NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 11, 2001

3:11 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 please 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, may we bow our heads in a moment of silence, please.

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

THE PRESIDENT: I'd like to acknowledge, before we proceed, the presence of some children and staff from St. Mary's Hospital in Bayside, Queens, in Senator Padavan's district.

We welcome you here today and wish you the very best, both today and in your other endeavors.

Reading of the Journal.

THE SECRETARY: In Senate, Sunday, June 10, the Senate met pursuant to adjournment. The Journal of Saturday, June 9,

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 Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Trunzo, on page 42, I offer the following amendments to Calendar 857, Senate Print 3953, and I ask that this bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: Madam President,

I'd like to offer amendments to the following Third Reading Calendar bills:

Senator Meier, page 7, Calendar 134, Senate Print 1310.

Senator Skelos, page 22, Calendar 509, Senate Print 3329.

Senator Seward, on page 26, Calendar 572, Senate Print 4372A.

On behalf of Senator Skelos, on page 28, Calendar 615, Senate Print 3878.

Senator Velella, page 30, Calendar 647, Senate Print 3571A.

On behalf of Senator Skelos, on page 33, Calendar 698, Senate Print 4087A.

On behalf of Senator McGee, on page 41, Calendar 817, Senate Print 4878.

On behalf of Senator DeFrancisco, on page 44, Calendar 894, Senate Print 1075.

On behalf of Senator Saland, on page 49, Calendar 964, Senate Print 3299.

And on behalf of Senator Spano, on page 52, Calendar 1069, Senate Print 5355.

I ask that these bills will retain their place on the Third Reading Calendar.

THE PRESIDENT: The amendments

are received, and the bills will retain their place on the Third Reading Calendar.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

I wish to call up Senator Meier's bill, Print Number 4859, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 691, by Senator Meier, Senate Print 4859, an act to amend Chapter 436 of the Laws of 1997.

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 on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: Senator Marcellino.

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

THE PRESIDENT: The amendments are received, Senator.

SENATOR MARCELLINO: Thank you.

Madam President, I wish to call up Senator DeFrancisco's bill, Print Number 4264, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 824, by Senator DeFrancisco, Senate Print 4264, an act to amend the Public Authorities Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

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

THE PRESIDENT: The amendments are received, Senator.

SENATOR MARCELLINO: Thank you.

THE PRESIDENT: Senator Skelos, we have substitutions at the desk.

SENATOR SKELOS: Yes. Would you make them at this time, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 52, Senator Morahan moves to discharge, from the Committee on Higher Education, Assembly Bill Number 6021 and substitute it for the identical Senate Bill Number 3717, Third Reading Calendar 1060.

And on page 52, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 8503A and substitute it for the identical Senate Bill Number 5300A, Third Reading Calendar 1068.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the noncontroversial calendar at this time.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: Calendar Number 183, by Member of the Assembly Morelle, Assembly Print Number 2692, an act to amend the Real Property Tax Law, in relation to authorizing.

SENATOR DUANE: Lay it aside, please.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 234, by Senator Rath, Senate Print 2617A, an act to amend the Penal Law, in relation to assaults.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 248, by Member of the Assembly Cahill, Assembly Print Number 7753, an act to amend the Judiciary Law and the Uniform Justice Court Act, in relation to fees.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first day of April.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 353, by Senator Stafford, Senate Print -

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

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

THE SECRETARY: Calendar Number 502, by Senator Saland, Senate Print 3977, an act to amend the -

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 519, by Senator Skelos, Senate Print 3357A, an act to amend the Public Authorities Law, in relation to authorizing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. 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.

Senator Skelos.

SENATOR SKELOS: Madam President, if I could interrupt, there will be an immediate meeting of the Labor Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Labor Committee in the Majority Conference Room.

THE SECRETARY: Calendar Number 528, by Member of the Assembly Vitaliano, Assembly Print Number 6615, an act to amend the Civil Service Law, in relation to the period of time.

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 will continue to read.

THE SECRETARY: Calendar Number 531, by Member of the Assembly Vitaliano, Assembly Print Number 7788, an act to amend the Retirement and Social Security Law, in relation to including members.

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 585, by Member of the Assembly Cahill, Assembly Print Number 29B, an act to amend the

Agriculture and Markets Law, in relation to authorizing requests.

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 601, by Senator McGee, Senate Print 4339, an act to amend the Real Property Tax Law, in relation to increasing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 667, by Senator Goodman, Senate Print 697A -

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 710, by Senator LaValle, Senate Print 2340A, an act to amend the Education Law and the General Municipal Law, in relation to -

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 766, by Senator Skelos, Senate Print 3656, an act to amend the General Municipal Law, in relation to firefighters.

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, 56.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 769, by Senator Larkin, Senate Print 3786A, an act to amend the Town Law and the Public Officers Law, in relation to residents' requirements.

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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 807, by Senator Larkin, Senate Print 3682A, an act to authorize the Commissioner of the Department of Environmental Conservation to transfer.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

837, by Senator McGee, Senate Print 3520A, an act to amend the Penal Law, in relation to the minimum sentence.

THE PRESIDENT: Read the last section.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 856, by Senator Kuhl, Senate Print 3103B, an act to amend the Highway Law, in relation to certain trail designations.

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 995, by Senator Connor, Senate Print 5090B, an act to authorize the St. Ann's School.

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 Dollinger, to explain your vote.

SENATOR DOLLINGER: Madam President, this is a bill that again tests the issue related to property tax exemptions and the ability of a taxing entity to provide a partial property tax exemption.

I've continued to vote against these bills. I'm going to vote against this one even despite the name that's on it, who I will praise, as I have praised other members of this chamber, for doing the right thing for their constituents in their communities. Senator Connor is doing this bill for exactly a good reason, to allow this not-for-profit entity not to have to pay property taxes.

I would just suggest that I'm going to continue to vote against these bills regardless of the name attached to them,

because this is not the way to deal with this problem. I would strongly suggest that Senator Hannon's bill, which he has carried in the past, come to the floor, let's deal with this issue once and for all, instead of becoming the super-assessment review board for New York State.

Which I think this is about the 22nd or 23rd of these bills that we have done this year. And quite frankly, when the word gets out that the way to get a partial property tax exemption is to go to your local state senator, I would suggest we're going to be deluged with these requests.

Let's go back to being the State Legislature and give up this new-found title. I'll vote no.

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

The Secretary will announce the results.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1001, by Senator Johnson, Senate Print 1534, an act to amend the Penal Law, in relation to criminal use of public records.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1042, by Senator Hannon, Senate Print 4760A, an act to amend the Executive Law, in relation to establishing.

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 1043, by Member of the Assembly Weinstein,

Assembly Print Number 7751A, an act to amend the Family Court Act and the Domestic Relations Law, in relation to confidentiality.

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 1047, by Senator Meier, Senate Print 5328, an act to amend the Education Law, in relation to nanotechnology facility.

THE PRESIDENT: Senator McGee.

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

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

THE SECRETARY: Calendar Number 1048, by Senator McGee, Senate Print 5337, an act to amend the Local Finance Law, in relation to temporary alternative methods.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall -

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calender Number 1049, by Senator Seward, Senate Print 5342, an act to amend the Executive Law and the General Municipal Law, in relation to the authority.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1050, by Senator Bonacic, Senate Print 5370, an act to amend the Vehicle and Traffic Law, in relation to requiring.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1052, by Senator Velella, Senate Print 1055, an act to authorize the City of New York to reconvey its interest.

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

Read the last section.

THE SECRETARY: Section 5. 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 1053, by Senator Fuschillo, Senate Print 1078B, an act to amend the Vehicle and Traffic Law, in relation to operation of scooters.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid

aside.

THE SECRETARY: Calendar Number 1055, by Senator Velella, Senate Print 1361, an act authorizing the City of New York to reconvey its interest.

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

Read the last section.

THE SECRETARY: Section 5. 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 1056, by Senator Marcellino, Senate Print 1971, an act to amend the Public Health Law, in relation to body piercing and tattooing.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1057, by Senator Velella, Senate Print 2851, an act authorizing the City of New York to reconvey its interest.

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

Read the last section.

THE SECRETARY: Section 5. 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 1058, by Senator McGee, Senate Print 3183A, an act to amend the Uniform Justice Court Act, in relation to fees.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid

aside.

THE SECRETARY: Calendar Number 1060, substituted earlier today by Member of the Assembly Glick, Assembly Print Number 6021, an act in relation to persons who may temporarily practice.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect August 24, 2001.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1061, by Senator Velella, Senate Print 3771, an act to amend the General Municipal Law, in relation to public works contracts.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1062, by Senator Farley, Senate Print 3938, an act to amend the Public Authorities Law and

the Social Services Law, in relation to the construction and financing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. 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 1066, by Senator Kuhl, Senate Print 4766, concurrent resolution of the Senate and Assembly proposing an amendment to Section 4 of Article 8.

THE PRESIDENT: Read the last section.

SENATOR HEVESI: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1067, by Senator Gentile, Senate Print 4930, an act to authorize the Brooklyn Cultural Center of New York, Incorporated.

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 Dollinger recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1068, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8503A, an act to amend the Labor Law and the Public Officers Law.

SENATOR McGEE: Madam President, will you lay the bill aside for the day, please.

THE PRESIDENT: Yes, Senator McGee, it's laid aside for the day.

THE SECRETARY: Calendar Number 1070, by Senator Bonacic, Senate Print 5369, an act to amend the Workers' Compensation Law, in relation to coverage.

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 1071, by Senator Morahan, Senate Print 5389, an act to amend Chapter 552 of the Laws of 1995.

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.

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

SENATOR McGEE: If we can have the reading of the controversial calendar at this time, please.

THE PRESIDENT: The Secretary will read.

SENATOR McGEE: Thank you.

THE SECRETARY: Calendar Number 183, by Member of the Assembly Morelle, Assembly Print Number 2692, an act to amend the Real Property Tax Law, in relation to authorizing.

SENATOR DUANE: Explanation, please.

SENATOR McGEE: Lay it aside, please.

THE PRESIDENT: Senator McGee, do you want the bill laid aside for the day?

SENATOR McGEE: Temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 234, by Senator Rath, Senate Print 2617A, an act to amend the Penal Law, in relation to assaults committed in the presence of certain children.

SENATOR PATERSON: Explanation.

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

SENATOR RATH: Madam President, this bill provides an enhancement to assault in the second degree, a D felony, when an offender commits an assault in the third degree in the presence of a child under the age of 18 when the child is the offspring or stepchild of the victim of the offense.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, if I may ask a question of the sponsor, Senator Rath.

THE PRESIDENT: Senator Rath, will you yield for a question?

SENATOR RATH: Surely.

THE PRESIDENT: You may proceed, Senator Montgomery.

SENATOR MONTGOMERY: Senator

Rath, I'm just trying to understand, what is the rationale for your legislation? Why do we need to do this overriding of the law that we already have?

SENATOR RATH: I think, Senator Montgomery, that there is very clear evidence. An article in the Journal of Consulting and Clinical Psychology showed in a rather large study of 198 children from ages 4 to 16 years of age, compared to 102 children, those children from violent families who were residing in the shelter -- let me start this again.

There was a total of 198 children, 102 from the violent families as compared to 96 in the nonviolent families. And the children from the violent families scored 2½ times higher on measures of behavior and competency problems, and male children were affected more than female children.

And in October of 2000, the Court of Appeals of New York State held that physical assault witnessed by a child qualifies as child endangerment under the penal laws. So what we're doing is codifying

that case and also increasing it to D felony.

SENATOR MONTGOMERY: Madam President, if I may continue.

THE PRESIDENT: Senator Rath, will you yield for an additional question?

SENATOR RATH: Yes.

SENATOR MONTGOMERY: Yes, thank you, Senator Rath.

So in other words, your legislation would change the charge from a misdemeanor to a D felony -

SENATOR RATH: Right.

SENATOR MONTGOMERY: -- for the fact that a child is in the home and witnessing the domestic violence?

SENATOR RATH: That's right.

SENATOR MONTGOMERY: That is in addition to the charge for domestic violence itself?

SENATOR RATH: One moment.

Senator, basically what it will do would be to increase the degree of the offense because of a child being present.

SENATOR MONTGOMERY: All right.

Madam President, I would like to

ask another clarification question.

THE PRESIDENT: Senator Rath, will you yield for another question?

SENATOR RATH: Surely.

THE PRESIDENT: You may proceed, Senator.

SENATOR MONTGOMERY: So, Senator Rath, I'm trying to be very clear about this. If a person commits domestic violence, we now have on our books, whether or not the person against whom the violence is perpetrated - that person must be arrested and charged with a crime. Which of course we certainly agree.

Now you're saying that with this law, in addition to that charge, that individual will also be charged with a Class D felony because of the fact that there is a child or there are children in the home at that time.

SENATOR RATH: That's correct.

SENATOR MONTGOMERY: Okay.

And if I may continue, Madam President, I would like to ask another question.

THE PRESIDENT: Senator Rath,

will you yield for another question?

SENATOR RATH: Surely.

THE PRESIDENT: You may proceed.

SENATOR MONTGOMERY: Thank you, Senator Rath.

And in addition to the charge - let me just rephrase that.

Does the bill -- is there anything in this legislation that protects a person who is victimized by domestic violence? In other words, if two people are having a domestic incident and the police come, and it is presumed that both parties are involved in the incident, and there are children in the home, does that mean, then, that both parties would be eligible to be charged with a Class D felony even though one party is perhaps more violent than the other or one person is defending themselves against the violence of another person? Do both of them have equal responsibility in this case?

SENATOR RATH: The bill provides that the perpetrator, a clear perpetrator, would be the one who would be charged with a Class D felony.

SENATOR MONTGOMERY: Thank you, Senator Rath. I was just trying to make sure that in cases that we are very familiar with -- Madam President, if I may, just briefly on the bill.

THE PRESIDENT: Please proceed on the bill, Senator Montgomery.

SENATOR MONTGOMERY: Yes. In cases that we are familiar with, very often there is indeed a perpetrator but there is also an action by the person who is on the receiving end of domestic violence in defense of oneself.

In fact, a number of the women who are currently serving prison sentences based on their defense for themselves against a domestic violence situation, nonetheless, they are now in prison.

So I would -- it's a little bit of a worry that we have this law, which provides that it's very possible that both parties could be equally charged, based on the fact that both parties were involved, even though one party may have been in sort of a self-defense action.

So I'm going to vote no on this legislation. I have in the past. I certainly agree that we must protect people in domestic violence situations, but I don't -- I'm not sure that this does not put the law in a position to be harsh on the person who in fact is just in a defensive mode rather than a perpetrator.

I vote no, Madam President.

THE PRESIDENT: Senator Dollinger.

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

THE PRESIDENT: Senator Rath, will you yield for a question?

SENATOR RATH: Surely.

THE PRESIDENT: You may proceed, Senator.

SENATOR DOLLINGER: Senator, as I understand this bill, this bill is designed to or starts from the premise that a child observing violence in the home is more likely to engage in violence at a subsequent time. Is that correct?

SENATOR RATH: That's correct.

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

THE PRESIDENT: Senator, will you yield?

SENATOR RATH: Surely.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: In considering this bill, Senator, did you consider the source of most of the violence observed by children in the home where they most often see violence?

SENATOR RATH: Senator Dollinger, if you're talking about the violence on television, no, that's not what we're talking about.

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

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR DOLLINGER: I think I'm going to vote in favor of this bill, Senator

Rath. And I understand the purpose, which is that children observing violence in the home are more likely to engage in violence.

But quite frankly, this is a bill that in my opinion will have minimal impact on deterring crime. At least in my experience, domestic violence is oftentimes borne of passion, it's borne of outrage, irrationality, and that's what drives domestic violence. All of which we should work hard to restrict.

But it seems to me that the cause of most violence in the home -- and what we see in the home now is that our children are watching violence in the home all the time. All the time. You can't turn on a modern television show without seeing violence. There are people shooting each other, there are people punching each other, they're walking around kick-boxing -- Walker Texas Ranger, that whole host of people.

And it would just seem to me, Senator Rath, that if what we're really trying to do is to deter violence in the home, the thing to do is to consult with Senator Balboni. Remember, Senator Balboni had the

bill that said we should warn about violence on our video screens, which in most cases are sometimes seen through our television set but most often are in our arcades.

And I would just suggest, Senator Rath, that this bill has a beneficial purpose, but the thing we ought to be trying to do to attack the problem of violence in the home is to take a good and careful look at what our children see on television and begin to try to deal with that problem as well.

In the long run, that type of somehow fashioning a remedy that will dissuade those who are in the television business from projecting this into our homes is a better way to curb the long-term problem of domestic violence.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. I think it's going to be on the bill.

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR HASSELL-THOMPSON: Madam

President, I think one of the things that has been concerning me as I listened to the brief debate today is that from the experience that I have had working with children in households where violence is a part of what goes along with substance abuse and some of the other kinds of issues that happen to and between spouses and people who live together -- and my concern becomes that while I am certainly in favor of doing everything to decrease the incidences of abuse in the home, I am certainly concerned, as Senator Dollinger pointed out very clearly, that in most cases we are talking about an illness and we are talking about a behavior that may not and probably will not be deterred by an increase in criminal penalties.

That's the major portion of my concern, is we continue to debate and we continue to talk about how to pile sentence on top of sentences, how to extend criminal behavior. My concern is that we still continue to fail to address the need to get at the root cause of a lot of the anger and the anxiety that exists in many of our households.

While I think that certainly we want to do everything that we can to deter the violence, certainly to deter the opportunities for children to witness and be a part of, both emotionally and physically, the violence that occurs, nothing in the statistics and the work that I have done over the years demonstrates to me or to any of my work colleagues that stiffer sentences is the answer and the way to go.

And so while there is a very strong part of me that says that we need to do something very severe, this does not seem to necessarily be the answer for me. So I don't believe that I can vote in favor of this bill.

Thank you, Madam President.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Thank you, Madam President. On the bill.

I know it's frequent that in Albany that the distinction between fantasy and reality frequently gets blurred. But I'm somewhat astonished that someone could import a discussion about what goes on on television into this bill. Even children understand that

goes on on television is not real.

And we have very dramatic both anecdotal and scholarly information that indicates that children are very directly and dramatically impacted when they see an act of domestic violence perpetrated in their home by two people whom those children frequently in fact love or have come to trust or to live with.

We know from the studies and the data that is available that children who become inured to seeing that kind of thing are more likely to become abusers themselves or, just as tragically, are more likely than other children to go on to think in life that that in fact is normal and acceptable behavior.

We also know that children who are in close proximity to an abusive event are in fact themselves in the zone of danger, and that the abuser sometimes moves on to the children themselves.

Part of what we do here when we pass laws is we both in terms of the criminal law define what is minimally acceptable conduct for a humane and a decent society and

what is conduct that is not acceptable. We do that in terms of regulating in a minimal way the conduct of people in a humane society, but we also do it to express our sense as a people as to what our values are, what we feel is important.

And this bill I think speaks volumes about protecting children and the value we put on that in a very real situation. It doesn't create a new crime, but it bespeaks the very great difference, both qualitatively and quantitatively, when an event of this sort takes place with a child in the room.

Thank you, Madam President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Yes, Madam President, just briefly on the bill.

The whole concept -

THE PRESIDENT: You may proceed on the bill.

SENATOR MARCELLINO: -- that we haven't found a way to stop violence in the home as a reason for voting against the bill that raises the penalty on those who

perpetrate violence on one person in the home escapes me. I don't understand the logic of that.

If we can find the reason that's causing it, all well and good. Let's do that. Let's determine that reason, let's work to solve this problem if we can.

In the meantime, we've got to do something about people who are murdering, beating up and abusing their partners in front of their children or not in front of their children. It has to be stopped. And if it takes putting them away for a period of time, so be it. Let's put them away for a period of time until we find the reason that can resolve it in perhaps a better way.

In the meantime, I'm for putting them away. I vote aye.

THE PRESIDENT: Senator Balboni.

If the members would please take their conversation outside the chambers.

Senator Balboni.

SENATOR BALBONI: Madam President, the approach that Senator Rath has adopted is consistent with the body of law

that surrounds the corruption of a child, the contributing to the facts and circumstances that take a child's life and either puts it in danger or contributes to its decline, the child's decline.

What we don't do enough of, notwithstanding all of our proclamations that children are everything for us in this state, we don't specify in our laws enough that when it comes to adult behavior, the bar will always be raised, no matter what the conduct when it comes to children. That is Senator Rath's message.

It is consistent with the parens patriae position of government when it comes to children. It is consistent with our current penal scheme. And what this bill essentially enunciates is that if you become violent in a place where there are children, you will now suffer a more serious consequence as a result of those actions.

This is a good measure. It doesn't mean that there aren't other issues that we need to address, such as what Senator Dollinger mentioned. But I think what we have

here is a very practical realization that when violence occurs in front of children not only does it have a profound and lasting effect, as Senator Meier pointed out, but there is also a greater incidence and possibility of injury to the child. That must be deterred.

Thank you, Madam President.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Then the debate is closed.

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 PRESIDENT: Senator Montgomery, to explain your vote.

SENATOR MONTGOMERY: Yes, thank you, Madam President. Briefly to explain my vote.

The bill, as I understand Senator Rath's intent, is totally appropriate and logical and admirable, and that is to hopefully begin to look for ways of breaking

the cycle of violence as it relates to children being subjected to it and perhaps repeating the behavior in their adult lives.

I do, however, object to the notion that the answer to this is an extension of a sentence term for the person who is perpetrating the violence, as well as what the bill seems to be resulting in is a possibility of a person who is not a perpetrator but who defends himself or herself also being charged with a Class D felony.

I hope that we can talk about ways in which we deal with domestic violence once a crime has been committed. No matter if there are children or not, we should deal with this to try and, one, protect the people in that home, especially the children, but also the partner, as well as develop an approach which addresses this criminal behavior.

I don't think this is appropriate, and that's why I am voting no.

THE PRESIDENT: Senator Montgomery, you will be recorded as voting in the negative on this bill.

Senator Hassell-Thompson was next.

Then Senator Oppenheimer.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. To explain my vote.

I agree with all of the concerns that have been raised by all the Senators. For the most part, I think that Senator Meier knows that in many of the discussions that he and I have shared around many of these issues, we are in agreement.

I am totally in agreement with all of the studies that have indicated the impact of violence in the home on children. But my sense is that the remedy does not fit the crime, that too often it makes us feel better to increase the penalties so that people think that we're doing a good job at corrective measures on domestic violence.

But there is nothing in any of the research that I have ever done or any of the research that is available to me -- and if such research is available, I am open to reading it, discussing it, and certainly continuing to change my thought processes. But there is nothing that indicates that increased penalties is an answer to corrective

measures for domestic violence.

What it does or may do is to remove persons from the household. But the kind of sustained damage that is done and has been done by separation within families without counseling, without any kind of support service for these families, is not the total corrective measure that this bill -- and I think that it's just the fact that it is lacking the notion that there is more than just the incarceration of individuals that is going to be the remedy for domestic violence in our households and our situations.

Thank you, Madam President.

THE PRESIDENT: Senator Hassell-Thompson, how do you vote on this bill?

SENATOR HASSELL-THOMPSON: No.

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

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Madam President.

I'm going to be voting yes, but I concur with everything that was said by my

colleagues here. But most particularly, I think what you're hearing from most of us is that punishment is not the answer. It is a small piece, but it really doesn't get to the fundamental issue here.

And I have spent the last couple of days with folks involved in alternative dispute resolution and mediation, and it seems to me if we are going to get a handle on this, we have to deal more with prevention and less with punishment. Because punishment comes after the act, when the violent act has already been committed.

I just would urge all of us to take a much closer look at what we can do to prevent these circumstances. Certainly when children see violence, they are going to think that that is an acceptable means of behavior, and they carry that into their adult lives.

But if -- and I know we have many programs going in our junior and senior high schools -- if we can intervene at an early enough time, we can show them there are other ways to handle anger and irritation and a whole variety of negative feelings which can

be turned into an opportunity to discuss.

So I'll be voting yes, but I think there's a lot more work that has to be done.

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

Senator Dollinger.

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

I join in the comments of all of my colleagues that talked about the need for increased prevention.

I think we should be very clear about what we're doing here, though. We are doing something that at least in my understanding has no other parallel in our penal law. We are creating a new category of crime that is determined not by who does what or where they do it, but by who observes it. We're increasing the penalties purely on the basis of who happens to observe particular conduct.

I would suggest there's no other corollary for that in our penal law where we increase the penalty based on the observer

that happens to be present.

I'm prepared to do that in this instance because, as Senator Rath described, of the unique circumstances that involve children. However, I do believe that the comments made by Senator Montgomery and Senator Oppenheimer and Senator Hassell-Thompson about this being a part of a greater role in prevention is critically important.

And while I agree with Senator Meier that sometimes we blur distinctions here, the point I was making about television is that if what we're saying is that children observing certain conduct causes greater societal problems or increases propensities, then we ought to look at that issue as well as part of a broader plan to achieve the prevention goal that this side has talked about.

And the only other thing I'll add is at least in my own personal experience representing families, when domestic violence occurs in the home, whether it occurs in the presence of the children or not, the children

know it's occurred. They're impacted by it, they're influenced by it. It's not just because they observe it; they know it's going on in the home.

And when that happens, the kind of damaging long-term impact on children is present. That's why I think the broader solution to domestic violence is let's put our resources to work in preventing it across the board.

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

Does any other member wish to be heard on this bill?

The Secretary will announce the results.

THE SECRETARY: Ayes, 55. Nays, 2. Senators Hassell-Thompson and Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

SENATOR McGEE: Madam President.

THE PRESIDENT: Senator McGee.

SENATOR McGEE: Will you call up

Calendar Number 183, please, Senator Maziarz's bill.

THE PRESIDENT: The Secretary will read Calendar 183.

THE SECRETARY: Calendar Number 183, by Member of the Assembly Morelle, Assembly Print Number 2692, an act to amend the Real Property Tax Law, in relation to authorizing.

SENATOR PATERSON: Explanation.

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

SENATOR MAZIARZ: Thank you very much, Madam President.

Yes, this bill permits school districts at their option, Madam President, to grant the senior citizen real property tax exemption to low-income seniors who otherwise qualify for such exemption but under the current law are now excluded from receiving that exemption if there is a child who attends public school residing with the senior.

I think passage of this law would encourage some grandparents to become more involved with their grandchildren's education

and not be financially punished because of that involvement.

Thank you, Madam President.

THE PRESIDENT: Senator Paterson.

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

THE PRESIDENT: Senator Maziarz, do you yield for a question?

SENATOR MAZIARZ: Certainly, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR PATERSON: Senator, I notice in the bill that this is optional for the town. If this is something we feel we want to be doing, was there a reason that you've made it only optional? Or is that something that you would think would be in anticipation that at some point this would just be a standard?

SENATOR MAZIARZ: Well, each school district of course throughout the state, Senator, is different. Each one of their financial viabilities are different.

And I thought that probably the best first step would be to do this at their option.

And I also thought that the acceptance of getting it through both houses and signed by the Governor was greater if we made it at the option of the local school district, Senator.

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

THE PRESIDENT: Senator, will you yield for another question?

SENATOR MAZIARZ: Yes, Madam President. Of course.

THE PRESIDENT: You may proceed, Senator.

SENATOR PATERSON: Senator, if we look at the concept of the exemption under Section 467 of the Real Property Tax Law - and it's in subdivision 2 that it's provided -- it specifically exempts seniors because there's a presumption that they don't have young children in the home.

So aren't we actually just completely reversing the exemption that

existed in the first place? Because they do have small children in the home, presumably who are going to school, so wouldn't they theoretically be paying the tax?

Or is it your perception that because the small children are in the homes of seniors that there must have been some unforeseen circumstance in which the senior is taking on a burden and we don't want to increase that burden?

SENATOR MAZIARZ: Yes, that perception is true, Senator Paterson. We assume that these children have parents and that their parents are in fact paying school property taxes at the full rate. It's just because of some particular family situation that the grandchild is better off living with the grandparents.

And today, of course, we see many, many instances where children are residing with their grandparents for many different reasons, as opposed to with their parents. And I think that this would give an added incentive, if you will, for grandparents to be accepting of their grandchildren living with

them.

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

THE PRESIDENT: Senator Maziarz, will you yield?

SENATOR MAZIARZ: Surely, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: I think the question I want to ask you, Senator, would have been that what about others who are not seniors who also have different types of financial encumbrances? What would we be doing about the fact that they have children in the home and they're paying property taxes and they have problems too, so to speak?

But I assume that the same public policy standard that you set for why you would want to grant the exemption for seniors is the one that presumes that others who are not seniors are therefore actually the parents or of parental age and that they assume the responsibility for the fact that they have the

children there.

SENATOR MAZIARZ: That is correct, Senator Paterson, yes.

SENATOR PATERSON: Thank you, Madam President.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President, if the sponsor would yield for -

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

SENATOR MAZIARZ: Certainly, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Thank you.

Under the legislation, would co-op and condo owners be eligible?

SENATOR MAZIARZ: The answer would be yes. If they pay school property taxes, then yes, they would be, Senator.

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

THE PRESIDENT: Senator Maziarz, will you yield?

SENATOR MAZIARZ: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: Would it necessarily be that the co-op and condo owner would get the exemption? Or would there have to be additional legislation so that the managing agent or the owner of the property that the co-op or condo was on didn't get the exemption?

SENATOR MAZIARZ: Senator Duane, if they are currently eligible for an exemption, for a senior exemption, this - then they are currently not eligible if they have grandchildren living with them. So then they would be, yes, under this legislation if they are currently eligible.

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

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

SENATOR MAZIARZ: Yes, Madam President.

THE PRESIDENT: You may proceed with a question.

SENATOR DUANE: I seem to remember, though, that here we had to pass some special legislation so that the property owner did get the exemption in a co-op or condo, as opposed to the actual landowner or like the managing owner.

And so I'm just wondering whether we would have to do that in this case as well.

SENATOR MAZIARZ: I believe that we would, Senator Duane. In quickly reviewing my notes when you started me down this road, I looked here and you are correct, we would have to do a separate piece of legislation for that.

SENATOR DUANE: Thank you.

Madam President, on the bill.

THE PRESIDENT: You may proceed on the bill, Senator Duane.

SENATOR DUANE: Thank you. I appreciate getting that information.

I hope that we can try to equalize it if this bill becomes a reality so that those older people who live in co-ops and

condos who are taking care of school-age children would be able to take advantage of this as well.

And then the only other issue is I just think that if we do go down this road that we should look at other kinds of sort of means-tested tax relief for families, low-income families who have children in school as well. And I'll certainly look into that, and I'd be more than happy to look into it with the sponsor as well.

Thank you, Madam President.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

SENATOR McGEE: Please call up

Calendar Number 502, by Senator Saland.

Thank you.

THE PRESIDENT: The Secretary will read Calendar Number 502.

THE SECRETARY: Calendar Number 502, by Senator Saland, Senate Print 3977, an act to amend the Family Court Act and the Domestic Relations Law, in relation to violations.

SENATOR MONTGOMERY: Explanation.

SENATOR DUANE: Explanation, please.

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

SENATOR SALAND: Thank you, Madam President.

This is a bill that is introduced at the request of the judiciary. What the bill does is basically deal with the issue of how in effect to deal with violations of orders of custody and/or visitation.

And what the bill does is it effectively codifies in one place the remedies that an applicant for an order seeking relief for a violated order of either custody or

visitation would be able to turn.

Effectively, at this point, the law only provides statutorily for a contempt proceeding. There are a host of other practices and remedies that are fashioned by our courts in dealing with violations of custody and visitation. This proposes to codify those practices.

Those practices are parallel and certainly at the very least substantially similar, if not parallel, to existing provisions in Article 4 of the Family Court Act dealing with support, and very similar in substance to those in Article 8 of the Family Court Act dealing with family offenses.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, if I may just ask Senator Saland for a clarification for me.

THE PRESIDENT: Senator Saland.

SENATOR SALAND: I'm sorry, I couldn't hear what Senator Montgomery said.

THE PRESIDENT: Will you yield for a question, Senator?

SENATOR SALAND: Yes.

THE PRESIDENT: You may proceed, Senator Montgomery.

SENATOR MONTGOMERY: Thank you.

Senator Saland, I'm just trying to understand. This legislation is aimed at those parents who have custody and who fail to live up to the arrangements, the court-ordered visitation arrangements with the other parent. That if the court determines -

SENATOR SALAND: Let me interrupt right away and say that's in part correct but also in part incorrect. It would also apply to a noncustodial parent who wasn't abiding by whatever obligations were imposed by the not-noncustodial parent.

For instance, if there were visitation available at certain hours and that person showed up late continuously and caused problems with visitation, that person would be subject to the same section of the law.

SENATOR MONTGOMERY: All right. So to continue my questioning -- thanks for that clarification, Senator Saland -- the bill authorizes the court now to, among other kinds

of sanctions -- i.e., losing some of their rights to visitation and being on probation, suspension, or whatever -- they can now also serve some jail time?

SENATOR SALAND: That currently exists in the law. If you violate an order, if you violate a court order, you can be held subject to civil contempt. That is a remedy currently available and is used from time to time in various courts.

This basically recodifies one of the few, if only, provisions for a remedy that currently exists by way of statute in New York for violation of an order of either custody or visitation.

SENATOR MONTGOMERY: So if I may, Madam President, if Senator Saland would continue.

THE PRESIDENT: Excuse me, Senator Montgomery, I could not hear what you said.

SENATOR MONTGOMERY: If I may, if Senator Saland will continue to yield.

THE PRESIDENT: Senator Saland, will you continue to yield?

SENATOR SALAND: Yes, Madam President.

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

SENATOR MONTGOMERY: Even though the underlying language "commit the party to jail for a term not to exceed six months," that is essentially not new language; that is already in law, but you're just incorporating it now into your -

SENATOR SALAND: Currently you can be subjected to a violation of court order in any number of situations, not merely those applicable in the Family Court Act -- to civil contempt, you can be jailed for it. It is not a criminal charge. There is no criminal record associated with it. And you can be, in this particular case, committed for up to six months.

If you'll note, this is in the section of the law that provides for a willful failure. So it's not merely an accidental or unintentional failure. After a hearing it would have to have been shown that there was an element of willfulness. Whatever the

breach was, the party who was subjected to the proceeding would have to have been shown to have willfully, purposefully, intentionally chosen not to abide by his or her obligation as imposed by the court order.

SENATOR MONTGOMERY: And the judge determines willfulness?

SENATOR SALAND: After a hearing. After a hearing.

SENATOR MONTGOMERY: After a hearing, okay.

Thank you, Senator Saland.

THE PRESIDENT: Senator Duane.

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

THE PRESIDENT: Senator Saland, will you yield for a question?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: I'm wondering if this law might make it easier for parents who are involved in an acrimonious custody dispute or divorce case to have even more tools at

hand to make each other's lives miserable.

SENATOR SALAND: I don't believe so, Senator Duane. I think this is primarily a codification of remedies that are used in one fashion or another in courts throughout this state. I don't think this is intended to expand upon the number of acrimonious relationships that the court gets to see. I think it's just intended to deal with them.

SENATOR DUANE: Thank you.

Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator, will you yield for a question?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: You know, as last time this bill came to the floor, I remain troubled by the words "willful violation." And I'm wondering what constitutes a willful violation.

And if I can just continue on that, if a spouse accuses the other spouse of

willful violation, where does the burden fall? Is the burden on proving -- the person proving that they were not willfully violating, or does the burden of proof fall on the person who has to -

SENATOR SALAND: I would imagine it would be as in any other situation in which you are a petitioner or a complainant or an applicant. The burden of proof is on the moving party, the party who is seeking to show that there is a violation.

So in this instance the person who is saying that that person, my former spouse, my whatever, willfully violated the order, that person is going to have to establish on the record by way of credible evidence that that in fact was something that was done intentionally, perhaps maliciously, perhaps with absolute malice, for all we might be able to conjure up.

"Willfully," as I'm sure you're aware, covers a broad range of possibilities and is often at times rather difficult to define, but generally will be a function of what the facts -- what facts apply.

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

THE PRESIDENT: Senator, will you yield for a question?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Does "willful" exist in other parts of the law?

SENATOR SALAND: I'm sorry, other parts of?

SENATOR DUANE: Of New York State law, "willful."

SENATOR SALAND: There are a number of instances where the word is used. As I mentioned earlier, this substantially parallels the Article 4 support proceedings. "Willful" is used there. There are other contexts in which "willful" is used.

I had to check with counsel; "willful" is also used in the criminal law, Senator Duane.

SENATOR DUANE: Through you,

Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator Saland, will you yield?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: I believe we talked about this when the bill came up before. But I mean, I find it troubling that it parallels something in the criminal side of the law.

And I think actually I'm just going to leave it at that, because we have debated this bill before.

But, Madam President, on the bill, if I may.

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR DUANE: Thank you.

You know, this again is a tough call for me. You know, certainly I - disregarding, you know, in a sort of in-your-face and outlandish manner visitation

or custodial agreements is a terrible thing.

But even though this is not -- the violations are not punishable under criminal law, the punishments actually seem like punishments under criminal law. And I'm not sure that that's particularly helpful. And I know that we're all tainted, or I'm tainted by reading some of the Family Court cases which make it into the newspapers that are particularly acrimonious.

But even in those cases, I don't think necessarily that treating them in a manner parallel to criminal law would be particularly helpful, and in fact may provide a greater arsenal of weapons to use in an acrimonious custodial case or divorce case.

So in a tough call, I'm going to vote no on this. But I am open to looking at other ways of solving what could be terrible cases of custodial interference and visitation interference.

Thank you, Madam President.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Then the debate is closed.

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, 56. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator McGee.

SENATOR McGEE: Call up Calendar Number 1050, please.

THE PRESIDENT: The Secretary will read Calendar 1050.

THE SECRETARY: Calendar Number 1050, by Senator Bonacic, Senate Print 5370, an act to amend the Vehicle and Traffic Law, in relation to requiring certain vehicles.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, I don't need a full explanation. If Senator Bonacic would just tell us, if he will yield for a question, just give us an idea of what things -

THE PRESIDENT: Senator, will you

yield for a question?

SENATOR BONACIC: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: I just want to know what his view is on the Governor's previous veto of this legislation, and has that been worked out.

SENATOR BONACIC: This bill passed last year 61 to 0, and it passed the Assembly by a unanimous vote count.

The Governor vetoed it for three reasons. One, the bill we passed last year was limited to a cross-view mirror, which would be only by sight. The trucking industry, with the modern technology, if they wanted to have an audio or a sonar, they could also install the latest technology device that would save -- that would be for the same purpose and that a driver could see, when backing up, who is behind him.

The second concern was that the Governor was afraid that our bill might have infringed on the Constitution right of free interstate commerce between the trucking

industry. And it would apply to all trucks that would come into the state of New York and do business.

This bill only is for commercial vehicles registered in the state of New York. And we have checked with the Federal Motor Carrier Safety Regulations as well as the Motor Carrier Safety Assistance Program when it comes to funding, and they have signed off on the language to make sure it would not jeopardize our federal funding for safety when it comes to protecting our citizens when in the operation of a truck.

So they're the reasons why it was vetoed last year. That language and those concerns have been addressed, and this is a Governor's program bill.

And I think it's something - there's one statistic I'd just like -- that's worth mentioning. Between 1969 and 1999, according to the National Center for Health Statistics, accidents involving trucks backing up, 6,647 crashes, which resulted in a little less than 2500 injuries and 12 deaths in the state of New York. One happened to be a

5-year-old child in our Senate district.

So I think this is good legislation for all of us for public safety. It's a minimum burden on the trucking industry. And we should pass this law as soon as we can.

THE PRESIDENT: Does any other member wish to be heard?

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect in one year after the date it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 667, by Senator Goodman, Senate Print 697A, an act to amend Chapter 912 of the Laws of 1920.

SENATOR PATERSON: Explanation.

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

SENATOR GOODMAN: May I ask who requested it, please, Madam President.

THE PRESIDENT: By all means, Senator Goodman. Senator Paterson asked.

SENATOR GOODMAN: Senator Paterson, I don't know that you've ever heard of the expression the "tomato can." When we think of a tomato can, we usually think of an Andy Warhol painting. But in boxing, "tomato can" has a special connotation.

It's a sport in which unfortunately some men who are over the hill in terms of their boxing careers are often mismatched against others trying to climb the ladder of their boxing attempts to become champions, and in the process they're viciously undermatched -- or, rather, overmatched against the so-called "tomato can," who is a boxer on the way down who is viciously beaten and brutally handled in many ways, not only in the ring but outside it, due to sub-par health facilities and a variety of other very serious problems.

The Senate Investigations Committee on two occasions, once in 1979 and once in 1999, has had occasion to examine this whole area very, very carefully. And the result of

this investigation, which called over 130 witnesses, is that we now believe we have a grip on the things that need to be done to clean up the boxing business.

Number one is the problem of concussion. When a boxer is in the ring, very often we see him standing with his dukes up, so to speak, in a position that appears to permit him to defend himself. In point of fact, it's been proven medically that he is absolutely defenseless and virtually unconscious on his feet.

The only people who are qualified to spot this type of condition are neurologists. We became especially sensitized to it on an occasion when a man was literally murdered in the ring by virtue of negligent medical supervision of his bout. And as a result of that death we went in, very carefully examined his brain at the medical examiner's office, found that he was suffering from a concussion that had occurred in two rounds before his actual final knockout.

The result was a sweeping investigation which resulted in the suspension

of boxing in the state for 60 days while we recommended strongly that there be some new approach taken to these problems. The approach specifically was to bring on a neurologist trained in examination of concussion and related conditions at ringside, to avoid this type of death in the ring in the future. This we think is very significant, and it's another thing that's encompassed in this bill.

Let me say I've been working very closely with Senator John McCain in Washington, who has introduced at the federal level something known as the "Muhammad Ali Boxing Reform Bill." The bill before you contains many of the cooperatively arrived-at elements in the Muhammad Ali bill. And I think by passing it, as we hope to do shortly, we will set a good example from which federal guidelines can also be inferred and adopted.

Let me be a little more specific, if I may, as to the contents of this bill. Specifically, some of our findings, in addition to those I've mentioned, are that corrupt promoters and selfishly motivated

sanctioning bodies have undermined the integrity of boxing and public confidence in the sport.

Separate rankings of boxers by each sanctioning body under the heavy influence of greedy promoters have resulted in unjustified advancement of promoter-connected boxing mismatches, motivated by profit and allegations that sanctioning bodies receive payments to change rankings. Allegations of this nature were the subject of the recent International Boxing Federation string of indictments brought by the U.S. Attorney in New Jersey.

These multiple sanctioning bodies don't exist for the betterment of boxing but for the financial gain of individuals associated with them.

The process of licensing judges must be reformed. State law and State Athletic Commission regulations requiring State Athletic Commission licensing of all judges brought is about by this bill. And I could go on and on.

Let me say if you examine this bill

in detail, it's a thoughtful document, carefully arrived at, designed to clean up one of the most tragic situations one could ever find in the ring. When we see championship fights, they are clothed in glamor and all sorts of fascination for spectators. But if you ever go into some of the local gyms where the youngsters are trying to come up and where the oldsters are sadly in a state of disarray, you will find literally tragic and disastrously bad conditions.

So it's with that background that I urge the house to adopt this bill at the first possible moment.

THE PRESIDENT: Senator Paterson.

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

SENATOR GOODMAN: Yes, surely.

THE PRESIDENT: Senator Goodman, will you yield for a question?

SENATOR GOODMAN: Yes, I will, Madam President.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Senator, I

think your colleagues overwhelmingly support the bill.

There are obviously tighter constraints and greater care taken in amateur bouts. But I wanted to know if the legislation or the commission would have the expanded ability to involve themselves in amateur boxing.

SENATOR GOODMAN: This gives the commission a series of specific guidelines of things that need to be done which would apply to both amateur and professional boxing.

SENATOR PATERSON: Madam President, on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR PATERSON: During this time of the basketball finals, there's a lot of discussion about whether or not Michael Jordan would come back and play in the NBA. And that is a choice that the individual can make, because if he wants to prove his skills or this be a personal challenge that he'd like to stand up to, that's fine. There isn't any real downside of it, other than publicity, one

way or the other.

But what happens to many boxers, as Senator Goodman pointed out, is because of the mismanaged contracts, because of situations such as -- there was one even in a heavyweight boxing championship match once where the promoter and the promoter's relative were managing the two fighters. There are conflicts of interest, safety measures not taken, actions taken detrimental to the fighters and to the sport itself.

And so what Senator Goodman is doing by expanding the latitude of the Boxing Commission is hopefully enhancing the care that would be taken in these particular situations where you have individuals who at the same ages of 37, 38, 39, well after they have passed their prime in terms of their ability, are forced economically to go into the ring, as two former heavyweight boxing champions did, and wind up really with their health severely impinged upon pretty much for the rest of their lives, or even the shortening of their lives.

And if that type of thing can

happen to those who have been in the glamor of the sport, on the lower frequencies in some of the gyms where people are trying to make a name for themselves there's no telling what the result has actually been.

So it's a fine bill. I'm glad that it will apply to both the amateur and professional ranks.

THE PRESIDENT: Senator Balboni is next.

SENATOR BALBONI: Madam President, I wanted to rise because this is an issue that I have developed some familiarity with over the last couple of years, essentially through the personal involvement of constituents of Senator Hannon and of myself.

Mel Southard is the Commissioner of Boxing in this state, and he was appointed by Governor Pataki in an effort to try to bring some consistency to the boxing promotion area in the state of New York. And through Arthur Mercante, who is arguably one of the world's renowned referees -- he did both Ali-Frazier fights and has been in several movies, and

he's quite a man at 81 -- he went in and worked with -- at Governor Pataki's insistence, he worked with the commission, and over several months they adopted many changes.

What this legislation does before us today is put in law many of the recommendations that people in and around boxing have wanted to see in place for many, many years. Essentially, the best part of the bill is that it shines light on an industry that people don't really want to know much about. The boxing industry has been described as something that as long as nothing goes wrong, everyone is okay. But the instant that there is a problem, people will focus on it.

It of course is a very delicate balance. Many of my colleagues in this chamber would be astounded to realize how much money is brought to the state of New York through tourism as a result of the boxing events that are carried on in this state. But however, if we were to adopt a rigorous and onerous regulatory scheme, we would drive fights away from New York into places like Reno, Nevada, and Las Vegas, and down into

New Jersey.

Senator Goodman, you have reached the right balance, in my opinion, with this legislation. You are going to disclose any contracts. You're going to try to address the fact that many fighters suffering the physical pains and damage over the years are not properly remunerated because their promoters don't do the right or ethical thing by them. You require that their contracts be properly displayed so people can see them for what they are.

You do a lot of very commonsense things here that will make boxing want to stay here, but make it safer. And I think that, as I've said before, you've achieved the right balance with this particular bill.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. Will the sponsor yield to a couple of questions?

THE PRESIDENT: Senator Goodman, do you yield?

SENATOR GOODMAN: Yes.

THE PRESIDENT: You may proceed.

SENATOR DOLLINGER: Senator, I actually agree with Senator Balboni's sentiments that this is actually one of the best-thought-out pieces of legislation and it appears to be attacking a problem that is central to the credibility of our sponsorship of boxing matches throughout New York State.

My question has to deal with, Senator, the intervention of a physician in the ring. How often, based on the work of your committee, how often in New York State has a physician actually entered the ring to terminate a fight?

SENATOR GOODMAN: When you say to terminate the fight, the first thing that a physician does, if it appears that a fighter has been injured, is to stop the action, to enter the ring and examine the fighter.

You've probably noticed on a number of occasions a physician will actually go up, examine the fighter, speak to the fighter, raise his eyelids to see if his pupils are dilated and other symptoms of possible brain injury or possible concussion itself.

The frequency of that occurs, I'd say -- but I can't even guesstimate. It may be in a third of all contests. But it's with sufficient frequency to cause us to feel that the most important thing is the proper training of the physician.

And of course the more advanced the fighters are, the more likely it is that the medical supervision will improve. It's the fights that are at the lower levels where there's inadequate supervision. In those I daresay that there may not even be a properly trained physician available at ringside, and that's a serious problem.

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

THE PRESIDENT: Senator Goodman, will you yield?

SENATOR GOODMAN: Yes, I will.

THE PRESIDENT: You may proceed, Senator.

SENATOR DOLLINGER: I'm just not familiar, Senator Goodman -- are physicians summoned into the ring by the referee, or are

they permitted to go in without the referee's approval?

SENATOR GOODMAN: They have the absolute right to intervene with or without the referee's approval and to stop the fight with or without the referee's approval.

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

THE PRESIDENT: Senator, will you yield?

SENATOR GOODMAN: Yes, I will.

THE PRESIDENT: You may proceed, Senator.

SENATOR DOLLINGER: Do you have any evidence of how often that has occurred, Senator Goodman, where the physician intervenes in the fight without the referee's approval?

The reason why I ask this question is, Senator Goodman, I'm certainly familiar with those bouts where the referee summons the on-site physician into the ring to examine a fighter. My only question is, how often do they actually do that? I mean, is it actually

being used as a practical matter?

Because my experience, anyway, I guess it's -- I don't watch those smaller fights that you talked about where actually the risk is much greater. But when you watch the big title fights, the referee generally calls the fight. He -- seldom in my career have I seen a physician be called in to examine the professional fighter on the spot. Usually the referee tests him, shakes his gloves, checks his eyes and then either declares the fight is going to go on or it's going to be over.

The reason why I ask is I just want to find out, have physicians actually intervened in those fights to stop them without the referee's approval?

SENATOR GOODMAN: The answer is affirmative.

And let me just say, first of all, I should have mentioned earlier that Senator Balboni is certainly is a good witness to these problems because he is, of all the Senators in this chamber, the best and to my knowledge the only established boxer who,

according to Arthur Mercante, has a mean left hook and a great right cross and therefore is someone whose word is to be respected. And if you don't agree with him, he'll either break your kneecaps or your jaw. So I caution you to be very careful.

SENATOR DOLLINGER: Well, with all due respect, Senator Goodman, as the recipient of some of Senator Balboni's linguistic pugilism, I can attest to his skills.

SENATOR GOODMAN: Having thus beatified Senator Balboni, we can move on to the debate.

Let me just say that the answer is that there is clearly insufficient medical intervention in these fights, which is the main reason for the bill.

What I want to see happen, if we can bring it about, is to have alert medical attention at ringside for virtually every fight, where it hopefully would be possible to get neurologists to be on deck and, where the neurologist himself cannot be there, a physician trained to recognize neurological

damage and especially this phenomenon I referred to earlier of concussion.

The concussion is particularly dangerous because it can create the illusion of alertness and ability to defend oneself when in fact the man is literally -- or the woman, in this case. As you know, it's now expanded to include women. We just had an Ali-Frazier fight in which Ali's daughter prevailed over the weekend. It was rather an interesting thing.

And I don't know if you've ever seen a women's boxing match. It's far more vicious and tougher than most of the men's matches I've ever seen. But that's a side issue.

Suffice it to say that we want very much to have more medical intervention and less injury to fighters. That's one of the prime purposes of the bill.

SENATOR DOLLINGER: Okay. But this -- through you, Madam President, if Senator Goodman will continue to yield.

THE PRESIDENT: Senator Goodman, will you yield for another question?

SENATOR GOODMAN: Yes, ma'am.

THE PRESIDENT: You may proceed.

SENATOR DOLLINGER: This bill doesn't affect the right of the physician to enter the ring. Even without the referee's approval, he can do that.

SENATOR GOODMAN: He has that power, that is correct.

SENATOR DOLLINGER: Okay.

Just on the bill briefly, Madam President.

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR DOLLINGER: I agree with Senator Goodman and the other sentiments that have been expressed. I think this is actually a bill that deals with a very specific problem. I applaud Senator Goodman's work in the committee to call attention to the deficiencies in the "sweet science," one that I know we would like to see more heavyweight and other championship bouts here in New York State.

But, Senator Goodman, the good thing about this bill is if New York is going

to become the capital of boxing again, as it once was, we are setting a high standard for who we're going to let in to take our ticket revenue and entertain our citizens in this state.

I think we're setting a high standard as to the circumstances under which what will be governed in the ring. I like the provisions about qualifying judges, which as you know was part of the problem we ran into in a title fight in this state a while back.

And I think the most important provision is for the disclosure between the promoters and the boxers themselves, an area where in my judgment there's been widespread exploitation of boxers in the past. And I think if New York raises the bar, we may find that that exploitation not only doesn't occur here in New York, but that the rest of the nation and maybe the rest of the world will follow our example.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Goodman would yield for one more question.

THE PRESIDENT: Senator Goodman, will you yield for a question?

SENATOR GOODMAN: Of course.

THE PRESIDENT: You may proceed.

SENATOR PATERSON: Thank you, Senator.

There was something that you mentioned earlier in your explanation. I just wanted to know if you'd expound on that a little bit. And you were saying that it was actually a certain type of physician -- that there were few who actually can recognize this common situation where even though the fighter is still standing and appears to be defending himself, or now herself, that serious injury might have occurred and, in boxing terms, the fighter is actually out on their own feet.

Will the expanded criteria available to the New York State Athletic Commission command that it not just be a medical doctor? I actually knew a plastic surgeon who was a fight doctor. And although there was some training, I don't know that this individual necessarily would have recognized the oncoming injury that might be

in process.

So my question really relates to the caliber of the physicians in attendance, that they would be specialized enough to actually be able to discern any type of neurological damage at that particular time.

SENATOR GOODMAN: You're hitting the bull's-eye of our target directly, Senator. And I commend you on your incisive and lucid question in this matter.

Let me say to you that the way I became aware of all of this, as I mentioned to you, a fighter was killed in the ring. And in investigating this incident, which occurred in the Felt Forum in 1979, we had fight films which we replayed to a group of neurologists who we invited in as witnesses at our hearing.

As this fight unfolded, this neurologist, Dr. Benjamin Derby, an expert from New York University Hospital, was watching this fight. He leapt out of his chair and he said, "Now, at this point this man is defenseless." He could tell from the motion of the fighter and his apparent reaction. And he said, "Watch what happens

next." And we watched it, and the man was beaten literally to death in the next ensuing minute and a half or two minutes in the ring -- a completely needless death which could have been avoided if Dr. Derby or someone with this type of neurological training had seen him.

Now, to a layman it's hard to distinguish between a fatal type of situation of that sort and something far less damaging. But when the doctor explained the different characteristics that related to this particular incident, one could see the need for expertise and an analysis medically by the side of the ring from a physician.

The physician has to be placed in a position where he can see unobstructed the action of the fighters and can draw conclusions medically as to what their reflexive responses are to various types of punches and maneuvers in the ring. And this is exactly what we sought to do, or we seek to do in the bill.

So special training is very necessary. An average doctor is not able to

do this without this type of course. We recommend strongly that courses be held and examinations be administered to physicians to be quite certain that they are well-equipped to handle this responsibility.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: If Senator Goodman would yield for a couple of questions, please.

THE PRESIDENT: Senator, will you yield for a question?

SENATOR GOODMAN: Yes, I will.

THE PRESIDENT: You may proceed, Senator Stachowski.

SENATOR STACHOWSKI: Madam President, through you. Senator, I can appreciate the strengthening of the rules under the commission and how you're going to help boxing through this.

Is there in this bill or do you have any plans to do something about the actual work done by the commission? Because in everything I've read and a lot of the things I've seen in recent years with the

commission is a large part of many problems that boxing in New York State faces is due to the ineptitude of the commission and the way they enforce their rules or the way they are either enforced or not aware of many of the rules -- i.e., different weight classes, what is within the limits, et cetera -- of some of the people on the commission that therefore allow bouts that should never take place or regulate bouts in a manner that they shouldn't be regulated.

Is there anything in this bill or do you have anything in the future, based on the results of your hearings, as you base this bill, that would lead us to believe there will be a strengthening in that area?

SENATOR GOODMAN: Your point is well-taken. And let me give you one example of the kind of problems to which you refer.

A while ago there were two boxers who were at weigh-in time, and one weighed in and was within the range of the weight for that class. Another boxer stepped up to the scale and apparently was joking around and managed to do something which caused his

weight to be registered about 30 pounds lighter than he actually was.

He then went into the ring and he killed the boxer with whom he had the contest, because he was so much larger and stronger. And the men had no reason at all to be in the ring together. But as it happened in this instance, inadequate supervision at the weigh-in scale created this terribly dangerous situation.

There's no question that various incidents of this sort have occurred in the past and may occur again. It is not a matter for legislation, but rather the quality and caliber of those on the commission.

And I must say to you Commissioner Southard has impressed us as being an alert individual. I don't think he's infallible by any means, but on the whole I think he's trying to do the best he can with a commission that, let's face it, is largely made up of political appointees, some of whom are well-qualified and others of whom manage to suppress qualifications in some fashion that I'd rather not go into in detail.

But I think the answer is this is very important. We've got to have good people on the commission, because to them falls the responsibility for overall supervision.

SENATOR STACHOWSKI: Madam President, if I could continue to ask the Senator another question.

THE PRESIDENT: Senator Goodman, will you yield for a question?

SENATOR GOODMAN: Yes, I will.

THE PRESIDENT: You may proceed, Senator Stachowski.

SENATOR STACHOWSKI: Madam President, through you. Senator, therefore I happen to agree with that last part of that statement. And one of the problems was not only was the supervision kind of shoddy, but when questioned about the weight differential, some of the members on the commission had no idea what we were talking about.

Now, when they first get appointed, I can understand quite possibly not being familiar with all those various things. But if in fact you take that kind of position, I would believe it would be incumbent upon you

to learn those things if that's what you're going to be regulating and that that's the area you're going to serve as a regulator.

And is there going to be a time where if in fact -- and I don't know if that should be done through legislation or if it's something that we should just try to emphasize to whoever the appointing people -- besides us confirmation people -- are, that if there's a problem or if a situation occurs where it's shown that the party is on the commission, doesn't care enough to learn any of the rules and regulations that they're regulating, and they're still on the commission, that quite possibly at that point they should have some sort of vehicle or trigger to have that party removed, just as we would remove a referee that doesn't do a good job.

SENATOR GOODMAN: Senator, we in the Legislature may at times consider ourselves both unassailable and all-powerful and able to mandate human behavior. Unfortunately, we don't have the power to do that. And it's quite conceivable that at times people who have been given jobs which

involve trust unfortunately don't carry out that trust adequately.

And I think in general the type of thing you're referring to is not a matter of law but a matter of the way in which individuals function. And this is certainly something that should be emphasized strongly but which I don't think can be legislated. You can't legislate attention to duty.

And we can certainly eliminate incompetence, I agree. But in the first place, careful screening is, I think, 9/10ths of what we have to get in terms of selecting proper judges for boxing.

SENATOR STACHOWSKI: Thank you.

On the bill.

THE PRESIDENT: Senator, you may proceed on the bill.

SENATOR STACHOWSKI: I think that the bill is a good step in the right direction of strengthening the provisions to protect boxers and the boxing industry on the whole in the long run. Hopefully this will make it better for legitimate boxing people.

And quite possibly, by seeing that

it's a better situation in which to hold your boxing matches, maybe New York will attract more of the better matches into the state and make boxing at least a presence again in New York.

We may never get back what we had because obviously, you know, Madison Square Garden, for example, is not the mecca of fights anymore, and neither is New York City. It seems that Vegas is. I don't think we're going to be able to compete with the situation they have there, I think more than any reason because of maybe some of the looseness in the way they do things.

However, I believe that we can attract enough good fights here to make the boxing industry once again a contributing part to the various face of New York both in the economic instance and in the recreational instance, if you find that watching boxing is a recreational activity.

So I will support this bill. Thank you very much.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 710, by Senator LaValle, Senate Print 2340A, an act to amend the Education Law and the General Municipal Law, in relation to regulation.

SENATOR DOLLINGER: Explanation.

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

SENATOR LAVALLE: Yes, Madam President.

This legislation primarily takes the existing Article 129A of the Education Law, which is the regulation by colleges of conduct on campus, and puts in Article 129A actual sections: Section 6430, which is general provisions; 6431, which is the

advisory committee on campus security; 6432, which is sexual assault prevention information; 6434, investigation of violent felony offenses; and 6435, which is the appointment of campus security officers.

All of those sections are existing law in the present Article 19A. We are just putting them neatly into their own section.

What we do create, and what is very important, is the new section, which is 6433. And this section gives campus crime reporting that requires colleges to inform prospective students -- and this is very, very important, because we want prospective students and their families to know how they can obtain the crime data that each campus is required to report under Title 20 of the U.S. Code.

It also provides for the advisory committee on campus security that is already in the existing Article 129A. And we require that upon request all campus crime statistics as reported to the U.S. Department of Education be available for students.

In addition, information in the campus catalog, student handbook, and viewbook

must include the U.S. Department of Education's website address for reported crime statistics by the campus and the local -- and a local on-campus phone number for a designated campus contact to obtain this information.

Now, this is very important because now, in the age of the Internet, it is important that prospective students and their parents -- and, for that matter, students who are on the campus -- have the website address so that they could at any time find out what has been reported in terms of the campus crime statistics.

And in addition, we require the president or the chief administrative officer, working with the advisory committee on campus safety, to inform students and prospective students of the reported crime statistics and all other campus safety policies and procedures for the school. And I think that that is very, very important that incoming students understand all of the policies and procedures.

So what I think we've done with

this legislation, with the new section, Section 6433, is to make the availability of information readily available to the students, given today's world of the Internet and how students and their families can go directly and access crime information.

Today, I think as everyone here recognizes, campuses are open towns, open cities. They no longer are the enclosed walls of safety that they once were many, many generations ago, so that parents and students should understand what is happening on a particular campus.

We have all felt, who have worked for the existing law and now with this law, that through disclosure we would have better safety on campus. And knowledge is important on what kinds of crimes are being committed so that students can be active in protecting themselves and staying away from areas that might give them some problems.

That's it, Madam President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Through you,

Madam President, will the sponsor yield to a question?

SENATOR LAVALLE: Yes.

THE PRESIDENT: Senator LaValle yields.

You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Does the reporting of crime statistics include the crime of drinking underage in this report?

SENATOR LAVALLE: In the -- the answer is yes.

SENATOR DOLLINGER: It does. And that's included in the disclosure? Through you, Madam President, if the sponsor will continue to yield.

SENATOR LAVALLE: Yes.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR LAVALLE: That information is reported, what is required under Title 20 of the U.S. Code.

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

SENATOR LAVALLE: Yes.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Senator, this is an A print of this bill. And in the prior version there was a requirement that the colleges provide this data in a newsletter or be published in a campus newspaper at least twice a year. That provision is not in the final bill.

Could you just tell me why, Senator LaValle, that was dropped from the final version?

SENATOR LAVALLE: Senator, the feeling was that by use of the Internet and the website address that that information was most available to all parties. And, Senator, that would even include the local campus paper that could pick up that information, report on it, report the statistics as they saw fit.

But in the electronic age, the - having the information on the Internet, someone could access that information at any time of day or night.

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

to yield.

SENATOR LAVALLE: Yes. Yes, I will.

THE PRESIDENT: Senator LaValle yields.

You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Does this bill require that those statistics be updated on a periodic basis? As you know, Senator LaValle, the quick transmission of knowledge through the Internet is a tremendous asset to the student at the school to know what else has happened.

Is there a requirement that it be periodically updated or updated in a period of time after the occurrence of the crime or the institution's knowledge of the crime?

SENATOR LAVALLE: Senator, the answer is yes. Under federal law, it has to be updated annually, once a year. Once each year.

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

SENATOR LAVALLE: Yes.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Senator, given the fact that students would want to know about crimes occurring on campus with perhaps immediate knowledge, that they would want to know within a very short period of time that there had been a rape on some portion of campus, I'm sure, and as this bill points out -- and I know I've heard you advocate on the floor that gaining that information can be critical to changing your behavior based on certain circumstances.

Should we require that the colleges, as part of the disclosure process, update that information more frequently in order to achieve the goal of both advising parents and students of the presence of crime on campus?

SENATOR LAVALLE: Senator, you will remember in my remarks I emphasized very specifically that the law and the intent of the law, both at the federal level and our law, is designed for prospective students, those students who are not yet on the campus

but will be attending. And so the annual update really meets that requirement for the prospective students.

Now, does it fully meet the requirement that we would like that students who are on campus attending school know that in a given period of time, in a matter of weeks, that there have been a number of burglaries or people have been accosted in the parking lot at night near the library? And the answer is probably we would like that.

But we try to weigh the burden that -- and one's ability on a campus to get that information quickly into the information stream. And the institutions of higher education, even at our prodding, Senator, are indicating that they're doing the best they can and that what I and you might like in more frequent reporting is just not in the cards at this time.

SENATOR DOLLINGER: Finally, through you, Madam President, just one final question about a change in the bill.

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

SENATOR LAVALLE: Yes. Yes, I will.

THE PRESIDENT: You may proceed, Senator Dollinger.

SENATOR DOLLINGER: Under the prior version of this bill, Senator LaValle, there was a requirement that the colleges provide this information to DCJS and that they in turn furnish us with a report to the Legislature. I assume that that's consistent with, as we often do in this Legislature, we want people to come back to us and tell us is it working, is it not working, what changes are necessary. We talked a minute ago about the prospective versus the current student issue.

But for some reason, that provision didn't make it to the final version. Can you just tell me why or what we're going to do about that?

SENATOR LAVALLE: Senator Dollinger, DCJS will still receive that information under federal law, but the problem is that that information will be, for all practical purposes, internal. It is not,

other than maybe someone filing a Freedom of Information Act request, nothing is really done with it in terms of a website that the students would access. The students will be accessing only one website, and that's the federal website.

So for our purposes, yes, we will be receiving that information. But I can't tell you what would be done with that information other than a review to see that we need to be proactive in making some changes here in state law. But that information is not available in terms of the students accessing the information.

SENATOR DOLLINGER: Thank you, Madam President. I thank Senator LaValle for his cogent explanation of this bill.

I'm going to vote in favor of this bill. I think this is a step in the right direction for New York. But I would just encourage you, Senator LaValle, that the issue of the prospective student versus the current student, for all the reasons that you cite in support of the prospective student, there is an equally compelling rationale for the

current student.

And that is that the college environment, as you properly point out, is one that is now integrated with our society. We don't have barriers up, we don't have ivy-covered walls that separate our colleges from our communities.

And yet for a student who's present, as my daughter, who's just finished her freshman year at Boston College, I think it would be critically important both for her to be able to access information and, quite frankly, for even her mother and her father to access information about what's going on in the course of the school year, just because this serves the goal of providing students with information and providing parents with information that then they can translate and make judgments about their students away.

So, Senator LaValle, I'm going to vote in favor of this bill as conforming us within the envelope of the federal law. But I would just strongly urge that some requirement -- and I agree that this requires delicate balancing -- but some requirement

that the colleges who are compiling this information and make it available on their website for prospective students should also be required in some measure to provide information about criminal activity on the college campuses.

I believe that that is now done in informal settings. I certainly think that most colleges do a responsible job, either through flyers or through bulletin boards or perhaps even through their current website. But it seems to me that we have said as a state policy that this should be available once a year for prospective students. It also should be available on some periodic basis or some requirement that there be information posted so that the current students and their parents have that same benefit.

So I'm going to vote in favor of this bill, Senator LaValle, and I just look forward to the day that I can vote on a bill that will affect the current student body and provide the same information to current students and their parents as well.

THE PRESIDENT: Does any other

member wish to be heard on this bill?

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 807, by Senator Larkin, Senate Print 3682A, an act to authorize the Commissioner of the Department of Environmental Conservation.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 7. This act shall take effect 180 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

837, by Senator McGee, Senate Print 3520A, an act to amend the Penal Law, in relation to the minimum sentence.

SENATOR MONTGOMERY: Explanation.

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

SENATOR McGEE: Thank you, Madam President.

Madam President, this bill amends the Penal Law to eliminate the sentencing distinction between a juvenile and adults convicted of murder in the second degree.

This is a bill that is patterned after a heinous crime that occurred in my district. A young lady by the name of Penny Brown, who was a mother, a nurse, a wife, went jogging near her home in Salamanca, New York. She was raped and brutally murdered. The juvenile offender who confessed to these crimes was tried as an adult but could only be sentenced -- could not be sentenced as an adult under the current law.

This bill amends the Penal Law to eliminate the distinction between juveniles and adult sentencing in a heinous crime.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like to ask if Senator McGee would yield.

THE PRESIDENT: Senator, do you yield?

SENATOR McGEE: Absolutely.

THE PRESIDENT: You may proceed, Senator Montgomery.

SENATOR MONTGOMERY: Thank you.

Senator McGee, the bill has one section -- two sections, the effective date. But I read in the explanation and the memo in support that it refers to sections 1 through 7. And so I was a little confused by that, that we don't have all of the bill?

SENATOR McGEE: No, the bill is amended, Senator. The bill was quite lengthy to begin with. What we have done is actually amended the bill to bring it down merely to the sentencing where we would actually look to distinguish between a juvenile and an adult.

SENATOR MONTGOMERY: I see. If Senator McGee would continue to yield.

THE PRESIDENT: Senator McGee, will you yield?

SENATOR McGEE: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Montgomery.

SENATOR MONTGOMERY: So I'm trying to understand that the memo says that the bill expands juvenile offender status for persons 13, 14, and 15 -

SENATOR McGEE: No, ma'am.

SENATOR MONTGOMERY: No, this does not do that?

SENATOR McGEE: Let me interrupt you for just one moment.

The original bill did many of these things that you're going to talk about right now. The bill now has been amended to bring it down only to deal with the Penal Law, to eliminate the sentencing distinction between a juvenile and an adult.

The juvenile offender that I'm talking about at this present moment was tried as an adult. But because the crime was committed when he was still a juvenile, he was

only sentenced -- the maximum sentence he could receive was 9 years to life, with time served. If the juvenile offender had been just a couple of months older when he committed the crime, he would have received a sentence of 25 years to life.

So what this does is change that distinction between a juvenile and adult when being sentenced for a heinous crime such as rape and murder.

SENATOR MONTGOMERY: So this memo does not relate to this bill. I have the wrong memo.

SENATOR McGEE: I'm sorry.

SENATOR MONTGOMERY: Okay, I just -- it's very different, so -

SENATOR McGEE: Yes. Well, it is quite a distinction, because we only merely took the sentencing part out of the whole entire bill.

SENATOR MONTGOMERY: I see. All right.

SENATOR McGEE: Thank you.

SENATOR MONTGOMERY: Thank you.

THE PRESIDENT: Does any other

member wish to be heard on this bill?

Then the debate is closed.

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, 57. Nays, 2. Senators Montgomery and Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1001, by Senator Johnson, Senate Print 1534, an act to amend the Penal Law, in relation to criminal use.

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. Nays,

1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1048, by Senator McGee, Senate Print 5337, an act to amend the Local Finance Law, in relation to temporary alternative methods.

SENATOR DUANE: Explanation, please.

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

SENATOR McGEE: This is a chapter amendment, I believe, Madam President. This chapter amendment -- this amends S3188 and A6143.

This, as you remember, the original bill, the bill in chief authorized municipalities to issue serial bonds for a period not in excess of five years, for the purpose of paying for extraordinary expenses incurred as a result of snow and ice removal necessitated from the major snowstorm in the year 2000.

The bill as originally introduced referred to fiscal years in which there was

not an emergency snow problem for some municipalities -- they vary -- towns, counties, cities and villages. This chapter refers to the appropriate fiscal years in which the major snowstorms occurred for all of the municipalities.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. If the sponsor would yield.

SENATOR McGEE: Certainly.

THE PRESIDENT: Senator McGee yields.

You may proceed, Senator Duane.

SENATOR DUANE: I'm concerned that we would use or that a municipality would use bonding money -- you know, capital funds -- for what's really an expense item. Is there precedent for doing this sort of thing in this state?

SENATOR McGEE: I'm really not sure, Senator, whether there's a precedent or not.

What has happened, and I'm sure you're fully aware of the ice storms that we've had in the north and some of the removal

problems. By virtue of those storms hitting so hard, it cost a great deal of money to some of those towns and counties and those cities and villages.

In an effort so that the impact of the cost of paying for the snow removal, the ice removal, et cetera, et cetera, is not all absorbed in one year, which would be a tremendous, tremendous expense to the taxpayers of those municipalities, this bill allows them to extend that out to five years so that they can pay it and not have that terrible expense all in one year.

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

THE PRESIDENT: Senator McGee, will you continue to yield?

SENATOR McGEE: Absolutely.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: I know one of the things that got New York City into so much trouble, and it's happened in other municipalities as well, is when they used

capital funds and bonding authority to pay expenses. And I'm just wondering if this might be setting a bad precedent for cities and towns.

And just as a suggestion of another way to go about doing it, a lot of municipalities put money aside each year for snow removal. And some years, you know, are milder than others, so there tends to be, you know, a reserve for snow removal.

This bill would make it so that municipalities wouldn't have to worry so much about or, you know, save for, if you will, rainy days or snowy days, which would be more fiscally prudent than taking care of it after the fact by bonding for expense items.

SENATOR McGEE: Certainly the Senator makes a good point. But there are some extraordinary costs involved in this, Senator Duane.

As a matter of fact, the storm of November of the year 2000 cost the City of Buffalo alone $5.1 million. And so this allows that city to be able to extend that payment of that $5.1 million out over a period

of five years so that it doesn't impact the taxpayer all in one year.

SENATOR DUANE: Just to go back again, Madam President, has this -

THE PRESIDENT: Senator McGee, will you yield for a question?

SENATOR McGEE: Certainly.

THE PRESIDENT: You may proceed, Senator.

SENATOR DUANE: I'm just trying to discover or find out whether or not this has been done anyplace else in the state. You know, it seems to me that if they're -- have rural communities used this for flooding or anything like that?

SENATOR McGEE: Counsel advises me that this is the third or fourth amendment to the bill, to the chapter. So it has happened before, Senator. I can't give you any names who they are right now.

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

THE PRESIDENT: Senator McGee, will you yield?

SENATOR McGEE: Yes.

THE PRESIDENT: You may proceed.

SENATOR DUANE: For flooding, though, not for snow? Or for both snow and for flooding?

SENATOR McGEE: One moment.

It's my understanding, Senator, that there was a storm in Long Island at one point many years ago and they were allowed to do this and extend the payment of the bonds back.

It's my understanding also that just in 1994 the same event occurred, and we were able to do this and extend it out further so that there wasn't that tremendous impact on the taxpayer.

And now we are doing this with the ice storm and acts of God, if you will.

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

ACTING PRESIDENT MEIER: Senator McGee, do you continue to yield?

SENATOR McGEE: Yes, I will.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR DUANE: Thank you.

Which is cheaper, to take out a note for a five-year loan or to do a bond for five years?

SENATOR McGEE: Gosh, you know, I really don't know, because I'm not a fiscal manager.

But at the request of these municipalities, this was done. So I suspect that they have had their fiscal managers looking at it and have selected the best way to do it.

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

ACTING PRESIDENT MEIER: Senator McGee, do you yield?

SENATOR McGEE: Certainly. Absolutely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Has there been an ask made to the state government to float a loan for this expense instead of doing local

bonds?

SENATOR McGEE: I'm sorry, has there what?

SENATOR DUANE: If I may repeat, Mr. President.

ACTING PRESIDENT MEIER: Go ahead.

SENATOR DUANE: Has there been an ask to the state government to lend the money as opposed to the local municipality floating a bond?

SENATOR McGEE: Are you -- are you -- I still don't understand. Are you asking if they have requested the state to pay for it rather than floating the bonds?

SENATOR DUANE: To borrow money from the state.

SENATOR McGEE: To borrow money from the state? I'm not sure -- no, to my knowledge, not.

This is the way to do it. They are allowed to float their bonds. Those bonds were allowed to be floated. And as I recall, the original bill that we were talking about, they would have been paid back the following

year.

This is asking them to extend it out over the period of five years so, again, the taxpayer does not have the dramatic impact of that payment in the following year.

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

ACTING PRESIDENT MEIER: Senator McGee, do you yield?

SENATOR McGEE: I certainly do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I was under the impression that the state had some sort of emergency management funding sources that local governments could use. Is that not possible to use that in this case?

SENATOR McGEE: I'm thinking you're talking of SEMA, to many people. That's the State Emergency Management office. And some places do utilize that. I suspect there is a process to go through, Senator Duane.

My district itself, once the

Governor declares an emergency, they can go in and do work with the local emergency preparation people, determining whether they are eligible for SEMA. It's not only SEMA, but there is FEMA, which is the Federal Emergency Management office. So I think that there is -- Act, I'm sorry.

I suspect that they may have done that. I don't really know. This is a request from them asking if they can in fact float bonds, which has been done in the past, and extend the payment of those bonds over the period of five years.

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

ACTING PRESIDENT MEIER: Senator McGee, do you yield?

SENATOR McGEE: I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I note that this legislation is at the request of the New York State Legislative Commission on Rural Resources, which I'm not, I'm sorry to say,

that familiar with. But if the sponsor could just give me an idea of who makes up that commission and whether it's a permanent commission or it's a temporary commission.

SENATOR McGEE: Actually, the Legislative Commission on Rural Resources is a very good commission that we have in the State of New York. It is bipartisan or nonpartisan, if you will. I am the chair. Assemblyman Jake Gunther, from the Majority in the New York State Assembly, is the cochair.

It is a commission that in fact does work on legislation, puts forth. And those bills are jointly sponsored by both the Republicans and Democrats in both houses. And it's funded by the New York State Senate.

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

ACTING PRESIDENT MEIER: Senator McGee, do you continue to yield?

SENATOR McGEE: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Then I have to

assume that the commission looked at what was the most fiscally prudent way to borrow. Although it strikes me that taking out a bond or using, you know, state funds to borrow from, with SEMA, might be more advantageous.

But since the Senator is the one of the chairs of the commission, is that one of the things that they -- that you looked at?

SENATOR McGEE: We did review everything, sir. And I think that the SEMA - I suspect, probably. I don't know for a fact -- but I would assume that those municipalities did try to or did at least contact SEMA if they were in the middle of a snowstorm, et cetera, et cetera, to see if there was emergency funds available for them.

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

SENATOR McGEE: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Has the Comptroller weighed in on this bill?

SENATOR McGEE: I don't know

why -- no, to my knowledge, I don't have any idea, Senator Duane. I'm not sure that he would be required to weigh in on the bill.

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

ACTING PRESIDENT MEIER: Senator McGee, do you continue to yield?

SENATOR McGEE: Yes, go ahead, I'm sorry.

SENATOR DUANE: I'm just wondering if the commission had a hearing on this legislative proposal.

SENATOR McGEE: No.

SENATOR DUANE: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Does any other Senator wish to be heard on the bill?

Debate is closed.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date as a chapter of the Laws of 2001.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1053, by Senator Fuschillo, Senate Print 1078B, an act to amend the Vehicle and Traffic Law, in relation to the operation of scooters.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MEIER: Senator Fuschillo, an explanation has been requested by Senator Paterson.

SENATOR FUSCHILLO: Thank you, Mr. President.

The legislation would amend Section 1238 of the Vehicle and Traffic Law by requiring scooters to be included in what children have to wear helmets under the age of 14. Current law requires it for in-line skates and bicycles.

In the past year or two, there has been a surge in the purchase of self-propelled scooters, commonly known as razors. And during last year, between the months of May

and September, there was a 700 percent increase in injury-related accidents at emergency rooms throughout this country.

This is a commonsense approach towards protecting children.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, will the sponsor yield to a question?

SENATOR FUSCHILLO: Yes, Mr. President.

SENATOR DOLLINGER: Senator, having actually ridden one of these scooters only one time as a 49-year-old male, my question is, if it's good for those under 14, why not make it universally applicable to anyone who rides a scooter?

The danger of these things, especially going down a hill getting out of control, you could easily be going 15 or 20 miles an hour and falling off of it would be not only detrimental to a young child, but I think, for someone who might have lost a little bit of his childhood coordination along

the way, it would be even more detrimental to myself or anyone else.

SENATOR FUSCHILLO: Senator, did you ride the scooters with the old wooden plank and the metal wheels that were common about 30 years ago?

SENATOR DOLLINGER: Through you, Mr. President, they seemed to be so much safer. These new plastic wheels get just going so much quicker. The old metal ones had too much friction.

SENATOR FUSCHILLO: And now they're all rubber.

But the focus is children, to teach them hopefully good habits that they would carry through as they get older.

But if you look at the statistics, Senator, and I cited them, that during the month of May and September of last year, the incidence of accidents and visits to the emergency room was a 700 percent increase, primarily children under the age of 14. And that's the target.

And since we already require helmets with in-line states and bicycles, we

want to amend it to include scooters, because there has been a sudden scooter craze in purchasing these.

So I would hope that as these kids get older, like you, who I know applies many commonsense approaches to the safety of your own life when you come into this chamber, that the kids would learn to wear a helmet as they get older.

SENATOR DOLLINGER: Through you, Mr. President, is Senator Fuschillo suggesting that I should be wearing a helmet in the chamber because of the high risk to my health that sometimes perhaps being in the chamber might involve?

(Laughter.)

SENATOR FUSCHILLO: Senator Marcellino may be introducing legislation next week for that.

SENATOR DOLLINGER: Just on the bill briefly, Mr. President.

I'm going to vote in favor of this bill. But my comment to Senator Fuschillo would be I think this is a good, commonsense health measure. And from my perspective, one

of the interesting things about the childhood bike and in-line-skater rules is that although we only require helmets for children in both of those instances, one of the things that has made it much more fashionable for children to wear helmets is that adults are wearing helmets.

And so I'm not opposed to the notion that we'd actually require adults who are riding bicycles, participating in in-line skates, or being involved in riding these new high-fashion scooters, that they ought to wear helmets as well.

And just one other thing, Mr. President, that I would just commend as a suggestion to the author of this. In reading this bill, one of the things that you've done is you've added a new section, 5B, and then in the second portion of the subdivision 2, you've allowed communities to create a fine if you're not wearing your helmet.

What I would suggest, Senator Fuschillo, is if you look at that section of the bill, subdivision 9 refers, has several references to the fact that local communities

may still enforce their local laws. But it doesn't include a reference to scooters. It includes a reference to bike helmets, it includes a reference to in-line-skate helmets, but it doesn't include a reference to scooters.

And I would suggest perhaps that may affect the validity of this, in that you make a reference to both of those laws but you don't make a reference to the scooter law as well. If it someday gets to negotiations with the Assembly or it needs a C print, you might just include that in there as a provision to protect the viability of local laws.

But I agree this is a commonsense provision. We ought to do it for everybody, children and adults alike.

ACTING PRESIDENT MEIER: Any other member wish to be heard?

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Yes, thank you very much, Mr. President. On the bill.

ACTING PRESIDENT MEIER: Senator Malcolm Smith, on the bill.

SENATOR MALCOLM SMITH: Mr. President, members of the chamber, one of the emotional perks that you get out of this particular job is from time to time you are allowed to provide a commitment to someone and actually see that commitment followed through.

Earlier last year I had been approached by a young man by the name of Zach at the West Side Temple within my district, and he approached me and basically indicated, with a small lump on his head, that he just thought that it would be prudent to have a bill where helmets would be required to wear when you rode a scooter.

I proceeded to talk to Zach and his mother, and had Zach even up here at one point, and indicated to him that I would do all that I could to work with anyone that would put together a bill that would require helmets to be worn when such person is riding a scooter.

And I'm just happy that Senator Fuschillo had the foresight and the cooperative spirit to do so. So this is a great day for me, it's a great day for Zach in

my district, as this particular bill has been designed around his particular unfortunate mishap.

But the bottom line is there was a commitment given to a young man, and it's just such a great thing to be able to show young people that we can have a body that is sensitive not only to the needs, but also that we have the will and the ability to keep our commitments to them. It makes them think that we as individuals, as public stewards in this particular state, we are true to our word.

So, Senator Fuschillo, my hat is off to you. I think this is a great bill, a commonsense bill. Notwithstanding my learned colleague Senator Dollinger, we will keep the bill just right where it is.

Thank you.

ACTING PRESIDENT MEIER: Does any other Senator wish to be heard?

Hearing none, debate is closed.

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first day of July.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1053 are Senators Farley, Hoffmann, Kuhl, and Meier. Ayes, 55. Nays, 4.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I was hoping with unanimous consent to be recorded in the negative on Calendar Number 1048.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative on Calendar 1048.

Senator Rath.

SENATOR RATH: Mr. President, I request consent to be recorded in the negative on Calendar 528.

ACTING PRESIDENT MEIER: Without objection, Senator Rath will be recorded in the negative on Calendar 528.

The Secretary will read.

THE SECRETARY: Calendar Number 1058, by Senator McGee, Senate Print 3183A, an act to amend the Uniform Justice Court Act, in relation to fees.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator McGee, an explanation has been requested of Calendar 1058 by Senator Duane.

SENATOR McGEE: Oh, how nice.

This is another bill that came out of the Legislative Commission on Rural Resources. The purpose of this bill is to exempt any town and village from statutory fees that must be paid prior to the commencement of an action in town or village court.

The thrust of such amendment is to exempt them from the court fees charged by their own court.

SENATOR DUANE: Explanation satisfactory. Thank you.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Hearing none, debate is closed.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1061, by Senator Velella, Senate Print 3771, an act to amend the General Municipal Law, in relation to public works contracts.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Give us a moment.

SENATOR McGEE: Mr. President.

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: Would you lay Senator Velella's bill aside temporarily, please, and call up Senator Kuhl's bill, which is Calendar Number 1066.

ACTING PRESIDENT MEIER: We will

lay Calendar 1058 aside temporarily.

The Secretary will read Calendar 1066.

THE SECRETARY: Calendar Number 1066, by Senator Kuhl, Senate Print 4766, concurrent resolution of the Senate and Assembly, proposing an amendment to Section 4 of Article 8 of the constitution.

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT MEIER: Senator Kuhl, an explanation has been requested of Calendar 1066 by Senator Dollinger.

SENATOR KUHL: This is a constitutional resolution that would eliminate the constitutional debt limit for small city school districts.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, could Senator Kuhl yield to a question?

ACTING PRESIDENT MEIER: Senator Kuhl, do you yield for a question?

SENATOR KUHL: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Since I'm unfamiliar with the bill -- I'm just perusing it now -- does this bill remove the debt limit completely, or does it simply increase the debt limit for the small city school districts?

SENATOR KUHL: It doesn't increase any debt limit. A school district by vote would have to do that, Senator.

What there is currently is there is a constitutional debt limit on small city school districts which is 5 percent. That's not true with other school districts throughout the state. All the non-small-city school districts have a debt limit of 10 percent, except for the Big Five city school districts. And in that particular organization of five school districts, the City of New York's debt limit is 10 percent; the other four school districts are set at 9.

There obviously is a disparity here. There is a mechanism where you can supersede the 5 percent debt limit, but it

takes an unusual kind of voting procedure to do that. This was established way back, I believe, in 1951.

But you may remember we gave small city school districts the right to vote in 1985, and we removed another provision that dealt with their budgets, but this provision was not put up for a vote at that time.

There's an inconsistency here, and what this resolution is meant to do is just to create a consistent theme, that being that all school districts can indebt those districts up to 10 percent.

Now, this would eliminate the constitutional debt limit, so that there would be no debt limit in the constitution. However, there is currently a provision in the Local Finance Law that limits debt at small city school districts to 10 percent. So there is an inconsistency in the law also as it applies to small city school districts. This is meant to eliminate that.

SENATOR DOLLINGER: Explanation satisfactory, Mr. President.

ACTING PRESIDENT MEIER: Any

other Senator wish to be heard on the resolution?

Debate is closed.

The Secretary will call the roll on the resolution.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The resolution is adopted.

SENATOR McGEE: Would you kindly call Calendar Number 1061, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1061.

THE SECRETARY: Calendar Number 1061, by Senator Velella, Senate Print 3771, an act to amend the General Municipal Law, in relation to public works contracts.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Senator Velella, an explanation has been requested of Calendar 1061 by Senator Dollinger.

SENATOR VELELLA: Senator, thank you.

This bill is one that's rather complicated. And just rather than give a

simple explanation, I thought that maybe the best way to explain it would be to just give an overview of what caused this problem that this bill tries to address.

Right now, bidding on public works that are bid by municipalities often contain two types of work to be done, the actual public interest work -- the fixing of the road, the repairs that are needed, the street work -- and work that is called interference work.

That is work that once the street is open will require lines like utility lines, gas lines, telephone lines, cable TV lines, that will be in the way of the actual public interest work. That in order to get that public interest work done, you have to change those utility lines or deal with them, and there's work involved in repairing those lines or moving those lines so that you can get the principal job done.

And as a result of these two types of work, there has been a conflict that has arisen as a result of a Supreme Court case. And let me just explain the way it was. In

the old days, people bid on first the public part of the work and then the interference work. That did not work well. Coordinating the contracts, problems arose. One contractor claimed the other was delaying him. All types of problems came in.

So they decided to go to a joint bidding procedure. And that joint bidding contract was awarded to the lowest aggregate bidder. So that you put in a bid on both the public work and on the interference work.

Now, in order that the municipality would not be prejudiced in the event that the public works portion of the bid was not the lowest bidder but the aggregate bidder happened to be a person who had a higher interference work bid -- a higher public works part than the interference work, the utility companies would indemnify the municipality.

So if there was a lower bid on the public works part but the successful aggregate low bidder was the one who got the job and the public part was higher, the utility subsidized them to the lowest bid. Okay?

All of that was going on when,

okay, the process of joint bidding was held unauthorized and unlawful by the Court of Appeals in the Diamond Asphalt decision. Since that time, City of New York has employed an interim measure which is known as Section U, which sets up an arbitration procedure for private utilities and contractors. So at least in the City of New York they have a Regulation U, which has caused some problem in the negotiating of these contracts.

Now, with that as a background, let me tell you what my bill does. In order to help clarify a very difficult problem, we've set up a procedure whereby a bid is given and within five days of the award of a public works contract, the political subdivision making the award must tell a utility if interference work is required, if there are lines underground, gas lines, whatever it may be.

If they are underground, the municipality that is giving out this public works contract must notify the utility within five days.

The successful contractor bidding

on it upon award shall start and complete negotiations with the affected utility for the performance of interference work. And within 60 days of the award, the utility company shall inform the local political division and the contracted party that either (a) the utility is going to perform the work themselves, which is their option; or (b) the utility elects for the contracted party to perform the work pursuant to an agreement.

Or, if no agreement is reached between the utility and the contracted party, and the utility fails to notify the political subdivision within that 60 days that the utility has chosen to perform the work itself, the contracted party will perform the work on a time-and-material basis with an allowance of 10 percent for overhead and 10 percent for profit. The utility must then pay the contracted party within 45 days of invoice.

There is an opt-out clause in this legislation for any governing body of a political subdivision or district located in a city with a population of less than 1 million.

That simply is this bill.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR VELELLA: And I'm sure you have a much more complicated question.

SENATOR DOLLINGER: No, no.

Actually, Mr. President, I want to commend Senator Velella. I listened very carefully. I think that's exactly what the current practice is, and I think that's exactly what this bill does.

I voted against this bill last year; I'm going to vote against it again. I still believe that our private utilities, who are struggling to get through deregulation, we should not go back and in essence sweep them back into a regulatory environment when they're doing the kind of interference work that Senator Velella talks about.

There is a way to do this, there is a way that it's been done in the past. And I think the way to maximize the return to the utilities is quite simply let them go out and bid, get the bid for the work that is the least expensive.

While there has been certainly

confusion in New York City with respect to Regulation U and the cooperation and assistance of the utility in New York City in achieving these mutually beneficial goals, at least in my neck of the woods, Senator Velella, up in Rochester, I think that this provision will be in essence a form of tying together of agreements that will allow time and materials to go and provide an incentive to the contractor to reduce their cost to the utility. If they don't pay it through their taxes, they're going to pay it through their utilities.

In this era of deregulation when we're trying to free up our utilities, we ought to let them be completely free and contract on their own. Under those circumstances, Mr. President, I'm going to vote no again.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Hearing none, debate is closed.

Read the last section.

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

September.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1061 are Senators Alesi, Breslin, Brown, Dollinger, Duane, Gentile, Hassell-Thompson, Kruger, Lachman, Markowitz, Montgomery, Nozzolio, Onorato, Oppenheimer, Sampson, Schneiderman, A. Smith, M. Smith, Stachowski, Stavisky, and Wright. Ayes, 38. Nays, 21.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR McGEE: Mr. President, is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: Yes, we do have some housekeeping.

Should we take care of that now?

SENATOR McGEE: Just one moment.

I do need to notify the members that there will be a Rules Committee meeting in about five minutes, and that the report

will be accepted for tomorrow.

ACTING PRESIDENT MEIER: There will be a meeting of the Rules Committee in five minutes in the Majority Conference Room.

SENATOR McGEE: Housekeeping, please.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

Amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Larkin, page number 17, Calendar Number 402, Senate Print Number 2656.

Senator Morahan, page number 20, Calendar Number 451, Senate Print Number 4023A.

Senator LaValle, page number 34, Calendar Number 708, Senate Print Number 1210.

Senator Larkin, page number 47, Calendar Number 934, Senate Print Number 4000A.

Senator Libous, page number 48, Calendar Number 940, Senate Print Number 4987.

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

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

Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

I would request that you please remove the sponsor's star from Calendar Number 223.

ACTING PRESIDENT MEIER: At the sponsor's request, the sponsor's star will be removed from Calendar Number 223.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, on behalf of Senator Rath, I wish to call up her bill, Print Number 1454, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 85, by Senator Rath, Senate Print 1454, an act

to amend the General Municipal Law.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR MARCELLINO: Thank you, Mr. President.

On behalf of Senator Balboni, I wish to call up his bill, Print Number 850, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 497, by Senator Balboni, Senate Print 850, an act to amend the Family Court Act and the

Domestic Relations Law.

ACTING PRESIDENT MEIER: Senator Marcellino.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

THE SECRETARY: Ayes, 59.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR MARCELLINO: Thank you, sir.

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: Mr. President, are there any substitutions at the desk?

ACTING PRESIDENT MEIER: Yes, there are.

While we're finishing the housekeeping, could I have some order in the house so the stenographer can hear, please.

The Secretary will read the substitutions.

THE SECRETARY: On page 8, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 618A and substitute it for the identical Senate Bill Number 197A, Third Reading Calendar 149.

On page 23, Senator Rath moves to discharge, from the Committee on Rules, Assembly Bill Number 7710 and substitute it for the identical Senate Bill Number 3984, Third Reading Calendar 530.

On page 26, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 8566 and substitute it for the identical Senate Bill Number 4140, Third Reading Calendar 571.

On page 31, Senator Wright moves to discharge, from the Committee on Rules, Assembly Bill Number 8973 and substitute it for the identical Senate Bill Number 4109A, Third Reading Calendar 675.

On page 32, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 8347 and substitute it

for the identical Senate Bill 4181, Third Reading Calendar 682.

On page 46, Senator Goodman moves to discharge, from the Committee on Rules, Assembly Bill Number 6673B and substitute it for the identical Senate Bill Number 3956B, Third Reading Calendar 920.

And on page 49, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 8974A and substitute it for the identical Senate Bill Number 5269A, Third Reading Calendar 969.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator McGee.

SENATOR McGEE: Mr. President, the Senate will -

ACTING PRESIDENT MEIER: Senator, may I recognize Senator Hevesi first.

SENATOR McGEE: Yes, of course.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President.

I rise to request unanimous consent

to be recorded in the negative on Calendar 1061, Senate Print 3771.

ACTING PRESIDENT MEIER: Without objection, Senator Hevesi will be recorded in the negative on Calendar 1061.

Senator McGee.

SENATOR McGEE: Mr. President, I ask that the Senate stand at ease pending the return of the Rules Committee report.

ACTING PRESIDENT MEIER: The Senate will stand at ease pending the return of the Rules Committee report.

(Whereupon, the Senate stood at ease at 5:50 p.m.)

(Whereupon, the Senate reconvened at 6:00 p.m.)

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: May we return to reports of standing committees.

ACTING PRESIDENT MEIER: Return to reports of standing committees.

The Secretary will read.

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

following bills:

Senate Print 367A, by Senator Maltese, an act authorizing the City of New York.

877A, by Senator Alesi, an act authorizing the Town of Perinton.

1760A, by Senator Morahan, an act to amend the Village Law.

2000, by Senator Stachowski, an act to amend the Penal Law.

2219A, by Senator Breslin, an act to authorize the Town of Colonie.

2387B, by Senator Rath, an act to amend the Real Property Tax Law.

2499A, by Senator Leibell, an act to amend the Real Property Tax Law.

2574, by Senator Padavan, an act to amend the Penal Law.

2655A, by Senator Larkin, an act to amend the General Municipal Law and the Town Law.

3325B, by Senator Kuhl, an act to amend the Real Property Tax Law.

3542, by Senator Maltese, an act to amend the Real Property Law.

3797, by Senator LaValle, an act to amend the Environmental Conservation Law.

3877, by Senator Skelos, an act to amend the Local Finance Law.

4061A, by Senator Padavan, an act to amend the Highway Law.

4282, by Senator Volker, an act in relation to authorizing.

4527, by Senator Nozzolio, an act to amend the Public Housing Law.

4599, by Senator Trunzo, an act to amend the Vehicle and Traffic Law.

4670, by Senator Trunzo, an act to amend the Highway Law.

4721A, by Senator Velella, an act to amend the Real Property Law.

4943, by Senator Leibell, an act to authorize the Town of Putnam Valley.

5260, by Senator Johnson, an act to amend Chapter 672 of the Laws of 1993.

5332, by Senator Velella, an act to amend the General Business Law.

5343, by Senator Meier, an act to amend the Education Law.

5364, by Senator McGee, an act to

amend the Highway Law.

5398, by Senator DeFrancisco, an act to amend the Parks, Recreation and Historic Preservation Law.

5401, by Senator Trunzo, an act to authorize the Suffolk County Sports Hall of Fame, Incorporated.

5422, by Senator McGee, an act to amend the Town Law and the Public Officers Law.

5424, by Senator Lack, an act to amend the Criminal Procedure Law.

5425, by Senator Velella, an act to amend the Criminal Procedure Law and the Penal Law.

5426, by Senator Volker, an act to enact the Criminal Procedure Law Reform Act of 2001.

5429, by Senator Nozzolio, an act to authorize the State of New York.

5430, by Senator Nozzolio, an act to amend the Education Law.

5432, by Senator Meier, an act to amend the Civil Rights Law.

5442, by Senator M. Smith, an act

authorizing the City of New York.

5448, by Senator Volker, an act to amend the Penal Law.

5449, by Senator Meier, an act to adjust certain state aid payments.

5457, by Senator Goodman, an act to amend the Executive Law.

And 5476, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law and the Penal Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: Move to accept the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

SENATOR McGEE: Is there any further housekeeping at the desk?

ACTING PRESIDENT MEIER: No further housekeeping at the desk.

SENATOR McGEE: Mr. President, there being no further business, I move we adjourn until Tuesday, June 12th, at 11:00 a.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, June 12th, at 11:00 a.m.

(Whereupon, at 6:04 p.m., the Senate adjourned.)