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ALBANY, NEW YORK

April 7, 1998

3:05 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEVEN M. BOGGESS, Secretary

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P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. Would you please rise and join with me in the Pledge of Allegiance.

(The assemblage repeated the Pledge of Allegiance to the Flag.)

The invocation today will be given by the Reverend Peter G. Young from the Blessed Sacrament Church in Bolton Landing.

Welcome back.

REVEREND PETER G. YOUNG: Thank you, Governor. Thank you very much.

Dear God, as we enjoy the added hour of Your bright sunshine and see the budding leaves, we witness Your greatness and majestic power. We seek Your blessings on the members of this senior legislative body and all of their deliberations in behalf of our New York State citizens.

We ask You to guide them with wisdom and perseverance in Your name. Amen.

THE PRESIDENT: Amen. The reading of the Journal, please.

THE SECRETARY: In Senate, Monday, April 6th. The Senate met pursuant to

1 adjournment. The Journal of Sunday, April 5th,
2 was read and approved. On motion, the Senate
3 adjourned.

4 THE SECRETARY: Without
5 objection, the Journal stands approved as read.

6 Presentation of petitions.

7 Messages from the Assembly.

8 Messages from the Governor.

9 Reports of standing committees.

10 The Secretary will read.

11 THE SECRETARY: Senator Balboni,
12 from the Committee on Water Resources, reports:

13 Senate Print 4002, by Senator
14 Present, an act to amend the Environmental
15 Conservation Law;

16 6706, by Senator Balboni, an act
17 to amend the Public Health Law.

18 Senator Padavan, from the
19 Committee on Cities, reports:

20 Senate Print 4049, by Senator
21 Maziarz, an act to amend the Real Property Tax
22 Law; and

23 6236, by Senator Marchi, an act
24 to authorize the United Pentecostal Church.

25 Senator Hannon, from the

1 Committee on Health, reports:

2 Senate Print 4115, by Senator
3 Skelos, an act to amend the Public Health Law
4 and the Penal Law; and

5 Senate Print 5526, by Senator
6 Wright, an act to amend the Public Health Law.

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

9 Senate Print 474-B, by Senator
10 Nozzolio, an act to amend the General Municipal
11 Law;

12 477-B, by Senator DeFrancisco, an
13 act to amend the Real Property Tax Law;

14 529, by Senator Present, an act
15 to amend the General Municipal Law;

16 530, by Senator Present, an act
17 to amend the Real Property Tax Law;

18 647, by Senator Holland, an act
19 to amend the General Municipal Law;

20 781, by Senator Cook, an act to
21 amend the Town Law and the Village Law;

22 1099, by Senator Lack, an act to
23 amend the Real Property Tax Law;

24 1295, by Senator LaValle, an act
25 to amend the General Municipal Law;

1 1378, by Senator LaValle, an act
2 to amend the General Municipal Law;
3 1767, by Senator Leibell, an act
4 to amend the Real Property Tax Law;
5 1955, by Senator Farley, an act
6 to amend the Real Property Tax Law;
7 2339-A, by Senator Farley, an act
8 to amend the Real Property Tax Law;
9 2378, by Senator Lack, an act to
10 amend the County Law;
11 2664, by Senator LaValle, an act
12 authorizing the village of Sag Harbor;
13 2669, by Senator LaValle, an act
14 to amend the Town Law;
15 3005-A, by Senator DeFrancisco,
16 an act to amend the County Law;
17 3080, by Senator Padavan, an act
18 to amend the General Municipal Law;
19 3135, by Senator LaValle, an act
20 to amend the General Municipal Law;
21 4408-A, by Senator Rath, an act
22 to amend the General Municipal Law;
23 4449, by Senator DeFrancisco, an
24 act to amend the Real Property Tax Law;
25 4855, by Senator Rath, an act to

1 amend the General Municipal Law;

2 4983, by Senator Maziarz, an act
3 to amend the General Municipal Law;

4 6148, by Senator DeFrancisco, an
5 act in relation to authorizing;

6 6333, by Senator Nozzolio, an act
7 to legalize, validate and confirm; and

8 6421, by Senator Rath, an act to
9 amend the General Municipal Law.

10 Senator Johnson, from the
11 Committee on Transportation, reports:

12 Senate Print 1346, by Senator
13 Larkin, an act to amend the Vehicle and Traffic
14 Law;

15 1891, by Senator Present, an act
16 to amend the Highway Law;

17 2467-A, by Senator LaValle, an
18 act in relation to the Long Island Suburban
19 Highway Improvement Program;

20 4125-A, by Senator Present, an
21 act to amend the Vehicle and Traffic Law;

22 6003, by Senator Farley, an act
23 to amend the Vehicle and Traffic Law;

24 6120, by Senator Leibell, an act
25 to amend the Highway Law;

1 6231, by Senator Velella, an act
2 to amend the Vehicle and Traffic Law; and
3 6403, by Senator Stafford, an act
4 to amend the Highway Law.

5 Senator DeFrancisco, from the
6 Committee on Tourism, Recreation and Sports
7 Development, reports:

8 Senate Print 2374-B, by Senator
9 Lack, an act to amend the Parks, Recreation and
10 Historic Preservation Law;

11 6132, by Senator Marcellino, an
12 act to amend the Parks, Recreation and Historic
13 Preservation Law;

14 6534, by Senator DeFrancisco, an
15 act to amend the Parks, Recreation and Historic
16 Preservation Law; and

17 6557, by Senator DeFrancisco, an
18 act to amend the Parks, Recreation and Historic
19 Preservation Law.

20 Senator Goodman, from the
21 Committee on Investigations, Taxation and
22 Government Operations, reports:

23 Senate Print 432, by Senator
24 Goodman, an act to amend the Arts and Cultural
25 Affairs Law;

1 567, by Senator Kuhl, an act to
2 amend the Alcoholic Beverage Control Law;
3 3541, by Senator Goodman, an act
4 to amend the Tax Law;
5 3651, by Senator Goodman, an act
6 to amend the Alcoholic Beverage Control Law;
7 3673, by Senator Goodman, an act
8 to amend the Alcoholic Beverage Control Law;
9 3682, by Senator Goodman, an act
10 to amend the Alcoholic Beverage Control Law;
11 3982, by Senator Larkin, an act
12 to amend the Tax Law;
13 4056-A, by Senator Goodman, an
14 act to amend the Tax Law;
15 4081-A, by Senator Goodman, an
16 act to amend the Tax Law;
17 4133, by Senator Kuhl, an act to
18 amend the Tax Law;
19 4496-A, by Senator Maziarz, an
20 act to amend the Alcoholic Beverage Control Law;
21 5048, by Senator Kuhl, an act to
22 amend the Alcoholic Beverage Control Law;
23 5209-A, by Senator Goodman, an
24 act to amend the Tax Law;
25 6283, by Senator Kuhl, an act to

1 amend the Public Officers Law;
2 6330-A, by Senator Goodman, an
3 act to amend the Alcoholic Beverage Control Law;
4 6520, by Senator LaValle, an act
5 to amend the Alcoholic Beverage Control Law;
6 6564, by Senator Goodman, an act
7 to amend the Tax Law;
8 6577, by Senator Goodman, an act
9 to amend the Public Lands Law;
10 6578, by Senator Goodman, an act
11 to amend the Tax Law;
12 6581, by Senator Goodman, an act
13 to amend the Alcoholic Beverage Control Law;
14 6591, by Senator Goodman, an act
15 to amend the Alcoholic Beverage Control Law;
16 6593, by Senator Goodman, an act
17 to amend the Alcoholic Beverage Control Law;
18 6616, by Senator Goodman, an act
19 to amend the Arts and Cultural Affairs Law; and
20 6663, by Senator Goodman, an act
21 to amend the Tax Law.
22 All bills ordered direct for
23 third reading.
24 ACTING PRESIDENT BALBONI:
25 Without objection, all bills directly to third

1 reading.

2 Reports of select committees.

3 Communication and reports from
4 state officers.

5 Motions and resolutions.

6 The Chair recognizes Senator
7 Farley.

8 SENATOR FARLEY: Thank you, Mr.
9 President.

10 On behalf of Senator Leibell, on
11 page 17, I offer the following amendments to
12 Calendar Number 424, Senate Print Number 6119,
13 and I ask that that bill retain its place on the
14 Third Reading Calendar.

15 ACTING PRESIDENT BALBONI: The
16 amendments are received.

17 Senator Padavan.

18 SENATOR PADAVAN: Mr. President,
19 I would like to star the following bills:
20 Calendar 273, Senate Bill 2202; 319, Senate Bill
21 2210; Calendar Number 459, Senate Bill 2011;
22 Calendar Number 461, Senate Bill 2223.

23 ACTING PRESIDENT BALBONI: So
24 ordered.

25 SENATOR PADAVAN: Thank you.

1 ACTING PRESIDENT BALBONI:

2 Senator Skelos.

3 SENATOR SKELOS: Mr. President, I
4 move that we adopt the Resolution Calendar in
5 its entirety.

6 ACTING PRESIDENT BALBONI: All in
7 favor of accepting the Resolution Calendar
8 signify by saying aye.

9 (Response of "Aye".)

10 Opposed, nay.

11 (There was no response.)

12 The Resolution Calendar is
13 accepted.

14 Senator Skelos.

15 SENATOR SKELOS: Mr. President,
16 if we could take up the non-controversial -- oh,
17 we have some substitutions to make.

18 ACTING PRESIDENT BALBONI: Yes,
19 we do, Senator.

20 SENATOR SKELOS: Please make the
21 substitutions.

22 ACTING PRESIDENT BALBONI: The
23 Secretary will read.

24 THE SECRETARY: On page 7,
25 Senator Stafford moves to discharge from the

1 Committee on Consumer Protection Assembly Bill
2 Number 1357-A and substitute it for the
3 identical Third Reading Calendar 157, and on
4 page 20, Senator Hannon moves to discharge from
5 the Committee on Local Government Assembly Bill
6 Number 21-A and substitute it for the identical
7 Third Reading Calendar 471.

8 ACTING PRESIDENT BALBONI: The
9 substitutions are ordered.

10 Senator Skelos.

11 SENATOR SKELOS: Could we take up
12 the non-controversial calendar, please.

13 ACTING PRESIDENT BALBONI: The
14 Secretary will read.

15 THE SECRETARY: Calendar Number
16 273, by Senator Padavan, Senate Print 2202, an
17 act to amend the General Municipal Law, in
18 relation to reporting information to the United
19 States Immigration.

20 SENATOR GOLD: Lay it aside.

21 ACTING PRESIDENT BALBONI: The
22 bill is laid aside.

23 SENATOR SKELOS: Mr. President,
24 if we could just have it a little quiet in the
25 chamber.

1 ACTING PRESIDENT BALBONI: Please
2 take your conversations out of the chamber. All
3 staff please find your places. Keep it down
4 here, please.

5 Thank you.

6 SENATOR SKELOS: Mr. President,
7 would you please recognize Senator Nozzolio,
8 please.

9 ACTING PRESIDENT BALBONI:
10 Senator Nozzolio.

11 SENATOR NOZZOLIO: Thank you, Mr.
12 President.

13 There will be an immediate
14 meeting of the Committee on Crime Victims, Crime
15 and Corrections in the Senate Majority
16 Conference Room, Room 332 of the Capitol.

17 ACTING PRESIDENT BALBONI:
18 Immediate meeting of the Senate Committee on
19 Crime and Corrections in the Senate Majority
20 Conference Room.

21 Senate Bill 273 is starred for
22 the day. Please continue with the reading of
23 the calendar.

24 THE SECRETARY: Calendar Number
25 387, by Senator Cook, Senate Print 366 -

1 SENATOR SKELOS: Lay it aside for
2 the day.

3 THE SECRETARY: Calendar Number
4 399, by Senator Libous, Senate Print 1231-B, an
5 act to amend the Uniform City Court Act and the
6 Judiciary Law, in relation to enacting City
7 Court judge.

8 ACTING PRESIDENT BALBONI: Read
9 the last section.

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

12 ACTING PRESIDENT BALBONI: Call
13 the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 43.

16 ACTING PRESIDENT BALBONI: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 401, by Senator Saland, Senate Print 3414-B, an
20 act to amend the Judiciary Law and the Uniform
21 City Court Act, in relation to creating a new
22 quarter-time judge position.

23 ACTING PRESIDENT BALBONI: Read
24 the last section.

25 THE SECRETARY: Section 6. This

1 act shall take effect immediately.

2 ACTING PRESIDENT BALBONI: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 45.

6 ACTING PRESIDENT BALBONI: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 439, by Senator Volker, Senate Print 6262, an
10 act to amend the Executive Law, in relation to
11 the community services block grant program.

12 ACTING PRESIDENT BALBONI: Read
13 the last section.

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

16 ACTING PRESIDENT BALBONI: Call
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes 45.

20 ACTING PRESIDENT BALBONI: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 467, by Senator Volker, Senate Print 5180, an
24 act to amend the Penal Law, in relation to
25 establishing the crime of absconding.

1 ACTING PRESIDENT BALBONI: Read
2 the last section.

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

5 ACTING PRESIDENT BALBONI: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 45.

9 ACTING PRESIDENT BALBONI: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 484, by member of the Assembly Gantt, Assembly
13 Print 7096 -

14 SENATOR GOLD: Lay it aside.

15 ACTING PRESIDENT BALBONI: Lay
16 that bill aside.

17 THE SECRETARY: Calendar Number
18 494, by Senator Kuhl, Senate Print 4184, an act
19 to amend the Agriculture and Markets Law, in
20 relation to the assessment of penalties.

21 ACTING PRESIDENT BALBONI: Read
22 the last section.

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

25 ACTING PRESIDENT BALBONI: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 45.

4 ACTING PRESIDENT BALBONI: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 505, by Senator Skelos, Senate Print 1749, an
8 act to amend the Correction Law, in relation to
9 the definition of sexually violent offense.

10 ACTING PRESIDENT BALBONI: Read
11 the last section.

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

14 ACTING PRESIDENT BALBONI: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 45.

18 ACTING PRESIDENT BALBONI: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 506, by Senator Nozzolio, Senate Print 1965, an
22 act to amend the Executive Law, in relation to
23 appeals to the state Board of Parole.

24 ACTING PRESIDENT BALBONI: Read
25 the last section.

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

3 ACTING PRESIDENT BALBONI: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 45.

7 ACTING PRESIDENT BALBONI: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 511, by Senator Alesi, Senate Print 6301, an act
11 to amend the Correction Law, in relation to
12 barring sex offenders from certain temporary
13 release programs.

14 ACTING PRESIDENT BALBONI: Read
15 the last section.

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

19 SENATOR GOLD: Lay it aside.

20 ACTING PRESIDENT BALBONI: Lay
21 that bill aside.

22 Senator Skelos, that completes
23 the reading of the non-controversial calendar.

24 SENATOR SKELOS: Please take up
25 the controversial calendar.

1 ACTING PRESIDENT BALBONI: The
2 Secretary will read.

3 THE SECRETARY: Calendar Number
4 387, by Senator Cook, Senate Print 366, an act
5 to amend the Education Law, in relation to
6 defining non-residents of a district.

7 SENATOR GOLD: Explanation.

8 ACTING PRESIDENT BALBONI: An
9 explanation has been asked for, Senator Cook.

10 SENATOR COOK: Mr. President,
11 this bill provides that when there are -- is a
12 tax exempt organization within a school district
13 that is sending students to the public schools
14 and, therefore, are not paying anything in
15 support of the cost of educating those students,
16 that the school district is empowered; it is not
17 mandated but it's authorized to set a tuition
18 charge for those students in the same standard
19 as if they were non-residents of the district
20 who are attending school.

21 Specifically, this probably would
22 not apply in very many places in the state. It
23 could apply probably to 50 or 60 districts, but
24 being a local option, I would assume it probably
25 would not be utilized by very many of them but

1 the specific purpose is that in one of my school
2 districts, there's a tax exempt organization
3 that has 30 children attending the public
4 schools. The cost of educating those children
5 is approximately a quarter of a million
6 dollars. The situation is that the children who
7 are in that particular -- reside at that
8 particular place are not poverty stricken.
9 They, in fact, are people who, in many cases
10 have very substantial incomes. They are people
11 who live outside of New York State for the most
12 part but come there for a period of time for
13 whatever purpose and during the time they're
14 there, the school district is then mandated to
15 require -- to provide the education for the
16 children.

17 So there's no way under present
18 law to recoup any of that cost and this is an
19 optional manner in which the school district may
20 recover some of those costs.

21 ACTING PRESIDENT BALBONI: Thank
22 you, Senator Cook.

23 Senator Gold.

24 SENATOR GOLD: Mr. President, if
25 my distinguished colleague would yield to a

1 question.

2 ACTING PRESIDENT BALBONI:

3 Senator Cook, will you yield?

4 SENATOR COOK: I'm not sure I was
5 the one he was asking to yield, but I will.

6 ACTING PRESIDENT BALBONI: The
7 Senator yields.

8 SENATOR GOLD: First of all, I
9 ought to clear it up, Mr. President. Whenever I
10 speak in terms of Senator Cook, I only think of
11 distinguished colleague, no issue.

12 Senator Cook, there was a
13 memorandum filed, I think last year, by NYSUT.
14 Is there anything new about this bill that
15 would -

16 SENATOR COOK: Mr. President, to
17 our knowledge -

18 SENATOR GOLD: I can't hear you.

19 ACTING PRESIDENT BALBONI: Excuse
20 me, Senator Gold. Please suffer an interruption
21 for one moment, please. It's getting noisy in
22 here again, please. Please give the Senators
23 the courtesy of listening to the debate.

24 Thank you. Please proceed.

25 SENATOR COOK: Mr. President,

1 Senator Gold, to our knowledge, NYSUT's position
2 has not changed on the bill. I think they had
3 some concerns -- basic philosophical concerns
4 regarding the constitutional provision of
5 providing a free high school education or free
6 primary/secondary education and whether this, in
7 fact, violates that principle, and I don't think
8 that position has changed.

9 SENATOR GOLD: All right. Mr.
10 President.

11 ACTING PRESIDENT BALBONI: Yes,
12 Senator Gold.

13 SENATOR GOLD: I'm informed that
14 there's something contrary, Senator. Our staff,
15 I think spoke to NYSUT and they, in fact -- I
16 didn't know this. I wasn't trying to trap you,
17 but I think they have dropped their opposition
18 and they are now neutral on the bill. I'm
19 hearing that and I'm telling you that but,
20 Senator, what I gather, last year we had some
21 significant opposition from this side, but one
22 of the issues that they raised, and I thought
23 perhaps with your expertise you could deal with
24 this, and the issue was whether or not instead
25 of doing it this way -- and under your bill, as

1 I understand it, if you had clergy or park
2 rangers living on someone's property, their
3 children might not have to pay the tuition.
4 Maybe the better way to handle the situation was
5 on these tax exempt properties, that we get from
6 them some payment in lieu of taxes in order to
7 cover that cost.

8 SENATOR COOK: Mr. President.

9 ACTING PRESIDENT BALBONI:

10 Senator Cook.

11 SENATOR COOK: Senator Gold, as
12 you know, there are two problems with that, and
13 the first is that the property itself is,
14 indeed, constitutionally protected from
15 taxation. In-lieu-of payments are optional on
16 the part of the person who makes the payment.
17 So that they at this point, were they so
18 inclined, could be making payments in lieu of
19 taxes but there really is no way to force them
20 to make payments in lieu of taxes. Admittedly,
21 that would be the preferable way to do it but
22 there just is no way in which we can in law -
23 in law enforce that to occur.

24 SENATOR GOLD: Mr. President, on
25 the bill. I don't have to prolong this.

1 ACTING PRESIDENT BALBONI: On the
2 bill.

3 SENATOR GOLD: But last year many
4 people on this side, I assume were concerned
5 about those issues raised by NYSUT and this year
6 they are apparently neutral.

7 So speaking personally, I intend
8 to remain neutral but neutral in favor of
9 Senator Cook.

10 ACTING PRESIDENT BALBONI: Thank
11 you, Senator Gold.

12 Read the last section.

13 SENATOR STACHOWSKI: Please, just
14 a minute.

15 ACTING PRESIDENT BALBONI: Hold,
16 please.

17 SENATOR STACHOWSKI: Mr.
18 President.

19 ACTING PRESIDENT BALBONI:
20 Senator Stachowski.

21 SENATOR STACHOWSKI: Would it be
22 all right, Senator Cook, since there is a couple
23 members that haven't made it to the chamber yet
24 that had a few questions, if we could lay this
25 aside until tomorrow?

1 ACTING PRESIDENT BALBONI:

2 Senator Cook.

3 SENATOR COOK: Yeah. Mr.
4 President, just to be clear, because, in fact,
5 Senator Lachman did call me this morning and I
6 had agreed to lay it aside and then I had been
7 asked, as a matter of fact, to take the bill up
8 today in order to utilize some time, to be
9 frank, but I have no objection to laying it
10 aside.

11 ACTING PRESIDENT BALBONI: We
12 will lay that bill aside temporarily.

13 The Secretary will continue to
14 read.

15 THE SECRETARY: Calendar Number
16 484, by member of the Assembly Gantt, Assembly
17 Print 7096, an act to amend the Alcoholic
18 Beverage Control Law.

19 ACTING PRESIDENT BALBONI: Read
20 the last section.

21 SENATOR GOLD: Explanation,
22 please.

23 ACTING PRESIDENT BALBONI:
24 Senator Gold, are you asking for an
25 explanation?

1 SENATOR GOLD: Yes, please.

2 ACTING PRESIDENT BALBONI:

3 Senator Goodman, an explanation has been asked
4 for.

5 SENATOR GOODMAN: Mr. President,
6 this bill, which is a program bill of the State
7 Liquor Authority, is the following: Its purpose
8 is actually developed jointly by the SLA and the
9 Governor's Office of Regulatory Reform. It's
10 intended to ease some of the restrictions and
11 prohibitions currently imposed on on-premises
12 licensees, primarily restaurants and taverns.
13 The proposal makes changes in the areas of
14 restrictions on bottle sizes, signs, visibility
15 -- visible -- visibility, record keeping and
16 pool tables.

17 May I ask if there's some
18 question that someone would like to raise on
19 this?

20 SENATOR GOLD: Yes. Thank you.

21 ACTING PRESIDENT BALBONI:

22 Senator Gold.

23 SENATOR GOLD: If the gentleman
24 would yield to a question.

25 SENATOR GOODMAN: Yes, of course.

1 SENATOR GOLD: Senator Goodman,
2 my understanding -- I don't care about pool
3 tables, and I don't care about -

4 SENATOR GOODMAN: You don't care
5 about pool tables? Let the record so note.

6 SENATOR GOLD: I mean the
7 business with billiard rooms and things like
8 that, but I was just curious about one thing.
9 The note that I see here seems to indicate that
10 we would be -- the leading requirement's for
11 record keeping dealing with alcohol sold and
12 purchased and also eliminating certain
13 prohibitions of buying liquor except from the
14 sources that they buy from today. Am I reading
15 that right?

16 SENATOR GOODMAN: No, I don't
17 believe so, Senator. Let me just go back over
18 the sections that you are in reference to. Part
19 of this -- are you looking at the Metropolitan
20 Package Store memo in opposition? Is this your
21 problem?

22 SENATOR GOLD: No, I wasn't.

23 SENATOR GOODMAN: Oh, I see.

24 SENATOR GOLD: I was just looking
25 at some of my notes but perhaps -- the only

1 question I have, Senator, is that I know there's
2 a delicate balance between -- between businesses
3 here, but in terms of your major committee which
4 is Investigation and Taxation, don't you think
5 that some of the record keeping that we have
6 today, in fact, helps the Tax Department in
7 terms of what goes on in what are basically cash
8 businesses? I mean, are we eliminating some of
9 that record keeping?

10 SENATOR GOODMAN: No, they're
11 not, Senator Gold.

12 SENATOR GOLD: And by the way -
13 if I could finish the question -- would make it
14 harder on the Tax Department in terms of
15 figuring out what's happening with these cash
16 businesses.

17 SENATOR GOODMAN: Let me set your
18 mind at ease. The purpose -- the reference to
19 the elimination of records is simply in sync'
20 with the effort to computerize this. No records
21 will be eliminated but the books per se may be
22 eliminated to permit this to be computerized.

23 SENATOR GOLD: If the Senator
24 would yield to a question. I'm not sure I
25 really understand what you're saying.

1 SENATOR GOODMAN: When you go
2 from a manual system of bookkeeping -

3 SENATOR GOLD: Yeah.

4 SENATOR GOODMAN: -- to a
5 computerized system, you don't keep the
6 overlapping manual records which are often
7 handwritten in books and it's green eye shade
8 work. The computer obviates the need for that.

9 SENATOR GOLD: Will you yield to
10 one other question?

11 SENATOR GOODMAN: Yes, I will.

12 SENATOR GOLD: My understanding,
13 Senator, is that today people who own on
14 premises -- who run on-premises establishments
15 are required to buy liquor from certain specific
16 sources and it was my understanding -- and I may
17 be wrong -- that it would be illegal for them to
18 go to a local package store or some other source
19 and buy liquor, bring it into the on-premises
20 and use that liquor.

21 SENATOR GOODMAN: Let me clarify
22 what I think you may be driving at here.

23 Section 1 of the bill amends Sub
24 (2) of Section 106 of the ABC Law by eliminating
25 the requirement that on-premises licensees only

1 be permitted to purchase liquor in containers
2 not exceeding a half gallon and wine in
3 containers not exceeding 15 gallons. The bill
4 would eliminate the minimum container sizes for
5 on-premises licensees, which is not less than 25
6 ounces for liquor except cordials, liqueurs and
7 bitters and not less than six ounces of wine.
8 So it's a container size.

9 SENATOR GOLD: All right. But it
10 doesn't -- does it do anything to change the
11 prohibition about them buying liquor from, for
12 example, a normal package store and bringing
13 that into their premises?

14 SENATOR GOODMAN: No, it does
15 not.

16 SENATOR GOLD: Thank you very
17 much.

18 SENATOR GOODMAN: You're welcome.

19 ACTING PRESIDENT BALBONI: Read
20 the last section.

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

23 ACTING PRESIDENT BALBONI: Call
24 the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Those recorded in
2 the negative on Calendar Number 484 are Senators
3 Kruger, Maltese, Montgomery, Onorato,
4 Oppenheimer, Rosado, Smith, Velella and Waldon.

5 ACTING PRESIDENT BALBONI: The
6 bill is passed.

7 THE SECRETARY: Also Senator
8 Cook.

9 ACTING PRESIDENT BALBONI: Now
10 the bill is passed.

11 THE SECRETARY: Ayes 46, nays 10
12 -- ayes 45, nays 11, Senator Dollinger also
13 recorded in the negative.

14 ACTING PRESIDENT BALBONI: Now
15 the bill is passed.

16 The Secretary will continue to
17 read.

18 THE SECRETARY: Calendar Number
19 5...

20 ACTING PRESIDENT BALBONI:
21 Senator Rosado.

22 SENATOR ROSADO: Yes. I would
23 like to be recorded in the negative with
24 unanimous consent on Bill 2202.

25 ACTING PRESIDENT BALBONI:

1 Without objection. Senator Rosado, it is my
2 information that that bill was starred
3 previously in the day. It did not pass.

4 SENATOR ROSADO: Thank you. I
5 wasn't here. Thank you.

6 ACTING PRESIDENT BALBONI: No
7 problem. The Secretary will read.

8 THE SECRETARY: Calendar Number
9 511, by Senator Alesi, Senate Print 6301 -

10 SENATOR GOLD: Explanation.

11 ACTING PRESIDENT BALBONI:

12 Senator Alesi, an explanation has been
13 requested.

14 SENATOR ALESI: Thank you, Mr.
15 President.

16 This bill simply makes a
17 distinction between work release and community
18 service. Under the current law inmates that are
19 eligible for work release, sex offenders would
20 not be eligible under work release and it is not
21 clearly defined that they should not be eligible
22 under community service.

23 So the bill simply clarifies the
24 fact that community service would be one of
25 those circumstances where a sex offender would

1 not be eligible.

2 SENATOR GOLD: Will the Senator
3 yield to a question?

4 ACTING PRESIDENT BALBONI:
5 Senator, do you yield?

6 SENATOR ALESI: Yes.

7 SENATOR GOLD: Yeah. So under
8 your bill if your bill passed, would they be
9 eligible for work release?

10 SENATOR ALESI: If they are a sex
11 offender?

12 SENATOR GOLD: Yeah.

13 SENATOR ALESI: They're not
14 eligible under work release as a sex offender.
15 They would not be eligible for community service
16 under my bill as a sex offender and on either
17 set of circumstances, they would not be
18 eligible.

19 SENATOR GOLD: Under existing
20 law, are they eligible for work release?

21 SENATOR ALESI: No.

22 ACTING PRESIDENT BALBONI: Read
23 the last section.

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

1 November.

2 ACTING PRESIDENT BALBONI: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 56.

6 ACTING PRESIDENT BALBONI: The
7 bill is passed.

8 Yes, Senator.

9 SENATOR MARKOWITZ: I think
10 there's a motion to discharge at the desk.

11 ACTING PRESIDENT BALBONI:
12 Senator, we are not completed with today's
13 business. We're expecting another report from
14 committee. After such time we'll address your
15 issue.

16 Thank you, Senator.

17 Senator Skelos.

18 SENATOR SKELOS: Mr. President,
19 if we could return to reports of standing
20 committees, I believe there's a report of the
21 Crime Victims Committee at the desk. I ask that
22 it be read.

23 ACTING PRESIDENT BALBONI: Return
24 to reports of standing committees.

25 The Secretary will read.

1 THE SECRETARY: Senator Nozzolio,
2 from the Committee on Crime Victims, Crime and
3 Correction, reports:

4 Senate Print 161, by Senator
5 Maltese, an act to amend the Executive Law.

6 ACTING PRESIDENT BALBONI: Please
7 quiet. Can't hear the report.

8 THE SECRETARY: 2318, by Senator
9 Maltese, an act to amend the Executive Law;
10 3464, by Senator Velella, an act
11 to amend the Executive Law;

12 5183, by Senator Nozzolio, an act
13 to amend the Executive Law; and
14 6606, by Senator Nozzolio, an act
15 to amend the Executive Law.

16 All bills ordered direct for
17 third reading.

18 ACTING PRESIDENT BALBONI:
19 Without objection, all bills directly to third
20 reading.

21 SENATOR SPANO: Mr. President.

22 ACTING PRESIDENT BALBONI:
23 Senator Spano.

24 SENATOR SPANO: Can I be recorded
25 in the negative on Calendar 484.

1 ACTING PRESIDENT BALBONI:

2 Without objection.

3 SENATOR SPANO: Thank you.

4 ACTING PRESIDENT BALBONI:

5 Senator Stavisky.

6 SENATOR STAVISKY: Mr. Speaker,

7 on yesterday's calendar, I would like to be

8 recorded in the negative on 427 and 151.

9 ACTING PRESIDENT BALBONI:

10 Senator, the record will reflect your wish -

11 your desire to be so recorded.

12 SENATOR STAVISKY: Thank you.

13 SENATOR MARCELLINO: Mr.

14 President.

15 ACTING PRESIDENT BALBONI:

16 Senator Marcellino, why do you rise?

17 SENATOR MARCELLINO: Mr.

18 President, can I have permission to be recorded

19 on the negative on Calendar 484.

20 ACTING PRESIDENT BALBONI:

21 Without objection.

22 SENATOR MARCELLINO: Thank you.

23 ACTING PRESIDENT BALBONI:

24 Senator Meier.

25 SENATOR MEIER: Thank you, Mr.

1 President.

2 On behalf of Senator Maltese, I
3 move that the following bill be discharged from
4 its committee and be recommitted with
5 instructions to strike the enacting clause:
6 Senate Number 166.

7 ACTING PRESIDENT BALBONI: So
8 ordered.

9 Senator Abate.

10 SENATOR ABATE: Yes. I'd ask for
11 unanimous consent to be recorded in the negative
12 on Calendar Number 484.

13 ACTING PRESIDENT BALBONI:
14 Without objection.

15 SENATOR FUSCHILLO: Mr.
16 President.

17 ACTING PRESIDENT BALBONI:
18 Senator Fuschillo.

19 SENATOR FUSCHILLO: Mr.
20 President, on Calendar Number 484, I wish to
21 change my vote in the negative.

22 ACTING PRESIDENT BALBONI: So
23 ordered.

24 Senator Skelos.

25 SENATOR SKELOS: Same thing.

1 ACTING PRESIDENT BALBONI:

2 Ditto. Without objection.

3 Senator Hannon.

4 (Senator Hannon gestures.)

5 ACTING PRESIDENT BALBONI: Same
6 thing. So ordered.

7 Senator Skelos.

8 SENATOR SKELOS: I believe there
9 is a -- in order to keep the process moving, I
10 believe the Minority has a motion to discharge
11 to make at this time and Senator Markowitz will
12 be handling it on behalf of Senator Connor.

13 SENATOR MARKOWITZ: Thank you
14 very much.

15 ACTING PRESIDENT BALBONI: The
16 Chair recognizes Senator Markowitz.

17 SENATOR MARKOWITZ: I present
18 Senate 6009. I request reading -- waving of the
19 reading of our bill.

20 ACTING PRESIDENT BALBONI: The
21 Secretary will read.

22 THE SECRETARY: By Senator
23 Connor, Senate Print 6009, an act to amend the
24 Emergency Tenant Protection Act of 1974.

25 ACTING PRESIDENT BALBONI:

1 Senator Markowitz.

2 SENATOR MARKOWITZ: Thank you
3 very, very much.

4 First off, let me thank my
5 colleague, Senator Skelos. Thank you -
6 efharisto -- for allowing us to bring this to
7 the floor at this time and also I'm proud to do
8 this on behalf of our leader, Senator Martin
9 Connor, and it's only fitting that I have this
10 opportunity because the ingenuity of some
11 building owners in New York City, property
12 owners in New York City, landlords, is
13 unbelievable. Some of them will go to great
14 heights to go around the law and create new ways
15 of raising rents for tenants in the city of New
16 York, and the reason why I present this this
17 afternoon is that potentially a problem exists
18 among some landlords that have begun to create a
19 law -- a regulation in their buildings that
20 indeed endangers tenants' rents and that
21 provides less space for more rents, and let me
22 explain what I mean.

23 Right now the landlords can only
24 receive upon vacancies in apartments that are
25 less than \$2,000 a month that are under rent

1 regulations which we call affectionately rent
2 stabilization, that they're only permitted a
3 certain vacancy allowance and a normal lease
4 increase depending upon their choice of a one
5 or two-year lease and that is the rent that is
6 set by the rent guidelines barred and empowered
7 by our laws in the state Division of Housing.

8 Now, what some owners are doing
9 -- few at this moment but unless we close this
10 horrible loophole it could be more dramatic in
11 the future. In the lust for some unscrupulous
12 owners to reach the threshold of \$2,000 a month
13 rent, which for them is heaven, meaning that at
14 that point the apartment is totally decontrolled
15 and the landlord can charge anything he or she
16 has ever dreamt of and can possibly get from a
17 prospective tenant, what they have done is to
18 try to create in that rental system changing the
19 size of the apartments because the -- when I say
20 "changing the size of the apartment", I don't
21 mean giving the new tenant more space for more
22 money but rather more rent and less space
23 because there's a policy within the state
24 Division of Housing that reads, when an owner
25 significantly changes the parameter and

1 dimensions of an existing housing accommodation,
2 then they can apply to make that new tenant pay
3 market rent or first rent, which means that the
4 landlord would be able to go beyond the
5 guidelines that we have set and charge that new
6 tenant anything they can get and then that
7 apartment falls under rental stabilization and
8 the way the owners are doing it is taking, let's
9 say a two-bedroom apartment -- look how
10 brilliant these guys are. Are they not
11 brilliant? They take a two-bedroom apartment
12 and then decide to make it a one-bedroom
13 apartment and use that other bedroom, put up
14 that beautiful Sheetrock and make it into a
15 janitor's room for the laundry and for the
16 brooms and mops and vacuum cleaners, rent it out
17 as a one-bedroom apartment and then say to the
18 state Division of Housing that this apartment
19 has now met your threshold and, therefore, we
20 believe that the apartment has changed its
21 dimensions and should, therefore, now be
22 decontrolled as far as first rent where I can
23 charge anything I want, then the apartment goes
24 under rental stabilization again.

25 Now look what happens. Two years

1 later that tenant that paid this enormously high
2 rent moves out. The owner then takes the wall
3 off of that separate bedroom and rents it to the
4 new tenants with a second bedroom and then that
5 same owner goes to the state division and says
6 that this apartment is no longer a one-bedroom
7 but is now a two-bedroom, and now I'm entitled
8 to first rent market rent.

9 Now, you can see clearly, I hope
10 I've described it as best I could, that this
11 could threaten tenants living in moderate to
12 middle income housing in New York City but
13 unless we pass this legislation today, we are
14 enabling the possibility of greater abuse by
15 unscrupulous owners to get around the law and to
16 try to reach as quickly as possible that \$2,000
17 level of rent for tenants in New York City and
18 thereby meet the decontrol laws, which is what
19 they seek.

20 Now, I know that Senator Skelos
21 allowing me to do this today and your courtesy
22 on behalf of our leader, Senator Connor, means
23 that I know you feel and have a sensitivity for
24 the subject, and I know that as I look around
25 the room, Senator Spano and certainly Senator

1 Goodman, I'm sure and Senator Velella and
2 Senator Padavan, my dear colleague and others
3 that are concerned -- Senator Maltese and maybe
4 even Senator Trunzo that are concerned with the
5 plight and the continued challenges that tenants
6 face living in a very crowded congested city
7 with not nearly enough apartments to meet the
8 needs, especially for those that are not able to
9 live in Trump Tower and some of those buildings,
10 that this legislation is needed today so that
11 landlords know that they cannot reduce the space
12 in these apartments for new tenants to get
13 around the law and claim that it's a new
14 apartment when, in fact, what they're doing is
15 taking the same apartment, reducing the space so
16 that they can charge more and, therefore,
17 revolve around or move around the laws that this
18 Legislature approved last year and in previous
19 years.

20 And so I ask for the
21 consideration of the Senate. I ask you to join
22 me in this. This is the proper thing to do.
23 It's the right thing to do, and I ask for your
24 affirmative vote this afternoon.

25 ACTING PRESIDENT BALBONI: All in

1 favor of accepting the motion to discharge
2 signify by saying aye.

3 (Response of "Aye".)

4 SENATOR STACHOWSKI: Party vote
5 in the affirmative.

6 SENATOR SKELOS: Party vote in
7 the negative.

8 ACTING PRESIDENT BALBONI: The
9 Secretary will record the party votes.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 25, nays 35.
12 Party vote.

13 ACTING PRESIDENT BALBONI: The
14 motion is defeated.

15 Senator Markowitz.

16 SENATOR MARKOWITZ: I promised
17 Senator Gold, he said to me that if I got one or
18 two members of the Republican Party to vote my
19 way, that I would become a real star in this
20 Capitol.

21 ACTING PRESIDENT BALBONI: Not
22 today.

23 SENATOR GOLD: Mr. President.

24 ACTING PRESIDENT BALBONI:
25 Senator Gold.

1 SENATOR GOLD: I want to be
2 fair. Marty, it wasn't your fault. You did
3 great.

4 ACTING PRESIDENT BALBONI: So
5 noted.

6 SENATOR SKELOS: Results,
7 please.

8 ACTING PRESIDENT BALBONI: The
9 motion is defeated.

10 SENATOR SKELOS: Please recognize
11 Senator Padavan.

12 ACTING PRESIDENT BALBONI:
13 Senator Padavan.

14 SENATOR PADAVAN: Yes, Mr.
15 President. I would like to be recorded in the
16 negative on Calendar Number 484, Senate Bill
17 3680.

18 Thank you.

19 ACTING PRESIDENT BALBONI:
20 Without objection.

21 Senator LaValle.

22 SENATOR LAVALLE: Mr. President,
23 may I have unanimous consent to be recorded in
24 the negative on Calendar Bill Number 484.

25 ACTING PRESIDENT BALBONI:

1 Without objection.

2 Senator Stachowski.

3 SENATOR STACHOWSKI: Mr.

4 President, we had another motion scheduled to go
5 today by Senator Leichter but with the gracious
6 consideration of the Majority, we would like to
7 roll that over 'til tomorrow.

8 SENATOR SKELOS: No objection.

9 ACTING PRESIDENT BALBONI: No
10 objection, so ordered.

11 Senator Gentile.

12 SENATOR GENTILE: Yes, Mr.

13 President. I would ask for unanimous consent to
14 be recorded in the negative on Number 484.

15 ACTING PRESIDENT BALBONI:

16 Without objection.

17 SENATOR SKELOS: Mr. President.

18 ACTING PRESIDENT BALBONI:

19 Senator Skelos.

20 SENATOR SKELOS: There's going to
21 be a conference of the Majority at 4:15.

22 ACTING PRESIDENT BALBONI:

23 Senator Stachowski.

24 SENATOR STACHOWSKI: Yes, Mr.

25 President. There will be a conference of the

1 Minority at 4:15.

2 SENATOR SKELOS: The Senate will
3 stand at ease.

4 ACTING PRESIDENT BALBONI: The
5 Senate will stand at ease. There will be a
6 conference -- Majority Conference at 4:15 in the
7 Majority Conference Room and also a conference
8 by the Minority at the same time. The house
9 stands at ease.

10 (Whereupon, the Senate stood at
11 ease from 3:58 p.m. until 5:04 p.m.)

12 SENATOR SKELOS: Mr. President,
13 there being no further business, I move we
14 adjourn until Wednesday, April 8th, at 3:00 p.m.

15 ACTING PRESIDENT STACHOWSKI: The
16 Senate stands adjourned 'til Wednesday, April
17 8th, at 3:00 p.m. The Senate stands adjourned.

18 (Whereupon, at 5:05 p.m., the
19 Senate adjourned.)

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