -- lose their money here.

Well, there's something unethical about that. Because someone told me, I think it was Senator Stachowski, he says when you leave Canada on your way back to the States there's a sign that says "If you have a gambling problem, call this number." And where is the number? It's a Buffalo phone number. So they are helping us develop more

compulsive gamblers.

So they're doing it, so we want to do it.

And finally let me tell you -- and it's in the report, the references, the studies and everything, the source of it is irrefutable -- New York State currently is the worst state in the nation in terms of compulsive and problem gamblers on a per-capita basis. We're the worst, thanks to the lottery, thanks to all of the activities that we slowly but surely have added to this morass of gambling in the state of New York.

Now, I'm not preaching to you, I don't claim to be a moralist, nor am I a prohibitionist on this issue. But I know black and white when I see it, and this, to me, is a black hole that we go deeper and deeper into every time we deal with one of these issues.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

While in the past I have shared many of the concerns articulated by Senator Padavan with respect to the wisdom of casino gambling and gaming in general as revenue raisers and quick fixes for ailing economies and so on, I have to preface my remarks by saying that I have been to Niagara Falls several times. I've been on the other side of the river. It's a rather stark, stark contrast between what's happened on the New York side and the Canadian side.

I remember as a child hearing aunts and uncles and grandparents -- my grandparents' honeymoon in 1917 was in Niagara Falls. They'd go back and visit. And they would always say, "Oh, you're going to Niagara Falls, you've been there?" And when people said no, they'd say, "Well, stay on the New York side, it's really nice. Go over to the Canada and look at the falls. There's nothing else there, but you get a good view of the falls."

I hadn't been there in many years, and I was recently -- well, not recently, a couple of years ago kind of shocked to see the

enormous economic development taking place in Ontario, right across the river.

None of the workers on the construction are American citizens, we're not allowed to work there. We have unemployed construction workers, far too many, in Niagara County, in Niagara Falls. And Niagara Falls, large parts of it, frankly, look like the Third -- when you cross that border, you think you're coming into the Third World, and you're coming into the state of New York.

So I've quite altered my viewpoint. I think if there's anyplace in New York State or if there's one place in New York State where casino gambling is appropriate and a necessary evil to restore the tourist economy, it is in Niagara Falls.

In general, I want to congratulate the Governor, I want to encourage further efforts to bring about a casino in Niagara Falls. I just fear -- I just have too many reservations about this bill. And let me tell you why.

I've been here since we did casino gambling bills in 1978, first passage. We've

done them since then. They were always like this. This is three pages. Ah, but we have an MOU for the compact. This is the MOU.

This is a real compact. This is what we did for the Oneidas. This is what a compact looks like; it's pages and pages of details. This is a compact that's in effect with the Oneida Nation.

This is the MOU we're given. It's like the outline you did before you did your thesis, if you ever did a thesis or a long term paper. Useful information in it, kind of tells you the topics that will be included in the compact, but not a whole lot of details.

And we're dealing with a serious subject here, casino gambling. We want to ensure, when it happens in Niagara Falls and Buffalo, that it's honest, that everybody understands what the deal is. And I just have concerns.

The bill says notwithstanding any other law in effect, we are authorizing - now, a little history. When IGRA became law, it seemed to indicate that the governors of states could in fact enter into compacts -- in

fact, must negotiate in good faith and enter into compacts with federally recognized Indian tribes for gaming on their reservations, to the extent that gaming or types of games were otherwise permitted in the state. And as we know, in New York we had permitted charity Las Vegas Nights which included games like blackjack, dice, and so on.

In fact, there were some court cases -- I think one in Oregon, in federal court, and some other places -- that said wait a minute, how can governors enter into compacts without legislative approval. That was an issue here. That was an issue here.

In fact, this Oneida Nation thing was done in secret by Governor Cuomo. He did one with the Mohawks. I got a copy back then stamped "Confidential," from a friend on the second floor who made me promise not to show it to anybody. And I was a State Senator at the time, and I was quite offended by that. I made as many copies as the Majority afforded me paper to copy at the time.

But it was a concern. And as we know, there was a -- two copies.

And in fact, though, there's been subsequently, as you all know, very recently a state case that said what all of us I think kind of knew instinctively, and many of the legislative leaders had written letters insisting upon, and that's the prerogative of the Legislature. By our State Constitution, the people of the State of New York act through the Legislature and Governor, not just through the Governor. Certainly when it comes to things like this.

So we're like the U.S. Senate. The Governor negotiates a compact or treaty with a sovereign Indian nation, and we ratify it. But what we're doing here in this bill is as if the U.S. Senate said to the President: We're ratifying your treaty with Russia, now go to Russia and negotiate it and write it and consider it ratified.

That's simply not the way you do it. It's a blank check. And I don't -- not for a minute do I doubt the good faith of the Governor or the Seneca Nation, don't doubt it for a minute. I think the Governor's intentions not only are good, I think they're

superb. Bringing economic development to Western New York is very, very important. And I think the Seneca Nation's aspirations and ambitions are very, very important.

And I don't want to stand here at this late hour like a former colleague, Senator Leichter, and go on about process, process, process. But in this case, process is everything. The details are everything.

This bill is a blank check. Here I have Article 1, Section 2 of the State Constitution. And if you review the notes of the Constitutional Convention of 1938, you will see they specifically debated this section and wrote it because they wanted to exclude from the state of New York slot machines. In the Constitution.

Someone very cleverly decided we can get around that by decriminalizing slot machines in these two reservation casinos.

You know, it kind of reminds me, Stanley Fink used to have a saying, "Don't shoot dice with Big Julie, because when the dice come out, there's no dots on them." That's what we're doing here. We've got Big

Julie's dice here right on the table, we know they're dice, and there are no dots on them. We can't count the numbers here.

The fact of the matter is I think this will fail as a -- you know, lawyers come up with artful devices: How do you get around this provision, how do you get around that. I've spent a large portion of my life figuring out how to get around or through parts of the Election Law. We all know that.

They're trying to very cleverly get around the State Constitution. I don't think the court's going to be fooled by the difference between legalizing and decriminalizing a slot machine.

And I think when Big Julie down in Coney Island gets arrested having four slot machines in the back of the candy store, he's going to go to federal court and say, equal protection under the law. Equal protection under the law. The New York State Legislature said if I'm standing on this block in Niagara Falls with my slot machine, it's okay, but I'm going to jail because I've got a slot machine in Coney Island.

It's a serious problem. I don't think this will survive. And I don't think that's good for Western New York or the Seneca Nation if we hand them three or four pages that aren't going to do the job. I can think of better ways to possibly authorize those kinds of devices under our constitution. This isn't the way.

Now, why are we doing slots? It's just like Connecticut. Well, Connecticut did not have a constitutional ban. It had a legislative ban. And it granted the Mashantucket Pequot and then later the Mohegans exclusive rights to slot machines in return for 25 percent back to the state. Good deal, made Connecticut a lot of money, made them a lot of money.

You know, under IGRA you cannot, by the way, take anything. We cannot tell the Oneida, You're making a lot of money, we want 25 percent. We can't take 1 percent. We can't tax them a penny. Because the games they play are games that we let charities play. And the Department of the Interior will not let a state hold up an Indian tribe for a

payout or a tax or whatever in return for a compact.

But they approved the Connecticut model because Connecticut was giving them something they didn't have, slots, something they couldn't get. And the Seneca can't get slots under New York law. So this is the 25 percent payout. It's 18 percent for five years, and then it's 22 percent and then eventually 25 percent of the draw. Okay? We're going to get that because we're giving them slots.

Well, if the courts say, They got their casinos but, gee, the slots were illegal, they don't get slots, they get the casino, we don't get 25 percent.

I got a bigger problem with it. What did I say before? The Oneida compact. There's one with the Mohawk too. They're entitled to anything New York makes legal. Right? That's why they can play blackjack, that's why they can play the big-wheel game and shoot dice.

Well, if we let somebody in New York have slots, I don't see how they

don't get slots. Okay? I don't see how they don't get slots. We're giving slots to the Seneca tribe, why can't the Oneida put slots in at Turning Stone? They can.

And like all good treaties, this one -- and even this MOU, that's not yet this but it outlines it, have what are known, when they do international treaties, when they do contracts -- those are your lawyers -- when they do do contracts, a most-favored-nations clause which says we'll give you 22 or 25 percent, depending on the year, on the slots as long as you don't give a better deal to somebody else. And if you give a better deal to somebody else, we get the same price.

Those of you who are lawyers know that you put that in contracts all the time. Right? Favored-nations clause. There's one in here, with the Oneida. There's reference to similar things in the MOU which will become a contract.

So if, under IGRA, because we let the Senecas ostensibly exclusively have slot machines, then the Oneida are entitled to say, Well, we get slots now, and we don't have to

pay you because you give it out in New York.

And if the Oneida doesn't have to pay us to have slots, then you can rip up this, because the Senecas will get the slots and we won't get the 25 percent and the localities won't get the 3 percent.

This is a problem. Major problem. I know it's attractive to say to legislators: Look at all the revenue you're going to get. I'm not sure we're getting it. I'm not sure they're getting the slots, and I'm not sure, if they get the slot machines, that we get the revenue anyway. That's a problem.

Perhaps it's somehow negotiable or addressable, but not in this document. And it's not in this little slim bill that we're presented with. And I really -- I have regrets, because I am committed to supporting casinos for Niagara Falls. Absolutely. But I have great concerns about this. I cannot believe this will end up being the law. I can't believe if it passes both houses and is signed like this that the courts won't throw it out because of these defects in here.

I don't think the attempt to get

around the ban, the constitutional ban that goes back to the 1938 convention will be effective legally. I think we're buying a pair of dice from Big Julie without the spots on it.

And I in good conscience can't -- I mean, I don't know what some of this stuff in the MOU means. I think it's admirable that the second provision is entitled "Cultural Exchange" in the MOU. I think it's very admirable. And I know that the Senecas are quite concerned with their traditions and culture, and they're going to have a referendum and it's important for the members of the tribe to know that's been addressed in this compact.

Because I forgot to remind you, all my colleagues, none of this is effective if the tribal members don't vote in favor of it within the next 30 days. My question is, why is the Legislature of the State of New York voting first? We're going to adopt this law and then if it's rejected by the tribe, what's that say about us? It's another cart before the horse.

We're ratifying the treaty before it's written, we're ratifying the deal before there's a deal, because there's no deal if the Seneca Nation doesn't vote in favor of it.

I don't understand. There may be -- I think there are political reasons for this. I think some of them are not our politics. I think some of them are not our politics. They're Seneca Nation politics. And I respect that.

But what does this provision mean? Parties agree and understand that the Nation possesses its own unique social customs, traditions, laws and history. Yes. In order to make persons working at a Class 3 facility established pursuant to the compact more aware of the Nation's culture, traditions, laws and history, the Nation may conduct periodic cultural seminars in a manner of its choosing for all facility employees. That's great.

It shall be the policy of the Nation and the State that the employees at the facility shall attend such seminars. The State is going to help ensure that the employees attend cultural, traditional

seminars?

I know part of the cultures and traditions are religious. I hope the State is not making the facility's employees, as a condition of employment, attend something that's of a religious nature.

And I have another question. They're employees. Are they getting paid for the time at these seminars, or is the State forcing them to go to it and not get paid? I don't know from this. Maybe, if I could ever see this, I'd know the answer to that. But I don't know if they're getting paid.

I don't know if we're agreeing to help force employees who are nonmembers of the tribe to go to a seminar like this without compensation. You can't tell that from this. You can't tell it at all.

Here it talks about sharing the revenues with localities. But it's not in the compact, it's not here, and it's up to us. Now, I do know there's another bill coming that has prefatory language indicating that the Legislature wants to do that. That seems -- actually, that's the tightest

language I've seen in any of this stuff, to tell you the truth, Mr. President.

Law enforcement. Law enforcement at the facility shall be pursuant to applicable law governing law enforcement jurisdiction on Indian lands.

That's not quite accurate. New York's Iroquois, for better or worse, have a unique jurisprudential and sovereignty situation compared to the rest of the nation, due to a member of this body who represented Salamanca in the early part of the 20th century -- got to get these centuries right now -- and to his influence and the influence of a committee of the State Senate under his guidance that influenced the United States Congress in the early thirties to pass a series of laws giving New York criminal jurisdiction over Indian reservations, Iroquois reservations, federally recognized reservations.

We're the only state that has that kind of criminal and concurrent civil jurisdiction over reservation lands. No state has that kind of civil jurisdiction. Doesn't

mean a New Yorker can sue the tribe in state or federal court. But it does mean, as to individual matters, there is civil jurisdiction within the reservation.

When we start -- and look, I know that's not popular among our Iroquois nations. Traditionalists argue they shouldn't do that, troopers shouldn't be allowed on the reservation, shouldn't bring matters to New York courts. But it is the law of the land. Congress has passed it. This Legislature has validated that, before and after. Actually, Congress passed it to validate things that the Legislature had done.

So for us to say the normal law enforcement jurisdiction on Indian lands, I'm concerned. There's a difference between normal jurisdiction on Indian lands and normal jurisdiction on New York Indian lands. Quite different. Quite different if you know Indian law.

Nation Tort Claims Act. The Nation will establish its own tort claims act which will provide due process in an impartial forum for the bringing of private tort claims.

That's good. But that's under the general principles of jurisprudence as to due process. You have to have a hearing, you have to have an impartial judge. It doesn't say you need to have a jury.

Tort liability? Certainly nothing wrong with capping everything at $5,000 or whatever. We don't know what they'll do. It won't be in the compact. It's just the Nation trying to undertake that it's going to pass a tort claims law. We don't know what that means if New Yorkers are injured in the middle of downtown Buffalo, right, when they're walking on the pavement outside of the block that becomes part of the reservation and something falls off the parapet of the building and hits them on the head.

New York law, according to this, won't govern. And the Indian tort claims law, whatever that turns out to be, will govern. We don't know what that's going to be. Is it going to have a wrongful death limit at $10,000? Some states have that. They could have that. That would meet due process requirements. But we don't know. They're

going to have something, but we don't know what it is.

I also have a concern that importing something like this, it ends up in a compact, that we have waived our concurrent civil jurisdiction over the reservation. We have it now. If we're acknowledging, no, they're going to take care of tort claims, have we in fact waived something that New York has enjoyed for decades, civil jurisdiction on reservation lands?

Something that the state of Arizona, something that the state of Colorado -- something New York has that is unique in these United States. Are we, by treaty, now giving that up? I don't know. It well could be. Hard to figure out from these few pages. Maybe it can be determined from here.

This compact says that the State Racing and Wagering Board will license and supervise gaming at the Oneida casino. Similar provision in the Mohawk compact.

This slim document says that the Nation commission, the Nation, Seneca Nation

Gaming Commission will regulate and supervise gaming. Quite different. Quite different.

Now, I've been told by advocates for the Nation, Oh, no, no, we intend to have troopers on-site like the others. We intend to have Racing and Wagering.

That's not what this says. It says the Nation will issue the license to the employees, the Nation will supervise the gaming. In fact, there is a provision for the BCI, Bureau of Criminal Investigations, State Police, to do background checks and notify the Nation commission of someone's prior felony record. There is a provision in there where a felon, by the way, the Nation can have it reviewed and actually hire a felon if it's only one felony more than five years ago.

I don't think a felon can get a job in Las Vegas or Atlantic City. But there is forgiveness in this little document for felons. There's a review process so some felons can get licenses to work in gaming. I don't know how that fits in with the rest of the world.

It's a slim document, but there's

a -- I'm talking about the things that aren't in here. Why isn't the State Racing and Wagering Commission supervising gaming there and making sure that those dice do have spots on them and a different spot on every side of the cube, as happens in the other Indian casinos? I don't know. It's unique.

I read this years ago, I reread it. This is different. It's not the same old thing. There are a lot of faults. And my concern is that at the end of the day the people of the State of New York don't get what they think they bargained for, the Seneca Nation doesn't get what it thinks it bargained for, and, most importantly, the people of Niagara Falls and Western New York don't get what they bargained for.

Mr. President, I will vote against this. I suspect that before this summer is out we will see a bill, an amendment to this that will have far more meat on the bones, that will fill out a lot of these things. I would really like to see -- after the Nation votes, I'd like to see this document.

And I suspect that if all the

promises are kept and met -- I can't pass on promises. Can't pass on promises. If all the promises or promise of this, with some corrections, ends up met in a document like this, I will vote for it then. I'll gladly vote for it, for Niagara Falls.

While I'm at it, the other bill, which we'll take up shortly -- to save time, I'll comment on it briefly -- in addition to doing the local revenue sharing, which is good, it purports to invoke and apply the state's labor laws, workers' compensation laws, and so on to these two casinos. But we can't do that by law. We can't apply our labor laws.

So what it says is, in effect, it's the policy of this Legislature that when they negotiate this they include and get the tribe to agree to workers' compensation, labor protections, nondiscrimination of employee protections, and that sort of stuff. And I think we all want to see that.

But make no misunderstanding, when we pass the second bill, it doesn't mean it has to be in here. Because it's not in the

MOU, and it doesn't have to be in the compact. And we're never going to get another chance to ratify the compact, because we're ratifying it in advance.

So in the second bill we're saying: And we hope this thing we ratified that we haven't seen will end up having the labor protections in it. Because when we pass a bill saying the labor protections apply, that's not legal. The Nation must agree to it. They have that degree of sovereignty.

So it's a good sentiment, and I'm going to vote for the second bill, but I don't think it has any legal effect. It only has legal effect if it ends up in the compact. But we're already ratifying the compact that hasn't been written yet.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

The hour is late. We have another calendar that we're going to take up after this bill. And we're going to finish the work

that we have to do.

Now, I'm only rising because Senator Connor went on at great length talking about a document that he seems to be very proud of, that huge compact with the Oneidas that was negotiated by Governor Mario Cuomo, which is the worst agreement put together in the entire United States, where we in New York State receive absolutely nothing, nothing, as a result of the document that you're so proud of that you point to with your hundred-and-some pages.

Let's be very clear here in this chamber. Many of us in the chamber would like not to have casinos in New York State. I would like not to have casinos anywhere in the world, certainly not in North America. But, Senator, we have casinos. We have casinos surrounding us here in New York State. We have two of them across the bridge in Canada.

And I was just glancing through, trying to occupy myself while you were talking, that there is $600 million in revenue from one casino across the bridge in Canada. $600 million in revenue, with 8½ million

people crossing the bridge, half of them from New York State and the United States.

That's what this is all about. Not whether or not we're going to have casinos. We have casinos. They're all around us. People take buses to go to Foxwood, the largest casino in the whole world, with the greatest participants being from New York State. That's what this is all about.

So we should be applauding the Governor for recognizing that 4 million Americans are crossing the bridge to go into Canada to deposit $600 million in revenue over there, while Niagara suffers and Buffalo suffers and people here who represent that area, their constituents are suffering.

So in the real world -- in an idealistic world, there would be no casinos in the world. That's not what this is all about.

And when you talk about the fact that slots will be illegal, maybe they will and maybe they won't. I'm not going to make that judgment. What we have before us here is an agreement to allow our chief executive of New York State to negotiate with the Senecas

an agreement. And when he's done, that agreement may be thicker than the one that you're looking at, and it will answer all the questions that you were asking and it will correctly identify some of the comments and statements that you made that are not accurate, I'm sorry to have to report to you. And how do I know? My very learned counsels tell me so.

So one of the things that you've got to be aware of is that there is revenue that will come from the slots. And if it is true that the Oneidas in Turning Stone and the Mohawks will also have slots, because this is going with the Senecas' compact -- and when it's approved, you're right, they then have a right to get the slots. But you're wrong, they don't get them free. They pay, unlike what the Oneidas pay now, up to 25 percent when this is fully implemented, according to this agreement. They will have to pay, to the state, up to 25 percent.

And unlike that compact that goes on forever, past all of our lifetimes, this has a sunset, in 21 years. That has none.

And that's the worst deal that could have been made here in New York State by anyone.

So you want to be critical of the Governor, you can be critical. But I'd be interested in your comments as relates to the individual that negotiated that that you have before you.

So I only say this because Niagara presently is the most, pardon me, economically devastated area in all of New York State. I don't think there's any area that is suffering more deprivation economically than Niagara. While $600 million goes across the bridge, 4 million New Yorkers and Americans go across the bridge. That's wrong. That is wrong.

So what the Governor is trying to do, with the Senators and other legislators, is correct a wrong. That's what this is all about.

Now, will this change? It certainly will. We are allowing our elected chief executive of New York State to go forward and to negotiate the details of a compact.

Now, again, I'm not standing here

talking about how great this is if we'd had our druthers. We don't. And if I could close those casinos in Canada, I would. And if I could do away with Foxwood and the other one, whatever they call it, Mohegan whatever, Sun -- and I've never been there. And there are many of you in this room that can probably say you've never been there. I've been to a casino once in my life. And I only went because I wanted to see what it was all about, because I keep hearing about casinos.

So let's be clear. There are any number of speakers that can speak. And that's what, you know, this discussion is all about and that's what legislating is all about. What we are doing tonight -- and we are going to pass this legislation with 34 votes on this side of the aisle and any other votes that you want to share in moving this legislation forward -- we are empowering our Governor, our elected chief executive to negotiate a compact with the Senecas, one that will be a huge improvement over what his predecessor did in the casinos that presently exist here in New York State.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Mr. President, to answer the question, let me clarify. I only held this up for its heft, not its content.

No, no, no, I was just showing how long and complicated a compact gets. I'm not standing by anything that's in this compact.

And you may be right, and hopefully you are. Maybe the one that Governor Pataki negotiates will be twice as big. I can't wait to read it.

Unfortunately, at the time this was done, though, under the Indian Gaming Act, the state couldn't hold them up for any money because there weren't slots in it.

But -- and let me say, Senator Bruno, just a couple of weeks ago I contributed about $600 to that $600 million in Ontario. So I've been there and I've seen it.

But I would point out something we ought to give thought to, something we haven't done that I know Speaker Fink once advocated

years ago. That casino in Ontario is owned by the government of Ontario. And they get all $600 million. They don't get 25 percent of it, they don't get 18 percent in the first five years and so on. They get it all. And I'm usually not in favor of government running business, but maybe that's something we ought to think about if we're really going down this road someday.

And I don't mean that to stand as a bar to this Niagara Falls casino. I think we ought to do the casino in Niagara Falls. I look forward to supporting this bill when it's amended to answer some of the questions I've raised.

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

Senator Schneiderman.

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

I will try to be brief. I know it's late. But I must say that in the two and a half years I've been here, this strikes me as really the most irresponsible effort to pass legislation I've seen.

This bill simply requires -- the Governor can negotiate the compact now. We're not empowering him to do that. He can negotiate it now and then present it to us after -- and if -- it's ratified by the tribe.

What we're doing is giving him a blank check based on requiring it to be consistent with the memorandum of understanding, which I respectfully submit may prove to be a disaster.

And I hear Senator Padavan's articulate case against gambling generally. I agree with much of what he said. But I think that if this MOU is followed you're going to see things worse in Niagara Falls than you've ever seen in Atlantic City or anywhere else that gambling is allowed.

Why do I say that? The screening process, the felony review process is a joke. It is not up to the standards of New Jersey, Las Vegas, or any other jurisdiction that I'm aware of. Add to that the fact that you're not going to have tort law applying. So if you commit assaults or any other types of activities -- and who knows what the criminal

enforcement is going to be, because that's not clear. You may have weak tort laws, you clearly have inadequate screening procedures. Niagara Falls, you may have a big infusion of people there, but a lot of them may not be people you want in Niagara Falls.

And I respectfully submit that this is not necessary to move this process forward. I don't know why we have to do this in the middle of the night the last day of session when the Governor can go and negotiate the compact himself now.

This is -- maybe we're giving him political cover. I don't know what the background discussions have been. It is clear that the Governor has got a big problem. And the big problem is that the upstate rebound is a lie and everyone knows it's a lie, and he is going to do whatever he can do to try and salvage some little scrap of his reputation for economic development.

This is not the way to do it. And I'm very sorry to see this house -- which I may disagree with what goes on on the other side of the aisle, but I've never seen an

abdication of our responsibility like this since I've been here. I think I'm sensitive to all the arguments about economic development. I don't think it's necessary - I know it's not necessary to pass this bill tonight in order for economic development to go forward, the Governor to negotiate the compact, the tribe to consider this.

This is a very embarrassing way, for me, for us to end this session. I urge everyone to vote no. And I am sure that Senator Connor is correct, that we will see a version of this legislation again. I hope it's a lot better than this.

Thank you, Mr. President.

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

Senator Brown, do you wish to speak?

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

ACTING PRESIDENT KUHL: Senator Brown, on the bill.

SENATOR BROWN: First let me say that both of these proposed casinos are in the

57th Senate District, which is my district in Buffalo and in Niagara Falls.

I would have preferred to have seen a referendum on the ballot to give the voters an opportunity to express their preference on this issue, to be very honest with you. I would have liked to have seen the voters in Niagara Falls and the voters in Buffalo, the people that we represent here, be able to tell us what they will like to see.

But failing that, I want to make it quite clear I'm going to be supporting this bill. I understand the reason for concern. But I also believe that this should move forward. The city of Niagara Falls is hurting, and it's hurting desperately. Every day there are thousands of people that take that five-minute ride right across the border to Casino Niagara and spend American dollars in Canada. We need to keep our dollars in Niagara Falls, America.

Let me just read some of the statistics about what's happening in Niagara, Ontario. By 2002, visitors to the Niagara, Ontario, region are projected to be 20 million

visitors just to that casino alone. More than $6 billion in new development is either planned or under construction throughout the Niagara, Ontario, region. Since opening in December 1996, more than 30 million people have walked through the doors of casino Niagara.

Tourism spending is growing faster than the entire Canadian economy as a whole in Ontario. By 2002, tourism will account for approximately 21.8 percent to 26.3 percent of employment in this area. Nearly half a million Ontarians work in tourism.

Let me just share you with some of the Casino Niagara's fourth-quarter fiscal figures for the fiscal year which is from April 1, 2000, to March 31, 2001. The gross gambling revenue for that year that I just mentioned, just one year, is $49.7 million a month, on the average. The yearly gross gaming revenue was $5,963 million, $5,963 million, over half a billion dollars on gaming.

Now, the daily average of people that walk through the doors of Casino Niagara,

over 25,000 people walk through the doors of Casino Niagara every single day, most of them U.S. citizens. U.S. citizens.

Now, clearly Casino Niagara is killing tourism on Niagara Falls on the American side. And I know that we can't solve all of our problems looking for one silver bullet that's going to answer all of our questions. But this is certainly, I believe, one part of an overall economic recovery strategy that we need in this region.

So I'm going to support this because from my representation of Niagara Falls, every meeting I go to, every block club meeting, every dinner, every lawn fete, there are citizens that say, "Please, please talk to the Senators, talk to your colleagues in Albany, make them understand that we want to see casino gaming in Niagara Falls so that we can compete with Casino Niagara in Niagara Falls, Ontario."

So I'm going to urge my colleagues to have a little trust, to believe that the final agreement will be worked out in the best interests of the citizens of our state, and to

support this piece of legislation.

I know that there are many unanswered questions. I understand that. I have concerns myself. I'm concerned about the return to local governments. There is a 25 percent return to the State, and this agreement gives the Governor, gives the State the ability to reach final agreements with host local governments. Well, I hope those host local governments are the cities of Niagara Falls and Buffalo, not the cities of Niagara Falls, Buffalo, and the counties of Niagara and Erie. Because the real impact of gaming is going to be in those cities where these casinos are located, in the city of Niagara Falls and in the city of Buffalo. The impact is not going to be as great in the counties, in the larger counties.

So I hope when we look at those host local governments that get a percentage of this revenue, we are talking about those cities where the brunt of the negative impact -- where the problem gamblers will live, those people that Senator Padavan talks about, those that are least able to afford to

go to a casino and gamble that will be hurt the most, those people that are most likely going to be coming from the city. I hope those are the communities that are going to get this revenue sharing.

Also, I'm concerned about the Grand Island land claim. I have to put that on the table because I represent the town of Grand Island. And I know that there's going to be separate legislation that will indemnify that community. I want to see that, because I know that the people in the town of Grand Island are very concerned about their homes and very concerned about that land claim. And for them it's an issue that they live with each and every day.

I'm also concerned about diversity in the construction of this casino, the contracts that will be let and the jobs that will be created. Because for this to work for those communities, the entire community has to be a beneficiary. The entire community has to be able to participate and reap the benefits of these casinos.

Is this agreement perfect? No, it

is not perfect. But is this something that I believe these communities need? Absolutely. I'll be supporting this piece of legislation and I urge all of my colleagues on both sides of the aisle to support this legislation.

Thank you.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR CONNOR: Slow roll call, Mr. President.

ACTING PRESIDENT KUHL: Are there five members in the chamber who -- there are.

Okay, the Secretary will ring the bells.

Call the roll.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: Aye.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: To explain my vote.

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

SENATOR BONACIC: I'd like to congratulate Governor Pataki and my colleague Senator George Maziarz for the work they've been doing to bring this package together.

It's very difficult to get a tribe to agree to enter into a compact with the governor of the state. We know that the western region is suffering economic deprivation. Tourism is the second most important industry in the state of New York.

Casinos never guarantee prosperity, but they are a catalyst for economic vitality that will bring people in. And when a family visits the Buffalo or Niagara Falls area, maybe one will go into the casino but the rest of the family will go into recreational activities, eat in the restaurants, stay in the hotels, and it will be a tremendous boost to that area which they need.

I heard Senator Connor speak that this compact should be negotiated and then we

should ratify it. We can't agree on the most simplest bills in this chamber. Can you imagine us trying to agree on every item in the compact? It would never get done.

I trust our Governor to do this intelligently and comprehensively when he does this compact, to look at the return to education, to look at project labor agreements, to look at host fees to the local governments, to look at protecting the businesses around the casino to restrict the Senecas from competing other than in the gaming industry.

And when that is done, I expect this to be a blueprint for other areas that are suffering economic deprivation. And I can tell you that we in the Catskills have been working for six years now trying to bring back the Catskills, who are having the same economic deprivation that we are seeing in the western region.

So it's important for my colleagues on both of the sides of the aisle, and I'm very pleased to vote in the affirmative.

Thank you, Mr. President.

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

Continue to call the roll.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: Nay.

THE SECRETARY: Senator Brown.

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

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

SENATOR BROWN: Right now Niagara Falls and Buffalo have all of the downside of casino gaming.

Casino Niagara is five minutes away from the city of Niagara Falls. It's twenty minutes away from the city of Buffalo. People from the city of Niagara Falls and the city of Buffalo are going over to Niagara Falls, Ontario, in record numbers, spending their U.S. dollars in Canada.

We want to keep those U.S. dollars in Niagara Falls and Buffalo, and one way to do it is through this agreement.

I vote yes.

ACTING PRESIDENT KUHL: Senator

Brown will be recorded in the affirmative.

Continue to call the roll.

THE SECRETARY: Senator Bruno.

SENATOR BRUNO: Yes.

THE SECRETARY: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

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

SENATOR CONNOR: Again, I don't like other people characterizing what I say.

I did thank the Governor and praise his efforts here. I hope his continued efforts will in fact bear fruit with a real compact.

And frankly, I think -- I don't propose for a minute that the Legislature in ratifying a compact would take up each section individually. You take that thing and you either vote up or down on it. That's the way treaties are done. So I just do have a process problem.

But I want to congratulate my colleague Senator Byron Brown, who represents the city of Niagara Falls and the city of

Buffalo, who will, for better or worse, have two casinos in his district. He's in favor of it, I know he's influenced a number of other members to vote in favor of this, and that's fine.

And I look forward -- something tells me that this version is a one-house version and it will be back. And when it's back with a better version, I'll be happy to vote for it.

ACTING PRESIDENT KUHL: Senator Connor will be recorded in the negative.

SENATOR CONNOR: I vote no.

ACTING PRESIDENT KUHL: Continue to call the roll.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator Dollinger.

(No response.)

THE SECRETARY: Senator Duane.

SENATOR DUANE: No.

THE SECRETARY: Senator Espada.

(No response.)

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Aye.

THE SECRETARY: Senator Gentile.

(No response.)

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Goodman.

(No response.)

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes.

THE SECRETARY: Senator Hevesi.

SENATOR HEVESI: No.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: Aye.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Kruger.

(No response.)

THE SECRETARY: Senator Kuhl.

ACTING PRESIDENT KUHL: Aye.

THE SECRETARY: Senator Lachman.

(No response.)

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Aye.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Aye.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Aye.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz, excused.

Senator Maziarz.

SENATOR MAZIARZ: Aye.

THE SECRETARY: Senator McGee.

SENATOR McGEE: Yes.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Aye.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: Yes.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Morahan.

SENATOR MORAHAN: Yes.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I ask unanimous consent to be excused from voting and explain my vote.

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

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President and my colleagues, that the measure before us is one that has been endorsed by Governor Pataki and promoted by the Western New York delegation, although I certainly would have preferred this matter to be part and parcel, as Senator Brown had indicated, of one that settled Indian land

claims.

I too have an Indian land claim in my district and, as such, am very concerned for the property owners who are under the direct litigation by certain Indian tribes. That the Seneca Nation has a land claim, as Senator Byron Brown indicated, and as such I certainly would have preferred, before we dealt with this compact, to have that land claim resolved.

But I believe it's also up to the local Senators -- Senator Brown, Senator Volker, Senator Maziarz, Senator McGee, Senator Rath -- who are directly representing the land owners in the Seneca Indian Nation. Those representatives are the ones that should determine whether or not certain aspects should or shouldn't be resolved prior to entering into this compact.

As such, I respect their judgment, I respect their position, and I hope that they, certainly when other compacts or other Indian matters are brought before this Legislature, that they respect the individual legislators who represent the particular areas

under Indian litigation or under question of particular sovereignty issues.

As such, Mr. President, I vote in the affirmative.

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

Continue to call the roll.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: No.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: No.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Rath.

SENATOR RATH: Yes.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: No.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator

Schneiderman.

SENATOR SCHNEIDERMAN: No.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Aye.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator A. Smith, excused.

Senator M. Smith.

SENATOR MALCOLM SMITH: Yes.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: No.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT KUHL: Call the absentees.

THE SECRETARY: Senator Dollinger.

(No response.)

THE SECRETARY: Senator Espada.

(No response.)

THE SECRETARY: Senator Gentile.

(No response.)

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Goodman.

(No response.)

THE SECRETARY: Senator Kruger.

(No response.)

THE SECRETARY: Senator Lachman.

(No response.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes, 39. Nays, 13.

ACTING PRESIDENT KUHL: The bill is passed.

Senator LaValle, why do you rise?

SENATOR LAVALLE: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 1365.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator LaValle will be recorded in the negative on Calendar Number 1365.

Senator Bruno.

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

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

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Supplemental Calendar 57E, in regular order.

ACTING PRESIDENT KUHL: Noncontroversial, Senator?

SENATOR BRUNO: Yes.

ACTING PRESIDENT KUHL: The

Secretary will read the noncontroversial reading of Supplemental Calendar 57E.

THE SECRETARY: In relation to Calendar Number 1384, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 4870 and substitute it for the identical Senate Bill Number 2538, Third Reading Calendar 1384.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1384, by Member of the Assembly Vitaliano, Assembly Print Number 4870, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1385, by Senator Padavan, Senate Print 2551, an act to amend the Public Authorities Law.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1386, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 8480 and substitute it for the identical Senate Bill Number 5095, Third Reading Calendar 1386.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1386, by the Assembly Committee on Rules, Assembly Print Number 8480, an act to amend the Retirement and Social Security Law.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1387, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 6878 and substitute it for the identical Senate Bill Number 5276, Third Reading Calendar 1387.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1387, by Member of the Assembly Abbate, Assembly Print Number 6878, an act to amend the Retirement and Social Security Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1389, by the Senate Committee on Rules, Senate Print Number 5688, an act to amend a chapter of the Laws of 2001.

ACTING PRESIDENT KUHL: There is a message of necessity at the desk.

SENATOR BRUNO: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a chapter of the Laws of 2001.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the noncontroversial reading of the calendar. We have one bill left on the controversial calendar.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we take up Supplemental Calendar 57C, Calendar Number 1359.

ACTING PRESIDENT KUHL: The Secretary will read.

SENATOR BRUNO: Thank you.

THE SECRETARY: Calendar Number 1359, by Senator Johnson, Senate Print 5577A, an act to amend the Alcoholic Beverage Control Law.

SENATOR BRUNO: Is there a

message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1359. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives and announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1359 are

Senators Alesi, Maziarz, and McGee. Ayes, 55. Nays, 3.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Rath, why do you rise?

SENATOR RATH: Mr. President, I request unanimous consent to be recorded in the negative on Calendar 1359.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Rath will be recorded in the negative on Calendar Number 1359.

Senator Bruno, the Rules report is at the desk.

SENATOR BRUNO: I would move that we accept the Rules report.

And we first must return to reports of standing committees and then ask that the report be read. Thank you.

ACTING PRESIDENT KUHL: We'll return to the order of reports of standing committees.

There's a Rules report at the desk.

The Secretary will read.

THE SECRETARY: Senator Bruno,

from the Committee on Rules, reports the following bills:

Senate Print 140A, by Senator Volker, an act to amend the Vehicle and Traffic Law.

2515B, by Senator Padavan, an act to amend the Education Law.

4318B, by Senator Velella, an act to amend the General Business Law.

5168A, by Senator Johnson, an act to amend the Vehicle and Traffic Law.

5280, by Senator Leibell, an act to amend the Retirement and Social Security Law.

5283, by Senator Leibell, an act to amend the Retirement and Social Security Law.

5400A, by Senator Marcellino, an act to amend the Vehicle and Traffic Law.

5413, by Senator Leibell, an act to repeal paragraph E.

5414, by Senator Leibell, an act to amend the Civil Service Law.

5539, by Senator Leibell, an act to amend the Administrative Code of the City of New York.

5576, by the Senate Committee on

Rules, an act to amend the Labor Law.

5685, by Senator Bonacic, an act to amend the Insurance Law.

And Senate Print 4832, by Senator Oppenheimer, an act to amend Chapter 711 of the Laws of 1907.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The Rules report is accepted.

The bills are ordered directly to third reading.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 1385.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number

1385, by Senator Padavan, Senate Print 2551, an act to amend the Public Authorities Law.

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

SENATOR PATERSON: Mr. President, I don't want to prolong the proceedings, so I would just like to report for the record that last year there were ten negative votes. Included in those votes were the no votes of Senators Duane, Hevesi, Montgomery, Mendez, Schneiderman, Sampson, Smith and Smith, and myself.

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

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives and announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1385 are Senators Duane, Hassell-Thompson, Hevesi, Paterson, Sampson, Schneiderman, and M. Smith.

Ayes, 51. Nays, 7.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Padavan, why do you rise?

SENATOR PADAVAN: Mr. President, by unanimous consent, having been in the Rules Committee at the time, I'd like to be recorded in the negative on Calendar 1389, Senate Bill 5688.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Padavan will be recorded in the negative on Calendar Number 1389.

Senator Bruno.

SENATOR BRUNO: Mr. President, is there housekeeping to be done at the desk?

ACTING PRESIDENT KUHL: Yes.

SENATOR BRUNO: Can we do that at this time.

ACTING PRESIDENT KUHL: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Saland, on page number 9 I offer the following amendments

to Calendar Number 223, Senate Print 3148A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 223 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Bruno.

SENATOR BRUNO: Can we at this time, Mr. President, take up Supplemental Calendar 57F, noncontroversial.

ACTING PRESIDENT KUHL: Calendar 57F is on the desks of all the members.

The Secretary will read the noncontroversial reading.

THE SECRETARY: In relation to Calendar Number 1390, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 2226A and substitute it for the identical Senate Bill Number 140A, Third Reading Calendar 1390.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number

1390, by Member of the Assembly Smith, Assembly Print Number 2226A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1392, by Senator Velella, Senate Print 4318B, an act to amend the General Business Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives and announce the results.

THE SECRETARY: Ayes, 56. Nays, 2. Senators Libous and Spano recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1393, by Senator Johnson, Senate Print 5168A, an act to amend the Vehicle and Traffic Law and the Education Law.

SENATOR BRUNO: Is there a message at the desk, Mr. President?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1393. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 14. This act shall take effect April 1, 2002.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1394, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 8586 and substitute it for the identical Senate Bill Number 5280, Third Reading Calendar 1394.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1394, by the Assembly Committee on Rules, Assembly Print Number 8586, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1395, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 8588 and substitute it for the identical Senate Bill Number 5283, Third Reading Calendar 1395.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1395, by the Assembly Committee on Rules, Assembly Print Number 8588, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1396, by Senator Marcellino, Senate -

SENATOR STAVISKY: Lay it aside.

THE SECRETARY: -- Senate Print 5400A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk, Mr. President?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1396. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The bill is before the house and laid aside.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 1397, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 8589 and substitute it for the identical Senate Bill Number 5413, Third Reading Calendar 1397.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1397, by the Assembly Committee on Rules, Assembly Print Number 8589, an act to repeal paragraph E of subdivision 4.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Hoffmann.

SENATOR HOFFMANN: Mr. President, I request unanimous consent, please, to be recorded in the negative on 1393.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Hoffmann is recorded in the negative on Calendar Number 1393.

The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 1398, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 7325 and substitute it for the identical Senate Bill Number 5414, Third Reading Calendar 1398.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1398, by Member of the Assembly Lentol, Assembly Print Number 7325, an act to amend

the Civil Service Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1399, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 9028 and substitute it for the identical Senate Bill Number 5539, Third Reading Calendar 1399.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1399, by the Assembly Committee on Rules, Assembly Print Number 9028, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1400, Senator Bruno moves to discharge, from the Committee on Rules -

SENATOR BRUNO: Lay it aside for the day.

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

THE SECRETARY: In relation to Calendar Number 1401, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 4395 and substitute it for the identical Senate Bill Number 5685, Third Reading Calendar 1401.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1401, by Member of the Assembly Grannis, Assembly Print Number 4395, an act to amend the Insurance Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Seward recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1402, Senator Oppenheimer moves to discharge, from the Committee on Rules, Assembly Bill Number 8759 and substitute it for the identical Senate Bill Number 4832, Third Reading Calendar 1402.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1402, by the Assembly Committee on Rules, Assembly Print Number 8759, an act to amend Chapter 711 of the Laws of 1907.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Saland, why do you rise?

SENATOR SALAND: Mr. President, I would request unanimous consent to be recorded in the negative on Calendar Number 1392, Senate 4318B.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Saland will be recorded in the negative on Calendar Number 1392.

Senator Nozzolio, why do you rise?

SENATOR NOZZOLIO: I ask unanimous consent, Mr. President, to be recorded in the negative on Calendar Number 1392.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Nozzolio will be recorded in the negative on Calendar Number 1392.

Senator Maltese, why do you rise?

SENATOR MALTESE: Mr. President, I ask unanimous consent to be recorded in the negative on Calendar Number 1392.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Maltese will be recorded in the negative on Calendar Number 1392.

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

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 1396.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1396.

THE SECRETARY: Calendar Number

1396, by Senator Marcellino, Senate Print 5400A, an act to amend the Vehicle and Traffic Law.

SENATOR STAVISKY: Explanation.

ACTING PRESIDENT KUHL: Senator Marcellino, an explanation has been requested by Senator Stavisky.

SENATOR MARCELLINO: Yes, Mr. President.

This bill requires that no person operate a motor vehicle while using a handheld mobile phone.

ACTING PRESIDENT KUHL: Senator Stavisky.

SENATOR STAVISKY: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Stavisky, on the bill.

SENATOR STAVISKY: This is the bill that bans the use of cellphones while you're driving except for the handheld variety. And it seems to me that many of the people in this chamber are affected by this legislation, because I notice, driving on the Thruway, that many people are using

cellphones.

This was originally brought to our attention back in 1997 when researchers at the University of Toronto published an article in the New England Journal of Medicine. And in that article it explained that using a cellphone while driving increases the possibility of an accident fourfold. And the study also said that you have the same risk as driving under the influence of a 0.1 blood alcohol level.

In other words, using a cellphone while driving is extremely dangerous. And it's dangerous because of a lack of concentration, no other reason. You're not paying attention to the road, you're paying attention to your conversation.

As a result of the study in the New England Journal of Medicine back in -- it was published in February of 1997, my predecessor, Senator Leonard Stavisky, introduced the first cellphone bill, as far as I know, in the state and certainly, as far as I know, in the United States. And it was based on that -- as I said, that New England Journal of Medicine

study.

His legislation called for an outright ban. I have modified that bill, and it's been languishing in the Senate -- well, since Leonard introduced it in 1997. That bill calls for an outright ban.

There's a second bill which requires research when an accident occurs by the State Police. In other words, on the motor vehicle accident form there would be space to report whether a cellphone was involved when there's a vehicular accident.

That aspect has been incorporated in the bill that's before us today. But it seems to me that the problem is the use of the telephone. And while I intend to vote for Senator Marcellino's bill, I think we have to recognize that the problem is the lack of concentration. Not the use of the hands, but the distraction. Newspapers have called it driving while distracted.

And it seems to me that hands-free is not hazard-free, and I caution all my colleagues to be very careful, if we do adopt this bill this evening, to keep their

concentration on the road and not on the conversation.

Thank you, Mr. President. I vote yes.

ACTING PRESIDENT KUHL: Any other member wishing to speak on this bill?

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR BALBONI: Yes, Mr. President.

I'd like to thank Carl Marcellino for his leadership on this issue. He's been absolutely terrific. He had this bill in two years ago.

If it was a perfect world, I would ask that people do not drive and use the cellphone. And I'd like to vote in favor of this bill on behalf of Dina Lesser, the former

town clerk of the Town of North Hempstead, who lost her husband due to a chauffeur on a cellphone who absolutely did not pay attention. And you know how they know that, ladies and gentlemen? There were no skid marks in a broad-daylight crash in an intersection.

It's on behalf of that family I vote aye. Thank you, Mr. President.

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

The Secretary will announce the results.

Will the negatives please raise their hands one more time.

THE SECRETARY: Those recorded in the negative on Calendar Number 1396 are Senators Farley, Hoffmann, Kuhl, Libous, Meier, Nozzolio, Seward, and Wright. Ayes, 50. Nays, 8.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SEWARD: Mr. President.

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

SENATOR SEWARD: I would ask unanimous consent to be recorded in the negative on Calendar Number 1392, which passed earlier this evening.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Seward will be recorded in the negative on Calendar Number 1392.

Senator Farley.

SENATOR FARLEY: 1392, I'd like to be negative.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Farley will be recorded in the negative on 1392.

Any other members wishing to register votes?

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time ask for the last Rules Committee meeting, in Room 332.

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

The Senate will come to order. I ask the members to take their chairs, staff to find their places.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to reports of standing committees.

I believe there's a report of Rules Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT KUHL: We'll return to the order of reports of standing committees.

There is a report of the Rules Committee at the desk.

The Secretary will read.

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

Senate Print 5689, by the Senate Committee on Rules, an act to amend the Election Law.

SENATOR BRUNO: Move to accept.

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

Committee. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The report is accepted.

The bill is ordered directly to third reading.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 1403.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1403, by the Senate Committee on Rules, Senate Print Number 5689, an act to amend the Election Law.

SENATOR BRUNO: Is there a message at the desk, Mr. President?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT KUHL: The

motion is to accept the message of necessity on Calendar Number 1403. All those in favor signify by saying.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Rath, why do you rise?

SENATOR RATH: Mr. President, I request unanimous consent to be recorded in the negative on Calendar 1392. Thank you.

ACTING PRESIDENT KUHL: Without

objection, hearing no objection, Senator Rath will be recorded in the negative on Calendar Number 1392.

Senator Montgomery, do you wish to be recognized?

SENATOR MONTGOMERY: Yes, I want to note no. Are we voting?

ACTING PRESIDENT KUHL: No, we're done with the roll calls.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, with unanimous consent I'd like to be recorded in the negative on Calendar Number 1403, which is, I believe, the bill we just did.

ACTING PRESIDENT KUHL: Without objection, Senator Paterson will be recorded in the negative on Calendar Number 1403.

Senator Montgomery, is that your request also?

SENATOR MONTGOMERY: Yes, I would like to request no.

ACTING PRESIDENT KUHL: Without objection, Senator Montgomery will be recorded in the negative on Calendar 1403.

Senator Stavisky, is that your

request?

SENATOR STAVISKY: Yes, that's my request also.

ACTING PRESIDENT KUHL: Without objection, hearing no objection.

Senator Onorato, same request?

SENATOR ONORATO: Yes.

ACTING PRESIDENT KUHL: Without objection.

Senator Smith?

SENATOR MALCOLM SMITH: Yes.

ACTING PRESIDENT KUHL: Without objection.

Senator Sampson?

SENATOR SAMPSON: Yes.

ACTING PRESIDENT KUHL: Without objection.

Senator Hevesi? Hassell-Thompson? Schneiderman? Breslin? Duane? All the same request? Without objection.

Senator Brown also.

And Senator Stachowski, similar request?

For the benefit of the members, just to make sure that you all wish to be

recorded as you are, I'll have the Secretary read the negatives on Calendar Number 1403 again, those who have now been recorded in the negative.

The Secretary will read the negatives.

SENATOR BRUNO: Mr. President, can we at this time recognize Senator Libous for purposes of making a motion.

ACTING PRESIDENT KUHL: Can we just read the negatives on Calendar Number 1403 first?

Oh, okay. Senator Libous, motions and resolutions.

SENATOR LIBOUS: Thank you, Mr. President. I wish to call up Calendar Number 1395, Assembly Print 8588.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1395, by the Assembly Committee on Rules, Assembly Print Number 8588, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Mr. President, I now move to reconsider the vote by which this Assembly bill was substituted for Senate Print Number 5283 on 6/21.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Mr. President, I now move that Assembly Bill Number 8588 be recommitted to the Committee on Rules and that the Senate bill be restored to the Third Reading Calendar.

ACTING PRESIDENT KUHL: So ordered.

For the benefit of the members, the Secretary will read the negatives on Calendar Number 1403.

THE SECRETARY: Those recorded in the negative on Calendar Number 1403 are Senators Breslin, Brown, Connor, Duane, Hassell-Thompson, Hevesi, Mendez, Montgomery,

Paterson, Sampson, Schneiderman, M. Smith, Stachowski, and Stavisky. Also Senator Onorato. Ayes, 43. Nays, 15.

ACTING PRESIDENT KUHL: The bill is passed. It was passed before.

Senator Oppenheimer, why do you rise at this wee hour in the morning?

SENATOR OPPENHEIMER: I didn't rise.

If you would be so good, I would like unanimous consent to be recorded in the negative on 1403.

ACTING PRESIDENT KUHL: Without objection -

SENATOR OPPENHEIMER: I need coffee so that I can rise.

ACTING PRESIDENT KUHL: -- and hearing no objection, Senator Oppenheimer will be recorded in the negative on Calendar Number 1403.

The Senate will come to order.

Senator Bruno.

SENATOR BRUNO: Mr. President, at this time I would move that we recommit all bills to Rules.

ACTING PRESIDENT KUHL: Without objection, all bills are recommitted to Rules.

Senator Bruno.

SENATOR BRUNO: There being no other business to come before the Senate at this time, I would move that we stand adjourned at the call of the Majority Leader.

Have a nice weekend and a nice early July. Amen.

(Applause.)

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned, subject to the call of the Majority Leader.

(Whereupon, at 12:29 a.m., the Senate adjourned.)