NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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11:17 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order.

I ask the members to find their places, staff to find their places.

I ask everybody in the chamber to rise and join with me in saying the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT KUHL: We're very pleased to have Sister Joan Sobala of the Sisters of St. Joseph of Rochester, New York, with us today to lead us in the invocation.

Sister Joan.

SISTER JOAN SOBALA: Thank you. And good morning, everyone.

Before we pray, I want to thank you, the members of the New York State Senate, for revisiting the rules which govern eligibility to pray before your sessions. I especially want to say a word of thanks to Senator Dollinger for inviting me here today.

And thank you on behalf of all Roman Catholic women who minister in a variety

of statewide and local settings, bringing our talents and experiences and convictions to the service of the same people that you serve so well. So thank you for this privilege.

Let us pray.

God of our many faith traditions, we call You by our own special names. Yet today, as one, we praise and thank You for Your abiding presence in our people and our land, from the mighty Niagara to the wide and busy Hudson, from the quiet grandeur of the Adirondacks to the rich and diverse life of the city.

Tender God, may the compassion and justice, wisdom and creativity You inspire wherever people of goodwill gather be deeply present here today in the members of the New York State Senate and their staffs.

We pray that our state senators deliberate with depth, review with respect, and decide with determination in all matters before them today. Let good humor temper discourse, and let there be mutual encouragement to stay the course until the day's work is well done.

We pray in faith to our God and in solidarity with one another.

Amen.

ACTING PRESIDENT KUHL: Reading of the Journal.

THE SECRETARY: In Senate, Monday, March 18, the Senate met pursuant to adjournment. The Journal of Friday, March 15, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT KUHL: Hearing no objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Espada, from the Committee on Alcoholism and Drug Abuse, reports:

Senate Print 1070, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

1168, by Senator McGee, an act to

amend the Vehicle and Traffic Law;

1897, by Senator Maziarz, an act to amend the Vehicle and Traffic Law;

And Senate Print 3057, by Senator Wright, an act to amend the Vehicle and Traffic Law.

All bills ordered direct to third reading.

ACTING PRESIDENT KUHL: Without objection, all bills are ordered directly to third reading.

Senator Velella, why do you rise?

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

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

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Velella, there are some substitutions at -

SENATOR VELELLA: Are there any substitutions?

ACTING PRESIDENT KUHL: There are.

SENATOR VELELLA: Can we take them up now.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: On page 9, Senator Maltese moves to discharge, from the Committee on Consumer Protection, Assembly Bill Number 174A and substitute it for the identical Senate Bill Number 92A, Third Reading Calendar 139.

On page 12, Senator Morahan moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 1918 and substitute it for the identical Senate Bill Number 1982, Third Reading Calendar 199.

On page 15, Senator Padavan moves to discharge, from the Committee on Education, Assembly Bill Number 9916 and substitute it

for the identical Senate Bill Number 6312, Third Reading Calendar 265.

And on page 24, Senator Hannon moves to discharge, from the Committee on Health, Assembly Bill Number 2490 and substitute it for the identical Senate Print Number 4336, Third Reading Calendar 357.

ACTING PRESIDENT KUHL: The substitutions are ordered.

Senator Velella.

SENATOR VELELLA: Mr. President, can we adopt the Resolution Calendar, with the exception of Resolutions 4426, 4429, and 4479.

ACTING PRESIDENT KUHL: The motion is to adopt the Resolution Calendar, with the exceptions of Resolutions 4426, 4429, and 4479. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The Resolution Calendar is adopted.

Senator Velella.

SENATOR VELELLA: Mr. President, can we now go to the noncontroversial reading of the calendar.

ACTING PRESIDENT KUHL: The Secretary will have the noncontroversial reading of the calendar.

THE SECRETARY: Calendar Number 52, by Senator Marcellino, Senate Print 96, an act to amend the Vehicle and Traffic Law, in relation to increasing.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 102, by Senator Hannon, Senate Print 2820A, an act to amend the Public Health Law, in relation to establishing a program.

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

THE SECRETARY: Section 2. This act shall -

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 179, by Senator Rath, Senate Print 6046, an act to amend the General Municipal Law, in relation to the collection.

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

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 181, by Senator DeFrancisco, Senate Print 432A, an act to amend the Social Services Law, in relation to the transportation.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

182, by Senator Meier, Senate Print 1444A, an act to amend the Social Services Law, in relation to reimbursement.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 196, by Senator Velella, Senate Print -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 197, by Senator Volker, Senate Print 6137, an act to amend the Penal Law, in relation to making the seizure of unauthorized recordings.

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

THE SECRETARY: Section 2. This act shall take effect on the same date as Chapter 542 of the Laws of 2001 takes effect.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 201, by Senator Bonacic, Senate Print -

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 232, by Senator Wright, Senate Print 4250, an act to amend the Public Service Law and the State Administrative Procedure Act, in relation to endorsement.

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

THE SECRETARY: Section 3. This act shall take effect in 90 days.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 237, by Senator Padavan, Senate Print -

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 239, by Senator Hoffmann, Senate Print 3665, an act to amend the Agriculture and Markets Law and the Tax Law, in relation to time requirements.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 271, by Senator Farley, Senate Print 2839, an act to amend the Banking Law, in relation to conforming.

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, 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 287, by Senator LaValle, Senate Print 2340A, an act to amend the Education Law and the General Municipal Law, in relation to regulation.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 300, by Senator Libous, Senate Print 5492A -

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 324, by Senator Meier, Senate Print 6212, an act to amend the Real Property Tax Law, in relation to contract.

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, 52.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 331, by Senator Bonacic, Senate Print 6319, an act to amend the Highway Law, in relation to the New York State Scenic Byways System.

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, 52.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR VELELLA: Mr. President, can we now have the controversial reading of the calendar.

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

SENATOR DeFRANCISCO: I request unanimous consent to be voted in the negative on Calendar 52, Senate 96.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator DeFrancisco will be recorded in the negative on Calendar Number 52, Senate 96.

The Secretary will read the controversial reading of the calendar, beginning with Calendar Number 102, Senate 2820, by Senator Hannon.

THE SECRETARY: Calendar Number 102, by Senator Hannon, Senate Print 2820A, an act to amend the Public Health Law, in relation to establishing a program.

SENATOR DUANE: Explanation, please.

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

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

THE SECRETARY: Calendar Number 179, by Senator Rath, Senate Print 6046, an act to amend the General Municipal Law, in relation to the collection.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT KUHL: Senator

Rath.

SENATOR RATH: Mr. President, this is a very simple bill allowing municipalities and municipal corporations which must collect water or sewer user fees, charge rates or rentals, or special assessments which are not collected together with real property taxes, to contract with banks or trust companies for the collection of the fees.

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

SENATOR DUANE: If the sponsor would yield, please.

ACTING PRESIDENT KUHL: Senator Rath, do you yield to a question from Senator Duane?

SENATOR RATH: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: I'm wondering if the sponsor could tell me what the genesis of this bill is.

SENATOR RATH: It is provided to make it a little simpler for the local

governments to have a place where these can be paid and taken care of which would be more convenient for the taxpayers.

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

ACTING PRESIDENT KUHL: Senator Rath, do you continue to yield to a question from Senator Duane?

SENATOR RATH: Surely. Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: How are these payments collected presently?

SENATOR RATH: For the most part, you have to go into the town hall to pay them. That's not all always a convenient opportunity.

If you'll recall, for many years electric bills and water bills and telephone bills, et cetera, could be paid in banks. I recall this clearly. And this is just a matter of convenience.

SENATOR DUANE: And through you, Mr. President -

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

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: The Senator yields to another question, Senator.

SENATOR DUANE: And that means that without this legislation, municipalities are prohibited from using banks or other -

SENATOR RATH: No, it doesn't mean they're prohibited from it. It means this sets in place a provision so that it can be handled that way in relation to water or sewer fees, rates or rentals, as you'll see in the summary of the provisions.

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

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

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: I'm just

confused. If they can already do it, then, then why -- what is the purpose of this legislation?

SENATOR RATH: I'm sorry, Senator, I couldn't hear you.

SENATOR DUANE: If I can repeat the question, Mr. President -

ACTING PRESIDENT KUHL: Senator Duane, just -- you don't need to look at me when you address the senator. If you speak so that your voice covers the mike, I think that Senator Rath will have an easier time hearing your question.

The Senator yields. Please repeat the question.

SENATOR DUANE: And if the chatting, perhaps, behind her was less intense.

I'm wondering if you could already pay in banks, why do we need this legislation which allows you to pay in banks?

SENATOR RATH: I think maybe I wasn't real clear, Senator.

There are provisions for other kinds of bills to be paid in banks, but this

one is not presently authorized. These to pay water and sewer fees are not presently authorized.

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

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

SENATOR RATH: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Are you allowed to mail your fees into banks, et cetera, or would you continue to have to mail these taxes into city hall?

SENATOR RATH: I believe the mail process would be as it is now. This does not deal with mail provisions at all. That would be as it is in current law.

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

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

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Can you now mail these sewer tax payments, for instance, to banks, or can you only mail them to city hall?

SENATOR RATH: No, presently they go directly to the town hall.

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

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

SENATOR RATH: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: So this bill makes it so that you can walk into a bank and pay but you cannot mail your payment into a bank?

SENATOR RATH: You cannot mail it into the bank. You can still mail it into the town hall.

But if you prefer to carry the money into the bank for convenience' sake,

because you're already there doing something, then you can pay the bill at the bank.

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

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

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Are there other -- besides those areas enumerated in this legislation, are there other fees, charges, et cetera, that can now presently be paid by walking into a bank?

SENATOR RATH: I would have to say, Senator, I'm not real clear about what still remains.

At one time gas bills, electric bills, and telephone bills could be paid at the bank. I don't do that anymore. Direct deposit has changed it, and direct draw from your direct deposit account has made a major difference in the way many of these are paid.

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

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

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DUANE: Is this bill at the request of NYCOM or the Comptroller? Or who requested this bill?

SENATOR RATH: Let me check with counsel. I'm not real sure who requested the bill.

The bill emanated from the Comptroller's office in prior discussions, and a very large Comptroller's bill last year that was broken apart into many pieces, and this is one of them.

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

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

Hearing none, 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, 56.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR VELELLA: Mr. President.

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

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

ACTING PRESIDENT KUHL: Immediate meeting of the Aging Committee, immediate meeting of the Aging Committee in the Majority Conference Room, Room 332.

The Secretary will continue to call the controversial reading of the calendar.

THE SECRETARY: Calendar Number 181, by Senator DeFrancisco, Senate Print 432A, an act to amend the Social Services Law, in relation to the transportation.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator DeFrancisco, an explanation of Calendar Number 181 has been requested by Senator Paterson, the acting Minority Leader.

SENATOR DeFRANCISCO: Currently, in order to get transportation authorized for individuals who are on Medicaid, an application has to be submitted for preapproval. This bill would simply state that in the approval process of transportation, if the person is physically and mentally capable of using a bus, a subway, a fixed-route means of transportation, then they will be required to do that.

This does not apply in situations of emergency. And it does not apply to an individual who cannot, because of disabilities, take such a method of transportation.

Our county, Onondaga, did a study that indicated it would be a savings of about $650,000 if this law was in effect each year.

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

SENATOR PATERSON: Mr. President, if Senator DeFrancisco would yield for a couple of questions.

ACTING PRESIDENT KUHL: Senator DeFrancisco, do you yield to a question from Senator Paterson?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Mr. President, Senator DeFrancisco did some very good research. And this is the type of criteria - I was talking about this yesterday, that when these types of things can be established, that you can perhaps support legislation like this, because we would like to know what the savings is.

Moreover, my question to Senator DeFrancisco is, what would be the guidelines which would establish an exemption for someone, and how would they go about getting it?

Is this something that's realistic that a person can establish that -- for instance, I lived in an area in Long Island

once that bordered Senator Hannon's district and Senator Skelos's district. And what I remember is I don't think there was a bus within a mile and a half of where I lived at that particular time.

Would that establish an exemption?

SENATOR DeFRANCISCO: Absolutely.

And the point is that if there's no fixed means of transportation available, fixed-route means of transportation, then obviously it's not practical to do this.

And it's only in those cases where that's available and the person doesn't have a condition that would preclude that person from using that type of transportation.

ACTING PRESIDENT KUHL: Senator Paterson.

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, what about the frequency of the travel? You might

have a situation where you're close to the bus stop, for instance, and maybe the bus only runs once a day. There are actually areas in the state where that type of thing happens.

Do you think that would qualify for an exception?

SENATOR DeFRANCISCO: Well, you know, you can go through every example you'd like to go through. But the intent is very simple, that if there is a fixed-route means of transportation, it's usually, in just about every case, less costly.

If it's practical under those circumstances to use that fixed-route means of transportation, then that person will have to use that if there's no disability that prevents them from doing so.

It's no different than anyone who does not qualify for public assistance has to do if they're a low-income individual. It's just a practical, commonsense approach, and it has to be done on a case-by-case basis.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President,

on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: I want to congratulate Senator DeFrancisco for his diligence. He is always very interesting in his responses, and he, as much as anybody here, takes a real hard look at these pieces of legislation before he considers them. And it's always a pleasure to work with him and observe the way he reacts to different bills that are brought before the floor.

And I think I have to take an added moment to really think about whether or not I can vote against this bill, based on the fact that he does put this effort into his work.

But on this one, I submit to my colleagues that it really is the examples, it really is the application more than the idea that I think is too burdensome for individuals who are already in a position where they require government assistance, that any little thing can really upset their budgets.

And say, for instance, you might have this rule and you have a bad day and the

person needs to go to the doctor, you have inclement weather, and now they've got to stand out there for hours waiting for a bus when perhaps a taxi would have been a quicker way.

In New York City, we have often different types of malfunctions on the subway, not all of them traceable. Sometimes in city employment you would not be charged for the time you missed when it was clear that there was a major subway delay and you couldn't get there on time. But sometimes these are issues in a particular station, the station is closed, the access to the subway is difficult.

There are a myriad number of examples, there are a myriad number of problems in the application of this legislation that I think is just overly burdensome for people who are already unfortunate as of nature, and really just tacks on an additional problem to their everyday lives.

And I would suggest that even though it would save about $650,000 a year, that it's not money that we, who hopefully

don't want to cause people who are a little less fortunate than us to endure that type of a burden, would want to actually save. I don't know if it's a savings as much as it's a convenience which causes inconvenience to others.

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

Senator Gentile, why do you rise?

SENATOR GENTILE: Yes, Mr. President. On the bill, please.

ACTING PRESIDENT KUHL: Senator Gentile, on the bill.

SENATOR GENTILE: I have to agree with my colleague Senator Paterson. Particularly given the fact that in the area that I represent on Staten Island, there is very little public transportation that is convenient.

Particularly the fact -- and some members of the house may not know this, that Staten Island does not have a subway system. There is no subway system on Staten Island. There's only one train that goes from St. George to Tottenville and back. That's

not very convenient for someone who has to get somewhere other than where that one train runs.

Certainly if my constituents in Staten Island had to get to Manhattan and to use public transportation to get to Manhattan, if, as the Senator has mentioned, they are ill or sick or in some way had to wait for two buses or a bus and then a ferry, that is really imposing a burden on the people of Staten Island. Whereas you might think that it's convenient being in the city of New York, living in the borough of Staten Island, it's not the same situation.

So I would agree with my colleague Senator Paterson that this imposes in many cases an undue burden on many constituents.

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

Hearing none, then the debate is closed.

Excuse me, Senator Krueger, you wish to speak on the bill?

SENATOR LIZ KRUEGER: Will the sponsor yield to a question?

ACTING PRESIDENT KUHL: I'll ask. Senator DeFrancisco, do you yield to a question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LIZ KRUEGER: Thank you. Senator DeFrancisco, who will give the authority through the Department of Health if someone needs to get an exemption or get a change in their permission to use public transportation?

SENATOR DeFRANCISCO: The same as the authority is now. In the county of Onondaga, whatever the agency is -- the Social Services Department -- that has to give the preapproval now to get transportation in the first place.

SENATOR LIZ KRUEGER: Mr. President, will the Senator yield to another question?

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The

Senator yields.

SENATOR LIZ KRUEGER: Thank you.

And have you been able to, Senator, find out whether the Department of Health is successful in effectively operating that program for the state? Because in my experience, there have been people who have actually had to file appeals after the course of their medical treatment in order to get that resolved, long after they've completed the process.

SENATOR DeFRANCISCO: I've never had any constituent contact me complaining about how the program is administered in Onondaga County. I don't know of any instance. I'm sure there are, but I'm not aware of any.

SENATOR LIZ KRUEGER: Mr. President, will the Senator yield to an additional question?

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

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

Senator, is it your understanding that the Department of Health would recognize a family-unit need for transportation, such that a mother might have an ill child and multiple other children that she needed to take with her to medical care, so even though she herself, as the adult, could arguably use public transportation, when dealing with a sick child or multiple children that need to travel with her, that that would be an added limitation and problem for using public transportation?

SENATOR DeFRANCISCO: All I can say is that it's a case-by-case basis. Depending upon the facts -

ACTING PRESIDENT KUHL: Senator DeFrancisco, would you excuse the interruption just a moment? It's even difficult to hear your debate up here.

Senator Farley.

To the members, if you need to have a conversation, please take it out of the chamber.

Senator Leibell, if you need to

have a conversation, please exit the chamber.

Thank you, Senator DeFrancisco.

SENATOR DeFRANCISCO: I think the answer is that it's a case-by-case analysis.

Number one, are you approved depends upon what your circumstances are and if you're -- if you're entitled to this transportation. And whether you should be required to have fixed transportation or a fixed route depends upon everything including what fixed routes are available, what your circumstances are.

You can't give a broad, general rule. The bill just says if this is possible, it should be done.

And it's no different than if I just happened to be above the poverty line or the line that would entitle me to transportation. It's a great inconvenience for those low-income individuals who don't have the benefit of any transportation. They're inconvenienced. They have to stand on a corner. And if a person is on public assistance, they should follow the same rules if they are physically and mentally capable.

And that's what the legislation intends, and I think it's eminently sensible.

SENATOR LIZ KRUEGER: Thank you, Senator.

Mr. President, may I speak on the bill.

ACTING PRESIDENT KUHL: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I also have to explain my vote to vote no on this bill. While I appreciate Senator DeFrancisco's points about the inequity between people who may not be on Medicaid and those who are and the difficulties in getting transportation to get to health care, I think as a legislature our goal should be to ensure that all New Yorkers who have medical needs are assisted with improved access to health care rather than saying because we have an unfair system overall we should decrease the access or the potential access to the most medically appropriate transportation to health care because we can't do it for everyone.

Speaking from my experience in

New York City -- granted, I don't know the transportation systems as well in upstate New York -- the fact is that there are many times when someone may not be technically defined as in a medical emergency in order to use an ambulance, where the only way for them realistically to get to health care is to use private transportation.

Unfortunately, we do not have a perfect system of public transportation even in a large city like New York City. And the fact is that today we have too many people who end up -- who are very low-income who end up having to pay out-of-pocket for a cab in a medical situation, who never get the reimbursement under the current rules.

And I think that shrinking the eligibility and making it more difficult for people to continue to get reimbursement through the Medicaid program for transportation does a disservice to people who receive Medicaid assistance in the state and who in fact on any number of different occasions would be justified in needing to get to use private transportation that may not be

the lowest cost to get access to health care.

I would actually urge the Senate to revisit this legislation in the context of how few people under today's rules are actually able to get reimbursement from the Medicaid system for their transportation needs.

While $650,000 in savings may sound like a significant amount of money, I think if you hold it up against the amount of money that perhaps we are not spending under the existing rules where people are eligible but never get their reimbursement, we might see this in a different light.

Thank you very much, Mr. President.

ACTING PRESIDENT KUHL: Senator Hassell-Thompson, why do you rise?

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. I rise to speak on the bill.

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

SENATOR HASSELL-THOMPSON: Thank you.

Listening to my colleagues makes me just have a need to share with Senator

DeFrancisco that in many of our areas, when we pass bills like this, the impact in Onondaga may be very, very different than it may be in the city.

And so while we are certainly supportive of those things that are needed in your community, when it becomes a statewide issue -- I represent two counties. I represent Westchester and the Bronx. And when we talk about the -- you couldn't have a more varied system than those two counties in terms of how public transportation is provided.

But knowing, for instance, in the Bronx, in Co-op City, Co-op City just lost two buses that were very significant to them. MTA, with all the letters and all the concerns that we addressed to them, refused to hear the concerns that we raised about the fact that when they took off Public Bus 28, that bus served people going from Co-op City to the Veterans Hospital.

And many of them were people who worked at Veterans Hospital, but more often they were veterans who used the services of that hospital. And in doing that, it put them

in a very awkward position.

We have been investigating the ways in which to address those needs. But when you do a legislative enactment like this, this further makes it more difficult for us to be able to come up with private ambulance services or other kinds of services that we need to use to augment the absence of public transportation.

And so while some communities enjoy rapid transportation, many of our communities do not. And so for that reason, on a statewide basis, many of us cannot, knowing the needs of our own individual communities, cannot be in support of this bill.

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

Senator Stavisky.

SENATOR STAVISKY: Mr. President, on the bill.

I'm not sure if Senator DeFrancisco is aware of the fact that in Queens County we have a unique problem. Our subway system is not necessarily accessible to the disabled, and in fact often is not.

Secondly, we have a subway system that ends far from where people live and they have to take a bus. We have two-fare zones. This makes it very difficult for people to take public transportation if they have to visit some medical facility.

And for that reason, Mr. President, I will vote no.

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

Senator Smith.

SENATOR ADA SMITH: Thank you, Mr. President.

In the past I have debated with Senator DeFrancisco on this bill. However, today I will just speak on the bill, taking into consideration all of the things that we've said in debate.

And my colleague Senator Stavisky has just related the trials of traveling in the county of Queens and how unfair it is to attempt to have someone that is not well to navigate that transportation system to get proper medical attention.

And while we're at it, the cost of

the ambulance services in the city of New York has been cut to the point where it is even cheaper now in some instances to take a taxi.

So these are some of the things that we need to be looking at, rather than continuing to punish those people who have needs for medical attention.

Thank you. I will be voting in the negative.

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 on the same date as Section 31 of Part B of Chapter 1 of the Laws of 2002.

ACTING PRESIDENT KUHL: Record the negatives.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Very simply, I know each district has their own specific system of transportation. Some are more convenient than others.

Each one of the individuals who would be affected by this legislation, if it ever passed both houses, would -- their circumstances would be reviewed by the county in which they live. And if there are counties that have these difficult transportation situations, no doubt that would be considered as to whether there's really the appropriate transportation available.

But I think those counties that do have adequate transportation should be required to require the least expensive transportation, because those people that are just above the -- not only because of the savings, but those are just above the poverty line or the Social Services line, it's their taxes that are paying for these additional costs that they -- that are necessitated by the current system, and they are just as inconvenienced as the people that are capable of taking public transportation or fixed transportation that are on Social Services.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 181 are Senators Andrews, Brown, Connor, Duane, Espada, Gentile, Hassell-Thompson, Hevesi, L. Krueger, C. Kruger, Lachman, Onorato, Paterson, Sampson, Santiago, Schneiderman, A. Smith, M. Smith, and Senator Stavisky. Ayes, 40. Nays, 19.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Velella.

SENATOR VELELLA: Mr. President, there will be an immediate meeting of the Transportation Committee in the Majority Conference Room, Room 332.

ACTING PRESIDENT KUHL: Immediate meeting of the Transportation Committee, immediate meeting of the Transportation Committee in the Majority Conference Room, Room 332.

Senator Velella.

SENATOR VELELLA: And on behalf of Senator LaValle, the Higher Education Committee will meet at 3:00 p.m. in Senator

LaValle's office, 806 in the LOB.

ACTING PRESIDENT KUHL: There will be a Higher Education Committee meeting in Senator LaValle's conference room at 3:00 p.m. this afternoon.

Senator Paterson, why do you rise?

SENATOR PATERSON: Point of order, Mr. President.

Upon information and belief, I understand that the chair instructed Senator Duane, when he was debating with Senator Rath, to face Senator Rath, when the rules specifically govern us to face the chair.

And I wanted to know if that was your understanding or if I misunderstood.

ACTING PRESIDENT KUHL: Senator Paterson, I would have to research that particular point of order. In that it does not disrupt the proceedings today, I'll take that under advisement and personally deliver an answer to you this afternoon after we conclude our session here.

But I was speaking just as a matter of convenience to try to accommodate Senator Rath's hearing of the question. I think we've

resolved that issue since that time. And hopefully that will suffice for an answer.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I would like unanimous consent to be recorded in the negative on Calendar 181.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 181.

SENATOR MONTGOMERY: Thank you.

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

SENATOR GONZALEZ: Yes, Mr. President. I too would like unanimous consent to be recorded in the negative on 181.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Gonzalez will be recorded in the negative on Calendar Number 181.

SENATOR GONZALEZ: Thank you.

ACTING PRESIDENT KUHL: Senator Velella.

SENATOR VELELLA: Mr. President,

Senator Dollinger wishes to be recognized. If the chair would recognize him.

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

SENATOR DOLLINGER: Mr. President, I rise just because this is an historic day of sorts in the Senate. And I would just like to comment, if I could, for a brief moment about the person who gave the prayer in the Senate today.

Sister Joan Sobala comes from the Diocese of Rochester. She has been with the Sisters of St. Joseph for a number of years, Sister. I learned the tactful equivocation as a part of diplomacy not from the sisters of St. Joseph, I learned it from the Jesuits, Sister.

But nonetheless, she has been with the Diocese of Rochester for a number of years. And the reason why she participates in history today is because the Senate rules, prior to Sister Joan's appearance, required that in order to give a prayer, you had to be an ordained minister. Which meant that those nuns who took vows as part of their religious

experience and their commitment were not, under the rules, eligible to say the prayer.

Through Senator Bruno's office - and I want to thank Senator Bruno for this change -- and also through John McArdle, who has also assisted me in bringing this change about -- we have altered the rules of the Senate with respect to who qualifies for the prayer in order to entitle those members of our religious communities who have professed vows to be eligible to say the prayer.

Sister Joan has been an important part of the Diocese of Rochester, particularly in her work for the St. Mary's Church in the downtown community.

But I think today is an important day because it recognizes the religious commitment, the commitment to belief, to ministry, and to the concept of bringing communities together, is something that we now recognize surpasses gender.

And I welcome these committed Catholic women to our list of eligible chaplains of the Senate. And I want to congratulate Sister Joan, thank her for coming

down, thank her for bringing her friends in the religious community with her in this day when we celebrate that the word of God, the word that, when we say "one nation under God," we recognize that God accepts the prayers of those who are ordained and those who are committed by vow to their religious experience.

Thank you for coming, Sister.

ACTING PRESIDENT KUHL: Senator Velella.

SENATOR VELELLA: Mr. President, if we can return to motions and resolutions and call up Senate Resolution 4479, by Senator Maltese. I ask that the title be read, and then that Senator Maltese be recognized to speak on it.

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

The Secretary will read the title of Resolution Number 4479.

THE SECRETARY: By Senator Maltese, Legislative Resolution Number 4479, commemorating the 91st anniversary of the

Triangle Shirtwaist Factory fire, on March 25, 2002.

ACTING PRESIDENT KUHL: Senator Maltese, on the resolution.

SENATOR MALTESE: Mr. President, I rise to invite all members of the Senate to join me as cosponsors of this resolution.

It commemorates the 91st anniversary of a very tragic and momentous day in New York and the country's history. It changed the Labor Law and provided for protection of workers and was the cause of the deaths of 146 mainly young immigrants, young immigrant women, Yiddish and Italian, who had recently arrived on our shores and were working at the Triangle Shirtwaist Factory Company, which was located in downtown Manhattan on the West Side.

A fire broke out, and in the course of the fire, 146 souls perished. And this was because of intolerable working conditions, doors locked, lack of a sprinkler system, and the fact that the fire trucks of the day could reach no further than the sixth floor.

A ceremony commemorating that event

will be held on Monday in Times Square downstairs. All legislators are invited to attend. It is a ceremony, especially in view of September 11th, that should be attended by all legislators. And it changed the course of New York's history and provided for more protection for many of our garment workers and workers in sweatshops.

Unfortunately, the work is not yet done, and it something that we in the Senate, by commemorating UNITE!, the union which was -- is a union that commemorates this event every year, and it is something that we should attend so that it will never happen again.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Velella.

SENATOR VELELLA: Mr. President, can we follow the normal procedure and ask that the resolution be opened to all members, all members be put on it. And if anyone does not wish to be on the resolution, that they would notify the desk.

ACTING PRESIDENT KUHL: The chair will direct that the Secretary place all

members' names on the resolution unless those members do not wish to cosponsor the resolution. If they do not, they should notify the desk immediately.

The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Velella.

SENATOR VELELLA: Can we return to the controversial calendar in regular order.

ACTING PRESIDENT KUHL: We will return to the controversial reading of the calendar in regular order.

The Secretary will read.

THE SECRETARY: Calendar Number 196, by Senator Velella, Senate Print 4723, an act to amend the Penal Law, in relation to the crime of unauthorized use of a motor vehicle in the second degree.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT KUHL: Senator Velella, an explanation of Calendar Number 196 has been requested by Senator Montgomery.

SENATOR VELELLA: Mr. President, this is a bill that was given to me and suggested to me by the district attorney of Bronx County, Robert Johnson.

It allows the charge of unauthorized use of a motor vehicle in the third degree to be elevated to the second degree when the defendant has a previous third degree conviction within ten years.

ACTING PRESIDENT KUHL: Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, I would just like to ask a question.

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

SENATOR VELELLA: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: Senator, I'm

trying to figure out, why do we need to have an additional level of charge and penalty? It seems to me that we already have in place -

SENATOR VELELLA: Well, Senator, this bill would take a misdemeanor offense and elevate it to an E felony when people who have committed the crime once before do it again within the ten-year period.

It's an attempt by the district attorneys to stop the recidivism of these people who just continually go out there, rip off cars, and there's not enough evidence, so they get a third-degree charge continuously and they're sentenced under repeating misdemeanors.

So that if you've had this misdemeanor within a period of ten years for doing the same thing, or any of the higher grand larceny or auto theft crimes within a period of ten years, you will now have that crime elevated to a felony so that these people will realize the seriousness of their acts and the economic impact it has on people in their community.

SENATOR MONTGOMERY: Mr.

President, through you, I would like to ask another -

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

SENATOR VELELLA: Certainly.

ACTING PRESIDENT KUHL: Senator Montgomery, the Senator yields.

SENATOR MONTGOMERY: Senator Velella, the bill appears to be targeting the so-called -- these youth who take cars for the joyride, the joyride -

SENATOR VELELLA: Sometimes appearances are deceiving, Senator. It is not targeted to go at youths. It's targeted to go at people who steal cars, thieves.

So long as they are chargeable under the criminal law and not juvenile delinquents, it would treat anyone who is stealing a car, regardless of their age, so long as they are of the age that would be treated as a criminal and not as a juvenile delinquent or a person in need of supervision.

So no, the appearance that it is targeting a certain group or age level is not.

The fact of the matter may be that

the people who tend to steal cars tend to be a little younger. I don't think it's a crime committed by senior citizens; it tends to be a crime committed by younger people.

But we take the thieves as we find them, whatever age they are, and punish them accordingly.

SENATOR MONTGOMERY: All right. Thank you, Senator.

Mr. President, briefly on the bill.

ACTING PRESIDENT KUHL: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: As far as I can tell, I voted no on this legislation in the past.

And one of the problems for me is that it's a situation where, even though there's no age indicated in the legislation, we do know that the whole issue of taking a car -- unauthorized use, as is stated here - is something that it's an act that is unique pretty much to young people, that they go joyriding in someone else's car.

And this is not really a bill targeted to the people who run the chop shops

who are out there defrauding and dealing in insurance fraud and those kinds of serious situations.

So I'm going to continue to vote no, because I just see it as targeting young people who are unfortunately into joy riding -- and we don't want to see that. But by the same token, we don't want them to end up in prison because they went joyriding in their grandparent's car.

Thank you.

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

Hearing none, the debate is closed.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negative and announce the vote.

THE SECRETARY: Ayes, 58. Nays,

1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Velella.

SENATOR VELELLA: Mr. President, there will be an immediate meeting of the Local Governments Committee in Room 332, the Majority Conference Room.

ACTING PRESIDENT KUHL: Immediate meeting of the Local Government Committee, immediate meeting of the Local Government committee in the Majority Conference Room, Room 332.

The Secretary will continue to read the noncontroversial reading of the calendar.

THE SECRETARY: Calendar Number 201, by Senator Bonacic, Senate Print 5116, an act to amend the Public Housing Law, in relation to the sale or lease of a housing project.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negative and announce the results.

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

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 237, by Senator Padavan, Senate Print 1814, an act to amend the Agriculture and Markets Law, in relation to spectators.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 300, by Senator Libous, Senate Print 5492A, an act authorizing -

SENATOR PADAVAN: Lay it aside for the day, Mr. President.

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

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

SENATOR PADAVAN: Mr. President, can we return to the reports of standing committees. I believe there is a report from the Finance Committee at the desk.

ACTING PRESIDENT KUHL: We can, and there is.

Return to the order of reports of standing committees. The Secretary will read the report from the Finance Committee which is at the desk.

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

As director of the State of New York Mortgage Agency, Jerome M. Becker, Esquire, of New York City.

As alternate nonvoting member of the Metropolitan Transportation Authority, James L. McGovern, of Manhasset.

As a member of the New York State Olympic Regional Development Authority, Clifford R. Donaldson, Jr., of Saranac Lake.

As banking members of the State Banking Board, Thomas E. Hales, of Briarcliff Manor; Thomas Siciliano, of Commack; and George J. Vojta, of Bronxville.

As a member of the Advisory Council on Agriculture, Maureen J. Torrey Marshall, of Elba.

As a member of the Minority Health Council, Rafael A. Olazagasti, of Woodstock.

As members of the Public Health Council, Joan H. Ellison, of Livonia, and Stephen A. Jennings, of Watertown.

As a member of the State Camp Safety Advisory Council, Dawn Ewing, of Nyack.

As a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at Batavia, Anthony M. Ferrarese, of Rochester.

As members of the New York State

Home for Veterans and Their Dependents at Montrose, Charlotte Craven, of Poughkeepsie, Daniel Griffin, of White Plains, and Freemont Reif, of Mohegan Lake.

And as a member of the New York State Home for Veterans and Their Dependents at St. Albans, Angelo Lomonaco, of Elmont.

ACTING PRESIDENT KUHL: The question is on the nominations of all those previously read by the Secretary. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominees are confirmed.

Senator Padavan.

SENATOR PADAVAN: I believe you have some bills to read, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read the report from the Finance Committee dealing with four bills.

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

following bills:

Senate Print 6535, Budget Bill, an act to amend Chapters 50, 53, 54, and 171 of the laws of 2000;

6536, Budget Bill, an act to amend the Social Services Law;

6539, Budget Bill, an act to amend Chapter 50 of the Laws of 2001;

And Senate Print 6540, Budget Bill, an act to amend the General Municipal Law.

All bills ordered direct to third reading.

ACTING PRESIDENT KUHL: Without objection, all bills are ordered directly to third reading.

Senator Padavan.

SENATOR PADAVAN: May we take up Calendar Number S6535.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 361, Senate Budget Bill, Senate Print 6535, an act to amend Chapters 50, 53, 54, and 171 of the Laws of 2001.

ACTING PRESIDENT KUHL: Senator

Padavan.

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

ACTING PRESIDENT KUHL: There is.

SENATOR PADAVAN: I move to accept the message.

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 7. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negative and announce the results.

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

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR PADAVAN: May we take up Calendar Number 362, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 362, Senate Budget Bill, Senate Print 6536, an act to amend the Social Services Law, in relation to funds.

ACTING PRESIDENT KUHL: Senator Padavan.

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

ACTING PRESIDENT KUHL: There is.

SENATOR PADAVAN: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 362. 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 immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Padavan.

SENATOR PADAVAN: Can we take up Calendar Number 363.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 363, Senate Budget Bill, Senate Print 6539, an act to amend Chapter 50 of the Laws of 2001, enacting the public protection and general government budget.

ACTING PRESIDENT KUHL: Senator Padavan.

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

ACTING PRESIDENT KUHL: There is.

SENATOR PADAVAN: Move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 363. 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 PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Stafford, Senator Paterson, the acting

Minority Leader, has requested an explanation of Calendar Number 363, Senate Print 6539.

SENATOR STAFFORD: Mr. President, these bills that we are taking up, this is one time when it's appropriate that we have a message of necessity. Because these bills are being taken up due to a necessity. It's a situation where we are appropriating money where we have found, due to the expenditures, it's necessary to have these appropriations.

This specific bill, Senate 6539, appropriates $70 million from the contingency reserve fund to provide for court-approved - and I emphasize "court-approved" -- settlement payments to the City of Yonkers in connection with litigation involving the desegregation of its public schools.

You all remember the litigation. There was a determination. And due to this decision or decisions, it is necessary to appropriate this money.

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

SENATOR DOLLINGER: Will the sponsor yield to a question, Mr. President?

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to a question from Senator Dollinger?

SENATOR STAFFORD: Certainly.

SENATOR DOLLINGER: Through you, Mr. President. Senator Stafford, my understanding is that the total settlement entered into between the State of New York and the plaintiffs in this case was $300 million. Is that correct?

SENATOR STAFFORD: That's correct.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will continue to yield.

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

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: How much of the $300 million is damages for injuries sustained by the plaintiff in the past?

SENATOR STAFFORD: I believe you asked that question last year.

SENATOR DOLLINGER: I may well have, Senator.

SENATOR STAFFORD: Do you remember?

SENATOR DOLLINGER: I always am interested in these settlements, Senator, as you well know, about what's happened in the past.

Are these damages for the past, or are they prospective? Is there a prospective payment to the Yonkers school district?

SENATOR STAFFORD: Mr. President, Senator Dollinger asked that question last year. It shows that your mind is still keen.

SENATOR DOLLINGER: Foolish consistency, the hobgoblin of the small mind?

ACTING PRESIDENT KUHL: Gentlemen, gentlemen. This is very entertaining, to have this debate going back and forth, but it does go outside the rules of the chamber. I would remind you of that.

And to address the question that Senator Paterson asked before -- and Senator Stafford, I'd ask that you accommodate me - Rule 9, I think it's Section 4(b), talks about

members who wish to ask questions of other members addressing the chair of the chamber. It does not specifically say that you need to face the chair of the chamber.

Now, just to share a little information with all of you -- it's what I call a useless bit of information, a UBI - you may have noticed that in fact it's been more difficult to hear in this chamber in the last couple of days. That is to because we're experiencing a little bit of a problem with the sound system, and a little feedback, so the volume has been turned down.

So on occasion, it may be difficult for one member to hear the other member, particularly when you're not asking the question over your microphone, which is the case that Senator Stafford is ensuing right now in the debate with you, Senator Dollinger, because there is no microphone.

Now, we know that that debate needs to be recorded for historical significance. But there is a real problem with the stenographer recording that if she cannot hear you gentlemen. So like in the case of Senator

Duane, I would ask that when you face each other to ask the question, that you do so, if you can, over your microphone, so that the stenographer can transcribe this very meritorious question-and-answer session.

So now, Senator Dollinger, you do have the opportunity to ask Senator Stafford a question if you would like to.

SENATOR DOLLINGER: Thank you. I'll commend the chair for his meticulous reply.

Through you, Mr. President, if Senator Stafford will continue to yield.

ACTING PRESIDENT KUHL: Senator Stafford, do you yield?

SENATOR STAFFORD: By all means.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: How much of the $300 million is a retrospective payment to the plaintiffs or to the school district for damages that were already sustained in the past?

SENATOR STAFFORD: Mr. President, I think, as we described last year, we're not

talking about in the past here in this situation. We are here trying to provide funds to correct situations where we will not have a situation that we had in the past.

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

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to another question from Senator Dollinger?

SENATOR STAFFORD: By all means.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STAFFORD: I liked it better when we faced each other.

SENATOR DOLLINGER: That's true.

Usually, Senator Stafford, when a settlement of this nature occurs, there's a conclusion that this amount that's going to be paid reflects some damage sustained by a plaintiff, or in this case this is our share of a settlement between the school district and the plaintiffs.

And I'm simply trying to determine how much of this is to remedy past practices

that were apparently discriminatory, although I understand this settlement occurs perhaps without a finding, without the state conceding a finding of de juris or de facto segregation.

But my question is, how much of this is in the past? How much are we paying for damages that occurred in the past?

SENATOR STAFFORD: As I mentioned earlier, Mr. President, we're not talking about the past here. We're not talking in this case -- I know, every case is different. In this case we're providing funds to in effect follow the decision that's been reached, which results in corrections, changes, revisions to the situation we've had in the past.

ACTING PRESIDENT KUHL: Gentlemen, excuse me just a minute.

Senator Padavan, why do you rise?

SENATOR PADAVAN: If the Senators would suffer an interruption, there's an immediate meeting of the Corporations Committee in the Senate Majority Conference Room.

ACTING PRESIDENT KUHL: The

chairman announces an immediate meeting of the Corporations Committee in the Senate Majority Conference Room, Room 332. Immediate meeting of the Senate Corporations, Authorities and Commissions Committee in the Senate Majority Conference Room, Room 332.

Senator Dollinger, thank you for allowing that interruption.

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

ACTING PRESIDENT KUHL: Senator Stafford, do you yield?

SENATOR STAFFORD: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: How much, if any, of this settlement goes to the plaintiffs, Senator Stafford, if you know?

SENATOR STAFFORD: Now, wait a minute. Senator Dollinger says if you know.

SENATOR DOLLINGER: I'll amend that question, Mr. President.

How much of it goes to the plaintiffs? Or is it simply an action brought

by the United States on behalf of the plaintiffs?

SENATOR STAFFORD: As I mentioned, Mr. President, every case is different. And this is a decision that was made by a federal court, and funding is going to the school district to correct what was determined to be something that needed to be changed, corrected, revised, whatever word you would use.

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

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

SENATOR STAFFORD: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: So I understand, Senator Stafford, this is a prospective settlement. And what are the funds going to be used for, do you know?

SENATOR STAFFORD: Now, we've determined that it's a prospective settlement. Now we'll move on.

The money will be used to ensure that New York's fourth largest school district, Yonkers, and its 26,000 students have smaller classes, improved learning resources, and targeted instruction geared toward reducing the achievement gap between minority and nonminority students.

Among the programs to be bolstered would be ones for students with limited proficiency in English.

SENATOR DOLLINGER: Thank you, Mr. President. On the bill briefly.

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: Mr. President, I'm going to reluctantly vote against this bill.

I'm tired of the children of this state having to sue their state government to get justice in their classrooms. I'm tired of having lawsuits all over this state because, quite frankly, either this Legislature or the Executive will not fully fund educational opportunity for everyone in this state.

I won't vote for this because,

although I think this may solve the problem in Yonkers, there are problems pending in the third largest city school district in the state, in the community in Rochester that I represent, that I daresay, although I'm not intimately familiar with Yonkers, they parallel the experience of children in Yonkers.

I know there are problems with educational attainment in the city of Buffalo, and I know, based on the CFE case, that there are enormous problems with educational attainment in the city of New York.

And I believe it's time that this Legislature did not need a federal court to tell it to provide justice and educational opportunity for our children everywhere.

And although I believe this is important for Yonkers, and I understand the importance of these commitments, I want us to make that commitment for everyone in this state a reality. And until such time as this Legislature and this Governor start to put the money into education in urban areas, so whether it's the segregated effect of race or

the impact of chronic poverty, whatever it is that restrains our children from reaching their educational goals, we will commit the resources to do it.

I would vote in favor of this if I believed that we were committed to providing it for everyone. I will not vote for it so long as it is a piecemeal approach to solving the problem of urban educational attainment.

I believe that problem exists throughout this state. I believe it will take more than $70 million. When we see a bill that does that, I will welcome it with open arms. Until then, although I appreciate what has happened in Yonkers -- I support a settlement of that lawsuit, I support putting the money into public education -- from this Senator's point of view, this is a piecemeal approach to a problem that we need to solve everywhere in this state.

And until we have the courage to do that, I will vote no.

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

SENATOR VELELLA: Mr. President,

I rise in strong support of this bill.

This is a bill that has been worked on and a problem that has been worked on from the time I came into the Senate. The problem, I wish to call to your attention, occurred during the Cuomo/Carey administrations. It took us eight years to untangle that, but we have managed to forge an agreement between the NAACP, between the school board, between all of the parties that have participated in this lengthy, lengthy litigation.

There were very strong feelings on all sides. But you know what? People came together and a judge approved that settlement. And Governor Pataki has led the way in providing the funding to clear and address all of those problems that were there in the past.

We ought to all be standing up and cheering and saying thank God we had the leadership in this state to put these people together, to achieve this settlement, to get a judge who was very, very strong to sign off - Judge Sand -- on this settlement, and to start addressing the problems that have plagued the city of Yonkers for so long.

Today we are putting in the funds to a new Yonkers, an opportunity for all the young people to be educated, for all of the people of Yonkers to come out from under that pressure that was on them -- the mayor, the council, all of the elected officials have been involved in this from day one. This is a day we should be proud of, and I thank our Governor for putting it together.

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

SENATOR PATERSON: Mr. President, would Senator Stafford yield for a question?

ACTING PRESIDENT KUHL: Senator Stafford, do you yield to a question from Senator Paterson?

SENATOR STAFFORD: By all means.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, I think that Senator Dollinger did raise a valid point, and it has to do with compliance and agreement.

You can delay something sometimes, and then when there is agreement, we're all

acting as if we did something great. But I think Senator Dollinger's point is that this is something that we should have realized a long time ago was a problem, and this is something that is still a problem in other parts of the state.

My question is, is there an agreement to pass this bill? Do we have an agreement with the Assembly to pass this?

SENATOR STAFFORD: I have been here a while -- in fact, I believe I was here with your father, Senator. And I usually find that when you have a deficiency appropriation before you, that we have raised the issues and balanced the equities and we're ready to move on.

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

SENATOR SCHNEIDERMAN: I think Senator Paterson is not done.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, would Senator Stafford yield for a question?

ACTING PRESIDENT KUHL: Senator

Stafford, do you yield to a question?

SENATOR STAFFORD: Always.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: If my father had asked you -

(Laughter.)

SENATOR PATERSON: -- was there an agreement with the Assembly, what would your answer have been to that question?

(Laughter.)

SENATOR STAFFORD: Mr. President, my answer would have been "Basil, you know the answer to that."

(Laughter.)

ACTING PRESIDENT KUHL: Senator Schneiderman, you still wish to rise?

SENATOR SCHNEIDERMAN: Yes, although it's certainly hard to follow that colloquy.

But I do want to rise, and I guess I find myself in the unusual circumstance of rising in support of Senator Velella and in opposition to the statements of Senator Dollinger.

When I was a lawyer in private practice, as many of you know, I represented -- you're going to change your vote now? -- I represented the Urban League, I was friendly with the counsel for the NAACP in Yonkers. I'm a strong supporter of the Campaign for Fiscal Equity decision, of the whole movement for fairness in our public schools for a good education for every child. In fact, I will shortly request unanimous consent to vote against other pieces of this budget because it does not address the inequity in the budget towards particularly schools in New York City.

But I urge Senator Dollinger that the situation in Yonkers is different, and my district has big problems with their schools. It drives me crazy that every day I bring my daughter to school, I know she gets less money for her education than children in other parts of the state.

The counsel to the NAACP, who I worked with, and he was a lead counsel in the Yonkers case for many years, advised me that in his opinion there were only two or three

places in the entire United States that were suffering the effects of racism and persistent perpetuation of poverty through government policies as Yonkers.

This is a very different situation. And I think that under these circumstances, the problems addressed in other districts, in the CFE decision, which we have to fight for in the fight for fair funding for schools, which I believe the Governor has not addressed, should wait for another day. Or should wait for later today.

But in this case, there is something different that's been going on in Yonkers. It is much worse, and it is of a completely different quality. And I am going to vote yes for this.

And I think -- I'm not representing Yonkers yet, and we'll find out next week if that's going to happen. But in any event, I think this is a very different situation and we should support the settlement.

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

SENATOR DOLLINGER: Will Senator

Schneiderman yield to a question, Mr. President?

ACTING PRESIDENT KUHL: Senator Schneiderman, do you yield to a question from Senator Dollinger?

SENATOR SCHNEIDERMAN: Yes.

SENATOR DOLLINGER: When was the principal lawsuit filed in the Yonkers case?

SENATOR SCHNEIDERMAN: There were a series of lawsuits that began in the early 1980s. I'm not sure when each one began. 1980, more or less.

SENATOR DOLLINGER: So is it fair to say, through you, Mr. President, that people in Yonkers had to wait twenty years to get justice and fairness in their school system?

SENATOR SCHNEIDERMAN: I would respectfully suggest that the people in Yonkers have still not gotten justice and fairness in their school system, and that the effort we're making today is to try and help that much delayed effort move along.

SENATOR DOLLINGER: So is it fair to say, Senator Schneiderman, that you agree

with me, then?

ACTING PRESIDENT KUHL: Senator Dollinger, are you asking Senator Schneiderman to yield to a question?

SENATOR DOLLINGER: Yes, Mr. President, if he will.

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

SENATOR SCHNEIDERMAN: Yes, Mr. President, I will yield to the Senator.

ACTING PRESIDENT KUHL: He yields.

SENATOR DOLLINGER: So isn't it fair, Senator Schneiderman, to say that you agree with me, that the point is not the $70 million that we're putting to work that should have been put to work twenty years ago for the children in Yonkers, but that what we really need to do is to face up to the problem of funding urban education so that we not only give Yonkers children an opportunity for the future, which they've been denied for twenty years, but quite frankly give it every other child that suffers the scourge of urban

poverty or racism or whatever you want to call it that seems to infect our schools in urban areas?

Isn't that what you're saying, Senator Schneiderman? Don't you agree with me that that's the goal of what we should be doing?

SENATOR SCHNEIDERMAN: No, actually, I don't.

I think that there are many issues that we address in this Legislature that should have been addressed a long time ago. Frankly, I think we should have addressed the inequities in the funding formula for schools a long time ago.

But if a bill comes before us now to address the inequities in school funding, I would hope you would support it. I would support it.

I think that we should have passed a Sexual Orientation Nondiscrimination Act years ago, but that's no reason not to vote for it if it comes before us this year.

I think that the distinguished Senator is mixing apples and oranges here. We

have to fight for better funding for our schools. I think it is unfair to conflate these two issues. And to say that by trying to help the people in Yonkers who have suffered for a long time, due partly to state action and inaction as well as the abuses of their local government, that we shouldn't try to help them move forward out of this issue because we're not doing a lot of other things where it should have been done long ago, would essentially prevent us from doing most of the good work that we attempt to do here.

So I respectfully do disagree. I think this is a different issue. I look forward to lengthy discussions, hopefully off the floor, with the Senator about the issue of resolving these problems of schools in other parts of the state. But I don't think that it's the same issue as in Yonkers, and I do support this legislation.

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

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: I want to

make it clear, I'm not opposed to the students in Yonkers getting the educational opportunity that apparently has been denied to them for the last twenty years and that I would presume, Senator Schneiderman or Senator Stafford, was denied to them for 10 or 15 years before that.

My point is simply this. From my perspective -- and I've done this a number of times in this chamber. I've voted against bills and said "This isn't the solution we want. This is only part of the solution." And from my point of view, there are children in the community that I represent who have been denied that educational opportunity for the better part of the last forty years. And that problem remains unsolved.

And what disappoints me tremendously -- although I commend the people from Yonkers. They did sue get, they did get into a court, they did get a sympathetic judge. They got, as Senator Velella properly points out, the ear of the Governor, got the ear of public officials. They were able to rally to solve their particular problem.

And although I applaud that, I would suggest that we have more to do in this state. There are far too many children throughout this state, many of whom their families I represent, who are not going to get that same opportunity. And at least from my point of view, with my vote, I want to drive home the point that this is a solution to a problem in a specific community that may have unique circumstances.

I would suggest there are unique circumstances in school districts all over this state that need to be attended to. And although we may be solving part of Yonkers' past problem, we've got a future problem staring us in the face because it's the kids today that are not going to get educational opportunity.

And I would hope that it happens in Yonkers. I would hope that it happens in Rochester. But my hope isn't enough. It's going to take money to be able to do it.

And I accept that as a challenge to this chamber. I think the Yonkers example is an example that should challenge us all. I

make the point by saying our job isn't finished, by voting no.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I'd like to explain my vote.

I agree with everyone, everyone that's spoken. But I think I most agree with Senator Schneiderman, because this is, in my opinion also, apples and oranges.

This case that was brought twenty years ago was not brought in Rochester, it was brought in Yonkers. Yonkers has taken, the school system has taken many steps to try and improve their school functioning and make it more not only equitable but also make it more diverse within individual school districts by going to busing, which has in part answered

the objection of those who say that there was bias in the way that the schools were being operated.

There is no question that were every school district that feels it has deficient funding to bring this kind of a suit, that it probably would meet with the same positive results. And that's why we're looking for the Campaign for Fiscal Equity suit, which is now making its way through the courts, and another suit which is being brought upstate on the same issue, to offer us some answers.

And so we have to look optimistically, I think, to the future and to what the response will be from the courts eventually, and also with the understanding that our state has to do a lot more in financing education if we are to get the various school systems that are not meeting the needs of their students -- not through any fault of their own, but because they simply lack the funds.

If we want people and children to meet higher standards, teachers meet higher

standards, students meet higher standards, we have to fund to get the students to those higher standards. It doesn't just happen. They need after-school classes, they need Saturday classes, they need summer school. This all costs money.

And when the state realizes that it won't happen by magic but rather through applying the funds necessary to bring the level of education to where I think we all want it to be in this state, it won't happen, and we'll have to work through court suits.

I'm voting in favor.

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

Senator Schneiderman, why do you rise?

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

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

SENATOR SCHNEIDERMAN: I don't think there's anyone in this chamber who - though we may occasionally question Senator

Dollinger's wisdom, we don't question his sincerity on these issues.

I do believe the situation in Yonkers, as I stated, is very different, as Senator Velella stated. And I am going to undertake to get some of the opinions and findings of facts of Judge Sand in that case that I think demonstrate that this is a unique situation.

I support everything Senator Oppenheimer said. And we have more work to do. But this is a very unique situation. And I vote yes.

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

Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Mr. President. I rise because I think that it is bad public policy -

ACTING PRESIDENT KUHL: Are you asking, Senator Duane, for the opportunity to explain your vote?

SENATOR DUANE: Yes, please.

ACTING PRESIDENT KUHL: All

right. You're afforded the opportunity to explain your vote.

SENATOR DUANE: -- that it is terrible public policy that after a twenty-year battle, a settlement has been reached with which the state is expected to pay for without appropriate consultation.

Today, just a little while ago, was the first time that this bill hit our desks. That means that we really have not had the chance to talk about what the state role is in this settlement. And the precedent that this sets for how it is that local school districts are funded is really terrible.

And that's why I'm voting no on this.

Thank you, Mr. President.

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

Announce the results.

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

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to motions and resolutions.

I believe I have a privileged resolution at the desk. I would ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT KUHL: We will return to the order of motions and resolutions. There is a privileged resolution by Senator Bruno at the desk.

The Secretary will read resolution Number 4426 in its entirety.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 4426, commemorating Good Joes Day, 2002.

"WHEREAS, Saint Joseph is everyone's patron saint and not just the patron saint of those who are fortunate to bear his name; and

"WHEREAS, The New York State Legislature is appreciative of the vital contributions of those good members known as "Joseph"; and

"WHEREAS, The Society of Good Joes is celebrating its 44th year in memory of the late Joseph Addonizio, and its members have banded together under a common name in the spirit of camaraderie and good fellowship; and

"WHEREAS, Tradition holds that Saint Joseph is the patron saint of the working person, of all those who labor with the dignity that only true humility imparts; and

"WHEREAS, On Saint Joseph's Day in March, the swallows return to Capistrano, heralding the conclusion of a long, cold winter and the advent of a new spring; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations and recognize this great day, Tuesday, March 19, 2002, in commemoration and deliberation of all Good Joes in the State of New York, to be celebrated on Tuesday, March 19, 2002, in honor of all the Good Joes of this Empire State."

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Mr. President, on the resolution.

ACTING PRESIDENT KUHL: On the resolution.

SENATOR BRUNO: It just seems that this may be a good time to interrupt the proceedings here, where we're discussing such serious and consequential things, to recognize St. Joseph's Day as Good Joes Day.

And as you heard, it's been 44 years that the Society of Good Joes has been formed and celebrated, with Assemblyman Joe Lentol in the other house carrying the resolution and I believe hosting a little celebration for all of the Good Joes here in this state.

And Joe Addonizio, as you heard, who has since gone on to join St. Joseph - but this was celebrated and he started it 44 years ago.

And, you know, you have to recognize, since St. Joseph, that in our culture, in our civilized society that we could hardly exist without Joe. There's sloppy joes, there's GI Joe, there's a cup of

joe. And then there are greats, besides Joe Lentol in the Assembly, unnamed here in this chamber.

I'm not sure if any of you have middle names "Joe"; you also qualify. And if you don't, take a third name as Joe for just this day.

And I think about, in my days, Joe DiMaggio. I mean, and what does that bring out in you? Joe Louis, one of the greatest. Joe Montana. Joe Namath. Joe Garagiola. You name it. Joe Torre. It doesn't get any better for Joes than what is going on in this day and age.

It is rumored that the President's secret middle name is Joe, and I'm not sure that's a fact -

SENATOR CONNOR: He spells it with a W.

(Laughter.)

SENATOR BRUNO: And the Governor is contemplating changing his name.

So I invite all of you to celebrate, in good humor, the illumination, the intelligence, the good nature, the

camaraderie today of being a good Joe.

I even heard my esteemed colleague Joe Dollinger -

(Laughter.)

SENATOR BRUNO: -- talk so eloquently for this day on the merits and demerits of things that are important in our lives.

Though, Mr. President, this is a welcome break in our very serious lives, but I invite all of you to enjoy this day as Good Joes.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Velella, do you wish to speak?

SENATOR VELELLA: Mr. President, I just want to add one news flash that came in. Amongst the great accomplishments of all the Joes that we know and have heard about, today the New York State Dry Cleaners Association voted Senator Joseph Bruno the best groomed person in the country, George Bush finishing number three.

So another great accomplishment by a Joe. Congratulations.

SENATOR BRUNO: Thank you. Thank you.

(Applause.)

ACTING PRESIDENT KUHL: Senator Joe Dollinger.

SENATOR DOLLINGER: Senator Joe Dollinger just wishes to commend Senator Joe Bruno. The invocation, which I mentioned earlier, that was given today by the chaplain was given by a member of the Sisters of St. Joseph on this feast of St. Joseph.

So I commended you, Senator Bruno, for changing the rules of the Senate, the regulations of the Senate to allow those nuns who have taken vows to appear, because the Sisters of St. Joseph had a huge influence on me in my life.

And I told Sister Joan Sobala that in all likelihood Senator Bruno is also someone that has never been able to say no to a nun. I was never able to do it; I'm not that great a Joe. So maybe another Joe has been able to do it.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator

Bruno.

SENATOR BRUNO: Mr. President, Senator Dollinger really has contributed so greatly to the events of this day. Thank you very much for reminding me that I went through St. Mary's Academy, where the sisters of St. Joseph batted me around. I mean -

(Laughter.)

SENATOR BRUNO: -- helped me - no, if you went to twelve years of a Catholic school with those nuns, and you were as troublesome as I was, every one of them are sainted, whether they're on earth or in heaven.

And one sister of St. Joseph in particular, Sister Marsha, was my seventh-grade teacher. And I have talked over and over and over of Sister Marsha, who was teaching her first class when I was in seventh grade, who truly helped change my life.

So the Sisters of St. Joseph, thank you, Senator. One of the most meaningful things that Senator Dollinger has done since I've known him here in the Senate.

Thank you, Mr. President.

(Laughter.)

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

Senator Oppenheimer.

SENATOR OPPENHEIMER: Well, on behalf of my very new son-in-law, who is named Joseph, I thank you for this day. Also, he got batted around in the parochial schools too.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President -- Mr. President -

(Laughter.)

SENATOR BRUNO: I think it's the hair.

(Laughter.)

SENATOR BRUNO: I believe that there are two privileged resolutions at the desk by Senator Bonacic. I would ask that the titles be read and move for their immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: By Senator Bonacic, Legislative Resolution Number 4499, commending Peter C. Goodman upon the occasion of his designation as recipient of the Distinguished Service Medal by the Hudson Valley Council, Boy Scouts of America, on March 23, 2002.

And by Senator Bonacic, Legislative Resolution Number 4500, commending Barry J. Sullivan upon the occasion of his designation as recipient of the Silver Beaver Award by the Hudson Valley Council, Boy Scouts of America, on March 23, 2002.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed,

nay.

(No response.)

ACTING PRESIDENT KUHL: The resolutions are adopted.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, could we take up Calendar 364.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 364, Senate Budget Bill, Senate Print 6540, an act to amend the General Municipal Law, in relation to designation of additional Empire Zones.

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 364. 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.

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT KUHL: Senator Stafford, an explanation of Calendar Number 364 has been requested by Senator Dollinger.

SENATOR STAFFORD: Mr. President, we all are aware -- I also want to say, before I start here, it's interesting that what we just took part in and witnessed here really wasn't that much different than what we were doing here earlier this morning. It sort of adds right on to what . . .

But we all know Empire Zones are very, very important. They've done so much

good in so many areas, areas we represent, giving businesses an opportunity to locate, to expand.

Before 1994, before 1995, Mr. President, we lost over 500,000 jobs in the two or three years before 1995. We since then have increased the jobs here in our state by approaching a million, if not more. And we all realize how important that is as far as our economy and as far as our good people.

This bill would allow for the designation of an additional four more Empire Zones, bringing the total number of Empire Zones in the state to 66. These new zones would be located in Franklin County, city of Mount Vernon, the village of Lawrence in Otsego County, and in Schuyler County.

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

Hearing none, 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.)

ACTING PRESIDENT KUHL: Record the negatives.

THE SECRETARY: Those recorded in the negative on Calendar Number 364 are Senators Duane and Schneiderman. Ayes, 58. Nays, 2.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Schneiderman, why do you rise?

SENATOR SCHNEIDERMAN: Two reasons, Mr. President.

First, to explain my vote on that bill. I do not think that the Empire Zone program is headed in the right direction, and I'm very concerned about recent amendments to it, recent changes. And I think it's starting to look more and more look like a mechanism for political payoffs than it is a genuine economic development program.

I realize there are some parts of the state that have benefited from it, but in far too many cases I see now that it is not

based on economic necessity. So I am voting no.

ACTING PRESIDENT KUHL: Senator Schneiderman is recorded in the negative on Calendar Number 364. The bill is passed.

Now, Senator Schneiderman, why do you rise?

SENATOR SCHNEIDERMAN: And I would request, Mr. President, unanimous consent to be recorded in the negative on Calendars 361 and 362.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Schneiderman will be recorded in the negative on Calendar Number 361 and 362.

SENATOR SCHNEIDERMAN: Thank you.

ACTING PRESIDENT KUHL: Senator Hassell-Thompson, why do you rise?

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

My concern, obviously -- and I'd like this to go on the record -- the city of Mount Vernon is in the southern portion of Westchester County. And when most people think of Westchester, they don't think of

it -

ACTING PRESIDENT KUHL: Senator Hassell-Thompson, excuse the interruption, but why are you rising?

SENATOR HASSELL-THOMPSON: To explain my vote.

ACTING PRESIDENT KUHL: On Calendar Number 364?

SENATOR HASSELL-THOMPSON: Yes.

ACTING PRESIDENT KUHL: Okay. Fine.

SENATOR HASSELL-THOMPSON: Thank you.

Most people think of Westchester County as being a very affluent community, and for the most part it is. It has some of the most beautiful castles in it, some of the most scenic views anywhere in the state of New York.

However, there are portions of Westchester County where there are very serious pockets of poverty and joblessness. And the city of Mount Vernon, in the southernmost portion of that county, is a city of 70,000 people in 4.2 square miles. And it

has been the efforts on the part of that city to become designated as an enterprise zone for several years.

When I sat on the City Council in 1993, when I first went to the council in '94, we were in the process of putting in an application. And I worked on that application process then and then again in 1997. At neither time were we ever this close to being designated as a city.

And there may be some concern about favoritism and some other reasons why cities are selected. But for those of you who have never been to the city of Mount Vernon, I invite you to come and I invite you to look at some of the devastation that has been caused by many of the factories that have closed in the city of Mount Vernon because of the businesses that have moved south.

And in our efforts to restore our community, we have done many kind of zone changes and the kinds of things that cities must do in order to recover. We are on the brink of doing several redevelopment projects. But without the ability to attract businesses

and to give them the tax deferments necessary, these kinds of projects cannot go forward.

And it determines whether a city like Mount Vernon, who is struggling to keep its head above water, goes the way of Yonkers in terms of its education budget. And it has done everything that it can to keep itself fiscally viable.

So even though Mount Vernon is not written into the language, it is my understanding that Mount Vernon is one of those cities who is under designation. And so I appreciate the vote of my colleagues for this, and I hope that Mount Vernon continues in its final round to be in the designation for the next enterprise zone in the county of Westchester.

Thank you.

ACTING PRESIDENT KUHL: Senator Hassell-Thompson is recorded in the affirmative on Calendar Number 364.

And again, that bill has passed.

Senator Marcellino, why do you rise?

SENATOR MARCELLINO: I yield to

Senator Dollinger.

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

SENATOR DOLLINGER: Mr. President, I'd like unanimous consent to be recorded in the negative on Calendar Number 362 and 361, which are the deficiency budget bill, the appropriation bill, and the language bill, Mr. President.

Thank you.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Dollinger will be recorded in the negative on Calendar Number 361 and Calendar Number 362.

Senator Duane, why do you rise?

SENATOR DUANE: Thank you, Mr. President. I'd like unanimous consent to be recorded in the negative on S6536.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Duane will be recorded in the negative on Calendar Number 362. That's Senate 6536.

Senator Marcellino.

SENATOR MARCELLINO: May we please return to the reports of standing

committees, Mr. President.

ACTING PRESIDENT KUHL: We'll return to the reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Fuschillo, from the Committee on Consumer Protection, reports:

Senate Print 1452, by Senator Rath, an act to amend the General Business Law;

1969B, by Senator Marcellino, an act to amend the General Business Law;

And Senate Print 3663, by Senator Velella, an act to amend the General Business Law.

Senator Rath, from the Committee on Local Government, reports:

Senate Print 1966, by Senator Larkin, an act to amend the General Municipal Law;

2082A, by Senator LaValle, an act authorizing;

2086, by Senator LaValle, an act to amend the General Municipal Law;

2123, by Senator Larkin, an act to amend the General Municipal Law;

2286, by Senator Bonacic, an act to amend the Real Property Tax Law;

2396, by Senator Rath, an act to amend the General Municipal Law;

2491, by Senator Kuhl, an act to amend the General Municipal Law;

2950, with amendments, by Senator Wright, an act to amend the County Law;

2976, by Senator Saland, an act to authorize;

3164, by Senator Leibell, an act to amend the General Municipal Law;

4248, by Senator Rath, an act to amend the Real Property Tax Law;

5067A, by Senator Saland, an act to amend the General Municipal Law;

5243, by Senator Maziarz, an act to amend the General Municipal Law;

5309B, by Senator Alesi, an act to authorize;

5696A, by Senator Bonacic, an act to amend Chapter 383 of the Laws of 1999;

6045, by Senator Rath, an act to amend the County Law and others;

6125, by Senator DeFrancisco, an

act to authorize;

6405, by Senator Trunzo, an act to amend the Village Law;

And Senate Print 6423, by Senator Rath, an act to amend the General Municipal Law.

Senator Trunzo, from the Committee on Transportation, reports:

Senate Print 844B, by Senator Maziarz, an act to amend the Vehicle and Traffic Law;

4268A, by Senator Kuhl, an act authorizing;

4436A, by Senator Marcellino, an act to amend the Vehicle and Traffic Law;

5025, by Senator Trunzo, an act to amend the Public Authorities Law;

5697, by Senator Libous, an act to amend the Highway Law;

5837, by Senator Rath, an act to amend the Vehicle and Traffic Law;

And Senate Print 6372, by Senator LaValle, an act to amend the Highway Law.

Senator Marchi, from the Committee on Corporations, Authorities and Commissions,

reports:

Senate Print 4322A, by Senator Marchi, an act to amend the Public Authorities Law;

6133, by Senator Skelos, an act to amend the Public Authorities Law;

And Senate Print 6168, by Senator Balboni, an act to amend Chapter 672 of the Laws of 1993.

All bills ordered direct to third reading.

ACTING PRESIDENT KUHL: Without objection, all bills are ordered directly to third reading.

Senator Marcellino.

SENATOR MARCELLINO: Is there any housekeeping at the desk, Mr. President?

ACTING PRESIDENT KUHL: There is. We have two substitutions and a motion.

So we'll return to the order of motions and resolutions.

The Secretary will read the substitutions.

THE SECRETARY: On page 21, Senator Morahan moves to discharge, from the

Committee on Veterans and Military Affairs, Assembly Bill Number 7733B and substitute it for the identical Senate Bill Number 4023B, Third Reading Calendar 335.

And on page 22, Senator Morahan moves to discharge, from the Committee on Veterans and Military Affairs, Assembly Bill Number 5007A and substitute it for the identical Senate Print Number 4736A, Third Reading Calendar 336.

ACTING PRESIDENT KUHL: The substitutions are ordered.

Senator Espada.

SENATOR ESPADA: Thank you, Mr. President.

On behalf of Senator Maltese, I move that Senate Bill 1886 be discharged from its respective committee and be recommitted with instructions to strike the enacting clause, please.

ACTING PRESIDENT KUHL: The directions are that the enacting clause will be stricken and the bill will be recommitted.

Senator Marcellino.

SENATOR MARCELLINO: Mr.

President, we're going to have to wait. We expect a report of the Labor Committee to come back, so we'd like to hold for a few minutes on that.

But I just would like to remind the members that tomorrow is West Point Day, and we would appreciate it if all members could be here on time, in their seats, so that we could pay due respect to the young officers who are going off t a career of defending our country in all kinds of very dangerous places.

So, Mr. President, if we could just wait for the report of the Labor Committee.

ACTING PRESIDENT KUHL: The Senate will stand at ease momentarily.

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

(Whereupon, the Senate reconvened at 1:07 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I believe you have two additional committee reports to be read at the desk.

ACTING PRESIDENT KUHL: They are at the desk.

We'll return to reports of standing committees. The Secretary will read.

THE SECRETARY: Senator Velella, from the Committee on Labor, reports:

Senate Print 4161, by Senator Spano, an act to amend the Labor Law;

4657, by Senator Alesi, an act to repeal;

5346, by Senator Spano, an act to amend the Labor Law;

And Senate Print 6352, with amendments, by Senator Velella, an act to amend the Labor Law.

Senator Maziarz, from the Committee on Aging, reports:

Senate Print 105, by Senator Marcellino, an act in relation to granting;

461A, by Senator Alesi, an act to amend the Real Property Tax Law;

1376, by Senator Morahan, an act to amend the Real Property Tax Law;

1550, by Senator Trunzo, an act to amend the Real Property Tax Law;

1682, by Senator Trunzo, an act to amend the Real Property Tax Law;

And Senate Print 3166, by Senator Leibell, an act to amend the Real Property Tax Law.

All bills ordered direct to third reading.

ACTING PRESIDENT KUHL: Without objection, all bills are ordered directly to third reading.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, there being no further business, I move we adjourn until Wednesday, March 20th, at 11:00 a.m. promptly.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Wednesday, March 20th, at 11:00 a.m. sharp.

(Whereupon, at 1:09 p.m., the Senate adjourned.)