NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 18, 2002

12:14 p.m.

REGULAR SESSION

SENATOR PATRICIA K. McGEE, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT McGEE: The Senate will come to order.

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

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

ACTING PRESIDENT McGEE: The invocation today will be given by Reverend Dr. Larry F. Hendricks, of the Chapel of the Redeemer Lutheran Church in Bayside, New York.

Reverend.

REVEREND HENDRICKS: Let us pray.

Almighty God, we have been called together as a vision- and decision-making body. We gather to ask Your blessing, to give You our thanks for the bountiful goodness we have been given as a community, state, and nation, and to ask Your blessing upon those gathered here as we seek to better our communities through shared information and open discussion of issues facing us.

Remind us of our responsibilities to those who depend upon us for intelligent,

clear thinking and leadership. Lord, You are God of peoples everywhere. Yes, You are God of creation itself, giver of all that makes life good.

Many of us have experienced fragile emotions this past year. Heal the hurt and wounded. Quiet us, steady us, strengthen us in Your peace as we seek to do Thy will as stewards of this great state; yes, even this planet.

We pray for those who help implement our democracy, for those who serve You faithfully in our generation. Guide us with patient wisdom through the narrow ways.

This we pray as our traditions have taught us to pray. Amen.

ACTING PRESIDENT McGEE: Reading of the Journal.

THE SECRETARY: In Senate, Monday, June 17, the Senate met pursuant to adjournment. The Journal of Sunday, June 16, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT McGEE: Without objection, the Journal stands approved as

read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

As a justice of the Supreme Court of the Second Judicial District, Elizabeth Bonina, of Brooklyn.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: One moment, Madam President.

SENATOR BONACIC: Madam President.

ACTING PRESIDENT McGEE: Senator Bonacic.

SENATOR BONACIC: We'd like to lay aside that Judiciary report temporarily, please.

ACTING PRESIDENT McGEE: The report is laid aside.

SENATOR BONACIC: Thank you.

ACTING PRESIDENT McGEE: Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Espada.

SENATOR ESPADA: Thank you, Madam President.

I wish to call up Calendar Number 67, Assembly Print Number 7347.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 67, by Member of the Assembly Glick, Assembly Print Number 7347, an act to amend the Domestic Relations Law.

ACTING PRESIDENT McGEE: Senator Espada.

SENATOR ESPADA: Madam President, I now move to reconsider the vote by which this Assembly bill was substituted for Senator Saland's bill, Senate Print Number 3434, on June 3rd of this year.

ACTING PRESIDENT McGEE: Call the

roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT McGEE: Senator Espada.

SENATOR ESPADA: Madam President, I now move that Assembly Bill Number 7347 be recommitted to the Committee on Rules and that Senator Saland's Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT McGEE: So ordered.

Senator Espada.

SENATOR ESPADA: Thank you, Madam President.

I wish to call up Calendar Number 829, Assembly Print Number 10731A.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 829, by Member of the Assembly DelMonte, Assembly Print Number 10731A, an act to convey the right title and interest.

ACTING PRESIDENT McGEE: Senator Espada.

SENATOR ESPADA: Madam President, I now move to reconsider the vote by which this Assembly bill was substituted for Senator Maziarz's bill, Senate Print Number 6721A, on June 17th of this year.

ACTING PRESIDENT McGEE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT McGEE: Senator Espada.

SENATOR ESPADA: Madam President, I now move that Assembly Bill Number 10731A be recommitted to the Committee on Rules and that Senator Maziarz's bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT McGEE: So ordered.

Senator Espada.

SENATOR ESPADA: Madam President, on page 25 I offer the following amendments to Calendar Number 662, Senate Print Number 6228A, and ask that said bill retain its place on the Third Reading Calendar. We do this on behalf of Senator Spano.

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

Senator Bonacic, we have substitutions at the desk.

SENATOR BONACIC: First of all, excuse me, Madam President, there's a Transportation Committee meeting at the Majority Conference Room.

ACTING PRESIDENT McGEE: Immediate meeting of the Transportation Committee in the Majority Conference Room.

SENATOR BONACIC: Madam President, could you please make the substitutions at this time.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: On page 11, Senator Kuhl moves to discharge, from the Committee on Rules, Assembly Bill Number 7535A and substitute it for the identical Senate Bill Number 3947B, Third Reading Calendar 260.

On page 15, Senator Skelos moves to discharge, from the Committee on Rules,

Assembly Bill Number 9852B and substitute it for the identical Senate Bill Number 6133B, Third Reading Calendar 380.

On page 24, Senator Espada moves to discharge, from the Committee on Rules, Assembly Bill Number 9943A and substitute it for the identical Senate Bill Number 6478A, Third Reading Calendar 640.

On page 32, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 9770 and substitute it for the identical Senate Bill Number 6271, Third Reading Calendar 820.

On page 43, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 11536 and substitute it for the identical Senate Bill Number 6861, Third Reading Calendar 1003.

On page 43, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 9002A and substitute it for the identical Senate Bill Number 6862, Third Reading Calendar 1004.

On page 44, Senator Balboni moves to discharge, from the Committee on Rules,

Assembly Bill Number 11163A and substitute it for the identical Senate Bill Number 7294A, Third Reading Calendar 1032.

On page 45, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 5237A and substitute it for the identical Senate Bill Number 109B, Third Reading Calendar 1061.

On page 47, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 11543 and substitute it for the identical Senate Bill Number 6554, Third Reading Calendar 1089.

On page 47, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 11111A and substitute it for the identical Senate Bill Number 6634A, Third Reading Calendar 1093.

On page 49, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 8904B and substitute it for the identical Senate Bill Number 2400B, Third Reading Calendar 1123.

On page 54, Senator Balboni moves to discharge, from the Committee on Rules,

Assembly Bill Number 11167A and substitute it for the identical Senate Bill Number 7180A, Third Reading Calendar 1262.

On page 54, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 5750D and substitute it for the identical Senate Bill Number 7441A, Third Reading Calendar 1279.

On page 55, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 11590 and substitute it for the identical Senate Bill Number 7519, Third Reading Calendar 1345.

On page 56, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 11553 and substitute it for the identical Senate Bill Number 7529, Third Reading Calendar 1347.

On page 56, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 11552 and substitute it for the identical Senate Bill Number 7530, Third Reading Calendar 1348.

On page 57, Senator Padavan moves to discharge, from the Committee on Rules,

Assembly Bill Number 9766A and substitute it for the identical Senate Bill Number 6268A, Third Reading Calendar 1394.

On page 58, Senator Kuhl moves to discharge, from the Committee on Rules, Assembly Bill Number 9846 and substitute it for the identical Senate Bill Number 6479, Third Reading Calendar 1395.

On page 58, Senator Stafford moves to discharge, from the Committee on Rules, Assembly Bill Number 11419 and substitute it for the identical Senate Bill Number 6609, Third Reading Calendar 1396.

On page 58, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 11322 and substitute it for the identical Senate Bill Number 7370, Third Reading Calendar 1402.

On page 58, Senator Kuhl moves to discharge, from the Committee on Rules, Assembly Bill Number 11507 and substitute it for the identical Senate Bill Number 7463, Third Reading Calendar 1404.

And on page 59, Senator Stafford moves to discharge, from the Committee on

Rules, Assembly Bill Number 11466 and substitute it for the identical Senate Bill Number 7485, Third Reading Calendar 1406.

ACTING PRESIDENT McGEE: Substitutions ordered.

Senator Bonacic.

SENATOR BONACIC: Madam President, may we please adopt the Resolution Calendar.

ACTING PRESIDENT McGEE: All in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Those opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The Resolution Calendar is adopted.

Senator Bonacic.

SENATOR BONACIC: I believe there's a privileged resolution by Senator Velella at the desk. I ask that the title be read and we move for immediate adoption.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator Velella, Legislative Resolution Number 6126, calling upon the New York State Congressional Delegation to advocate the funding of an additional 13 weeks of Unemployment Insurance.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is adopted.

Senator Bonacic.

SENATOR BONACIC: Madam President, I also believe that there are four privileged resolutions by Senator Bruno. I ask that their titles be read and we move for immediate adoption.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator Bruno, Senate Resolution Number 6201, authorizing the Temporary President of the Senate to file an

election to make certain officers or employees of the Senate eligible for the retirement incentive offered by Part A of Chapter 69 of the Laws of 2002, as amended by Chapter 90 of the Laws of 2002.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is adopted.

The Secretary will read.

THE SECRETARY: By Senator Bruno, Senate Resolution Number 6202, authorizing the Temporary President of the Senate to file an election to make certain officers or employees of the Senate eligible for the retirement incentive offered by Part B of Chapter 69 of the Laws of 2002, as amended by Chapter 90 of the Laws of 2002.

ACTING PRESIDENT McGEE: The question is on the resolution. All in favor

will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is adopted.

The Secretary will read.

THE SECRETARY: By Senator Bruno, Concurrent Resolution Number 6203 of the Senate and Assembly, authorizing the Temporary President of the Senate and the Speaker of the Assembly to file an election to make certain officers and employees of joint legislative employers eligible for the retirement incentive offered by Part A of Chapter 69 of the Laws of 2002, as amended by Chapter 90 of the Laws of 2002.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is adopted.

The Secretary will read.

THE SECRETARY: By Senator Bruno, Concurrent Resolution Number 6204 of the Senate and Assembly, authorizing the Temporary President of the Senate and the Speaker of the Assembly to file an election to make certain officers and employees of joint legislative employers eligible for the retirement incentive offered by Part B of Chapter 69 of the Laws of 2002, as amended by Chapter 90 of the Laws of 2002.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is adopted.

Senator Bonacic.

SENATOR BONACIC: Madam President, may we please have the

noncontroversial reading of the calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 214, by Senator Nozzolio, Senate Print 2672B, an act to amend the General Municipal Law, in relation to enhancing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

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

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 341, by Senator Saland, Senate Print 3778, an

act to amend the Family Court Act and the Criminal Procedure Law, in relation to family offenses.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 371, by Senator Velella, Senate Print 3663A, an act --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 518, by Senator Seward, Senate Print 1050, an act to amend the State Finance Law and Chapter 83 of the Laws of 1995.

SENATOR PATERSON: Lay it aside,

please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 587, by Senator Nozzolio --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 594, by the Assembly --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 598, by Senator Velella, Senate Print 6476, an act to amend the Labor Law, in relation to the treatment of Indian tribal governments.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 608, by Senator Bonacic, Senate Print --

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 640, substituted earlier today by Member of the Assembly Perry, Assembly Print Number 9943A, an act to amend the Education Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 696, by Senator Velella, Senate Print 6713, an

act to amend the Workers' Compensation Law, in relation to the death benefits for police officers.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 820, substituted earlier today by Member of the Assembly Tocci --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 838, by the Assembly Committee on Rules, Assembly Print Number 8853A, an act to amend the Vehicle and Traffic Law, in relation to

seat belt use.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 930, by Senator Libous --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 948, by Senator Hoffmann, Senate Print 6511A, an act to amend the Agriculture and Markets Law, in relation to the apportionment.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 962, by Senator Fuschillo, Senate Print 880, an act to amend the General Business Law, in relation to written notification.

ACTING PRESIDENT McGEE: Senator Bonacic.

SENATOR BONACIC: Madam President, I ask that we lay that aside for the day.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

SENATOR BONACIC: Thank you.

THE SECRETARY: Calendar Number 998, by Senator Balboni, Senate Print 2070, an act to amend the Labor Law, in relation to increasing.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 30th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays, 1. Senator Kuhl recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1026, by Senator LaValle, Senate Print 7146A, an act to amend the Town Law, in relation to authorizing.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1193, by the Assembly Committee on Rules,

Assembly Print Number 11084A, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1264, by Senator Stafford, Senate Print 7407, an act to amend the Environmental Conservation Law, in relation to posting.

ACTING PRESIDENT McGEE: Senator Bonacic.

SENATOR BONACIC: Madam President, we'd like to lay that aside for the day, please.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1296, by Senator McGee, Senate Print 7351A, an

act to amend the Highway Law, in relation to designating a portion of the state highway system.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1320, by Senator Wright, Senate Print 7451A, an act to authorize the Town of Hannibal.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1323, by Senator Marchi, Senate Print 6155A, an act to amend the General Municipal Law and the Retirement and Social Security Law, in relation to benefits.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1345, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11590, an act to amend Chapter 19 of the Laws of 1994.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1366, by Senator Marcellino, Senate Print 98B, an act to amend the Tax Law, in relation to exempting.

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

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of a sales tax quarterly period.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: After the roll call, Madam President, I'd like to address you.

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Paterson.

SENATOR PATERSON: Madam

President, is Calendar Number 1323 still in the house? Sorry, that's Calendar Number 1366.

ACTING PRESIDENT McGEE: 1366?

SENATOR PATERSON: Sorry, 1323.

ACTING PRESIDENT McGEE: Which one, 1323?

SENATOR PATERSON: 1323.

Then I'm going to announce my retirement.

(Laughter.)

ACTING PRESIDENT McGEE: I'm sorry, Senator Paterson, we are moving the bills out as quickly as we sign them. It's my understanding the bill has gone.

Do you care to speak on the bill?

SENATOR PATERSON: Shortly, Madam President. Thank you.

ACTING PRESIDENT McGEE: Thank you.

The Secretary will read.

THE SECRETARY: Calendar Number 1372, by Senator Volker, Senate Print 2893C, an act to amend the General Municipal Law, in relation to the construction.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect 180 days.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 13 --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: Which one? We haven't read it yet.

The Secretary will read.

THE SECRETARY: Calendar Number 1378, by Senator Brown --

ACTING PRESIDENT McGEE: The Secretary will call the roll on reconsideration for Calendar Number 1372.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill

is laid aside.

The Secretary will read.

THE SECRETARY: Calendar Number 1378, by Senator Brown, Senate Print 5150B, an act to amend the Highway Law, in relation to designation.

ACTING PRESIDENT McGEE: Read the last section.

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

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1380, by Senator Larkin, Senate Print 6621A, an act to authorize the County of Orange.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1393, by Senator Marcellino, Senate Print --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1394, substituted earlier today by Member of the Assembly Carrozza, Assembly --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1395, substituted earlier today by Member of the Assembly Kolb, Assembly Print Number --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1396, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11419 --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: Senator Bonacic.

SENATOR BONACIC: Madam

President, immediate meeting of the Finance Committee, please, in the Majority Conference Room.

ACTING PRESIDENT McGEE: Immediate meeting of the Finance Committee in the Majority Conference Room, please.

SENATOR BONACIC: Thank you.

ACTING PRESIDENT McGEE: 1396 has been laid aside.

The Secretary will read.

THE SECRETARY: Calendar Number 1397, by Senator Stafford, Senate Print 6677A, an act authorizing the Town of Greenwich.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill has been laid aside.

THE SECRETARY: Calendar Number 1398, by Senator Larkin, Senate Print 6873A, an act authorizing the City of Newburgh.

SENATOR PATERSON: Lay it aside, please.

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

I'm sorry, Senator Paterson.

SENATOR PATERSON: Lay that aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1399, by Senator LaValle, Senate Print 7145, an act to amend the Social Services Law.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1400, by Senator Maziarz, Senate Print 7193A, an act to amend the General Municipal Law, in relation to establishing.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

Senator Bonacic.

SENATOR BONACIC: Madam President, we ask that Calendar 1323 be reconsidered by the vote on which it passed,

please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1323, by Senator Marchi, Senate Print 6155A, an act to amend the General Municipal Law.

ACTING PRESIDENT McGEE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

SENATOR BONACIC: Please lay that bill aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

The Secretary will continue in regular order.

THE SECRETARY: Calendar Number 1401, by Senator Morahan, Senate Print 7364, an act to amend the Banking Law, in relation to prohibiting.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1402, substituted earlier today by the Assembly Committee on Rules, Assembly 11322, an act to authorize the City of Albany.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1404, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11507, an act authorizing the --

SENATOR PATERSON: Lay it aside,

please.

ACTING PRESIDENT McGEE: The bill is laid aside.

SENATOR KUHL: Madam President.

ACTING PRESIDENT McGEE: Senator Kuhl.

SENATOR KUHL: Is 1402 still in the house?

ACTING PRESIDENT McGEE: Yes, it's still in the house.

SENATOR KUHL: Maybe if Senator Paterson would like to remove some objections before I move to reconsider the vote by which this bill passed the house.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, if you'd like to go back and read the noncontroversial calendar, starting with Calendar Number 1378, I'd be happy to remove the objections. Anything that would make Senator Kuhl feel more comfortable here in the chamber.

ACTING PRESIDENT McGEE: Senator Kuhl.

SENATOR KUHL: I'll await the rereading of the noncontroversial calendar, beginning with that section, that bill that Senator Paterson said.

And could we just hold Calendar 1402 at the desk for the time being.

ACTING PRESIDENT McGEE: Certainly.

Senator Bonacic.

SENATOR BONACIC: We'd like to restart the noncontroversial calendar at Calendar Number 1378, please, Madam President.

ACTING PRESIDENT McGEE: The Secretary will read, starting with Calendar Number 1378.

THE SECRETARY: Calendar Number 1378, by Senator Brown, Senate Print 5150B, an act to amend the Highway Law, in relation to the designation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1380, by Senator Larkin, Senate Print 6621A, an act to authorize the County of Orange.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1393, by Senator Marcellino, Senate Print 6071A, an act to amend the Civil Service Law, in relation to directing.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 90th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

SENATOR MARCELLINO: Madam President, this bill is an important step. It allows for our state workers to get leave in order to take mammography tests. They will not be charged time, it will not go against them.

This bill, in conjunction with what we did yesterday in women's health, I think is an excellent step. And it moves us forward towards taking care of our people and giving our people the proper tools they need. We look forward to the private sector to use this bill as an example and to take it up and provide workers with time off so that they can get the medical attention they need to prevent this terrible disease from attacking their families and their loved ones.

So, Madam President, I thank the chamber for its vote and its support, and I

thank the leadership for bringing this bill to the floor. Thank you again.

ACTING PRESIDENT McGEE: Thank you, Senator Marcellino.

Announce the results.

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1394, substituted earlier today by Member of the Assembly Carrozza, Assembly Print Number 9766A, an act to amend the Highway Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1395, substituted earlier today by Member of the Assembly Kolb, Assembly Print Number 9846,

an act to authorize Richard L. Simpson.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1396, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11419, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays,

1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1397, by Senator Stafford, Senate Print 6677A, an act authorizing the Town of Greenwich.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1398, by Senator Larkin, Senate Print 6873A, an act authorizing the City of Newburgh, County of Orange.

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

Read the last section.

THE SECRETARY: Section 5. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1399, by Senator LaValle, Senate Print 7145, an act to amend the Social Services Law, in relation to the return of a child.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

SENATOR DUANE: Thank you, Madam President.

I just -- I'm voting in the affirmative, and I just want to say this is a great bill.

ACTING PRESIDENT McGEE: Thank you, Senator Duane.

Senator Duane, in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1400, by Senator Maziarz, Senate Print 7193A, an act to amend the General Municipal Law, in relation to establishing.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1404, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11507, an act authorizing the assessor of the Town of Milo.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1405, by Senator Trunzo, Senate Print 7472A, an act to amend the Criminal Procedure Law, in relation to designating.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1406, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11466, an act to amend Chapter 485 of the Laws of 2000.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1407, by Senator Maltese, Senate Print 7490, an act to amend the Criminal Procedure Law, in relation to jurisdiction of counties.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1408, by Senator Leibell, Senate Print 7495, an act to amend the Retirement and Social Security Law, in relation to providing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1409, by Senator McGee, Senate Print 7511, an act authorizing the Dunkirk City School District.

ACTING PRESIDENT McGEE: Senator Bonacic.

SENATOR BONACIC: Madam President, may we -- we'd like to lay this bill aside for the day.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

Thank you, Senator Bonacic.

THE SECRETARY: Calendar Number 1410, by Senator Marchi, Senate Print 7540, an act authorizing the Fred and Gertrude England Hospital Education Foundation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1411, by Senator Lack, Senate Print --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1412, by Senator Libous, Senate Print 7560, an act to amend the Mental Hygiene Law, in relation to community.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1414, by Senator LaValle, Senate Print 7576, an act to amend the Town Law and Chapter 114 of the Laws of 1998.

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

Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: Lay the bill aside.

THE SECRETARY: Calendar Number 1415, by Senator Morahan, Senate Print 7577, an act to amend the General Municipal Law, in relation to creating.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1416, by Senator Maltese, Senate Print 7581, an act to amend the Correction Law, in

relation to authorizing the Commissioner of Correctional Services.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Montgomery.

Senator Bonacic.

SENATOR BONACIC: I think Senator Montgomery is up, and we'd like to recognize Senator Montgomery.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: All right, thank you. Thank you, Madam President.

I would just like to compliment Senator Maltese on this legislation. I think it's excellent. And I'm just only hopeful that the Assembly will agree and pass this legislation as well.

Thank you. I'm voting yes, Madam

President.

ACTING PRESIDENT McGEE: Thank you, Senator Montgomery.

Senator Duane.

SENATOR DUANE: Thank you, Madam President.

In order of the introductions of this legislation, I'd like to say on behalf of former Senator Abate and myself, and now Senator Maltese, that this is a great bill and I'm hoping that the Governor will sign it.

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

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

Announce the results.

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1417, by Senator Nozzolio, Senate Print 7589, an act to amend the Highway Law, in relation to designating.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

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

SENATOR BONACIC: Thank you, Madam President.

Can we now go to the controversial reading of the calendar. We would ask that -- we'd like to take up Senator Velella's two bills first, 371 and 820. And then we're going to do the Judiciary report.

So let's start with Calendar 371 of the controversial calendar, if we can, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Bonacic.

The Secretary will read.

THE SECRETARY: Calendar Number 371, by Senator Velella, Senate Print 3663A,

an act to amend the General Business Law, in relation to trash dumpsters.

SENATOR PATERSON: Explanation.

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

SENATOR VELELLA: Thank you, Madam President.

This bill is a very simple bill. It would require that any dumpsters left on the perimeter of the highways in this state be painted or stripped with a fluorescent band of paint so that they would be visible from the road at night.

There have been numerous accidents where people have run into these dumpsters, and this would require that a strip or a painting of a fluorescent color be placed on these units.

ACTING PRESIDENT McGEE: Senator Gentile.

SENATOR GENTILE: Yes, on the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Gentile, on the bill.

SENATOR GENTILE: Well, I

congratulate Senator Velella for a bill of this type, and I will be supporting it.

I think it must also be said that too many of these dumpsters have coopted portions of our public streets. And I think that what we need to do is enforce the sanitation laws that are in the City of New York that strictly regulate the use of dumpsters on our streets. I've been trying to do that in my neighborhood. Unfortunately, the community board in Bay Ridge has not agreed with that program.

This is a good bill. I will vote for it, Senator. But I think we need to take the next step and convince the Department of Sanitation of the City of New York to not allow community businesses to coopt parts of our sidewalks.

So I will vote in favor.

SENATOR VELELLA: Last section.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 820, substituted earlier today by Member of the Assembly Tocci, Assembly Print Number 9770, an act authorizing the City of New Rochelle.

SENATOR PATERSON: Explanation.

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

SENATOR VELELLA: Yes, Madam President. This bill authorizes the City of New Rochelle to accept an application for a real property tax exemption on property owned by the Thornton-Donovan School.

In March of 2001, the school closed on the purchase of a parcel of land in New Rochelle. Since then, the school has paid just over $10,000 in property taxes to the City of New Rochelle.

This school is a tax-exempt

institution with a 501(c)(3) status and should not have actually paid those taxes. This bill would allow them to apply to have the monies returned.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, I laid this bill aside for Senator Dollinger. I can only imagine what he would say.

(Laughter.)

SENATOR VELELLA: Senator Paterson, I realize you're here as a representative of the people. I think you're more than competent to represent Senator Donovan [sic]. You can ask the questions.

SENATOR PATERSON: What I'll do, Madam President, is I'll let Senator Dollinger come back and vote on this bill. I believe he's in the Rules Committee -- he's out of the chamber at the moment.

But I'll enter Senator Velella's name in Senator Dollinger's sweepstakes, this infection that he talks about that went from Long Island to Brooklyn. I guess it's gone up

to Westchester.

And with that, Madam President, I will conclude my remarks on this bill.

ACTING PRESIDENT McGEE: Thank you, Senator Paterson.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Bonacic.

SENATOR BONACIC: I'd like to continue with Senator Velella, Calendar Number 1345, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1345, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11590, an act to amend Chapter 19 of the Laws of 1994.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, on this bill we're extending a sunset. And really, if Senator Velella would just yield for a question, I just want to know what we've learned in the time of enactment that persuades us that we should extend the limitations.

ACTING PRESIDENT McGEE: Senator Velella.

SENATOR VELELLA: Well, the answer to that is that we've learned that we have saved a lot of consumers of this state the burden of losing products, losing their property and not being able to get it returned.

This bill originally was one of the most progressive consumer bills. As a matter of fact, I call it the Velella Consumer Protection Act. But, you know, just by coincidence, it happens to be my bill.

But what it does is it allows credit card companies to insure against the loss of a product that you buy on that card.

We all see on television if it's lost, stolen and you bought it on your card, you can make a claim and have it returned. That was, for a long time in this state, being done illegally, because it was actually selling insurance. So we changed the Insurance Law so that these companies could offer these benefits to the consumers of this state.

The law expires -- this is just a continuation, and I'm sure you would want to see this done. If there's an actual study of how much it has helped consumers, I don't know. But it certainly hasn't hurt them any.

And I'm sure there are many people in your district or in mine that have made claims on purchases they made with credit cards or returned items or had them stolen or lost and are very happy that this Velella Consumer Protection Act is on the books.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Would the sponsor of the Velella Consumer Protection Act yield for another question.

ACTING PRESIDENT McGEE: Senator

Velella, will you yield?

SENATOR VELELLA: Absolutely.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: My goodness. Guy's Law. Okay.

SENATOR VELELLA: If you want to call it Guy's Law, feel free.

SENATOR PATERSON: Okay. Madam President, is there any thought to repealing the sunset? Senator Velella got up and made a case for us to just make this a continuing law. I think it's established that we don't need to keep extending it, that perhaps we should just institute it as a law.

SENATOR VELELLA: I agree with you, Senator. And we have spoken to the State Superintendent of Insurance, who is reevaluating it. And we may see, when this bill -- when this extension expires, we may see a permanent bill. Or we may see one next year. But the State Insurance Department wanted to just hold off on it until they had a better opportunity to reevaluate it.

But I think -- I know you'd be

happy to join me in making it a permanent law.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Yes, Madam President. I'll join Senator Velella. And we're going to now call it the Paterson Consumer Protection Act, because I don't think Senator Velella had thought about talking to the Superintendent until I brought it up, quite frankly.

(Laughter.)

SENATOR VELELLA: Last section.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Bonacic.

SENATOR BONACIC: Could we now return to the reports of standing committees.

I understand that there's the Judiciary report at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

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

As a justice of the Supreme Court of the Second Judicial District, Elizabeth Bonina, of Brooklyn.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President. I rise to move the nomination of Elizabeth Bonina, of Brooklyn, as a justice to the Supreme Court for the Second Judicial District.

We received the nomination from the Governor, we have examined the credentials of the candidate. They were found to have been excellent and in order. She appeared this morning before the full Judiciary Committee and was unanimously moved to the floor for consideration at this time.

And I'm very happy to yield to

Senator Marchi for purposes of a second.

ACTING PRESIDENT McGEE: Senator Marchi.

SENATOR MARCHI: Madam President, she is not from Staten Island, which would be the acme of my joy. But she is really about as close as you can get to it. My house, where I live, I can see the district that she comes from. And I've known the family for a long, long time. It's right across the Narrows. It's sort of -- from where I stand at home, it's just a little to the left of the Verrazano Bridge. So we can see each other from a distance.

But we have -- I've known the family. The family is a very fine family. We're not confirming the family for this. We're confirming a very fine exemplar of that family that has much to boast about.

She went to Villanova University, practiced law for about seven years in varied aspects of the law with great distinction, with great ability, and a variety of experiences. And she just moved on, and everything -- within a relatively short

period, she was proving herself over and over again, and has been functioning for the last year as the chair of the New York City Taxi and Limousine Commission, as the chief administrative law judge.

So she's had an experience of lectures that she's given to the Brooklyn Bar Association, to the state bar, to groups. So she's articulate, with a sound mind and a good background. Not only in experience, but her own personal qualities of integrity and commitment to the profession, Madam President, has endeared everybody who has met with her and interacted with her that she is indeed a very superbly equipped candidate for this position.

So it is with great enthusiasm that I second the nomination that enjoyed the unanimous support of the Judiciary Committee. And would hope that you also if we get to that point felicitously, very swiftly, she is with us this afternoon.

So it's with great, great pleasure that without further dunning the obvious about the kind of sentiments she elicits

professionally and personally, what more can I say? We're lucky to have her, and we're anxious to see her in the service of the larger public.

ACTING PRESIDENT McGEE: Senator Gentile.

SENATOR GENTILE: Thank you, Madam President. I believe my good colleague from Staten Island is very correct in that Elizabeth (Beth) Bonina is not from Staten Island.

Elizabeth (Beth) Bonina is Brooklyn's pride, and Brooklyn's pride shines through today. Definitely because the Governor has made a tremendous nomination here in Elizabeth Bonina to serve as justice of the Supreme Court of the Second Judicial District. And as much as I love Staten Island, I think today is Brooklyn's day and Bay Ridge's day in Brooklyn for this nomination.

You know, Madam President, when a nomination is made to the Supreme Court you would hope that nominee has the commitment, the necessary commitment to the law to serve adequately and have an impact as a justice.

Beth Bonina has that kind of commitment to the law. She's grown up with a family of lawyers, and her law firm and her family's law firm has done tremendous work in Brooklyn. So she has that commitment.

You would hope a nominee would have the type of experience that a justice of the Supreme Court would need to serve on that bench. Elizabeth Bonina has that type of experience. She has that breadth of experience as an attorney, both in preparing cases and in trying cases. So she comes up with all As in that area too.

But, you know, I have to say something else about Elizabeth (Beth) Bonina, because I've known her not as much in the legal area, but I've known her in the community sense, in the civic sense. And Elizabeth Bonina has been a tremendous civic leader. Even though many times we've been on opposite political sides, when it comes to the community both of us have been on the same side. We've both worked for this community. And I admire the advocacy and the commitment that Elizabeth Bonina shows to the Brooklyn

and particularly the Bay Ridge community.

For one instance, she has for years organized on her own, through volunteer efforts, an annual Toys for Tots program around the holiday time. And she donates space in her own apartment, and we put together, with community members from all parts of Bay Ridge, we put together a program that she has championed and led where we donate toys to children at the holiday times.

That is the story of Elizabeth (Beth) Bonina -- committed and an advocate, but also committed to our community. So this truly is, truly is a good day for the State of New York, it's a good day for the people of Brooklyn, it is a banner day for the people of Bay Ridge. And I know that her family is very proud of her. I want her to know the people of Bay Ridge are very proud of her. And she will do well as a justice of the Supreme Court.

So, Madam President, I stand proudly to second this nomination today of Elizabeth (Beth) Bonina.

ACTING PRESIDENT McGEE: The

question is on the confirmation of Elizabeth Bonina, of Brooklyn, as a justice of the Supreme Court of the Second Judicial District. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Elizabeth Bonina, of Brooklyn, is hereby confirmed as a justice of the Supreme Court of the Second Judicial District.

Her Honor is being joined this afternoon in the chambers by her husband, William Engfer; her parents, John and Barbara Bonina; and brother, John.

And on behalf of the New York State Senate, may we welcome you to the chamber and say congratulations to you on your new confirmation and appointment.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a judge of the Nassau County Court, George R. Peck, of

Williston Park.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President. I rise to move the nomination of George R. Peck, of Williston Park, as a judge of the Nassau County Court.

We received the nomination from the Governor. The staff of the committee examined the credentials of Judge Peck. They were found to be completely in order. And he appeared before the committee earlier this morning and was unanimously moved to the floor for consideration at this time.

And I'm most happy to yield to Senator Balboni for purposes of a second.

ACTING PRESIDENT McGEE: Senator Balboni.

SENATOR BALBONI: Madam President, I have the opportunity to rise today on someone who maybe not many people in New York State have actually heard the name, but should recognize the fact that in some of the most criminal prosecutions in the history of Nassau County, this gentleman has played an

incredibly significant role.

Among some of the personal efforts that he has made in prosecutions are the cases of Matthew Giglio, the last Nassau County police officer murdered in the line of duty and the last capital case tried in Nassau County. George Peck was the prosecutor in all of these cases. Leon Stern, the former Nassau County assistant district attorney and prominent, rising lawyer, shot and killed in his own home. Christopher Gruen, the young Newsday carrier, who was the victim of a savage attack while delivering newspapers.

He also tried the case of the Long Island Railroad shooter, Colin Ferguson. And that was the case in which most people came to see this articulate, serious, thoughtful prosecutor, because of all the time that he appeared before the television cameras in that capacity.

Judge Peck served on the Nassau County District Court with distinction. He loves being a judge. He is someone who represents not only the best that we have to offer from a judicial and legal perspective,

but he also represents his community with great integrity and with great affection.

This nominee before us has taken his life and given it to the pursuit of public service and public protection. We can do no better than to confirm this nominee.

Thank you, Madam President.

ACTING PRESIDENT McGEE: The question is on the confirmation of George R. Peck, of Williston Park, as a judge of the Nassau County Court. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: George R. Peck, of Williston Park, is hereby confirmed as a judge of the Nassau County Court.

He is joined in the chambers today by his wife, Patricia, and his son, William.

On behalf of the State of New York, may I say welcome to the chambers and congratulations.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a judge of the Westchester County Court, Irene Ratner, of New Rochelle.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President. I rise to move the nomination of Irene Ratner, of New Rochelle, whose nomination as a judge of the Westchester County Court we received from the Governor.

We examined her credentials; they were perfectly in order. She appeared before the committee earlier this morning and was unanimously moved to the floor for consideration at this time.

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

ACTING PRESIDENT McGEE: Senator Spano.

SENATOR SPANO: Thank you very much, Senator Lack.

Madam President, it's my pleasure

to speak in favor of the nomination of Irene Ratner for the County Court in Westchester. I'm very glad that Governor Pataki has chosen someone with Irene Ratner's experience, with her intelligence, her temperament, her character, and all of those attributes that make her just an excellent choice for the vacancy in the Westchester County Court.

She started her career years ago in the Small Claims Court. She went on and became an assistant district attorney. She has been involved in over 400 cases involving domestic violence, child abuse, and other criminal cases. Her most recent legal experience was in the Westchester Family Court, where she serves as an associate court attorney and a court attorney referee.

She's been involved in a number of activities in Westchester and has been an advocate on behalf of a number of activities, such as Holocaust Survivors and a number of other Jewish associations.

She has a tremendous amount of community experience, a tremendous amount of experience in the bar, a number of devotions

to her own family and to our community in Westchester. And I'm glad that she is here, and joined today by her husband, Joe, and her two children. And it's her son's birthday today. We want to wish him a happy birthday. And her mom, Franka Gertel, who is also here.

So it is my pleasure to stand today to second the nomination of an outstanding person who will do so well and make us all proud as an ideal candidate for the County Court bench in Westchester.

Thank you, Madam President.

ACTING PRESIDENT McGEE: The question is on the confirmation of Irene Ratner as a judge of the Westchester County Court. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Irene Ratner, of New Rochelle, is hereby confirmed as a judge of the Westchester County Court.

She is joined in the chamber by her family, as was said by Senator Spano.

And may we take this opportunity to say welcome to the chambers. Congratulations to you on behalf of the New York State Senate.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Judith A. Hard, of Albany.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President. I rise to move the nomination of Judith Ann Hard, of Albany, as a judge of the Court of Claims.

We received this nomination from the Governor. I must say we were very happy to receive it. Judy Hard is a member of the Senate family, although she hasn't worked for the Senate for a number of years. The years that she did work here, in the late '80s, she was very well known to all of us who were around at the time. She was an analyst, and a very good one, for the Senate Finance Committee.

As my friend Abe Lackman likes to

say, he prides himself -- and came to the committee meeting this morning to say that he hired Judy Hard. And we're very happy he did, because that led to her career later. I'm not going to steal all of Senator Breslin's thunder, but I will say it led to a career later in government that has resulted in her being able to sit in our west gallery this afternoon.

And I think I and all my colleagues in the Senate are very happy that a member of the Senate family is now becoming a judge of the Court of Claims.

Obviously, we examined her credentials. It was an easy thing to do, knowing her background and experience. She appeared before the committee earlier this morning, and was unanimously moved to the floor for consideration at this time.

And I'm very happy to yield to Senator Breslin for purposes of a second.

ACTING PRESIDENT McGEE: Senator Breslin.

SENATOR BRESLIN: Thank you, Senator Lack.

It's my pleasure to second the nomination of Judith Hard for the Court of Claims -- a constituent of mine, a graduate of Mount Saint Vincent's, a graduate of Western New England College of Law, and she received a master's degree in law from Boston University.

And to stand here and talk about a protege of Abe Lackman is a distinction that any one of us would enjoy. Her years spent working in the Senate Finance Committee and her years spent working in the Assembly as counsel to the Minority. Additionally, her five years spent as first deputy in the Governor's office. And then to culminate that, prior to this nomination, her years as Executive Deputy Commissioner of Tax and Finance.

At each stage, she has distinguished herself and has prepared herself for this moment in time to become a judge in the Court of Claims. And it is my pleasure to second that nomination.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Balboni.

SENATOR BALBONI: Thank you, Madam President.

Another individual who has risen through the ranks. As a matter of fact, I share, very much from a personal perspective, the odyssey that Judith Hard has started. We began in the same year in the same institution, 1985, in the New York State Senate. Obviously, she has done much better in her career.

She'll continue to do better. She has -- as I said in the Judiciary Committee, whatever tasks she has done, whatever endeavors she has undertaken, she has done it with the finest of intention, intellect, and integrity. Judith Hard is one of those people, those rare individuals who gives everything she has for public service and only seeks to assist the process. She's not interested in turf, she's not interested in ego. She's interested in moving the process along.

She is going to make an excellent jurist. And I think that we can do ourselves proud by confirming this nominee.

ACTING PRESIDENT McGEE: Senator Meier.

SENATOR MEIER: Thank you, Madam President.

Both as county executive and as a state senator, I've watched Judith Hard handle some of the most difficult and nettlesome legal problems that anyone can imagine. And I can say this very briefly. She is smart, she is honest, she is totally committed to public service, and she is the kind of person who can stay balanced and centered in the face of very difficult problems.

And she's the most remarkable kind of lawyer: she can answer a question with a direct, understandable answer. She is exactly the kind of person who belongs on the bench.

Good luck, Judge.

ACTING PRESIDENT McGEE: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

I rise also to support the nomination of Judy Hard. She worked as our floor counsel when we were in the Assembly

Minority. And we were blessed to have Vicky Graffeo in there at the same time, so we had two very learned attorneys. Vicky went on to the Court of Appeals, and now Judith is going on to the Court of Claims.

We are very fortunate to have both these distinguished attorneys serve in judicial capacities for the people of the State of New York, and I know Judy is going to do an excellent job.

Thank you very much, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Bonacic.

The question is on the confirmation of Judith A. Hard, of Albany, as a judge of the Court of Claims. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Judith A. Hard, of Albany, is hereby confirmed as a judge of the Court of Claims.

Judge Judith, may I take this opportunity to say congratulations to you, welcome to this chamber, and how wonderful that we can confirm you on your birthday.

Congratulations.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Nicholas V. Midey, Jr., of Manlius.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise once again to move the nomination of Nicholas V. Midey, Jr., of Manlius, to succeed himself as a judge of the Court of Claims.

We've examined Judge Midey's record. He appeared before the committee earlier today. His exemplary record was talked about. He was moved unanimously to the floor.

And I'm very happy to yield for

purposes of a second to Senator Nozzolio.

ACTING PRESIDENT McGEE: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President. Thank you, Senator Lack.

I rise to second the nomination of Nicholas V. Midey, Jr. -- of Manlius today, but formerly of Seneca Falls -- to reappointment as a judge of the New York State Court of Claims.

It's hard to believe that it has been seven years since Governor Pataki began what has been a process continuing to this day of the nomination of judges who are extremely competent, who are extremely varied in their backgrounds, and who are uniquely qualified to serve in capacities of jurists for the State of New York.

Judith Hard certainly fits that description. I wish to associate my remarks or my support for the remarks made during her nomination. She herself, with a background in the Legislature, is bringing a unique view to the bench.

And that's what happened seven

years ago when, again, Governor Pataki began a process of putting together the best qualified lawyers from across the state to be part of the judiciary.

Nick Midey certainly exemplifies that uniqueness, in the sense that he was schooled in the best undergraduate and law school programs in the country, came home to serve his town and his community as a practitioner, involved in a number of community and civic affairs as well as a background in the workings of courts at every level -- the town court, village court, county court, family court, surrogate's court.

Those lawyers that have a broad brush of background Governor Pataki sought out as he began putting together the components of the judiciary under his watch. Those seven years have produced great judges. I'd like to thank those that were mentioned that are serving on the Court of Appeals that have been a part of Governor Pataki's nominations. We all have special kinship to those, particularly Dick Wesley and Vicky Graffeo, who served in the Legislature as staff people,

as elected officials.

But going through the rest of the judiciary, as we have nominated today a great group of individuals, and Nicholas V. Midey, Jr., stands out, deserves reappointment, has served the state extremely well as a member of the Court of Claims.

I'm proud that Governor Pataki is renominating him. I'm prouder yet that he sought him out seven years ago to serve in the Court of Claims. I'm prouder still to know Nick Midey as a friend. Ladies and gentlemen, I urge his nomination.

ACTING PRESIDENT McGEE: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

I'm delighted to be able to rise and also second the nomination of Nicholas Midey, and once again commend the Governor on having the great common sense to appoint, or reappointment, in this case, not only a very good friend of Senator Nozzolio but also a resident of the 48th Senate District in the beautiful town of Manlius.

Manlius has been home recently to many distinguished appointments. Just last week we reconfirmed Mrs. Aminy Audi to the State Education Board of Trustees. We have had numerous judges and other high-ranking officials come from that lovely town, as well as other beautiful parts of the 48th Senate District.

And I'm very pleased to join in seconding the nomination of Nick Midey for his reappointment to the Court of Claims today.

ACTING PRESIDENT McGEE: The question is on the confirmation of Nicholas V. Midey, Jr., of Manlius, as a judge of the Court of Claims. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Nicholas V. Midey, Jr., of Manlius, is hereby confirmed as a judge of the Court of Claims.

May I say, Judge Midey, thank you so much for being here. Congratulations to

you, and welcome to the chamber. On behalf of the New York State Senate, I say congratulations to you again.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Stephen J. Mignano, of Cortlandt Manor.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise once again to move the nomination of Stephen J. Mignano, of Cortlandt Manor, as a judge of the Court of Claims to succeed himself.

The judge was before us two years ago. His record has certainly proved to be excellent since then. He appeared earlier this morning before the committee, was unanimously moved to the floor for consideration at this time.

And I'm very happy to yield to Senator Leibell for purposes of a second.

ACTING PRESIDENT McGEE: Senator Leibell.

SENATOR LEIBELL: Thank you very much, Senator Lack and Madam President.

And it was approximately two years ago that I had the opportunity to rise on this floor to speak on this nomination. And when I spoke at that time, I first thanked the Governor for sending us such an excellent name, but I also recounted the many things that the nominee had been involved in.

Besides having an excellent education, he'd been extensively in the practice of law; he'd been on the Governor's transition team in 1994, specializing in the environmental area; he'd been a lecturer, he had written numerous articles. He had been someone who had become well-versed in a wide, wide variety of areas of the law.

And since that time, Steve Mignano has served on the Court of Claims and done so with great distinction. So I'm very pleased to recount the comments I made approximately two years ago, but also add now that he has great, great experience on our court system in

New York State.

I'd also like to move this nomination, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Leibell.

The question is on the confirmation of Stephen J. Mignano, of Cortlandt Manor, as a judge of the Court of Claims. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Stephen J. Mignano, of Cortlandt Manor, is hereby confirmed as a judge of Court of Claims.

He is joined in the gallery by his wife, Barbara; his son, David; his parents, Domick and Sandra Mignano; and law clerk Simon O'Donnell.

May I take this opportunity to welcome you on behalf of the New York State Senate and say congratulations on your confirmation.

(Applause.)

ACTING PRESIDENT McGEE: Senator Spano.

SENATOR SPANO: Madam President, we'd like to return to the calendar and please have the Secretary read Calendar 1400.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1400.

THE SECRETARY: Calendar Number 1400, by Senator Maziarz, Senate Print 7193A, an act to amend the General Municipal Law, in relation to establishing.

SENATOR PATERSON: Explanation, please.

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

SENATOR MAZIARZ: Thank you, Madam President.

This bill would change the minimum age for individuals to be able to work at bingo games in New York State. Currently the minimum age for individuals to conduct or assist in the conduct of bingo operations is 18.

Several organizations, particularly volunteer fire companies, have young people of

the age of 16 and 17 who are in -- they either call them Explorer groups or Junior Firefighter groups. These are individuals who are working their way into becoming full volunteer firefighters at the age of 18.

Currently, because of this New York State law, these individuals are not allowed to assist at the fire company bingo operations. This bill would allow them to assist -- not to conduct the games, but to assist at such things as selling refreshments, parking of cars, and so forth.

Thank you.

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

Senator Paterson.

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

ACTING PRESIDENT McGEE: Senator Maziarz, will you yield for a question?

SENATOR MAZIARZ: Absolutely, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Madam President, there's nothing about the bingo game that particularly bothers me, as would be the case with the volunteer fire companies. A younger person assisting them might be a good opportunity for them to work and also to learn a skill about working in these types of places.

But my understanding is that in a number of these bingo parlors there is a tremendous amount of smoke coming from people who are smoking while they're actually playing. My question to Senator Maziarz is does he see that or would he consider that to perhaps be hazardous to those who'd be under the age of 18.

SENATOR MAZIARZ: I certainly would consider that to be hazardous, Madam President. And I think that perhaps when we pass Senator Fuschillo's bill, that may be taken care of. But the answer to your question is yes, I do see that as being a hazard.

And I would also tell my good friend Senator Paterson that many, many bingo

organizations, particularly those in the upstate region, have banned smoking, voluntarily banned smoking, and are also subject, I think, to some county health department rules and regulations on smoking at bingo games.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Spano.

SENATOR SPANO: Can we go to Calendar 594, Madam President.

ACTING PRESIDENT McGEE: The Secretary will read Calendar 594, by Senator Trunzo.

THE SECRETARY: Calendar Number 594, by the Assembly Committee on Rules,

Assembly Print Number 8846, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR PATERSON: Explanation, please.

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

SENATOR TRUNZO: Madam President, this bill builds off of a current law which had been to combat auto theft, known as CAT, something which was created many years ago by Senator Leonard Stavisky.

And I believe that Senator Stavisky currently wanted to speak on the bill. I don't know if you want to handle that now or wait until later.

ACTING PRESIDENT McGEE: Senator Spano.

SENATOR SPANO: If Senator Trunzo would suffer an interruption, we'd like to lay the bill aside and ask for an immediate meeting of the Republican Majority in the Majority Conference Room.

We will resume at 2:00 o'clock.

ACTING PRESIDENT McGEE: The bill is laid aside.

There will be an immediate Majority conference in the Majority Conference Room. The Senate will resume at 2:00 o'clock.

(Whereupon, the Senate stood at ease at 1:35 p.m.)

(Whereupon, the Senate reconvened at 2:20 p.m.)

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to Calendar Number 594, by Senator Trunzo.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 594, by the Assembly Committee on Rules, Assembly Print Number 8846, an act to amend the Vehicle and Traffic Law, in relation to New York motor vehicle theft prevention program.

SENATOR BRESLIN: Explanation.

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

SENATOR SKELOS: Madam President, if I'm correct, I believe Senator Stavisky wanted to explain her vote. So if we could have the last section read and then call the roll. If I'm correct --

SENATOR STAVISKY: I think Senator Breslin is speaking in response to my request, simply -- I don't have any questions for the sponsor.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: Madam President, to explain my vote.

My husband was the originator of the CAT program many, many years ago. And this gives the Police Department in the City of New York permission to stop a car that is normally not driven during the wee hours of

the morning. It has been successful in preventing auto theft, in addition to VIN etchings and other programs.

What we're doing here is substituting a federal decal program. And in fact, a number of years ago we met with the deputy attorney general in D.C. on this very issue, on the idea of a national program to combat auto theft where the decal would be uniform throughout the fifty states.

This really has no effect on the CAT program in New York City. It provides uniformity, which is, I think, a good idea. I think the whole key is going to be funding on the part of the federal government, on the part of the State Department of Criminal Justice.

And with the assurances from the chairman of the Transportation Committee that this is indeed the case, I will vote aye.

ACTING PRESIDENT McGEE: Recorded in the affirmative. Thank you, Senator Stavisky.

Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 1405, by Senator Trunzo.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1405.

THE SECRETARY: Calendar Number 1405, by Senator Trunzo, Senate Print 7472A, an act to amend the Criminal Procedure Law, in relation to designating.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President,

would you please call up Calendar Number 608, by Senator Bonacic.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 608.

THE SECRETARY: Calendar Number 608, by Senator Bonacic, Senate Print 2772B, an act to amend the Penal Law, in relation to establishing.

ACTING PRESIDENT McGEE: Read the last section.

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

SENATOR BRESLIN: Explanation, please.

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

SENATOR BONACIC: Yes, Madam President.

This is an act to amend the Penal Law, in relation to establishing the vehicular assault of a provider of emergency services to be a first-degree vehicular assault.

This stems out of an incident that happened in Port Jervis where a police

officer, after a country fair, was directing traffic. Someone came along and hit him and kept going. And normally, that would -- he was charged with vehicular assault in the second degree, an E felony.

And we want to make it a D felony, a special penalty when you injure an individual who's involved in emergency services while on duty.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If the sponsor would yield, through you.

SENATOR BONACIC: I will.

ACTING PRESIDENT McGEE: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Senator, when I first read this bill I thought that perhaps it was parallel to a bill that we dealt with a week or two ago of having stronger charges when somebody committed a felony, I think it was against transit officers. So my first reading of this was this was some kind of parallel bill.

But my second reading, and based on the example you used, leads me to the question: Does this bill deal with the intent of the driver, that they intended to harm an emergency service worker? Or is it I did not -- you know, I am guilty -- in this scenario, I am guilty of driving the car, I am guilty of perhaps a DWI, I am guilty of perhaps a hit-and-run in the example you gave. But was my intention specifically to do harm to someone who was employed as an emergency service worker, or just by default that person I hit might have been an emergency service worker?

SENATOR BONACIC: It has nothing to do with intent. You're dealing with criminal negligence where there's physical injury, perhaps under the influence of alcohol or drugs. But if you hit an emergency services person -- not intentionally, but as I've described -- we want to bump it up one degree in a felony from an E to a D.

Emergency services people put themselves more in harm's way because they are volunteers. And let me just tell you, if I

may, what our category is of emergency service provider. It would be an EMT, emergency vehicle operator, police officer, peace officer, firefighter, emergency medical service paramedic, medical or related personnel from a hospital emergency department, rescue squad member, and must be acting in that capacity when the injury occurs.

SENATOR LIZ KRUEGER: Madam President, if the sponsor would yield, through you, to an additional question.

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

SENATOR BONACIC: I do.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

Senator, I'm still concerned with the issue of the intent is not different if I am the driver of a vehicle that hit you, not working as a volunteer or aid emergency service worker, versus that you're on duty.

Is there a precedent in other criminal laws where, not because of the intent

but rather because of the job description of the person who gets harmed, we have a different felony statute?

SENATOR BONACIC: Yeah. When you try to intentionally hurt someone, depending on the degree of your success -- did you cripple them, did you bruise them -- penalties are much more severe than what we're talking about here. You could have a B felony or a C felony, depending on the degree of injury that you intentionally tried to cause.

That's a whole different category over here. This bill is not addressing intentional acts of injury.

SENATOR LIZ KRUEGER: Thank you, Madam President. If I could speak on the bill, please.

ACTING PRESIDENT McGEE: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I'm afraid I think I have to vote against this bill, even though I don't have a strong objection per se about the importance of recognizing the dangers of working in emergency services as a volunteer or as a paid

professional. But, rather, the fact that this is not an issue of changing felony charges because of differing intents of criminals or of a negligent or criminal act, but rather that the person harmed is wearing a uniform or not wearing a uniform or on a specific duty or not.

If I could believe that this bill was intended to serve as a deterrent that someone who might have -- as we passed it in a bill, people who were in transportation, I think, positions that they felt that they were open to greater attack from people, with intent, because they are working with the public in certain jobs, I was comfortable voting for that bill. But I don't see the parallel here.

Because here the issue is it was not an intent of the driver of the car to do greater harm or less harm to the person because they were an emergency service worker, it was simply a fact that a person who got hit was an emergency service worker.

So I think it's a precedent that makes me nervous about for us to start

establishing criminal law that rather than addresses different felony charges to different levels of intent, rather has different felony charges based on who gets harmed.

Because I think, as I understood the Senator's explanation -- and I appreciate his explanation -- if I was the person walking across the road from the state fair from Point A to Point B and I got hit by -- Senator Duane was driving the car in this example. I'm sorry, but I looked at you.

So if Senator Duane hits me as I'm crossing the road, then he would have one felony charge to face. But if in fact I was serving as an emergency service worker, either in a voluntary or paid position, he would face a stiffer charge under this law.

And yet I don't think that we could show that Senator Duane's intent was different towards me whether or not I was serving in that role.

I'm not going to yield to a question, Senator Duane, no matter how much you ask me to now.

But again, that's my concern, that we open up this door. And so I'm not comfortable with moving law down that road where, rather the intent of the criminal act, rather who is affected by the criminal act, almost by happenstance, changes the status of the felony charge. So I will vote against the bill and hope that others will think about that.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 2. Senators Hassell-Thompson and L. Krueger recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President,

if we could return to reports of standing committees and take up the Finance Committee report.

ACTING PRESIDENT McGEE: The Secretary will read.

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

As a member of the State Liquor Authority, Lawrence J. Gedda, of Lynbrook.

ACTING PRESIDENT McGEE: Senator Stafford.

SENATOR STAFFORD: Thank you, Madam President. We had three fine appearances today.

And I yield to Senator Skelos from the great County of Nassau.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Thank you very much, Senator Stafford.

It's my pleasure to move the nomination of Lawrence J. Gedda as a commissioner of the State Liquor Authority.

Larry is a public school graduate

of Valley Stream, my home community that I represent. United States Army Command Intelligence School; Penn State University; special agent, United States Army Counterintelligence Corps. And I think what's significant for this nomination, since 1963 he's worked with the State Liquor Authority.

If you talk to anybody that's involved in the industry, they will tell you that Larry Gedda is a gentleman, a consummate professional, and a person who the Governor can be very proud of in his reappointment.

So it's my pleasure to move the nomination of Lawrence J. Gedda as a commissioner of the State Liquor Authority.

ACTING PRESIDENT McGEE: The question is on the confirmation of Lawrence Gedda as a member of the State Liquor Authority. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Lawrence

Gedda is hereby confirmed as a member of the State Liquor Authority.

On behalf of the New York State Senate, may I say welcome to the chambers and congratulations on your reappointment, Mr. Gedda.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, Susan L Kupferman, of New York City.

ACTING PRESIDENT McGEE: Senator Stafford.

SENATOR STAFFORD: Madam President, as I mentioned, we had three fine appearances before us today, and Susan was one of them.

It's always a real pleasure when you can stand, as Senator Skelos just did and I can do at the present time, and talk about individuals who are being appointed who have done so well in the fields to which they're being appointed. They understand the area, and they are the type of appointments that

make this state what it is.

I would point out that Susan is a survivor in many, many ways. All you have to do is look at her resume. And she actually served here in the Senate. And of course when you've worked with Norman Levy in Transportation, you became an expert, I assure you. If you didn't, there was a problem.

And Susan has moved on each time, doing so well with the Thruway Authority, in the executive chamber, responsible for transportation to the executive branch. And I would say that we could have no finer appointment.

As I've said, you know, in this day and age when people are rather cynical about government -- and I can see everyone is just hanging on every word here. It's just very exciting. But on a serious note, when people are cynical about government, you just have to see the kind of appointments, and including Susan's -- and of course I would mention, obviously, that Susan now is director of operations in the mayor's office in the greatest city in the world, the greatest city

in this state in excess of 1 million population. I have to point that out.

But, Madam President, it's indeed a pleasure to move the confirmation of Susan Kupferman.

ACTING PRESIDENT McGEE: Thank you, Senator Stafford.

Senator Stachowski.

SENATOR STACHOWSKI: Madam President, I'd like to rise to second the nomination of Susan Kupferman. This is a great appointment by both the Mayor and the Governor in sending her name up. And I'm happy to be up and talking about her.

As you can see from her resume, that she's a very intelligent person and very efficient. Because in her case, she transcends political parties. She worked for the Senate Republicans on the Finance Committee, she worked for the Democratic governor, and she then was appointed by the Republican governor to the Thruway Authority and now works for a Republican mayor. And so the politics don't really play into her appointments, it's the ability that plays into

her appointments.

And having the experience of having worked closely with her when she was with the governor, and having appreciated all her help and advice in working on many projects in the transportation area, I'm tickled to be able to rise and second her nomination.

I'd like to congratulate Mayor Bloomberg on sending her name up. I'd like to also congratulate him on being smart enough to pick someone like her to run his office of operations.

And as much as this resume reveals, I'm sure that she didn't necessarily want to have that cover sheet that gave out her date of birth for everybody to see that maybe isn't one of her closest friends. But I didn't want to be completely serious, so I had to throw that in.

Susan, I'm tickled to be up and talking about you, and it's a pleasure to see you and see that you're doing so well. And it was my pleasure to congratulate the Governor and the Mayor on this appointment.

ACTING PRESIDENT McGEE: The

question is on the confirmation of Susan Kupferman as a member of the Metropolitan Transportation Authority. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Susan Kupferman is now hereby confirmed as a member of the MTA board.

On behalf of the Senate of the state, may I say congratulations on your confirmation and welcome you and your friend Bernard McCarry and your brother, Richard Kupferman. Congratulations.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, Mark D. Lebow, Esquire, of New York City.

ACTING PRESIDENT McGEE: Senator Stafford.

SENATOR STAFFORD: Madam

President, again, it's a pleasure.

Before we get to Mark, Senator, where's that date of birth? Oh, I didn't see it. I didn't see it. I guess it isn't there. I guess it isn't there.

I also would point out that Susan is working for a mayor who's Republican who was a Democrat.

Now, moving on to Commissioner Lebow, because he's going to be confirmed, anyone who graduates from Yale magna cum laude -- and it's very discouraging for me nowadays, Madam President: everybody is younger than I am -- and then Harvard Law School, that goes a long way.

Then when you continue that Mark Lebow was administrative partner for Coudert Brothers, the law firm -- and anybody that knows the law firms in the greatest city of -- in the great city of New York, which is the greatest in excess of 1 million people in the state -- you understand that it is most impressive to be administrative partner and to have been a partner since 1972.

Also, Mr. Lebow was in the

Department of Justice and he was on the New York City Civil Service Commission, and he chaired the Manhattan Community Board.

He's been involved, he understands and appreciates and is sensitive to transportation issues. He's had experience, he has an interest.

And, Madam President, again, it is a pleasure for me to move the confirmation of this fine nominee, Mark Lebow.

ACTING PRESIDENT McGEE: Senator Lachman.

SENATOR LACHMAN: Yes, I hesitate to heartily agree with Senator Stafford, since I'm not a graduate of Harvard or Yale but a graduate of Brooklyn College and New York University. But I completely agree with the chairman of the Finance Committee.

I have known Mark Lebow in a different capacity. He also serves as the president of the American Red Magen David for Israel. And over the past year, year and a half, we have worked very closely together in terms of the position of the American Red Cross within the international federation and

the international federation's denial of the -- for the admission of the State of Israel because of the Star of David that it has.

Mark not only is an outstanding professional, a bright man with a great deal of integrity, but he is also someone who is deeply involved, not only in this organization but other organizations. And I know he will bring a great deal of intelligence, substance, and integrity to the MTA.

And it is a great pleasure to second his nomination.

ACTING PRESIDENT McGEE: Senator Oppenheimer.

SENATOR OPPENHEIMER: I must say -- and I'm going to overcome my natural aversion and competitiveness to Harvard Law School, being a Yale Law School family.

But we had a wonderful meeting a little earlier with Mark Lebow, and I must say he impressed me very much and seemed very open to my concerns, which were sort of unique and different from those of the City of New York, as being a suburban senator. And my concerns

were not -- were less of the rail type than of new initiatives.

But I'm very happy to second the nomination, because I think this will be a wonderful addition to the MTA board. Thanks.

ACTING PRESIDENT McGEE: Thank you, Senator.

The question is on the confirmation of Mark D. Lebow as a member of the MTA board. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: All opposed will say nay.

(No response.)

ACTING PRESIDENT McGEE: Mark D. Lebow is hereby confirmed as a member of the MTA board.

And may I say welcome to the chamber, congratulations, and our best wishes to you in your appointment.

(Applause.)

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the

Rules Committee in the Majority Conference Room.

ACTING PRESIDENT McGEE: Immediate meeting of the Rules Committee in the Majority Conference Room, please.

The Secretary will read.

THE SECRETARY: As a nonvoting member of the Metropolitan Transition Authority, Andrew Albert, of New York City.

As a member of the Adirondack Park Agency, Frank L. --

ACTING PRESIDENT McGEE: Senator Stafford.

SENATOR STAFFORD: I would point out, although this gentleman didn't appear, Madam President, I'm sure you wouldn't mind to individually move this nomination. And I believe Andrew is -- well, there he is. He is with us.

And it's a pleasure to have you. And most people would say that you were very fortunate in not having to appear. Possibly next time.

Move confirmation, please.

ACTING PRESIDENT McGEE: Thank

you.

The question is on the confirmation of Andrew Albert as a nonvoting member of the MTA. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Andrew Albert is hereby confirmed as a nonvoting member of the MTA.

May I say congratulations, welcome to the chambers, and good wishes.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a member of the Adirondack Park Agency, Frank L. Mezzano, of Lake Pleasant.

As members of the Dormitory Authority, Jose Alberto Corvalan, M.D., of Armonk, and Thomas H. O'Neill, Jr., of Hamburg.

As a member of the New York State Energy Research and Development Authority, Jay

L. Gottlieb, of New York City.

As a member of the New York State Olympic Regional Development Authority, James E. Shea, Jr., of Lake Placid.

As a member of the Port Authority of New York and New Jersey, Bruce A. Blakeman, Esquire, of New York City.

As a trustee of the Power Authority of the State of New York, Frank S. McCullough, Jr., Esquire, of Rye.

As a member of the New York State Thruway Authority, Nancy E. Carey Cassidy, of Loudonville.

As a member of the board of directors of the Great Lakes Protection Fund, Gerald F. Mikol, of Orchard Park.

As a member of the Small Business Advisory Board, Catherine Crowley, of New York City.

As a member of the Finger Lakes State Park, Recreation and Historic Preservation Commission, Marcia Herrling Finch, of Union Springs.

As a member of the Genesee State Park, Recreation and Historic Preservation

Commission, Terry Lowell, of Dalton.

As a member of the Lake George Park Commission, Bruce Young, of Huletts Landing.

As a member of the Palisades Interstate Park Commission, Samuel F. Pryor, III, Esquire, of Bedford Hills.

As a member of the Saratoga-Capital District State Park, Recreation and Historic Preservation Commission, Michael T. Dennis, of Wilton.

As members of the Thousand Islands State Park, Recreation and Historic Preservation Commission, Thomas R. Grow, of Massena, and Myrna Ellen O'Neil, of Ogdensburg.

As a member of the Republic Airport Commission, Philip Acinapuro, of North Massapequa.

As members of the Stewart Airport Commission, Steven M. Neuhaus, of Chester, and James C. Wright, of New Windsor.

As commissioner of the Ohio River Valley Water Sanitation Commission, Douglas E. Conroe, of Maple Springs.

As a member of the Veterans'

Affairs Commission, Ben E. Peets, of Tupper Lake.

As members of the Medical Advisory Committee, John Angerosa, Jr., M.D., of Scotia; Ruben P. Cowart, of Syracuse; and Norman R. Loomis, M.D., of Ontario.

As a member of the New York State Environmental Facilities Corporation, William F. McCarthy, of New York City.

As a member of the board of directors of the Roosevelt Island Operating Corporation, Mark Ponton, of Roosevelt Island.

As members of the Advisory Council on Alcoholism and Substance Abuse Services, Richard G. Dobell, of Endwell; Kenneth L. Oakley, Ph.D., of Batavia; and John G. Phillips, of Watertown.

As a member of the Advisory Council on the Commission on Quality of Care for the Mentally Disabled, E. Regis Obijiski, of Tillson.

As a member of the Council on Human Blood and Transfusion Services, Donna Skerrett, of Mount Vernon.

As a member of the Passenger

Tramway Advisory Council, Ray Allard, of Rensselaer, and Russell R. Coloton, Jr., of Hunter.

As members of the State Council on the Arts, Karen LeFrak, of New York City; Betty Levin, of New York City; and Linda E. Mondello, of Oyster Bay Cove.

As a member of the State Fire Prevention and Building Code Council, Jeffrey Centra, of West Nyack.

As a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at Batavia, Roy J. Wullich, of Batavia.

As a member of the Board of Visitors of the Bronx Psychiatric Center, Samuel Lopez, of the Bronx, and Nellie Neazer, of the Bronx.

As members of the Board of Visitors of the Bronx Children's Psychiatric Center, Raquel C. Coca, of the Bronx, and John T. Shea, of the Bronx.

As a member of the Board of Visitors of the Capital District Developmental Disabilities Services Office, Lucile Richards,

of Albany.

As members of the Board of Visitors of the Finger Lakes Developmental Disabilities Services Office, Mary H. Derby, of Geneseo, and Nelli L. Mitchell, M.D., of Rochester.

As members of the Board of Visitors of the Hudson Valley Developmental Disabilities Services Office, Howard Coron, Ph.D., of Forestburgh, and Alice L. Kayser, of Orangeburg.

As a member of the Board of Visitors of the Long Island Developmental Disabilities Services Office, Walter L. Krudop, of Patchogue.

As members of the Board of Visitors of the Manhattan Psychiatric Center, Peter G. Holden, Sr., of New York City, and Agnes A. Violenus, of New York City.

As a member of the Board of Visitors of the Metro New York Developmental Disabilities Services Office, Toni Agovino, of the Bronx.

As a member of the Board of Visitors of the New York State Home for Veterans and their Dependents at Montrose,

William T. Mahan, of New City.

As a member of the Board of Visitors of the Pilgrim Psychiatric Center, Frank Ruggiero, of Garden City.

As members of the Board of Visitors of the Rockland Psychiatric Center, John A. Murphy, of Orangeburg, and Margot Vazquez, of Suffern.

As members of the Board of Visitors of the Rockland Children's Psychiatric Center, George A. Hoehmann, of Nanuet, and Theresa O'Rourke, of Orangeburg.

As members of the Board of Visitors of the Sagamore Children's Psychiatric Center, Grace E. Clench, of Brentwood, and Louise P. Jones, of Amityville.

And as members of the Board of Visitors of the Sunmount Developmental Disabilities Services Office, William R. Cuthbert, of Potsdam; Dawn P. Lavigne, of Massena; and Carolyn Smith, of Massena.

ACTING PRESIDENT McGEE: The question is on the confirmation of the appointees as read by the Secretary. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Those as read by the Secretary are hereby confirmed by the Senate.

Senator Morahan.

SENATOR MORAHAN: Madam President, could we return to the regular calendar and take up Calendar Number 930.

ACTING PRESIDENT McGEE: The Secretary will read Calendar 930.

THE SECRETARY: Calendar Number 930, by Senator Libous, Senate Print 1778, an act to amend the Education Law, in relation to providing for the certification.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT McGEE: Senator Libous, an explanation has been requested by Senator Liz Krueger.

SENATOR LIBOUS: Thank you, Madam President.

This legislation before us would

allow a podiatrist to be certified to perform acupuncture within the scope of podiatric practices.

ACTING PRESIDENT McGEE: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If, through you, the sponsor would yield.

ACTING PRESIDENT McGEE: Does the sponsor yield?

SENATOR LIBOUS: I would be honored to yield.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you, Senator.

Could you explain to me the difference between being certified as an acupuncturist and being licensed as an acupuncturist, as it relates to the actual services that podiatrist would be providing under this bill?

SENATOR LIBOUS: Sure. Right now, as you know, we have acupuncturists in New York State and they have to go through a

certification process. Podiatrists are actually authorized under their licensure to perform surgery. And we think that it makes sense, because they can do that like medical doctors and also like dentists, who can also perform acupuncture. We think that it fits into their scope of practice.

Actually, I would say that because of the fact that they can perform surgery, that this really fits in quite nicely. Therefore, once this bill passes, they would have to or they would be required, under state law, to go through an education course, and certainly an examination, very simply, the way that acupuncturists are licensed presently.

SENATOR LIZ KRUEGER: Thank you, Madam President. If the sponsor would continue to yield, please, through you.

SENATOR LIBOUS: I'd be happy to.

SENATOR LIZ KRUEGER: Thank you, Senator.

Perhaps -- I've not been to an acupuncturist, so I'm not totally familiar with this. If I was a podiatrist who was certified under your bill to perform

acupuncture, would that only be related to problems of the foot, or would I as a certified acupuncturist then be able to put up a new sign that I also do acupuncture for anyone who walks in?

SENATOR LIBOUS: Madam President, through you, the Senator asks a very excellent question. And the answer is yes, you are correct that it would only relate to those items of the foot.

And I can speak on that with minor authority, Senator, only because a number of years ago we passed a scope of practice law here that I sponsored that dealt with podiatrists that said that anything below the ankle. And so that would also follow in this particular piece of legislation, that they would deal with acupuncture as it would fit in treatment of the foot.

SENATOR LIZ KRUEGER: Only the foot. Thank you, Madam President. If, through you, the sponsor would continue to yield.

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

SENATOR LIBOUS: I would be honored.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you, Senator.

Again, anatomy is not my strong point. But my understanding is in acupuncture an acupuncturist might choose to put needles in my ears to deal with a problem on my feet or needles in my foot for a problem with my chest, my lung -- thank you, Senator.

So again, in this scenario, it would be people who came to a podiatrist for problems related to their feet and then the podiatrist would have the authority, as you explained it, to provide acupuncture services that might be above their ankle, the acupuncture itself, but only for problems related to their feet?

SENATOR LIBOUS: Madam President, again through you, this would be related to the foot, the treatment of the foot, as is under the present rules of the scope of practice for podiatry.

SENATOR LIZ KRUEGER: Okay. Thank you, Madam President, if the sponsor would continue to yield, through you.

ACTING PRESIDENT McGEE: Senator Libous, would you continue to yield?

SENATOR LIBOUS: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you. Is there liability to a podiatrist for something that could go wrong if they were performing acupuncture on a foot but it had an outcome of a medical problem on the rest of the body? Is there liability insurance specific to a podiatrist --

SENATOR LIBOUS: They would be covered, Madam President, just as they are now, under the same circumstance as if they're doing surgery on the foot.

SENATOR LIZ KRUEGER: Thank you. Thank you for the clarification.

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

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes,

Madam President, through you, if the Senator would yield to a question.

ACTING PRESIDENT McGEE: Senator Libous, would you yield --

SENATOR LIBOUS: I would be pleased to yield.

ACTING PRESIDENT McGEE: The Senator would be pleased to yield.

SENATOR HASSELL-THOMPSON: Thank you.

I heard the explanation that you gave to Senator Krueger as to the difference between licensing and certifying. And this bill, as I understand it, is a request for certification, not for licensure.

SENATOR LIBOUS: That's correct.

SENATOR HASSELL-THOMPSON: Is it not true that in the certification process, the numbers of hours for -- to be certified are such that the person would receive a certificate that says that they have the capacity to do this, but in the State of New York isn't it also required that if you are a certified, versus licensed, that you would have to work someone who is licensed in

order to perform acupuncture?

SENATOR LIBOUS: Madam President, I can answer that. There may be just a touch of confusion with the Senator.

Let me share with you that the podiatrist, under present scope of practice law, can perform surgery. An acupuncturist cannot perform surgery. An acupuncturist is certified under state law, just like many other types of professions are certified under state law.

When this law passes, when the Governor signs this, podiatrists will then have to take 60 semester hours of study. They will then have to complete an examination. And then they would be, at that point in time, certified to perform acupuncture on the foot.

SENATOR HASSELL-THOMPSON: Through you, Madam President.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: I would like to continue a discussion with the Senator, if he would yield.

SENATOR LIBOUS: I would be

honored to continue to yield.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HASSELL-THOMPSON: Thank you. I say discussion, versus question, because I wanted to give you a frame of reference.

As a nurse, and as a nurse who works in substance abuse treatment, I am currently certified -- well, no, that's not true. I'm not currently certified because I haven't been practicing, so I'm out of certification. But I was certified to perform, as a treatment, acupuncture for drug use.

With that certification, it allowed me, under the supervision and auspices -- with that certification, it allowed me to practice in a clinical setting under the auspices and supervision of a licensed acupuncturist. In order to obtain my certification, I had to do in excess of 60 hours in order to be certified.

To be licensed, it is required that somewhere between 3,000 and 4,500 hours are

required to be considered as one who is proficient and is capable to perform acupuncture as a treatment.

Having said that, how then can you answer the question that Senator Krueger asked about if the person is then qualified with a certification to hang a shingle that indicates that they are -- they can provide acupuncture treatment for podiatric conditions?

SENATOR LIBOUS: Madam President, through you. Under current law, Senator, a doctor, a medical doctor is a licensed medical doctor but he or she is certified to do acupuncture. A dentist is licensed by the State of New York for dentistry, and they are certified to do acupuncture.

Under this law, a podiatrist, okay, is also certified to do surgery or licensed to do surgery and would be then certified to do acupuncture on the foot.

SENATOR HASSELL-THOMPSON: Madam President, through you, if the Senator would continue to yield.

ACTING PRESIDENT McGEE: Will you continue to yield, Senator Libous?

SENATOR LIBOUS: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. Through you.

Senator Libous, you just said that a doctor who is licensed to practice medicine in the State of New York is authorized -- certified. He has automatic certification --

SENATOR LIBOUS: No, no, I didn't say that. Madam President, I didn't say that.

If he or she chooses to go through the same educational course that podiatrists will be required to, they can then be certified for acupuncture. The same as a dentist under current law.

And what we are doing now is including podiatrists, who are also surgeons, to be able to complete the educational course so that they would then be certified to perform acupuncture on the foot.

SENATOR HASSELL-THOMPSON: Madam President, through you.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR HASSELL-THOMPSON: Thank you, Senator. You're confusing me.

SENATOR LIBOUS: I'm sorry, Senator. I'm trying not to do that.

SENATOR HASSELL-THOMPSON: No, and that's not your responsibility.

SENATOR LIBOUS: That is not my intent. That is not my intent.

SENATOR HASSELL-THOMPSON: I know it isn't.

This bill speaks to certification. And what you are saying to me is that a physician, a dentist, now a podiatrist, with the passage of this bill --

SENATOR LIBOUS: That's correct. We want to add podiatry to that list of those surgical professions that can be certified to do acupuncture. But in this case, only on the foot.

SENATOR HASSELL-THOMPSON: My confusion, then -- I'm still within the question, Madam President. My confusion, then, is in the practice of medicine at the neighborhood health center where I have just most recently worked, a physician, in order to

be licensed to practice acupuncture medicine, had to take 3,000 hours in order to qualify to hang a shingle that gave permission, that gave authorization to practice this kind of medicine.

Are you telling me that this bill would give special consideration to a podiatric practitioner with only 60 hours and that that person could then hang their shingle certifying that they can practice without supervision?

SENATOR LIBOUS: Madam President, no, I am not saying that there are any special arrangements here. The podiatric physician will have to go through the same requirements as the dentist who chooses to do so or the medical doctor who chooses to do so or the acupuncturist who chooses to do so. Then they would be certified to perform acupuncture on the foot.

SENATOR HASSELL-THOMPSON: Madam President.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank

you.

ACTING PRESIDENT McGEE: You're welcome.

SENATOR HASSELL-THOMPSON: Would you like to add something to that before I ask my next question?

SENATOR LIBOUS: Staff informs me that certification, under New York State law, is a lesser requirement of 60 hours for this particular case.

SENATOR HASSELL-THOMPSON: That was exactly my question.

SENATOR LIBOUS: But that's New York State law. We're not creating new law here or creating special privilege, we're just -- we're conforming to the law that is --

SENATOR HASSELL-THOMPSON: Right. That was my question. Which is why I put it in the framework, Senator, of being a special category. Because every other group for certification is required, in order to be certified.

You're shaking your head --

ACTING PRESIDENT McGEE: Senator Libous.

SENATOR LIBOUS: Madam President, may I ask the Senator a question?

ACTING PRESIDENT McGEE: Senator Hassell-Thompson, will you yield?

SENATOR HASSELL-THOMPSON: I will yield to a question.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIBOUS: Senator, what are you trying to get at here? What is your point?

SENATOR HASSELL-THOMPSON: I need to be sure that under this law that it is not required that the practice of podiatric medicine with acupuncture treatment does not require that this person be supervised by someone who is licensed. That is the basis of my concern.

Because in the use of acupuncture treatment for many and most kinds of treatment, it is required that a certified person must work under the supervision of a licensed person. And I needed to be sure, if this were not true, why this was not true for this category. That's all I want to know.

That's my point.

Thank you, Madam President.

ACTING PRESIDENT McGEE: You're welcome.

Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Balboni.

SENATOR BALBONI: Yes, Madam President. I rise for the purposes of explaining my vote.

Notwithstanding the fact that Senator Libous is a very dear friend and is someone who is a champion in this particular cause, and also we agree very -- I should say we agree to the extent possible that acupuncture is a valuable service that should be provided and offered to the citizens of this state.

However, there is a problem with this whole issue. An acupuncturist right now has to spend between 3,000 and 4,500 hours in becoming an acupuncturist. In this bill, suddenly you have somebody who could practice the art of acupuncture with 60 hours. Something's wrong. Either there's too much of a requirement placed upon those wishing to be certified or there's too little placed upon individuals seeking to have this added skill be recognized by the State of New York.

I'm going to ask that I work with Senator Libous in this bill to see what we can do, should it become law, in its enforcement. And also perhaps next year if we revisit this issue, perhaps we could take a look at addressing this issue. Because for the people who practice acupuncture, this is a big issue. Why should they have to spend all this time when suddenly another group can come in and truncate the period dramatically?

In that case, I respectfully vote in the negative.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, Madam President. If I may, just on the bill. On my vote. On my vote.

I agree with Senator Balboni. And as he knows, that hasn't happened very, very often in these chambers. But I think what he has done is get at the heart of what my concern is. And that is that the variation in -- and I think we experienced this in nursing, and I think that that's one of the things that nursing is attempting to do now, so that there's not such a wide disparity between who is considered a nurse and who is not.

And I think in the business of acupuncture, it is a very delicate, very old -- over 5,000 years old -- practice. But I think that we do not do ourselves a service if we do not study this as an issue and be sure that in the passage of this kind of legislation that we're not giving favoritism where we really should have some skepticism.

So I will be voting no.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson in the negative.

Senator Paterson.

SENATOR PATERSON: Madam President, I just voted no.

ACTING PRESIDENT McGEE: Senator Paterson in the negative.

Announce the results.

Will all those voting in the negative please raise their hands so that we can have a proper vote.

THE SECRETARY: Those recorded in the negative on Calendar Number 930 are Senators Balboni, Hassell-Thompson, McGee, and Paterson. Also Senator Stachowski. Ayes, 52. Nays, 5.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Could we please return to reports of standing committees. I understand there's a Rules Committee report at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

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

following bills:

Senate Print 2835, by Senator Volker, an act to amend the Criminal Procedure Law;

3732B, by Senator McGee, an act to amend the Executive Law;

3923, by Senator Stafford, an act to amend the Public Officers Law;

4647A, by Senator LaValle, an act to amend the Education Law;

5114A, by Senator Morahan, an act to amend the General Municipal Law;

5322B, by Senator LaValle, an act authorizing;

6220A, by Senator Nozzolio, an act to amend the Civil Service Law;

6278A, by Senator Stavisky, an act in relation;

6318B, by Senator Skelos, an act to amend the Labor Law;

6596A, by Senator Espada, an act to amend the Emergency Tenant Protection Act;

6778B, by Senator Wright, an act to amend the Public Service Law;

7013, by Senator Bonacic, an act to

amend the General Municipal Law;

7128A, by Senator Fuschillo, an act to amend the Banking Law;

7375, by Senator Wright, an act to amend the Environmental Conservation Law;

7422, by Senator Balboni, an act to amend the General Municipal Law;

7527A, by Senator Kuhl, an act to authorize;

7531A, by Senator Hoffmann, an act to amend the Agriculture and Markets Law;

7570, by Senator Farley, an act to amend the Public Authorities Law;

7571, by Senator Maziarz, an act to amend the General Business Law;

7579, by the Senate Committee on Rules, an act to amend the Retirement and Social Security Law;

7585, by Senator Bonacic, an act to amend the Public Authorities Law;

7599, by Senator Maltese, an act to amend Chapter 92 of the Laws of 2001;

7600, by Senator Larkin, an act to amend the General Business Law;

7604, by Senator Seward, an act to

amend the Insurance Law;

And Senate Print 7714, by Senator Johnson, an act to amend the Vehicle and Traffic Law.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Can we move to accept the report of the Rules Committee, Madam President.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The report is accepted.

Senator Morahan.

SENATOR MORAHAN: Yes. Could we return to motions and resolutions. I believe there may be some housekeeping at the desk.

ACTING PRESIDENT McGEE: Senator

Farley.

SENATOR FARLEY: On to the housekeeping.

Madam President, on behalf of Senator Volker, I wish to call up his bill, Senate Print Number 2305A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 607, by Senator Volker, Senate Print 2305A, an act to amend the Penal Law.

ACTING PRESIDENT McGEE: Senator Farley.

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

ACTING PRESIDENT McGEE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: Senator Farley.

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

ACTING PRESIDENT McGEE: The amendments are received and adopted.

SENATOR FARLEY: On behalf of Senator DeFrancisco, Madam President, I wish to call up his bill, Senate Print 7158, which was recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1252, by Senator DeFrancisco, Senate Print 7158, an act to amend the Civil Service Law and others.

ACTING PRESIDENT McGEE: Senator Farley.

SENATOR FARLEY: I now move to reconsider the vote by which this bill passed.

ACTING PRESIDENT McGEE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: Senator Farley.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT McGEE: The amendments are received and adopted.

Senator Morahan.

SENATOR MORAHAN: Yes. Can we return to the calendar, please, and pick up Calendar 1414. Thank you, Madam President.

ACTING PRESIDENT McGEE: The Secretary will read Calendar 1414.

THE SECRETARY: Calendar Number 1414, by Senator LaValle, Senate Print 7576, an act to amend the Town Law and Chapter 114 of the Laws of 1998.

SENATOR PATERSON: Explanation.

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

SENATOR LAVALLE: Thank you, Madam Chairman.

This bill amends the Laws of 1998 in which we established the Community Preservation Fund by establishing a real estate transfer tax that is paid by the buyer in each transaction in the five eastern towns of Suffolk County that I represent.

As many people know, we have been very, very aggressive in our land preservation

efforts in Suffolk County, by creation of the Central Pine Barrens, by each of the townships having bond issues and putting money aside to pay for land preservation, a very, very aggressive county program in the purchase of development rights, re state monies for open space preservation, and I can go on and on and on.

This year we are asking for an amendment to the 1998 Community Preservation Fund by doing two things. And we are doing this with the full support of the environmental community, working with our town supervisors to extend the period of time that the law will sunset from the year 2010 to 2020.

This is done specifically with the idea that the towns can use Environmental Facilities Corporation monies to, in the future -- because we now have a law that will bring in revenue to the year 2020, we can now borrow against that future money to be able to do acquisitions today and to do as much as we possibly can both between now and the year 2020.

The second piece, very, very important, is that many of the communities in the five eastern towns have taken a lot of land off of the tax rolls, through state efforts, county efforts, town efforts, and also through this Community Preservation Fund. And so we say that wherever a community has been impacted, where 25 percent of the land has been taken off the tax rolls, we can use Community Preservation Fund money to do PILOTs, PILOT payments to our school districts, to the fire districts and ambulance districts. However, we put a cap of no more than 10 percent of the total monies in any one calendar year can be used for this purpose. And this would really take a great burden off of the taxpayers.

Again, this was done and arrived at by the environmental community and the town supervisors in the five eastern towns of Suffolk County.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Madam President, will the sponsor yield to a

question?

ACTING PRESIDENT McGEE: Senator LaValle, will you yield for a question?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Approximately how much money has been put into the fund in the five-year period, the four-year period since we approved this bill?

SENATOR LAVALLE: Senator, there is no one fund. There is a fund in each of the townships. So I would say -- I would say it's about half a billion dollars that has been raised in the five eastern towns.

But each township -- and we have five home-rule resolutions that were delivered in order to pass this law -- has their own fund. So in one town it could be $100,000, and in the town of Southampton, the largest town in the five eastern towns, that would have generated 300,000 or more dollars.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Through you,

Madam President, I just want to make sure I understood Senator LaValle.

Did you say half a billion dollars or half a million dollars?

SENATOR LAVALLE: Billion. Billion. Five hundred million.

SENATOR DOLLINGER: Then my question is, 300 million in one of those towns or 300,000?

SENATOR LAVALLE: Aggregate. Combined. With all of them over the period of time that the law has been passed in 1998.

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

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

SENATOR LAVALLE: Yes, I will.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DOLLINGER: I recall -- and again, this is not my neck of the woods, Senator LaValle, it's clearly in your neck of the woods. But I recall that the Real Estate Association put out a memo against the bill

because of the mortgage tax surcharge, or in essence a surcharge.

SENATOR LAVALLE: Your memory is absolutely correct.

SENATOR DOLLINGER: And they predicted, as I recall, that it would be a significant new cost and potentially have some retardant effect on property transfers in the Peconic Bay region. Has that happened?

SENATOR LAVALLE: Senator, I am so happy you asked me that question.

SENATOR DOLLINGER: It's a Denny McLain pitch, Madam President, right down the middle. Mickey Mantle may now hit this ball out of the park.

SENATOR LAVALLE: Because the memorandum at the time was incorrect. And my explanation to this body was absolutely correct that it would not retard the growth and development, it would not deflate sales or the cost of property, it would not impair in one bit the commissions that individual agents earned.

As a matter of fact, because we have entered into preservation efforts, it has

increased the value of properties, it has increased the dollars earned in commissions. And it has preserved a way of life and an economy of second-home owners, recreation, farming, fishing in the five eastern towns. So it has done exactly the opposite of what was predicted in 1998, where it was doom and gloom.

SENATOR DOLLINGER: Through you, Madam President.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Just a final question, if Senator LaValle will continue to yield.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: Senator LaValle yields for one more question.

SENATOR DOLLINGER: By shifting the support of the school districts and the ambulance districts from property taxes to a mortgage tax surcharge, in essence what this is -- this says that in essence, because we're buying up public lands and therefore we have large amounts of tax-exempt properties on the

tax rolls, we are going to use the benefits of this fund which was originally designed for land acquisition and preservation of quality of life, we're going use it to supplement or to substitute for what would otherwise be real property tax payments to the school districts, the ambulance districts, the fire districts.

Is that correct? Is my understanding of the bill correct in that regard?

SENATOR LAVALLE: That is correct.

The only addendum I would make to your statement, Senator Dollinger, is that, as you know, we have PILOT payments throughout the state, both on a short-term basis, on a longer-term basis, and we use all kinds of revenues to achieve those PILOT payments. In this case, we are specifically using transfer tax dollars that go into the Community Preservation Fund to give some relief to our school districts, fire districts and ambulance districts.

So you're right, but I just wanted to put it within a context that we use,

throughout the state, all different kinds of revenues to achieve PILOT payments.

SENATOR DOLLINGER: Okay. Madam President, just on the bill briefly.

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: Sometimes, Madam President, in this chamber I've cast votes and said, Gee, this looks like the right vote. I'm one of those guys, I vote against the sales tax pieces for counties because they oftentimes come in without explanations. I'm not going to vote to raise anybody's taxes unless someone comes to me and gives me a justification for it.

I think I voted against this bill because it had been opposed by the real estate industry and they were concerned that the effect of this would be to slow down the very kind of growth and preservation that Senator LaValle was attempting to achieve. I'm glad I was wrong, Madam President, that the prediction was wrong.

And the reason why I asked the last question of Senator LaValle was that it seems

to me that not only should this experiment be repeated elsewhere -- I can think of places like Irondequoit Bay, in Senator Alesi's district, or in the Genesee Harbor region of the community that I represent, where they have a common interest in preservation of land and improvement in the quality of life. And a new source to do that would be, in essence, to use the increasing values that occur because you're preserving quality of life, because you're not allowing congestion and highways and the other incidents of modern congestion to actually cause property values to decline.

That by, instead, preserving the quality of life and allowing the values to grow, at the time of transfer it's in essence almost like an inheritance tax. It's like a tax that you pay when you get your capital gain or your lump-sum payment out of your house. You in essence say: Wait a second, we're going to latch onto a portion of that and we're going to put it back into things that continue to hold up the property value.

I think this is a remarkable idea. And I think the one thing that I would commend

Senator LaValle for is that anytime we can move away from a straight property tax that taxes the value of the home or taxes the value of the property based on a factor that doesn't have to do with income or doesn't have to do with the time of purchase, to the extent that we can trigger it by the time of purchase and a new buyer who is in essence buying and paying a little bit more for a property that they know is going to keep its value because you are preserving the quality of life, then we're, I think, using the taxing value correctly.

I think this is almost a visionary idea. My hope is, Senator LaValle, that you won't hoard this down at the eastern end of Long Island, you'll allow this, unlike the property tax exemptions -- the partial property tax exemptions, that contagion, as you know, is raging through the state. This idea I hope becomes a contagion that moves quickly to other vital areas where preserving quality of life increases property values, we tax those increased property values at the time of the transfer and we use that to

preserve their value in the first place. It all completes a circle that seems to me to be a sensible way to use our taxying power to preserve quality of life in our state.

I'll vote aye.

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

There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Madam President, can we go to Calendar Number 1407, please.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1407.

THE SECRETARY: Calendar Number

1407, by Senator Maltese, Senate Print 7490, an act to amend the Criminal Procedure Law, in relation to jurisdiction of counties.

SENATOR PATERSON: Explanation, please.

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

SENATOR MALTESE: Madam President, this bill would amend the Criminal Procedure Law by adding a new subdivision to provide that in order for a criminal court to have jurisdiction over a criminal offense, there must be the commission of an element of such offense within such county or the intent or knowledge by defendant that the commission of such offense would have a particular effect within such county.

The justification is that currently law enforcement officials or confidential informants can initiate communications with a potential defendant and obtain jurisdiction over the offense without any action on the part of the defendant. These communications are deemed to have taken place in both the county that initiates the communication and in

the county where the communication is received.

Thus, Madam President, we have a situation where an overzealous district attorney could very well pick, select his county as the county of jurisdiction by having either an agent of law enforcement or a confidential informant make a telephone call from within that county, whether the county might be in New York County or any other county, and the legitimate county of jurisdiction might be Erie County in Western New York. Thus, by making a telephone call or mailing a letter within a county, the court has presently held that that would be sufficient to give that county and that district attorney jurisdiction over that offense.

SENATOR PATERSON: Satisfactory.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Can we return to the controversial reading of the calendar, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 300, by Senator Libous, Senate Print 5492A, an act authorizing the Commissioner of Transportation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 518, by Senator Seward, Senate Print 1050, an act to amend the State Finance Law and Chapter 83 of the Laws of 1995.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT McGEE: Senator Seward.

SENATOR MORAHAN: Lay that aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 587, by Senator Nozzolio, Senate Print 6774B, an act to amend the Real Property Tax Law, in relation to exempting.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act --

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

SENATOR MORAHAN: Are we on 518, by Senator Seward?

ACTING PRESIDENT McGEE: 587, Senator Nozzolio's bill.

SENATOR MORAHAN: Can we lay that aside temporarily and go back to 518.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 518.

THE SECRETARY: Calendar Number 518, by Senator Seward, Senate Print 1050, an act to amend the State Finance Law and Chapter 83 of the Laws of 1995.

SENATOR MORAHAN: Read the last section.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

SENATOR MORAHAN: Madam

President, can we go to the Senate Supplemental Calendar Number 53A.

ACTING PRESIDENT McGEE: The Secretary will read Supplemental Calendar 53A.

THE SECRETARY: Calendar Number 1418, by Senator Volker, Senate Print 2835, an act to amend the Criminal Procedure Law.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1419, Senator McGee moves to discharge, from the Committee on Finance, Assembly Bill Number 7244B and substitute it for the identical Senate Bill Number 3732B, Third Reading Calendar 1419.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1419, by Member of the Assembly Gunther, Assembly Print Number 7244B, an act to amend the Executive Law.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1420, by Senator Stafford, Senate Print 3923, an act to amend the Public Officers Law, in relation to permitting.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1422, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 11299 and substitute it for the identical Senate Bill Number 5114A, Third Reading Calendar 1422.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1422, by the Assembly Committee on Rules, Assembly Print Number 11299, an act to amend the General Municipal Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1423, by Senator LaValle, Senate Print 5322B, an act authorizing the transfer of title and responsibility.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1424, by Senator Nozzolio, Senate Print 6220A, an act to amend the Civil Service Law, in relation to providing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1425, by Senator Stavisky, Senate Print 6278A, an act in relation to permitting.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1426, Senator Espada moves to discharge, from the Committee on Rules, Assembly Bill Number 4522A and substitute it for the identical Senate Bill Number 6596A, Third Reading Calendar 1426.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1426, by Member of the Assembly Mayersohn, Assembly Print Number 4522A, an act to amend the Emergency Tenant Protection Act.

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1427, by Senator Wright, Senate Print 6778B,

an act to amend the Public Service Law, in relation to enacting.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 14. This act shall take effect on the 180th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1428, by Senator Bonacic, Senate Print 7013, an act to amend the General Municipal Law, in relation to creating and establishing.

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

Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1429, by Senator Fuschillo, Senate Print

7128A, an act to amend the Banking Law, in relation to establishing procedures.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1430, by Senator Wright, Senate Print 7375, an act to amend the Environmental Conservation Law, in relation to identification.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1431, by Senator Balboni, Senate Print 7422, an act to amend the General Municipal Law, in relation to creating.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1433, Senator Hoffmann moves to discharge, from the Committee on Rules, Assembly Bill Number 11533A and substitute it for the identical Senate Bill Number 7531A, Third Reading Calendar 1433.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1433, by the Assembly Committee on Rules, Assembly Print Number 11533A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1434, by Senator Farley, Senate Print 7570, an act to amend the Public Authorities Law, in relation to the Schenectady Parking Authority.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1435, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 9389A and substitute it for the identical Senate Bill Number 7571, Third Reading Calendar 1435.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1435 --

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1436, by the Senate Committee on Rules, Senate Print Number 7579, an act to amend the Retirement and Social Security Law and the Administrative Code of the City of New York.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1437, by Senator Bonacic, Senate Print 7585, an act to amend the Public Authorities Law, in relation to the powers of the State of New York Mortgage Agency.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1438, Senator Maltese moves to

discharge, from the Committee on Rules, Assembly Bill Number 9654 and substitute it for the identical Senate Bill Number 7599, Third Reading Calendar 1438.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1441, by Senator Johnson, Senate Print 7714, an act to amend the Vehicle and Traffic Law and the Education Law.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

Senator Morahan, that completes the reading of the noncontroversial supplemental calendar.

SENATOR MORAHAN: Can we return to the active list for today, to Calendar 587, by Senator Nozzolio.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 587, by Senator Nozzolio, Senate Print 6774B, an act to amend the Real Property Tax Law, in relation to exempting.

SENATOR PATERSON: Explanation.

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

SENATOR NOZZOLIO: Madam President, who requested the explanation, please?

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR NOZZOLIO: Thank you, Madam President.

The measure before us amends the Real Property Tax Law to allow for those villages and towns that enter into long-term lease arrangements for operations of benefit to the public for the purposes of using that public benefit for a public library, to have the municipality that's entering into that lease in effect have the property it is so leasing become tax-exempt.

This legislation is necessary to allow municipalities that are making long-term commitments to property use as a library exempt from taxation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes. Can we return to the supplemental calendar, controversial.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1418, by Senator Volker, Senate Print 2835, an act to amend the Criminal Procedure Law, in relation to appeal.

SENATOR PATERSON: Explanation.

SENATOR MORAHAN: Lay it aside temporarily, please.

ACTING PRESIDENT McGEE: The bill will be laid aside temporarily.

THE SECRETARY: Calendar Number 1420, by Senator Stafford, Senate Print 3923 --

SENATOR MORAHAN: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1426, substituted earlier today by Member of the Assembly Mayersohn, Assembly Print Number 4522A, an act to amend the Emergency Tenant Protection Act.

SENATOR PATERSON: Explanation, please.

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

SENATOR ESPADA: Thank you, Madam President.

This bill would create an ability for residents of New York City who happen to have a rent-stabilized apartment to get the

same treatment that their brethren in Rockland County, Westchester, and Nassau receive as a result of amendments to the Emergency Tenant Protection Act of 1996, inasmuch as residents of this age category in those other counties only have to put up one month's security deposit when renewing their leases.

Through a loophole or whatever the case was, New York City residents of that age category did not receive that benefit. This bill would cure that, close that loophole and provide that benefit to those in that age category. Moreover, it would extend the benefit to those on retirement benefits, SSI and the like.

ACTING PRESIDENT McGEE: Read the last section.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. Just on the bill.

Senator Espada, I think that this is an excellent piece, particularly as both of us represent the Bronx and we have an inordinate number of senior citizens who will be -- would have been adversely affected. And

I commend you on this bill and give you my support.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1428, by Senator Bonacic, Senate Print 7013, an act to amend the General Municipal Law, in relation to creating and establishing.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1435, substituted earlier today by the Assembly Committee on Rules --

SENATOR MORAHAN: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1438, substituted earlier today by Member of the Assembly Sidikman, Assembly Print --

SENATOR MORAHAN: Lay it aside temporarily, please.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

SENATOR MORAHAN: Can we stand at ease for a few moments.

ACTING PRESIDENT McGEE: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:49 p.m.)

(Whereupon, the Senate reconvened

at 3:50 p.m.)

SENATOR MORAHAN: Madam President, will you recognize Senator Montgomery.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: I would liked the record to reflect that the fact that had I been able to be present in the chamber yesterday, I would have voted yes on Calendar 1390, Senate Bill 7657.

ACTING PRESIDENT McGEE: Without objection.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT McGEE: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, I'd like to request unanimous consent to be recorded in the negative on Calendar 1428.

ACTING PRESIDENT McGEE: Without objection.

Senator Morahan.

SENATOR MORAHAN: Madam President, can we please return to Calendar

1438, by Senator Maltese.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1438.

THE SECRETARY: Calendar Number 1438, substituted earlier today by Member of the Assembly Sidikman, Assembly Print Number 9654, an act to amend Chapter 92 of the Laws of 2001, amending the Election Law.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT McGEE: Senator Maltese, an explanation has been requested by Senator Paterson.

SENATOR MALTESE: Yes, Madam President.

This bill is an extender. It would extend for one more year the provisions of Chapter 92 of the Laws of 2001 which would allow county boards which deem it necessary, due to reasons of ballot configuration and in order to efficiently administer the election in a primary, to provide write-in opportunities with respect only to the contested nomination for public office and to provide write-in voting for party position

only where a valid petition for an opportunity to ballot has been filed.

This also provided that the Board of Elections may, by resolution adopted at least 30 days before an election, canvass the vote at the recanvass rather than at the close of the polls.

This bill is at the unanimous request of the New York City Board of Elections. And they felt -- they indicated to us that they feel that unless this is enacted, they would have to hold the September primary on paper ballots.

Basically, in the state of the present law, the write-in ballot would have to be done at the polling place. And since there are so many new inspectors and coordinators at the polls, the strips of paper have been lost, ripped, destroyed and are extremely difficult for the inspectors to read.

As a result, in the New York City Board they have made the determination that they would bring the machines back to the warehouses and at that time and at that place canvass the write-in votes.

ACTING PRESIDENT McGEE: Senator Paterson.

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

ACTING PRESIDENT McGEE: Senator Maltese, will you yield for a question?

SENATOR MALTESE: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: So, Senator, if it's true that this process does exist where you might write in for public office, but you can't write in for party office, it must be an abundance of effort that must be the reason why we're not accepting the write-in ballots for party office. Is that correct?

SENATOR MALTESE: Madam President, my understanding is that it's the multitude of write-in candidates. Unless a petition for opportunity to ballot is filed, they would have to search the paper roll at the end of every single election and for every

election.

This, then, would simply mandate the checking of the paper strip only where a petition for opportunity to ballot has been filed.

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

SENATOR MALTESE: Yes, Madam President.

ACTING PRESIDENT McGEE: He yields.

SENATOR PATERSON: Senator Maltese, aren't they supposed to do that anyway? Isn't that part of the charge of the Board of Elections?

SENATOR MALTESE: Madam President, yes, it is.

But as the good Senator knows, with the scarcity of inspectors up until recently, most of the polling places have been short-handed as far as inspectors and coordinators are concerned.

And now, as a result of action by this Legislature where the fees have been

increased, the salaries for the inspectors and coordinators have been increased, we have in some districts a majority of people who are inspectors for the very first time, completely unfamiliar with the machines despite the requirement of receiving training. And as a result, in many cases the board itself has asked us for this remedy to eliminate chaos both at the polling places and at the recanvass.

SENATOR PATERSON: Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Paterson, on the bill.

SENATOR PATERSON: With all due respect to Senator Maltese, I think that the Board of Elections has favored the value of convenience over the value of rights.

The reality is that perhaps we need to pay inspectors more, we really do. Perhaps we need to make sure that there are enough employees so that we can fully allow for every type of voting procedure on Election Day and on Primary Day.

And what I think has happened in

this particular situation is that since the board knows that it can't cover it, it has prevailed upon Senator Maltese to pass this piece of legislation. But the inevitable loser is the voter, because the voter can't write in in a party election similar to the way they could in a regular public election. Probably not as important, but it's still something that there should be an opportunity in situations where someone wants to write in a vote.

So 16 members voted against this bill the last time that it was before us. And I'm really understanding why those members felt that way.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Will the sponsor yield to a question?

ACTING PRESIDENT McGEE: Senator Maltese, will you yield?

SENATOR MALTESE: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Does this bill only apply in the City of New York?

SENATOR MALTESE: Yes, Madam President.

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

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

SENATOR MALTESE: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: And this affects positions like party committeemen and all those positions; is that correct, Senator Maltese?

SENATOR MALTESE: Yes, Madam President.

SENATOR DOLLINGER: And through you, Madam President, if Senator Maltese will continue to yield.

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

SENATOR MALTESE: Yes, Madam

President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: In fact, if there weren't a hotly contested primary for the position of county committeeman, in some cases they could get as few as a handful of votes and win a seat on the county committee; isn't that correct?

SENATOR MALTESE: Yes, Madam President.

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

ACTING PRESIDENT McGEE: Senator Maltese?

SENATOR MALTESE: Yes, Madam President.

ACTING PRESIDENT McGEE: He continues to yield.

SENATOR DOLLINGER: Since only a handful of votes could decide a race like this, why would you prevent someone who at the last minute mounts a write-in campaign for what is the doorstep position in our

democracy, county committeeman in a county committee that is participating in the electoral process? Why would you require them to have to file the opportunity to ballot first?

Why not let them do what, oh, my gosh, Robert Kennedy did in 1968 when he decided he'd run for president? He swept a couple of primaries, would have become the president of the United States had it not been for events in Los Angeles.

Why not allow a candidate to say: "Gee, you know, it's late in the season, I haven't filed my opportunity to ballot, but I'd still like to be a county committeeman. I'm going to get a dozen people to write in my name, and I'm going to win this election"?

Because as you agreed, Senator Maltese, only a handful of votes could decide a committeeman race in the Republican Party, in the Conservative Party. Heaven knows in the Right to Life Party or in the Independence Party, one vote might win a committee seat.

Why would you prevent them from doing that?

SENATOR MALTESE: Madam President, far be it from me to even dream of having stood in the way of Robert Kennedy on his path to the presidency.

At the same time, I fully realize the importance of the county committee, especially to the so-called minor parties. My understanding, as a person who was affiliated with a so-called minor party for many, many years, is that at the present time in any of the parties that in addition to -- except for the Republican and the Democratic Party, a person seeking to attain a county committee post, certainly in my county of Queens County, would simply have to ask and be welcomed with open arms.

But assuming that what Senator Dollinger speaks about, this person makes a late decision, I think there are times that the greater good and the smooth and efficient and fair operation of our Election Day operation I think has to prevail over this late decision by the aspiring candidate.

There is an opportunity here to circulate a petition for opportunity to

ballot. The amount of signatures required would be only 5 percent of the persons residing in the election district. In most cases in the minor parties alleged to, three or four signatures, in many of these cases, perhaps at the most 10, 15, or 20, would put the person -- would enable the person to have an opportunity to have their name written in. It seems at least at this time a small price to pay on this pathway to a more efficient election.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President, if the sponsor will continue to yield to just one final question.

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

SENATOR MALTESE: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: Senator, in the normal course of the political calendar, when does the opportunity to ballot have to be

filed? How far in advance of the primary does someone have to file it?

SENATOR MALTESE: With the changes in this Election Day, I suggest that I would rely on the opinion of your learned counsel for that exact date.

Of course, at the present time, Madam President, since we all know that today was allegedly the first day of petition gathering, and since we all know that a three-judge federal court sought to put their judgment and their expertise into a matter that caused the entire state's Election Day and petition-gathering operation to be put in doubt, at this place and at this time I don't think there's anybody, including those three learned judges, that has the slightest idea when petitions would be held and whether or not we're even going to have Primary Day on the date selected by this Legislature.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President, if I could again ask Senator Maltese one final question.

ACTING PRESIDENT McGEE: One final question, Senator Maltese.

SENATOR MALTESE: Yes, Madam President.

SENATOR DOLLINGER: Senator, if I said to you the answer to my question was six weeks prior to the primary election, would you concur that that's a general, approximate time for how much sooner the opportunity to ballot would have to be filed before the --

SENATOR MALTESE: Yes, Madam President, I would accept that.

SENATOR DOLLINGER: Thank you, Madam President. Just briefly on the bill.

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I appreciate Senator Maltese's, as always, gracious responses.

I'm going to vote against this bill, and I'm going to vote against it again. I think that especially in small parties the notion of a last-second change and a last-second interest in being a party committeeman is not a bad thing for democracy.

I used the example of Robert Kennedy. And certainly I didn't suggest, Senator Maltese, that you perhaps as a member of the Conservative Party at the time might have stood in the way of Robert Kennedy becoming president. I was just suggesting that Robert Kennedy did something that we don't see enough of in politics these days: He didn't make the decision to run for president until April of the year of the general election.

As you know, Senator Maltese, we're now caught up in this notion that everybody starts announcing they're going to run for office years before they actually appear on the ballot.

I like the idea, Madam President, of insurgents. I like the idea of political campaigns which are fought to all of a sudden become intense affairs at the end. A good, old-fashioned campaign for district committeeman in the City of New York in which the insurgents say "We're not going to tell the party we're coming, we're going to catch them off guard, we're going to win on write-in

ballots" -- I would suggest, Senator Maltese, that that's a great thing. It's probably been happening in New York City since 1690, when the Dutch first started to hold elections.

I think it's a great idea. I don't know why, if what you want to do is be an insurgent, you have to tell the party committee "Oh, by the way, we're coming," six weeks before we're going to do it. I think a little government that involves direct participation where people are going to write a name in, I think we should recognize that freedom of choice in our democracy and not set up a rule that requires you to tell people that you're coming.

Sometimes insurgents don't want to have to knock at the door first, they just walk right in. I think that's a good thing for our democratic system to be vigilant as a party committee, to make sure that they're listening to the insurgents that may arise from their ranks.

I'll vote no.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1438 are Senators Connor, Dollinger, Duane, L. Krueger, Montgomery, Onorato, Paterson, A. Smith, and Stachowski. Ayes, 51. Nays, 9.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, would you go to Supplemental Calendar Number 1441.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1441.

THE SECRETARY: Calendar Number 1441, by Senator Johnson, Senate Print 7714, an act to amend the Vehicle and Traffic Law and the Education Law.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Is there a message at the desk?

ACTING PRESIDENT McGEE: Yes, Senator, there is.

SENATOR MORAHAN: Move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message of necessity is accepted.

Read the last section.

THE SECRETARY: Section 14. This act shall take effect September, 2003.

ACTING PRESIDENT McGEE: Call the roll.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Can we just have an explanation, Madam President.

ACTING PRESIDENT McGEE: An explanation has been requested, Senator

Johnson.

SENATOR JOHNSON: Madam President, as we all know, teenagers, new drivers, while a small percentage of licensed drivers are a high percentage of those having accidents and having fatalities.

We've been struggling for several years to address the problem. And the solution we've come up with is that these young drivers need more training, more supervised driving, and a longer period of driving a permit under supervision before they get their junior license.

And so what that bill essentially does, statewide, is to require 20 hours of supervised driving and a six-month period before their junior license -- before their permit becomes a junior license.

We've made some exceptions for upstate. In necessities, they can get a modified license where they can drive to or from work -- where they can get their junior license sooner than the six months if they need it to go back and forth to work or take the children to doctors or other family

purposes. So upstate has a little more liberal prohibition than -- a more liberal proscription here than the rest of the state.

Otherwise, I think this is the best thing we could devise between both houses and the Governor to deal with the problem of youngsters dying on the highway. And I can give you percentages if you'd like, and it's pretty scary. They're not only involved in 19 percent of all violations, 36 percent of all fatal crashes, but when they have two or three children in the car, the fatality rate goes up 158 to 170 percent.

The figures are pretty scary, and we're trying to deal with those figures by giving them more training, more time before they get their license to drive unlimited in the communities.

Any other question?

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: No, Madam President, just briefly on the bill.

I think this is a better bill than the bill I voted against the last time it was

before the house. I appreciate the fact that Senator Johnson has added the family exception, that you can go pick up your brothers and sisters at your parents'. We had a discussion about that last time. I think that's a good idea.

I also am pleased that the new language allows my son, a power forward, to pick up the center and the point guard, who are not members of his family, and drive them to the game. Sooner or later, he'll of course want to pick up the other forward and the other guards so they can actually play five-on-five. But I think that's a step in the right direction, by allowing him to have at least two other nonfamily members.

And the last thing I'll do, Senator Johnson, is like everything in life, times change. I had a big discussion with my 17-year-old son about the restrictions and what it meant, and we had a great discussion over the dinner table when I got back that week.

Of course, when I brought up the issue that there might be an agreement on

this, he looked at me and said: "Well, Dad, it doesn't matter. I'm 18 now, so I've graduated."

So I guess all politics is local, Senator Johnson. It's all personal. And my 18-year-old son says: The heck with those restrictions on 17-year-olds, let them fight for themselves, Dad.

I still think it's a better bill than the one we did, so I'm going to vote in favor.

ACTING PRESIDENT McGEE: Senator Oppenheimer.

SENATOR OPPENHEIMER: Senator Dollinger, I would have thought that your son would be a more caring human being, such as yourself, and say "I still will fight for the 17-year-olds."

I'm standing to commend Senator Johnson and Senator Leibell, who I've been working with for three years now. And it is Senator Johnson's stick-to-it-iveness that really has helped bring this about. We had grave problems, as you all know, with the upstate folks concerning a graduated driver's

license. And while we don't have a whole lot of restrictions for them, they do have to take the 20-hour driving course.

Our real concern, quite honestly, is what happens in the populated areas of our state, in New York City's five counties and in the five suburban counties. It is there, and I must tell you particularly in Westchester, that we have experienced an extraordinary number of 16- and 17-year-olds dying. And principally because of inexperience, not having had enough time behind the wheel.

And now they must have six months with their learner's permit before they can even come in and apply for a junior license, and they must be 17 years old. And then they must have that license another year before they can come in for a senior license. So we really have put a lot of driving time under their belts before they can come for a full license.

And as a learner, they must always have an adult with them in the first six months that they are learning with their learner's permit. And there are various

restrictions as far as the number of people in the cars.

But this is the very best we could do, considering the upstaters were rather resistant to the kind of changes that we felt were essential to downstate. So I've just been very, very appreciative to Senator Johnson and for the work he has done through these years.

ACTING PRESIDENT McGEE: Senator Maziarz.

SENATOR MAZIARZ: Thank you, Madam President, on the bill.

I just very briefly want to say that in the next -- yesterday and the next two days and today we're going to pass a lot of bill in a very hurried fashion in this body. This one bill may be the most important bill that we pass.

If the Assembly leaves Albany, Madam President, if the Assembly leaves and does not pass this bill, they should be ashamed of themselves. 16-and-17-year-old kids are dying on the highways of New York State every day because we do -- we, the State

of New York -- does such a poor job of training young drivers, 16-and-17-year-olds.

Quite frankly, I disagree with Senator Dollinger -- I hope that doesn't change your mind about the next bill -- but I disagree with Senator Dollinger. I think the restrictions that were in the first bill that Senator Johnson did were fine.

I wholeheartedly support this. Because what we do in New York State today is the same thing that we did 30 years ago when I walked into that DMV office, answered 14 out of 20 questions correctly, was given a piece of paper that said I could now drive a car. We do virtually the same thing today.

We don't train young drivers, particularly in bad weather and particularly when they get three or four other 16-, 17-year-old friends in the car after school. It's like a death sentence.

I think Senator Johnson has done an excellent job in staying with this issue. In states that have adopted graduated driver's license programs, insurance rates have decreased dramatically for young people. It's

made driving more affordable. It's made streets safer. It's actually kept young people, 16-and-17-year-olds, alive.

This is a great bill. This is one bill that we pass this week that should be signed into law. Thank you.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 14. This act shall take effect September 1, 2003.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Leibell.

SENATOR LEIBELL: Thank you, Madam President, to explain my vote.

I'd like to compliment my colleague Senator Owen Johnson, because this has been a long time coming, this piece of legislation. It has been a difficult piece of legislation to craft.

It's difficult because of the complexity and the variety that we find throughout New York State, the geography of

our state. Our state is so large and it's a very different state in many parts and many regions.

I can speak for my own district, however. And I've worked with my colleague Suzi Oppenheimer from Westchester County on this. And I think Suzi would concur, we have witnessed a slaughter in our district throughout the last few years.

And certainly I think, for myself, one of the saddest things I have to do with my constituents is in the course of any year the number of families with whom I communicate who have lost children as a result of car accidents.

I'm very hopeful and optimistic and with all my heart believe that this legislation will address this problem to a large extent. It certainly is going to help greatly. The problem we have with inexperienced drivers, the problem we have with young people who wish to go on the road without having had sufficient training will, I believe, be addressed by this bill.

All of us know, certainly those of

those of us who have children, that it's a rite of passage in this state and in this country as soon as you turn 16 to go out there and get that permit and be out there on the road. The problem is with the experience level with people at that age. It has led to so many accidents, so many fatalities.

So to my colleague Senator Johnson, I congratulate you for this piece of legislation. I know it's going to do a great deal to help all the residents and drivers throughout New York State.

Thank you, Madam President. I'm certainly in support of this bill.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. I've spoken on this bill. I concur with the sentiments expressed by Senator Leibell and Senator Oppenheimer.

I just have one comment which I failed to make that I would add. I think there is one thing missing from this bill, but it's not a reason to vote against it. What's missing is there should be a direction to the

Commissioner of the Department of Motor Vehicles to engage in an intensive educational campaign for parents and children, that parents ought to realize that there's going to be a restriction on how many people can be in the car. Those are going to have consequences for their children.

And I would just hope, Senator Johnson, that maybe at some point we put a bill together that expressly details to the commissioner a requirement that he engage in very extensive education campaign. Without education of students, we're going to get lots of calls come September of next year about this bill and about the fact that they can't drive. There will be lots of complaints.

DMV should get on the ball on this thing if it's passed into law, as Senator Maziarz says it should be -- and I agree it should be -- and we ought to get an intensive lobbying and education campaign with parents and children about the effect this bill is going to have on their right to drive a car when they're under age 18.

I will still be voting aye, Madam

President.

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President, will you please call up 1435 on the supplemental calendar.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1435.

THE SECRETARY: Calendar Number 1435, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 9389A, an act to amend the General Business Law, in relation to contracts.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Will you call up Senator Lack's bill, 1411, please.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1411.

THE SECRETARY: Calendar Number 1411, by Senator Lack, Senate Print 7557, an act authorizing the assessor of the Town of Huntington.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Madam President, will you please call up Calendar Number 1372.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1372.

THE SECRETARY: Calendar Number 1372, by Senator Volker, Senate Print 2893C, an act to amend the General Municipal Law, in relation to the construction and use of antennas.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR VOLKER: Madam President, Senator Paterson requested an explanation.

In the area of amateur radio operators, there has been quite a dispute over the years on the issue of who controls antennas and who controls the ability of these people to transmit. There's a whole ring of people, including a number of people that work for the Legislature -- one person, for instance, who many of you probably would know, has run the little store down in the basement.

Jimmy, the blind fellow, has been a ham radio operator for 20, 30 years.

And a number of these people, by the way, any time that there's any kind of disaster or calamity or whatever, are extremely useful to law enforcement people and in some cases --

ACTING PRESIDENT McGEE: Excuse me, Senator Volker.

Can we have some quiet, please. Thank you.

SENATOR VOLKER: -- in some cases, because of the inability of the system that we're now trying to fix, the 911 system and the overall emergency system, have been able to communicate when all else has virtually failed.

In the North Country during the severe icing that occurred here some years ago, it was ham radio operators who were a vital communication in some cases, because virtually all other communication had been lost.

And that was true to a certain extent on Long Island some years ago when

there was a hurricane and some other things that happened down there.

The problem has been -- and although there has really been very little controversy, there's -- most of the controversy that has occurred has occurred fairly close to Albany here, where some of the local jurisdictions have said that they want to pass ordinances that severely restrict the use of these ham operators, and particularly in relation to towers, antennas.

Now, the antennas are quite expensive. There aren't very many of them, comparatively few of them across the state. And they are reportedly to be guided -- and the rules, by the way, that concern them are controlled by the Federal Communications Commission. The belief is that these local districts that have been trying to regulate them probably are in violation of federal law. But if I'm not mistaken, there are court suits to determine this.

In the meantime, there have been a couple of incidents, one particularly, I think, right near here in Saratoga County,

where the local jurisdiction has objected to a tower that I think was like -- something like in the area of 70 or 80 feet, whatever.

What this bill would really do is it would regulate the placement and height of such radio antennas. But what it would say is that the limit of these towers would be 100 feet. By the way, we had communication, if you look at the bill, with the Adirondack Park Agency, and they are excluded, and a number of other groups that we have talked to.

The only opposition, and it's been fairly late opposition, came from the Association of Towns. And maybe one of the reasons is that one of the officers of the Association of Towns apparently has had a problem with one of these ham radio operators. But there has really been very little opposition to these people except in very isolated areas.

And I think that the people feel as if they are providing a service. So that you understand, if you put a tower up, let's say 50 feet, you probably have to spend maybe $15,000 in upstate and maybe $40,000 or

$50,000 in Long Island. So these are not insignificant layouts of money.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: It's great.

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

Debate is closed, then.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect 180 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays. 2. Senators Marcellino and Meier recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President, will you call up Calendar 1418.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1418.

THE SECRETARY: Calendar Number

1418, by Senator Volker, Senate Print 2835, an act to amend the Criminal Procedure Law, in relation to appeal.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MEIER: Senator Volker, Senator Paterson has requested an explanation.

SENATOR VOLKER: This is a bill that came from the Office of Court Administration that's been around for a few years. I think Assemblyman Lentol is the sponsor -- no, Assemblyman Norman, I think, is the sponsor of this bill.

Anyways, this bill, what it would do is authorize an appeal to the Court of Appeals from an order granting or denying a motion to set aside an order of an intermediate appellate judge -- in other words, an appellate division judge -- on the ground of ineffective assistance or wrongful deprivation of appellate counsel.

It allows you to go beyond an appellate division where there's been a decision that the counsel has been ineffective

in representing a person in the case.

There's a long history on this. And what they're trying to do is settle the law in this area. It recognized, for instance, that a defendant may be unlawfully deprived or represented on a People's appeal, and that the -- they can go on to appeal that to the Court of Appeals.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Volker would yield for a question.

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

SENATOR VOLKER: Certainly. Yes, sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Senator, as you know, there's a concern about pleas of ineffective counsel, particularly when the sitting judge has already advised the defendant of the possible conflict of interest that a counsel might have, which would, in a sense, make the counsel ineffective.

And as you know, recently there have been appeals where originally the defendant was allowed to go forward and was made aware of the situation and then turned around and appealed based on ineffectiveness of counsel.

So my question is, have we settled the law in this legislation -- since we're on this very subject -- on that issue where the defendant is not making a decision in the dark but is fully aware but then, exhausting other appeal motion possibilities, actually asserts an issue that was raised for him by the sitting judge later on?

SENATOR VOLKER: You know, I think the argument would be, though, whether he raises it or not, or whoever raises it, that in order to allow final justice you have to be able to give the person the ability to move on and appeal a decision finally to the Court of Appeals.

And I think that what we're doing hear is in one sense, I guess, saying that finally, where you have a very controversial case of contentions of ineffective

representation, that maybe the only way to deal with it finally is to give the opportunity to take it to the Court of Appeals to get a final decision, even though it will delay the case involved and obviously could create some additional problems for the person who is making the contention.

But the idea, I think, is to give everyone an opportunity to get a final decision which is totally fair.

SENATOR PATERSON: Mr. President, if Senator Volker would yield for one last question.

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

SENATOR VOLKER: Sure.

SENATOR PATERSON: Madam President, that is.

SENATOR VOLKER: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Thank you.

So, Senator, we're not putting any restrictions on the situations where the possibility for appeal can be heard.

SENATOR VOLKER: No. In fact, we're actually expanding it.

I think I know what you're saying is, you know, are we putting any restrictions on other reasons for making appeals. I think that's what you're saying, is that -- of more substance than just the issue of appealing on the basis of inadequate representation.

And the answer is I believe that we are not. We're just saying that this issue can be finished up by the Court of Appeals rather than an intermediate judge.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Duane.

SENATOR DUANE: Thank you, Madam

President. I'd like unanimous consent to be recorded in the negative on Calendar Number 1372.

ACTING PRESIDENT McGEE: Without objection.

Senator Paterson.

SENATOR PATERSON: Madam President, with unanimous consent I'd like to be recorded in the negative on Calendar Number 608.

ACTING PRESIDENT McGEE: Without objection.

Senator Oppenheimer.

SENATOR OPPENHEIMER: With unanimous consent I would like to be recorded in the negative on 1372.

ACTING PRESIDENT McGEE: Calendar Number 1372?

SENATOR OPPENHEIMER: Yes.

ACTING PRESIDENT McGEE: Without objection.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, I request unanimous consent to be recorded in the negative on Calendar Number

1372.

ACTING PRESIDENT McGEE: Without objection.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. I too would rise to request unanimous consent to be recorded in the negative on Calendar Number 1372.

ACTING PRESIDENT McGEE: Without objection.

Senator Saland.

SENATOR SALAND: Thank you, Madam President. I too would request unanimous consent to be recorded in the negative on Calendar 1372.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Without objection I'd like to be recorded in the negative on Calendar 1372.

ACTING PRESIDENT McGEE: Without objection.

SENATOR MORAHAN: And I'd like to us to start with Calendar 1323, take that up now.

ACTING PRESIDENT McGEE: Senator Andrews.

SENATOR ANDREWS: Yes, Madam President. I'd like to request unanimous consent to be recorded in the negative on the following calendar bills: 1438, 608, 930, and 1372.

ACTING PRESIDENT McGEE: Without objection.

Senator Morahan.

SENATOR MORAHAN: Please take up Calendar 1323, Madam President.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1323.

THE SECRETARY: Calendar Number 1323, by Senator Marchi, Senate Print 6155A, an act to amend the General Municipal Law and the Retirement and Social Security Law.

ACTING PRESIDENT McGEE: Senator Duane.

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

ACTING PRESIDENT McGEE: Senator Duane, on the bill.

SENATOR DUANE: First, I'd like

to thank Senator Marchi for his courtesy, very much. Thank you.

This is an HIV presumption bill, Madam President. And I don't know how many different ways I can say this. This bill sends absolutely the wrong message on how HIV and AIDS is contracted and how it is spread.

I just would like to, if you'll indulge me, Madam President, read a letter which I sent out last year on this issue. And I hope it refreshes people's memories, and I hope that my colleagues will give their attention to this letter.

"Dear Colleague: I would like to bring to your attention two bills that came before the Senate Civil Service and Pensions Committee last week" -- this is dated April 27, 2001 -- "S2767, by Senator Marchi, and S3984, by Senator Rath. I anticipate that they will come before the full Senate for a vote.

"While the intent of both bills is commendable, their current form perpetuates the stereotypes and myths of how the HIV virus is spread and contracted.

"S2767, by Senator Marchi, provides that New York City parking control specialists, school safety agents, campus peace officers, and taxi and limousine inspectors who are employed by the City of New York receive a 75 percent pension if such person is injured in his or her duties. And if such person contracts HIV, it shall be presumed that it was contracted during the course of employment unless contrary evidence can be shown.

"S3984, by Senator Rath, provides the same protections for paramedics employed by the Police Department in the Town of Tonawanda.

"It is not easy to contract HIV. It is close to impossible to receive HIV during the normal course of action during employment. The New York State Department of Health Regulation 63.10 states that there are three factors necessary to concrete a significant risk of contracting or transmitting HIV infection. They are: (1) the presence of significant risk body substance; (2) a circumstance which constitutes

significant risk for transmitting or contracting HIV infection; and (3) the presence of an infectious source and a noninfected person.

"Significant risk body substances are blood, semen, vaginal secretions, breast milk, tissue, and the following body fluids: Cerebrospinal, amniotic, peritoneal, synovial, pericardial, and pleural.

"Circumstances which constitute significant risk of transmitting or contracting HIV infection are: (1) sexual intercourse -- that is, vaginal, anal, oral -- which exposes a noninfected individual to blood, semen or vaginal secretions of an infected individual; (2) sharing of needles and other paraphernalia used for preparing and injecting drugs between infected and noninfected individuals; (3) the gestation, birthing or breast-feeding of an infant when the mother is infected with HIV; (4) transfusion or transplantation of blood, organs or other tissues from an infected individual to an uninfected individual, provided such blood, organs or other tissues

have not tested conclusively for antibody or antigen and have not been rendered noninfective by heat or chemical treatment" --

ACTING PRESIDENT McGEE: Excuse me, Senator Duane.

Senator Morahan.

SENATOR MORAHAN: If Senator Duane would suffer an interruption, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

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

Senator Duane.

SENATOR DUANE: -- "(5) other circumstances during which a significant risk body substance, other than breast milk, of an infected individual contacts mucous membranes, that is, eyes, nose, mouth, nonintact skin -- that is, open wound, skin with a dermatitis condition, abraded areas -- or the vascular system of a noninfected person. Such circumstances include but are not limited to needle-stick or puncture-wound injuries and direct saturation or permeation of these body

surfaces by the infectious body substance.

"Circumstances that involve significant risk shall not include" -- shall not include -- "(1) exposure to urine, feces, sputum, nasal secretions, saliva, sweat, tears, or vomit that does not contain blood that is visible to the naked aye; (2) human bites where there is no direct blood-to-blood or blood-to-mucous-membrane contact; (3) exposure of intact skin to blood or any other body substance; or (4) occupational settings where individuals use scientifically accepted barrier techniques and preventative practices and circumstances which would otherwise pose a significant risk and such barriers are not breached and remain intact.

"Based on these regulations, it is hard to see how an employee, especially a parking control officer or a Taxi and Limousine Commission inspector could contract the HIV during the normal course of employment.

"Of course, I am by no means advocating for the denial of disability pension benefits to those who do contract HIV

on the job through no fault of their own. For instance, a blood transfusion after an accident comes to mind. However, to presume, to presume HIV infection is contracted on the job is ignorant.

"I realize that the legislation provides for the use of contrary evidence to show that HIV infection was not caused by employment duties. However, forcing government agencies to run around and prove this employees contracted HIV offer the job is unrealistic and quite costly. A much more realistic approach would be for employees to show how their job duties caused HIV infection.

"But this is more than a cost issue. Passing legislation like this sends a powerful message to the citizens of New York. It indicates false belief on how HIV is spread and goes against the state's own guidelines on what constitutes significant risk. And what kind of message does it send to employees affected by this legislation? Does it create irrational fears that they will contract HIV? Will it make them hesitant to help those in

need during an emergency? We should be educating our citizens on how HIV is really spread and not playing to fears and myths.

"I hope that this letter clears up any misconceptions about the spread of the HIV virus, and I would be more than willing to discuss the issue with you further. While I am a strong advocate for giving employees as many benefits as possible, I cannot in good conscience vote for these bills in their current forms, and I urge you to consider voting against them as well."

Now, after both houses passed this legislation, the Governor vetoed the legislation. And I'd like to share with you his veto message.

"To the Senate: I am returning herewith, without any approval, the following bill: Senate Bill Number 2767, entitled 'An act to amend the General Municipal Law and the Retirement and Social Security Law, in relation to benefits for employees of government entities performing peace officer services in the City of New York who are injured in the performance of their duties.'

"Not approved.

"This bill would amend the General Municipal Law and the Retirement and Social Security Law to provide for a statutory presumption that special officers, parking control specialists, school safety agents, campus peace officers, and New York City taxi and limousine inspectors of any rank employed by the City of New York, including but not limited to the City University of New York, the Board of Education, the Health and Hospitals Corporation, and the Taxi and Limousine Commission, who contract HIV, tuberculosis or hepatitis, contracted the disease in the course of their duties and thus would be entitled to a 3/4 accidental disability pension.

"The HIV presumption would apply only where the member may have been exposed to a body fluid of a person under his or her care or treatment or while the member examined, transported, rescued or otherwise had contact with such a person in the course of his or her duties. Under the bill, the presumption is rebuttable and may be challenged by competent

evidence.

"The actuary retained by the proponents estimates that the bill would cost the city $50,000 this fiscal year, which would increase to $500,000 by the 2010-11 fiscal year. The bill would take effect immediately and authorize current members to file retroactive claims for injuries dating back to March 17, 1996.

"Historically, the benefit this bill would grant has been afforded to personnel whose jobs place them in a significant degree of danger and stress and who regularly come into contact with persons who may be afflicted about infectious diseases. Accordingly, under current law, only state correction officers, Office of Mental Health security, hospital treatment assistants, New York City correction officers, New York City emergency medical technicians, New York City police officers and firefighters, local police officers and firefighters, and sheriffs, undersheriffs and deputy sheriffs have such an infectious disease presumption.

"I respect the important public service that is performed by those who would be accorded this presumption. Nonetheless, I have not been presented with facts that would support the conclusion that persons employed in all the titles covered by the bill are so frequently exposed to those infectious diseases as to justify the statutory presumption.

"Further, I am persuaded by the arguments of the Mayor of the City of New York that the bill creates an unfunded and unnecessary mandate.

"Finally, I have not been presented with a justification for permitting employees to file retroactive claims dating back to a date, March 17, 1996, that necessarily would prejudice severely the city's ability to rebut the presumption in appropriate cases.

"The bill is disapproved."

Now, I understand the Governor's fiduciary issues with this issue. But I absolutely have to agree with him when he says "I respect the important public service that is performed by those who would be accorded

this presumption."

In fact, when I was on the City Council I voted for legislation which would make it -- which would increase penalties for, for instance, assaulting a parking violations specialist or a taxi and limousine inspector, among others.

However, there is no justification based on the presumption of HIV infection as put forward in this bill.

Now, some have said that because of my position on this issue that I am somehow anti-union. Frankly, that's a very, very painful label to have placed upon me. And I hope that the vast majority of my brothers and sisters in the trades union movement and labor unions around the state do not believe that to be true.

Now, I responded to the union which is advancing this bill. Let me just tell you what that letter said. My letter to the unions in response to the charge that I'm anti-union:

"Dear Brothers and Sisters: I have always considered labor a good friend and

always considered myself a good friend of labor. I have done my best to look out for labor's best interests, and I strongly believe that my record clearly speaks to that. In recent months, I have heard from various sources that there are those who believe I have been anti-union on the floor of the State Senate. Nothing could be further from the truth.

"Still, I believe you deserve an explanation. The incident in question involves my actions regarding Senator Marchi's bill S2767. The bill provided for New York City parking control specialists, school safety agents, campus peace officers, and taxi and limousine inspectors who are employed by the City of New York to receive a 75 percent pension if such person is injured in his or her duty and, if such person contracts HIV, it shall be presumed that it was contracted during the course of employment unless contrary evidence can be shown.

"I also opposed a bill by Senator Rath, S3984, which provided similar protections for paramedics employed by the

police department in the Town of Tonawanda.

"It was a very tough decision to publicly announce that I was HIV-positive during my campaign for the New York City Council in 1991. At that time, the stigma of having HIV was even greater than it is today. I disclosed my status to show that life does not stop once one becomes HIV-positive. And I believed it was vitally important to have a strong advocate who understood the needs of those with HIV/AIDS in the halls of government. I vowed that as long as I was in public office, I would use my unique position to educate people about HIV and AIDS.

"I oppose S2767 because presuming HIV is contracted on the job implies that casual contact with an HIV-positive person can spread the HIV virus. It is not easy to contract HIV. It is close to impossible to contract HIV during the course of employment. Such bills spread the stereotypes and myths of how the HIV virus is spread and contracted. I would be neglecting my responsibilities if I allowed these stereotypes and myths to continue.

"I want to make this clear: I am by no means advocating for the denial of disability pension benefits to those who contract HIV on the job through no fault of their own. My only opposition is presuming that HIV was contracted on the job. I understand that other groups have been granted this benefit by the State Legislature in the past. Since I was first elected to the Senate in 1999, I have always been very vocal in my opposition to these bills and others which imply the casual spread of the HIV virus.

"In turn, I have also worked very hard to make sure that those with HIV/AIDS receive the help they deserve. As a member of the New York City council, I authored legislation which created a citywide Division of AIDS Services. The Division of AIDS Services has provided countless city residents who have HIV/AIDS the benefits they desperately need. In the State Senate, I have introduced legislation which would create a statewide Division of AIDS Services.

"I hope that this explanation clears up any misunderstanding of my actions.

I am a strong advocate for labor, and I always try to support union-backed legislation. My opposition to S2767 had nothing to do with my feelings for labor but rather my need to educate my colleagues on HIV and AIDS."

And I attached the letter I wrote to my colleagues which I read earlier, and I offered to show them a transcript of previous debates.

Now, in response to that, Local 237 of the International Brotherhood of Teamsters, AFL-CIO, sent out the following letter to my sisters and brothers in the union movement:

"I find it necessary to respond to a letter dated May 16 that was sent by New York State Senator Tom Duane to union leaders regarding legislation S2767 (Marchi) and to Senator Duane's remarks about our union and its members on the floor of the Senate last year.

"To review, several years ago we became aware of a disability pension benefit that was enjoyed by other peace officers within New York State and sought to get it for our peace officers. In the bill there is a

presumption that if you contract hepatitis or tuberculosis and are so disabled that you can no longer work, you can receive an increased benefit.

"With HIV, there has to be shown, through documentation, a prior incident where there was an exchange of bodily fluids. It should be noted that this benefit is not automatic, it is refutable.

"This bill implies nothing about casual contact causing AIDS. Laws by definition don't imply, they establish rules. People like Senator Duane can infer what they wish about a law. In the end, a court states what a law meant if there was an ambiguity. The law has many presumptions, including the important presumption of innocence in a criminal case. This presumption implies nothing about guilt or innocence" -- and if I may just interject here: Really?

"It sets the rules for making a decision. The issue is whether Senator Duane's inferences take precedence over a peace officer's right to fair compensation for an illness or injury contracted on the job.

"We do not believe that HIV can be casually transmitted in the normal course of a job. We only wish that Senator Duane understood what the duties of a taxi and limousine inspector are. This is not a normal job, as he stated in his remarks. This is a job in law enforcement that frequently requires confrontation that leads to assaults with weapons such as box-cutters, switchblades, and other weapons. When subduing belligerent people, both can be bloodied in the process. There is no doubt that through open wounds and bites, HIV can be transmitted.

"Besides belittling a class of working people over and over again, as well as insulting their union people in the floor debate" -- which is not true, I may add -- "the senator also demonstrated a lack of knowledge concerning the duties of these workers. Taxi and limousine inspectors perform regulatory enforcement, investigatory and inspectional duties required in the regulation of the taxi and limousine industry. They perform one of the most dangerous duties

in law enforcement, car stops. Car stops are extremely dangerous because you don't know what you are going to encounter when stopping a vehicle -- someone who is belligerent, someone who is armed.

"Many of our members have been assaulted with weapons and have been bitten and dragged alongside vehicles. Several years ago, the Koch administration seriously considered arming taxi and limousine inspectors.

"The New York State Department of Health dealing" -- let me just read this again slowly. This is, again, the letter from the union.

"The New York State Department of Health, dealing with transmission of HIV, states in 10 NYCRR 63.10, paragraph 5: 'Other circumstances during which a significant risk body substance, other than breast milk, of an infected individual contacts mucous membranes, that is, eyes, nose, mouth, nonintact skin -- that is, open wounds, skin with a dermatitis condition, abraded areas -- or the vascular system of a noninfected person. Such

circumstances include but are not limited to needle-stick or puncture-wound injuries and direct saturation or permeation of these body surfaces by the infectious body substances.'

"Our members encounter all of the above dangers. Do they deserve this benefit? We sincerely believe that these workers do deserve this benefit, as did the legislators who passed this legislation last year in both houses."

Now, I'm not belittling a class of workers at all. I'm merely doing what I was sent here to do. I think that when we talk about belittling, spreading the wrong message about spread of HIV and AIDS belittles those who suffer from this terrible affliction and those who are at risk of contracting HIV/AIDS.

Now, this is so important to me that I'm now facing opposition to my seat here in the Senate. But so be it. I believe it's worth it. I mean, I believe I was sent here -- and the constituents in my district, most of whom are not HIV-infected or who have AIDS, but who sent me here knowing that I would be an advocate for people with HIV and

AIDS, that they would want me to be the voice of education and compassion on this issue.

And so while it may be ultimately a very difficult vote for me to cast and a very difficult debate for me to engage in, I don't really see how I could do anything else but what I did last year and what I'm doing this year.

I remain very proud of my union record. I feel very proud of the advocacy that I've put forward on behalf of the working women and men in the City of New York. I would be more than happy -- and, for that matter, for the state. And I would be more than happy to share more details of that record of my support for the working women and men in New York City with anyone who wishes to see it.

I'm also very proud of the work that I've done on behalf of people with HIV and AIDS as well as other life-threatening diseases. Now, to that end, one of the proudest moments that I had in the New York City Council was when I achieved passage of the New York City Division of AIDS Services,

which put into law an agency which would provide services and more than a safety net but really lifesaving and life-prolonging services for people with AIDS.

And this year I introduced a similar piece of legislation which would provide those services to people throughout New York State.

Madam President, I believe there's an amendment at the desk.

ACTING PRESIDENT McGEE: Yes, there is, Senator.

SENATOR DUANE: And I'd like to waive the reading and speak on the bill.

ACTING PRESIDENT McGEE: On the bill or on the amendment?

SENATOR DUANE: On the amendment, excuse me.

ACTING PRESIDENT McGEE: Senator Duane, on the amendment.

SENATOR DUANE: Thank you, Madam President.

My amendment seeks to create a State Division of AIDS Services within the Office of Temporary and Disability Assistance.

This Division of AIDS Services would provide those with clinical, symptomatic HIV illness -- not just those who are HIV-positive, but those who have clinical, symptomatic HIV illness -- first, with intensive case management, which shall not exceed the ratio of one case worker for 25 families. However, if fiscal situations become too strained, the commissioner is authorized to modify this ratio.

With the Division of AIDS Services, a person with HIV/AIDS will be able to go to one place to apply for benefits and services they are eligible for, including but not limited to transitional and permanent housing, Medicaid and other health-related services, long-term care and services, long-term home healthcare, food stamps, transportation and nutrition allowances, preventive services, including rent subsidies, and childcare. It will also provide a way for people to be able to continue paying for their private insurance.

Upon applying, a person will receive a statement of all benefits and

services they are eligible for and what they are not eligible for. The statement will also let them know if their application for each service is complete or incomplete. If incomplete, there will be information to inform the applicant of what they need in order to complete the application.

Every year the Commissioner shall release a report to the Governor and the Legislature with the number of people utilizing Division of AIDS Services and what services and benefits are being utilized.

The legislation also creates an advisory board appointed by the leaders of the Legislature, both Majority and Minority, with at least six who are eligible for the Division of AIDS Services programs. Advisory board members would serve for two years without compensation.

Now, ideally there would be people in each of the county social services agencies who could be the caseworkers and would be trained to do this. And so there should not be a major cost to the counties.

Throughout my discussions with

people with AIDS around the state, I've discovered some disturbing evidence of a lack of services and a lack of providing for the needs of people with HIV/AIDS. You've heard of people living in substandard housing, people who have to go to several different offices to get different kinds of benefits and services, people who have been denied food stamps, people who are unable to get rent subsidies, women who are unable, with the public benefits that they're getting, to afford to keep their families together.

There is no safety net for people with AIDS in this state. There is no way to make sure that people get their needs met so that they can stay alive longer throughout New York State. And that's why this bill has been introduced and that's why I'm amending this legislation today with my Division of AIDS Services amendment.

Now, remember, as of maybe June 2000 there were nearly 150,000 known cases of HIV/AIDS with New Yorkers 13 years or older.

And I have to say that there are

those who would say: Well, you know, I don't really believe you on the cost. The cost may be too high, and we're in the middle of a fiscal crisis.

But, you know, in tough times, just like a family, I think that New York should help those who need help the most and that they should really be able to be first in line to get that help.

Now, in the budget, you know, we're continuing to put in tax cuts. And I really think if we can afford tax cuts, we could certainly afford to provide lifesaving services for people with AIDS.

So I would ask my colleagues, both from a public policy point of view and from a compassionate point of view, that they vote in favor of this amendment and establish for New Yorkers most in need a Division of AIDS Services that will provide the ability for New Yorkers infected with this disease and living with this disease to live longer, healthier lives with their families.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Will

those Senators in agreement with the amendment please raise their hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Connor, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Paterson, Santiago, Schneiderman, and M. Smith. Also Senators Dollinger and Oppenheimer.

ACTING PRESIDENT McGEE: The amendment fails.

Senator Marchi.

Senator Padavan, I'm sorry.

SENATOR PADAVAN: Yes, Madam President, by unanimous consent can I be recorded in the negative on Calendar Number 1372, Senate Bill 2893C.

ACTING PRESIDENT McGEE: Without objection.

Senator Duane.

SENATOR DUANE: Madam President, I just wanted to remind you I'm still on the bill.

ACTING PRESIDENT McGEE: Still on the bill.

SENATOR DUANE: Thank you, Madam

President.

Since this issue has come up and since I have communicated both with my colleagues here in the Legislature as well as people, working women and men around the state, I have not heard from one taxi and limousine inspector or parking violation specialist or any of the other employees enumerated in the bill about their belief or advocacy that this presumption of HIV on the job should be included in this legislation.

And I want to assure my colleagues that I have spoken with and reached out to and shared my concerns specifically with members of the government relations staff of this union; unfortunately, to no avail.

Now, I know I spoke at great length on this bill today here in the Senate. But I felt it provided a good opportunity to educate my colleagues on how it is that HIV and AIDS is contracted and spread.

And again, I hope that you will agree with me and the New York State Department of Health, the NIH, and other government agencies and all of the scientific

evidence known to us at this time that there is no way to contract HIV during the normal course of a job. It is very, very difficult to contract HIV. Very, very difficult. And so to presume that it's gotten in the normal course of a job is just flat-out erroneous.

Now, I have tried to make the case that I would like to see benefits provided for all people who are infected with the HIV virus and who then move on to have full-blown AIDS. I would like to see that safety net in place for all New Yorkers.

And I also strongly believe that people who are injured as a result of their work duties deserve -- need and deserve to get benefits which will provide them with the ability to survive and in fact thrive with whatever physical or, for that matter, mental injury they may have gotten.

And again, from my point of view, though I know this Legislature has passed bills dealing with others like correction officers and police officers, et cetera, I have disagreed with those bills as well. I wouldn't object if the presumption was not

there. It's the presumption that that's how HIV is contracted that I object to so strongly, no matter what job it is.

So I would ask my colleagues to send a message that AIDS is not easily spread, and send this bill back so that it can be rewritten to provide benefits for the working women and men in New York State that make sense scientifically and which will make it so that those who are most in need and have HIV and AIDS will be able to survive and live a decent and long life in the state of New York.

So I would urge a no vote on this piece of legislation. Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Marchi.

SENATOR MARCHI: Just by way of closing, I certainly did not object, as you know, to the presentation of your point of view or the point of view that reflects the judgment of any one of our 61 members. So that has been done.

We did pass almost a similar bill before. We voted in 1996, 1998, and then a

bill that was vetoed by the Governor, who indicated that we had no statistical support of how many were affected and in what way. And the fact that it provided also for retroactivity, which he felt was objectionable, that has been eliminated.

And the Assembly presumably is waiting for the reception of this bill, and Mr. Abbate over there I understand is on the verge of passage.

So I would urge a positive vote. And I certainly don't disparage any sentiment which is at variance. That's the purpose of the Senate. I would hope it continues to be the purpose of the Senate.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill

is passed.

Senator Alesi.

SENATOR ALESI: Thank you, Madam President. I request unanimous consent to be recorded in the negative on Calendar 1372.

ACTING PRESIDENT McGEE: Without objection.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: I had voted no.

ACTING PRESIDENT McGEE: In relation to Calendar Number 1323, you will be recorded in the negative.

SENATOR HASSELL-THOMPSON: Thank you.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: I also voted no.

ACTING PRESIDENT McGEE: In relation to Calendar Number 1323, you will be recorded in the negative.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Madam President, is the roll call on that bill over?

ACTING PRESIDENT McGEE: Yes.

SENATOR DOLLINGER: I ask for unanimous consent to be recorded in the negative on Calendar Number 1372.

ACTING PRESIDENT McGEE: Without objection.

SENATOR DOLLINGER: Thank you.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. I too have learned of the problems with the antenna. I would like unanimous consent to be recorded in the negative on 1372.

ACTING PRESIDENT McGEE: Without objection.

Senator Morahan.

SENATOR MORAHAN: Can we please go to Calendar 671.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 671, by Senator Skelos, Senate Print 6741A, an

act to amend the General Business Law, in relation to clarifying and expanding.

ACTING PRESIDENT McGEE: Senator Skelos.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT McGEE: All in favor of accepting the message of necessity please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message of necessity is accepted.

Read the last section.

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

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Skelos, an explanation has been requested of 671.

SENATOR SKELOS: This would require the fingerprinting of certain individuals employed by the securities industry.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: I'm sorry, Madam President, I did not hear the explanation. I apologize, but I didn't hear it.

ACTING PRESIDENT McGEE: Are you requesting it to be said again?

SENATOR DUANE: I am, Madam President.

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

SENATOR SKELOS: I said this would require the fingerprinting -- this is an agreed-upon bill with the Assembly and the Governor that would require the fingerprinting of certain individuals that work within the securities industry.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Madam President, is it the securities industry or the security

industry? That's what I'm not hearing.

SENATOR SKELOS: Securities.

ACTING PRESIDENT McGEE: T-Y.

SENATOR SKELOS: No, T-I-E-S.

SENATOR DUANE: T-I-E-S, okay.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Can we take up Calendar 840, please, on the main calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 840, by Senator Morahan, Senate Print 6182E, an act to amend the Transportation Law, in relation to operations.

ACTING PRESIDENT McGEE: Senator

Morahan.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR MORAHAN: Move for its adoption and acceptance.

ACTING PRESIDENT McGEE: All in favor of accepting the message of necessity please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

SENATOR MORAHAN: If we could return to reports of standing committees, I understand there's a report of the Rules Committee at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

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

Senate Print 3259, by Senator LaValle, an act to amend the Criminal Procedure Law;

3309, by Senator Volker, an act to amend the Education Law;

3890, by Senator Maltese, an act to amend the Election Law;

4950B, by Senator Volker, an act to amend the Retirement and Social Security Law;

6100, by Senator Lack, an act to amend the Public Authorities Law;

6266, by Senator Breslin, an act to authorize;

6371A, by Senator Fuschillo, an act to amend the Insurance Law;

6600A, by Senator Stachowski, an

act to authorize;

6868B, by Senator Wright, an act authorizing;

7458, by Senator Rath, an act to amend the Criminal Procedure Law;

7518A, by Senator Balboni, an act to amend the General Municipal Law;

7532A, by Senator Fuschillo, an act to amend the Real Property Tax Law;

7547A, by Senator Balboni, an act in relation;

7574A, by Senator Volker, an act to amend Chapter 367 of the Laws of 1999;

7595, by Senator Balboni, an act in relation;

7607, by Senator Spano, an act to amend the Tax Law;

7617, by Senator Balboni, an act authorizing;

7626, by Senator Farley, an act to amend the Public Authorities Law;

7628, by Senator Meier, an act to amend the Social Services Law;

7629, by Senator Bruno, an act to amend the Highway Law;

7632, by Senator Bruno, an act authorizing;

7636A, by Senator Skelos, an act to amend the Public Authorities Law;

7637, by Senator Rath, concurrent resolution of the Senate and Assembly;

7640, by Senator Stafford, an act to amend the Vehicle and Traffic Law;

7641, by Senator Lack, an act in relation to validating;

7644, by Senator Kuhl, an act to amend Chapter 667 of the Laws of 1994;

7667, by Senator LaValle, an act to amend the Environmental Conservation Law;

7669, by the Senate Committee on Rules, an act to amend Chapter 596 of the Laws of 1994;

7670, by Senator Velella, an act to amend Chapter 824 of the Laws of 1987;

7671, by the Senate Committee on Rules, an act to amend Chapter 831 of the Laws of 1981;

And Senate Print 7698, by Senator Hannon, an act to amend the Real Property Tax Law.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Morahan.

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

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The Rules report is accepted.

Senator Marcellino.

SENATOR MARCELLINO: We'll wait.

ACTING PRESIDENT McGEE: Senator Onorato.

SENATOR ONORATO: Madam President, I would like unanimous consent to be recorded in the negative on Calendar Number 1372.

ACTING PRESIDENT McGEE: Without

objection.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, I request unanimous consent to be recorded in the negative on Calendar Number 1372.

ACTING PRESIDENT McGEE: Without objection.

Senator Stavisky.

SENATOR STAVISKY: Madam President, I would appreciate unanimous consent to be recorded in the negative on 1372.

ACTING PRESIDENT McGEE: Without objection.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Madam President, I request unanimous consent to vote negative on 1323.

ACTING PRESIDENT McGEE: Without objection.

Senator Brown.

SENATOR BROWN: Thank you, Madam President. I request unanimous consent to be recorded in the negative on Calendar 1438.

ACTING PRESIDENT McGEE: Without objection.

Senator Morahan.

SENATOR MORAHAN: Madam President, is there any housekeeping at the desk?

ACTING PRESIDENT McGEE: Yes, there is.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, on behalf of Senator Balboni, I wish to call up his bill, Print Number 6933, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 686, by Senator Balboni, Senate Print 6933, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT McGEE: Senator Marcellino.

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

ACTING PRESIDENT McGEE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: Senator Marcellino.

SENATOR MARCELLINO: I offer the following amendments.

ACTING PRESIDENT McGEE: The amendments are received and adopted.

Senator Marcellino.

SENATOR MARCELLINO: On behalf of Senator Saland, I wish to call up his bill, Print Number 6625, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 459, by Senator Saland, Senate Print 6625, an act to amend the Social Services Law.

ACTING PRESIDENT McGEE: Senator Marcellino.

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

ACTING PRESIDENT McGEE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: Senator Marcellino.

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

ACTING PRESIDENT McGEE: The amendments are received and adopted.

SENATOR MARCELLINO: Thank you.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Madam President, there being no other further business before the Senate, I move that we adjourn until June 19th at 11:00 a.m.

ACTING PRESIDENT McGEE: On motion, the Senate stands adjourned until Wednesday, June 19th, at 11:00 a.m.

(Whereupon, at 5:25 p.m., the Senate adjourned.)