ALBANY, NEW YORK

April 7, 1998

3:05 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEVEN M. BOGGESS, Secretary

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

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

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

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

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

Senator Padavan, from the Committee on Cities, reports:

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

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

Senator Hannon, from the

Committee on Health, reports:

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

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

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

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

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

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

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

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

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

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

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

1378, by Senator LaValle, an act to amend the General Municipal Law;

1767, by Senator Leibell, an act to amend the Real Property Tax Law;

1955, by Senator Farley, an act to amend the Real Property Tax Law;

2339-A, by Senator Farley, an act to amend the Real Property Tax Law;

2378, by Senator Lack, an act to amend the County Law;

2664, by Senator LaValle, an act authorizing the village of Sag Harbor;

2669, by Senator LaValle, an act to amend the Town Law;

3005-A, by Senator DeFrancisco, an act to amend the County Law;

3080, by Senator Padavan, an act to amend the General Municipal Law;

3135, by Senator LaValle, an act to amend the General Municipal Law;

4408-A, by Senator Rath, an act to amend the General Municipal Law;

4449, by Senator DeFrancisco, an act to amend the Real Property Tax Law;

4855, by Senator Rath, an act to

amend the General Municipal Law;

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

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

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

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

Senator Johnson, from the Committee on Transportation, reports:

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

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

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

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

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

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

6231, by Senator Velella, an act to amend the Vehicle and Traffic Law; and

6403, by Senator Stafford, an act to amend the Highway Law.

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

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

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

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

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

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

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

567, by Senator Kuhl, an act to amend the Alcoholic Beverage Control Law;

3541, by Senator Goodman, an act to amend the Tax Law;

3651, by Senator Goodman, an act to amend the Alcoholic Beverage Control Law;

3673, by Senator Goodman, an act to amend the Alcoholic Beverage Control Law;

3682, by Senator Goodman, an act to amend the Alcoholic Beverage Control Law;

3982, by Senator Larkin, an act to amend the Tax Law;

4056-A, by Senator Goodman, an act to amend the Tax Law;

4081-A, by Senator Goodman, an act to amend the Tax Law;

4133, by Senator Kuhl, an act to amend the Tax Law;

4496-A, by Senator Maziarz, an act to amend the Alcoholic Beverage Control Law;

5048, by Senator Kuhl, an act to amend the Alcoholic Beverage Control Law;

5209-A, by Senator Goodman, an act to amend the Tax Law;

6283, by Senator Kuhl, an act to

amend the Public Officers Law;

6330-A, by Senator Goodman, an act to amend the Alcoholic Beverage Control Law;

6520, by Senator LaValle, an act to amend the Alcoholic Beverage Control Law;

6564, by Senator Goodman, an act to amend the Tax Law;

6577, by Senator Goodman, an act to amend the Public Lands Law;

6578, by Senator Goodman, an act to amend the Tax Law;

6581, by Senator Goodman, an act to amend the Alcoholic Beverage Control Law;

6591, by Senator Goodman, an act to amend the Alcoholic Beverage Control Law;

6593, by Senator Goodman, an act to amend the Alcoholic Beverage Control Law;

6616, by Senator Goodman, an act to amend the Arts and Cultural Affairs Law; and

6663, by Senator Goodman, an act to amend the Tax Law.

All bills ordered direct for third reading.

ACTING PRESIDENT BALBONI: Without objection, all bills directly to third

reading.

Reports of select committees.

Communication and reports from state officers.

Motions and resolutions.

The Chair recognizes Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

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

ACTING PRESIDENT BALBONI: The amendments are received.

Senator Padavan.

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

ACTING PRESIDENT BALBONI: So ordered.

SENATOR PADAVAN: Thank you.

ACTING PRESIDENT BALBONI:
Senator Skelos.
SENATOR SKELOS: Mr. President, I move that we adopt the Resolution Calendar in its entirety.
ACTING PRESIDENT BALBONI: All in favor of accepting the Resolution Calendar signify by saying aye.
(Response of "Aye".)
Opposed, nay.
(There was no response.)
The Resolution Calendar is accepted.
Senator Skelos.
SENATOR SKELOS: Mr. President, if we could take up the non-controversial -- oh, we have some substitutions to make.
ACTING PRESIDENT BALBONI: Yes, we do, Senator.
SENATOR SKELOS: Please make the substitutions.
ACTING PRESIDENT BALBONI: The Secretary will read.
THE SECRETARY: On page 7, Senator Stafford moves to discharge from the

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

ACTING PRESIDENT BALBONI: The substitutions are ordered.

Senator Skelos.

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

ACTING PRESIDENT BALBONI: The Secretary will read.

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

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT BALBONI: The bill is laid aside.

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

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

Thank you.

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

ACTING PRESIDENT BALBONI: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

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

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

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

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

SENATOR SKELOS: Lay it aside for the day.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 6. This

act shall take effect immediately.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT BALBONI: The bill is passed.

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

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT BALBONI: Lay that bill aside.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT BALBONI: Lay that bill aside.

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

SENATOR SKELOS: Please take up the controversial calendar.

ACTING PRESIDENT BALBONI: The Secretary will read.

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

SENATOR GOLD: Explanation.

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

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

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

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

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

ACTING PRESIDENT BALBONI: Thank you, Senator Cook.

Senator Gold.

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

question.

ACTING PRESIDENT BALBONI: Senator Cook, will you yield?

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

ACTING PRESIDENT BALBONI: The Senator yields.

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

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

SENATOR COOK: Mr. President, to our knowledge -

SENATOR GOLD: I can't hear you.

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

Thank you. Please proceed.

SENATOR COOK: Mr. President,

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

SENATOR GOLD: All right. Mr. President.

ACTING PRESIDENT BALBONI: Yes, Senator Gold.

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

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

SENATOR COOK: Mr. President.

ACTING PRESIDENT BALBONI: Senator Cook.

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

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

ACTING PRESIDENT BALBONI: On the bill.

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

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

ACTING PRESIDENT BALBONI: Thank you, Senator Gold.

Read the last section.

SENATOR STACHOWSKI: Please, just a minute.

ACTING PRESIDENT BALBONI: Hold, please.

SENATOR STACHOWSKI: Mr. President.

ACTING PRESIDENT BALBONI: Senator Stachowski.

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

ACTING PRESIDENT BALBONI: Senator Cook.

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

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

The Secretary will continue to read.

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

ACTING PRESIDENT BALBONI: Read the last section.

SENATOR GOLD: Explanation, please.

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

SENATOR GOLD: Yes, please.

ACTING PRESIDENT BALBONI: Senator Goodman, an explanation has been asked for.

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

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

SENATOR GOLD: Yes. Thank you.

ACTING PRESIDENT BALBONI: Senator Gold.

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

SENATOR GOODMAN: Yes, of course.

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

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

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

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

SENATOR GOLD: No, I wasn't.

SENATOR GOODMAN: Oh, I see.

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

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

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

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

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

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

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

SENATOR GOLD: Yeah.

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

SENATOR GOLD: Will you yield to one other question?

SENATOR GOODMAN: Yes, I will.

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

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

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

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

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

SENATOR GOODMAN: No, it does not.

SENATOR GOLD: Thank you very much.

SENATOR GOODMAN: You're welcome.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Also Senator Cook.

ACTING PRESIDENT BALBONI: Now the bill is passed.

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

ACTING PRESIDENT BALBONI: Now the bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 5...

ACTING PRESIDENT BALBONI: Senator Rosado.

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

ACTING PRESIDENT BALBONI:

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

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

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

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

SENATOR GOLD: Explanation.

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

SENATOR ALESI: Thank you, Mr. President.

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

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

not be eligible.

SENATOR GOLD: Will the Senator yield to a question?

ACTING PRESIDENT BALBONI: Senator, do you yield?

SENATOR ALESI: Yes.

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

SENATOR ALESI: If they are a sex offender?

SENATOR GOLD: Yeah.

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

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

SENATOR ALESI: No.

ACTING PRESIDENT BALBONI: Read the last section.

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

November.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT BALBONI: The bill is passed.

Yes, Senator.

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

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

Thank you, Senator.

Senator Skelos.

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

ACTING PRESIDENT BALBONI: Return to reports of standing committees.

The Secretary will read.

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

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

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

THE SECRETARY: 2318, by Senator Maltese, an act to amend the Executive Law;

3464, by Senator Velella, an act to amend the Executive Law;

5183, by Senator Nozzolio, an act to amend the Executive Law; and

6606, by Senator Nozzolio, an act to amend the Executive Law.

All bills ordered direct for third reading.

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

SENATOR SPANO: Mr. President.

ACTING PRESIDENT BALBONI: Senator Spano.

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

ACTING PRESIDENT BALBONI:

Without objection.

SENATOR SPANO: Thank you.

ACTING PRESIDENT BALBONI:

Senator Stavisky.

SENATOR STAVISKY: Mr. Speaker, on yesterday's calendar, I would like to be recorded in the negative on 427 and 151.

ACTING PRESIDENT BALBONI:

Senator, the record will reflect your wish - your desire to be so recorded.

SENATOR STAVISKY: Thank you.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT BALBONI:

Senator Marcellino, why do you rise?

SENATOR MARCELLINO: Mr. President, can I have permission to be recorded on the negative on Calendar 484.

ACTING PRESIDENT BALBONI:

Without objection.

SENATOR MARCELLINO: Thank you.

ACTING PRESIDENT BALBONI:

Senator Meier.

SENATOR MEIER: Thank you, Mr.

President.

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

ACTING PRESIDENT BALBONI: So ordered.

Senator Abate.

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

ACTING PRESIDENT BALBONI: Without objection.

SENATOR FUSCHILLO: Mr. President.

ACTING PRESIDENT BALBONI: Senator Fuschillo.

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

ACTING PRESIDENT BALBONI: So ordered.

Senator Skelos.

SENATOR SKELOS: Same thing.

ACTING PRESIDENT BALBONI:

Ditto. Without objection.

Senator Hannon.

(Senator Hannon gestures.)

ACTING PRESIDENT BALBONI: Same thing. So ordered.

Senator Skelos.

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

SENATOR MARKOWITZ: Thank you very much.

ACTING PRESIDENT BALBONI: The Chair recognizes Senator Markowitz.

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

ACTING PRESIDENT BALBONI: The Secretary will read.

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

ACTING PRESIDENT BALBONI:

Senator Markowitz.

SENATOR MARKOWITZ: Thank you very, very much.

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

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

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

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

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

Now look what happens. Two years

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

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

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

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

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

ACTING PRESIDENT BALBONI: All in

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

(Response of "Aye".)

SENATOR STACHOWSKI: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

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

(The Secretary called the roll.)

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

ACTING PRESIDENT BALBONI: The motion is defeated.

Senator Markowitz.

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

ACTING PRESIDENT BALBONI: Not today.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT BALBONI: Senator Gold.

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

ACTING PRESIDENT BALBONI: So noted.

SENATOR SKELOS: Results, please.

ACTING PRESIDENT BALBONI: The motion is defeated.

SENATOR SKELOS: Please recognize Senator Padavan.

ACTING PRESIDENT BALBONI: Senator Padavan.

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

Thank you.

ACTING PRESIDENT BALBONI: Without objection.

Senator LaValle.

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

ACTING PRESIDENT BALBONI:

Without objection.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, we had another motion scheduled to go today by Senator Leichter but with the gracious consideration of the Majority, we would like to roll that over 'til tomorrow.

SENATOR SKELOS: No objection.

ACTING PRESIDENT BALBONI: No objection, so ordered.

Senator Gentile.

SENATOR GENTILE: Yes, Mr. President. I would ask for unanimous consent to be recorded in the negative on Number 484.

ACTING PRESIDENT BALBONI: Without objection.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT BALBONI: Senator Skelos.

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

ACTING PRESIDENT BALBONI: Senator Stachowski.

SENATOR STACHOWSKI: Yes, Mr. President. There will be a conference of the

Minority at 4:15.

SENATOR SKELOS: The Senate will stand at ease.

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

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

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

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

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