NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 23, 2000

3:07 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: 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.)

THE PRESIDENT: In the absence of clergy, I would ask everyone present to please bow your heads in a moment of silence.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, May 22nd, the Senate met pursuant to adjournment. The Journal of Friday, May 20, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator McGee.

SENATOR McGEE: Thank you, Madam President.

Amendments are to be offered to the following Third Reading Calendar bills:

Sponsored by Senator Spano, page number 9, Calendar Number 288, Senate Print 4932A;

Sponsored by Senator Spano, page number 9, Calendar Number 290, Senate Print 6433;

Sponsored by Senator Spano, page number 25, Calendar Number 754, Senate Print 1469C;

Sponsored by Senator Marchi, page number 40, Calendar Number 984, Senate Print 3605A;

Sponsored by Senator Marchi, page number 41, Calendar Number 988, Senate Print

4458B;

Sponsored by Senator LaValle, page number 45, Calendar Number 1048, Senate Print 7251;

Sponsored by Senator Hannon, page number 53, Calendar Number 1138, Senate Print 7523;

Sponsored by Senator Spano, page Number 53, Calendar Number 1147, Senate Print 7608;

Sponsored by Senator Farley, page number 54, Calendar Number 1155, Senate Print 7748;

Sponsored by Senator Farley, page number 55, Calendar Number 1169, Senate Print 6728.

Madam President, I now move that these bills retain their place on the order of third reading.

THE PRESIDENT: The amendments are received, and the bills will retain their place on the Third Reading Calendar.

SENATOR McGEE: Madam President, on behalf of Senator Nozzolio, please remove -

THE PRESIDENT: Senator McGee, Senator Bruno wishes to be recognized.

Senator Bruno.

SENATOR BRUNO: If you would suffer an interruption, Madam President, I would ask for an immediate meeting of the Rules Committee in Room 332.

Thank you very much, Senator.

THE PRESIDENT: Thank you, Senators.

There will be an immediate meeting of the Rules Committee in Room 332.

Senator McGee.

SENATOR McGEE: Thank you, Madam President.

On behalf of Senator Nozzolio, please remove the sponsor star from Calendar Number 680.

THE PRESIDENT: So ordered.

SENATOR McGEE: Thank you, Madam President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

I wish to call up Senator Bonacic's bill, Print Number 6711, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 480, by Senator Bonacic, Senate Print 6711, an act in relation to legalizing, validating, and ratifying.

SENATOR MARCELLINO: Madam President, I now offer -- I move -- it's the upper plate. It gets me.

I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

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

THE PRESIDENT: The amendments are received, Senator.

SENATOR MARCELLINO: Madam President, I wish to call up Senator Volker's

bill, Print Number 7378, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1010, by Senator Volker, Senate Print 7378, an act to amend the Penal Law.

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

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

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

THE PRESIDENT: The amendments are received, Senator.

SENATOR MARCELLINO: Thank you, Madam President.

THE PRESIDENT: Senator Trunzo.

SENATOR TRUNZO: Madam President, will you please put a sponsor star on Calendar Number 472.

THE PRESIDENT: So ordered, Senator.

SENATOR TRUNZO: Thank you.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, I believe that there is a privileged resolution at the desk by Senator Breslin that I cosponsored with him on behalf of our mutual constituents. I would ask that that resolution be read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Breslin, Legislative Resolution Number 4290 commending Albany Police Officers Stanley J. Nadoraski and Thomas P. Shea in recognition of the historic actions they exhibited in the line of duty.

"WHEREAS, It is the sense of this Assembled Body to recognize and honor those citizens of the State of New York who devote those life's work and purpose to public service; and

"WHEREAS, The quality of life in

the communities of New York State is reflective of the commitment and dedication demonstrated by these public servants, and especially those who devote themselves to protecting, preserving and maintaining public order; and

"WHEREAS, From time to time society calls upon its outstanding members to be recognized for their valued contributions to the community and its citizenry, publicly acknowledging these individuals for their courage, commitment and selfless dedication to preserving the quality and fabric of life in their communities; and

"WHEREAS, This occasion presents an opportunity for this Assembled Body to honor two police officers of the Albany Police Department, Stanley J. Nadoraski and Thomas P. Shea, for the bravery and heroism they exhibited in the line of duty, protecting the lives and property of the citizens of Albany and their visitors.

"Stanley J. Nadoraski and Thomas P. Shea, each seven-year veterans of the Albany Police Department stationed at North Station

on Henry Johnson Boulevard in Arbor Hill, did, in the early morning hours of November 13, 1999, while on patrol on North Swan Street, recognize a suspect with a notorious history of violence and drug dealing, who was then and is currently wanted on a charge of domestic violence against a woman of the Arbor Hill neighborhood.

"In attempting to place said suspect under arrest, a struggle erupted in which the suspect seized one of the officer's service revolvers and inflicted several gunshot wounds to each policeman before fleeing into the night with the weapon still in his possession. Said suspect was subsequently arrested in Atlanta, Georgia, on January 18, 2000, after being the subject of an interstate chase which received national concern and attention, including an appeal for citizen cooperation from 'America's Most Wanted'; and

"WHEREAS, Officers Shea and Nadoraski, in their attempt to defend the lives and property of the citizens of Albany, suffered life-threatening gunshot wounds, Shea

in the shoulder and Nadoraski in the face, shoulder, and side, requiring emergency hospitalization and, in the case of Nadoraski, two weeks of recovery in the Albany Medical Center Hospital; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor Officer Stanley J. Nadoraski and Officer Thomas P. Shea for their bravery and heroism in the line of duty, and to recognize the sacrifices of these officers and their wives and children during this traumatic incident; and be it further

"RESOLVED, That this Legislative Body wish these officers a swift and complete recovery; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to Officer Stanley J. Nadoraski and Officer Thomas P. Shea as well as to the elected leaders of the City of Albany and the commanding officers of the Albany Police Department."

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Thank you, Madam

President.

Colleagues and Madam President, I am proud to be sponsoring this resolution with Senator Breslin. And we've heard the heroic actions described of two Albany police officers who put the safety of their constituency and ours in front of their own personal safety.

And they are joined here with their chief, Jack Nielsen, and Mayor Jerry Jennings, Assemblyman McEneny, who I'm sure are as proud of these officers as all of us here in this chamber are and all of the people in New York State would be on becoming aware of what they did.

And what they did was to be diligent enough in November as they were doing their routine job -- which is in no way ever routine -- and they suspected this individual of being wanted for a domestic violent crime. And when they accosted him, as we heard, a scuffle ensued. And one of them was shot in the shoulder, in the face; the other, severely wounded in a life-threatening way.

But I think our commendation here

relates to their diligence, to being there, to being aware, and then putting their own safety aside, moving to do something about an individual that didn't belong on the streets.

You know, you can't help but wonder what might have happened if that individual was left to wander the streets of Albany. How many other people could have been hurt, injured, killed, maybe -- who knows -- but for their actions, for their being diligent and vigilant in standing there and confronting this individual.

But every day officers like Stan and Tom, who as I understand it both presently live in my district -- sorry, Neil. But they work in Albany. Every day, they and officers like them are out there in the front lines while we're doing the things that we normally do -- working, doing whatever, sleeping - they're there, days, nights, and weekends.

So we can be very, very proud - and I know the Mayor is and the Chief is - and they and their families can be proud that they stand and stand really aside from all of the routine that takes place as you go out

every day and you are able to do what you did, putting your own safety aside and really protecting the lives of the people that are out there who were just doing what they do every day, taking their own liberty and their own pursuit of happiness for granted.

But you make it happen. So we're indebted to you. We welcome you to the chamber. And we're proud to have you as a constituency and proud that you're in uniform out there every day and every night and every weekend protecting all of us.

Thank you.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

I'd like to echo Senator Bruno's remarks about two courageous young policemen who have only spent seven years each on the Albany Police Department. But they represent our entire Albany Police Department, a police department that every day goes out and risks exactly the same kind of situation that they were placed in in November. And I'm confident to know that the rest of the Albany police

force would have reacted in that same brave and courageous way.

And we are very, very proud of both Stan and Tom. And I'm delighted to have had the help of Senator Bruno and my fellow representative from Albany, Jack McEneny, who did so much in the Assembly for this same resolution.

And it's a tribute to both Stan and Tom that the mayor of the City of Albany, Jerry Jennings, and the chief, Jack Nielsen, who's done such a wonderful job with our police force, are here to honor them. And I too, along with this entire body, say congratulations to each of you.

Thank you, Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: On behalf of the Minority Leader, Senator Connor, we are happy to have this resolution by Senator Bruno and also by Senator Breslin and are very proud and concerned that these officers will be able to go back to their posts and will be able to resume their lives and that their families will not have to worry and not feel the

tension that the families of all police officers and other public servants who perform law enforcement feel at these particular times.

When we honor these two particular officers, we are really honoring all those officers around the state, both living and the dead, who struggled unremittingly and courageously to make our neighborhoods safer and to make our people feel more secure.

And so we are very happy to see this resolution today.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Madam President, we would like to open it up to the entire Senate to participate in this resolution.

THE PRESIDENT: Senator Bruno, do you approve opening this up to the entire Senate?

SENATOR BRUNO: I do, Madam President. I would recommend, unless anyone objects, that we just add everyone's name to the resolution. With your concurrence, Senator Breslin.

SENATOR BRESLIN: Thank you very much, Senator Bruno.

THE PRESIDENT: Anyone who does not wish to be included on this resolution should so notify the desk.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

And as President of the Senate, and particularly as a former district attorney, I'd like to join in the members' recognition and congratulations and honor of these diligent and courageous police officers who have given so much to their community and in so many ways.

The work of you as police officers is not recognized enough and not given enough respect. So I congratulate the members of the Senate in joining together to recognize you in this small way this afternoon.

(Applause.)

THE PRESIDENT: Senator Kuhl.

SENATOR KUHL: Yes, Madam President. Could we call for an immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room, please.

THE PRESIDENT: There will be an immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room.

Senator Kuhl.

SENATOR KUHL: I think there's a Resolution Calendar on the desks of the members. Could we adopt the Resolution Calendar, with the exception of Resolution Number 4335.

THE PRESIDENT: All in favor of adopting the Resolution Calendar, with the exception of Number 4335, signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is so adopted.

Senator Kuhl.

SENATOR KUHL: Yes. Now, Madam President, I believe Resolution Number 4335 is at the desk. It's offered by Senator Morahan. I ask that it be read in its entirety.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Morahan, Legislative Resolution Number 4335 commemorating Memorial Day, May 29, 2000, in the State of New York.

"WHEREAS, It is the sense of this Assembled Body that the memory of those who have fallen in battle to preserve the beliefs, ideals, and principles of the United States profoundly strengthens our commitment to the exercise of freedom."

THE PRESIDENT: Would the members please take their conversations outside the chamber.

The Secretary will continue to read.

THE SECRETARY: "And WHEREAS, Attendant to such commitment and fully in accord with its longstanding traditions, it is

the duty and privilege of this Assembled Body to commemorate Memorial Day, May 29, 2000; and

"WHEREAS, May 29, 2000, will be solemnly marked throughout the United States of America as Memorial Day, a day of national mourning for those Americans who gave their lives in defense of their country, in times of war and in times of peace, in police action and minor skirmishes, in peacekeeping roles and in missions to foreign lands, to uphold the cherished principles of liberty and democracy upon which our Grand Republic was founded; and

"WHEREAS, A legacy of the Civil War, Memorial Day is a timeless holiday. New York State was the first state to formally recognize Memorial Day -- then known as Decoration Day -- as a holiday to honor our fallen veterans. Memorial Day is not a celebration, but rather a day of remembrance, as characterized by our ancestors who observed the day by taking time out to remember family members and neighbors who gave their lives in the Civil War which divided our nation.

"In commemorating May 29, 2000, as

Memorial Day, this Assembled Body pays homage to the more than 576,000 Americans who, during ten major wars, have made the supreme sacrifice for their country, from Lexington and Concord to Iwo Jima, from Yorktown to Gettysburg, from New Orleans to San Juan Hill, from Antietam to Omaha Beach, from Inchon to Ardennes, and from all the other fields of battle as well where men and women have fallen for the cause of freedom; and

"WHEREAS, For decades, veterans' organizations have offered poppies, handmade by hospitalized veterans, to be worn to honor America's war dead. The wearing of the poppy as a Memorial Day custom has its roots in the poem 'In Flanders Fields,' written to salute those killed during World War I. The proceeds from the sale of poppies are used by individual veterans' posts to help veterans; and

"WHEREAS, We, the duly elected members of this Assembled Body, can mark this solemn occasion with no greater edifice than the words of our 16th President, Abraham Lincoln when he dedicated the National

Cemetery at Gettysburg on November 19, 1863:

"'We have come to dedicate a portion of that field, as a final resting place for those who here gave their lives that this nation might live. It is altogether fitting and proper that we should do this. But, in a larger sense, we cannot dedicate - we cannot consecrate -- we cannot hallow this ground. The brave men, living and dead, who struggled here have consecrated it far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here. It is for us, the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be dedicated to the great task remaining before us -- that from these honored dead we take increased devotion to the cause for which they gave the last full measure of devotion; that we here be highly resolved that these dead shall not have died in vain; that this nation, under God, shall have a new birth of freedom, and that government of the people, by the people, for

the people, shall not perish from the earth'; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to solemnly mark Memorial Day, May 29, 2000, gratefully acknowledging all those who have come before us and who, seeing their duty, have served this country so valiantly and honorably when called, preserving our freedom, our liberty and our safety, placing themselves in harm's way to keep America safe; and it be further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to veterans' organizations of New York State."

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

I asked that this resolution be read in its entirety so that this body could pause in its deliberations and reflect upon the great sacrifices made by so many Americans to defend our freedom at the price of their own lives -- men and women, mothers, fathers, sisters, brothers who went off to war and never returned.

I don't know how many in this chamber had a family member killed in the service of his country. I know I did, at Normandy. And I know that many families throughout this state recognize this day as one of, as it says in the resolution, of remembrance and some sorrow.

I think what's really important too, it's been about 20 years or better, 25 years, since we have ended the Vietnam War, the last major conflagration that this nation has been in -- thank you, Madam President. And from time to time I think it's important that we don't look at Memorial Day as a day necessarily of celebration, but one of, as it says in the resolution, remembrance.

I think it's important for those in the gallery, those young people who visit us today, and for the people and the youngsters who are coming behind us to understand what was behind the General Order 11 by General Logan when he created Decoration Day.

It's a day of solemnity. It's a day for us to recognize what it takes to remain free, the vigilance that is necessary

to defend our freedom, that it doesn't come easy, it comes at a great sacrifice and a great price.

But certainly those who have gone before us and made that sacrifice gave us the freedoms that we cherish today. And hopefully we will never have to have that sort of sacrifice in the future. But it's also important that we remain strong as a nation, in their memory, so that their sacrifice will never have been in vain.

Thank you, Madam President.

THE PRESIDENT: Senator Kuhl.

SENATOR KUHL: Yes, Madam President. This is such an important resolution that Senator Morahan has offered to open this up to the floor.

It would be the suggestion, coming from this chair, that all the members be included on the resolution except those who identify themselves to the desk that they don't wish to be on it.

With that, I move the resolution.

THE PRESIDENT: The resolution is open for cosponsorship. If a member does not

wish to be a cosponsor, please notify the desk.

Senator Kuhl.

SENATOR KUHL: Move the resolution.

THE PRESIDENT: On the resolution, all in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Kuhl.

SENATOR KUHL: Yes, Madam President. Could we return to the order of reports of standing committees. I understand there's a report of the Judiciary Committee at the desk. I'd ask that it be read.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

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

As a judge of the Family Court for the County of Orange, Carol Savits Klein, of Chester.

THE PRESIDENT: Senator Lack.

SENATOR LACK: Thank you, Madam President. I rise to move the nomination of Carol S. Klein, of Chester, who has been nominated by the Governor to be a judge of the Family Court for the County of Orange.

Judge Klein appeared before the committee this afternoon. Her credentials have been examined and found to be excellent by the staff of the committee. She was interviewed and was unanimously moved to the floor after a vote of the committee.

And I would most respectfully yield to Senator Larkin for purposes of a second.

THE PRESIDENT: Senator Larkin.

SENATOR LARKIN: Thank you, Madam President. I rise to second the nomination of Carol Klein to be a Family Court judge for Orange County.

Carol Klein has been a town judge for 12 years in the Town of Chester. She's been a law guardian in the Family Court of

Orange County for 11 years. She's been in legal service for the elderly. She's been an instructor at Marist College. She's been a prosecutor for child protective proceedings in our Family Court. She's on the 9th Judicial District Gender Bias Committee, and she's been a mediator for the Supreme Court Divorce Mediation Pilot Project, which started in 1987.

Carol Klein's involvement is not just in the judiciary or in the legal practice itself. Her list of organizations to which she belongs to within our county -- she's known to everyone. She participates as a partner with her husband, Robert, in a lot of issues, a lot of activities that affect the lives of families and children in Orange County.

I'm very proud to stand here and second the nomination of Carol S. Klein to be the Family Court Judge for Orange County. She's earned her stripes.

THE PRESIDENT: The question is on the confirmation -- Senator Bonacic.

SENATOR BONACIC: Thank you,

Madam President.

I stand also to join with my colleague Senator Larkin in seconding the nomination of Carol Klein. Carol we have known in Orange County for almost twenty years. In addition to having exceptional credentials, in giving back to the community, she is also a wonderful wife and mother to two beautiful daughters.

I know she will be an excellent Family Court judge, and we look forward to her tenure as a judge for a long, long time.

Thank you, Madam President.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President. I too want to join my colleagues Senator Bonacic and Senator Larkin in seconding the confirmation of Carol Klein from Orange County.

I have not had the pleasure to know Carol Klein as long as Senators Larkin and Bonacic, but I have known her since last year. And in the time that I've known Carol and her husband, Robert, I can attest to their credibility as community activists, involved

people, people giving back.

And also Carol comes so eminently qualified with the credentials necessary to work in a Family Court. She has worked with family groups outside the court practice.

And I think all of Orange County ought to be very proud today that Carol now will ascend to the Family Court bench. Therefore, I join my colleagues in seconding her nomination and welcoming her and Robert to the chambers.

THE PRESIDENT: The question is on the confirmation of Carol Savits Klein as a judge of the Family Court for the County of Orange. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Carol Savits Klein is hereby confirmed as a judge of the Family Court for the County of Orange.

(Applause.)

THE PRESIDENT: On behalf of the Senate, I'd like to acknowledge the presence of Judge Klein as well as her husband, Robert,

and wish you every success in your new endeavor.

Senator Kuhl.

SENATOR KUHL: Madam President, may we now have the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 546, by the Assembly Committee on Rules, Assembly Print Number 10921, an act to amend the Criminal Procedure Law, in relation to removal.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 600, by Senator Farley, Senate Print 6806, an

act to amend the Highway Law, in relation to designating.

SENATOR DOLLINGER: Lay the bill aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 697, by Senator Rath, Senate Print 4841, an act to amend the General Municipal Law, in relation to authorizing.

SENATOR DOLLINGER: Lay the bill aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 728, by Senator DeFrancisco, Senate Print 6829, an act to amend the Public Authorities Law, in relation to the powers of the Onondaga County Resource Recovery Agency.

SENATOR DOLLINGER: Lay the bill aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 747, by Senator Seward, Senate Print 6730A, an

act to amend the Insurance Law, in relation to the distribution of dividends.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 758, by Senator Saland, Senate Print 4357, an act to amend the Family Court Act and the Domestic Relations Law, in relation to violations.

SENATOR DOLLINGER: Lay that bill aside, Madam President.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 830, by Senator Volker, Senate Print 5598, an act to amend the Civil Practice Law and Rules, in relation to civil case records.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 866, by Senator Volker, Senate Print 1593, an act to amend the Mental Hygiene Law, the Correction Law, and the Criminal Procedure Law, in relation to civil commitment.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 913, by Senator Leibell, Senate Print 6149A, an act to amend the Retirement and Social Security Law, in relation to permitting.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 938, by Member of the Assembly Grannis, Assembly Print Number 9596A, an act to amend the Agriculture and Markets Law, in relation to the forfeiture.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 942, by Senator LaValle, Senate Print 1965, an act to amend the General Municipal Law, in relation to point systems.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 947, by Senator Maziarz, Senate Print 5768A, an act to amend the General Municipal Law, the Public Authorities Law, and the Civil Service Law, in relation to paid leave.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 960, by Senator Larkin, Senate Print 7154, an act to amend the Racing, Pari-Mutuel Wagering

and Breeding Law, in relation to licenses for participants.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 971, by Member of the Assembly Weinstein, Assembly Print Number 4758A, an act to amend the Surrogate's Court Procedure Act, in relation to the investment of guardianship funds.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 973, by Senator Padavan, Senate Print 6743, an act to amend the Real Property Actions and

Proceedings Law, in relation to the new owners of buildings.

SENATOR DOLLINGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 974, by Senator Lack, Senate Print 6886, an act to amend the Estates, Powers and Trusts Law, in relation to credit shelter formula bequests.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 981, by Senator Spano, Senate Print 1466, an act to establish immunity from liability for not-for-profit organizations.

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 987, by Senator Marchi, Senate Print 4457, an act to amend the Not-for-Profit Corporation Law, in relation to authorizing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 990, by Senator Skelos, Senate Print 6780, an act to amend the Business Corporation Law, in relation to the issuance of rights and options.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 993, by Senator Trunzo, Senate Print 6991, an act to amend the Public Authorities Law, in relation to establishing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1007, by Senator Skelos, Senate Print 7034, an act to amend the Criminal Procedure Law, in relation to eliminating the statute of limitations for Class B violent felonies.

SENATOR DOLLINGER: Lay the bill aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1008, by Senator Nozzolio, Senate Print 7113, an act to amend the Criminal Procedure Law, in relation to the cost of a sign language interpreter.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 60 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1014, by Senator Volker, Senate Print 7438, an act to amend the Criminal Procedure Law, in relation to extending the jurisdiction.

THE PRESIDENT: Read the last section.

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

I'm going to ask again that the members please take their conversations outside the chambers. Thank you.

The Secretary will read.

THE SECRETARY: Calendar Number 1027, by Senator Maziarz, Senate Print 6816A, an act to amend the Highway Law, in relation to designating a portion of the state highway system.

THE PRESIDENT: Read the last section.

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

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1029, by Senator DeFrancisco, Senate Print 7364, an act to amend the Vehicle and Traffic Law, in relation to "I Love New York" distinctive plates.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1031, by Senator Stafford, Senate Print 7641, an act to amend the Vehicle and Traffic Law, in relation to divisible load permits.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1036, by Senator Alesi, Senate Print 85, an act to amend the Correction Law, in relation to making it a Class A misdemeanor to simulate or to cause or permit to be disseminated.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1037, by Senator Alesi, Senate Print 182, an act to amend the Correction Law, in relation to work release programs.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1041, by Senator Saland, Senate Print 7234, an act to amend the Correction Law, in relation to making technical corrections.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1055, by Senator Goodman, Senate Print 4032, an act to amend the Executive Law, in relation to conforming the Human Rights Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 38. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Dollinger, to explain your vote.

SENATOR DOLLINGER: To explain my vote, Madam President.

I'm going to vote in favor of this bill. This bill in essence puts

gender-neutral language in the State Division of Human Rights Law, the Executive Law. It's a great idea.

I would just suggest, Madam President, the next thing we ought to do is include sexual orientation in our protection -- our declaration of equal rights in this state, so regardless of what language we use we ensure equal rights for all.

Simply changing "his" to "her" or making other subtle changes, it seems to be a good idea, the right idea. It's the right time. Why don't we do that with respect to providing equal employment opportunity for everyone in this state regardless of their sexual orientation? It would make true equal justice under the law a reality in this state.

THE PRESIDENT: Senator Dollinger, you will be so recorded as voting in the affirmative on this bill.

The Secretary will announce the results.

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1064, by Senator Maziarz, Senate Print 6815, an act to amend the Public Officers Law and the Town Law, in relation to authorizing.

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1066, by Senator Alesi, Senate Print 6860, an act to amend the Alcoholic Beverage Control Law, in relation to sale of prepared liquor drinks.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1073, by Senator Goodman, Senate Print 7119, an act to amend the Public Buildings Law, in relation to authorizing the Commissioner of General Services.

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

1085, by Senator Kuhl, Senate Print 5205, an act to amend the Education Law, in relation to the calculation of income.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1099, by Senator LaValle, Senate Print 7767, an act to amend the Executive Law, in relation to the submission of arson reports.

SENATOR DOLLINGER: Lay the bill aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1104, by Senator Marchi, Senate Print 6354, an act to amend the Executive Law, in relation to designating December 16th as Battle of the Bulge Day, a day of commemoration.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1107, by Senator Stafford, Senate Print 7646, an act to amend the Real Property Tax Law, in relation to clarifying certain provisions.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1121, by Senator Lack, Senate Print 5924A, an act to amend the Insurance Law, in relation to

agreements.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

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

SENATOR KUHL: Would you recognize Senator DeFrancisco, please, Madam President.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I would request unanimous consent to vote in the negative on 830 on the calendar, please.

THE PRESIDENT: You will be so recorded, without objection, as voting in the negative, Senator.

Senator Kuhl.

SENATOR KUHL: Yes, may we have

the controversial reading of the calendar. But may we begin with Calendar Number 758, then take the regular order.

THE PRESIDENT: The Secretary will read, starting with Calendar Number 758, sponsored by Senator Saland.

THE SECRETARY: Calendar Number 758, by Senator Saland, Senate Print 4357, an act to amend the Family Court Act and the Domestic Relations Law, in relation to violations of custody and visitation orders.

SENATOR DOLLINGER: Explanation.

THE PRESIDENT: Senator Saland, an explanation has been requested.

SENATOR SALAND: Thank you, Madam President.

Madam President, what this bill would do would be to codify the existing Article 6 remedies into one location with respect to violations of custody -

THE PRESIDENT: Senator Kuhl, why do you rise?

SENATOR KUHL: Senator Saland is only five chairs away from me, and I'm having a very hard time hearing him. Could we get

some order in the chamber, please.

THE PRESIDENT: Yes, I will, Senator.

I'm going to again ask that any members or visitors in the chambers, staff, take your conversations outside the chambers.

Senator Saland.

SENATOR SALAND: Thank you, Madam President.

As I started to say, this bill effectively codifies what is commonly known as the Article 6 remedies in the Family Court Act with regard to violations of custody and visitation and adds to the court's contempt powers certain interim remedies which we believe will be a more effective means of deterring misconduct in these types of cases dealing with matters such as the ability to apply probation, the ability to apply fees with respect to an offending parent in these types of situations, reimbursement for out-of-pocket expenses.

This bill in its language effectively parallels, virtually word for word, similar provisions that are currently

found for violations of orders of support.

The bill is being offered at the request of the judiciary.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. Would the sponsor yield, please?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: Will the sponsor yield?

You may proceed, Senator Duane.

SENATOR DUANE: Thank you.

Does the law already provide for custodial noncompliance remedies? I should say for custodial noncompliance.

SENATOR SALAND: Does the law - I'm sorry.

SENATOR DUANE: Does the law already provide for remedies for custodial noncompliance of visitation, et cetera?

SENATOR SALAND: There certainly are contempt proceedings that are available. And as I mentioned in my opening remarks, not all of the interim remedies that are provided by way of this legislation are provided in the

existing law.

But effectively what this will do will be to provide one-stop shopping for those who deal with these types of issues, with the law being codified, laid out and basically providing a rather simple way for practitioners dealing in this area to deal with those issues that come up in custody and visitation cases.

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

THE PRESIDENT: Does the sponsor continue to yield?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: I'm wondering if the sponsor could provide me with a description of what would constitute a violation of custody or visitation, if such a definition exists.

SENATOR SALAND: There is absolutely nothing whatsoever in this law that

changes the existing definitions of custody, visitation, or violations thereof.

So whatever the current law is with respect to custody today would be exactly the same, and the same would hold true for visitation, were this law to be passed and signed into law by the Governor.

So this has nothing to do with either expanding or limiting the definition of custody or visitation or any subset contained therein.

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

THE PRESIDENT: Does the sponsor continue to yield?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Thank you.

As I understand it, current legislation calls for remedies when there's been a willful violation of custody or visitation. This legislation lowers or raises

the bar, whichever, to even including -- so that a nonwillful violation -

SENATOR SALAND: You'll have to speak up, Senator Duane. When that door opens, I can't hear you.

SENATOR DUANE: If I may begin again, Madam President.

THE PRESIDENT: You may begin, Senator Duane.

SENATOR DUANE: Thank you.

My understanding is that currently there are remedies provided for willful violations of custody or visitation. Is that correct?

SENATOR SALAND: Correct.

SENATOR DUANE: And to continue, Madam President, what this legislation would do would be to take away that it would have to be willful noncompliance. So it could be accidental, or noncompliance through no fault of the parent would also be captured under this legislation; is that correct?

SENATOR SALAND: What this bill does is it permits a court at an earlier stage to become involved in the proceeding. And if

somebody wishes, because of an alleged accidental violation, to bring on some type of proceeding, they've placed themselves at risk. Because effectively what they've done is they've made themselves subject to the remedies that we've provided here, remedies that include repayment of counsel fee, remedies that include repayment of out-of-pocket expenses.

There are a number of things that this bill does that attempts, again, to simplify the practice, to make the availability of earlier access to the court by the parties a reality.

And which again, as I mentioned earlier, tracks, particularly with respect to those provisions on the willful side, language that's already the existing law with respect to support proceedings.

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

THE PRESIDENT: Does the sponsor continue to yield?

SENATOR SALAND: Yes, Madam

President.

THE PRESIDENT: Go ahead, Senator Duane.

SENATOR DUANE: I certainly understand the point that the sponsor is trying to make.

However, I'm wondering if the sponsor is also concerned that because the threshold of willfulness is not being kept through this legislation, that perhaps there could be an increase in using this to harass or -- well, basically to harass a parent because of vindictiveness or because of the relationship -- you know, what's happened in the relationship between the parents.

SENATOR SALAND: I don't see where there will be any significant or substantial change in the law.

The reality is, is that those parents who are engaged in acrimonious conduct with respect to themselves and using children as pawns are going to engage in the same conduct, regardless of whether the standard is willful or whether the standard is not willful. They are going to concoct every

effort for conflict, they are going to ignore the best interests of their child or children, and they are going to engage in this.

What we propose to do by way of also providing for nonwillfulness but nonetheless a violation of an order, to basically provide for earlier intervention, to encourage responsibility, and to deter noncompliance at an even earlier stage.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: Go ahead, Senator.

SENATOR DUANE: And again, while I understand that point, does not this legislation also provide an additional tool to the non -- potentially a new tool for the noncustodial parent to harass, a tool which they did not have before this legislation?

SENATOR SALAND: I don't view it

as such. Again, I view it as a means for the court to intervene. It's certainly, you know, not, in my view, a new tool to wreak havoc in the court system or to provide as a means of harassment.

SENATOR DUANE: And, Madam President, if the sponsor would yield for one more question.

THE PRESIDENT: Does the sponsor yield for one more question?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: I'm curious as to why this bill has penalties, including incarceration, in accordance with the Criminal Procedure Law. However, this bill is - amends the Domestic Relations Law.

SENATOR SALAND: This is not in any way, shape, or form a criminal procedure. What this bill does is it makes reference to the Criminal Procedure Law.

The Family Court Act contains in its provisions language that says that the

Criminal Procedure Law, unless specified, is not applicable. However, the court can look, in the case of contempt proceedings, by way of what I will term illustration or interpretation.

Were there to be a finding of contempt here, it would be a civil contempt. And while somebody held in civil contempt can be subject to time in a county jail or a city facility, I guess, in one of the major cities, that is not a criminal procedure and that is not a criminal sentence. And that is the law of civil contempt.

SENATOR DUANE: Thank you.

Madam President, on the bill.

I find myself torn about this bill. If the remedies would only be used when there's willful disregard of custodial arrangements or visitation agreements, I would feel more comfortable with it. And I understand what the point of the bill is and how that in some ways it might be helpful.

But on the other hand, I'm fearful that it could be used to harass a custodial parent, in many cases who is a woman who has

less resources potentially than the father in such a case.

I also object to the specter of criminal sanctions, including the possibility of incarceration, though I understand that would be a worst-case scenario. But to, in the worst-case scenario, make it so that someone who was unable to prove that they're being late was not a willful act could potentially set themselves up for a criminal sanction -- maybe not incarceration, but some other criminal sanction -- so I think it gives the noncustodial parent in a bitter case a little bit too much power to harass or intimidate the custodial parent.

So as I -- and I'm thinking it through as I go through it, I think I'm going to vote no on this legislation, though I think that there could be legislation which could accomplish this without going quite to the same length that this does.

Thank you, Madam President.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: Senator Smith.

SENATOR MALCOLM SMITH: Yes. Thank you, Madam President. I rise to request to be recorded in the negative on Calendar Number 830.

THE PRESIDENT: Without objection, you will be so recorded, Senator, as voting in the negative on Calendar 830.

The Secretary will read in regular order.

THE SECRETARY: Calendar Number 600, by Senator Farley, Senate Print 6806, an act to amend the Highway Law, in relation to designating a bridge.

SENATOR DOLLINGER: Can we have an explanation, Madam President?

THE PRESIDENT: Senator Farley, an explanation has been requested.

SENATOR FARLEY: Thank you, Madam President.

This is a very significant bill for the Town of Corinth, which is -- it's a bridge that goes between Senator Stafford's district and my district. And this bridge actually goes between Warren County and Saratoga County. And there was a mayor of the town of Corinth by the name of Densmore -- a terrific guy, and I knew him.

And his son went before the Corinth Town Board and mentioned how his father had served the town so well and so long, and he thought it would be -- and he walked over this bridge 10,000 times. And he thought it would be a great idea if we named this bridge after him.

And guess what? The village board of the Town of Corinth voted unanimously to name this bridge after Mayor Densmore. And - actually, it's Irving Densmore. And they contacted Assemblyman D'Andrea, who's a member over in the Assembly, a Minority member, and also contacted Senator Stafford, who said he'd be thrilled to cosponsor this bill with me.

And believe it or not, I -- has this bill passed the Assembly? I'm just not

sure. I guess not. But there's a good chance that this bill may pass the Assembly if we can go over and trade for it.

So I really would like to see this bridge named after Irving Densmore, who served as mayor of the town of Corinth for 14 years. And you all know how difficult it is to serve as mayor, particularly for a small rural town.

SENATOR DOLLINGER: Explanation satisfactory, Madam President.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 697, by Senator Rath, Senate Print 4841, an act to amend the General Municipal Law, in relation to authorizing.

SENATOR DOLLINGER: Explanation,

please, Madam President.

THE PRESIDENT: Senator Rath, an explanation has been requested.

SENATOR RATH: Madam President, this is a very simple bill. Currently the General Municipal Law allows municipalities to create business improvement districts. However, if geographically and as practiced the community and a business district happens to fall between two municipalities, there's no way for cooperation, for them to announce or develop a business improvement district across municipal boundaries.

And this bill would take care of that problem.

SENATOR DOLLINGER: Madam President, through you.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. Will the sponsor yield just for one question?

THE PRESIDENT: Does the sponsor yield?

SENATOR RATH: Surely.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President, is there anything that under current law prevents intermunicipal agreements that would do exactly what this bill is designed to do? Why do we need this bill if the communities can do it together, side by side, and then just enter into an agreement to work together?

SENATOR RATH: The law, Senator Dollinger, is not clear that it's possible for them to do this.

And we've been attempting to get any impediments out of the way when we're hoping to keep business improvement districts moving forward in, if you will, in the tone of a regional effort, in order to enhance the regions of New York State.

SENATOR DOLLINGER: Thank you, Madam President. Explanation satisfactory.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 728, by Senator DeFrancisco, Senate Print 6829, an act to amend the Public Authorities Law, in relation to the powers.

SENATOR DOLLINGER: Explanation, please.

THE PRESIDENT: Senator DeFrancisco, an explanation has been requested.

SENATOR DeFRANCISCO: Before I tell you what this bill is, I'll tell you what it is not. It has nothing to do with Irving H. Densmore, the mayor who was in office for 14 years who the bridge is being named after.

What the bill is, very simply, is is that the Onondaga County Resource Recovery Agency, when it was formed, was given various powers. And one that was lacking and that was a power that was in most such other agencies was the power to collect solid waste.

This would give the authority, the power, to do that. It does not, as some have tried to have passed, it does not provide that people have to purchase -- have to sell their garbage to this agency or make this agency exclusively the one that collects garbage. But it gives this authority to collect the garbage that they need, apparently, to run the facility. And it does not preclude anyone else from providing the same service.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, will the sponsor yield?

THE PRESIDENT: Does the sponsor yield?

SENATOR DeFRANCISCO: Yes.

THE PRESIDENT: Go ahead, Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President, does this give the Onondaga County Resource Recovery Agency the ability to go into competition with local collection of solid waste materials at the curbside?

SENATOR DeFRANCISCO: It does.

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

THE PRESIDENT: Does the sponsor continue to yield?

SENATOR DeFRANCISCO: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR DOLLINGER: Is it the intention of Onondaga County to get into the business of curbside collection of solid waste in competition with municipalities or private vendors as well?

SENATOR DeFRANCISCO: Well, this is the Onondaga County Resource Recovery Agency, not the county itself.

But they want the ability to collect the garbage, so obviously they will no doubt attempt to collect garbage. And that will in fact compete with, you know, private groups trying to do the same.

SENATOR DOLLINGER: Thank you, Madam President. Explanation satisfactory.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 866, by Senator Volker, Senate Print 1593, an act to amend the Mental Hygiene Law, the Correction Law, and the Criminal Procedure Law, in relation to civil commitment.

SENATOR DUANE: Explanation, please.

THE PRESIDENT: Senator Volker, an explanation has been requested.

SENATOR VOLKER: Madam President, this is what's known as the civil commitment statute. And it has passed this house I believe on several occasions. In fact, this is the civil commitment bill that -- the same bill that we passed last year; that I don't believe, in fact, that there were any changes needed this year.

This bill was in response to a

Supreme Court decision in the Kansas versus Hendricks decision. And it involves sexual predators, people who are in jail for serious sex offenses. And just before they are about to be released from these serious sex offenses, the agency that -- an agency is to assess them.

And what this bill does is set up what's called multidisciplinary panels. And these panels are to review the person and make a recommendation to a prosecutor's review committee.

All this has been set up, by the way, to protect the State of New York, obviously the constituents as well as the person who is -- who has been convicted. Remember, these are all convicted sex people. And it provides a number of safeguards for these people, including the right, obviously, to have a psychiatric examination.

The attorney general, if it's determined that this person has a -- what is called a mental abnormality, when that person -- the attorney general files a sexually violent predator petition, and a

hearing is held without a jury and by probable cause -- or -- yeah, probable cause, the decision is made that that person either should not be referred on for a jury trial or if that person, it is decided by probable cause, does have a problem and is therefore mentally abnormal and is still a danger to society, then the person would have a jury trial within 60 days and would have the right to counsel.

And a decision would be made by the jury beyond a reasonable doubt. I point that out because in fact in the original -- I believe in the original decision, the Kansas versus Hendricks decision, that was not absolutely essential.

The person would then be committed to a secure psychiatric facility. And there are several facilities that would fit that bill. Some mental hygiene advocates were complaining that these people might be sent into the general population. Of course, that's not going to happen. That's pretty clear.

We have several locations, by the

way, that I'm very much aware of, where people with serious emotional problems are kept now in isolation. And the concept would be that these people would be kept within a psychiatric facility, but in a separate area. They would be reviewed every year and have the right to appeal. There's a whole series of safeguards in these bills.

I think, frankly, the people who oppose this generally just oppose it in principle.

One of the problems here is, of course, that we have determined and there's ample evidence that many of the people who are sexual predators have what amounts to a long-term disease that appears to continue throughout much if not all their lives.

And I think the attempt here is being made to review these people and make a determination which is fair, not only to the individual -- because the individual, remember, can harm themself if he's dangerous -- but also, I think, fair to the population at large.

Senator Duane.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. Would the sponsor yield?

SENATOR VOLKER: Sure.

SENATOR DUANE: Does the bill address any treatment methods that will go on while the -- these offenders are incarcerated?

SENATOR VOLKER: Absolutely. Remember, these people are going to be taken to psychiatric centers. So that they would be treated as they are in that center, although they'll be relegated to a secure facility. But clearly they'll continue to receive any treatment that's necessary in the facility itself.

There's one reason why they'll be relegated to a psychiatric center in the first place -- because technically speaking, I suppose, they could be put in a -- or try to put them in a prison situation. As you know, Senator, well, some years ago we had - although we abandoned the idea of psychiatric prisons, we still have places in our prisons where people are held in custody, in effect, because of their somewhat violent nature.

But this bill does not consider the corrections side, but considers the psychiatric side. So that while they would be in a psychiatric facility, they'd continue to receive treatment.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR VOLKER: Yes, I do.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: I'm wondering if -- and I don't see it in the bill either - if there's a way that we can track people while they are in DOCS in terms of how what kind of treatment they are receiving while they're incarcerated before they get up to the point -- in other words, to see whether or not any of the treatment that they've received while they're incarcerated has been beneficial.

SENATOR VOLKER: No, this bill doesn't envision -- this is not a test bill or

a study bill. This is a bill that deals with someone who is what's considered to be sexually violent predator who's been in jail presumably for a considerable period of time.

And the bill deals with not the issue of what they've done while they've been in prison, but deals with the issue of what and when they should be allowed to go back into society. And the real question here is whether -- that society should be protected.

If they go to a psychiatric center, they'll continue to get presumably some assistance. But if they go out into the public, obviously they're going to be out into the public and not getting any assistance.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR VOLKER: Yes, I do.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: If that's the case, then why are we sentencing these people

to DOCS facilities at all? It seems like that's just a waste of time and they should just immediately be sentenced to go to a secure mental hospital.

SENATOR VOLKER: Senator, I think the problem is, and I assume you're aware - and as somebody who not only has dealt with legislation involving these kinds of things but also has dealt with people that are criminal in the sense that they understand the difference between right and wrong -- but the problem, I think, is that we differentiate between people who are criminally responsible, that may have some psychiatric problems, and people who have psychiatric problems but are not criminally responsible.

Well, I suppose the answer is that if the person is not responsible at all, he belongs in a mental hygiene institution in the first place.

But the people that we're talking about have either gone before a jury or pled or whatever and have been found criminally responsible already. So that what we're trying to determine here is as they're about

to be put out into society, whether they have a mental problem which is sufficient enough to make them a hazard to the general public at large.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR VOLKER: Yes, I do.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Don't we already have a law on the books that provides that people be committed to locked mental health facilities who are mentally ill and who present an imminent danger to themselves or others? Don't we already have that?

SENATOR VOLKER: Yes, we do, Senator. And if somebody, for instance, in a prison would be determined to be mentally deficient -- and that is, would be determined technically to not be able to understand -- it is arguable that that person could be -- even out of prison, could be put in a mental health

facility.

One of the problems, obviously, is the mental health facilities say, We do not want people who are -- who have criminal problems in mental health facilities, because obviously they could be a danger to the facility.

So you're kind of caught in a catch-22. The answer is yes, it is certainly possible that a person could be moved to a mental health facility. As you well know better than I do, if you're found at trial not to be criminally responsible, then you would obviously, under the law, could be moved to a mental health facility.

Of course, one of the problems with that is that there's then a determination made at some time, which sometimes I think some people question that that person -- even though that person could technically have been criminally responsible, if you're put in a mental health facility and then let out, you have another kind of problem.

But the answer to you is yes, there is a procedure. But not a procedure at the

end of the term to determine whether that person -- and remember, we're only talking about a class of sexually violent predators. And we're talking about only a review. The kinds of people that will be reviewing these people presumably would only take those people that clearly evince a serious problem and therefore should be looked at.

SENATOR DUANE: And if the sponsor would yield for a final question, Madam President.

THE PRESIDENT: Does the sponsor yield?

SENATOR VOLKER: The sponsor yields.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Thank you.

One of the concerns I have is this bill will set up a situation where an attorney general or others can receive confidential medical records. Is that not the case with this legislation?

SENATOR VOLKER: Well, yeah, I suppose the attorney general could receive

confidential medical records. Because a person in prison -- right now I believe you can get medical records if it's considered to be for that person's own good.

And remember that the attorney general is already down the line. There are already groups that are part of the agency that have looked at this person's situation, literally before you ever get to the attorney general.

The attorney general actually makes a decision based on recommendations of these -- this interdisciplinary agency that - or group that determines whether the attorney general -- or recommend. Because the attorney general -- even under the recommendation, the attorney general could presumably decide not to move on that person if they so choose.

SENATOR DUANE: Madam President, even though I said the last one was the last, I just want a clarification of this, if I may. If the sponsor would yield.

THE PRESIDENT: Does the sponsor yield for a final clarification?

SENATOR VOLKER: The sponsor

yields for a final clarification, Madam President.

THE PRESIDENT: You may proceed, Senator Duane, with your request for a final clarification.

SENATOR DUANE: Thank you.

My understanding is that in fact you can't share confidential medical information with inappropriate people -- for instance, an attorney general. And I'm just wondering if the sponsor would look into that part of the law to see. Because if it is happening, it shouldn't be happening, as I understand it.

SENATOR VOLKER: Let me just say, Senator, I think you're wrong. I don't think -- I think you're right, that for no reason you can't just release medical information.

Except this is not for no reason. This is part of a systematic decision on whether this person could be a danger to himself or herself or those people that he would be or she would be released to.

So the answer is generally speaking

you would not release this information, except this information would only be in pertinence to whether this person could be a danger to himself or to someone else on the outside.

SENATOR DUANE: Thank you.

Madam President, on the bill.

I do, on the principle of this, object to this legislation. I do think we're walking down a dangerous path depriving someone of liberty solely based on the fact that they have a condition or they're predisposed to commit certain acts.

I understand and I think that the safeguards are laudable. But they don't in any way provide a remedy for depriving someone of liberty because of a condition that they might have.

I mean, you could argue that someone that is at risk of being an alcoholic should not be given a driver's license. And though I know that's extreme as compared to what this does, it does apply to the same principle.

I mean, I think that one of the things that sets us apart in our justice

system is that we detain people based on what their crime has been. There's a time limit on that, and there's due process connected to that.

This bill takes away those protections. And granted, for people that have committed a heinous offense. But it still takes away protections which I believe we guarantee to all Americans and we certainly should be providing to people in New York State.

I also think that getting to this point is somewhat of an indictment of the mental health services that are provided in correctional facilities. I don't think there's anyone here that could say that we're providing an adequate level of mental health services in our correctional facilities. And this bill basically admits that and says that we're defeated in that area.

I think that if we cared more about the treatment that people got while they were incarcerated that there wouldn't be as strong a necessity for this kind of legislation. And I also think that it's wrong to allow

laypeople, even if they're law enforcement people, to look at a person's confidential records.

So while I certainly sympathize with what the intent of this legislation is, I still think that it's way too high a price to pay in terms of how we feel as a society. And I also think that it abrogates our responsibility in terms of the kinds of treatments which we should be looking for for people who are convicted sex offenders. I haven't given up yet, and I think this bill has us as a society and as a state give up.

Thank you, whoever. I could keep going for a while if you -- thank you, Madam President.

THE PRESIDENT: That won't be necessary, Senator Duane.

Senator Dollinger.

SENATOR DOLLINGER: Madam President, will the sponsor yield to just two questions?

THE PRESIDENT: Does the sponsor yield?

SENATOR VOLKER: Yes.

THE PRESIDENT: Senator Dollinger, you may proceed.

SENATOR DOLLINGER: Through you, Madam President. The first question is, could you describe the kinds of facilities that are going to house these predators? I mean, is it the intention of this bill that they would be included in the general prison population?

SENATOR VOLKER: No.

SENATOR DOLLINGER: I assume that all we have to do is prevent them from being out in the general public. I mean, they shouldn't be confined in cells or have the other restrictions of a normal prisoner.

And my second question, Madam President -- and I'll ask Senator Volker to address it -- is, what's the cost? I know the bill says we don't anticipate significant costs in this year or the year that this bill becomes law.

But this obviously envisions a significant population of a sort that would have to be housed at some either psychiatric hospital or someplace with maximum security outside the walls or inside the walls versus

outside, but not a lot of restrictions inside the walls. Which is unlike most of our current prison populations.

SENATOR VOLKER: Well, first of all, Senator, is you have to understand, these would not be at a prison. They would be in a psychiatric facility. And the two facilities, as my former Mental Health chairman says, would be at either Mid-Hudson Psychiatric Center or the Kirby Forensic Center.

No, they would not go into a prison. Because once they have been cleared from the prison setting, that is, then they would go a psychiatric setting and to a secure psychiatric setting. One of the changes in this bill is to make that very clear.

The second question, as to cost, well, nobody can say exactly what the cost would be. One of the things we do in this bill is to make it very clear that any cost will be on the State of New York and not to any of the localities. Because the original bill did not make that clear, and there was some real concern that the localities might be tabbed.

But we're not talking about a huge number of people here. It's hard to calculate what the cost would be. And I've heard numbers of just the possibility that, for instance, if you took the numbers of sexually violent predators that might be coming out in any one year, it would probably be maybe a dozen or two dozen. And the cost would not be extremely high.

And of course when you're dealing with this kind of thing -- and we're hoping that the numbers of sexually violent predators obviously will decline -- you're talking about a significant risk factor.

And I think it's always easy for somebody to say, well, you know, we have to worry about people's constitutional rights. And I do worry about it. I also worry about the constitutional rights of the people who maybe on the outside may be affected by these people.

SENATOR DOLLINGER: Thank you, Madam President.

I've voted for this bill in the past. I'm going to vote for it again. I

still think, however, the question of where these facilities are going to be, how many people are going to be housed in them, and what the cost is going to be is really an unanswered question and something that we will have to come back to if this bill becomes law.

Thank you, Madam President.

THE PRESIDENT: Read the last section.

Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

I was out of the chamber when debate started, but I am very pleased to be able to rise and speak in favor of this piece of legislation.

I have a long history of interest in this particular subject. And I want to thank Senator Volker and compliment the Governor for having taken up the cause and making sure that we will have something this year that we hope will pass both houses and become permanent law in the State of New York.

I first introduced a piece of civil commitment legislation back in 1991. At that

time, we could have been the first state in the nation to have such a piece of legislation. Kansas followed soon after, and the state of Washington also has civil commitment legislation. Other states have later come on line. But it's the Kansas piece that is the standard now that has met the test of the Supreme Court of the United States. And upon that, we have based most of this legislation.

And I'm satisfied that virtually all of the questions that have been asked, thoughtful questions that have been asked by some members of this chamber, have already been anticipated and are in fact addressed within this measure.

Just to recap some of the reasons why we need to have civil commitment for violent sex offenders upon completion of their terms. It is not uncommon in the criminal justice system for an inmate who has been sentenced and served his term for rape, sodomy, various forms of child abuse, and other acts of extreme and cruel violence, it is not uncommon for those inmates, upon their

release or shortly before their release, to threaten that they intend to go out and commit the same or additional crimes.

Imagine how terrible it is for the people who are responsible for their handling while they are incarcerated to know that there is no means by which they can be supervised or monitored when they are released.

And most of the sex offenders in this state, as in other states, serve the full term of their sentence and are released not on parole, but they max out. Parole boards are understandably uncomfortable about releasing sex offenders. They want them to serve the full amount of time. The public demands that they serve the full amount of their time. And it almost never seems like enough time to the victims and to the families of the victims of sexual offenses.

But having said that, we know beyond any shadow of a doubt that most sex offenders will serve their time and then they will be out on the street. It is only the sex offenders who have indicated that they want to continue the criminal activity that put them

there in the first place or they are incapable of making a decision between right and wrong and that they pose such a threat to society that they are dangerous, violent predators. Those are the people who will be facing the civil commitment charge that we now have before us.

It's not a large number of people. In the state of Kansas, it's a few dozen. In the state of Washington, it was not many more -- one or two a year. And they have an annual review and sometimes a more-often opportunity to be evaluated, to see if they are now capable of being released to society without any grave risk.

If they pass a means test, if they are evaluated by psychological experts -- not the criminal justice system, not the judge, not the district attorney, not even the victims -- if they are evaluated by those medical and psychological experts and deemed to be safe for society, then they can be released and should be released.

But I believe we owe it to the many victims of this state who have lived in fear

upon learning that a dangerous sexual predator who had committed acts of unspeakable violence in the past and was going to be released with the almost certainty that he would commit them again, we owe it to those people to find an alternative to turning those dangerous criminals loose on the street.

And I'm proud to have my name as a sponsor of this legislation, Madam President.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the first day of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Dollinger, to explain your vote.

SENATOR DOLLINGER: Madam President, just briefly to explain my vote.

I appreciate Senator Hoffmann's comments about the bill that she introduced when she was a Democrat in this house and that has finally become law. I think that is a good progression. It's something that happens

a lot in this house. Ideas are planted on this side of the house, and they're harvested on the other side of the house.

I would suggest to Senator Hoffmann and others on the other side of the house, there are a lot of things that we can be first in the nation with if we took ideas that started in the Democratic side of the house and they could germinate their way into full plants on the other side of the house within a single year.

I think it's a wonderful trend. I commend Senator Volker. I've voted for this bill in the past. I think we bring ideas to the table and they can become law. I think this is a good progression.

And, Senator Hoffmann, I look forward to your vote when we move to discharge bills that will make us first in the nation on all kinds of things, because that's the way the process is supposed to work.

THE PRESIDENT: Senator Hoffmann, to explain your vote.

SENATOR HOFFMANN: Would Senator Dollinger yield for a question, please?

SENATOR DOLLINGER: Madam President, I believe we're at the roll call.

THE PRESIDENT: We're on a roll call, Senator. If you wish to explain your vote, you may at this time.

SENATOR HOFFMANN: Yes, I'll be happy to. I would just like to explain my vote. I'll wait till my name is called.

THE PRESIDENT: Do you wish to explain your vote now, Senator Hoffmann?

SENATOR HOFFMANN: Yes.

Perhaps Senator Dollinger would be inclined to help with the other house, where we obviously need a few people who share his sense of encouragement that this is now passing here.

I'm delighted to hear that Senator Dollinger is now enthusiastic about some of my earlier efforts. I don't think back in 1991 when I first introduced this measure that I had a great deal of support from that side of the aisle. As I recall, most of the support and encouragement I had was from this side of the aisle.

THE PRESIDENT: The Secretary

will announce -- Senator Duane, to explain your vote.

SENATOR DUANE: Thank you. I'm just so filled with good cheer in this house now of all the help that we're giving to each other. And I'm hoping that Senator Hoffmann, since she's also a sponsor of the hate crimes legislation, will give us the same kind of help on that that she did on this particular piece of legislation.

And then, frankly, in the future, though this is the civil commitment legislation, I'm looking forward to all of us working on a civil union piece of legislation, which I was originally confused about. I thought we were already up to Vermont here, but I guess that will take a little bit of time.

But I'm going to also continue to vote no on this piece of legislation, Madam President.

THE PRESIDENT: Senator Hoffmann, you will be recorded as voting in the affirmative on this bill. And Senator Duane, you will be recorded as voting in the

negative. And Senator Dollinger will be recorded as voting in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 960, by Senator Larkin, Senate Print 7154, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law, in relation to licenses for participants.

SENATOR DUANE: Explanation, please.

THE PRESIDENT: Senator Larkin, an explanation has been requested.

SENATOR LARKIN: Yes, Madam President. This bill is a simple bill. It's something that we've done before.

It exempts seasonal employees who work solely at the Syracuse Mile from licensing fees and requirements. The entire meet lasts a total of five days, yet employees are subject to the same licensing requirements

and process as permanent and long-term employees.

Chapter 347 of the Laws of 1994 provided a similar exemption for seasonal employees of the Saratoga Racetrack.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Yes, Madam President. I just think we're starting on a sort of a slippery slope here on removal of the need for licensure.

I just feel, in light of the legislation which we had yesterday, or whenever it was, on the hunts, that this removal of licensing shouldn't be done in this kind of a piecemeal kind of fashion. I actually think we should look at all of these licensing issues and do it in a more comprehensive fashion.

I'm going to vote no on this one because I have a feeling it's just going to be one of several pieces of legislation that we'll be voting on, and I think we should be looking at them all at once.

I also don't think it's such a bad idea to have licensing even for people who are going to work for less than six weeks. I think we have a responsibility to keep a close eye on what happens at racetracks around the state.

Thank you, Madam President.

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 973, by Senator Padavan, Senate Print 6743, an act to amend the Real Property Actions and Proceedings Law, in relation to the new owners of buildings.

SENATOR DOLLINGER: Explanation, please.

THE PRESIDENT: Senator Padavan, an explanation has been requested.

SENATOR PADAVAN: Thank you, Madam President.

Article 7A of the Real Property Actions and Proceedings Law provides a mechanism where property liens against abandoned property can be forgiven if that property is taken over by a not-for-profit or a for-profit entity and rehabilitated. The obvious intention is to maintain and expand existing housing stock.

Now, what this amendment would do is ensure that that new owner has no relationship connection or any interest whatsoever with the original owner upon whom the lien was placed.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 981, by Senator Spano, Senate Print 1466, an act to establish immunity from liability for not-for-profit organizations.

SENATOR DOLLINGER: Explanation, please.

THE PRESIDENT: Senator Spano, an explanation has been requested.

SENATOR SPANO: Yes, Madam President. Individual volunteers are already protected under the Federal Volunteer Protection Act of 1997. What this bill would do is call for immunity for nonprofit organizations, if a person is attending or is a part of a boys' and girls' club and is injured during the course of that activity.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam President, will the sponsor yield for a question?

THE PRESIDENT: Does the sponsor yield?

SENATOR SPANO: Yes.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Do I understand this bill -- through you, Madam President -- that anyone who is involved in volunteer activities would be exempt from liability for their negligent conduct?

SENATOR SPANO: For the organization itself. Right now, the individual volunteers are already covered under the federal act.

And you want me to tell you where this came from, Senator Dollinger?

SENATOR DOLLINGER: Yes, Madam President.

SENATOR SPANO: This bill arose in response to a lawsuit that was filed against a boys' and girls' club in the City of Yonkers by the parents of a 10-year-old boy who was accidentally struck by a bat while on the deck circle.

So what we're dealing with here is the valued youth programs that we have would be bankrupted as a result of this. And we're all -- they're all volunteers, they're all

volunteer coaches, they're all volunteer, not-for-profit organizations. We said that they should have the same protection standard that is given to the individual volunteers.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR SPANO: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR DOLLINGER: Do I understand, through you, Madam President, that the organization would be immune from civil liability for the conduct for anyone who was injured -- in the description that you just made, a bat gets discarded by a hitter while he's running to first base, the batter in the on-deck circle gets hit by the bat, and then there's no claim against the owner of the property or the sponsor of the event; is that correct?

SENATOR SPANO: They would not be liable for any ordinary child play. You know,

if there's willful criminal misconduct, gross negligence, reckless misconduct, or conscious, flagrant indifference to the rights or safety of an individual, then they would be covered.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR SPANO: Yes.

THE PRESIDENT: Go ahead, Senator.

SENATOR DOLLINGER: In the example that you just described, what would happen if the on-deck circle were within 20 feet of the plate and were in the normal area where the bat would be discarded? In other words, what happens if the field is structured in such a way that the on-deck circle happens to be where everybody throws their bat?

Shouldn't the owner of the property or the sponsor of the activity take -- have some responsibility to protect the batter in the on-deck circle?

SENATOR SPANO: Well, if it's the

owner of the property, say, if -- in the cases, say, of most of our boys' and girls' clubs, if it's a municipality, then I think the municipality could be held to -- a parent could sue the municipality if that were the case. It just would hold the boys' and girls' club away from that type of a lawsuit.

We've had -- I mean, a lot of us over the last several weeks who have attended -- I've attended dozens of boys' and girls' clubs openings. And each of them have said to me that "We need some protection in the law to protect us from going out of business by some type of a lawsuit that would be ordinary child play."

And that's what we're designing to do. We're not designing to take away a person's right to sue if there's a willful negligence or the other standards that are included. And we're not trying to take a person's right away if a -- an occurrence happens on the grounds of a park or some private property. They would have that right.

SENATOR DOLLINGER: Through you, Madam President, if the sponsor will continue

to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR SPANO: Yes.

THE PRESIDENT: You may proceed. Senator.

SENATOR DOLLINGER: In your judgment, Senator Spano, who should bear the consequences of the little boy getting hit by the bat? Should the boy have no claim against anyone, or should he be allowed to recover from someone if he happens to be in a place where it was reasonably foreseeable that the discarded bat would go?

SENATOR SPANO: Well, if the - right now, if the individual volunteers, if a coach was there and if a child was hurt by a coach, those individual volunteers would be covered under the federal law.

What we're saying is why not have the boys' and girls' clubs covered as well. Unless they were willfully putting a child in danger.

SENATOR DOLLINGER: Okay. Through you, Madam President, on the bill.

Just on the bill, Madam President.

THE PRESIDENT: On the bill, Senator.

SENATOR DOLLINGER: Thank you.

Senator Spano, I appreciate the laudable goal of your legislation. Which is to say that the sponsoring organization who's involved in setting up a Little League program or a football program or a soccer program should not be held liable when one of the athletes -- a child, in most cases -- gets hurt.

And putting aside for a second the wisdom of the federal law, which says that you can't sue the volunteers who are the coaches or the umpires or anyone else involved in the league.

It doesn't seem to me fair if the child who throws the bat is not liable and if for some reason the property owner doesn't have liability insurance, that a child who's injured by a discarded bat or a child who is injured by a defective helmet or a child who's running on a soccer field that's loaded with rocks or a child who runs into a pole on a

soccer field, on a goalpost, because it's not padded, or a child who's standing in the on-deck circle -- which, in the Little Leagues that I represent, they don't let children stand in the on-deck circle anymore, because it's far too dangerous because everybody knows that foul balls go whipping through the on-deck circle and that every player who's under 10 years old, when he gets the first base hit of his life, throws that bat away like a tomahawk, he's so happy.

And it seems to me you put the child in an on-deck circle at risk. You put the child playing on a field which has rocks and stones, you put them at risk. You take the child whose goalpost isn't padded or soccer post isn't padded. And what we say is that the sponsoring organizations have no liability if it's reasonably foreseeable, reasonably foreseeable to an average person.

That's what negligence -- not active negligence, not willful negligence, that's what negligence is all about. You see something that might be dangerous, and you do nothing about it.

I would suggest that we should not impose that standard in New York. We have set up a tort system that says children deserve the same protection as everybody else. If you're negligent in the operation of a car and you run into somebody else's car -- you didn't intend to do it, you didn't willfully do it, but you ran into them, then you can recover against them.

I would suggest that children that we place under the guidance of the boys' and girls' clubs or the Boy Scouts or the Girl Scouts -- or, for that matter, the St. Thomas More 8th grade softball team -- I would suggest that those parents have an obligation to buy liability insurance for their kids so that if a child gets hurt, he doesn't have to look around for a pot to recover and, if he can't find one, then twenty years later when he bears the scar on his face or he bears the broken ankle or he bears the torn ligament because someone threw a bat through the on-deck circle, I would suggest he shouldn't have to say, "You know, I could never sue anybody for that because I was told that they

were immune from a civil lawsuit even though my injury was reasonably foreseeable." I would suggest that's bad public policy.

THE PRESIDENT: Senator Coppola.

SENATOR COPPOLA: Madam President, on the bill.

It's been my experience with municipalities that the cities look for organizations to have insurance and hold the cities harmless because of they're self-insured and there's so many lawsuits against the cities.

And I'm worried if this bill goes through, what will happen is it will deprive all of the kids from playing on the public grounds because the cities will not allow them to because of the insurance and the lawsuits that could happen.

I understand and I applaud Senator Spano for trying to relieve some of the financial burden on the boys' and girls' clubs, but I think this is the wrong way to do it. I think there are other methods of helping them insure themselves.

Because what's going to happen is

the local towns and villages and cities are not going to allow them there if they don't have insurance and if they don't cover themselves.

That's why I'm voting against this.

SENATOR HEVESI: Madam President.

THE PRESIDENT: Senator Hevesi.

SENATOR HEVESI: Will the sponsor yield to one question, please?

THE PRESIDENT: Does the sponsor yield?

SENATOR SPANO: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR HEVESI: This is a very straightforward question, just so I'm clear on this. And I appreciate the debate, and I understand the intention of the legislation.

If this bill were to become law, would it exempt from civil liability a nonprofit which has been negligent in the course of their offering youth services or any other type of services?

SENATOR SPANO: No. No. If they were negligent, if they were negligent, they

would not be exempt. If there was no guidance and it was an unsupervised activity, they would not be exempt.

If they -- let me answer a couple of -- if it was a padded pole -- there was no padded pole, that would be gross negligence. If it was a defective bat, they could sue the manufacturers.

All we're doing is a very simple, ordinary thing. Regular, ordinary negligence that would not be liable for ordinary child play.

SENATOR HEVESI: Madam President, if the sponsor would yield for one additional question.

THE PRESIDENT: Does the sponsor yield?

SENATOR SPANO: Yes.

THE PRESIDENT: You may proceed, Senator Hevesi.

SENATOR HEVESI: Let me just give you one hypothetical example and see if this legislation would address it.

A local sports youth league which sponsors a basketball league rents out a

gymnasium in a public school and the sponsoring entity, which is a nonprofit, which would be one of the organizations that your legislation covers, invites hundreds and hundreds of children into that facility.

There is proper supervision, but they should never have invited so many children into that a facility. There's a rush at the door or there's some kind of mad push inside the gym as a consequence of having too many kids in the gym. That's the fault of the entity which invited all the kids. And there are kids that are hurt.

Does your legislation prevent some child's parent from suing the organization in that instance?

SENATOR SPANO: Our intent is to cover those activities only during the sports activity.

It would appear under that hypothetical situation that that would be - that would be covered under reckless misconduct if they would allow more than the allowed number of people into that gymnasium, and therefore it wouldn't be covered.

SENATOR HEVESI: Therefore, it wouldn't be covered?

SENATOR SPANO: Would not be -

SENATOR HEVESI: Exempt?

SENATOR SPANO: Would not be exempt.

SENATOR HEVESI: Okay. Thank you, Madam President. Thank you.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Balboni, to explain your vote.

SENATOR BALBONI: Madam President, I just want to explain my vote by saying that for years in the Assembly I watched a forest of hands go up in opposition to the measures like this. I'd like to congratulate Senator Spano.

Early on, these were bills that sought to provide some parity, sought to provide some protection for our neighbors.

What the bill is doing now is reversing a trend that we're seeing. Nobody is joining anything anymore. Nobody is volunteering for anything. We are losing the ability to attract people to come and participate in our communities because we stand on our soapboxes of saying that we can't have any changes to the way the law is now.

And what this is doing, it's trying to effect a balance between responsibility and social interaction. I think Senator Spano's bill is a very good attempt at doing that. I think it sends the proper message to our communities that it's still okay to volunteer.

Because, as busy as we all are, all you have to do is throw the threat of a lawsuit out at somebody and they say, Thank you, I'll find a million other things to do. And the losers are our children.

I vote in favor of the bill, Madam President. Thank you.

THE PRESIDENT: Senator Dollinger, to explain your vote.

SENATOR DOLLINGER: Just to explain my vote. I couldn't pass up the

opportunity, I so look forward to Senator Balboni talking on the floor.

I couldn't disagree with Senator Balboni more. This bill sends a message to organizations that it's okay to be careless with our children because when we try to sue you to recover, you're going to be immune from liability.

I would just suggest the negligence standard, which Senator Balboni is well familiar with, simply says use reasonable care under the circumstances and you don't have to be sued by anyone. It seems to me that that's the fair thing to do.

And I would suggest, while I want to boost volunteerism, I'm not going to do it at the sake of having children who come to me and say, "We can't sue the volunteer because the federal law took that away, and we can't sue the sponsoring organization because state law took that away." I would suggest that that is not good public policy.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I think

just about every one of these organizations has heard of an area to protect yourself, and that is by way of purchasing insurance. And so if somebody gets hurt and the organization has insurance, that individual is able to get compensated for the negligence, just like in any other case.

All this really does is send up a message that you don't need to buy insurance anymore and you don't need to protect anybody who gets injured in your organization, even if somebody did something they shouldn't have done. I think that's really the wrong thing to do, and that's why I'm voting no against this.

THE PRESIDENT: You will be so recorded as voting in the negative on this bill, Senator DeFrancisco, as will Senator Dollinger. Senator Balboni will be recorded as voting in the affirmative.

Senator Volker.

SENATOR VOLKER: Madam President, I wasn't going to speak, but I think, since I listened to this colloquy and since I'm the sponsor of civil justice reform -- which I

understand has got some problems because of the surge of groups that are supporting the trial lawyers' position.

Let me just say that what Senator Balboni said about volunteerism is absolutely true. Everyone is frightened of lawsuits. And the idea that some of these groups can purchase insurance -- insurance which, by the way, is becoming increasingly out of the realm of possibility for many of these groups because the numbers of lawsuits have become so outrageous, that the situation is becoming frankly very critical.

I know of some so-called volunteer groups who no longer sponsor youth events, who no longer sponsor amateur baseball leagues and things of that nature because they're so fearful and they have been sued already and they have had judgments recovered against them.

I think the answer is we had better take a look at some of these issues. And I understand that there are a lot of trial lawyers and people who have looked at this and said, you know, it's a better way, to sue our

way to a better society. It just doesn't work. And I think sooner or later we're going to realize that. And I think this bill is a realization of one of those issues.

I vote yes.

THE PRESIDENT: You will be so recorded as voting in the affirmative, Senator Volker.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 98 are Senators Connor, Coppola, DeFrancisco, Dollinger, Duane, Gentile, Hevesi, Lachman, Markowitz, Meier, Onorato, Rosado, Sampson, Schneiderman, A. Smith, M. Smith, and Stavisky. Ayes, 43. Nays, 17.

THE PRESIDENT: The bill is passed.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: If we could call up Senator Goodman's bill, Calendar Number 1073, at this time.

THE PRESIDENT: The Secretary

will read Calendar 1073.

THE SECRETARY: Calendar Number 1073, by Senator Goodman, Senate Print 7119, an act to amend the Public Buildings Law, in relation to authorizing the Commissioner of General Services.

SENATOR DOLLINGER: Explanation.

THE PRESIDENT: Senator Goodman, an explanation has been requested.

SENATOR GOODMAN: Yes, Madam President. This bill seeks to extend to 15 years from the present term of 10 the ability of General Services to enter into leases.

Its purpose is that the Commissioner of General Services would now be given the necessary authority to successfully compete and secure space for executive department agencies in situations where the state has difficulty competing with the private sector.

SENATOR DOLLINGER: Thank you, Madam President. Explanation satisfactory.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1007, by Senator Skelos, Senate Print 7034, an act to amend the Criminal Procedure Law, in relation to eliminating the statute of limitations for Class B violent felonies.

SENATOR DUANE: Explanation, please.

THE PRESIDENT: Senator Skelos, an explanation has been requested.

SENATOR SKELOS: Madam President, this is a governor's program bill which would eliminate the statute of limitations for Class B violent felonies.

SENATOR DUANE: Would the sponsor yield?

THE PRESIDENT: Does the sponsor yield?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: I'm wondering why in this bill there's no inclusion of DNA.

SENATOR SKELOS: That's another bill that Senator Volker is carrying.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR SKELOS: Yes.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: The reason that we have the statute of limitations is that, you know, over time evidence can be lost or destroyed and, you know, witnesses' memories can become fuzzy. It seems to me that that's the reason why we have those statute of limitations.

Are there any circumstances under which you think there should be a statute of limitations?

SENATOR SKELOS: I'm dealing with

Class B felonies, violent felonies. And I don't believe there should be a statute of limitations on Class B violent felonies.

SENATOR DUANE: Thank you. Thank you.

Madam President, on the bill.

I mean, there's a reason that we have a statute of limitations in law, and that is to be able to protect defendants from unwarranted prosecution based on evidence which may have disappeared or has been tainted or eyewitnesses that -- or witnesses that just can't remember clearly what's gone on.

If we used DNA as part of it, I would certainly be in favor of this, because that would both protect the ability of the prosecution to do an adequate job and provide for the defense to be able to prove the innocence or to have a better chance of proving the innocence of someone who has been charged.

But I don't think that we should be tampering with the statute of limitations except in cases where we would have DNA evidence, because that would both prove

innocence and could potentially prove guilt.

So on this I would vote no. But I am looking forward to seeing legislation with DNA attached to it.

Thank you, Madam President.

SENATOR HEVESI: Madam President.

THE PRESIDENT: Senator Hevesi.

SENATOR HEVESI: Madam President, on the bill.

THE PRESIDENT: On the bill.

SENATOR HEVESI: Thank you, Madam President.

I appreciate Senator Duane's comments and concerns. And I believe that DNA testing is one of the reasons why eliminating the statute of limitations on B felonies is particularly important.

Additionally, it's because we're racing against the clock in many instances to perform DNA analysis. And the perfect example is in New York City. There is a warehouse in Long Island City -- not in my district, but very close -- where there are thousands of untested rape kits which in the process of being tested and the funding for those rape

kits, the testing of those rape kits is forthcoming, but there's been significant delay.

And it's very possible that unless the statute of limitations is eliminated, if you have not completed the DNA analysis and the five-year period elapses if after that five-year period elapses and we have not made this legislation law, you could then go theoretically, test a rape kit, identify the suspect based on DNA and apprehend that suspect, know that he committed the crime and be unable to prosecute him.

So I guess actually you would not be able to arrest that individual, but you would certainly know that there's a rapist out there who committed a crime after the five years elapsed and you couldn't do anything about it.

And I think in this day and age, with the advances in DNA technology and all of the other advances in law enforcement that we've seen for the most heinous crimes -- and B felonies are some very, very serious offenses -- I think the interests of justice

weigh in favor of eliminating the statute of limitations despite the fact that there are some arguments in terms of preserving the ability of an individual to defend himself.

So I want to commend Senator Volker and Senator Skelos and the Governor for bringing this legislation forward, and I hope to be commending Speaker Silver for his support of this legislation. We need to do this immediately so that we continue to protect the citizens of New York State.

Thank you. I vote aye.

THE PRESIDENT: Senator Smith.

SENATOR ADA SMITH: Madam President, would the sponsor yield for one more question?

THE PRESIDENT: Does the sponsor yield for a question?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR ADA SMITH: Thank you.

Could you tell us if the District Attorneys Association have taken a position on

this legislation?

SENATOR SKELOS: I have no opposition to this. I have received no opposition.

SENATOR ADA SMITH: Thank you.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President.

If the legislation did have a carve-out for where the DNA samples existed, I would be inclined to vote for it. But that is not what's in this bill. This bill is just a blanket extension without any mention of DNA evidence.

And so I think that this bill, though well-intentioned, is not crafted for what technology we have available today. I would vote for it, most likely, if there was a

carve-out where DNA exists. But that does not exist in this legislation. And I can't in good conscience vote to eliminate statute of limitations without that proviso in it, because it doesn't provide an equal level of protection to both the defense and the prosecution.

So I'm continuing in my opinion that this is not a good piece of legislation, though well-intentioned.

Thank you, Madam President.

THE PRESIDENT: You will be so recorded as voting in the negative, Senator Duane.

The Secretary will announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1014, by Senator Volker, Senate Print 7438, an act to amend the Criminal Procedure Law, in relation to extending the jurisdiction.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President.

I'm actually going to vote for this bill. I just wanted to make mention of the fact that normally I vote no on providing peace officer status and peace officer bills for the liability issues. However, this legislation deals with New York City officers, who are already indemnified. And so for that reason, I'm going to vote yes on it.

I raised this question during the committee meeting, and I want to thank the Government Affairs Office of the Mayor of the City of New York for getting back to me with responses to my concerns. And I will be voting yes on it.

Thank you, Madam President.

THE PRESIDENT: You will be so

recorded as voting in the affirmative, Senator Duane.

Senator Volker, to explain your vote.

SENATOR VOLKER: No, that's okay.

(Laughter.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1027, by Senator Maziarz, Senate Print 6816A, an act to amend the Highway Law, in relation to designating a portion of the state highway system.

SENATOR DOLLINGER: Explanation, please, Madam President.

THE PRESIDENT: Senator Maziarz, an explanation has been requested.

SENATOR MAZIARZ: Thank you, Madam President. Surely.

This legislation would rename the Exchange Street Bridge in the City of Lockport the Joseph A. Scapelliti Bridge. Joseph

Scapelliti, the late Joseph Scapelliti was a good person, he was a former Niagara County legislator. He ran the neighborhood grocery store which his family, particularly his son Dominic, still runs in the lower town section of the city of Lockport.

And under the great leadership of Governor George Pataki, millions of dollars are being poured into the restoration of the historic Erie Canal, and the Erie Canal is coming back alive once again. It was allowed, of course, during the previous administration to fall into a state of grave disrepair, including absolutely horrendous treatment of the Exchange Street Bridge. And under Governor Pataki, those wrongs of the past are being righted.

And we want to honor a good man who really believed in a neighborhood in the city of Lockport, by naming the Exchange Street Bridge after him.

Thank you, Madam President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Madam

President, I'll vote in favor of this upon Senator Maziarz's recommendation.

But I think most of that money that's being poured into the Erie Canal is coming from the Secretary of Housing and Urban Development, a man named Andrew Cuomo, I guess from a family that's often been talked about or vilified by one side of the chamber in this house. And it's good to know that Governor Pataki and Mr. Cuomo are on the same path.

And I think naming a bridge like this after a local dignitary in a place like Lockport is a great idea.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Maziarz, to explain your vote.

SENATOR MAZIARZ: Thank you, Madam President.

Just so that there is no misunderstanding here, I want it to be very

clear that there is not one cent of federal dollars going into this Exchange Street Bridge rehabilitation.

Thank you, Madam President.

THE PRESIDENT: Thank you, Senator Maziarz.

The Secretary will announce the results.

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1064, by Senator Maziarz, Senate Print 6815, an act to amend the Public Officers Law and the Town Law, in relation to authorizing the building inspector.

SENATOR DOLLINGER: Explanation, Madam President.

THE PRESIDENT: Senator Maziarz, an explanation has been requested.

SENATOR MAZIARZ: Thank you, Madam President.

There's no way I could blame this one on the former Governor, I'll tell you that from the very beginning.

No, as I'm sure that Senator Dollinger realizes, some of the towns in Monroe County that I represent are very small, very rural towns, very small in population. And it's very difficult at times to fill positions that require some special qualifications like building inspector, code enforcement officer.

And I think it is the desire of these towns to contract with neighboring towns to have their code enforcement officers, their building inspectors and fire code -- fire marshals to contract with them to provide services to towns like Clarkson and Hamlin. And they may even hire somebody from the town of Greece, Senator Dollinger, although I'm attempting to discourage that.

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

I think Senator Maziarz is absolutely right. There are lots of communities in this state that don't have the funds to hire people or that don't have the persons available inside the community to fill these bills.

I think this is a sparkling idea of mandate relief. Let's get rid of this notion that in every town you need to have somebody live in the town to provide these services. I think, Senator Maziarz, you're on the right track here. Don't do it just for Clarkson, do it for everybody.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1066, by Senator Alesi, Senate Print 6860, an act to amend the Alcoholic Beverage Control Law, in relation to the sale of prepared liquor drinks.

SENATOR DUANE: Explanation.

THE PRESIDENT: Senator Alesi, an explanation has been requested.

SENATOR ALESI: Thank you, Madam President.

This bill would allow a change in the existing Alcoholic Beverage Control Law that would permit license holders of on-premises alcoholic sales to use a mixing machine for the continuous mixture of alcoholic beverages.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Madam President, will the sponsor yield?

THE PRESIDENT: Does the sponsor yield?

SENATOR ALESI: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Under this legislation, can a person just go in with a cup and fill it up with a pina colada and get out there on the street or in their car and enjoy it?

SENATOR ALESI: Through you, Madam President. No, this is designed for the authorized bartender or employee of the

establishment to use the machine for the purposes of mixing the drinks and servicing - or serving them by dispensing them through that machine.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR ALESI: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: As I understand it, already in a bar they can have these machines. What this would do is to allow, for instance, a liquor store to have one of these machines and you could just have a fountain of margaritas now pumping out this beverage, you know, night and day; is that correct?

SENATOR ALESI: That's correct, Senator.

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

THE PRESIDENT: Does the Senator yield?

SENATOR ALESI: Yes, gladly.

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: And there's no provision for how it is that you would -- what kind of containers you could take this delicious alcoholic iced blender beverage out into the community?

SENATOR ALESI: Madam President, through you. All of the laws that would apply to someone purchasing on-premises alcoholic beverages for consumption on the premises would apply in this case.

This is simply allowing for another instrument to be used to increase the productivity in a high-volume bar where a themed drink is offered.

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

THE PRESIDENT: Does the sponsor continue to yield?

SENATOR ALESI: I'd be happy to.

THE PRESIDENT: You may proceed with a question, Senator Duane.

SENATOR DUANE: But this bill provides for, for instance, a liquor store could sell this beverage?

SENATOR ALESI: Madam President, through you. The bill clearly states on-premises consumption.

And those establishments that are licensed, it simply adds to or takes -- it specifies that with the new technology available for mixing these kinds of drinks, unlike drinks that would normally be stored - or I should say beverages that would normally be stored in kegs and things of that nature - that were originally identified as early as 1934, right after Prohibition, to be potentially harmful to the public because they might be adulterated -- this simply says that in this day and age that this kind of an instrument would be suitable.

And that's why we're including it in the bill.

SENATOR DUANE: Thank you.

Madam President, on the bill.

I can't help but mention that a very popular song having to do with pina coladas and beaches and walking in the rain is running through my mind as I think about this legislation. And I have a feeling I will go to sleep tonight humming that song to myself.

But that said, I just don't think we want to be a party in this state to having, you know, pina colada parties in liquor stores or margaritas -- you know, bottomless-cups-of-margarita parties in liquor stores in this state.

I think there's a place for that in our bars and taverns and even restaurants. But the specter of, you know, happy hour at Joe's Liquor Store just doesn't seem like the way that we should be going.

So I'm going to recommend a no on this piece of legislation, and maybe we can come up with another one, and another song.

Thank you, Madam President.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Madam President, would the sponsor yield to a question?

THE PRESIDENT: Does the sponsor yield?

SENATOR ALESI: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR ONORATO: Senator, I'm a little bit confused from what I'm hearing. Now, will your bill now allow for the consumption of the alcoholic beverages within the retail liquor establishment rather than an established restaurant or bar and grill?

SENATOR ALESI: Through you, Madam President. The bill refers to a licensed, on-premises consumption of alcoholic beverages.

SENATOR ONORATO: Again, through you, Madam President. How would you define an on-premise license? What would you describe it as?

SENATOR ALESI: That would be a restaurant or a bar that has a license for the on-premises consumption of the products sold there which are licensed to be sold there legally.

In other words, if you're asking if

they can be bought there and walked out onto the street, as I said to Senator Duane, they are covered under all the existing laws for every other drink that is sold.

SENATOR ONORATO: Thank you, Madam President.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 30 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR STACHOWSKI: To explain my vote, Madam President.

THE PRESIDENT: Senator Stachowski, to explain your vote.

SENATOR STACHOWSKI: I'm going to vote for this bill.

During this debate, I thought I heard Senator Alesi answer a question saying you could sell this in liquor stores. And that doesn't seem to me to be what the bill does.

The bill allows restaurants and bars to have these machines which, if you ever

went to the Restaurant Association show, you'd see that they have all these modern machines that control the flow, mix the drink and it comes out, and the bartender saves a lot of time. It's done so that every drink comes out the same, the same amount of alcohol.

I don't -- I think I misheard that answer, or maybe that answer wasn't -- I don't know if he meant to say that they're going to sell this in liquor stores. But since liquor stores are not for-consumption locations, they couldn't have this machine anyway.

So I'm going to vote for this bill.

THE PRESIDENT: Senator Stachowski, you will be so recorded as voting in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. I would request unanimous

consent to be recorded in the negative on Calendar 1007, Senate Bill 7034.

THE PRESIDENT: You will be so recorded without objection as voting in the negative, Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

THE SECRETARY: Calendar Number 1099, by Senator LaValle, Senate Print 7767, an act to amend the Executive Law, in relation to the submission of arson reports.

SENATOR DOLLINGER: Explanation, please.

THE PRESIDENT: Senator LaValle, an explanation has been requested.

SENATOR LAVALLE: Madam President, last year we passed a very important bill for the volunteer fire service. It was the number-one-priority bill that they had.

That legislation that was signed into law would provide for the fire chief of a volunteer fire district to -- for new applicants coming into the district to be able to screen and see whether they had a predilection to setting fires or a conviction

for arson.

That process would go through in most parts of the state from the fire chief to the sheriff to DCJS doing the actual check, and then come back from DCJS to the sheriff or through the Department of State to the local chief.

In Suffolk County, rather than the sheriff's department, traditionally the Suffolk County Police Department handles the investigations on arson and handles the paperwork and so forth. So what we are saying is we are codifying what happens in Suffolk County, rather than using the sheriff's department, to use the Suffolk County Police. And that is what this bill does.

SENATOR DOLLINGER: Explanation satisfactory.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

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

SENATOR MORAHAN: Madam Chairman, may we please return to reports of standing committees. I believe there's a report of the Rules Committee at the desk.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

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

Senate Print 1290, by Senator Rath, concurrent resolution of the Senate and Assembly proposing amendments to Article 9 of the Constitution;

1912A, by Senator Volker, an act to enact the Criminal Procedure Law Reform Act of 2000;

2094B, by Senator Libous, an act to amend the Vehicle and Traffic Law;

3652B, by Senator Wright, an act to amend the Vehicle and Traffic Law;

5751A, by Senator Saland, an act to amend the Vehicle and Traffic Law;

5877A, by Senator Volker, an act to amend the Banking Law and others;

6937, by Senator Morahan, an act to amend the Vehicle and Traffic Law;

7846, by Senator Meier, an act to amend the Vehicle and Traffic Law;

7855, by Senator Trunzo, an act to amend Chapter 72 of the Laws of 1995;

And Senate Print 6828, by Senator Mendez, an act authorizing the City of New York to reconvey.

All bills ordered direct to third reading.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Move to accept the report of the Rules Committee, Madam Chairman -- Madam President, excuse me.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report is accepted.

Senator Morahan.

SENATOR MORAHAN: Could we have the noncontroversial reading of the Rules report, Madam President.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1178, by Senator Rath, Senate Print 1290, concurrent resolution of the Senate and Assembly proposing amendments to Article 9 of the Constitution.

SENATOR ADA SMITH: Lay it aside.

SENATOR MORAHAN: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1179, by Senator Volker, Senate Print 1912A, an act to enact the Criminal Procedure Law Reform Act of 2000.

SENATOR ADA SMITH: Lay the bill aside, please.

SENATOR MORAHAN: Lay the bill

aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1183, by Senator Saland, Senate Print 5751A, an act to amend the Vehicle and Traffic Law, in relation to authorizing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1184, by Senator Volker, Senate Print 5877A, an act to amend the Banking Law and others, in relation to good behavior allowances.

SENATOR ADA SMITH: Lay the bill aside, please.

SENATOR MORAHAN: Lay the bill aside for the day.

THE PRESIDENT: The bill is laid

aside for the day.

THE SECRETARY: Calendar Number 1185, by Senator Morahan, Senate Print 6937, an act to amend the Vehicle and Traffic Law, in relation to the maximum speed limit on a certain portion of the Catskill section.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1186, by Senator Meier, Senate Print 7846, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Madam President, could we place a sponsor star, please, on Calendar 1186.

THE PRESIDENT: The bill is starred, Senator.

SENATOR MEIER: Thank you, Madam

President.

THE SECRETARY: Calendar Number 1187, by Senator Trunzo, Senate Print 7855, an act to amend Chapter 72 of the Laws of 1995 amending the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1189, by Senator Mendez, Senate Print 6828, an act authorizing the City of New York to reconvey its interest.

SENATOR MORAHAN: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President, is there any housekeeping at the

desk?

THE PRESIDENT: Yes, there is, Senator.

SENATOR MORAHAN: Well, I'm the only one here.

Madam President, on page number 42 I offer the following amendments to Calendar Number 997, Senate Print Bill 6800. I ask that the said bill will retain its place on the Third Reading Calendar. It's by Senator Skelos.

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

SENATOR MORAHAN: On behalf of Senator Bonacic, Madam President, on page 58, Calendar 995, Senate Bill 7127. And I ask that the bill retain its place on third reading.

THE PRESIDENT: The amendment is received, and the bill will retain its place on the Third Reading Calendar.

SENATOR MORAHAN: Thank you.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: There being no

further business, I move that the Senate adjourn until Wednesday, May 24th, at 11:00 a.m.

THE PRESIDENT: On motion, the Senate stands adjourned until Wednesday, May 24th, 11:00 a.m.

(Whereupon, at 5:30 p.m., the Senate adjourned.)