NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 18, 2001

3:13 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: With us again afternoon to give the invocation is the Reverend Peter G. Young from, as we all know, Blessed Sacrament Church, in Bolton Landing.

Father Young.

REVEREND YOUNG: Let us pray.

Dear God, as we have celebrated Father's Day this past weekend, we regret the loss of three firemen, resulting in eight fatherless children. May we prioritize our prayer for those that have died and for their families.

Amen.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

Thank you, Father Young, for your

prayer.

Just yesterday, Father's Day, there was a tragedy in Astoria, Queens, where, in a hardware store fire, three firefighters were fatally crushed and fifty were injured, in probably one of the worst New York City Fire Department tragedies ever.

Killed were Harry Ford, 50, a 27-year veteran, cited nine times for bravery, father of three children. His wife, Denise, and he lived in Long Beach, which is in my district.

John Jay Downing, 40, an 11-year veteran who left a wife, Anne, and two small children, aged 7 and 3. He lived in Port Jefferson Station, Senator LaValle's district. And Brian Fahey, 46, a 14-year veteran, married to Mary. He was the father of three, an 8-year-old and 3-year-old twins. He lived in East Rockaway, also in my district.

The fourth firefighter, Joseph Vosilla, 41, a 10-year veteran from Astoria, is in critical condition this morning.

I think we should reflect upon those who are charged with protecting our

lives -- our firemen, our policemen -- pray for Joseph Vosilla, pray for the souls of those who lost their lives, and pray for their families and reflect how fortunate we were, as we celebrated Father's Day with our loved ones, and that those eight young children will never have that opportunity again.

So we pray again for Harry Ford, John Jay Downing, and Brian Fahey. If we could have a moment of silence, Madam President.

THE PRESIDENT: Let us pause for a moment in reflection.

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

THE PRESIDENT: Reading of the Journal.

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

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

Presentation of petitions.

Messages from the Governor.

Messages from the Assembly.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

On behalf of Senator Skelos, I wish to call up his bill, Print Number 400, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 63, by Senator Skelos, Senate Print 400, an act to amend the General Business 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, 46.

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

THE PRESIDENT: The amendments are received.

SENATOR MARCELLINO: Madam President, I wish to call up Senator Morahan's bill, Print Number 357B, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 638, by Senator Morahan, Senate Print 357B, an act to amend the Penal 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, 46.

SENATOR MARCELLINO: Madam President, I now offer the following

amendments.

THE PRESIDENT: The amendments are received, Senator.

SENATOR MARCELLINO: Thank you.

THE PRESIDENT: Senator McGee.

SENATOR McGEE: Thank you, Madam President.

I wish to call up my bill, Print Number 3187A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 269, by Senator McGee, Senate Print 3187A, an act to amend the General City Law and others.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

SENATOR McGEE: Thank you, Madam President. I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR McGEE: Madam President, on behalf of Senator Volker, on page number 47, I now offer the following amendments to Calendar 1106, Senate Print Number 5448, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR McGEE: Thank you, Madam President.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, I wish to call up my bill, Print Number 2558, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1031, by Senator Stachowski, Senate Print 2558, an act to amend the General Municipal Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

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

THE PRESIDENT: The amendments are received, Senator.

SENATOR STACHOWSKI: Thank you.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

I offer the following amendments to the following bills:

By Senator Hannon, page 9, Calendar Number 186, Senate Print 2820.

Senator LaValle, page 17, Calendar 416, Senate Print 1885A.

Senator Hannon, page 25, Calendar 604, Senate Print 4560.

Senator Alesi, on page 26, Calendar

Number 625, Senate Print 2218.

Senator Libous, on page 30, Calendar 689, Senate Print 2890.

Senator Fuschillo, on page 36, Calendar 778, Senate Print 4758.

Senator Fuschillo again, on page 36, Calendar 779, Senate Print 4759.

Senator Maltese, on page 43, Calendar 922, Senate Print 54.

Senator LaValle, on page 43, Calendar 932, Senate Print 3498.

Senator Kuhl, on page 45, Calendar 961, and Senate Print 1963A.

On behalf of Senator Skelos, on page 46, Calendar 1064, Senate Print 4654.

Also for Senator Skelos, on page 46, Calendar 1065, Senate Print 4655.

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

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

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I was

absent from the chamber, and I'd like to indicate that had I been present, I would have voted no on the following bills: 1061 Calendar Number, Senate Print 3771; 446 Calendar Number, Senate Print 3368A; and Calendar Number 644, Senate Print 2305.

THE PRESIDENT: Hearing no objection, the record will so reflect, Senator, that you voted in the negative on those bills as you stated.

Senator Skelos.

SENATOR SKELOS: Are there any substitutions to be made at this time?

THE PRESIDENT: Yes, there are, Senator.

SENATOR SKELOS: I ask that they be made, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 48, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 4138, and substitute it for the identical Senate Bill Number 114, Third Reading Calendar 1124.

On page 48, Senator Spano moves to discharge, from the Committee on Local Government, Assembly Bill Number 3219A and substitute it for the identical Senate Bill Number 3013, Third Reading Calendar 1127.

On page 48, Senator Hoffmann moves to discharge, from the Committee on Rules, Assembly Bill Number 8596 and substitute it for the identical Senate Bill Number 3546, Third Reading Calendar 1129.

And on page 49, Senator Trunzo moves to discharge, from the Committee on Rules, Assembly Bill Number 8840 and substitute it for the identical Senate Bill Number 4600, Third Reading Calendar 1134.

THE PRESIDENT: The substitutions are ordered.

Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

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

act to amend the State Administrative Procedure Act, in relation to establishing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 89, by Senator Seward, Senate Print 1575A, an act to amend the Insurance Law, in relation to expanding.

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, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

101, by Member of the Assembly Weinstein, Assembly Print Number 7792, an act to amend the Surrogate's Court Procedure Act, in relation to commissions.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 116, by Senator Goodman, Senate Print 690, an act to amend the Vehicle and Traffic Law, in relation to requiring.

THE PRESIDENT: 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, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 134, by Senator Meier, Senate Print 1310A, an act to amend the Labor Law, in relation to security plans.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 156, by Senator Alesi, Senate Print 482, an act to amend the General Obligations Law, in relation to liability.

SENATOR PATERSON: Lay it aside, please.

SENATOR SKELOS: The bill is laid aside.

THE SECRETARY: Calendar Number

161, by Senator Meier, Senate Print 1443, an act to amend the Social Services Law, in relation to county responsibility.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect January 1, 2002.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 184, by Senator Maziarz, Senate Print 1899B, an act to amend the Real Property Law, in relation to reductions.

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, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 228, by Senator Volker, Senate Print 204A, an act to amend the Penal Law, in relation to loitering.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 350, by Senator DeFrancisco, Senate Print 581A, an act to amend the General Municipal Law, in relation to authorizing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2002.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47. Nays, 1. Senator Kuhl recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 353, by Senator Stafford, Senate Print 2368A, an act to amend Chapter 138 of the Laws of 1984.

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

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, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 371, by Senator Velella -

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number

387, by Senator LaValle, Senate Print 3225 -

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 390, by Senator Lack -

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 397, by Member of the Assembly McEneny, Assembly Print Number 4528, an act to amend the Agriculture and Markets Law, in relation to posting.

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, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 398, by Senator Hoffmann, Senate Print 3544, an act to amend the Agriculture and Markets Law, in relation to domestic animal health permits.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 411, by Senator Maziarz, Senate Print 3685, an act to amend the Social Services Law, in relation to requiring.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 445, by Senator Nozzolio, Senate Print 3239A, an act to amend the Executive Law, in relation to enacting.

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, 48. Nays, 1. Senator Paterson recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 466, by Senator Lack, Senate Print 4022A, an act to amend the Criminal Procedure Law, in relation to including.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 469, by Senator McGee, Senate Print 1166, an act to amend the Alcoholic Beverage Control Law, in relation to mandatory license revocation.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 497, by Senator Balboni, Senate Print 850A, an act to amend the Family Court Act and the Domestic Relations Law, in relation to

issuance.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 509, by Senator Skelos, Senate Print 3329A, an act to establish the South Lynbrook-Hewlett library funding district.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 530, by Member of the Assembly Schimminger,

Assembly Print Number 7710, an act to amend the Retirement and Social Security Law, in relation to retirement.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 563, by Senator Goodman, Senate Print 3972A, an act to amend the Public Officers Law, in relation to requests.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 572, by Senator Seward, Senate Print 4372B, an act to amend Chapter 630 of the Laws of 1988.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect January 1.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 615, by Senator Skelos, Senate Print 3878A, an act to amend the Vehicle and Traffic Law, in relation to the appointment.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 628, by Member of the Assembly Klein, Assembly Print Number 2239, an act to amend the Public Health Law, in relation to requiring.

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, 49.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 662, by Senator Saland, Senate Print 4902, an act to amend the Domestic Relations Law and the Social Services Law, in relation to open adoption agreements.

SENATOR DOLLINGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 669, by Senator DeFrancisco, Senate Print 4427A, an act to amend the Economic Development Law, in relation to the composition.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 672, by Senator Morahan, Senate Print 1377B, an act to amend Chapter 846 of the Laws of 1975.

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

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, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 674, by Senator Wright, Senate Print 3525A, an act to amend the Environmental Conservation Law, in relation to deer management permits.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 691, by Senator Meier, Senate Print 4859A, an act to amend the Social Services Law, in relation to automobile exemption.

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, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 698, by Senator Skelos, Senate Print 4087B, an act to amend the Election Law and the Education Law, in relation to requiring.

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, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 702, by Senator Farley, 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 704, by Senator Farley, Senate Print 4634A, an act to amend the Banking Law, in relation to annual reporting requirements.

SENATOR DOLLINGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 707, by Senator Hannon, Senate Print 284, an act to amend the Education Law, in relation to exempting.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 708, by Senator LaValle, Senate Print 1210A, an act to amend the Education Law, in relation to the requirements.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect 180 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 724, by Member of the Assembly Grannis, Assembly Print Number 6481A, an act to amend the Insurance Law, in relation to coverage.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect in 60 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 743, by Senator McGee, Senate Print 4068, an act to amend the Vehicle and Traffic Law and others, in relation to standards.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 749, by Senator Velella, Senate Print 4272A, an act to amend the General Business Law, in relation to making technical corrections.

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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 777, by Senator Johnson, Senate Print 4604A, an act to authorize the Trinity Evangelical Lutheran Church.

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: To explain my vote briefly, Madam President.

This is the continuing saga of what I think is properly called the Balboni

syndrome. It's a disease of granting property tax exemptions, partial property tax exemptions, through the actions of the New York State Senate and the Legislature as a super-real property assessment board.

I've said it time and time again, I think this contagion is getting out of hand. I believe this is now in the top twenties or maybe 30 bills of this type that we've done.

Let's pass the statewide bill, bring back the Hannon bill, get it done on a statewide basis so we don't, frankly, put our time, our effort, our money into doing nothing but granting property tax exemptions, which these institutions are entitled to provided they comply with the requirements of filing.

It's very simple. It's time to stamp out that dreaded disease that seems to have worked its way into full flower in this chamber and in this Legislature. The best way to immunize ourselves is to pass a statewide bill.

I'll vote no.

THE PRESIDENT: Senator Dollinger, you will be recorded as voting in

the negative on this bill.

The Secretary will announce the results.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 791, by Senator Johnson, Senate Print 3257A, an act to amend the Public Health Law and the Vehicle and Traffic Law, in relation to the rights of holders.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect in 60 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 803, by Senator DeFrancisco, Senate Print 2567A, an act in relation to authorizing the

County of Onondaga.

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

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, 56.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Thank you, Madam President. There will be an immediate meeting of the Finance Committee in the Majority Conference Room.

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

The Secretary will read.

THE SECRETARY: Calendar Number 805, by Member of the Assembly John, Assembly Print Number 5584A, an act to amend the Executive Law, in relation to fees payable.

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.)

Senator Dollinger, to explain your vote.

SENATOR DOLLINGER: Madam President, I'm going to vote against this bill for the following very simple reason. It seems to me that one of the things we should do is pay our governments when they engage in certain administrative exercises like renewing notaries.

What we're doing with this bill is we're expanding the time under which your notary license is good, yet we're doubling the fee that has to be paid purely as a measure, I assume, to make up for the fact that now we grant two years and then we allow that to go -- at two years we can charge $10. Now what we're doing is we're extending the license for four years, which is a very good idea, except we're going to double the administrative cost to do it.

I understand why we're doing it, to perhaps keep our counties whole in their license fees. But they should only be paid once for doing a service they perform every four years, rather than in essence have to pay twice for that same service.

I think this is the right concept, to increase the period of the license. But why we double the fee is beyond me. I vote no.

THE PRESIDENT: Senator Dollinger, you will be recorded as voting in the negative.

Senator Kuhl, to explain your vote.

SENATOR KUHL: Yes, to explain my vote, Madam President.

And perhaps after Senator Dollinger hears my explanation, he'll wish to change his vote back to make this a unanimous agreement in this house.

Last year we doubled the length of the period of time for a renewal registration for notary publics from two years to four years. We did not do anything relative to the fee being administered or charged by the

county clerks at that time. That was an omission.

What this bill is is a technical amendment to a chapter last year that simply allows the proportionate share of funds to be collected by the county clerk, as it would have been and should have been included in last year's bill.

So I vote aye.

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

The Secretary will announce the results.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 822, by Senator Maziarz, Senate Print 4057A, an act to amend the Town Law, in relation to exempting.

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 824, by Senator DeFrancisco, Senate Print 4264A, an act to amend the Public Authorities Law, in relation to contracts.

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 874, by Senator Wright, Senate Print 4249, an act to amend the Real Property Tax Law, in relation to establishing.

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 894, by Senator DeFrancisco, Senate Print 1075A, an act to amend the Tax Law, in relation to payment.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 934, by Senator Larkin, Senate Print 4000B, an act to amend the Education Law, in relation to

the practice of physicians.

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 999, by Senator Balboni, Senate Print 5377A, an act in relation to authorizing the town board of the Town of North Hempstead.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 9. 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 1015, by Senator Oppenheimer, Senate Print

3045A, an act to authorize the City of New Rochelle, County of Westchester.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1069, by Senator Spano, 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 1075, by Senator Stachowski, Senate Print 2000, an act to amend the Penal Law, in relation to the definition of assault in the second degree.

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 PRESIDENT: Senator DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: Yes.

I understand that this is to provide a greater offense for someone who assaults building inspection officers and public health officers. And, you know, of course that's something we want to protect those types of individuals and everyone else.

But assault in the second degree was originally for assaults against police officers because of their special relationship in protecting the public. I think we've made some other changes, all of which I've voted no to, for certain groups to make their crime, if they're the victims, an assault second rather than assault third.

At this point we're going to eliminate the need for the original rule, because there's so many groups that are really

included. So I don't think this makes sense for those reasons. And with due respect to the groups that are sought to be protected here, everyone should be protected according to the same standards. So I vote no.

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

Senator Hevesi, to explain your vote.

SENATOR HEVESI: Thank you, Madam President, to explain my vote.

We had a discussion on a similar bill last week; I actually wound up voting no to provide additional punitive measures against individuals who assault those who work in our transit system. I'm also similarly concerned about this bill that's before us, for the reasons that were just articulated.

But I'm a little bit more comfortable with this piece of legislation, for the simple fact that the bill last week would have increased second-degree assault to a higher level offense. And these individuals who are going to be afforded this protection,

these individuals in my opinion are more likely in the course of their duty to be assaulted as a result of their employment.

Regardless, I believe that Senator Volker, in his explanation last week of the original piece of legislation, was right on target in suggesting that we should increase the penalties for all second-degree assaults, up to an E level felony, and incorporate everybody, offer everyone the same protections that we are attempting to afford piecemeal to certain segments of the population.

And so with that, Madam President, I'm going to support this bill, but once again urge all of my colleagues to adopt a greater and more expansive and broad measure that affords everybody the protections that these individuals seek.

Thank you.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 56. Nays,

1. Senator DeFrancisco recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1097, by Senator Trunzo, Senate Print 5401A, an act to authorize the county -

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1100, by Senator Velella, Senate Print 5425, an act to amend the Criminal Procedure Law and the Penal Law, in relation to aggravated criminal conduct.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1101, by Senator Volker, Senate Print 5426, an act to enact the Criminal Procedure Law Reform Act of 2001.

THE PRESIDENT: Read the last

section.

SENATOR PATERSON: Lay that bill aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1108, by Senator Goodman, Senate Print 5457, an act to amend the Executive Law, in relation to facilitating.

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 1115, by Senator DeFrancisco, Senate Print 3197, an act to authorize the County of Onondaga.

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

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 1116, by Senator Stafford, Senate Print 3968, an act to amend the Tax Law, in relation to the terms.

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 1121, by Senator Bruno, Senate Print 5359B, an act in relation to creating the Clifton Park-Halfmoon public library district in Saratoga County.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 8. 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 1124, substituted earlier today by Member of the Assembly Hoyt, Assembly Bill Number 4138, an act to amend the Labor Law, in relation to leave.

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 1126, by Senator Padavan, Senate Print 2736,

an act to amend the Education Law, in relation to certain tuition waivers.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1127, substituted earlier today by Member of the Assembly McEneny, Assembly Print Number 3219A, an act to amend the General Municipal Law, in relation to authorizing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1129, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8596, an act to amend the Agriculture and Markets Law, in relation to an interstate pest control compact.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1130, by Senator Seward, Senate Print 3562, an act to amend the Education Law, in relation to creating.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1132, by Senator Hannon, Senate Print 4390, an act to amend Chapter 483 of the Laws of 1978.

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 1133, by Senator Nozzolio, Senate Print 4525, an act to amend the Correction Law, in relation to custody.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1134, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8840, an act to amend the Vehicle and Traffic Law, in relation to restitution.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1135, by Senator Velella, Senate Print 4909, an act to amend the Correction Law, in relation to providing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th 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.

THE SECRETARY: Calendar Number 1136, by Senator Hannon, Senate Print 5036, an act to amend Chapter 535 of the Laws of 1983.

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 1138, by Senator Trunzo, Senate Print 5402, an act to amend the Public Authorities Law, in relation to nonvoting 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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1139, by Senator Marcellino, Senate Print 5462, an act to amend Chapter 203 of the Laws of 1999.

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 1140, by Senator Padavan, Senate Print 5478, an act to amend the Criminal Procedure Law, in relation to statements.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1141, by the Senate Committee on Rules, Senate Print Number 5482, an act to amend the Education Law, in relation to the distribution of information.

THE PRESIDENT: Senator McGee.

SENATOR McGEE: Lay that bill aside for the day, please.

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

SENATOR HEVESI: Madam President.

THE PRESIDENT: Senator Hevesi.

SENATOR HEVESI: Thank you, Madam President.

I rise simply to point out what a shame it is that the rules of the Senate do not permit me to recognize some of the most outstanding students in the entire state of New York.

If the rules did permit so, I would suggest that the students of P.S. 196, who are here today in the gallery, are such students, and that our public school system should benefit from the example of just what a wonderful student body can do collectively to make a school one of the outstanding successes in the public school system.

But since the rules don't permit that, Madam President, I wouldn't get into that issue today. I thank you.

THE PRESIDENT: Senator McGee, that completes the reading of the noncontroversial calendar.

SENATOR McGEE: Madam President, would you continue on with the reading of the controversial calendar, please.

THE PRESIDENT: The Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 156, by Senator Alesi, Senate Print 482, an act to amend the General Obligations Law, in relation to liability of telecommunications.

SENATOR PATERSON: Explanation.

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

SENATOR ALESI: Thank you, Madam President.

This legislation would hold harmless any telecommunications or commercial radio services company from any liability if they are providing a free service sponsored by the state or municipality for "Call to Protect" or similar programs that would provide cell phones or other instruments like that for abused persons to have the opportunity to call 911 or an antiabuse service.

Thank you very much, Madam

President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: A brief question, Madam President, if Senator Alesi would be willing to yield for a moment.

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

SENATOR ALESI: I'd be happy to, Madam President.

THE PRESIDENT: You may proceed, Senator Paterson.

SENATOR PATERSON: Madam President, I believe this is a really outstanding bill. I just want to ask Senator Alesi why we're going to indemnify people in this -- in other words, create immunity in this type of situation when, if there are victims that would want to pursue a lawsuit, they would be estopped based on what's set forth in the legislation.

SENATOR ALESI: Through you, Madam President, the purpose of this legislation is to prevent companies that could provide a useful service to someone who is in an abuse situation, to prevent those companies

from bowing out of this very valuable program and very needed program and to encourage other companies that would like to engage in this valuable program to do so without fear of attack by trial lawyers or anyone who would look to manipulate the system in a way that would work against the intent of this program.

SENATOR PATERSON: Madam President, if Senator Alesi would be willing to yield.

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

SENATOR ALESI: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR PATERSON: Senator, that makes perfect sense. We wouldn't want to in any way dissuade any companies from participating.

But would it not be better to indemnify them rather than lowering the standard of care, which is what we would do if we created the immunity standard?

SENATOR ALESI: Through you,

Madam President, no, I think that the approach of this legislation is perfectly appropriate.

And I think that the main effort here, again, is to provide a valuable service to someone who is in an abuse situation so that they have a means of communication if they are fleeing that abusive situation.

And in many cases, if it's a female spouse that has children, they have to have some kind of mobile telecommunications abilities to call 911 or to call an antiabuse service. And so by offering that they would be held harmless, I think that that accomplishes what we're trying to do here.

SENATOR PATERSON: Thank you, Madam President.

SENATOR ALESI: Thank you, Senator.

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

Then the debate is closed.

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 387, by Senator LaValle, Senate Print 3225B, an act to authorize payment of transportation aid to the South Manor School District.

SENATOR PATERSON: Explanation, please.

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

SENATOR LAVALLE: Yes, Madam President. This is basically an errors and omissions bill to pay transportation aid to the Eastport/South Manor Central School District.

And while we have many of these bills, it ensures that the taxpayer does not bear the brunt of the school district's error or omission in filing their state aid for transportation forms either properly or on time.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: That's satisfactory, Madam President.

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

Then the debate is closed.

There is a local fiscal impact note at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 390, by Senator Lack, Senate Print 3073, an act to authorize the State University of New York.

THE PRESIDENT: Read the last section.

SENATOR STAVISKY: Explanation, please.

SENATOR McGEE: Madam President, would you lay that aside temporarily, please,

and call Calendar Number 530, Senator Rath's bill.

THE PRESIDENT: The bill is laid aside temporarily.

Senator McGee, could you repeat the calendar you wish the Secretary to read?

SENATOR McGEE: Would you continue reading the controversial calendar. Senator Rath's bill I believe is next.

THE PRESIDENT: The Secretary will read Calendar Number 530.

THE SECRETARY: Calendar Number 530, by Member of the Assembly Schimminger, Assembly Print Number 7710, an act to amend the Retirement and Social Security Law, in relation to retirement for paramedics.

SENATOR PATERSON: Explanation.

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

SENATOR RATH: Thank you, Madam President.

The bill is a local bill, a rather simple bill adding a new section to the Retirement and Social Security Law to provide an enhanced early retirement plan for

paramedics employed by the police department of the town of Tonawanda, which is in my district.

SENATOR PATERSON: Thank you.

THE PRESIDENT: Senator Duane.

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

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

SENATOR DUANE: Thank you very much, Madam President.

When this bill came up in committee, we had a very spirited discussion about what exactly this bill intends to do. And sadly, this bill comes at trying to provide benefits to those who need benefits from the wrong way. Sadly, this bill assumes that people can contract HIV in a very easy, almost casual manner.

Could we have the door closed, Madam President.

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

You may proceed, Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I would have thought that in this day and age in New York State, which has one of the highest rates of HIV, which has one of the largest numbers of people who are suffering from AIDS, that we would have a better understanding about how it is that HIV is contracted.

But the most important thing to note about HIV is that it is not easy to contract HIV. In fact, it's extremely difficult to contract HIV. Our New York State Department of Health has actually done a good job in trying to educate the people of the state of New York. But unfortunately, those educational efforts have not reached the members of the New York State Senate.

The New York State Department of Health in their regulations state that there are three factors necessary to create a significant risk of contracting or transmitting HIV infection. And they are the presence of a significant-risk body substance, a circumstance which constitutes significant

risk for transmitting or contracting HIV infection and, three, the presence of an infectious source and a noninfected person.

Significant body substances, risk body substances are blood, semen, vaginal secretions, breast milk, tissue, and an assortment of body fluids. Circumstances which constitute significant risk of transmitting or contracting HIV infection are sexual intercourse -- that is, vaginal, anal, or oral -- which exposes a noninfected individual to blood, semen -

THE PRESIDENT: I'm going to ask again that the members please take your conversations outside the chambers so the speakers can be heard.

Senator Duane.

SENATOR DUANE: Madam President, the very existence of this bill shows that actually the members and staff of the Senate should be listening to this, because obviously they don't know how HIV is contracted or transmitted. So I will wait for silence.

It's through those kinds of sexual intercourse that a person can potentially

become infected with HIV. That is, if they have sexual intercourse without using, for instance, a condom.

Another way that you can contract HIV is through the sharing of needles or other paraphernalia used for preparing and injecting drugs between infected and noninfected individuals. Another way is during the birthing or breast-feeding of an infant when the mother is infected with HIV.

Madam President, could we have the door closed, please.

THE PRESIDENT: The door should be closed unless someone is going in or out of the chamber.

Go ahead, please, Senator Duane.

SENATOR DUANE: Another way that HIV can be transmitted is during the transfusion or transplantation of blood, organs, or other tissues from an infected individual to an uninfected individual, provided such blood, organs, or other tissues have not tested conclusively for antibody or antigen and have not been rendered noninfective by heat or chemical treatment.

Other circumstances during which a significant-risk body substance other than breast milk of an infected individual contacts mucous membranes -- that is, eyes, nose, mouth -- nonintact skin -- that is, an open wound, skin with dermatitis condition, or an area with abrasions -- or the vascular system of noninfected persons. Such circumstances include but are not limited to needle-stick or puncture-wound injuries and direct saturation or permeation of these body surfaces by the infectious body substance.

Those are the ways that there is a significant, a significant risk of transmitting HIV.

Ways that you cannot contract HIV are through exposure to urine, feces, sputum, nasal secretions, saliva, sweat, tears, or vomit that does not contain blood that is visible to the naked eye, human bites where there is no direct blood-to-blood or blood-to-mucous-membrane contact, exposure of intact skin to blood or any other body substance, or occupational settings where individuals use scientifically accepted

barrier techniques and preventive practices and circumstances which would otherwise pose a significant risk and such barriers are not breached and remain intact.

Based on these regulations, which are the state's own -- which I have never heard anyone in this body ever criticize or say is erroneous -- the chance of contracting HIV in the normal course of a job is minuscule. In fact, we don't have a fraction small enough to show the risk.

I can't imagine that anybody here would think that I would not want people who are infected with HIV or who have AIDS to get services and housing and treatment, to have access to health care.

In fact, the bill of which I'm most proud that passed in the New York City Council was to put into law an agency called the Division of AIDS Services, which provided that no matter who the mayor was going to be or whoever the council was going to be, that there would always be an agency in place that would make sure that people with AIDS got housing, access to health care, enough money

for nutrition, enough money to make it to doctors' appointments. It was mandated by this bill that people would get those benefits in a timely manner. It was a safety net for people with AIDS so that they could stay alive.

It's my intention to introduce similar legislation so that counties around the state would have to perform the same duties for people with HIV and AIDS.

So what this bill and my opposition to it is not about, it's not about my wanting to prevent people with AIDS from being able to survive in our state. It's not about that.

If I had my way, we would make it so that everybody in the state who had AIDS or HIV or, for that matter, any catastrophic illness would be able to go to their doctors' appointments, would have decent housing, would have enough food, would not have to worry about where their children would be living. People with catastrophic illnesses would all get that. If this bill were about making sure that people with AIDS got services, I would have no problem with it.

But what this bill is doing is making believe that people can get AIDS in a casual manner. And that is just not true. It is not true. HIV and AIDS is very difficult to contract.

And what this bill does is it sends a message that almost anyone could get HIV in the most casual contact with other people. And that is not true. And the danger of allowing that kind of thinking and that kind of ignorant thinking about HIV and AIDS to go on is that it could make it so that people would not want to help someone who's in danger, who's bleeding, who needs help, who needs mouth-to-mouth resuscitation.

When they do polls on whether people -- if they know how HIV is transmitted, the one thing people know is that you can't get AIDS from kissing. And that means you can't get AIDS from mouth-for-mouth contact. I fail to understand why people here don't understand that.

Do we want to make it so that people would be afraid to help someone? You know, people who work in emergency medical

services -- or just in your day-to-day life, when you go to the dentist, doesn't the dentist wear gloves and a face mask? Isn't that routine? Wouldn't you be concerned if your dentist or a health care provider didn't take the most rudimentary precautions against spreading not even HIV but hepatitis or, for that matter, a 24-hour virus?

You know, people think it's comical when I say this, but this bill makes the assumption, basically, that people working in the emergency medical services are having sex with patients, they're shooting up with patients, they're birthing people in ambulances, they're breast -- it's ridiculous. What these people do on their jobs does not cause them to get AIDS. And if it does, it's relatively easy to prove. And that's where the burden should be.

If there's some sort of blood-to-blood contact with someone, well, regardless of this bill, you're supposed to make a report about that, so there would always be a way to go back and prove if there was some kind of dangerous thing that

happened. But EMS workers wear gloves, they wear masks, they protect themselves. That's what they're trained to do.

My opposition to this bill is not about people with AIDS not being able to get services to keep them alive. Far from it. My opposition to this bill has to do with the ignorance and fear which it could cause. It's totally unacceptable that we would perpetrate in this body false ways that people could get HIV or AIDS or to perpetrate the myth that HIV is casually transmitted. It's not. It absolutely is not.

If anyone doesn't believe me or our state's Department of Health or, for that matter, the federal CDC, I would be more than happy to set up a way for you to dispute that with them or to have them come and give us a presentation on how it is that HIV is transmitted. I'd like to think we don't need that. But this bill makes an incredibly false, absurd position on how it is that HIV is transmitted.

Now, I appreciate the opportunity to have actually been here on the floor to

talk about this bill. I'm very grateful for having had that opportunity. As you know, earlier I had a death of someone very close to me, and that's why I couldn't be here last week.

But really, in the interests of making sure that people in the State of New York know how HIV and AIDS is transmitted, let's not let this bill go through. You know, sadly, ignorance about HIV and AIDS crosses a lot of boundaries, including parties. And trust me, there are as many ignorant Democrats as there are Republicans on how it is that HIV is transmitted.

But let's not perpetuate that. Let's have a bill that makes it possible for a person with AIDS who did get it on the job to be able to get the help and services that they need. Let's not make it so that we provide people with services and money based on false assumptions about how HIV and AIDS is transmitted.

The compassionate thing to do for people with AIDS is not to vote for this bill. The compassionate thing to do for people with

HIV and AIDS is to vote against this bill, to vote against ignorance on the transmission of HIV and AIDS, because only then will we really be able to do the kind of prevention that we need to do and to provide services for people with AIDS and other catastrophic illnesses.

Thank you.

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

Senator Hassell-Thompson.

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

THE PRESIDENT: You may proceed on the bill.

SENATOR HASSELL-THOMPSON: During the committee meetings in discussion of Senator Marchi's bill and Senator Rath's bill, I too, along with Senator Duane, attempted to talk about the difficulties that this bill would create.

For several years, it was my responsibility to go around the county of Westchester to train people about how you contract and how do you transmit the disease of HIV and what it means and what stages it

goes from HIV to AIDS. At the same time, I'm very supportive of any union or any group who wants to provide the ultimate of protection for any of its employees against any kind of catastrophic illness or disease.

This is not the way to do this. Because if it does, it negates all the years and all the literature and all the training that has been made available that talks about how HIV is in fact transmitted.

When we looked at the Marchi bill particularly, it made more sense as we talked about the fact that tuberculosis could in fact be justified. But to lump HIV very casually -- and I use that word very deliberately -- casually into legislation is a serious error.

I am by no means advocating the denial of anyone who make have contracted this disease as a part of their workplace. As a nurse, I certainly was at risk often. But I do not think that many of the categories which are being added to this bill will in fact put people at risk.

And I am in agreement most

particularly with Senator Duane when he talks about the fact that this is one of the times where the onus ought to be on the employee, because it is not difficult for them to be able to prove that through their work and work responsibilities HIV infection did in fact occur.

Passing legislation like this indicates false beliefs on how it's spread, and it goes against the state's own guidelines on what constitutes significant risk. And it also creates irrational fears on the part of employees. I would not like to believe that an employee would not come to the aid of any person in these chambers, and beyond these chambers, because they were afraid by contact, by misrepresentation, that they could in fact contract this disease.

I'm a strong advocate of giving employees as many benefits as possible. But I cannot in good conscience vote for this bill in its current form. And I urge you and others who think correctly and rightly that this may not be the answer to this problem.

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 immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Let the record reflect there is a home rule message at the desk on this bill.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 530 are Senators Connor, Dollinger, Duane, Hassell-Thompson, Paterson, and Senator Schneiderman. Ayes, 53. Nays, 6.

THE PRESIDENT: The bill is passed.

Senator McGee.

SENATOR McGEE: Madam President, could we return, please, to Calendar Number 390, Senator Lack's bill.

THE PRESIDENT: Senator Fuschillo

first.

SENATOR FUSCHILLO: Madam President, I'd like to request unanimous consent to be recorded in the negative on Calendar Number 350, please.

THE PRESIDENT: Without objection, Senator, you are so recorded as voting in the negative on that bill.

The Secretary will read Calendar 390.

THE SECRETARY: Calendar Number 390, by Senator Lack, Senate Print 3073, an act to authorize the State University of New York.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: If the sponsor would yield for one question.

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

SENATOR LACK: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR STAVISKY: I intend to vote for this bill, but I have one question,

through you, Madam President.

Does the awarding of the contract call for competitive bidding? And if not, why not?

SENATOR LACK: Excuse me, Madam President. Competitive bidding with respect to what?

SENATOR STAVISKY: To the awarding of the contract for the student - for the facility.

SENATOR LACK: Madam President, these types of campus village facilities are always bid on a competitive bidding.

Not only that, Stony Brook campus, before the term of art known as project labor agreements, had same, voluntarily entered into an agreement that in effect is a project labor agreement with all construction unions that engage in such trade in Suffolk County.

So therefore, the competitive bidding process that would be entered into in effect has to be done in a way that would engage what amounts to project labor agreements.

SENATOR STAVISKY: 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 4. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

Senator McGee.

SENATOR McGEE: Madam Chairman, I would ask that you call an immediate meeting of the Rules Committee in the Majority Conference Room, please.

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

SENATOR McGEE: If we could return to reports of standing committees, I believe there's a report from the Finance Committee at the desk.

THE PRESIDENT: Reports of

standing committees.

The Secretary will read.

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

As director of the Office for the Aging, Patricia P. Pine, Ph.D., of New Paltz.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Senator - excuse me. Madam President.

THE PRESIDENT: Thank you, Senator.

SENATOR STAFFORD: I certainly would not want to demote you.

THE PRESIDENT: I will always excuse you for something like that.

SENATOR STAFFORD: Madam President, today, again, we were blessed in the Senate Finance Committee with a fine group of nominees, all who I'm sure will do a great job, all who are the caliber who make us compliment the Governor on fine appointments.

And with that, I am pleased to yield to Senator Bonacic.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

Patricia Pine had served as the director of Aging in Ulster County. She has also served with the State of New York for approximately six years. An educated woman, very intelligent, very talented.

I can tell you that the seniors in Ulster County love her, and I bet most of the seniors in the state of New York love her. So she has that unique talent of being able to connect with her constituency.

And it gives me great pleasure to vote in the affirmative for the nomination of Patricia Pine.

Thank you, Madam President.

THE PRESIDENT: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President.

As chair of the Senate Committee on Aging, I've had the pleasure of working with Dr. Pine for the last four years when she has served as the deputy executive director of the State Office of the Aging.

And I have to say that I know that

Governor Pataki has made some excellent appointments to agency heads. But this one, even in our committee meeting, when Dr. Pine appeared before the Senate Aging Committee, the members from both sides of the aisle had nothing but the highest praise for Dr. Pine, for her ability.

She has served in the trenches as a county Office of the Aging director, in not one but in two different counties. Her entire professional career has been dedicated to serving the aging community of the state of New York.

And what probably is little known is that Dr. Pine was on the verge of and had already announced her retirement from state service in the State Office of the Aging, and the party was planned and everything was all set to go, and then she received a call from Governor Pataki, who asked her to stay on as the director and to lead the fight for senior citizens throughout the state of New York.

And, Madam President, I can't think of a more qualified person or a better person who understands -- as Senator Bonacic, her

representative, said here -- who understands and is loved by the aging community. The advocates from just about every organization concerning elderly New Yorkers have written me letters supporting her nomination and congratulating Governor Pataki.

So it's a real pleasure for me, Madam President, to rise and to second this nomination.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Yes, I rise to support Dr. Pine for her position as director of the State Office of the Aging.

I went through two interviews with Dr. Pine, one on Senator Maziarz's committee and just recently in the Finance Committee. And I must say I've been very much impressed. She's an articulate, she's a bright woman, she knows where she's going, she has an excellent track record, and I think she'll do well for the State of New York.

Thank you.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: I too, Madam President, wish to speak in favor of this

nomination.

I had never met Dr. Pine until she appeared before the Aging Committee. And I'm delighted to see someone whose credentials are professional rather than someone coming up through the political ranks.

I think this is a quality nomination, and I am delighted to also speak in favor of this nomination.

THE PRESIDENT: The question is on the confirmation of Dr. Patricia Pine as executive director of the Office for the Aging. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And on behalf and as President of the Senate, I'd like to congratulate Dr. Pine, who is here this afternoon with her husband, Vanderlyn Pine.

I personally have had the opportunity as Lieutenant Governor on many occasions to work directly with Dr. Pine. And

having discussed this with the Governor and already congratulated him on his choice, I want to personally express my complete confidence and congratulations to you, Dr. Pine, and wish you the very best in your new responsibilities.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a member of the Industrial Board of Appeals, Walter Joseph Sakowski, Jr., Esquire, of Chester.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Madam President, once again it's a pleasure to rise and, for this very fine nominee, it's a pleasure to speak on his behalf.

I can only say that he certainly has proven that he can do the job. He certainly has the temperament. He's practiced law. I understand he's been in the prosecutor's office, he has been in private practice. And he is the type of individual who, Madam President, I'm sure will make us proud.

Finally, Mr. President -- Madam President, excuse me. Excuse me.

THE PRESIDENT: You are again excused, Senator Stafford.

SENATOR STAFFORD: I think it's the warm weather that does this.

But, Madam President, I would say member of the Industrial Board of Appeals, as a member, there will be very serious responsibilities. We need the type of individual who has had the training, as I mentioned, that Walter has. And it's my pleasure to move his confirmation.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President. I too want to rise in support of this nomination.

I've known Walter for many years. He's an energetic young attorney and prosecutor, and who also served as -- the name just escaped me for a second. And I know him to be a very qualified and dedicated young man. And I would urge my colleagues to vote in the affirmative on this nomination.

Thank you.

THE PRESIDENT: The question is on the confirmation of Walter Joseph Sakowski as a member of the Industrial Board of Appeals for a term to expire December 31, 2006. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

(Applause.)

THE PRESIDENT: Congratulations and best wishes to you.

The Secretary will read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, Nancy Shevell Blakeman, of New York City.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Madam President, for this next fine nominee it's a pleasure to yield to the Senator from Manhattan.

THE PRESIDENT: Senator Goodman.

SENATOR GOODMAN: Thank you, Madam President. Thank you very much indeed.

I'm privileged today to speak to you about a very delightful individual who is up for the Metropolitan Transit Authority. I know her and her family well. They live a pebble's throw from my own home in Manhattan.

And this lady represents, I think, a high degree of professionalism, and it's very refreshing to see a woman who has risen to the top ranks of the corporate family in recent years.

May I say that her specific experience relates to a number of different things which I think equip her exquisitely for the work of an MTA commissioner. She is the -- from 1983 to the present, she has served as the vice president of administration and the director of the New England Motor Freight, Incorporated, a large trucking concern, which, if I might say so, has motor truck carriers in the Northeast with offices in Albany, Babylon, Buffalo, Jamestown, Newburgh, Oswego, Syracuse, and revenues in excess of $275 million per year, and an employee population in excess of 3,000. Her duties include purchasing, personnel, credit

and collection, risk management, finance, and logistics.

She is a graduate of Arizona State University and a recipient of the Arizona Motor Transportation Memorial Scholarship Award for an outstanding student majoring in transportation.

She's involved with charitable, civic, and philanthropic endeavors, including cochair of the Browning School in New York, a very well known preparatory school. She's a member of the Dancers' Circle of the New York City Ballet and a Friend of Concert and Lecture Series in the Metropolitan Museum of Art. These are prime cultural groups in the City of New York.

This is a lady of considerable involvement in other groups too numerous to mention. But suffice it to say that taken together, her record is one of substantial achievement in both the private and public sectors which in my opinion equip her beautifully to do a job with the Metropolitan Transit Authority.

May I say that Ms. Blakeman and I

have had an opportunity to discuss various problems relating to the MTA, and I know that she has great sympathy for the construction of the Second Avenue Subway, the hole in the ground which has broken more hearts and destroyed more dreams in Manhattan than any other single project. I'm confident that with her in a Metropolitan Transit Authority position of responsibility, we'll have a staunch advocate for that project.

Let me just say that the Senate would be well-advised indeed to give its immediate approval to this outstandingly qualified individual. I trust it will do so forthwith.

Thank you, Madam President.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

After that, I just want to say ditto to everything that Senator Goodman had just said, but certainly lend my congratulations and appreciations to Governor Pataki on this fine appointment, having known

the nominee and her family for some years.

She comes from a long family tree of individuals who have dedicated their lives to community service. Her experience will certainly lend to articulate the concerns of the members of this body, and certainly from Long Island, the east side access.

I wish the nominee all the best in her new position, and I thank the Governor for putting forth somebody with the experience of her.

Thank you.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Yes. I unfortunately have not had the pleasure of knowing the nominee as long as Senator Goodman or Senator Fuschillo, but I have had the pleasure of meeting with her several times over the last few weeks. She obviously is a person of intelligence, integrity, competence. And she obviously has a background in the area of transportation. I will therefore be supporting the nominee for the position.

But she's also going into the eye of the whirlwind. The capital plan of the

transit authority, the MTA, has to be changed, altered, as a result not only of the $1.7 billion bond issue that failed on Election Day last year, but because it is improbable that even if that bond issue had not failed but succeeded that all the capital plans they had in the offing would ever be realized.

I also would like to bring attention to the nominee the fact now that she is a resident of New York City -- she had before lived in Long Island. The MTA covers the Long Island Railroad, Metro North, and the Transit Authority of New York City. It's important for the nominee to realize that the ridership in the New York City trains and buses is 2.2 billion a year, which is 10 million -- which is, I'm sorry, ten times as much as the ridership on the Long Island Railroad and Metro North.

And there are many people who live in New York City who feel that there should be an equivalency of attention, of funding, of appreciation of the needs of the City of New York. And I look forward to working with

this new nominee on the MTA for that to be realized.

I support the nominee for the position on the MTA. Thank you.

THE PRESIDENT: The question is on the confirmation of Nancy Shevell Blakeman, of New York City, as a member of the Metropolitan Transportation Authority, for a term to expire on June 30th in the year 2005. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And on behalf of the Senate and as its President, I want to congratulate Nancy Blakeman and to say I've gotten to know Nancy and her family personally and have the utmost confidence in her background, her caliber, her experience, bringing a world of rewards not only to herself and in your enhancement through this position professionally, but also to the state and to the Metropolitan Transportation Authority.

Thank you for your willingness to serve, and best wishes.

(Applause.)

THE PRESIDENT: I'd like to acknowledge the presence of Nancy's father, Mike Shevell, and of her husband, Bruce Blakeman, in the gallery this afternoon.

Senator Larkin.

SENATOR LARKIN: Madam President, I'm very happy to offer up the name of Walter Joseph Sakowski for the Industrial Appeals Board. Walter's background in law practice makes him an ideal candidate for this position -- yes, sir?

When I was called out of the chamber, I was told he was going to be next, so I apologize.

But I just want to say that I'm very happy to see Walter being nominated for this position. Knowing his background and his interest in labor and labor management, he will be an excellent choice to be a part of this group working with us and for the Governor.

THE PRESIDENT: The Secretary

will continue to read.

THE SECRETARY: As a member of the New York State Project Finance Agency, Charles Capetanakis, of Brooklyn.

As a member of the Buffalo and Fort Erie Public Bridge Authority-Peace Bridge, Colleen C. DiPirro, of Getzville.

As a member of the Ogdensburg Bridge and Port Authority, Bonita A. Wright, of Ogdensburg.

As members of the Port of Oswego Authority, Daniel E. Dorsey, of Oswego, and Frank E. Sayer, of Oswego.

As banking member of the State Banking Board, Jens A. Westrick, of Mamaroneck.

As public members of the State Banking Board, Mallory Factor, of New York City, and Erland E. Kailbourne, of Williamsville.

As members of the Small Business Advisory Board, Anthony J. Baynes, of Williamsville; Margery Keskin, of Jamesville; and Richard Koskey, of Claverack.

As commissioner of the State

Insurance Fund, Donald T. DeCarlo, Esquire, of Douglaston.

As a member of the Empire State Plaza Art Commission, Lynette M. Tucker, of Delmar.

As a member of the Allegany State Park, Recreation and Historic Preservation Commission, Ralph James Vanner, Jr., of Buffalo.

As a member of the Finger Lakes State Park, Recreation and Historic Preservation Commission, Linda J. Jackson, of Penn Yan.

As director of the Municipal Assistance Corporation for the City of New York, Abraham Biderman, of New York City.

As a member of the Board of Trustees of the New York State Higher Education Services Corporation, Cheryl Fell, of Lewiston.

As a member of the Public Health Council, Suzanne D. Rose, of Gloversville.

As a member of the State Camp Safety Advisory Council, George G. Coleman, of Bellmore.

As a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at Batavia, Julia M. Ryan, of Medina.

As a member of the Board of Visitors of the Binghamton Psychiatric Center, Edward Giegucz, of Vestal.

As a member of the Board of Visitors of the Brooklyn Developmental Disabilities Services Office, John Witkowski, of Brooklyn.

As a member of the Board of Visitors of the Buffalo Psychiatric Center, Barbara A. Seals Nevergold, Ph.D., of Buffalo, and Garnet Hicks Wallace, of Buffalo.

As a member of the Capital District Developmental Disabilities Services Office, Rain Rippel, of Scotia.

As a member of the Board of Visitors of the Hudson Valley Developmental Disabilities Services Office, Gayle M. Cratty, of Bronxville.

And as a member of the Board of Visitors of the Pilgrim Psychiatric Center, Doris S. Wagner, of West Babylon.

THE PRESIDENT: Senator McGee.

SENATOR McGEE: Madam President, I move the nominations.

THE PRESIDENT: The question is on the confirmations as read by the Secretary.

Senator Gentile.

SENATOR GENTILE: Yes, thank you, Madam President. I'd just like to speak on the nomination of Charles Capetanakis for the New York State Project Finance Agency.

I know Mr. Capetanakis. He's an attorney in Bay Ridge, Brooklyn. He's a bright young man. He's a good attorney. He in 2000 was indeed a political opponent of mine, tried to take the job here that I have here in the Senate.

So with this appointment, I'm happy to say that Governor Pataki has found something to keep him busy in addition to his legal work. So I will vote aye on this nomination.

(Laughter.)

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Yes, I rise to speak on behalf of Abe Biderman as a member of

MAC. I've known Mr. Biderman for almost a generation. He's a leader in my community. He served with distinction as the Commissioner of Finance for former Mayer Koch. And he is actively involved in some of most communal endeavors in my senatorial district. So it is a pleasure to vote for his renomination, reappointment to MAC.

Thank you.

THE PRESIDENT: The question again is on the confirmations as read by the Secretary. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are all confirmed.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following bill direct to third reading:
Senate Print 5631, by the Senate Committee on Rules, an act making appropriations for the support of government.

THE PRESIDENT: Without objection, third reading.

Senator Markowitz.

SENATOR MARKOWITZ: Madam President, thank you very much.

THE PRESIDENT: You're welcome.

SENATOR MARKOWITZ: With your permission, with unanimous consent I'd like to be recorded in the negative on Calendar Number 530.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the negative, Senator.

SENATOR STAVISKY: Madam President.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Madam President, with unanimous consent I would appreciate being recorded in the negative on Calendar 530.

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

Senator Marcellino.

SENATOR MARCELLINO: Thank you,

Madam President. May I have unanimous consent to be recorded in the negative on Calendar Number 350, please.

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

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time call up Calendar Number 1144.

THE PRESIDENT: The Secretary will read Calendar Number 1144.

THE SECRETARY: Calendar Number 1144, by the Senate Committee on Rules, Senate Print Number 5631, an act making appropriations for the support of government.

THE PRESIDENT: I'm going to ask again that both the members and the staff take their conversations outside the chamber so that we can be heard clearly here.

Senator Bruno.

SENATOR BRUNO: Is there a message of necessity and appropriation at the desk, Madam President?

THE PRESIDENT: Yes, there is,

Senator.

SENATOR BRUNO: Move we accept.

THE PRESIDENT: The motion is to accept the message of necessity and appropriation. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(Response of "Nay.")

THE PRESIDENT: The message of necessity and appropriation is accepted.

SENATOR DOLLINGER: Explanation, please, Madam President.

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

SENATOR BRUNO: Let me just share -- and I'm going to defer to our chair of Finance, who is most knowledgeable on this subject, on the specifics.

But I wanted to just share a thought that we are, here in this chamber, passing this part of the budget as an emergency appropriation to keep this state functioning. And we are doing this, and it's about $9.7 billion worth, and this will add to

what we have already done, approximately $20 billion in emergency legislation. Emergency because we have not been able to reconcile our differences with the Assembly and send a budget to the Executive.

I share again with my colleagues, and I'm speaking to the members of the Minority Conference, we have been meeting every week in the general conference committees, every Wednesday morning at 10:30. And the only people showing up have been the Republican members of the general conference committee.

And that relates, Madam President, to trying to reconcile our differences on what is available to spend. And that has to be done through the general conference committee. But I have signed that certificate that would activate the general conference committee, and the Speaker has not.

Now, many of you in this chamber and on this side of the aisle are quoted publicly as saying: Let's start the public process to negotiate a budget, let's get out from behind closed doors.

We have, for the last seven weeks, and we will again this Wednesday be appealing to you, to Senator Connor, your leader, to be there. And I commend Senator Connor for having appointed his members of all the conference committees as well as the general, and the Speaker has not.

We need to do a budget for the people of this state someday. And we are prepared and have been prepared to negotiate our differences in public, as we had agreed that we would do three years ago when we agreed, all of us, that we would discuss our differences in public through the conference committee concept, where most of the members in both houses would participate.

That hasn't happened, for one reason. We don't have the Democrat representation in the conference committees to start the process. Now, that is on your shoulders and on none other.

So here we are again taking up an emergency bill, an emergency bill, almost $10 billion worth of this budget. And I'm sharing with you this afternoon that we'll be

back here four weeks, approximately, from now, in the middle of July, and we will at that time take up another emergency piece of legislation to appropriate funds to keep this state functioning.

And why are we doing it? Out of necessity. Because it's important to the people of this state, who are held hostage out there. By whom?

It's time for us -- this session formally is concluding this week, for all practical purposes. We haven't even started the public process to negotiate a budget, and here we are taking up another emergency bill with 35 percent of the budget having been done without any public discussion of the process.

Now, I'm asking you to take a look at where you are, take a look at what's going on in your lives, in the lives of your constituents, and join us this Wednesday at 10:30 when we attempt to convene the general conference committee, so that we don't have to come back here in the middle of July and pass another $10 billion worth of a budget that none of us have been involved in.

And you may take it lightly, you may think it's funny. But I've got news for you. Your constituents don't think it's funny. But they are out there not able to do anything to motivate you to get you to the table until a year from November. And many members in the Legislature are very smug because they come from districts where they can't be challenged. But you can be challenged. You can be challenged within your own party.

And it's about time that we just stop looking the other way and pretending that we don't know what's happening. You know what's happening. We cannot get this process started by ourselves, the Republican Conference in the Senate and the Republican Conference in the Assembly. We cannot start the process by ourselves.

And I am not going to be party to three people in a room, in a back room, negotiating a budget for the people of this state. That is not going to happen. It's not going to happen in June, it's not going to happen in July, it's not going to happen in

August, it's not going to happen in September. So if any of you are thinking that we're going to get there by your sitting it out, you're wrong.

When this process starts, it's going to be public, it's going to be with a general conference committee discussing what is available to spend, and in no other way.

So I would suggest that you just examine your own consciences as you get prepared to leave here on whether or not you think it's appropriate for us, before we leave this Wednesday, to start the formal process to negotiate a budget publicly.

And to deal with the substance, there is no one more capable in this chamber than the chair of Senate Finance, who I believe spent a lot of time this weekend and last week preparing the document that we have before us.

So, Madam President, I would defer to our esteemed chair of Finance, who has been showing up every week for seven weeks trying to get a process started. But to quote him, he has stated, as a statesman, that you can

lead a horse to water but you can't force them to brush their teeth.

(Laughter.)

SENATOR BRUNO: Senator Stafford.

SENATOR STAFFORD: Madam President.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: I'm humbled. Anything that I could say here today following Senator Joseph Louis Bruno would deserve a little more than a footnote.

However, I will briefly -- as I always do -- briefly review what is before us here today. And it has not changed that much from what we did four weeks ago. And as has been mentioned here by the previous speaker, Senator Bruno, we do this because it's necessary and we must have our state government operating.

The number is $9.7 billion. And for those who wonder why it's just a little more than our bill was four weeks ago, we have one more payroll in this one because of the way that the payrolls fell.

I could go on and on, Madam

President, but I would further point out that $1.2 billion is appropriated for state administrative and institutional payroll and related areas, approximately $430 million for state employee fringe benefits, $440 million for nonpersonnel service requirements, $200 million for payments in existing capital contracts. And that is a broad stroke with a conceptual brush.

It's then broken down, or we could break it down, to, for instance, $1.2 million for agricultural and markets, $5 million for the Office of the Aging -- so I could go on and on through the entire list, but I don't think it's really necessary.

I too hope that we will all be able to come together and hammer out, on the anvil of discussion, sensitivity, and objectivity, a budget. It is an issue that I too would mention, as Senator Bruno had -- we all go back to our districts and we all work very, very hard. But our constituents are understanding that we are taking the steps to have an open discussion every week and we are not getting cooperation.

And I suggest that it's time that we do. We hope we will. And I certainly again would point out that this is a necessary piece of legislation in order to keep our government functioning to pay those responsibilities that come due during this period.

Thank you.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

And I want to thank Senator Stafford for outlining what's in this bill and also for reminding us that there's an extra pay period in this bill. I've frankly lost track of when the pay periods are. I think a lot of the members have.

But I do, Madam President, want to respond briefly to what Senator Bruno said. And let me say I appreciate Senator Bruno's efforts in these past weeks to try and kick-start or jump-start this process to reach a budget.

And believe me, Mr. President, I would be there on Wednesday if I thought there

was a scintilla of a possibility that by going there, together with my Republican colleagues in both houses, I could negotiate a budget. If I really thought I could be a partner in that, I would be a fool not to go.

But the reality is that the conference committee is a device to reconcile differences between two houses, not between two parties in the same house. And without the Assembly participating, without the Speaker jointly convening the meeting, the conference committee, the attempts at a conference committee fall far short of a real budget negotiation or discussion. They in fact have generally been slide shows articulating one side of the issues.

And as I say, at least it's activity. I compliment Senator Bruno for trying to initiate or focus attention on the need for negotiations.

The missing ingredient in this year's budget negotiations is leadership, leadership by the Governor. And I know we can talk about how we don't want three men in a room with a budget. And I don't suggest

that's a good system. The first year I was leader, it used to be five men in a room with a budget. I think it ought to be a lot of men and women in this Legislature in a room, with the Governor or the Governor's representatives with respect to different aspects of the budget, negotiating the way real legislatures and real governments do.

We have not had that leadership from the Governor. He has gone from someone who first ran for office decrying three men in a room with a budget, who then attempted to include the two minority leaders, and did his first year, who then reverted, as it suited political interests, to the three men in a room with the budget.

We launched just a couple of years ago the conference committee idea, to great expectations, great excitement in this Capitol. Members were enthused about it. Oh, yes, we recognized the flaws that first year. Of course there were some strings, a lot of strings. But we all thought, it's a beginning. It could grow. We all needed to grow in our roles on those committees, because

we'd never done it before.

Frankly, the second time out, the strings showed very badly. They looked more like ropes coming down from the two leaders of the majority. And members felt they were little more than background for photo ops in that process.

You can't change a political culture in a year or two. This year is probably the worst failure. Yes, I know, we haven't broken the record yet. It's not August 4th yet. But what has transpired up till now I think is the most forlorn, abysmal attempts at a budget process that I've seen in my years and I think has ever occurred here.

The missing leadership is the Governor. The missing person is the Governor. In terms of governmental responsibility, he should be here, he should be convening meetings, he should figure out a way he can participate somehow in this conference process. Because we all know, at the end of the day, it takes a majority vote in each house and the Governor's signature to adopt the budget.

And I certainly don't fault for a moment the Speaker's reluctance to engage in a process that results in a budget document that passes the Legislature only to see important initiatives advocated by one side of the argument vetoed by the Governor and never recouped.

And that's what we experienced just a couple of years ago, a giant veto of education aid that was never restored, a giant veto of other programs that were very, very important to a lot of members that were never restored. They were never made up. And the weight, frankly, of those vetoes, the ones that never got made up through other funds, fell most heavily on the members of the Democratic Party in both houses, and on our constituents.

Now, I know I said a month ago, I guess it was, that -- or did we do six weeks then? -- that we're changing the constitution here, and we do these extenders over and over and over again. I said, Gee, we've so institutionalized this process that there's no real effect on people.

And that's been true up until now, by and large. Programs have been funded. Certainly we keep government operating. But even programs that are run by other agencies on contract to the government have been sustained and kept going up until now.

But we're now at a point where there are real effects. We've had so many extenders, as Senator Bruno pointed out, we virtually adopted more than a third of a budget already. And we've done it at last year's numbers. So that programs and initiatives that even the Governor, even the Governor, even in his attempt at frugality, has recommended increases for because of increased demand or inflationary factors or whatever -- even where he's recommended an increase, we continue to appropriate at the old level.

We are now at the point where it has a real effect. And those programs and initiatives that traditionally found restorations in funding from the Legislature -- I don't just mean this member's pet project or that member's pet project. We

all know, as long as I've seen the budget game -- and it's not a partisan one. I remember Governors Carey and Cuomo, as well as Governor Pataki, in their budget always proposed to eliminate funding for things that the Legislature believes is important, which are always restored.

Well, those restorations aren't taking place. So whether it's something like summer youth jobs programs at enhanced levels, we're now at the point where there's a real effect in this lack of a budget.

You know, those mosquitos out there in Brooklyn and Queens and Staten Island and elsewhere, they're biting now. They're biting. And in the Adirondacks, they're biting. If you survive the flies, now the mosquitos are getting you in the Adirondacks.

And, you know, one of the initiatives that was proposed in the budget was a substantial amount of money to localities to support their efforts to eliminate the threat of the West Nile virus. It's predicted now that what had originally started out downstate is spreading throughout

the Hudson Valley and upstate New York.

The Governor requested a $21.9 million appropriation for this year to the local governments to help the local health departments fight this problem. And, you know, while we depend on our local health departments, I think we all recognize that this particular problem is one that spreads across localities and sometimes in its manifestations falls unevenly on a particular locality, and we ought to assist them in their efforts -- not just to help them but to help the rest of the state, because it will spread.

The mosquitos are biting. The money is not there to help the localities. That's one effect of not having a budget. There are other effects over and over again. And I'm sure a number of my colleagues will point them out to you.

And the point of it all is that it's time now to do a budget this week. This week and next week, it's time to do a budget. It's time for the Governor to stay in Albany and take the leadership. Only the chief executive, only the Governor can focus the

public's attention, the press's attention on the process and force all the parties to come to the table.

Senator Bruno has valiantly tried these past weeks to force that kind of attention, to bring that kind of pressure to bear. But he's not the Governor. The Governor is the chief executive. He's the focus of leadership in this state. He's got to be here, and he's got to do this.

And I humbly suggest, Mr. President, that up until now I've thought, frankly, the Governor was being smart politically. The more you disengage from the process, it seems the less -- at least as reflected in the polls -- the less the public identifies the chief executive with the problem and holds him accountable.

I think we're at the point now, particularly as we end the regular session in just a couple of days, where the public will hold the Governor accountable. It's time to stop all of the posturing. It's time for the Governor to convene meetings of legislative leadership and others and resolve this problem

now, get a budget. We're only -- school's letting out now. As my children readily attest, the summer is far too short. School will begin again very, very soon.

And those who must plan for the school year and are responsible for the school year, boards of education and superintendents, now is the time they need to know how much funding do I have starting next September for pre-K, for school programs. The school boards need to know how much are we really getting from the state so we can prepare those tax bills for August, those school tax bills.

Now is the time to really get this done. To let it drag through the summer will have consequences that we've never seen before in this state because we've never been there.

Now, as I said last time, were I in the Majority, I would vote for this bill. I don't fault anyone in the Majority for voting for this bill. It keeps the government operating, and that is the Majority's responsibility. But I, for myself, am in the position where frankly I am able to vote against this, and I will do so as a protest

against what I think is a budget process that needs more than just tinkering with, more than just slogans, more than just conference committees, it needs leadership, leadership that's willing to change the way things happen in this Capitol, the way budgets are done.

I will be voting no, Mr. President. But I make no bones about it, were I sitting on the other side of the aisle, I'd hold my nose and vote yes to keep the government operating.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

When you get by the history of the last several budgets, when you get past mosquitos and when you get past excuses and when you get past protests, the bottom line, as I read Senator Connor, is that you're looking for the Legislature to go back to three men in a room. And I think that's very unfortunate.

The reforms that we've enacted in this chamber, whether it's doing away with

all-night sessions, but the most important one being joint budget conference committees, I'm absolutely amazed -- and we won't read all the comments that were made by yourself and so many other members about starting the process going and starting the general budget conference committee going. The only thing I can read into it, Senator Connor, is that you do want to go back to three men in a room.

You know, I just want to read part of an article that I read today in the Syracuse Herald-American. And part of it says "But Silver won't play" when it talks about getting the general budget conference committee going. It acknowledges that the Governor has presented his budget, as he's supposed to do under the constitution. "The Assembly Speaker refuses to negotiate, to take the next step and compromise on a joint legislative spending plan. For better or worse, he has positioned himself as the obstructionist in this impasse."

It goes on: "Silver wants assurances that the Governor won't pull out his veto pencil and erase Assembly additions

to the budget as he did in 1998. But it's ludicrous to demand that Governor give up his constitutional powers. Indeed, Democratic Governors Mario Cuomo and Hugh Carey" -- and I can say I was there for some of those vetoes -- "both vetoed legislative spending proposals when it suited them. Furthermore, it is not unknown for the Legislature to override a Governor's veto."

So I think the Syracuse Herald-American -- and I can't agree with their editorial opinions all the time -- are right. Senator Bruno, this Majority, the Minority Republican Conference have attempted to get the general budget conference committee process going. Until we can determine how much there is to spend, we can't do a budget.

And all that we ask is, very respectfully, that the Speaker, that yourself just become part of the process. And even if you just show up and we sit there for a few minutes, maybe that will send a message to the Speaker that both you as the Minority Leader and your conference are going to live by the statements and the words that you gave the

press releases about how it's important for the general budget conference committee to start.

If we do this, I believe the Speaker will come to the table and that we can move forward and have a budget for the people of the state of New York. So I'm delighted to vote in favor of this legislation, Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President. On the bill.

I'm sorry the Majority Leader is no longer in the chamber. I want to say from the outset that I don't blame the Majority in the this house for the inability to get the budget process going. I blame the Governor exclusively for it.

Having said that, I was really taken aback by the comments that Senator Bruno made earlier today that it's the Senate Democrats that are somehow responsible and that now, suddenly, if we take Joe Bruno at his word, that he is incredibly desirous of

our participation in the process. I mean, it's ironic or hypocritical, depending on however harsh you want to be about this.

It's ironic and hypocritical because the Majority in this house that now so badly wants us to engage in the process is the same Majority that earlier this year enacted rules changes that specifically were designed to prohibit our participation in the process, limit debate, prevent us from bringing motions to discharge.

And I will say, Mr. President, that in my three years here, I don't ever remember a member of the Majority soliciting my input on a policy issue, ever.

So I don't blame the Majority for not bringing the budget process to fruition. That finger should not be pointed at Senate Democrats by the Majority here, it should be redirected at the Governor. I find that pretty insulting.

And if I was Shelly Silver, I would do exactly what he's doing here. He's protecting his constituents, he's protecting everybody's constituents who fell victim to

the veto pen after an agreement in past budget years.

And so if the Governor wants to go around the country fundraising, not engage in a process that by definition requires his participation, he's the one who should shoulder the blame for this. He should shoulder it. Not Shelly Silver, not Joe Bruno, and certainly not Senate Democrats.

This one is a coin toss for me as to whether or not I vote yes on another budget extender. And I'm not even going to get into a whole dialogue, as I have already done, about what we need to do to fix this budget process. And there are some ideas that have been presented on both sides of the aisle here, including starting the fiscal year later and some more radical approaches that I have suggested, including a constitutional amendment to the state constitution that would prohibit forever any emergency spending measures, such as we're passing today, to provide a real political incentive never to have a late budget. And that would do it.

So I'm not even going to get into

all those issues at any length today. I'm going to vote for this because the government has to continue and has to go on, irrespective of the irresponsibility of some of the participants in the process and irrespective of the fact that the government structure in New York State is really horrible, flat-out horrible. And the next time we have a constitutional convention possibility in New York State, I will be lobbying as hard as anybody else to have that so we can enact some reforms and give government back to the people.

I'm going to be voting aye.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, this is another extender. I enjoyed listening to everybody's speeches on why conference committees have started and why we aren't there. But again, and I'm getting repetitive -- seven weeks, just as those meetings are getting repetitive -- but in a year when we focused half the year on rules and the effect thereof and how we've got to go

by the rules and all the changes, well, when they made the rules for conference committees, they said that both the Speaker and the Majority Leader of the Senate have to call them.

And unfortunately, no matter how hard Senator Bruno wants to get those called, there hasn't been any conference committees yet because the Speaker hasn't signed off on any of them. That we should go to a Republican meeting, that's nice, it would be fun, it's kind of like a Republican rally, a change of pace. But it's not a conference committee. A conference committee can only be called by the rules that the both majorities put together.

I didn't make these rules, they did. Both leaders have to sign off or it's not a meeting. Just like the rules in this house have to be obeyed and we have to follow them. We don't especially like all of them, but we follow them. Those are the rules. Again, I didn't make them, but I follow them. So when they get both people to call a conference committee, I'm sure we'll all be

there.

And the fact that why don't we have an agreement on avails, I don't know. Because we really don't need conference committees for that. We had an economic forecast meeting months ago that was supposed to be followed within a week by an agreement on avails. That law has been ignored for years. But the meeting took place.

Everyone was there, all the conferences, the DOB was there, and plus experts that were brought in by all the various people to make presentations so that we could have a good judgment on what avails would be there. And actually, the interesting part is the numbers weren't that far apart.

And yet here we are, it's June, months later, and we have no agreement on avails. I don't understand why that can't be done. That one's just not the Speaker's fault, that's everybody's fault. The fact is, the avails should be done, we should be moving with the conference committees.

And now let's go historically, why can't we move the conference committees. How

dare the Speaker ask the Governor to give up his constitutional right to be able to veto items. Well, I don't think he should give those up. I don't disagree with that. But the fact is the last time he used his vetoes, and the first time we had conference committees, he vetoed roughly 1300 items.

And then, as fate would have it, before the fiscal year ended, he put back on his own -- without any legislation, no chapter saying put this money back, you can spend it -- money that he had vetoed out of the budget, programs he had vetoed out of the budget, items he had vetoed out of the budget he put back and spent on his own, with no legislative oversight. And, sadly, both houses let him do it.

And right now it's a very comfortable position for the Majority, because the Governor happens to be from the same party. But say, for example -- it just could happen, fate could be that the next governor is a Democrat. There's already a precedent. Now we got the third member is now a Democrat, and now it's the Speaker and a Democratic

Governor and a Republican Majority -- say, for example, it stays that way. Now they want to call conference committees, only this time it's Senator Bruno saying, Wait a minute, you know, are you going to spend this money? No, we'll override. Okay, let's go do the meetings.

They do the meetings, and the same thing happens next that happened the first year of the conference committees. Late in the year, the Governor spends the money on his own -- no legislative oversight, no chapter amendments, nothing, he just decides to put it back in. Only this time, he puts back in 80 percent of the Democratic items.

I don't think the following year we'd have instant conference committees. I don't think, for the last -- if this was now and it's then, for the last seven weeks we would have had Republicans holding conference committees on their own saying, Let's get started, saying, We'll take the Governor's word, we'll take the Assembly Speaker's word that we'll do overrides and we'll trust the Governor to veto it but he won't spend it then

because he'd taken it out.

Well, you know, unfortunately, these are the cards we're dealt to play this hand with. We might not like them, but this is the way the situation is. Everybody wants to ignore the part that is distasteful for them when they talk about why we're stuck in the place we're stuck in.

I say we're stuck in this place because, one, we let a Governor spend money that he had vetoed out without any legislative oversight, and now we've got a situation where nobody wants to go to the table without him being involved because they're not going to take a chance on him vetoing it and then the party that is of the same party as the Governor saying, We're not going to override him, he's going to probably put back 80 percent of our items again this time if he has the money.

I mean, I could understand everybody not getting upset when he put the money back in for the breast cancer funding that he vetoed out in spite of the fact that his wife was the spokesperson for it. I can

understand nobody being upset with that, because that clearly was somebody's mistake with the knife. And I don't think it particularly was his, even though his signature was on the veto message, but some overzealous person someplace had obviously done that by mistake. That one I didn't have a problem with.

But there were a lot of other things that went in that same manner and that was put back in, and there really was no reason why it happened.

So I think we should be all a little bit more honest on why we find ourselves where we are. I don't think anybody enjoys being here this long. But I also find it kind of comical that people are having conference committees for seven weeks but then are happy to leave for four weeks now and end session on Wednesday or Thursday and say, Well, that's what the calendar said in January, we agreed in January that that's what it would do.

That's like people who are going to build a bridge across a lake and they say,

okay, we're going to be finished by June 20th. June 20th comes, they're halfway across: Well, that's it, that's the day we said we're finished. You drive in the lake, you drive in the lake. That's the way it goes.

That's not the way you do business. If it's not finished -- and obviously not only the budget isn't finished. Practically any of the major items that people said they were going to take up aren't finished or haven't been addressed, other than maybe in some one-house bills on either side of the aisle. And nobody's writing that, but I think it's kind of a mixed message and a real interesting situation.

And I kind of like most of the changes that Senator Bruno put in. I really like starting the session on time. I like sticking to calendars for the most part. But when you have accomplished nothing, I think maybe at that point you've got to make an exception.

Just like once in a while we start a few minutes late because maybe your conference took longer because you're having a

heated discussion about some part of whatever you were discussing, maybe the extender or maybe some other piece of legislation that we currently have to take up. Well, we live with that little bit of delay, and we still work in a more timely fashion than we did.

And maybe this particular year, because of the circumstance, maybe we shouldn't pay attention to the end of the calendar year and we should stay here until we get a budget process really going, not just one party, quote, unquote, conference committees. And I'm only doing it quote, unquote, calling them conference committees because that's what the leader called them, and I don't want to misquote him. But the truth is, they can't be a conference committee because they weren't officially called, because rules are rules.

I'm going to vote for this because I don't like to see government go out. Do I think it's a good idea to do this? No. But people got to get paid and programs have to run and things have to go on in the state. And I take my position as ranker on Finance

very seriously, so I'm going to vote for this.

But do I think we should just walk away? Shouldn't they be trying to get something going no matter what it took? And I don't think the budget should be negotiated three men in a room. But if it took a few three-men-in-a-room meetings to at least get an idea where we're going, then maybe they should do those just to get going.

The fact is, on the forecast, those amounts are already out there. We had that meeting months ago. And if the two majorities and the governor have to agree on avails, I don't have a problem with that. Because when a company does negotiations, they don't bring in every employee in the company to sit in the room while they discuss what the avails are or what the last parts of the contract are going to be, they bring in representatives to do that. And I would expect that probably these representatives would be suitable to most people.

So hopefully we can get something moving, we can get by the personality conflict we seem to have here. And I'm going to try

not to blame anybody. I'm just saying that the situation we find ourselves in is not very pleasant. I think it could be better with only a little bit of work on everybody's part, and a budget could be passed within two weeks of everybody sitting down.

Hopefully we'll get to that point, we'll get to avails, but for now I'll vote for this extender.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President and my colleagues, on the measure before us, I asked to speak a few moments ago when the Minority Leader of this house stood to talk about how the budget process, from his standpoint, was inadequate. Frankly, since hearing him and Senator Stachowski, I am dizzy, dizzy with a spin that I believe is not simply untrue, it's ridiculous.

The Governor's responsibility in this budget process I daresay is spelled out clearly in the state constitution. He has the responsibility to make a budget, an Executive budget, and to present that Executive budget

at the beginning of each calendar year. Governor Pataki has done this. He fulfilled his responsibilities in presenting a budget. He presented that budget on time, he presented that budget even early. This Legislature has had ample opportunity to review Governor's Pataki's proposed budget.

It's not up to the Governor to hold our hand, to walk us through this process. We should be standing up as legislators, reviewing that budget, deciding what part of that budget we will accept, deciding what part of that budget we will reject, vote on that budget, and submit it to the Governor for his signature. Every seventh-grade civics student understands that governmental process.

Unfortunately, the Speaker of this Assembly and now the Minority Leader of this Senate, Senator Connor, and Senator Stachowski seem to fail to understand that that's the Governor's responsibility is to propose, the legislators' responsibility is to vote on the budget.

Where was Senator Connor when Senator Bruno convened the budget conference

committee? He was nowhere to be seen. Senator Bruno was there, Senator Skelos was there, Senator Johnson was there, Senator Velella was there, and the Budget Director of the State of New York was there to discuss the budget in the open.

Senators were there, the Budget Director was there, Assemblyman Faso was there. Where was the Assembly leader? Where was the Democratic leader of the State Senate? They're too busy creating spin, spin about the Governor not being there.

Well, vote. Vote and let the Governor decide what to do with the budget. And if the Governor decides to veto the budget we send him, he does it on a line-by-line basis. That also is in the state constitution. Read it. The Governor has the authority to veto, and he must veto in public and then bear the political consequences of his veto. We have the power to override that veto.

So stop spinning. Stop trying to blame. Exercise our own governmental responsibilities. And I served in the

Minority for ten years in the State Assembly. I can say, my colleagues, that you, particularly on the Democratic side of the aisle, have an important responsibility. Go to the Democrats in the Assembly, go to Shelly Silver, go to those Democrats and tell them: Start participating in the budget process. Join Senator Bruno. He is convening, each and every week, these meetings.

Shelly Silver is nowhere to be found. Your leader is nowhere to be found. We're there, the budget director is there, you're not there. You're too busy conjecting and developing spin.

Well, this spin has made every citizen in the state dizzy. We owe our citizens a process. That process is defined. It has limits. And human foible and political gain, perceived political gain is injected into that, and as a result our citizens are the losers.

Mr. President, thank you for this opportunity to speak in favor not of this resolution, because this resolution represents a failure, in a sense, of this process. But

it provides us at the very least the opportunity to call on the Assembly and to call on you on the other side of the aisle to live up to your legislative responsibilities.

Stop hiding behind the Governor. The Governor has sent his agent to our conference committee. You should send your leader to our conference committee. Debate this budget in open conference committees like so much of your rhetoric has indicated or called on over the past few years. Put your actions where your rhetoric is and join our effort, Senator Bruno's effort to establish an open process and one that the Legislature should be, could be proud of.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

I know everybody or many people feel very strongly one way or the other on this issue. I just want to point out to the members of the Senate that unless this bill is passed and signed by the Governor I believe

within the next 10 to 15 minutes, the payroll will not be certified and the state employees will not be paid. So everybody do what you want to do accordingly. It makes no difference as to us, because we don't get paid.

But in terms of all the other state employees, if you want them to be paid, then we have to move the process along quickly here and pass the bill.

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

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I must say that I am somewhat astonished by some of the rhetoric on the other side of the aisle. I certainly understand the concern about getting people paid. I don't know why the bill was delayed so late today if that is in fact a problem.

But I think that we are actually doing something very, very harmful to the process if we pass this bill today. And that's that we are taking the pain out again.

Senator Bruno expressed concern, and I share that concern with him, that members of the Senate are pain-free. Our constituents don't seem to care about this, where the budget is late, we can walk around smug -- we're not smug -- feeling safe in their districts. That's not a -- that particular feeling is not a feeling I share this particular year, but I understand what he's talking about.

The thing that I don't understand, though, is this astonishing rhetoric by the born-again advocates of open government. If you want to have conference committees, that's great, let's do it. Senator Dollinger has a bill to have mandatory conference committees. Let's have open process.

I've been to the conference committees on the budget the last few years. They are about as real as the puppet governments in Eastern Europe during the Soviet regime. The avails were agreed on by three men in a room. The strings, as Senator Connor said, were ropes to the leadership. So they aren't real conference committees.

If we're going to switch to that

now, great, let's switch to it for everything. Let's do the Dollinger bill, let's get it out in the open. But we're not talking about that. If Senator Bruno wants to go that route, that's great. I expect to see a version of the Dollinger bill forthcoming from the Majority.

What we're doing here is something very harmful. We're telling the public it doesn't matter, we can take a month off. Let's not take a month off. Our options are not limited to passing this bill or shutting the government down. We can extend for a day, for two days, for three days. We can stay here. And I respectfully submit that it will send a much more powerful message than showing up at a dog-and-pony show of a one-sided, phony conference committee if we stay here to try and get the budget. Maybe if we're sitting here we can even get the Governor to come to town.

And for people to express concern, well, our constituents don't care about this -- if the Governor doesn't care, why should the public care? If he won't even come

to Albany to call a meeting to do what he can do to get this process moving, why should the public care?

So if you want to have open conference committees, let's have them. The conference committees on the budget in years past have not been true, open conference committees. And if you really care about passing a budget, let's not do a one-month extender. You know, I'm sorry, I don't think everyone is going to be spending the time between now and the middle of July toiling away in their district offices. I suspect that more than a few games of golf will be played by people who sit in this house.

Let's give up some of our free time to try and bring the budget process into some realistic, serious, posture for negotiations. And that means, as we all know, the Governor agreeing to avails, the Speaker agreeing to avails, and the Majority Leader agreeing to avails. There's no other way to do it.

And I'm afraid that maybe I'm a little bit dizzy from the spin, but it's certainly not spin that's being generated by

our side of the aisle. I urge everyone to vote no on this bill. Let's do a shorter agenda. Let's show up here, and I assure you that will have more a serious impact than these weekly partisan, phony conference committee meetings.

I intend to vote no. I urge everyone to do so.

ACTING PRESIDENT MEIER: Senator Hoffmann.

SENATOR HOFFMANN: I recognize the time constraints on us, Mr. President, and I accede to the request by Senator Skelos for us to be brief.

I would just share with my colleagues a brief encounter I had at a Juneteenth celebration on Saturday. A very dedicated individual who works with a program dealing with disadvantaged young people approached me and said, "Why don't we have a budget? What's wrong with the Speaker?"

And I explained to her what I hear some of my colleagues say and what the Speaker's office keeps putting out, that the Speaker is dissatisfied that the Governor is

either not in town or that the Speaker is upset that the Governor would not agree in advance to forgo vetoes, give up his veto power, or that the Speaker had other issues. Sometimes it's loft laws, sometimes it's rent control, but historically this Speaker has injected nonrelated issues and held up the budget process.

When I explained some of these things fairly objectively to this woman, she said: "I don't care. It is the job of the Legislature to do a budget." And she said what every eighth-grade civics student knows, that it is the legislative branch of government that has the responsibility to either modify, adjust or pass the budget which is presented to us by the executive branch.

The executive branch in this state has performed its function. It matters not whether the Governor is in Topeka, Kansas, or Albany, New York, today. It is our job to come up with a budget. If we don't like the one that he gave us, then maybe we should do our own budget.

But we can't do it one house alone.

It is incumbent upon the Speaker of the Assembly to sit with us and negotiate with us, not pander to the press, not try to turn people loose on Albany or in our districts suggesting that Governor should somehow assume a different role than the executive branch is defined in this constitution in the state of New York. We know what the constitution is. We are doing our jobs. It is, sadly, the Assembly that refuses to do its job.

To stay in the Capitol for 30 days, cooling our heels at an enormous taxpayer expense, makes little sense right now. Perhaps when we leave this Capitol with a 30-day emergency appropriation, perhaps then the pressure really will be on. Maybe there will be many more editorials like the one that Senator Skelos read that appeared in the Syracuse newspaper.

I understand how strongly people feel in my district. I know that there are people who are connected with a very important consortium at Syracuse University waiting for the new GEN-NY-SIS project to become law. We have proposed that in our budget. I have no

doubt that in the end it will be a part of a budget agreement. But right now is the time that they need access to $15 million to start high-tech projects, to get research underway, and to hire many new people.

Companies are waiting for an economic development boost that would happen with the GEN-NY-SIS project. Localities are waiting to find out if in this waning construction season they can do important road and bridge work. And they are all wondering why the Speaker doesn't understand this urgency.

I call, with all of my colleagues, on the Speaker to do his job, to be the legislative partner that we need with the New York State Senate so that we can have a budget.

ACTING PRESIDENT MEIER: Senator Brown.

SENATOR BROWN: Thank you, Mr. President. Let me also be mindful of the Deputy Majority Leader's request to be brief. I will.

Meaning no disrespect to anyone, I

don't think a child would learn much, in looking at the state's budget process, about civics. I mean, this is clearly a process that is in desperate, desperate need of reform. Seventeen years in a row this state budget has been late. And in my experience being here, I'm not seeing much being done to change that. And it's really sad.

This late budget is having a devastating effect, in my view, on the local level throughout the state of New York. School districts can't plan, local governments can't plan. And there are many programs that need to be funded at a certain level that aren't getting the funding that they deserve.

The State Superfund to clean up toxic sites across this state is bankrupt, and we are doing nothing budgetarily to refund the Superfund.

School spending, capital spending in school districts isn't going forward because school districts can't plan. And particularly in poor school districts across this state, where new buildings need to be built and old buildings need to be repaired,

school districts can't go forward with that.

And summer youth employment is something that is particularly troubling to me. Because of this budget process, this failed budget process, thousands of children across this state will not be able to get a summer job. And that's terrible. It sends an awful message to our youth. We talk about the kind of messages we want to send our children. We should be thinking about the fact that there are kids out here in this state that want to work, that want to work but they can't work because we, the adults in this state, can't get a budget passed.

Let me say that I have said the last few times that these extenders have come up that if there weren't substantive negotiations around the budget, if there weren't real talks around the budget, I would not vote for an extender. I'm not voting for this extender today. I think the pain has been totally removed from this process. There's spin all around here.

And the only way for us to do what we are supposed to do, I think, is to inject

the pain back into the process. I'll be voting no, and I urge others to vote no on this emergency appropriation bill.

ACTING PRESIDENT MEIER: Senator Goodman.

SENATOR GOODMAN: Mr. President, I think I'd like to bring a slightly different perspective to this discussion, if you'll permit me.

If you stop to think about it for a moment, Jim McKinley of the New York Times wrote a very thoughtful article over the weekend which explained exactly what the underlying forces are in this matter that confronts us. The underlying forces are, very simply, a total disagreement as to the direction of the national economy. If we knew whether we were on a flat, extended plain or an uphill slope or a downhill slope, we would then get some sense of the impact of the national economy upon the state budget.

Until we have that, it's quite apparent that no one wishes to make a precipitous judgment and to try to put us into a position where we are going to have an

unclear picture and try to create a situation where we'll have inaccurate revenues to finance the expenditures which many of us deem to be vital.

And so I would respectfully suggest to you that nobody is going to make a move until we get a clearer picture of this, which probably means sometime during the month of July, in the middle of July, we may begin to get economic data which enables us to see where we're going.

If you take a look at your daily Dow Jones charts in the newspapers, you will find that there's a volatility on the upside and the downside. One day we're up 150 points, the next day we're down 150. And thus we've had a wild series of gyrations. If you look at the needle, it looks like a seismograph in an earthquake, but nobody is sure whether the earthquake is going in which direction.

So that basically what's going on here is a group of people -- I remember when we once upon a time had bulletproof glass installed in this chamber, and people used sit

up and look down at us and say here we are, a bunch of psychiatrists analyzing the reaction of a group of white mice being subject to terrible pressures. We were the white mice, and they were the analysts.

I very much regret to say that I think we're behaving a little bit like a bunch of experimental people trying to determine how to respond to pressure which can simply be removed by a realization of what's underlying our problem. Until we know where the economies are going and what to expect, there's no way you can predict revenues or expenditures in the state of New York.

Now, is it advisable to take a chance? I think the answer is, from our side, yes, we think it is time to take some sort of a gamble.

You know, the old expression is an economist is a man who has a Phi Beta Kappa key on one end of his chain and nothing on the other end. He's also variously described as an individual who tells you 38 ways to make love but doesn't know any women. You can take your choice of definitions, but the fact of

the matter is that nobody knows where the economy is going, least of all those most directly involved in our type of work.

So essentially what it seems to me we ought to decide to do is do we want to sit back and patiently await further precise data to make a decision, or are we willing to gamble on less than total numbers which give us a clearer picture of what will happen, which we'll get sometime in mid-July?

I respectfully suggest to you, ladies and gentlemen, that I don't think it's particularly fruitful to be criticizing one another back and forth in a series of displays of invective. Rather, I would suggest that we should try to decide what the appropriate and judicious moment would be to get data which we can rely upon and then to act upon it.

I suggest to you we ought to get out of here and stay out for a period of a month until we get data which will permit action; in the meanwhile, forbear and not find it necessary to attack one another every hour on the hour, because it accomplishes nothing but undermining public confidence.

If anyone agrees with me, then I'd welcome your approach to this slightly different level of oratory than what we've heard over the past several hours in this chamber. It seems to me the constructive thing to do is to get the data we need and then act upon it, and until then to shut up.

Thank you very much.

ACTING PRESIDENT MEIER: Senator Gentile.

SENATOR GENTILE: Thank you, Mr. President.

We have been told that we need to pass this extender so that government can continue, that programs can be funded. However, if you take a look at this extender, there are actual reductions in service. And that is inevitable when we don't have a state budget.

When we don't have a state budget, we force -- we cause localities to have the inability to plan for the future. We cause delays in programming at the local level, cash-flow shortages, and the need for localities to borrow. And that results in a

reduction of services.

So this extender is not all that it's made up to be, and I'll give you two examples. For example, in the universal pre-K program, that program needs to be funded now. Actual numbers need to be known now so that the school districts can plan for their universal pre-K program in September. That cannot happen now. That is a good program. That's a great program, and I commend Governor Pataki for calling it a great program several years back in his State of the State message.

Yet because of the realities of not having a state budget, the universal pre-K program is almost as good as not having it, because school districts cannot plan and they cannot start a program without knowing that that money will eventually be there.

In the area of the elderly -- and I have many, many senior citizens in my district, as I assume all of you do also - the program known as SNAP, the Supplemental Nutrition Assistance Program, is a legislative add to the budget. Because we do not have a state budget, that legislative program add is

not in this extender. It would be in the budget; it is not in the extender. So the Supplemental Nutrition Assistance Program is no longer being funded.

There are real consequences to not having a state budget. Those are just two examples, and two very serious examples, that hurt New Yorkers.

This extender is a charade. It is something that we are doing inevitably to get the Governor off the hook. Because if the Governor fails to exercise that type of leadership that will bring the two houses together to begin this budget process, then I believe what we're doing by passing this extender is getting the Governor off the hook.

Now, it's been said that the Governor has fulfilled his constitutional responsibilities. He has submitted a budget to the Legislature, and he's fulfilled those duties. Yes, he's fulfilled the constitutional duties of his role as Governor.

But he has leadership responsibilities in his role as Governor. And his leadership responsibilities in his role as

Governor is to face the crisis as it is, talk about it, bring the groups together and force some type of movement on this budget.

Barring that, if the Governor refuses to exercise that type of leadership that his role as Governor of the State of New York requires him to do beyond his constitutional role, then I think the only way we can force the issue is to not pass an extender, is to not pass this extender, and to, as my colleagues have said, let some of that -- that -- the hurt occur. Because if that does, if the budget stops now, then you will see, you will see this house, the other house, and the Governor sitting down to do a budget. This state will not go without funding. There will be some movement if we stop the clock right now and not pass this extender.

You know, former U.S. Senator Bob Dole, a Republican Senator from Kansas, used to say, in 1996: "Where's the outrage? Where's the outrage?" I say the same thing right now. Where is the outrage? Where is it? Where is our Governor to provide the type

of leadership needed to bring these two houses together and to start this process?

You know what? The outrage will be there if we stop the process now, do not pass this extender and do what we're required to do by the people of the State of New York, in conjunction with the Governor, who has more than just a constitutional duty, he has a moral responsibility in his role as Governor to bring this process and move it forward.

Mr. President, I will register my outrage by voting no on this extender.

ACTING PRESIDENT MEIER: Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I just want to -

ACTING PRESIDENT MEIER: Senator, one moment.

Senator Skelos.

SENATOR SKELOS: If I could interrupt. And by no means am I looking to cut off debate, because you have the right to debate. But I just want to explain, unless this bill is passed, signed by the Governor, people will not be paid within the next couple

of minutes.

So I'm not cutting off debate, I'm just stating a fact.

SENATOR MONTGOMERY: Thank you very much, Mr. Majority Leader.

I just want to very, very briefly, in the interest of making sure that the state employees are paid and our bills are paid -- I do want to say, however, that I am voting no, Mr. President, on this extender. And one of the reasons why is because we have not negotiated a fair budget between the Legislature and the Governor, and yet this represents almost one-third of the state budget for this year.

And let me just say to you that in this extender there is not one additional dollar for the Summer Youth Employment Program. Now, last year we in the Legislature negotiated with the Governor to include $35 million for summer youth employment for the young people in this state. $23 million went to New York City. This year the only thing that we have done for summer youth employment -- and we are at June. The end of

June, the first of July is when young people are going to be looking to go to work, to have a little summer employment -- we have given - we have put $25 million -- now, that is only what the Governor has proposed. It is not what we have negotiated with the Governor to fund summer youth employment. So we are already funding summer youth employment for $10 million less.

The Assembly wants to fund that program at 40 million. Now, somewhere in between the two houses and the Governor, we're looking at an increase, hopefully, in summer youth employment funding. But up to now, because we don't have a budget, that money is missing.

Now, 50 percent of the young people who were employed based on the $35 million that we funded summer youth employment last year, half of them were 14-to-15-year-olds. Now we have a legislation that is going to be coming before us which has been coming before us for the last five years; we call it the Juvenile Justice Reform and Delinquency Prevention Act. And part of that act will

permit 13-, 14-, and 15-year-olds to be prosecuted as adults.

So, Mr. President, while we have cut summer youth employment by $10 million over what we funded it last year and we have not negotiated what we actually need to and want to fund it for this year, we're going to be voting on a bill which would increase the amount of time and would allow 12-year-olds, 13-year-olds, 14-year-olds, 15-year-olds to be tried as adults.

So, to me, that is incomprehensible. We cannot be talking about punishing these same young people while at the same time we are cutting the funding that would allow them to be productive, at least for the summer, and hopefully that we should come up with a program that would keep them productive for the year round so that they don't get into trouble and we don't have to talk about trying them as adults when they do something at 12 years old and 13 and 14.

So I'm voting against this, Mr. President. I think this is only one aspect of this budget where people, particularly young

people, are being terribly shortchanged in this state. And I think it is wrong for us to do that. So we should all come to the table and negotiate a budget so that our people don't suffer.

Thank you.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President. Just very briefly.

First of all, Mr. President, with all due respect, you know, to suggest that there's now an enormous time limit when the bill comes down to this house at 5:15 in the afternoon -- it does seem a bit troubling, I guess, that it comes down at 5:15 and we're told, in essence, if it doesn't get done by 6 o'clock, it's the fault of the debate process or because members have expressed an opinion on this side of the aisle.

I would just suggest that we certainly don't have any responsibility for that, no one on this side of the aisle. Shake your head if you were consulted about when the bill was going to come to the floor. I would

suggest that that responsibility lies elsewhere.

Secondly, I think Senator Stachowski's comments were right on the nose. We're in the Kabuki time. We're in the time of the ritualistic dance, like those old Japanese dances, with this whole question of budget and who's responsible and who's at fault.

Well, I would just suggest one thing. Senator Goodman talked about the economy, talked about changes in the economy affecting available resources. I would just suggest that the great business model that has always been extolled to me by my Republican friends who say let's run government like a business -- when the business isn't going anywhere and the job isn't getting done, who is responsible in the business? The shareholders, the members of the board of directors, or the chief executive officer?

When you think of the United States of America, you think of the president. When you think of Ford, you think of the president. When you think of every other corporation, you

think of the president. Eastman Kodak Company, General Dynamics, GE -- name them, they think of the president, the guy elected to do the chief executive's job.

When you come to the State of New York, you think of the guy elected to do the job. His name is George Pataki. He has a role in this process. It's his job to get this budget done on time.

And I would suggest that what we have here is the classic case of someone who's running around the country raising money - he's entitled to do that, Mr. President. But the one thing he can't do is he can't sit as an owner of this team, as the chief executive officer of this team, and sit up in the booth and watch the teams play the game.

I would suggest what the Governor needs to do is get in the game. I would advise him and all of his staff, strap on your pads, grab your cleats, put your helmet on, come on down to the field and play in this game. Because without the Governor playing in this game, we're going to have a continuing stalemate.

I support the Speaker of the Assembly, as my other colleagues have described. I would not go play in this game without the guy on the team who can control the plays. I wouldn't do it. It happened, as Senator Stachowski properly pointed out, three years ago. We played the game, we got to the end of the game, and all of a sudden he changed the score. He changed the score after the game was over. After we all thought it was finished, he changed the score. This house decided not to override his vetoes, and we ended up in a position where, quite frankly, politics intruded on the budget process.

I would just suggest it's time for the Governor to stop being an absentee owner of the State of New York, get in the game. Come down, participate in the process, and let's get the game on its way and get it underway and we can get it done. But we can't do it without everyone playing on the same field. Governor, come up from the second floor, join us on the third floor, let's get the process finished. Without him, it's a

hollow process.

Mr. President, I think that someday that may change if we change this Governor a year and a half from now. You may find that people in this chamber suddenly flip their positions when the executive power is held by a Democrat. I think that would be a mistake too. The Governor ought to be involved in every phase.

I think it's George Pataki's time to come home and get the job done.

ACTING PRESIDENT MEIER: The Secretary will read the substitution.

THE SECRETARY: In relation to Calendar Number 1144, Senator Stafford moves to discharge, from the Committee on Finance, Assembly Bill Number 9208 and substitute it for the identical Senate Bill Number 5631.

ACTING PRESIDENT MEIER: Substitution ordered.

Read the last section.

THE SECRETARY: Section 84. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1144 are Senators Brown, Connor, Dollinger, Duane, Gentile, Montgomery, Onorato, Oppenheimer, Schneiderman, A. Smith. Also Senator Hassell-Thompson. Ayes, 49. Nays, 11.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

Senate Print 1A, by Senator Bruno, an act to amend the Executive Law and others.

755, by Senator DeFrancisco, an act to amend the Executive Law and the Education

Law.

1248, by Senator Stachowski, an act directing the commissioner.

2075A, by Senator LaValle, an act to amend the Administrative Code of the City of New York.

2135, by Senator Spano, an act to authorize.

3761A, by the Senate Committee on Rules, an act in relation to authorizing.

3945, by Senator LaValle, an act to amend the Mental Hygiene Law.

4175, by Senator Meier, an act to amend the General Municipal Law.

4484A, by Senator Libous, an act to authorize the Village of Endicott.

4744, by Senator Morahan, an act to amend the General Municipal Law.

4939, by Senator Leibell, an act to permit the reopening.

4953, by Senator Volker, an act to amend the Criminal Procedure Law.

5025, by Senator Trunzo, an act to amend the Public Authorities Law.

5241, by Senator McGee, an act in

relation to authorizing.

5246, by Senator LaValle, an act to establish the Ridge Volunteer.

5365, by Senator Seward, an act to authorize the City of Ithaca.

5382A, by Senator Maziarz, an act to amend the Public Health Law.

5436, by Senator McGee, an act to amend the Public Health Law.

5441, by Senator Johnson, an act to authorize.

5444, by Senator Rath, an act to amend the County Law.

5548, by the Senate Committee on Rules, an act to amend the Tax Law.

5550, by Senator Saland, an act to amend the Education Law.

5556, by Senator Padavan, an act to amend the Real Property Tax Law.

5565, by Senator Goodman, an act to amend the Tax Law.

And 5609, by the Senate Committee on Rules, an act to amend the Tax Law.

All bills ordered direct to third reading.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT MEIER: One second, Senator Oppenheimer.

Senator Skelos.

SENATOR SKELOS: 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.

All bills directly to third reading.

Senator Morahan.

SENATOR MORAHAN: Mr. President, I'd like to, with unanimous consent, be recorded in the negative on Calendar 350.

ACTING PRESIDENT MEIER: Without objection, Senator Morahan will be recorded in the negative on Calendar 350.

Senator Oppenheimer.

SENATOR OPPENHEIMER: I would like to be recorded in the negative, with unanimous consent, on Calendar 1129 and Calendar 530.

ACTING PRESIDENT MEIER: Senator, Calendar 1129 was laid aside. But without objection, you will be recorded in the negative on Calendar 530.

SENATOR OPPENHEIMER: Thank you.

ACTING PRESIDENT MEIER: Senator Breslin.

SENATOR BRESLIN: Mr. President, I would request unanimous consent to be recorded in the negative on Calendar Number 530.

ACTING PRESIDENT MEIER: Without objection, Senator Breslin will be recorded in the negative with regard to Calendar 530.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, I would like unanimous consent also to be recorded in the negative on Calendars 530 and 1135.

ACTING PRESIDENT MEIER: Without

objection, Senator Montgomery will be recorded in the negative with regard to Calendars 1135 and 530.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I would request unanimous consent to be recorded in the negative on Calendar 156.

ACTING PRESIDENT MEIER: Without objection, Senator DeFrancisco will be recorded in the negative on Calendar 156.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President. On behalf of Senator Balboni, I wish to call up Senate Print Number 5303, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1025, by Senator Balboni, Senate Print 5303, an act in relation to allowing.

ACTING PRESIDENT MEIER: Senator Fuschillo.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Mr. President.

On page number 24, I offer the following amendments to Calendar Number 587, Senate Print Number 1905, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Hannon, on page number 37, I offer the following amendments to Calendar Number 797, Senate Print Number 4255, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 1143, Senate Print 5609.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1143.

THE SECRETARY: Calendar Number 1143, by the Senate Committee on Rules, Senate Print 5609, an act to amend the Tax Law, in relation to extending.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Gentile, to explain his vote.

SENATOR GENTILE: Mr. President, this bill extends sales tax authority in several different counties. As you know, I am, based on -- call it my conservative approach to these things, but I am opposed to extension of sales taxes in any county, because I think the way this state should be going is to repeal the sales tax.

And as a result, I will be voting no. Despite the fact that this may be beneficial to some counties, I think in the long run it hurts the State of New York and its economy. I vote no.

ACTING PRESIDENT MEIER: Senator Gentile will be recorded in the negative.

Announce the results.

I'm sorry, Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President. I was hoping to get unanimous

consent to abstain on this due to a conflict.

ACTING PRESIDENT MEIER: Give me a moment.

SENATOR DUANE: Or however you do it.

Mr. President, I'd like to withdraw my request.

ACTING PRESIDENT MEIER: Just so the record is clear, you're withdrawing the request, Senator?

SENATOR DUANE: And I'm voting in the affirmative.

ACTING PRESIDENT MEIER: All right. Senator Duane will be recorded in the affirmative.

Announce the results.

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go back to the regular calendar, Calendar Number 563, by Senator Goodman.

ACTING PRESIDENT MEIER: The

Secretary will read Calendar 563.

THE SECRETARY: Calendar Number 563, by Senator Goodman, Senate Print 3972A, an act to amend the Public Officers Law, in relation to requests.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT MEIER: Senator Goodman, an explanation has been requested of Calendar 563 by Senator Dollinger.

SENATOR GOODMAN: Presently the Freedom of Information Law exempts from public disclosure an agency's computer access codes. This exemption, which dates from 1984, does not specifically permit an agency to deny public access to other data in the possession of an agency which, if disclosed, would facilitate the unauthorized access to information stored electronically or compromise the agency's information or information system.

The bill will update and expand the existing exemptions to reflect the current state of technology and the need to protect an agency's information and its information technology assets.

ACTING PRESIDENT MEIER: Senator Dollinger.

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

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

SENATOR GOODMAN: Certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Senator, I gather the only memo in opposition is one that suggests the bill has been drafted too broadly and suggests that one of the consequences of this is that there may be denial of legitimate requests for access to records.

I just wondered if you had a response to that suggestion in this memo.

SENATOR GOODMAN: I do indeed. The memo to which you refer is issued by

NYPIRG.

But if you'll examine, if you please, lines 4 through 6 of the bill, you'll notice that the bill says "if disclosed would jeopardize an agency's capacity to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures."

The proposed language by NYPIRG says "would, if disclosed, facilitate unauthorized access to an agency's electronic information systems, would clearly jeopardize or compromise information security."

The complexity of the type of technical information to which we refer in this bill is such that the NYPIRG would inappropriately narrow the definition so that it's possible that someone could use FOIL to unravel an agency's security in a very serious and detrimental fashion.

SENATOR DOLLINGER: Thank you, Mr. President. I guess I'm satisfied by Senator Goodman's explanation.

I think this may be slightly overly

broad, but I hope that what will happen here is that we will preserve the legitimate integrity of computer recordkeeping systems that are maintained by government and at the same time will have to rely on either the courts or other agencies to make sure that that's not overly broad and that it doesn't end up restricting people's access to information that government has and which people should have -- should be part of the public domain.

So, Senator Goodman, I'm going to vote in favor of this, and I hope this all works out and we don't interfere with the public's access to legitimate government information.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. With unanimous consent, I would in fact like to be recorded as abstaining on 5609 because of personal and pecuniary interest.

ACTING PRESIDENT MEIER: Does any Senator have any objection to Senator Duane being recorded as abstaining?

SENATOR DUANE: Thank you, Mr. President.

SENATOR SKELOS: No objections.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded as abstaining with regard to Calendar 1143.

Senator Brown.

SENATOR BROWN: Yes, Mr. President. I request unanimous consent to be recorded in the negative on Calendar 530.

ACTING PRESIDENT MEIER: Without objection, Senator Brown will be recorded in the negative on Calendar 530.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Yes,

thank you, Mr. President. I request unanimous consent to be recorded in the negative on Calendar 156.

ACTING PRESIDENT MEIER: Without objection, Senator Malcolm Smith will be recorded in the negative on Calendar 156.

The Secretary will read.

THE SECRETARY: Calendar Number 662, by Senator Saland, Senate Print 4902, an act to amend the Domestic Relations Law and the Social Services Law, in relation to open adoption agreements.

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT MEIER: Senator Saland, an explanation has been requested by Senator Dollinger.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, what this would do would be to effectively formalize agreements enabling people who enter open adoption arrangements to in effect have specific criteria by which to order that arrangement. It provides for modifications and extensions

of those agreements through the order of the court, but very carefully provides really for the required consent of all parties to that particular modification or extension.

This is a bill that attempts to recognize the reality of the ever more prevailing practice of open adoptions and attempts to provide some orderliness and codification to some of the practices associated with that type of adoption.

ACTING PRESIDENT MEIER: Senator Dollinger.

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

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

The sponsor yields.

SENATOR DOLLINGER: Through you, Mr. President, so I make sure I understand this, under current law such agreements are permitted, are they not? I mean, the voluntary surrender and some agreement that would modify long-term rights of access by the birth parents to the child in the hands of the

adoptive parents.

And my question really is, what is it about those current agreements that this modifies or alters?

SENATOR SALAND: What this attempts to do, it recognizes, again, the reality of modifying and enforcement of open adoption arrangements. But there really is no particular oversight or no particular control of any kind that advises people on how to deal in situations where they seek either some type of ruling or redress or modification.

This attempts to establish that very procedure in a fashion which is readily comprehensible and sort of lays out a blueprint for anybody who would be interested in pursuing an open adoption.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will yield.

ACTING PRESIDENT MEIER: Senator Saland, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Just so I'm clear, do you have evidence or an indication that the adoption agreements in this kind of situation have either not been recognized by the courts or they have been inappropriately interpreted by the courts or they have resulted in unjust results for both natural parents and adoptive parents?

I understand the beneficial intent of this. My question is, is there a particular series of problems that have arisen, or is this a bill sort of drafted in the general -

SENATOR SALAND: The problem probably is most acute in situations in which there has been an adoption or an adoptive parent who is suddenly apprised of the fact that the birth parent or birth parents had made an agreement with whomever the agency may have been to provide for an open adoption, and perhaps the adoptive parent in this particular situation was unaware of that agreement.

This is an effort to get all of this out in the open at the earliest possible stage and to catalog the respective rights of

the parties and, again, provide what I termed before a blueprint as to how you would go about pursuing whatever redress or remedies you might seek, whether you were the birth parent or the adoptive parent.

SENATOR DOLLINGER: And through you, Mr. President, if Senator Saland would yield just to a final question.

ACTING PRESIDENT MEIER: Senator Saland, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: I understand that the bill, Senator Saland, talks about a proceeding before the judge or surrogate to whom the petition for the surrender is brought, that he would make some determination about the best interests of the parties.

Is that a determination -- I haven't been through the bill in its exact text, but is that a best-interests-of-the child governing the equation? And to what extent does he perform a factual

determination? Does he hold a hearing, does he gather additional information to make that judgment about the best interests of the child? Just explain to me how that process works.

SENATOR SALAND: There would be a hearing. The hearing would be like any other hearing in which there would be fact-finding. The barometer in these types of situations is generally the best-interests-of-the-child. That standard would hold true here. The court would basically make the determination as to whether the relief requested, perhaps a desire for more contact, would be in the best interests of the child.

And even if the parties agreed that it was in the best interests of the child, the court would still reserve the right -- let me rephrase that. Even if the parties agreed for some change in contact, the court would still reserve the right to determine whether that agreement was in the best interests of the child.

SENATOR DOLLINGER: Through you, Mr. President, I want to thank Senator Saland

for his explanation.

I laid this bill aside just because of a lack of familiarity. Having been through the process of open adoption in my capacity as a private lawyer, my concern about both giving some direction to the courts and at the same time maintaining lots of flexibility - because at least in my own experience, these arrangements can have multitudinous approaches to them about contact by birth parents and grandparents and relatives and access to information and family history information and all kinds of things that in the context of an adoption are critically important to the child, to the biological parents, to the adoptive parents.

And I'll agree with Senator Saland, I think to the extent that this bill gives more direction and sort of a context in which the courts can deal with these, defines the best interests of the child as the governing standard for the court to interpret these agreements, I think that we're providing some clarity in what is now a wide-ranging and oftentimes murky area of the law as lawyers

try to construct these agreements and try to come up with some kind of balancing of the rights of the respective parties.

So I'm going to vote in favor, Mr. President, and urge my colleagues to do likewise.

My guess, however, Senator Saland, is this will not be the last time we go back to these agreements. There will be another time, when this percolates down into our case law, that we'll come back to this difficult issue of balancing the rights of all the parties in these very complicated and emotional situations.

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

Senator Montgomery.

SENATOR MONTGOMERY: Yes, just briefly, Mr. President.

I just want to compliment Senator Saland for bringing forth this bill. And I certainly hope that we can get a bill negotiated on the other side.

I think this is very important. It's important because it, I think, provides

more security in judges making a decision, a final decision that frees a child for adoption when that judge understands that there is a possible -- or there is a level of openness where that child still has access but certainly needs to have some permanency.

And I fully and completely support that concept, and so I'm happy to vote for this bill. And as I said, I hope that we can get it negotiated on the other side so that we have something in law by the end of the year.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Schneiderman.

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

consent to be recorded in the negative on Calendar 156, Senate Bill 482.

ACTING PRESIDENT MEIER: Without objection, Senator Schneiderman will be recorded in the negative on Calendar 156.

Senator Brown.

SENATOR BROWN: Thank you, Mr. President. I request unanimous consent to be recorded in the negative on Calendar 156, Senate Bill 482.

ACTING PRESIDENT MEIER: Without objection, Senator Brown will be recorded in the negative on Calendar 156.

Senator Hevesi.

SENATOR HEVESI: Thank you, Mr. President. I rise to request unanimous consent to be recorded in the negative on Calendar 1075, Senate Print 2000.

ACTING PRESIDENT MEIER: Without objection, Senator Hevesi will be recorded in the negative on Calendar 1075.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, could I have unanimous consent to be recorded in the negative on Calendar Number

156.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative on Calendar 156.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 704, by Senator Farley, Senate Print 4634A, an act to amend the Banking Law, in relation to annual reporting requirements.

SENATOR DOLLINGER: Can we have an explanation, Mr. President?

ACTING PRESIDENT MEIER: Senator Farley, an explanation has been requested of Calendar 704 by Senator Dollinger.

SENATOR FARLEY: Thank you.

This bill is intended to update the Banking Department's annual report and make it more useful and informative.

Among the major changes made by this bill are the following. It adds information on banking institutions which are newly created, which have merged, or which have changed their charter. It includes information on any foreign or other banking

entities which are closed during the year. It also adds information about receipts and disbursements from the Money Transmitter Insurance Fund.

And it also transmits the information on ATM safety variances from the annual report to a separate report which is submitted each January to the Legislature in compliance with the ATM Safety Law. It is more appropriate to include this information in the ATM report.

But basically it's a cleanup bill for their annual report.

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

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I'm going to vote against this bill, Mr. President.

I appreciate Senator Farley's comments about the cleanup. I think one of the things we ought to do is look at a history of something like the Banking Law and suggest that the department doesn't have to tell us some things which another legislature in

another time thought were particularly pertinent.

However, I'm going to vote against this bill because I think the disclosure about salary information is still important. I still think that as part of the understanding of the operation of this department we should have information about the salaries paid to certain government services and additional information about banking organizations. We should have that information as well.

I still think that that type of disclosure in the report to the Governor and the Legislature has a value, and I think if we get away from that we've gone a little too far in deregulating the Banking Department from the point of view of the obligation to report to us as the board of directors of this $85 billion corporation. I don't think it's unreasonable that we know what those people are paid.

And so, Senator Farley, if that weren't in there, I would vote for this bill, but I'm going to vote against it just on that basis.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Yes. Just for your information, that salary information is provided to the Legislature every year.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Dollinger.

SENATOR DOLLINGER: Would you just record me in the negative on that? I apologize.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative on Calendar 704.

Senator Sampson.

SENATOR SAMPSON: Mr. President,

I would like unanimous consent to be recorded in the negative on Calendar 156, Senate Print 482.

ACTING PRESIDENT MEIER: Without objection, Senator Sampson will be recorded in the negative on Calendar 156.

Senator Breslin.

SENATOR BRESLIN: Mr. President, I would request unanimous consent to be recorded in the negative on Calendar Number 156, Senate Print 482.

ACTING PRESIDENT MEIER: Without objection, Senator Breslin will be recorded in the negative on Calendar 156.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1097, by Senator Trunzo, Senate Print 5401A, an act to authorize the Suffolk County Sports Hall of Fame, Incorporated.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Senator Trunzo, an explanation has been requested by Senator Dollinger of Calendar 1097.

SENATOR TRUNZO: Mr. President,

this bill would authorize the assessors of the Town of Brookhaven and the Village of Patchogue to accept an application for an exemption from real property taxes made pursuant to Section 420 of the Real Property Tax Law for the 1999 assessment year rolls.

Thank you.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will yield for a question.

ACTING PRESIDENT MEIER: Senator Trunzo, do you yield?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Senator Trunzo, does this cover the 1999 assessment rolls and the 2000 rolls as well? Is this for more than one year or just a single year?

SENATOR TRUNZO: It's only the one year, Senator. Only the one year, just 1999.

SENATOR DOLLINGER: And through

you, Mr. President, if Senator Trunzo will continue to yield.

ACTING PRESIDENT MEIER: Senator Trunzo, do you yield?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Is this a partial property tax exemption, or is it a full-year tax exemption because they missed the tax -

SENATOR TRUNZO: No, it's a full-year tax exemption.

What happened when they took over the property, which was given to them, it was done right after the rolls were closed and they weren't aware there was a tax liability on the property. And as a result, for the year 1999, they did not apply. But they did for the year 2000.

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

I mean, this is clearly the sweeping fad in Nassau County come to Suffolk County, Senator Trunzo. Again, you're doing

the right thing by your constituents to support this bill, to bring it to this house. But once again, we set up property tax exemption, we set up dates under which you must meet filing dates. We have our assessors tell us we have to close the roll on a particular date.

If someone misses that date, my suggestion is that their lawyer or someone ought to look into why they had to pay this tax and why they didn't get a credit for it at the closing or adjust the price. But the bottom line is we continue to function like a super-assessment board.

And I understand this is important to them because they've paid a tax they shouldn't have had to pay. But nonetheless, we're becoming more and more like a super-assessment board, and I think we ought to stop it, pass a statewide bill, and stop these bills from flooding the Senate calendar.

I'll vote no.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1100, by Senator Velella, Senate Print 5425, an act to amend the Criminal Procedure Law and the Penal Law.

SENATOR DOLLINGER: Can I have an explanation, please.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1101, by Senator Volker, Senate Print 5426, an act to enact the Criminal Procedure Law Reform

Act of 2001.

SENATOR DOLLINGER: Can we have an explanation, please, Mr. President.

ACTING PRESIDENT MEIER: Senator Volker, an explanation has been requested of Calendar 1101 by Senator Dollinger.

SENATOR VOLKER: Mr. President, this -- in fact, this is the same bill, it's virtually the identical bill that passed in '95, '96, '97, '98, '99, and 2000. So last year it passed by a vote of 48 to 10.

It is, of course, termed the Criminal Procedure Reform Act of 2001. It includes a provision in here that deals with the right to be present at trial. There have been several cases involving this, People versus Dokes and the -- I think it's the Ricks and Mack case, if I'm not mistaken, which - where somebody was convicted and although was present at the time of a discussion and raised no objection, but after the person was convicted, the objection was raised that he was not present exactly at the time that some discussion was had, and the judge threw the case out. A very -- quite serious case. In

fact, I believe it was a murder case.

And what this provision would say is that if you are presently there during discussions as you should be, and if there should be some time where for some reason you are not kept appraised, you have to make the objection at the trial. That is, you have to make the objection while the trial is going on. You can't make it after the entire proceeding is done.

The O'Doherty reform deals with the 15-day period. Within 15 days of an arraignment, a notice must be served on the defendant where there's an intent to offer a defense statement or identification.

And there have been several cases where the prosecutor, after the 15-day period, has found some evidence and then informs the defendant and later these cases have been thrown out. What this would do is it would say that if something should come up that the prosecutor would be apprised of something, he must then give 15 days after that for the defendant to prepare for such evidence and to benefit from whatever is being proposed.

And if there should be some mistake at the time, that you can check to make sure that the benefit on the defendant isn't disproportionate. That is, that he wouldn't be unduly hurt by the statement itself.

Another piece of this bill relates to the appeal of preclusion orders. And this has always been a problem where, when the trial is going, you can appeal a decision by the judge but in many cases you are unable to get a pretrial order overthrown. And under current law, when the judge suppresses the evidence, you can appeal. But if it's precluded, you're unable to do anything. And this bill would change that.

In the Moquin case, a defendant was found innocent or the charges were thrown out after the prosecution was made and lesser charges remained. What happened was the defendant in the meantime ran in, pled to the lesser charges, and before the prosecutor could get the decision turned over, the person involved was gone.

What this would provide is an automatic 30-day stay of the effectiveness of

an order dismissing counts of an indictment.

The final one relates to testimony, identification testimony. A number of times what has occurred is people, when they commit the crime or immediately afterwards, appear before a -- in a lineup, and they are identified, in some cases identified from pictures, but are identified in an actual lineup. And later on, when they go to trial, the person of course has changed their appearance, now has a beard, all sorts of various things. And there have been cases that said you cannot testify to the fact that you previously identified this person.

As long as the witness testifies at the trial that he declared his identification of the defendant at the lineup and that he was previously identified, then that would be sufficient.

That is really the five basic provisions that this bill would deal with.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, last year we debated this bill

at some length. Just on the bill briefly.

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: And I think we could go back to last year's transcript and talk about the penalties for failure to produce evidence and preclusion of evidence, and I think we pretty well discussed this one at some length.

I continue to believe that the balance struck in our courts between the rights of the defendant and that tremendous, overpowering sense of helplessness before their government when they're charged with a crime requires that we strike a fine balance between protecting their rights in a procedural context and the right of the public for a fair and honest trial.

I'm convinced that while I agree with some of these tools, Senator Volker, my sense is that the balance is just slightly tipped in favor of the prosecution. And I think that's a natural tendency. We would all like to think that those who are accused with crimes are going to be properly prosecuted.

But it seems to me that the presumption of innocence suggests that the balance is properly struck under current law and that we shouldn't make all of these changes. So I'm going to vote against it.

I'd just point out for the record that Senators Connor, myself, Duane, Mendez, Sampson, Santiago, Schneiderman, the Smith Senators, A. and M., and Senator Stavisky all voted against this bill last year. And in addition, in the previous year, Senator Markowitz, Montgomery, and Hassell-Thompson voted against it as well. So -- I guess they voted against it in committee.

So I'd just point that out for the record and leave it to everyone's choice this year again.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those voting in the negative on Calendar Number 1101 are Senators Connor, Dollinger, Duane, Hassell-Thompson, Montgomery, Sampson, Schneiderman, A. Smith, and M. Smith. Ayes, 52. Nays, 9.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Lachman.

SENATOR LACHMAN: At the appropriate time, Mr. President, I would like unanimous consent of the Legislature to be recorded in the negative on Calendar 156, Senate 482.

ACTING PRESIDENT MEIER: Without objection, Senator Lachman will be recorded in the negative on Calendar 156.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, can I get unanimous consent to be recorded in the negative on Calendar 156, please.

ACTING PRESIDENT MEIER: Without

objection, Senator Stachowski will be recorded in the negative on Calendar 156.

Senator Onorato.

SENATOR ONORATO: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar 156.

ACTING PRESIDENT MEIER: Without objection, Senator Onorato will be recorded in the negative on Calendar 156.

Senator Velella.

SENATOR VELELLA: Mr. President, I'd like to be recorded in the negative on Calendar 350.

ACTING PRESIDENT MEIER: Without objection, Senator Velella will be recorded in the negative on Calendar 350.

Senator Markowitz.

SENATOR MARKOWITZ: Mr. President, can I be recorded in the negative on 1101? Thank you.

ACTING PRESIDENT MEIER: Without objection, Senator Markowitz will be recorded in the negative on Calendar 1101.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1100, by Senator Velella, Senate Print 5425, an act to amend the Criminal Procedure Law and the Penal Law, in relation to aggravated criminal conduct.

SENATOR DOLLINGER: Explanation.

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

SENATOR VELELLA: Mr. President, this bill is a Governor's program bill that creates the crime of aggravated criminal conduct. It makes a Class E felony of aggravated criminal conduct, which is an enhanced charge for a misdemeanor offense committed by habitual misdemeanor or felony offenders.

Under the present New York State law, a defendant may be convicted of an unlimited number of misdemeanors and incur little to no penalty. Under this legislation, a defendant who within 10 years prior to the date of the offense charged has been convicted of three Class A misdemeanors, three felonies, or a combination thereof may be charged with

the crime of aggravated criminal conduct and sentenced as a Class E felony violator.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 2. Senators Duane and Montgomery recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1129, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8596, an act to amend the Agriculture and Markets Law, in relation to an interstate pest control compact.

SENATOR DOLLINGER: Explanation, please.

ACTING PRESIDENT MEIER: Senator Hoffmann, an explanation has been requested of

Calendar 1129 by Senator Dollinger.

SENATOR HOFFMANN: Thank you, Mr. President.

In response to any question Senator Dollinger may have, I'd just like to establish that this measure has already passed the Assembly. It would allow New York State to join the 32 other states which presently belong to the Interstate Compact Commission.

Now, the whole purpose behind this is to give us a head start in dealing with any kind of dangerous pest. For instance, the Asian longhorn beetle recently plagued some of our constituents in Brooklyn and necessitated the cutting down and total destruction of a large number of maple trees.

When that outbreak occurred, the State of Vermont was so concerned about the prospect of that Asian longhorn beetle reaching Vermont and its very important maple industry that Vermont petitioned the Interstate Compact Commission to get some of the funds available through the insurance program so that they could put a hundred thousand dollars into the eradication of the

Asian longhorn beetle-infested trees in Brooklyn.

So this is certainly not an issue that affects only rural areas or affects only agriculture. I want to reassure all of my colleagues that as a state we have a major concern with joining the Interstate Pest Compact Commission.

ACTING PRESIDENT MEIER: Senator Dollinger.

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

ACTING PRESIDENT MEIER: Senator Hoffmann, do you yield for a question from Senator Dollinger?

SENATOR HOFFMANN: Yes, I would.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Who are the other state participants in the compact?

SENATOR HOFFMANN: There are 32 states, including Pennsylvania, New Jersey, and Vermont. I can't list all of them, but 32 out of 50 states.

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

ACTING PRESIDENT MEIER: Senator Hoffmann, do you yield?

SENATOR HOFFMANN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: How is the governance of the commission decided? Is it by one vote per state?

SENATOR HOFFMANN: It is by one vote per state.

Actually, the Commissioner of Agriculture and Markets from New York State would be the designated representative.

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

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

SENATOR HOFFMANN: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: How is the

compact funded? Is it done through assessments against the state? And how do you calculate the assessment against the state?

SENATOR HOFFMANN: There is a one-time fee of $12,000 to join the compact. It's consisting of a flat rate plus a percentage of the value of state crops and forest land. And state contributions are made on a one-time basis until the fund is depleted.

And I guess it's not depleted or close to it if they were able to appropriate a hundred thousand dollars to help New York, a noncompact member, with a pressing problem, that other states felt imperiled then as well.

SENATOR DOLLINGER: Okay. Through you, Mr. President, just so I understand it, if the sponsor will continue to yield.

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

SENATOR HOFFMANN: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: You said

there was a one-time $12,000 fee plus an assessment based on the value of the crops and the amount of forest area?

SENATOR HOFFMANN: Yes.

SENATOR DOLLINGER: Through you, Mr. President, how much would that cost the State of New York if all of our crop land and all of our forests were assessed in order to join the compact?

SENATOR HOFFMANN: If you'd wait one second, please, this -- in the event outside funding is needed, the compact might be asked to consider providing assistance in amounts -- no, that's . . .

Apparently they would not be charging anything more than the $12,000 figure up front. Our fiscal memo indicates it's only the $12,000 figure. Paid through the phytosanitary inspection fees, by the way, connected by Ag and Markets. And that's through plant inspection.

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

ACTING PRESIDENT MEIER: Senator

Hoffmann, do you continue to yield?

SENATOR HOFFMANN: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: I just want to make sure I understand, Senator Hoffmann. Is it a one-time $12,000 fee, or is it a fee of $12,000 plus some assessment on the basis of our agricultural land and our forests?

The reason why I ask this question, Senator Hoffmann, is, as you perhaps better than anyone know, the value of our agricultural land is sizable, if not - certainly larger than Vermont, probably larger than Pennsylvania, and my guess is larger than probably all the other 32 states. And I'd simply like to know how much we have to contribute to this commission when all we get is the same vote as all these other 32 states.

SENATOR HOFFMANN: The answer to the question is $12,000.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Hoffmann would yield for a question.

ACTING PRESIDENT MEIER: Senator Hoffmann, do you yield to another question?

SENATOR HOFFMANN: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Just so I understand, Senator, that you made a reference to the assessment. Is that not part of the funding, or is that just -

SENATOR HOFFMANN: Well, apparently it is only a $12,000 one-time fee, Senator Dollinger. And then upon depletion of the current fund, an assessment would be made at some later date.

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

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

SENATOR HOFFMANN: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: What I'm just trying to understand, Senator Hoffmann, is where does this agency get its money, where

does this compact get its money?

And the reason why I ask is because if it's only $12,000 to join and there are 32 states, that means they only raise $350,000. And I'm just wondering, they gave us a hundred thousand at some point. That had to come from somewhere. I'm trying to figure out where it comes from.

And is this the kind of thing that could result in New York State paying a significant amount of money beyond the initiation fee at some future time which goes for beneficial purposes? As I think you properly point out, these bugs and pests know no boundaries. They'll come from our state into Connecticut and vice versa.

But I'm just trying to figure out what in the long term it's going to cost the people of the State of New York.

SENATOR HOFFMANN: Mr. President, in the event of any assessment, I'm advised that there is a period of up to six years to pay that assessment should one be levied.

At the present time, I'm not aware of the total size of the budget that the

Interstate Compact Pest Commission has. But their generosity with New York State would indicate that it would be a very good investment for us to join.

SENATOR DOLLINGER: Again, through you, Mr. President, and if the sponsor will continue to yield.

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

SENATOR HOFFMANN: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Do you know whether there have been other assessments against the other 32 states in the compact and what it cost them at any other time?

SENATOR HOFFMANN: No, I don't, Mr. President.

SENATOR DOLLINGER: Okay. Through you, Mr. President, just a final question.

ACTING PRESIDENT MEIER: Senator Hoffmann, do you yield for another question?

SENATOR HOFFMANN: Yes, I'd be happy to yield for a final question.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Senator, you're probably aware that the Environmental Planning Lobby has opposed the bill because it does not establish, to quote its own memo, a preference for pest management techniques that entail the least risk to public health and the environment. Is that accurate, Senator?

SENATOR HOFFMANN: The question as it was raised, Mr. President, gives me an opportunity to address one of my favorite suggests, particularly in light of the Environmental Advocates memo, or Environmental Planning Lobby.

And once again, they have made an incorrect assumption, Senator Dollinger. They're also incorrect in one other area. I would note for the record that they've misspelled the name "Hoffmann" as it appears here.

And I would just urge all of my colleagues to please be aware of the fact that Cornell University is nationally recognized as the place where the integrated pest management

program was launched and is conducting world-class research, making a difference not only in New York State but internationally at reducing the reliance on chemicals in eradicating pests. We have made this a hallmark of our agriculture and our science in New York State.

And it would undoubtedly be one of the great things that we could contribute to the Interstate Pest Compact Commission as a member state, the fact that Cornell, headquartered here, has created so many breakthroughs allowing people in the nursery industry, in the turf industry, in the apple industry, in corn, in all crops to rely less on chemicals and more on natural or lower-input activities to reduce the risk of pests to our commodity agriculture.

So I would just urge people to be aware when they see a memo such as this one circulated by EPL that it implies something which is simply not accurate. It implies that chemicals would be the first line of defense, and that is not true in every case.

Sadly, with the Asian long-horn

beetle epidemic in Brooklyn, it would have been nice if chemicals had been available. The only thing that was available was total annihilation of the trees. And many of our colleagues who live in Brooklyn and were faced with the outcries from their neighbors were forced to explain to them that in order to prevent the spread of the Asian long-horn beetle, there was no other alternative.

But clearly the chemical solution is not the first line of defense, it's not the preferred one. And when it does become necessary, it is done with due diligence and with minimum use.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, I thank Senator Hoffmann for her explanation of this bill.

As always, when -- oftentimes when issues of agriculture that I see for the first time in preparing for the floor come before me, I can appreciate that Senator Hoffmann disagrees with the sentiments explained in the EPL memo.

But I would point out, I think Senator Hoffmann would acknowledge that New York has been at the forefront of balancing pest-control issues between the use of chemicals and other alternatives for trying to manage pests, whether they're domestic or imported. I think New York has actually done a pretty good job of striking that balance, and it's tended to be struck here in this Legislature as we pass bills that restrict the use of chemicals, the abundance of chemicals in some cases, and encourage other, more environmentally safe ways of dealing with pest problems.

I would like to keep that responsibility here in that Legislature. And, Senator Hoffmann, I'm going to vote against this bill because I think we ought to keep it here.

Two, I'm concerned about the governance issue. I've expressed this before. I dislike joining these compacts where we end up with the same vote as Delaware and Vermont and all these much smaller states.

And I'm particularly nervous,

Senator Hoffmann, about your suggestion that if for some reason the fund didn't have enough money it could put an assessment against the State of New York and we would only have one vote on that assessment. But based on my assessment of the comparative agricultural worth of other states in the Northeast, we might be the big payor in that assessment. So we may have to pay a huge portion of the fund because of the abundance of agriculture in this state.

I think when you look at the governance issues and the potential for the assessment, combine that with New York's leadership in pest management, which I'm not prepared to give away, I think no is the right vote.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Just on the bill, Mr. President, the idea of setting up a compact is a good one in this case. Insects, pests like that, they don't recognize borders. They travel.

The ability to gain expertise from

other areas, the ability to gain financing from other areas helps us in the study of these creatures. It helps us in the fighting of these organisms and the protection of our people.

As the person who has been responsible, along with the members of this house, in putting money into the EPF so that integrated pest management, through the Cornell Cooperative Extension, be developed and extended out, and passing out of literature so that we can educate the public that the use of pesticides should be only done as a last resort and only done in a limited way to limit dosage and exposure to our citizenry, I don't see any real problem here.

This is a good idea. Senator Dollinger, the people in Connecticut and the people in Pennsylvania might argue with us on their ability to farm and the quality of their crops as well. They're fairly large states. New Jersey as well. They're all part. And they want to be part of this, and we should be as well. This is a good idea. This will not damage the environment, this will help us

protect it and preserve it in the right way and reach out.

I urge a yes vote on this issue.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I agree with Senator Marcellino in 90 percent of what he just said. I think that the danger here that Senator Dollinger pointed out, and it's very clear, is that in a sense New York is giving up its sovereignty over our own pest management programs here. And I think that the integrated pest management program is a great thing, and I think that's what we should be focused on.

But we may be obligated by the votes of less-enlightened representatives from less-enlightened states, perhaps, to do something that we ourselves would not choose to do. And I think that that alone should be reason enough to vote against this bill.

We should be able to proceed with all the great programs being developed at Cornell and other fine institutions around

this state. This would limit our ability to do so. And I don't really see any basis for giving up our control over this.

I think pest problems have to be worked on cooperatively. This bill unfairly limits our ability to provide for the best pest management for the people of our state, and therefore I will be voting no.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1129 are Senators Breslin, Connor, Dollinger, Duane, Gentile, Goodman, Hassell-Thompson, Hevesi, Lachman, LaValle, Leibell, Markowitz, Montgomery, Onorato, Oppenheimer, Padavan, Sampson, Schneiderman, A. Smith, M. Smith, and Stachowski. Also Senator Brown. Ayes, 39. Nays, 22.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Breslin.

SENATOR BRESLIN: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 669.

ACTING PRESIDENT MEIER: Without objection, Senator Breslin will be recorded in the negative on Calendar 669.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1130, by Senator Seward, Senate Print -

(By several members: "We want the vote.")

SENATOR BROWN: We want to know the number.

ACTING PRESIDENT MEIER: If you want a point of information, fine. But the Secretary announced the vote, and the bill was declared passed.

The Secretary will repeat the results.

THE SECRETARY: Ayes, 39. Nays, 22.

ACTING PRESIDENT MEIER: It would be helpful if we could have some order in the house, and then maybe people could hear.

The Secretary will continue to read.

(Catcalls.)

THE SECRETARY: Calendar Number 1130, by Senator Seward, Senate Print 3562, an act to amend the Education Law, in relation to creating the profession of medical physics.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Senator Seward, an explanation has been requested by Senator Dollinger.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If I could interrupt, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in the Majority Conference Room.

Senator Seward.

SENATOR SEWARD: Has an explanation been requested?

ACTING PRESIDENT MEIER: Yes, an explanation has been requested.

Senator Dollinger.

SENATOR DOLLINGER: I'll waive the explanation if Senator Seward would focus the question on just one aspect of the bill.

SENATOR SEWARD: Certainly.

ACTING PRESIDENT MEIER: Senator Seward, do you yield to a question from Senator Dollinger?

SENATOR SEWARD: Certainly, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Senator, this bill was vetoed last year. Could you just address to what extent the current version of the bill addresses the veto message?

SENATOR SEWARD: Certainly, Mr. President. And, Senator Dollinger, the Governor did veto a version of this bill last year for technical reasons.

The Governor and the Department of

Health were concerned that the bill's scope of practice language within the bill that was passed unanimously last year would interfere with certain quality-control functions that are handled by medical physics technicians.

And that language has been clarified in this bill to make sure that there is a distinction between the profession of medical physics and the technician function, two separate.

Also, the Governor's veto mentioned that there was too short a time frame within the effective date of the bill and when it would actually -- when it had passed, became law, so that there was not enough time to gear up for the licensing process.

This bill corrects that as well by providing for an 18-month period for the Education Department to gear up for the new profession.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Explanation satisfactory, Mr. President. You can read the last section.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect in 18 months.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1133, by Senator Nozzolio, Senate Print 4525, an act to amend the Correction Law, in relation to custody and supervision.

SENATOR DOLLINGER: Explanation, please, Mr. President.

ACTING PRESIDENT MEIER: Senator Nozzolio, Senator Dollinger has requested an explanation.

SENATOR NOZZOLIO: Thank you, Mr. President.

This measure excludes supervision people in correctional facilities from the privatization issue, and it amends the Correction Law by ensuring that the security

function of our prisons, of those in the state and also local governments currently provided, are provided by -- in effect, entrusted to - government employees. It prevents the privatization of the security function of prisons, which in areas of this country have proven, when this particular area is privatized, chaos is usually the result.

The security function of our correctional facilities is too important to yield it to a private profit motive, and that is why we have requested this measure.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Nozzolio will yield just to one question.

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

SENATOR NOZZOLIO: To Senator Dollinger, I'd be happy to yield.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Senator, this was a good bill when I voted for it in 2000.

It was vetoed by the Governor. What in this bill attends to the Governor's veto, and to what extent has the bill been changed as a consequence?

SENATOR NOZZOLIO: Thank you, Senator Dollinger. Yes, you're accurate that the Governor vetoed the measure last year.

Section 3 on page 2 does limit in any way persons other than those under subdivision 1 of this section from maintaining the custody and supervision. If those custody and supervisional duties are incidental to their peripheral employment, in effect they are provided by a part-time basis. They're not employees involved in the security function.

We clearly delineated here that those are not the employees that we are talking about. That if a municipality wants to contract out, in a sense, for custodial services, that they may in fact do so.

However, the security function is the sacrosanct function. It is not to be tampered with, and this law prevents it.

ACTING PRESIDENT MEIER: Senator

Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Nozzolio would just yield to one other question.

ACTING PRESIDENT MEIER: Senator Nozzolio, will you yield for another question?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: This bill in essence says that the Governor wanted to reserve certain nondirect custodial functions that could be privatized and make it clear that the protective services, the custodial services could never be privatized. Which is what I understand the current draft of the bill does. It makes it clear that we're not going to contract out the custodial services, those -

SENATOR NOZZOLIO: Mr. President, let me not limit Senator Dollinger's inquiry to simply my response of custodial personnel. There are others that -- as currently drafted, there are other civilian personnel that could

be listed that may be privatized. But the security function is not to be.

There are -- the bill doesn't delineate what those functions are, but it does provide a definition which says those who are involved in the security aspects of corrections shall not be privatized.

Nonsecurity functions as defined in our law may be subject to privatization. However, that is a "may." The "shall" exists regarding the security function.

SENATOR DOLLINGER: Through you, Mr. President, I want to thank Senator Nozzolio for his explanation.

I think, Senator, this was a good bill when we did it last year. It was moving in the right direction. I think the Governor's veto highlights a confinement of that original concept which I think is consistent with the original intent of the bill.

And I'd just commend my colleague from Monroe County for his persistence in getting what was a good idea refined by the Governor, made a better idea. And I hope it

becomes law this year.

SENATOR NOZZOLIO: Thank you.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 12. This act shall take effect in 90 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President. In a very unusual precedent-setting moment, I absolutely agree with Senator Nozzolio's bill.

(Laughter.)

SENATOR MONTGOMERY: And I'm very happy that he has reintroduced the bill. I hope that it does become law. I fully agree that we should not be privatizing corrections security in our prisons.

Thank you, Mr. President. I vote aye.

ACTING PRESIDENT MEIER: Senator Montgomery will be recorded in the

affirmative.

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR BRUNO: Mr. President, can we at this time return to reports of standing committees.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

Senate Print 911A, by Senator Spano, an act to amend the Retirement and Social Security Law.

1478, by Senator Paterson, an act to amend the Criminal Procedure Law.

1538, by Senator Maltese, an act to amend the Retirement and Social Security Law.

1541, by Senator Maltese, an act to amend Chapter 609 of the Laws of 1996.

1756, by Senator Leibell, an act to amend the Administrative Code of the City of New York.

2004, by Senator Breslin, an act to authorize the Village of Green Island.

2091, by Senator Seward, an act to amend the Tax Law.

2960, by Senator Padavan, an act to amend the Civil Service Law.

3000A, by Senator Alesi, an act to amend the General Business Law.

3077A, by Senator McGee, an act to amend the State Finance Law.

3137, by Senator Marchi, an act to amend the Retirement and Social Security Law.

3479, by Senator Stafford, an act to amend the State Finance Law.

3484A, by Senator Volker, an act to amend the Civil Practice Law and Rules.

3556B, by Senator Hoffmann, an act to amend the Agriculture and Markets Law.

3677A, by Senator Rath, an act to amend the Real Property Tax Law.

3770, by Senator Seward, an act to amend the Insurance Law.

3798, by Senator Marchi, an act to amend the Business Corporation Law and others.

3876, by Senator Seward, an act to amend the Tax Law.

3914A, by Senator Goodman, an act to amend Chapter 674 of the Laws of 1993.

4105A, by Senator Libous, an act to amend the Education Law.

4746A, by Senator Farley, an act to authorize.

5330, by Senator Spano, an act to amend the Local Finance Law.

5350, by Senator Goodman, an act to amend the Education Law.

5433A, by Senator Seward, an act to amend the General Municipal Law.

5474, by Senator Velella, an act to amend the Workers' Compensation Law.

5525, by Senator McGee, an act to amend the Vehicle and Traffic Law.

5529, by Senator McGee, an act to amend Chapter 533 of the Laws of 1993.

And Senate Print 5544A, by Senator Nozzolio, an act to amend Chapter 887 of the Laws of 1983.

All bills ordered direct to third reading.

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report is accepted.

All bills directly to third reading.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. I rise to request unanimous consent to be recorded in the negative on Calendar 156.

ACTING PRESIDENT MEIER: Without objection, Senator Hassell-Thompson will be recorded in the negative on Calendar 156.

Senator Gentile.

SENATOR GENTILE: Yes, Mr.

President. I also ask unanimous consent to be recorded in the negative on Calendar Number 156.

ACTING PRESIDENT MEIER: Without objection, Senator Gentile will be recorded in the negative on Calendar 156.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar 1142.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1142.

THE SECRETARY: Calendar Number 1142, by the Senate Committee on Rules, Senate Print 1A, an act to amend the Executive Law and others, in relation to enacting the GEN-NY-SIS Act of 2001.

SENATOR DOLLINGER: Explanation, please.

SENATOR BRUNO: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR BRUNO: Move to accept the message.

ACTING PRESIDENT MEIER: All

those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

SENATOR DOLLINGER: Can we have an explanation, Mr. President.

ACTING PRESIDENT MEIER: Senator Bruno, an explanation has been requested.

SENATOR BRUNO: Yes, Mr. President. This bill that's been designated as the GEN-NY-SIS Act, generating jobs through science and technology, this really represents an investment on behalf of the people in New York State to invest in the lives, in the welfare and the health of people here in New York and throughout the world.

This designates approximately $500 million for research -- biotech, biomed research, development, job creation. That 500 million investment in all of the right

areas will enable, through matching funds - federal, private, academic -- about a $3 billion pool here in this state.

New York has long been in the forefront of research that medically has helped people. But in terms of competing with other states, New York has been losing ground for a lot of years, to the point where we presently rank 43rd in obtaining resources from the National Institutes of Health, 43rd in the United States.

This program will really put us in the forefront, create a leadership position here in this state. It invests in the technology that relates from the discovery of the human genome, the mapping of the human genome.

Genetics and everything that relates to it, from people that you talk to in the medical field, in the research field, that's where it all will happen in the next decade. So this creates eight economic zones, centers of excellence throughout the state, and they are designated in the bill.

It has other economic development

zones that create all kinds of tax breaks for businesses that invest in those particular areas in New York State.

But what it really does as a concept, it puts together university systems, private teaching institutions, private businesses, this government of New York State, coupling with matching grants from the feds and from others. It puts together really the resources that it takes to do proper research and investing in facilities, creating this cluster, if you will, of private research firms and development firms, university systems with state facilities and, through the research, developing medicines, technology to help people.

We need world-class facilities if we're going to compete with other states. We also need world-class people. And these world-class people have been leaving New York and going to other states and to other countries where they do their good work.

So this resource that we propose here that will become part of the budget when the budget is adopted will move us back into a

leadership position so that we will have proper facilities, we will be able to attract people who are in the forefront of research.

And then there are resources in this package to develop the technology transfer from what's developed, what's discovered, into reality -- real jobs, economic development that helps everyone.

And there are a lot of things that have already happened in New York State you're aware of, good things, through research, through development. And we're confident that there isn't any reason why we in New York State can't compete with any other state or any other country in research, biotech, biomed, competing with anyone and developing the kinds of things that will help people live longer and better lives and developing businesses as a result of these discoveries through the technology transfer.

So I would encourage my colleagues here to support this GEN-NY-SIS program. And when we get to doing a budget, as we will someday, that this will be an integral part of something that all of us can be proud to have

had a part in establishing here in New York State.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, will the sponsor yield to just a couple of questions, please.

ACTING PRESIDENT MEIER: Senator Bruno, will you yield to a question?

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Senator, I know this is an idea that you've talked about a lot and I think is close to your heart.

My first question is, where is the legislative oversight of the grants that will be given in this? And, Senator, in a quick reading of the bill I know that we've given the Urban Development Corporation tremendous power to dispense these grants.

My question is, as you are well familiar with, the PACB and other types of

oversight have existed in our funding of public construction projects, the dispensing of public money. Is there a similar role for the Legislature in this kind of oversight here?

SENATOR BRUNO: It is similar, yes, to how we fund some of the other public projects that you've described.

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

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

SENATOR BRUNO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Is there a particular provision that says that the Legislature shall review these grants before they're finally allocated?

SENATOR BRUNO: It goes to the PACB that has been created as we monitor other projects.

SENATOR DOLLINGER: Okay. And through you, Mr. President, if the sponsor

will continue to yield to just one other question.

ACTING PRESIDENT MEIER: Senator Bruno, do you yield?

SENATOR BRUNO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Senator, one of my concerns about this kind of research and development money is the concern that at least for the community that I represent this will be a benefit. Rochester is part of this plan, which I appreciate and I know that Senator Alesi, Senator Nozzolio, Senator Maziarz have been advocating for.

But my question is, what happens when the research and development is done and we reach the manufacturing stage for these projects? Is there a provision in this law that says that the manufacturing jobs have to be kept in the local communities?

After all, Senator, I know your concern is about the growth of jobs not just for people in the R&D business but, when it comes to building these fabulous new projects,

these will be jobs that could support middle-class people in middle-class families, families that are trying to get off of welfare. Is there a requirement that those jobs stay in our upstate communities?

SENATOR BRUNO: Well, we have created the incentives in this package that will make it just a good business judgment for those institutions that do this research, that do this development, to stay in the GEN-NY-SIS economic development zones.

Just as we have economic development zones now in New York State that have helped businesses generally locate, grow in areas, well, these are GEN-NY-SIS zones that have a whole package of tax incentives and other incentives that will make us competitive, we think, with any other state or any other place.

And if the research takes place here supported by the dollars that we've been describing, then we're fairly confident that the jobs will stay here and grow here. But is it in the law that it's a requirement? No.

SENATOR DOLLINGER: Just briefly

on the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I thank Senator Bruno.

I always feel, Senator Bruno, you've got a big picture of what these things do, and I come in and ask little questions about the nuances of these bills. And I appreciate your understanding.

Mr. President, I'm very concerned about the investment that we make in biotechnical research, biomedical research, and the importance of keeping manufacturing jobs that flow from that research home here in New York.

I appreciate Senator Bruno's comment that this is a package of incentives to keep them here. I would suggest, however, that our record of providing those incentives in getting those jobs to remain here is one of the reasons why we need this bill.

Because we have provided incentives in the past, and nonetheless what we end up with is in this international race to the

bottom to see who can provide the cheapest work force, the cheapest jobs, the worst potential pollution, the most unrestricted labor laws. Which is where these manufacturing jobs are going to tend to migrate unless we put a provision in the bill that says if we give you development money for biomedical research and if we give you the potential for incentives to locate manufacturing here, then under those circumstances you must keep those jobs here.

Because if we don't do that, we're going to have a situation in which we come up with the next great idea, as Senator Bruno properly points out. We could develop fabulous technology, we could develop it right here in New York, and some other state, some other nation, some other province in Asia, some other province in some other part of the world is going to say they give you a great tax package in the United States, they give you a great tax package in New York. But guess what, we can beat it, you can manufacture it cheaper there.

And those manufacturing jobs,

instead of going to the people that I represent in Rochester, New York, are going to end up some other place because it can be done cheaper there.

I would just suggest that if that happens, this entire process will have backfired on us. We will have spent money, created jobs to promote biomedical research but we won't get the long-term benefit in jobs right here in our state manufacturing these new products.

I'm constrained, and I don't want to vote against this piece. I don't want to vote against my community. But I believe, as I stand here today, that the people that I represent won't be benefited by this unless there's a guarantee that the money we invest today will come back in manufacturing jobs, that people coming off welfare, people who have been displaced from major manufacturers, unless there's a guarantee that those manufacturing jobs must stay here where the tax dollars from my community were used to fund the development and the research.

If it happens any other way, it

would be, in my judgment, a travesty of public policy. I'm willing this to vote for this when it has a guarantee that the manufacturing jobs will stay home. Without it, Mr. President, with all due respect to its admirable goal -- and I understand the tremendous benefits it can bring, but the community that I represent won't get the full benefit of the money. And until that happens, Mr. President, I'm going to vote no.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: Thank you, Mr. President.

I rise first to congratulate, once again, Senator Bruno on his vision, his hard work and focus on this legislation.

I can say, Senator Dollinger, that that legislation was put together quite surgically and quite balanced. When you go home and read through and look at this legislation, you will see that it does exactly what you want it to do.

It builds upon the many endeavors and laws that were put into effect to ensure

that there is a marriage between higher education and business, to make sure that New York State is investing in medical technology, biotechnology, and high technology.

And what led Senator Bruno, myself, and many of the other Senators who worked on this, is a very basic question: Why was New York State lagging behind other peer states in research? Why were we, why were our institutions not able to compete with Massachusetts, North Carolina, Texas, California? Why were we lagging behind?

And so a major, major step was taken with J2K and the creation of NYSTAR and a major fiscal investment of approximately $500 million. With this legislation, we are adding another $500 million. So we are talking about an investment of $1 billion to ensure that research which is the magnet to attract and keep businesses in New York State, to attract and keep the best and brightest researchers in the nation in New York State, to make sure that our institutions have the best equipment so that our researchers are in

laboratories that are the best in the country and maybe the best in the world.

This proposal zeros in, because in the world of biotechnology, medical technology, the great breakthrough in genome is where the world is today. And it's a footrace, a footrace that will mean what institutions and what companies will make discovery, get patents, and go out into a tech park with the appropriate discovery, whether it's a medical technology or a pharmaceutical. But it will happen.

This legislation makes sure that New York State will be competitive and that our institutions and fledgling businesses today in those industries that I've talked about will be able to discover, comfortably come and reside in a tech park. And it will mean jobs.

This legislation carefully balances, throughout the state, nine clusters, the institutions and in some cases in partnership, as Senator Bruno so aptly talked about, private businesses that will leverage what we believe to be $3 billion in

investments in our economy.

It also has a competitive component that would allow institutions to compete for additional dollars. And it allows economic components to set up GEN-NY-SIS zones.

So when I talk about this legislation being put together in a very surgical way, it was done so in a very painstaking manner, and I would say with the very loving hand of our Majority Leader, to make sure that every I was dotted and every T was crossed.

And so I think that -- I don't know if this is the final chapter, but I think with J2K, NYSTAR, and GEN-NY-SIS New York State stands every bit as good a chance as any of our peer states in giving the institutions we need to come up with that discovery, that patent, and a corporation that will reside here in New York and produce jobs that are so very important to the people that we represent and to our respective economies throughout the state.

And, Senator Bruno, once again, a job well done.

ACTING PRESIDENT MEIER: Senator Goodman.

SENATOR GOODMAN: Mr. President, I'd like to point out that one of the great virtues of Senator Bruno's proposal relates to the fact that there is already in existence in New York State, and especially in New York City, in a corridor that runs up and down the East Side of Manhattan, one of the greatest research engines collectively that exists in the medical field today. We have Nobel Prize winners galore, people who have won prizes for various breakthroughs in such diseases as diabetes, polio, and the like, and have a number of people who are continuing to do very imaginative and creative work.

I'd cite simply as another example of the type of thing that's done what's being done in stem-cell research, which holds the promise of regenerating heart muscle tissue for those who have suffered heart attacks, attacks on Alzheimer's and Parkinson's and a whole range of other neurologically related diseases in which nerves need to be regenerated. Indeed, it's really a

revolutionary situation already in process.

What we're aiming to do here is very simple, is to create out of this a Silicon Valley concept that will be pervasive throughout the state, carrying with it enormous economic advantage, so enormous indeed that it's almost impossible to visualize this from a vantage point in the year 2001.

I confidently predict to you, as have many others who have studied this, that in the coming millennium this will probably be the most significant economic growth factor of any that we've ever seen. It will be comparable in some respects to the steam engine's discovery in the 19th century, the airplane in the 20th century, and the like, bringing about astonishing breakthroughs in the extension of human life.

So I'd like to wish you all a very happy birthday on your 150th, and I look forward to doing that after we pass Senator Bruno's bill.

(Laughter.)

ACTING PRESIDENT MEIER: Senator

Balboni.

SENATOR BALBONI: Mr. President, just briefly.

Against the backdrop of a rather divisive and contentious year, this issue before us should be hailed as an issue that can unite us in this state.

If you go around the country and you talk to people who are involved in this area of the business, you'll find out that other states in the nation have taken a look at biotechnology and decided that it should be the engine of their economies. In Nevada it is a cabinet position in their government. In California, billions and billions of dollars have been spent trying to create the different economies.

Every part of this state has had issues with the economy. In upstate New York, people are concerned about the loss of jobs. On Long Island, after the Grumman and the military-industrial complex left, there was a huge void, not only in terms of the defense jobs but also in terms of the associated industries. And everybody has been looking

for a way to come back, what is the next industry, what is the way that New York can signal a change.

Well, biotechnology may just be that silver bullet. And what's great about it is it's all about the word "synergy." It is all about looking to places not to divide but to come together. The City of New York should be looking both east and west to combine the strengths of existing programs with new and emerging ones. But also what it does is it says to us that this is a new frontier that New York is uniquely suited to participate in.

And on a personal note, I'd like to thank publicly members and colleagues of this chamber who have taken such an impassioned role in this area -- beginning, of course, with Senator Bruno, who set the table. But then people like Dean Skelos and Chuck Fuschillo and Kemp Hannon and Ken LaValle, who each one of these people have taught me a great deal about what the industry is doing in their own districts, but what it means throughout the state.

Senator Lack has also been a great

champion of this. And Senator Johnson, and Senator Trunzo. You know, they're really great on that side. They're all over there, okay? You guys have done nothing. Just kidding. Just kidding. Well, that went well, didn't it?

But I think that the thing - here's what I'd like to end with. You talk to a guy by the name of Sam Wachtsel [ph], who is the president of Oncogene. It's the fourth-largest biotechnology company in the world. And he sits back and he says there was a vision a couple of years ago when he was talking with the top executives in this state. Nothing happened.

Now he looks back and he says the changes we have made in this state are better than any other in the nation in the last two years. That is a result of a decision by this house to move this agenda forward.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Alesi.

SENATOR ALESI: Thank you very much, Mr. President and my colleagues.

And I concur, Senator Balboni, that we can congratulate all of these people here in this conference. But I think we would certainly start with Senator Bruno, who has given us the vision and the direction, and not only with GEN-NY-SIS but with J2K and Power for Jobs and so many other initiatives.

As one of the representatives from the Monroe County area, including my colleagues and friends Senator Nozzolio and Maziarz, and Senator Dollinger, I'm especially excited about the prospects for what can happen in the Greater Rochester/Monroe County area. This is an area that many people know has been the home of great companies like Bausch & Lomb, Xerox, Kodak, and Gleason Works and so many others.

And as we've watched some of these companies downsize over the years, we've seen that it is high-tech small businesses that have taken those people and put them to work in a flourishing economy where the unemployment rate continues to be lower than the state average and the national average. And one of the reasons for that is because we

have great universities there too.

And when Senator Bruno and Senator LaValle and so many other people, including our great staff, looked at what we could do to continue the efforts at job growth and improving the quality of life in New York State, they recognized that this marriage between business, New York State, and those great institutions of higher learning that we have in Rochester were the key, by putting all of these things together.

And that's what GEN-NY-SIS does. It funds a collaborative effort. We're going to create the jobs that will support the high technology. High technology research in itself will be an economic activity, leveraging the $30 million that will come into Monroe County with federal and private funds will create jobs. That's a form of economic development in and of itself.

And so as excited as I am about the prospects that can happen in my own area, coupled with what we're doing with information technology -- another hotbed of activity that I believe we can be, in Monroe County and in

New York State, again global leaders -- and when I feel the excitement and when I envision what Senator Bruno envisioned -- and that is a higher quality of life and jobs at the top, jobs in the middle, jobs all around the periphery supporting economic activity that is the direct result of this kind of an investment -- then I lose a little bit of my enthusiasm when my good friend from Monroe County, who actually represents the University of Rochester in his district and Eastman Kodak in his district, proclaims on the floor of the Senate, for reasons that I can't embrace, that he will not support this bill.

And with all respect to my good friend -- and I mean this, Rick and I served in the Monroe County legislature together - it is beyond me that something as vitally important as this to Rochester and Monroe County would be voted down by a member of our delegation. It is beyond me that anyone could think that technology transfer, the commercialization of all of this research that we're doing, would result in someone taking jobs and moving them offshore or moving them

out of New York State, when the whole process of what we're doing is a collaboration.

This won't work in the first place if we don't have the marriage of the state, of the universities and of business. They create a synergy. They're all interdependent on each other. And if some jobs were to go somewhere else, in a situation like this, in an atmosphere like this, any business study will show you that nature hates a vacuum. And in a case like this where technology transfer would see spinoffs going out of state or somewhere else, that would ignore the fact that so much other economic activity around this has benefited our area that we would have to support it for that reason if that would were the only reason.

And so I'm proud to join not only Senator Balboni and those Senators from around the state whose areas will benefit by this because our entire state will benefit by this, and I'm proud to support the efforts of our leader, Senator Bruno, and my colleagues locally in Rochester and in Monroe County. And in doing that, as chairman of Economic

Development and as a small-business owner myself, I see great things for this state with this kind of activity, with these kinds of proposals.

But I would beseech you, Senator Dollinger, if you would reconsider. Because the people in Rochester and Monroe County and the people of all of New York State that will benefit by this will also benefit by your support.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I am not going to attempt to address the debate, the Monroe County debate here.

I suppose I have to start by praising Senator Bruno. That seems to be the way to get going here on this, and I'm happy to do so.

But I think the point that Senator Dollinger made is that we're talking about a collaboration that may very well end up being a one-way collaboration. Because there is

nothing that requires the manufacturing of products developed with our great technology in New York State to be done in New York State. That's the point he was making. It's a simple point.

We're talking about investment. And, you know, I don't necessarily have a theoretical problem with this kind of targeted market intervention. It's kind of scattershot socialism. Maybe I prefer, you know, something that's a little more consistent. But I think this can bring benefits.

The problem is I don't think we're following through the rhetoric about this bill in the most critical areas for economic development in our state. Senator Bruno said, and I commend him for saying so, we have to have world-class facilities, we have to have world-class people. But we have to have world-class facilities and people in a lot of places that are much more important than those identified by this bill.

It's great that we can swim in this hot weather this summer without being afraid of getting polio. And we can swim without

fear of getting polio because Jonas Salk got a free education and an outstanding free education at the public universities of this state. That we have allowed those universities to decline, that we have increased the barriers to people attending those universities in my view is a fundamentally much more important issue regarding economic development than that which we seek to address here.

We need world-class facilities and world-class people. Half of the principals in my daughter's school district are leaving at the end of this school year. We need world-class people in our public schools. We are losing them.

This is a little bit of benefit when we are failing on much larger issues. And I would urge that if we're going to go for it with this program, which I do intend to support -- and I'm sure Senator Balboni did not intend to omit anyone else in his praise, and I'm sure he wished to convey his statewide views that everyone should be praised for this. This is a fine program. But we

shouldn't get out of this legislative session without addressing the same issues in more essential places than we address here.

We have to have great public schools, we have to have great public universities. That's how we have long-term economic benefit. I'm going to support this legislation, but I think that -- and Senator LaValle mentioned that this was surgical. I don't think we need surgery here. I think we need a broader commitment to investment in higher education and public education.

I will support the legislation, but I think it would be a tremendous shame if we don't finish this year with a bigger commitment to public education on a broader level. And I think that that certainly seems to be, from his rhetoric, one reason why Speaker Silver is not coming to the table without the Governor.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I rise with great excitement. As a matter of

fact, in all sincerity, there is no greater project that I have seen that has created more excitement than this.

We are in the midst of a biotech revolution and particularly a biomedical revolution. Senator Bruno, though, has recognized that this revolution can be harnessed to create a tremendous economic development.

Others talk about economic development. We heard a lot of rhetoric about the upstate economy in particular this last year, during the campaign season last fall, where much was needed to be done for the upstate economy.

This proposal is where the rubber meets the road. This proposal would create the jobs, as Senator Alesi said very eloquently about the Rochester region in particular, where the University of Rochester over the past five years has committed over $60 million to build world-class medical research facilities. Where now, in upstate, the University of Rochester Medical Center is the largest recipient of NIH grants than any

other facility in upstate.

And because of this proposal, a proposal that in the most clearest of ways marries that world-class research with economic development -- that's what's so exciting about this. The research will be done in New York, but the pharmaceuticals developed by the science undertaken by the researchers in New York will be produced in New York as a result of this proposal.

The jobs will be developed here in this state because of this proposal, something that is right in the eye of a great hurricane, biomedical research, exciting research that is basically doubling the knowledge on a yearly basis of what we're seeing in the biomedical field.

This proposal is exciting. It's one that's going to develop the next Xeroxes, Kodaks, Bausch & Lombs of future generations. And I want to thank Senator Bruno and my colleagues in this conference for bringing it to fruition.

ACTING PRESIDENT MEIER: Senator Hannon.

SENATOR HANNON: Thank you, Mr. President.

I was going to start off just by praising our leader, Joe Bruno, for recognizing the importance of this, because I think it's the single most important decision that we could make to advance a program.

But it occurred to me, after listening to the rhetoric from the other side, that I don't think they understand that there's a different economic model that's here at work which, in addition to spinning off such major finds for and potential finds for human health -- such as this miracle drug called Glivec, that was just announced two weeks ago, which had an amazing rate of curing this relatively small-known cancer of the stomach so that 80 percent of the people who received the drug went into remission immediately. All done by gene research which turned off part of one's gene that was leading to cancer growth. I mean, dramatic. It's not secret, it's been on the front page of the Times, the Time magazine.

But what is it about -- I mean,

that's really the golden grail, if we could find that type of drug for so many of the other ailments that affect our bodies, not only cancer but just so many other conditions.

But there's an economic model. And it struck me that you were talking about manufacturing, manufacturing. Well, this isn't manufacturing in the sense of cars where people would move their plants to another area to avoid high wages. Or it wasn't manufacturing in connection with the back offices where they'd move because the back offices could be anyplace.

This is a sense of discovery. This is clusters. This is finding people who want to be collaborative together, to use Senator Alesi's word, and consult. In my area on Long Island, the illustration was used by the research facility known as Cold Spring Harbor, which is a pure academic research facility, where of the 11 companies that were spun off from their research, 10 located outside New York State because they had no place to go. Ten.

And when I heard that story, I

recalled I had been out at La Jolla, in California, for a speech, and I went past the Scripps Institute. And I said, "Well, you know, they do a little there." They said, "Do a little? They've switched entirely from an oceanographic institute, when they got a huge new grant, to being a pure biotech. And all those buildings around are all of the spinoff companies."

So that what you need to realize is you're funding, by these, the investigators here -- the investigators are people who have gone through and got their doctorate in chemistry or computers or whatever the different sciences that have to join together. And they start to apply for grants. And they now have twice as much money on the federal level as they did just seven years ago, on the order of $24 billion. And on a bipartisan basis in Washington, they've been saying they want to grow that double even again.

And so there's a lot of money out there. And if we have enough investigators, postdoctoral students, and then all of the supporting academics for that in place in this

state, we can take advantage.

And we ought to. Because, you know, at one point New York was number one. We had a national advantage with the hospitals on the East Side of Manhattan. And we've lost it. We're now probably number four in the nation.

So that this is not something you write in "stay in New York." This is something where, by the attractiveness of the jobs, the attractiveness of the investigation, the attractiveness of the clustering, the attractiveness of the basic elementary school system -- where we can get people to come and say, Not only can I work, but I have a good place to put my kids in school, to answer Senator Schneiderman -- we can do a lot of things.

And so it can benefit us for our health, it can benefit us for our economy. And consequently, I think that going forward with this, which has taken a great deal of time and really collaborative effort among members of the Senate and members of the staff to come up with this, this has been a very

important thing. I think over 12 months directly on this, and it has antecedents in the NYSTAR and the J2K.

So once again, I think that it's that important that I can simply say that there's nothing else that we can do that I think will have more implications and better implications for New York's future than this decision. And it was all -- and, you know, it's truly praise, but it's well-deserved - Joe Bruno saying to go forward with this.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I too want to rise to congratulate Leader Bruno on his foresight.

I remember when I was somewhat younger and the Russians sent up a little grapefruit-sized object called Sputnik to circle the globe, and a president of the United States that I supported, as the president of the Young Democrats for Kennedy at NYU, came up with an idea that we should

put a person on the moon within a decade to give this country an impetus and a movement that it needed to get it going, to generate an economy that has served us well.

If he hadn't done that, we wouldn't have computers the way we know them now, we wouldn't have cell phones the way we know them now. We wouldn't have PCs, we wouldn't have dots, we wouldn't have palm cards, we wouldn't have a whole host of industries that have spun off. Our world economy would not even be close to what it is now. Our educational institutions have changed in accordance with that.

I suggest to you that with this particular project, the same process will occur in this state. It will benefit everyone. As Senator Hannon so rightly said, everyone will benefit from this, from the businesses to the colleges to the medical institutions to the research institutions to everyone. This is a procedure for the future. It takes care of what we've got now and builds something for the future.

It creates an incentive for these

manufacturing companies to come to these locations and to stay there, not just to go out and take their brains and move off to someplace else and benefit some other part of the country. This state will benefit by keeping the brightest and the best here, by developing a warm and welcome place for them and saying we want you, we need you, and we will nurture you here in New York State. And all the regions in New York State will benefit as a result of it.

So this bill is truly a marvelous piece of legislation. And all those involved in its genesis, if you will, should take credit and be very proud, because this is the first step to a great future for this state.

I urge a vote of yes, and it should be unanimous.

ACTING PRESIDENT MEIER: Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

I too rise in support of this legislation. I take -- I disagree with some comments made by my colleagues on the other

side of the aisle. I think this is a very broad commitment to the future of New York State, to all areas of New York State.

This legislation includes public universities, private universities, private businesses, like Rochester Technology Park in Monroe County that Senator Alesi mentioned, a private entrepreneur who is out attempting to secure high-tech jobs for Monroe County in the Rochester area. And he is out attempting to get those jobs not from within New York State but from outside of New York, certainly from California, which we see is suffering from energy shortages right now, and selling them on how good it is to do business and how good it will be to do business in New York State in the future.

And I think that a collaborative effort with the U. of R. Medical School and Rochester Technology Park is exactly the direction that New York State should be going.

But even further than that, in Western New York and in the Buffalo area, which has for too long depended on heavy-manufacturing types of industries and

chemical industry, very environmentally unfriendly industries, a collaborative effort between the State University of New York at Buffalo and Roswell Park to study science and technology and biomedical research is exactly what the future of New York State is going to require.

It's going to provide for hundreds of thousands of jobs for future New Yorkers, for the children that we have now. And I daresay, Mr. President, that in 20 or 25 years from now, people are going to look back on this particular piece of legislation and say that this was the turning point, particularly for those areas of New York State and particularly Western New York, that are going to be the Silicon Valleys of the future.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Marchi.

SENATOR MARCHI: You know, I would hope that -- because all of the discussions that have been conducted up to now have been certainly very insightful, including the opposition and their critique. Because

you advance the very same reasons which constitute a shared concern about going to our strength.

I remember when, as far back as 1959, 1960, we had exhausted the expansion of private universities and colleges. And they just could not -- they had expanded their facilities to the maximum, yet we had the baby boomers coming along in great numbers. So we had to make a dramatic breakthrough. And that was done with the State University, because maybe it was ten years ago when we graduated the millionth graduate from the constituent colleges throughout the state.

We have to go to our strength. Senator Hannon mentioned the -- what's going on over there when Nobel Prize winners had brought out concerns that constituted a quantum leap forward. Now the biotechnical relationship of a structured, cooperative effort will multiply the product many times over.

And I just regret that I'm at an age where I may not see a lot of it. But I think you will see great developments taking

place when there is a cooperative relationship. And I'm sure even those who voiced some apprehension and whether we would profit by it -- we are destined to profit by it. And if we don't do it, we will just continue to yield ground on our strength, really. Because we have, qualitatively, the people in this state.

And with a program such as this, Senator Bruno has taken an initiative that should compel our intense interest and support, because it's going to project on a forward basis, in a continuing relationship, an interaction between centers of learning and development and those who want to participate and in that family.

Sure, it's going to attract people. It's going to attract people who come here because they know that a lifestyle is being created and enriched that you like to live in it because it is stimulating, it's provocative.

So I'm just relating to just past observances of where quantum leaps have been made. This is the future. This is the field

now that's ripe for further development. And we shouldn't be Number 43. We will not be Number 43 if we create the undergirdment of real, intelligent, cooperative effort in the very fields that are the most demanding at this point in our history and in our development generally.

So it enriches the personality when you're in part of a society that has unlocked with a key the magic, the magic of what's implied here. And it continues to go forward in a cooperative effort. That doesn't stop. This is not a final resting place, making the recommendations. This is a starting point, because that interaction will continue to take place.

So I think we've -- you've all contributed, even when you were criticizing it. But in doing that, you also pointed out, by a sharing of concern, the importance of this. So I really hope I'll be in time to see some of that development take place. And I don't think it's going to be very long. It's just the magic of the insightful and creative impulse that gave this thing birth.

So I would hope that you'd just review your own thinking on it. And I say this with a full understanding and comprehension of some of the concerns that were expressed. But you serve, you serve the central purpose well in terms of your own concerns as you've shared with us.

I would hope that many of you will find it able -- you will find yourselves able to support it and to put your fingerprints on this. This is something we can all be very proud of. And I hope that this advance by Senator Bruno has our imprimatur and our support, because it's not the end of something or the achieving of a milestone, it's just the beginning. The best is yet to come. Let it come.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

Senator Marchi, my compliments to you. Because as I've been reading this paper, I look upon it as more than just economic development and more than jobs. And the way

you concluded is the best is yet to come. I look upon this as a reflection of what we are looking forward to in life. And I look upon what the possibilities are to help people.

And I think about a very close friend of mine, Elaine Canerack [ph], from my neighborhood, a friend of my wife's and myself, who died two weeks ago at the age of 42, with three children, ages 8, 7, and 3 years old, of pancreatic cancer. 42 years old.

Two and a half years ago, right before her 40th birthday, her doctors told her right after the birth of her child that she wasn't losing weight because she was exercising, she was losing weight because she had pancreatic cancer. And they sent her home with three months to live. 39 years old, a new baby, two other children, and she had three months to live.

But what kept her alive for 2½ years was certainly her will, her determination for life -- and she didn't want to die -- but was the collaborative effort of the pharmaceutical companies here in this

state, the joint partnership of the hospitals in New York City, Long Island, all over the state.

Now, Michael Balboni complimented a whole host of colleagues here. And I do also. But I thank Kemp Hannon and Kenny LaValle for keeping life in this program, because that's what it's about. It's about what is going to prolong our lives if, God forbid, we need to find some medical wonder.

Now, who knows, after all these efforts come together -- and when you look at this piece of paper, life sciences, enabling sciences, it's about life and how we can all work together. And we tend to a fault to be so parochial sometimes that all we look at are the boundaries of our district. Well, life sciences isn't just about our own districts. And the opportunities that we're creating here in New York State are certainly endless.

And, Senator Marchi, you said it best. The best is yet to come. And this will make that happen.

Senator Bruno, it's more than economics. And I compliment you on this piece

of legislation and bringing it to the floor today, because it will do more than just create jobs in an economy that needs jobs. It will provide hope to those individuals like Elaine Canerack who go home from the doctor after having a baby and she's being told "You have three months to live." And in my opinion, that's what this is all about.

Thank you.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Mr. President, this is an excellent statement. Senator Fuschillo, you've set the stage for me.

It's rather difficult for me. I talk about cancer very, very openly, and I talk very openly about the disease and my experiences. But I never have on the floor, because I haven't thought that that was quite the place to do it. And I've been advised that it would be appropriate. I sort of questioned to a degree, but yet I don't think it is here this evening.

I know what it's like to be told that things aren't going very well. And I

know what it's like to be told there's nothing else that we really see we can do.

You have to keep your sense of humor now. I was driving home by myself during that period, feeling not very good about it, and a fellow came out and pumped the gas. And he saw the license plate and he said, "It's too bad about the Senator." I said, "What do you mean?" He said, "He's not going to make it."

(Laughter.)

SENATOR STAFFORD: And he didn't know it was me, because of the treatment. And you all remember I looked a lot different then.

I was told by the Health Commissioner here, get to a certain facility. Now, I won't name the facility, but it's in Senator Goodman's district, and it's on the corner of York Avenue and 68th Street. So you can figure it out quite quickly where it is.

My point is, many of these facilities here in our districts will be supported, and there will be continuing research. I too am very, very concerned about

economic development jobs in my area. If there's any area that needs it, it's mine. But I, for one, understand exactly what's done in research and development, as Senator Bruno does. And I, like all of you, compliment him and all who have been involved in this, all who are involved in continuing research.

Fortunately, they were able, with a group of drugs and also treatment, able to - with, again, a number of operations, a number of operations also, but I was able to walk out of that hospital. I was very fortunate. Down there now -- I'm really getting it now that I don't talk about very much. Down there now where I was treated, they have the Stafford line. And they have the tumor still alive, trying to decide, working on why -- how they treated me and made it possible for me to live and others haven't.

This is the type of work that will be done, and no one understands it more than I. I apologize for my personal reflections here, but they are rather important to me. Because, again, when you receive treatment like this and then are able to be well, you

realize how important this type of research is.

And I will sit down, but just again point out what's been said here this evening. We were starting to lose ground to Texas, to Washington, the state of Washington. Texas has the Anderson Institute, Washington has the Hutchinson Institute. And of course in Massachusetts. But we still have the best here.

Senator Marchi, the best is yet to come. But as far as I'm concerned, we still have the best facility right here. I can take you right to it. But we have a number of them here in this state. And I can only say this: This type of legislation will do so much for so many.

And again, I compliment Senator Joe Bruno. I compliment everybody who has worked on this. And as Churchill said in the battle of El Alamein, he said it's not the end, but it's the beginning of the end. But it's not the end of the beginning either.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator

Rath.

SENATOR RATH: Thank you, Mr. President.

There's very little that I can add to the eloquence and the deep thinking and the certain -- the excitement and enthusiasm that we all feel for this. But tonight is a defining moment. And I think Senator Marchi was very clear as he explained that defining moment. And I think that's why so many of us feel that we want to speak out on this.

And I want to speak out from the far reaches of New York State. Now, Rochester has been eloquent. Thankfully, Senator Maziarz did recognize that Buffalo is over there one step further, and it's going to be a part of this also.

And here's something you can learn tonight, a word you may have never heard before: Bioinformatics. Bioinformatics. What does it mean? It's a major part of what the University of Buffalo, Roswell Park, and Hauptman-Woodward Institute, who also have a Nobel Prize winner working on all of these issues, will be pulling together for the

cooperative venture as it goes through in the various institutes around this state that will be cooperating in this.

What is it going to do? It will provide the information at faster than the speed of light, hundreds of millions of times faster than computational research can be done now will be happening at the University of Buffalo and the other two institutes. They will be feeding it into the other parts of the research that will done in the other parts of this state.

And, frankly, without the speed of the hundreds of millions of pieces of research computation that have to be put together to make all this happen -- someone has to do it somewhere. There are only going to be one or two places in this country, three at the very most. One of them is going to be in New York State. And the computer for that one that's going to be in New York State, in Buffalo, is going to be built in New York State, in the Hudson Valley. And I tell you, I think that that is progress.

I want to thank you, Senator Bruno,

with thanks to Senator LaValle and Senator Hannon, on behalf of my children, my children's children, and their children. I hope the ones who are out of state come back, because this is going to be the place to be.

ACTING PRESIDENT MEIER: Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you very much, Mr. President.

Mr. President, as one who is the student and also studied the discipline of thoughts and ideas, it is clear to me that there are number of events throughout our lives that challenge that discipline, that discipline being the thought and ideas.

Today, what Senator Bruno has done, and some of his colleagues, is clearly something that will challenge many thoughts and ideas around this state. It will combine itself with the science and the study of nanotechnology, which many have said expects to be a $400 billion industry within the next four years, and will clearly set the stage by which the society and the state in which we live in will never be the same again.

What becomes crucial to us as relates to GEN-NY-SIS -- and I believe it is just a coincidence that it is "genesis," that means the beginning, or actually "genome," whichever it is derived from -- is the fact that we now have an industry that will set the stage in this state so that we are again the cutting-edge state as relates to new industries.

We are probably going to experience a shift and a change in the study of human life, in the study of the internal parts of human life, like we have never seen before. And I give you a picture to understand that. Imagine, as is the study of nanotechnology where those who have palm phones, palm recorders, you from time to time will what they call synchronize your palm or you will hotsync or beam information to one another.

Believe it or not, through genomics as well as nanotechnology, there will be instruments designed that will be smaller than an earpiece in your ear where you will be able to actually beam information to individuals across the aisle from you, another human

person, without having to fax it, without having to mail it, without having to do anything of what we might consider snail-mail at this point, or anything older, in our study of science.

This is such a new beginning for us. And I do understand the concerns of Senator Dollinger and Senator Schneiderman as relates to the ancillary industries, as relates to the markets that spin off from here. And I understand that. And I agree with that. While we may be drunk with the new excitement around this industry, there are other things we need to think about and be mindful of as we're considered to be the intellectual stewards of this state.

But I will tell you that this is probably going to be a very defining moment, just as Senator Rath said, in this state. This is one of the most exciting new areas that is going to create a market beyond what we had imagined. The only thing we need to be concerned about is how we manage the change, because it will be more rapid than anything we've ever experienced in our lives.

Senator Bruno, I congratulate you on what you have done.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I came to the Senate nine years ago. And I remember in the Republican conferences there were two rank-and-file members, George Pataki and a fellow by the name of Joe Bruno, who used to complain about, as did many of us, the fact that we were doing the wrong types of things in New York State: we were increasing taxes, we were regulating everybody out of the state, we were hemorrhaging jobs.

And I can tell you honestly, I never thought I would see the day when we were at this stage of our development in the State of New York. We have not only turned the corner and have created jobs and surpluses, but we are using those surpluses extremely wisely, so that we're going out into areas such as the area we're going today with GEN-NY-SIS.

So most everything has been said. But I think something really has to be said

about the word "leadership." The state has turned around not because of mere circumstances or because simply that a few people had a couple of ideas, but we have been led to a situation now where we're doing the things we used to do when we were really called the Empire State.

So I want to thank those involved, especially Senator Bruno, who initiated this particular legislation, but, more importantly than this legislation, that showed the way from a very bad situation to a bright future for all of our future generations.

So this is a great piece of legislation. I enthusiastically support it. And I just can't wait to see what comes in the next few years building from this fine program.

ACTING PRESIDENT MEIER: Senator Lack.

SENATOR LACK: Thank you, Mr. President.

I too rise to thank Senator Bruno, but probably for a slightly different reason. I want to thank him for making my job easier.

I represent the University at Stony Brook, one of our four great university centers, and as well as being Senator Bruno's representative as what they call a deputy trustee on the board at Cornell.

And both those jobs, in either the meritorious or political sense, is in a parochial sense to represent my constituents at Stony Brook, but in a much larger sense at Cornell, through Senator Bruno, to represent this house on the Cornell board.

And part of that job, of course, is always to try to show Cornell, which is the largest cooperative system in the United States, in a public-private partnership for 135 years as our land grant school, what we in the Senate quite frankly are doing for them in working with them.

And in terms of making my job easier, there is nothing you like better, if you're at Stony Brook or at Ithaca, than to have Rhodes scholars, Nobel laureates, deans, university presidents, graduate students, M.D./Ph.D.s come over to thank you and to thank Senator Bruno in their name for not only

the Jobs-2K program, but GEN-NY-SIS, but for changing the direction this state has taken, or failed to take, and accomplishing something.

And that, in the basic sense, is always the hardest job, particularly for anybody who is in the Legislature versus the Executive. I mean, it's something akin to changing an ocean liner at dead speed on the dime. And that is in effect what has happened here. And to get that kind of thanks and recognition I think is very important.

And I quite frankly, Senator Dollinger, would make it as an appeal towards you to understand and consider that in terms of what the discussion for the past hour has been here tonight, and perhaps for you to reconsider your vote. I mean it's a chicken-and-egg argument on which you can do first in order to come out second. I mean, that's certainly understood. And I worry about the jobs too.

But you can't even talk about what kind of jobs you can have unless you can provide a format for the research and the

technology in the first place. And that's what's occurring here and that's what's important and that's what goes into the basis of the establishment of the GEN-NY-SIS program and the awe-inspiring change that it's going to make in New York.

And just listening to Senator Stafford as he talked about that institution without a name, but around the block at 69th off York, under the same name but instead of a hospital it uses "institute," and it produces some of the -- just the kind of research that Senator Stafford needed at the time, so that Senator Stafford is here. And to be able to do that and maintain its place in and by itself is reason enough to have this kind of program.

ACTING PRESIDENT MEIER: Senator Onorato.

SENATOR ONORATO: Mr. President, I rise to congratulate my colleagues on the other side for this particular bill coming forward.

I could care less if it produces economic development. I know very well what

Senator Stafford went through. I had members of my family going through the same thing at the very same time who didn't make it. If anything comes of this here and it saves a few more lives, the whole thing is worthwhile.

We've been besieged time and time again, why aren't we providing more funds to provide better health care for our people. We all want to live a little bit longer, and this is the way to do it. We are finally not going to put a man on the moon, but we're going to put a man or a woman out of the hospital in a better condition than they went in.

And I look forward to the day that this passes and that we're going to find that silver bullet that we all are looking forward to to hopefully live to that 110 or 120 in good health. I wholeheartedly support this legislation.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President.

I rise in support of this initiative by Senator Bruno. I think it's a

visionary response to the sorts of things that we have to look forward to.

And when I heard Senator Stafford explain some of his personal experiences, I'd like to say for the record, for the first time on this floor, that I went to the same institution, Senator, with the same disease, maybe in a different part of my body. And I was told if I wasn't treated I wouldn't be here nine months later. That's five years ago.

The treatment that they put me through -- and I didn't look the same either. I had no hair, none of those sorts of things. But just recently, if anyone is familiar with Dr. Gomez on Channel 4, NBC in New York City, I was called by Sloan-Kettering for an interview to talk about the protocols that I went through. Because that next morning, my oncologist from the facility on York Avenue and 68th Street was flying to California to make a presentation to a convention of oncologists to show that the protocol offered to me would now become the standard protocol for people with my sort of cancer.

And I'm delighted to be a spokesman back home to encourage people to get early treatment, early diagnosis tests, those sorts of things.

But this, I think -- when Chuck Fuschillo, Senator Fuschillo started to bring up the health side of it, I think that's what we can't lose sight of, that maybe we will get the silver bullet that Senator Onorato talks about.

But the more that we can encourage here, the more lives that we can save, the better the treatment is in the State of New York and hopefully in the rest of the country, the better off we'll be. And I think that is an important, major importance to this bill besides the economic development, which I also applaud because I think it's one of the best things I've heard since I'm here.

Thank you very much, Senator Bruno. And thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Thank you, Mr. President.

A lot of adulatory oration has taken place here, and for very good reason. We know the leader is a real leader and brought out this biotech program which is really going to revolutionize research and treatment in New York State, more not only learning new things but manufacturing new things.

But I think one of the points perhaps which was not mentioned, which I think is very significant, is the symbiosis between the research and the universities and other college institutions means that we will be educating a lot more people in these fields to serve not only our people in this state but in the rest of the nation and perhaps the world.

So I think it's also, for all the great things that have been said, the great boost for education I think is a very, very significant part of this.

Thank you.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 24 -

ACTING PRESIDENT MEIER: Senator

Dollinger, why do you rise?

SENATOR DOLLINGER: Thank you, Mr. President. Just to be heard for a second time on the bill.

I appreciate the entreaties of my friend from Monroe County and my colleague from Suffolk County. And on the basis of that, I'm going to change my mind on this bill. I'm prepared to buy into the promise that this bill represents, Senator.

But I do believe, and I'm going to continue to commit myself to an amendment to this proposal that would require that the jobs that are created through this program stay here in New York State. I still believe - and Senator Hannon brought up the point about the clustering concept. Senator LaValle talked about how we're going to try to encourage people to stay.

Well, there was a time in the chip business when everyone said, gee, the manufacturing is so technical, so complicated, it will never be done any place other than an industrialized nation in a secure laboratory. It's got to be done with highly trained

technicians. Ten years later, we can manufacture chips anyplace in the world.

So the high technology which originally starts out as a cluster does what oftentimes happens, is that technology gets into the manufacturing process and can be done anywhere in the world.

My concern is, and I would ask the Majority to consider this, that if we're going to give high-tech dollars to do all the good things that Senator Stafford and Senator Morahan -- I mean, believe me, we would like to deliver on the promise of benefits that this technology will bring. But it seems to me we also have an obligation to make sure that the benefit of that technology in the forms of the manufacturing jobs, that they end up in those clusters, that they don't go to China, that they don't go to Southeast Asia. Because then we will have invested our people's money in the process and yet the manufacturing will end up in some other place.

I see the wisdom of a yes vote on this bill, and I appreciate my colleagues.

I think that this has been very

instructive to me. But I'm going to hope that we can work on an amendment that says not just gives people an incentive to keep the jobs here, but instead says for a period of 20 years after you get this grant, if we develop that product, keep the jobs here in New York so that the people we represent whose tax dollars are going to finance the research and development will get the chance to work in the manufacturing jobs as well.

I'll commit myself to that amendment, and I'll vote in favor of this bill for all the reasons my colleagues expressed.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 24. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Mr. President.

I also rise to congratulate the

Majority Leader on this landmark piece of legislation. I think it will be very important for the welfare of our state, certainly economically, but also the general welfare and health of the people of the State of New York. And I want to offer my congratulations on that.

I would be remiss if I didn't also note the irony, though, of our earlier vote today in this body which really was about the dark ages of something having to do with health as well.

But I am voting yes, enthusiastically, on this, with the hope that it will advance all of our understanding, not just the people here in this room, but of the entire medical and science community in the state and throughout the nation, in the hopes that more lives will be prolonged and more lives will be more fulfilling and happier in our state.

Thank you Mr. President.

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

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

(Applause.)

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Is there any housekeeping at the desk, Mr. President?

ACTING PRESIDENT MEIER: We have some motions, Senator Bruno.

SENATOR BRUNO: If we can make them at this time.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on behalf of Senator LaValle, I offer the following amendments to Calendar Number 1147, Senate Print Number 2075A, and ask that said bill will retain its place on the Third Reading Calendar.

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

The Secretary will read the

substitution.

THE SECRETARY: On page 36, Senator Marchi moves to discharge, from the Committee on Rules, Assembly Bill Number 1722A and substitute it for the identical Senate Bill Number 1434A, Third Reading Calendar 786.

ACTING PRESIDENT MEIER: Substitution ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time recognize Senator Paterson.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, with unanimous consent of the body, I'd like to be recorded in the negative on Calendar Numbers 1101, 1129, and 1144.

ACTING PRESIDENT MEIER: Without objection, Senator Paterson will be recorded in the negative on Calendar 1101, 1129, and 1144.

SENATOR PATERSON: And, Mr. President, in the existentialist way of moving beyond myself to thinking of others, there

will be a conference of the Minority tomorrow morning -- that would be Tuesday, June 19th - at 10:30 a.m. in the Minority Conference Room, Room 3 -- 314, that is, Mr. President.

I'm experiencing puberty, Mr. President.

(Laughter.)

ACTING PRESIDENT MEIER: Conference of the Minority tomorrow morning, 10:30 a.m., Minority Conference Room.

Senator Bruno.

SENATOR BRUNO: Mr. President, there being no further business to come before the Senate, I would move that we stand adjourned until tomorrow, June 19th, at 11:00 a.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, June 19th, at 11:00 a.m.

(Whereupon, at 8:44 p.m., the Senate adjourned.)