NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 7, 2002

3:10 p.m.

REGULAR SESSION

SENATOR PATRICIA K. McGEE, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT McGEE: The Senate will come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT McGEE: In the absence of clergy, may we bow our heads in a moment of silence.

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

ACTING PRESIDENT McGEE: Reading of the Journal.

THE SECRETARY: In Senate, Monday, May 6, the Senate met pursuant to adjournment. The Journal of Sunday, May 5, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: If we could, with the consent of the Minority, go to Calendar Number 944 and have the last section read for the purposes of Senator Breslin voting.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 944, by Senator LaValle, Senate Print 7359, an act to amend the Insurance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Senator Breslin recorded in the negative.

ACTING PRESIDENT McGEE: Withdraw the roll call.

The Secretary will read the reports of standing committees.

THE SECRETARY: Senator Larkin, from the Committee on Racing, Gaming and Wagering, reports:

Senate Print 7182, by Senator Larkin, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

Senator Espada, from the Committee on Alcoholism and Drug Abuse, reports:

Senate Print 431, by Senator DeFrancisco, an act to amend the Navigation Law;

1128, by Senator Alesi, an act to amend the Vehicle and Traffic Law;

1918, by Senator Larkin, an act to amend the Education Law;

6691, by Senator LaValle, an act to amend the Mental Hygiene Law;

And 7302, by Senator Espada, an act establishing.

Senator Fuschillo, from the Committee on Consumer Protection, reports:

Senate Print 222C, by Senator Nozzolio, an act to amend the General Business Law;

880, by Senator Fuschillo, an act to amend the General Business Law;

3102, by Senator Fuschillo, an act to amend the Personal Property Law;

4164A, by Senator Marcellino, an act to amend the General Business Law;

4352, by Senator Hannon, an act to amend the General Business Law;

4697C, by Senator Spano, an act to amend the General Business Law;

5240, by Senator Fuschillo, an act to amend the General Business Law;

5302A, by Senator Maltese, an act to amend the General Business Law;

5378A, with amendments, by Senator Farley, an act to amend the General Business Law;

And Senate Print 6332, by Senator Kuhl, an act to amend the General Business Law.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Without objection, all bills direct to third reading.

The Secretary will read the reports of standing committees.

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

As a justice of the Supreme Court of the 12th Judicial District, Carolyn Geller, of New York.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise to move the nomination of Carolyn Geller, of New York, as a justice of the Supreme Court of the 12th Judicial District.

We received the nomination of Judge Geller from the Governor. We've examined, once again, her credentials; they were found to be perfectly in order. She appeared before the committee earlier today and was

unanimously moved from the committee for consideration of the floor at this time.

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

ACTING PRESIDENT McGEE: Senator Maltese.

SENATOR MALTESE: Madam President, I rise to second the nomination of Carolyn Geller, of New York, as a justice of the Supreme Court for the 12th Judicial District.

I commend Senator Lack and the members of the Judiciary Committee and certainly express our sincere appreciation and congratulations to Governor Pataki on this fine nomination.

Carolyn Geller has an excellent background for a justice of the Supreme Court. She received her L.L.M. from the New York University School of Law. She received her J.D. from Hofstra University School of Law, served on the Law Review.

She was admitted to the Second Department in May of 1980. Her honors during her stay at Hofstra were associate editor of

the Hofstra Law Review, a moot court advisor, and a teaching fellow in contracts.

She received her M.A. in history from Adelphi University and her B.A. in history from Queens College.

Her legal experience is extensive and varied. She served as a special referee in the Matrimonial Part in Queens Supreme Court from January 2001 to the present.

She has the distinction of being appointed as a justice of the Supreme Court of the State of New York from August 2001 to December of 2001.

She served as a special referee in the Matrimonial Part in Queens Supreme Court from May of '97 to August of 2001, where she presided at nonjury trials of actions for divorce and determined all issues, including divorce and ancillary relief requested therein.

She served as an associate court attorney for the law department of Queens Supreme Court from December '79 to May of '97.

In short, Madam President, she has received a -- the length and breadth of her

experience is so extensive, she has received an excellent background to admirably serve as a justice of the Supreme Court. And in her service as a justice of the Supreme Court, all litigants that appeared before her and her fellow members of the bench and bar had nothing but admiration for her service on the court.

It is my pleasure to second the nomination of Carolyn Geller as a justice of the Supreme Court, and I congratulate her. She is present in the chamber with her son, Richard.

ACTING PRESIDENT McGEE: Thank you, Senator Maltese.

The question is on the confirmation of Carolyn Geller, of New York, as a justice of the Supreme Court of the 12th Judicial District. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: All opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Carolyn

Geller is hereby confirmed as a justice of the Supreme Court of the 12th Judicial District.

Judge Geller is in the balcony with us now with her son, Richard.

And may I take this opportunity to say on behalf of the Senate, welcome to the Supreme Court, and we're very proud of you and extend to you our best congratulations.

(Applause.)

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: As a judge of the Family Court for the County of Montgomery, Joseph D. Wollman, of Amsterdam.

ACTING PRESIDENT McGEE: Senator Lack.

SENATOR LACK: Thank you, Madam President.

I rise once again, to move the nomination of Joseph D. Wollman, of Amsterdam, as a judge of the Family Court for the County of Montgomery.

We've received Mr. Wollman's resume from the Governor and his nomination from the Governor. We have examined that very

carefully. It is found to be perfectly in order. He appeared earlier this morning before the committee and was unanimously moved from the committee to the floor for consideration at this time.

And I most respectfully yield, for purposes of a second, to Senator Farley.

ACTING PRESIDENT McGEE: Senator Farley.

SENATOR FARLEY: Thank you very much, Madam President.

I'm very pleased to move the nomination of Joseph Wollman. Let me just say that the Wollman family is one of the most distinguished families in Montgomery County. His father is a judge who is with him here in the gallery. He also has his wife and two twin daughters, who are magnificent young women.

And the Family Court in Montgomery County is a single court, but it also cross-serves in other capacities. And Judge Wollman will be an outstanding jurist, because he is a graduate of St. Bonaventure -- in your district, Madam President -- and also the

Franklin Pierce Law Center.

And let me just say that Joe Wollman is not only an outstanding community citizen -- he's a member of Rotary, the Boys and Girls Club of Montgomery County, and has been very active in community affairs, serving particularly with the Mental Health Association.

And he has been a Montgomery County public defender, he's been an attorney with the Department of Social Services, and a law guardian.

He's eminently prepared to be an outstanding Family Court judge, which is one of the more difficult jobs, I think, that we all know, those of us that are in the law area of the -- and he is well suited. Not only that, he is a family man and somebody that has a magnificent family.

I know that -- I think that most of that gallery there is with him, and you can just see the entourage that he brings with him in support.

Joseph Wollman will be an outstanding judge of the Family Court of

Montgomery County, and it is with enthusiasm that I help move his nomination.

ACTING PRESIDENT McGEE: The question is on the confirmation of Joseph D. Wollman, of Amsterdam, as a judge of the Family Court for the County of Montgomery. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Joseph Wollman is hereby confirmed as a judge of the Family Court of the County of Montgomery.

Judge Wollman is joining us in the balcony today with his wife, Susan, his children, Hannah and Abigail, and his friends.

And they're all here to join with us in congratulations to you, Judge, in your appointment to the Family Court of the County of Montgomery.

So welcome.

(Applause.)

ACTING PRESIDENT McGEE: Senator Espada.

SENATOR ESPADA: Madam President, we wish to announce that there's an immediate meeting of the Civil Service and Pensions Committee in the Majority Conference Room, please.

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

The Secretary will read.

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

Senate Print 794, with amendments, by Senator Lack, an act to amend the Estates, Powers and Trusts Law.

ACTING PRESIDENT McGEE: Can we have some order, please.

THE SECRETARY: Senate Print 2888, by Senator Libous, an act to amend the Family Court Act;

3512A, by Senator Lack, an act to amend the General Obligations Law;

4622, with amendments, by Senator Hannon, an act to amend the Surrogate's Court

Procedure Act;

5669A, by Senator Lack, an act to amend the General Obligations Law;

And 6607, by Senator Hoffmann, an act to amend the Uniform City Court Act.

Senator Padavan, from the Committee on Cities, reports:

Senate Print 4331, by Senator Padavan, an act to amend the General City Law;

7238, by Senator Spano, an act to an act to authorize;

7282, by Senator Padavan, an act to amend the General Municipal Law;

And 7307, by Senator Padavan, an act to amend the General City Law and others.

Senator Hannon, from the Committee on Health, reports:

Senate Print 1741, by Senator Hoffmann, an act to amend the Public Health Law;

2821, by Senator Hannon, an act to amend the Public Health Law;

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

6684, by Senator LaValle, an act in

relation;

6996, by Senator Larkin, an act to amend the Public Health Law.

And 7144A, by Senator Farley, an act to amend the Public Health Law.

Senator Velella, from the Committee on Labor, reports:

Senate Print 522, by Senator LaValle, an act to amend the Workers' Compensation Law;

1398, by Senator Bonacic, an act to authorize;

2069, by Senator Balboni, an act to amend the Labor Law;

2070, by Senator Balboni, an act to amend the Labor Law;

2404, by Senator Seward, an act to amend the Labor Law;

4155, by Senator Spano, an act to amend the Labor Law;

6861, by Senator Velella, an act to amend the Labor Law;

7093, by Senator Marcellino, an act to amend the Labor Law;

7329, by Senator Velella, an act to

amend the Labor Law;

7330, by Senator Velella, an act to amend the Labor Law;

2901, by Senator Spano, an act to amend the Labor Law;

4382, by Senator Spano, an act to amend the Workers' Compensation Law;

6862, by Senator Velella, an act to amend the Labor Law;

And Senate Print 6863, by Senator Velella, an act to amend the Labor Law.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Without objection, all bills are ordered directly to third reading.

Senator Espada.

SENATOR ESPADA: Madam President, if we could take up the Finance Committee report at this time, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following bill direct to third reading:

Senate Print 7366, by the Senate Committee on Rules, an act making appropriations for the support of government.

ACTING PRESIDENT McGEE: Without objection, all bills reported direct to third reading.

Senator Espada.

SENATOR ESPADA: Madam President, if we could please take up Calendar 977 at this time, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 977, Senator Stafford moves to discharge, from the Committee on Finance, Assembly Bill Number 11313 and substitute it for the identical Senate Bill Number 7366, Third Reading Calendar 977.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 977, by the Assembly Committee on Rules, Assembly Print Number 11313, an act making appropriations for the support of government.

ACTING PRESIDENT McGEE: Senator Espada.

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

ACTING PRESIDENT McGEE: Yes, there is Senator.

SENATOR ESPADA: Move to accept.

ACTING PRESIDENT McGEE: All in favor of accepting the message of necessity and appropriation signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message of necessity is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 3. Senators Brown, Dollinger, and Duane

recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Espada.

SENATOR ESPADA: Madam President, if we could continue with the Finance Committee report at this time, please.

ACTING PRESIDENT McGEE: The Secretary will read.

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

As members of the Rochester-Genesee Regional Transportation Authority, Thomas C. Tucker, of Batavia, and Frank Vitagliano, Jr., of Warsaw.

As director of the State of New York Municipal Bond Bank Agency, Kenneth M. Bialo, of Larchmont.

As members of the New York State Olympic Regional Development Authority, John J. Arehart, of Warrensburg, and Arthur S. Speigel, of Rouses Point.

As a banking member of the State Banking Board, David C. Mancuso, of Dunkirk.

As a public member of the State Banking Board, Erland E. Kailbourne, of Williamsville.

As a member of the Small Business Advisory Board, Emma Kounine, of Mahopac.

As a member of the State Board for Historic Preservation, Joseph J. Ryan, of Buchanan.

As a member of the Fire Fighting and Code Enforcement Personnel Standards and Education Commission, Kevin Seamus Malley, of the Bronx.

As a member of the Taconic State Park, Recreation and Historic Preservation Commission, George T. Ilse, of Rye.

As members of the Advisory Council on Alcoholism and Substance Abuse Services, Reverend Arthur M. Johnson, of Garrison, and Peggy Pezzimenti Keller, of Olean.

And as a member of the Passenger Tramway Advisory Council, Bernard P. McGarry, of Albany.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Madam

President, just briefly.

I asked the two members of the Regional Transit Authority in the Rochester area to come in and talk about some issues that I think are of significant importance in the Rochester area community.

And I'm going to vote in favor of both of these nominees to the Regional Transit Authority in the Rochester area because, although I have a strong difference of opinion with the majority of that authority about the use of taxpayer money to fund advertisements in favor of what I think is a still a controversial and inchoate project relating to the creation of a new bus terminal, I do think that these two gentlemen provide a reasonable perspective for the outlying communities that are represented on the transit authority.

I think, consistent with the structure of the authority, they are entitled to represent their communities. But I certainly hope that our discussion at the Finance Committee will suggest that they take a very careful look at the use of public funds to promote not only controversial public works

projects but that there be an extensive study about the use of advertising, about such projects as a tool to increase ridership.

It seems to me that the transit authority ought to be in the business of promoting bus usage and not in the business of promoting controversial projects or, for that matter, suggesting that a political official's inability to support it constitutes not playing on the team.

With that caveat, Madam President, I'm going to vote in favor of both of these nominees, Mr. Tucker and Mr. Vitagliano, and wish them well. But I hope that the authority generally will revisit this issue and come up with a rationale for why we're spending public dollars to promote something other than ridership on the buses in the Rochester area.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Espada.

SENATOR ESPADA: Madam President, move the nominations, please.

ACTING PRESIDENT McGEE: The question is on the confirmation of the

nominations as read by the Secretary.

All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The confirmation of those mentioned by the Secretary is confirmed.

The Secretary will read.

THE SECRETARY: Senator Maziarz, from the Committee on Aging, reports:

Senate Print 4027, by Senator Velella, an act to amend the Real Property Tax Law;

5146, by Senator Padavan, an act to amend the Real Property Tax Law;

And 7323, by Senator Maziarz, an act to amend the Real Property Tax Law.

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

Senate Print 1244, by Senator Padavan, an act to amend the County Law;

2398, by Senator Rath, an act to amend the General Municipal Law;

2558A, by Senator Stachowski, an act to amend the General Municipal Law;

4552, by Senator Leibell, an act to amend the Real Property Tax Law;

5088, by Senator Leibell, an act to amend the Town Law;

6221, by Senator Larkin, an act to amend the Real Property Tax Law;

6366, by Senator Leibell, an act in relation;

6502A, by Senator Bonacic, an act to amend;

6520, by Senator Kuhl, an act to amend the Real Property Tax Law;

6673, by Senator LaValle, an act to amend the General Municipal Law;

6712, by Senator Padavan, an act to amend the Real Property Tax Law;

6788, by Senator Leibell, an act to authorize;

6800, by Senator Maziarz, an act to amend the Real Property Tax Law;

6927, by Senator Hannon, an act authorizing;

6928, by Senator Hannon, an act

authorizing;

6978, by Senator Wright, an act to amend the Real Property Tax Law;

6829A, by Senator Skelos, an act to ratify, legalize, validate and confirm;

7146, by Senator LaValle, an act to amend the Town Law;

7150, by Senator Fuschillo, an act to amend the Real Property Tax Law;

7152, by Senator Meier, an act to amend the General Municipal Law;

7153, by -

ACTING PRESIDENT McGEE: Excuse me just one moment.

Can we have some order, please, in the chamber. Thank you.

The Secretary will continue to read.

THE SECRETARY: 7153, by Senator Skelos, an act to establish;

7160, by Senator Farley, an act to amend the General Municipal Law;

7200, by Senator Balboni, an act authorizing;

7294, by Senator Balboni, an act to

amend Chapter 492;

And Senate Print 7319, by Senator Padavan, an act to amend the County Law.

Senator Trunzo, from the Committee on Transportation, reports:

Senate Print 759B, by Senator Trunzo, an act to amend the Vehicle and Traffic Law;

1115A, by Senator Morahan, an act to amend the Vehicle and Traffic Law;

2372, by Senator Bruno, an act to amend the Vehicle and Traffic Law;

3074, by Senator Lachman, an act to amend the Public Authorities Law;

3155, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

5552, by Senator Trunzo, an act to amend the Public Authorities Law;

5825B, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

6150, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

6663A, by Senator Volker, an act to amend the Highway Law;

6813, by Senator Trunzo, an act to

amend the Vehicle and Traffic Law;

6870, by Senator Trunzo, an act to amend the Highway Law;

7086, by Senator Trunzo, an act to amend the Vehicle and Traffic Law;

7183, by Senator Marcellino, an act to amend the Vehicle and Traffic Law;

7187, by Senator Trunzo, an act to amend the Vehicle and Traffic Law;

7266, by Senator LaValle, an act to amend the Highway Law;

7285, by Senator Espada, an act to amend the Highway Law;

7322, by Senator Morahan, an act to amend the Public Authorities Law.

Senator Alesi, from the Committee on Commerce, Economic Development and Small Business, reports:

Senate Print 2712, by Senator Padavan, an act to amend the State Administrative Procedure Act;

4606A, by Senator Kuhl, an act to amend the Alcoholic Beverage Control Law;

6333, by Senator Kuhl, an act to amend the Alcoholic Beverage Control Law;

And 6565, by Senator Alesi, an act to amend the Public Authorities Law.

Senator Marchi, from the Committee on Corporations, Authorities and Commissions, reports:

Senate Print 361, by Senator Morahan, an act to amend the Not-For-Profit Corporation Law;

2021, by Senator Marchi, an act to amend the Not-For-Profit Corporation Law;

2378, by Senator Alesi, an act to amend the Public Authorities Law;

2546, by Senator Marchi, an act to amend the Not-For-Profit Corporation Law;

3766, by Senator Marchi, an act to amend the Not-For-Profit Corporation Law;

5325, by Senator Larkin, an act to amend the Public Authorities Law;

5666, by Senator Bonacic, an act to amend the Public Authorities Law;

5779, by Senator DeFrancisco, an act to amend the Public Authorities Law;

6493, by Senator LaValle, an act to amend the Public Authorities Law;

6554, by Senator Bonacic, an act to

amend the Public Authorities Law;

6555, by Senator Bonacic, an act to amend Chapter 915;

6557, by Senator Bonacic, an act to amend the Public Authorities Law;

6633, by Senator Skelos, an act to amend the Public Authorities Law;

6634, by Senator Skelos, an act to amend the Public Authorities Law;

6635, by Senator Skelos, an act to amend the Public Authorities Law;

6679, by Senator Volker, an act to amend Chapter 672;

6967, by Senator Spano, an act to amend the Public Authorities Law;

7017, by Senator Fuschillo, an act to amend the Public Authorities Law;

And 7227, by Senator Velella, an act to amend Chapter 465.

Senator Kuhl, from the Committee on Education, reports:

Senate Print 443, by Senator Maltese, an act to amend the Education Law;

3134, by Senator LaValle, an act to amend the Education Law;

6373, by Senator LaValle, an act to authorize;

And 6827, by Senator Seward, an act to amend Chapter 217.

Senator Wright, from the Committee on Energy and Telecommunications, reports:

Senate Print 2104, by Senator LaValle, an act to amend the Tax Law;

6937, by Senator Wright, an act to amend the Executive Law;

And 7289, by Senator Hannon, an act to amend the State Technology Law.

Senator Morahan, from the Committee on Veterans and Military Affairs, reports:

Senate Print 109B, by Senator Marcellino, an act to amend the Vehicle and Traffic Law;

1312A, by Senator Meier, an act to amend the Town Law;

3129, by Senator Farley, an act to amend the Military Law;

4132C, by Senator Morahan, an act to amend the Executive Law;

4735, by Senator Morahan, an act to amend the State Finance Law;

4738, by Senator Morahan, an act to amend the Executive Law;

4739A, by Senator Morahan, an act creating;

6081, by Senator Padavan, an act to amend the Real Property Tax Law;

6185, by Senator Morahan, an act to amend the Real Property Tax Law;

6315, by Senator Stafford, an act to amend Chapter 266;

6334, by Senator Kuhl, an act to amend the Public Authorities Law;

6441, by Senator Nozzolio, an act to amend the Real Property Tax Law;

And 6839, by Senator Morahan, an act to amend the Public Health Law.

Also Senate Prints 4556, by Senator Leibell, an act to amend the Military Law;

And 6680, by Senator Espada, an act to amend the Education Law.

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

Senate Print 3833, by Senator Marchi, an act to amend the Navigation Law;

And 4240, by Senator DeFrancisco, an act to amend the Navigation Law.

Senator Marcellino, from the Committee on Environmental Conservation, reports:

Senate Print 3112A, by Senator McGee, an act to amend the Environmental Conservation Law;

4755C, by Senator Marcellino, an act to amend the Environmental Conservation Law;

6160, by Senator Kuhl, an act to amend the Environmental Conservation Law;

And 7167, by Senator Alesi, an act to amend the Environmental Conservation Law.

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

Senate Print 3968, by Senator Stafford, an act to amend the Tax Law;

6165, by Senator DeFrancisco, an act to amend the Tax Law;

6317, by Senator Seward, an act to amend the Tax Law;

6321, with amendments, by Senator

Skelos, an act to amend the Alcoholic Beverage Control Law;

6500, by Senator DeFrancisco, an act to amend the Tax Law;

6653, by Senator Kuhl, an act to amend the Tax Law;

6730, by Senator Spano, an act to amend the Tax Law;

6777, by Senator Kuhl, an act to authorize;

6806, by Senator Spano, an act to amend the Public Officers Law;

7103, by Senator Maltese, an act to amend the Public Officers Law;

And 7196, by Senator Nozzolio, an act to amend the Tax Law.

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

Senate Print 80A, by Senator Hoffmann, an act to amend the Correction Law;

1131, by Senator Alesi, an act to amend the Correction Law;

And Senate Print 2164, by Senator Lack, an act to amend the Correction Law.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Without objection, all bills reported direct to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Espada.

SENATOR ESPADA: Madam President, amendments are offered to the following Third Reading Calendar bills:

By Senator Nozzolio, page 22, Calendar 493, Senate Print Number 3838;

By Senator Espada, page number 30, Calendar Number 640, Senate Print Number 6478;

By Senator Trunzo, page 47, Calendar Number 853, Senate Print Number 7280;

By Senator LaValle, page 49, Calendar Number 874, Senate Print Number 6705A;

And by Senator Skelos, page 49, Calendar Number 876, Senate Print Number 6831.

Madam President, I now move that

these bills retain their place on the order of third reading.

ACTING PRESIDENT McGEE: The amendments are received and adopted. All bills will retain their place on third reading.

SENATOR ESPADA: Madam President, are there any substitutions at the desk?

ACTING PRESIDENT McGEE: Yes, there are.

SENATOR ESPADA: Will you please make them at this time, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: On page 24, Senator Hannon moves to discharge, from the Committee on Health, Assembly Bill Number 10378 and substitute it for the identical Senate Bill Number 6763, Third Reading Calendar 536.

On page 30, Senator Saland moves to discharge, from the Committee on Children and Families, Assembly Bill Number 8562 and substitute it for the identical Senate Bill Number 4595, Third Reading Calendar 634.

On page 31, Senator Kuhl moves to discharge, from the Committee on Education, Assembly Bill Number 10601A and substitute it for the identical Senate Bill Number 6906A, Third Reading Calendar 642.

On page 32, Senator Maziarz moves to discharge, from the Committee on Health, Assembly Bill Number 10018 and substitute it for the identical Senate Bill Number 6876, Third Reading Calendar 664.

On page 38, Senator Morahan moves to discharge, from the Committee on Veterans and Military Affairs, Assembly Bill Number 1449 and substitute it for the identical Senate Bill Number 500, Third Reading Calendar 737.

On page 40, Senator Morahan moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 9030B and substitute it for the identical Senate Bill Number 5431B, Third Reading Calendar 773.

On page 49, Senator Skelos moves to discharge, from the Committee on Codes, Assembly Bill Number 10554 and substitute it

for the identical Senate Bill Number 6658, Third Reading Calendar 873.

On page 56, Senator Seward moves to discharge, from the Committee on Insurance, Assembly Bill Number 11171 and substitute it for the identical Senate Bill Number 6589A, Third Reading Calendar 942.

On page 57, Senator Bonacic moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 9968 and substitute it for the identical Senate Bill Number 6843, Third Reading Calendar 954.

On page 57, Senator Bonacic moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 9969 and substitute it for the identical Senate Bill Number 6844, Third Reading Calendar 955.

And on page 57, Senator Bonacic moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 9967 and substitute it for the identical Senate Bill Number 6845, Third Reading Calendar 956.

ACTING PRESIDENT McGEE: Substitutions ordered.

Senator Espada.

SENATOR ESPADA: Madam President, may we please adopt the Resolution Calendar, with the exception of Resolutions 5305 and 5306, please.

ACTING PRESIDENT McGEE: All those in favor of adopting the Resolution Calendar, with the exception of Resolutions 5305 and 5306, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The Resolution Calendar is adopted, with the exception of Resolutions 5305 and 5306.

Senator Espada.

SENATOR ESPADA: Madam President, may we have the noncontroversial reading of the calendar, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number

508, by Member of the Assembly Luster, Assembly Print Number 10452, an act to amend the Education Law, in relation to the membership of the Board of Trustees of Cornell University.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 632, by Senator Skelos, Senate Print 404, an act to amend the Social Services Law, in relation to the charging of a fee.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 634, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8562, an act to amend the Family Court Act and the Social Services Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the 90th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 635, 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.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 720, by Senator Balboni, Senate Print 6682, an act to amend the Nassau County Civil Divisions Act, in relation to the Port Washington Police District.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 757, by Senator Johnson, Senate Print 3346B, an act to amend the Criminal Procedure Law, in relation to issuance of orders of protection.

ACTING PRESIDENT McGEE: Senator Espada.

SENATOR ESPADA: Madam President, may we lay that bill aside for the day, please.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 758, by Senator Saland, Senate Print 4230A, an act to amend the Domestic Relations Law and the Social Services Law, in relation to consents to adoption.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 812, by Senator Leibell, Senate Print 3088C, an act to amend Chapter 433 of the Laws of 1985.

ACTING PRESIDENT McGEE: A home-rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 822, by Senator Skelos, Senate Print 6382, an act authorizing the assessor of the County of Nassau to accept an application.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 837, by Senator Marcellino, Senate Print 2836A, an act to amend the Vehicle and Traffic Law, in relation to increasing penalties.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 855, by Senator Volker, Senate Print 136A, an act to amend the Penal Law and the Vehicle and Traffic Law, in relation to endangering.

SENATOR BROWN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 856, by Senator DeFrancisco, Senate Print 437, an act to amend the Penal Law, in relation to the payment of reparation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 866, by Senator Maziarz, Senate Print 3279, an act to amend the Penal Law, in relation to creating definitions.

ACTING PRESIDENT McGEE: Read the last section.

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

November.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 875, by Member of the Assembly Sanders, Assembly Print Number 7580C, an act in relation to establishing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 878, by Senator Meier, Senate Print 6942, an act to adjust certain state aid payments.

SENATOR BROWN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 887, by Senator Meier, Senate Print 1301A, an act to amend the Executive Law and the Social Services Law, in relation to making reports.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 889, by Senator Nozzolio, Senate Print 3775, an act to amend the Executive Law, in relation to personal interviews.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 895, by Senator Maziarz, Senate Print 4704, an act -

SENATOR BROWN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 927, by Senator LaValle, Senate Print 1042, an act to amend the Education Law, in relation to the terms of community college trustees.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 933, by Senator Farley, Senate Print 2840, an act to amend the Banking Law, in relation to increased penalty levels.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 934, by Senator Farley, Senate Print 4634A, an act to amend the Banking Law, in relation to annual reporting requirements.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

SENATOR BROWN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 944, by Senator LaValle, Senate Print 7359, an

act to amend the Insurance Law, in relation to coverage.

SENATOR BROWN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 945, by Senator Seward, Senate Print 7360, an act to amend the Insurance Law, in relation to group health insurance.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

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

SENATOR ESPADA: Thank you, Madam President. Now may we have the controversial reading of the calendar, please.

ACTING PRESIDENT McGEE: The

Secretary will read.

THE SECRETARY: Calendar Number 855, by Senator Volker, Senate Print 136A, an act to amend the Penal Law and the Vehicle and Traffic Law.

SENATOR BROWN: Explanation.

SENATOR ESPADA: Lay it aside temporarily, please.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 878, by Senator Meier, Senate Print 6942, an act to adjust certain state aid payments.

SENATOR ESPADA: Lay it aside temporarily, please.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 889, by Senator Nozzolio, Senate Print 3775, an act to amend the Executive Law, in relation to personal interviews by the Board of Parole.

ACTING PRESIDENT McGEE: Read the last section.

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

SENATOR BROWN: Explanation.

SENATOR ESPADA: Lay it aside temporarily, please.

ACTING PRESIDENT McGEE: The bill is temporarily laid aside.

THE SECRETARY: Calendar Number 895, by Senator Maziarz, Senate Print 4704, an act to amend the Social Services Law.

SENATOR BROWN: Explanation.

ACTING PRESIDENT McGEE: Senator Maziarz, an explanation has been requested.

SENATOR MAZIARZ: Senator Brown, this legislation would expand upon existing law to disqualify persons fleeing from prosecution, custody, or conviction of any criminal charge from receiving public assistance.

Currently, this disqualification applies to persons who have committed or have attempted to commit a crime which is a felony. This bill would extend this disqualification to instances where the crime in question is a misdemeanor.

Also, this bill would expand the type of information that may be shared between

a Social Services district office and law enforcement in order to apprehend a person fleeing criminal charges.

ACTING PRESIDENT McGEE: Read the last section.

Oh, Senator Duane, I'm sorry.

SENATOR DUANE: Madam President, I was briefly distracted. Are we doing 895?

ACTING PRESIDENT McGEE: We are doing Senator Maziarz's bill, Calendar Number 895.

SENATOR DUANE: Thank you. If the sponsor would yield.

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

SENATOR MAZIARZ: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: Thank you.

I'm wondering if the sponsor could tell me if this interface between those who are receiving public assistance and may be the subject of a prosecution, if that exists with any other state agency now.

SENATOR MAZIARZ: None that I'm aware of offhand, Senator.

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

ACTING PRESIDENT McGEE: Senator Maziarz, will you continue to yield?

SENATOR MAZIARZ: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DUANE: I'm wondering why the sponsor has singled out this one agency that provides a public benefit for interface with the criminal justice system.

SENATOR MAZIARZ: Well, Madam President, through you, I would certainly consider it for others, Senator. But some of the areas that I represent, particularly the counties, have requested that I do this legislation in relation to the Department of Social Services.

I'm sure that there may be other agencies that do this; I'm just not aware of them, Senator Duane.

SENATOR DUANE: Through you, Madam President, does that mean that the sponsor is not aware that there's an interface between, for instance -- I'm just having trouble concentrating.

ACTING PRESIDENT McGEE: Can you close that door. Make sure that door is closed, please. Thank you.

SENATOR DUANE: Thank you.

I'm wondering, is the sponsor then saying that as far as he knows, the Workers' Comp Board or Unemployment or -- well, let's just pick these two agencies -- are not at this time interfacing with the criminal justice system?

ACTING PRESIDENT McGEE: Senator Maziarz, did you hear the question?

SENATOR MAZIARZ: I did hear the question, Madam President. And the answer is that I am not aware of it, no.

And you asked that same question last year, Senator Duane. And I thought maybe you would introduce legislation and bring those into it.

SENATOR DUANE: Through you,

Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Maziarz, do you continue to yield?

SENATOR MAZIARZ: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: Though I know my transcripts of my speaking don't always make greatest hits, if the Senator remembers from last year, I indicated that I was uncomfortable about the slippery slope there might begin to happen. In other words, if you could do it for people on public assistance, then you could start doing it in other agencies as well.

But I am curious as to why it is that the sponsor would believe that -- you know what, Madam President, I'm just going to speak on the bill.

ACTING PRESIDENT McGEE: Thank you, Senator Maziarz.

Senator Duane, on the bill.

SENATOR DUANE: I know the

sponsor is disappointed, but anyone who is not here could just review last year's transcript on this.

But I will repeat what my concerns are. I just find it appalling that we choose the agency where the poorest New Yorkers go to get assistance to interface with the criminal justice system. It says to me that some believe that poor people are more prone to commit crimes than are people of other income groups.

And if we are going to start this interface between Social Services agencies and criminal justice agencies, which I'm opposed to -- but for those who are for it, why not interface then with Workers' Comp or Unemployment or any number of other agencies which provide a public benefit?

I think it's completely wrong to target poor people and to make believe that they are more likely to be those people who have committed a crime. That is just not true.

So I would say to my colleagues if they really wanted to be fair about what's

really happening in this society, they should put their money where their mouths are and vote against this bill until such time a bill comes before us that includes benefits agencies which provides benefit to all income groups, and then let's see how you all vote on it.

Because when it impacts people who are getting other benefits, like workers' comp or, for that matter, people that are receiving benefits, state benefits as a result of 9/11, are we going to start this -- I mean, if we're going to do it for poor people, then we should do to for everybody. And I'd love to see how everybody votes on a bill that targets anybody that gets any public assistance.

So I urge my colleagues to vote no, because it is just plain wrong to target poor people and make believe that they commit more crimes than anybody else.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Duane.

Any other Senator wishing to speak on the bill?

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, I would like to see if the Senator would yield to answer a question.

ACTING PRESIDENT McGEE: Senator Maziarz, do you care to yield to Senator Montgomery?

SENATOR MAZIARZ: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR MONTGOMERY: Yes, thank you, Madam President. Through you.

I just want to find out, Senator Maziarz, the -- I'm reading in the support memo, and it says "No public assistance shall be given to any person who is fleeing to avoid prosecution, custody, or conviction for any crime or attempted crime."

Does this law already now cover felony convictions? So is that already part of the law?

SENATOR MAZIARZ: Yes, it is.

SENATOR MONTGOMERY: So your legislation now will cover any misdemeanor

charges?

SENATOR MAZIARZ: Yes, that's correct, Senator.

SENATOR MONTGOMERY: Okay. And does that also include a charge in an instance where an individual may have been participating in some protest at some point in time and may have received a charge based on an arrest related to a nonviolent activity, such as participating in a protest rally of some sort, even as a college student, whatever, and now is perhaps in need of some public assistance, for whatever reason, would this bill prevent that person as well, in a situation like that?

SENATOR MAZIARZ: If they were charge with a misdemeanor, yes, it would.

SENATOR MONTGOMERY: All right. So it does not distinguish between the level of the charge or the activity except if it's a misdemeanor, you're still -

SENATOR MAZIARZ: Yes. Yes.

SENATOR MONTGOMERY: -- unable to receive public assistance?

SENATOR MAZIARZ: Yes.

SENATOR MONTGOMERY: All right. Thank you, Senator Maziarz.

SENATOR MAZIARZ: Thank you, Senator.

SENATOR MONTGOMERY: Madam President.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: Briefly on the bill.

ACTING PRESIDENT McGEE: Senator Montgomery, briefly on the bill.

SENATOR MONTGOMERY: I think one of the problems that we often find with these bills is that in making them so all-inclusive, it -- there is a danger that we in fact are bringing people into the criminal justice system, on one hand, and in this instance we are now preventing people from ever being able to receive any public assistance, even though they may have been involved in something very, very minor in their lives.

Which is much more likely to happen with people who do not have means: poor people, people who live in urban areas, having

to deal with inadequate educational programs, not enough support as young people, as teenagers, not having recreational activities, not having opportunities, and on and on.

So we keep penalizing people essentially because they're poor, and this is just one more small bill, one more small piece of legislation that I think, I believe, reflects that attitude that if you are a poor person, especially if you're a poor, young person, the fewer opportunities that you have, the more ways we will figure out to punish you.

So I'm voting no on this, and I hope that my colleagues will join me in voting against this legislation.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you. Through you, Madam President, if the sponsor would yield to a question.

ACTING PRESIDENT McGEE: Senator Maziarz, will you yield?

SENATOR MAZIARZ: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you, Senator.

You mentioned you put in this bill at the request of some of your counties. Which division of what counties were concerned about this bill?

SENATOR MAZIARZ: Which division of the counties?

SENATOR LIZ KRUEGER: Was it social services, was it criminal justice?

SENATOR MAZIARZ: Yes, the Department of Social Services, county sheriff's department, county executive.

SENATOR LIZ KRUEGER: So it was both the criminal justice and social services?

SENATOR MAZIARZ: Yes.

SENATOR LIZ KRUEGER: And in your discussions -- oh, I'm sorry. Madam President, if the sponsor will continue to yield.

SENATOR MAZIARZ: Certainly, Senator.

SENATOR LIZ KRUEGER: Thank you.

Did you get a definition of what it means to be fleeing from a misdemeanor from either the Social Services Department or through the county sheriff?

SENATOR MAZIARZ: Did they give me a definition? No, they did not, Senator. I would assume fleeing means avoiding prosecution.

SENATOR LIZ KRUEGER: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Maziarz -

SENATOR MAZIARZ: Yes, Madam President.

ACTING PRESIDENT McGEE: - continues to yield, Senator.

SENATOR LIZ KRUEGER: Thank you.

I'm not personally familiar with anything in Social Services statute that would define fleeing. And I'm still a little confused about the definition of fleeing from misdemeanor under criminal law.

Can you explain to me what fleeing from a misdemeanor actually means to a

sheriff's department?

SENATOR MAZIARZ: I would say attempting to avoid being caught and prosecuted, Senator.

SENATOR LIZ KRUEGER: So technically -- oh, excuse me. Madam President, through you, if the sponsor would continue to yield.

SENATOR MAZIARZ: Yes, Madam President.

SENATOR LIZ KRUEGER: Thank you.

In this law, as I read it, it's the sheriff's department or the police department that would initiate action, not the Social Services Department; is that your understanding?

SENATOR MAZIARZ: Yes, it would be a law enforcement agency. It could be a district attorney, a sheriff's department, local police department.

SENATOR LIZ KRUEGER: So if - I'm sorry. Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Maziarz, do you -

SENATOR MAZIARZ: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR LIZ KRUEGER: Thank you so much.

So it's your sheriff's department or police department that has requested that they are searching for people who have been fleeing from misdemeanors and that they believe that this is a model for successfully finding people that they could not otherwise find who have outstanding misdemeanor charges?

SENATOR MAZIARZ: Yes. Yes.

SENATOR LIZ KRUEGER: Okay. So may I ask another question, through you, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Maziarz, another question?

SENATOR MAZIARZ: Yes, Madam President.

ACTING PRESIDENT McGEE: Indeed.

SENATOR LIZ KRUEGER: Thank you.

Is it your understanding that in

this bill any member of a household applying for public assistance who might be defined as fleeing a misdemeanor would then not be eligible, or that the entire household would not be eligible?

SENATOR MAZIARZ: I'm sorry, you're going to have to repeat the question, Senator.

SENATOR LIZ KRUEGER: If an individual member of a household under this law is defined as being fleeing from a misdemeanor, is it your understanding that this law would basically remove that person from the household for eligibility, or would the entire household be refused eligibility?

SENATOR MAZIARZ: Yes, if that individual is the recipient of the Social Services benefits, then, yes, it would be that individual.

SENATOR LIZ KRUEGER: So through you, Madam President.

ACTING PRESIDENT McGEE: Senator Maziarz, will you continue to yield?

SENATOR MAZIARZ: Yes, Madam President.

SENATOR LIZ KRUEGER: Thank you so much.

So if I was a mother with two children, one of whom, say, was a 7-year-old and the other of whom was a 16-year-old, and the 16-year-old had in fact not responded to a charge of selling fireworks, or graffiti, it's your understanding that the 16-year-old would be prevented from participating in public assistance or that I, the mother, with my two children, would be prevented?

SENATOR MAZIARZ: No, it would be the applicant for the Social Services that would be denied.

SENATOR LIZ KRUEGER: All right. So it's your understanding that I would then be denied public assistance for myself and my two children if there was an outstanding misdemeanor charge on my 15-year-old?

SENATOR MAZIARZ: Senator, no, not on your 15-year-old, Senator. In the most unlikely event that you were charged with a crime, you would be the one who would be denied.

SENATOR LIZ KRUEGER: But it

could be any household member?

SENATOR MAZIARZ: No.

SENATOR LIZ KRUEGER: No. And if I am charged -- thank you. Madam President, thank you, if you would continue to yield.

SENATOR MAZIARZ: Sure, Senator.

SENATOR LIZ KRUEGER: Thank you.

And if it was the reverse situation, where I had a 15-year-old and a 7-year-old but I was the person that the sheriff's department discovered had an outstanding -- again, I don't believe they're warrants on misdemeanors, but some outstanding record of having failed to address a misdemeanor charge, I would not be able to apply for public benefits? That is your understanding?

SENATOR MAZIARZ: That is correct. If you were the applicant and you had some outstanding misdemeanor charge against you, yes.

SENATOR LIZ KRUEGER: Madam President, through you, if the sponsor would continue to yield.

SENATOR MAZIARZ: Yes, Madam

President.

SENATOR LIZ KRUEGER: Thank you.

But I could still receive benefits for my children? Or they also, because I was unable to apply for benefits, they would also be prevented from receiving benefits?

SENATOR MAZIARZ: No. No. They would -- through you, Madam President, they would be able to receive those benefits.

SENATOR LIZ KRUEGER: So in fact -- I'm sorry, through you, Madam President, if the sponsor would continue to yield.

SENATOR MAZIARZ: Yes, Madam President.

SENATOR LIZ KRUEGER: Thank you.

But in fact if there were misdemeanor charges, I would likely -- or do we think it's possible, Senator, that I would likely, once I learned that I was in fact fleeing -- although I would assume I originally didn't know I was fleeing from a misdemeanor when this process started -- that I would likely simply pull out of the process of continuing benefits or applying for

benefits for my children because I would be trying to resolve the misdemeanor charge for myself? Is that your belief, that through this bill I would end up -

SENATOR MAZIARZ: Through you, Madam President, I'm having a little difficult time following you, Senator. But if you were the applicant and you had been convicted of a crime or charged with a misdemeanor, you would not be able to receive those benefits.

SENATOR LIZ KRUEGER: So, Madam President -- I will get back to this.

SENATOR MAZIARZ: It would not have anything to do with any other member of your household.

SENATOR LIZ KRUEGER: Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Maziarz?

SENATOR MAZIARZ: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you

so much.

Well, we don't quite have an understanding of fleeing for Social Services law. Do we have an understanding about how one lifts an old misdemeanor charge that may be on the books against you if in fact it is a resolved issue but still remains on the books if you are an applicant?

Say I am the mother attempting to apply for assistance. I am notified at the time that I have applied for assistance - because the sheriff's office has done a computer match, I'll assume -- that I have an outstanding misdemeanor. Do we know how I would resolve the problem of an outstanding old misdemeanor that may or may not have ever been resolved through the books?

SENATOR MAZIARZ: I would assume, Senator, that that's covered in some other section of the Penal Law. But it's not a part of this particular amendment at all.

SENATOR LIZ KRUEGER: So this wouldn't do anything to resolve that existing problem in the law.

SENATOR MAZIARZ: No.

SENATOR LIZ KRUEGER: Okay. Thank you.

Just, if you'll bear with me, one more question.

ACTING PRESIDENT McGEE: Senator Maziarz, for one more question?

SENATOR MAZIARZ: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR MAZIARZ: Even more than one more.

SENATOR LIZ KRUEGER: Thank you very much, Senator. Of course, misdemeanors -

SENATOR MAZIARZ: Not that I'm trying to encourage you, now.

SENATOR LIZ KRUEGER: There are so many categories of misdemeanor in state law, I was just writing down a few of them.

So I just wanted to clarify that you believe that through this law, in good faith, we should prevent people from applying for or continuing to receive public assistance for themselves and their children if there is

an outstanding misdemeanor charge from a historical pattern of writing bad checks? You think that this should apply if they've had a record of writing bad checks?

SENATOR MAZIARZ: Is that a misdemeanor?

SENATOR LIZ KRUEGER: Yes, it is.

SENATOR MAZIARZ: Okay. Then the answer would be yes.

SENATOR LIZ KRUEGER: And adultery? That's also a misdemeanor.

SENATOR MAZIARZ: Misdemeanors, Senator.

SENATOR LIZ KRUEGER: It's a misdemeanor, sir.

SENATOR MAZIARZ: Misdemeanors.

SENATOR LIZ KRUEGER: Driving with a suspended license?

SENATOR MAZIARZ: Misdemeanors.

SENATOR LIZ KRUEGER: It's a misdemeanor.

Sale of one marijuana cigarette?

SENATOR MAZIARZ: A misdemeanor.

I think -- I can see where you're going with this, Senator. But I think that

the law enforcement agencies, I think that they do due diligence in what they do in attempting to apprehend criminals.

SENATOR LIZ KRUEGER: Thank you, Senator.

If I may speak on the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Following up on points that were made by the two previous senators, and expanding on them, I think we go down a very dangerous road by opening up a process where any existing record of a misdemeanor charge against any member of a household who is low-income and may find themselves needing to apply for government assistance results in a scenario where we go on perhaps fishing expeditions by police authorities to cross-check whether there are any old or outstanding misdemeanor charges.

Again, there's a big difference between a fleeing felon in the existing law and someone with an outstanding misdemeanor charge somewhere in their history.

It's also true, at least in my city, the city of New York, that as a low-income person without an attorney, getting a misdemeanor charge removed from the books, even if there is no one in fact searching for them -- in fact, they are not fleeing because the New York City Police Department is not looking for them -- based on having a ten-year-old marijuana-cigarette misdemeanor or an adultery charge or a nonsupport-of-child charge or a bad-check-writing charge or a trespass charge or a disorderly conduct charge or a charge for fortunetelling without a license or a graffiti charge or a hazing charge or a receiving-unlawful-gratuities charge or, in fact, a loitering to promote prostitution charge or a patronizing a prostitute charge or even, it's interesting to learn, a promotion of gambling charge, or a contempt of legislature charge, that what we do is we potentially prevent tens of thousands of families who in fact are not fleeing from the police -- and in honesty, the police wouldn't really know what to do if suddenly they were all brought to them to deal with -

that what we are really doing is attempting, in this law, to discourage anyone who believes they might have had something in their history or in their children's history from applying for government assistance.

Because the real issue here is not that the police and the sheriff's departments need great assistance to go and find local historical offenders of nonviolent, nonthreatening crimes or misdemeanors. But, rather, it's an intention of county Social Services offices to come up with yet another solution to having fewer people come to them for assistance.

Because the truth is, you can scare people away prettily easily from turning to government for assistance if you flash in their face the possibility of police investigations and computer checks on everyone in their household for any point in history, including misdemeanor charges.

And so I would not only vote no on this bill, I would urge my colleagues to vote no on this bill and really encourage all of us to look down the road of where are we going if

we're going to move the relationship between Social Services, government assistance, and our criminal justice system to such a tight computer-match point that we may in fact prevent anyone from ever seeking any assistance from government.

Thank you.

ACTING PRESIDENT McGEE: Senator Duane.

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

As I continued to listen to debate, I did come up with yet another horrible consequence, potential consequence of this legislation. And that would include whether or not the bill says that while a mother might not be able to get benefits, the children could be able to get benefits.

But, for instance, in a case where a family gets rental assistance, that's through the custodial parent's case, Social Services case. And so if she is denied her benefits because she may have an outstanding warrant on a misdemeanor, which I think is really just not -- could be just not showing

up for a desk appearance ticket -- then the whole family could potentially be evicted from their home because it's her case that's before the Social Service agencies.

And I just want to reiterate the slippery-slope element of this. You know, I personally have been arrested, although I have to assure my colleagues I have always been not guilty. But I've had the experience of a desk appearance ticket where I've actually appeared and gotten an acquittal contemplating - adjournment contemplating dismissal and not having that be wiped off my record, and I've seen it happen to other people as well.

So would that mean if I went to the New York City Division of AIDS Services if I needed assistance, then I wouldn't be able to get that assistance?

But forget about me. More importantly, if we followed this line of thinking, supposing someone who had been injured in the World Trade Center attack went to get workers' compensation but several months earlier had been caught drinking out of an open liquor container and had neglected to

go to court to take care of their desk appearance ticket. Then, if we follow this line of thinking about public benefits shouldn't go to people who have an outstanding desk appearance ticket or a warrant, then potentially that person would be unable to get their workers' compensation.

Now, I know the bill doesn't do that. And I know that -- I don't believe that that's in the law now, although I've never gotten that -- well, I won't go there either. But if you follow this line of reasoning and if you think every citizen should be treated the same in New York under the law, then this could perhaps have devastating impacts.

So on the basis of it's poor public policy -- and this particular piece of legislation is really discriminatory law against poor people because, again, it assumes that poor people are more likely to commit a crime -- I really strenuously have to urge my colleagues to vote no on this bill.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Marcellino.

SENATOR MARCELLINO: On the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Marcellino, on the bill.

SENATOR MARCELLINO: Listening to this debate -- and it is extremely interesting. And I wasn't going to speak. My colleague was handling it extremely well, and still does. On the issue, he's very learned. However, I just can't help it.

When you talk about someone getting public assistance and saying it is their money, their right -- it is their right because the people of this state have said okay to it. It is the people's money of this state. It is not their money. They're going to the people and saying: Can we have your help, we need your help in a period of time. And the people have said, in their kindness, Yes, we'll give you assistance.

Now, for that assistance, should they not obey the law? An outstanding misdemeanor bench warrant doesn't seem to me to be the worst thing in the world. All you have to do is appear and settle the issue. In

fact, if you haven't appeared, you are fleeing because you haven't appeared. That's a disrespectful statement. You've said to the law, you know, thumb your nose. I don't have to show up, I'm allowed to do as I'm please.

We're not talking about civil disobedience, which is what I'm sure Senator Duane was talking about. Civil disobedience I can understand, dealing with an issue. That's a methodology. That's fine. But he at least dealt with the issue. He appeared.

Why couldn't someone who is looking for the public's help show respect for the people's rules and the people's laws and just appear? That's all they're being told to do. This is no great shakes. We're not talking about the FBI doing a major search, reaching into background checks and all that nonsense. But you are asking for public help, with public money.

That is not an inherent right in the constitution of this state or the Constitution of the United States, to my knowledge. The people of this country and the people of this state have said: We will do

this for you. However, there are some rules. One of those rules, in my mind, obey the laws.

I'll be voting aye on this bill.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I hear my colleague Senator Marcellino.

I think that the difficulty some of us have with this bill is that in reality there are lots of recipients of public funds who are not held accountable. Most of the public funds that are distributed in our country go to benefit the wealthy and powerful, in fact.

And I don't think that it is fair to single out one group and say these people are in any way different from the rest of us, they have obligations that other people don't.

If every corporate executive whose corporation receives public subsidies had a similar requirement, that would be one thing.

But this is clearly a bill that singles out one particular group of people who are recipients of minor public benefits compared to many others.

And I will be voting no on the bill, and I urge everyone to do likewise.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Senator Brown.

SENATOR BROWN: Yes, Madam President. If Senator Maziarz would yield for a question.

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

SENATOR MAZIARZ: Surely, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR BROWN: Senator, I want to thank you for your participation in the debate. And I want to thank Senator Krueger for kind of illuminating some of the nuances of this particular piece of legislation.

One of the concerns that was raised in my mind when Senator Krueger was

questioning Senator Maziarz and he was responding was in the case of a parent who has a situation where they're considered fleeing and they have dependent children who, unfortunately, are reliant on Social Services benefits. The children are the recipients, and the parent is the individual that is fleeing and would be the individual that would apply for the benefits for their children.

In a case like that -- through you, Madam President -- would that prevent the children from receiving Social Service benefits?

SENATOR MAZIARZ: Madam President, no. If the children are the recipients, it would not prevent them from getting the benefit, Senator.

ACTING PRESIDENT McGEE: Senator Brown.

SENATOR BROWN: Yes, Madam President, through you, if Senator Maziarz would continue to yield.

ACTING PRESIDENT McGEE: Senator Maziarz, do you continue to yield?

SENATOR MAZIARZ: Yes, Madam

President.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR BROWN: I'm still concerned, Senator Maziarz, because if the parent is the applicant and the parent, under this legislation, is considered someone who is fleeing, would that not prevent the parent from applying for benefits for their minor children?

SENATOR MAZIARZ: Through you, Madam President. Senator, I think what it would force the parent to do would be to go in and to resolve the criminal justice issue that they have facing them.

SENATOR BROWN: That resolves it for me. Thank you, Senator Maziarz.

SENATOR MAZIARZ: Thank you, Senator.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 895 are Senators Andrews, Brown, Connor, Duane, Hassell-Thompson, L. Krueger, Mendez, Montgomery, Santiago, Schneiderman, A. Smith, M. Smith, and Stavisky. Ayes, 47. Nays, 13.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Rath.

SENATOR RATH: Madam President, can we please take up Calendar Number 889.

ACTING PRESIDENT McGEE: The Secretary will read 889.

THE SECRETARY: Calendar Number 889, by Senator Nozzolio, Senate Print 3775, an act to amend the Executive Law, in relation to personal interviews by the Board of Parole.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take -

SENATOR BROWN: Explanation.

ACTING PRESIDENT McGEE: Senator Nozzolio, an explanation has been requested.

SENATOR NOZZOLIO: Madam President and my colleagues, this measure was introduced at the request of the New York State Division of Parole, and amends Paragraph A, subdivision 2 of the Executive Law and allows the use of teleconferencing as a method of conducting interviews for parole hearings.

It takes a high-tech tool -- that frankly isn't high-tech anymore -- and allows the Parole Board to utilize teleconferencing as a way to cut costs for the board, as opposed to having the enormous travel costs associated with bringing the board to each prison location across the state.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Duane, on the bill.

SENATOR DUANE: Thank you.

I continue to oppose the videoconferencing of Parole Board hearings. I've heard that winters in western New York are, you know, terrible and that parole officers don't want to go and get stuck in snow or be cold or whatever the reasons are. But I think that they get paid a good amount of money to actually go to facilities and that incarcerated people who are up for parole deserve the right to be heard in person.

This is a quasi-judicial proceeding. We do not do these kinds of proceedings by videoconferencing in court cases. I think that members of the Parole Board should go interface personally with an incarcerated person.

I think that there's a reason why people meet in person. I think that it changes the dynamics, and I think it changes the way people listen and talk with each other.

I've made the argument that if video conferencing should be used in that setting, then why is it that we even meet with each other? We could just all go to a state

office building and meet by videoconferencing. But you know that that -- not that the way we legislate now is so terribly effective, but I think it would be far worse if we were doing it by videoconferencing.

There's something that happens when human beings are actually in each other's presence, communicate with each other. And I think that incarcerated people in the State of New York are entitled to have the same ability to interface on a personal level with the Parole board.

So I will be voting no on this legislation.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 889 are Senators Duane, Hassell-Thompson, and Montgomery. Ayes, 58. Nays, 3.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Brown.

SENATOR BROWN: Thank you, Madam President. I request unanimous consent to be recorded in the affirmative on Calendar 977.

ACTING PRESIDENT McGEE: Without objection, so recorded.

SENATOR BROWN: Thank you.

ACTING PRESIDENT McGEE: Senator Rath.

SENATOR RATH: Madam President, can we please take up Calendar Number 944.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 944, by Senator LaValle, Senate Print 7359, an act to amend the Insurance Law, in relation to coverage.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT McGEE: Senator LaValle, an explanation has been requested.

SENATOR LAVALLE: Thank you, Madam President.

Madam President, this is the fourth time that we have brought before this body legislation that would require commercial health insurance plans to provide coverage for infertility.

This bill is significantly different from the three prior bills that have been brought before this body. This bill is narrower in its scope and what it attempts to do.

I must start, at the onset, by saying a word of thanks to our Majority Leader, his counsel, Caron O'Brien-Crummey, my counsel, Mike Kinum, and Senator Leibell's counsel, Robert Farley, for having invested, over a long period of time, a lot of energy in trying to find a solution that would meet the objectives of the various stakeholders.

This bill requires commercial health insurance plans to provide coverage for diagnostic tests and procedures, certain surgical and medical procedures, as well as for prescription drugs necessitated to treat

infertility.

Infertility, again, is a condition of the reproductive system; couples have been unable to achieve conception after one year of unprotected, well-timed intercourse. And that would change to six months where the woman is age 35 or over or a woman is unable to carry a pregnancy to live birth.

We know that infertility problems, as we ascribe a percentage to the male or female, is 40 percent problems due to female factors, 40 percent to male factors, and then the balance due to either a combined or unknown factors. The majority of couples can be helped through conventional fertility treatments, and then there would be no need to proceed to advanced reproductive technologies.

Conventional infertility treatments include -- and we went through, in the last debate, myself and Senator Dollinger, we talked about a level of how -- what people would go through before they would enter the in vitro fertilization that is not included in this bill.

This bill covers treatments of

hormone therapy where fertility is achieved through medication, surgical procedures to correct a physical blockage, or a structural problem in the reproductive organs. Or, lastly, intrauterine insemination.

We again -- and the most important thing in trying to work out stakeholder concerns -- would go to this level that deals with the vast majority of cases that cause problems of infertility. And we never get to -- if those of you would remember the debate between Senator -- exchange, rather, between Senator Dollinger and myself, we really never reached the last and most costly, most costly level of the in vitro fertilization.

That basically is it. And I certainly will answer any questions, Madam President, that any of the members have.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. If Senator LaValle will yield.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: Senator LaValle yields.

SENATOR DOLLINGER: We had a -- I think you properly described it as a discussion about a number of the implications of covering more extensive fertility coverage in the last bill.

As my first question, do you have any assessment, Senator LaValle, of what the cost of the pharmacological treatment under this bill would be for -- in an average case, what the anticipated cost would be?

SENATOR LAVALLE: Senator, the first thing that we want to, in talking about the cost issue -- and this is something that you and I had talked about previously. But for the members, that the coverage may be subject to the annual copayments, coinsurance, and deductibles as may be deemed appropriate by the Superintendent of Insurance.

So that goes to an issue in the various health plans that we go to the normal cost, as I had indicated, of the copayment and the deductibles.

SENATOR DOLLINGER: Through you,

Mr. President, if Senator LaValle will yield.

ACTING PRESIDENT McGEE: Senator LaValle?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: But the pharmacological treatment for infertility is nonetheless rather expensive. The drugs that are utilized in that treatment have to be taken monthly and can run from $700 to $800 to $900 to $1000 a month. Is that a fair statement?

SENATOR LAVALLE: Senator, obviously that could be a scenario.

But as you well know, or would imagine, that this will vary from couple to couple. So that you could have literally a very minimal cost and then, in those that have more complex problems, maybe the numbers that you throw out would be applicable.

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

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: What is the efficacy of the pharmacological treatment for infertility?

Remember when you and I discussed in vitro fertilization, for example, you -- I think the number that you told me in response to my question was that about 27 percent, only in about 27 percent of the instances in which IVF occurs does conception actually occur.

And my question is, again, as part of evaluating something where we're going to mandate insurance coverage, the question is in how many of these cases, what percentage of these cases over what period of time does conception occur as a result of the pharmacological treatment.

SENATOR LAVALLE: Senator, there are -- I think we have to kind of back up a little bit, because we need to talk in a broad sense of the factors that -- we talked about the copayments. We did not talk about that this has to be part of a physician's plan of treatment. We did not talk about that there

must be a 12-month prior coverage period. We did not talk about the limitations in terms of age that this applies to individuals, an age requirement ranging from 21 to 44.

And you and I can -- I mean, I can't talk about courses of treatment, because they vary. But the most important thing that I can say, you had ascribed the number of prescription drugs being as high as $800 or $900. We can even move it to a thousand dollars.

Whenever you look at the bottom line, and that's what you're concerned about, you should be, I would imagine, concerned about two things. One is what is the overall cost of premium to those policyholders. And, number two, whether this moves in a direction of having the uninsured pool grow even larger.

You will recall that in each of the debates, I said that both Senator Bruno and myself started with two imperatives. One, we wanted to deal with a problem that a significant number of couples are having. But in our enthusiasm to solve that problem, we did not want to create another problem of

increasing the uninsured. We did not want to create another problem of seeing premiums jump up dramatically.

Now, based on evidence that we have -- and both sides of this issue, both the proponents and the opponents, could bring to the forum various statistics to make their case. I bring, based on Massachusetts' model, that a cost per month covering all infertility services, all -- and we don't do that in this bill; we are not providing the in vitro -- was $1.71 a month.

I also go to looking at the issue of the uninsured and using NCSL figures, taking two different states, Idaho, that had the fewest number of mandated benefits, at six, but ended up having the 12th highest percentage of uninsured. Minnesota and Pennsylvania, being at the top, with ten, of the most mandates, but are among the ten states with the lowest uninsured population.

So obviously I like those numbers, Senator Dollinger. They're NCSL numbers, looking across the country and looking at both issues of cost per month in terms of the

premium and, number two, looking at what is the effect, are we going to have an effect of creating a larger uninsured population, which no member in this Legislature wants to do.

And we believe we have been very, very sensitive in trying to carve out narrowly the procedures that a physician could prescribe, both physical and prescription, in dealing with the infertility problems.

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

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DOLLINGER: Senator, do you know, based on the population in New York, based on any type of study or evaluation of the pool of potential users of this pharmacological therapy, do you know in New York what the impact would be on premiums here in this state?

SENATOR LAVALLE: I will use the Empire Plan, that on its own initiative included infertility treatments.

SENATOR DOLLINGER: Of the pharmacological variety, we're talking about?

SENATOR LAVALLE: Across the board. Across the board.

And I am told -- and I just checked again with counsel -- that there has been no increase in premium due to those provisions that were included dealing with infertility.

SENATOR DOLLINGER: Okay. We'll put that aside for a second.

Senator LaValle, you mentioned the age requirement in this bill. This bill contains an age requirement that says you're eligible if you're between 21 and 44; correct?

SENATOR LAVALLE: Yes.

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

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: I'm enormously intrigued, however, by the caveat that follows that restriction. Because what it says is there is an age restriction;

however, nothing shall preclude the provisions of coverage to persons whose age is below or above that.

Doesn't that mean, in essence, that the age requirement has no meaning?

SENATOR LAVALLE: No, Senator. And I thought you were going to go in a different direction, and I was going to bring your attention to those provisions.

Because, as I've indicated, there is no cookie-cutter modality of treatment for everyone. There could be, could be situations that become atypical. Would we as a Legislature want to preclude those situations from not receiving coverage? They could be - I mean, I can't even conceive of it, but I'm sure there will be some very bizarre set of circumstances beyond that particular age.

Now, Senator, I think we have to be a little realistic here. I think, as a matter of practice, when you reach certain age limits, to 44, you are really probably talking about those cases beyond 44 being quite de minimis. Really, realistically.

SENATOR DOLLINGER: I -

SENATOR LAVALLE: I mean, to not, as they would say, not hurt anything.

We're not talking, I would not believe, a lot of cases. And certainly in the future, with medical technology, maybe those numbers will increase. But right now, I think they -- I mean, someone could quantify them and I'm sure it would not make any difference in terms of increasing one's premium.

SENATOR DOLLINGER: Again, through you, Madam President, if Senator LaValle will continue to yield.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DOLLINGER: But in essence what you have, Senator, you have a provision that says there's an age limit but if you need treatment either above or below that age limit, nothing will preclude you from getting those treatments.

Is that correct, is that the way to read the language?

SENATOR LAVALLE: Yes.

But here's another point, just

to -- what if a particular plan, on their own, says, Well, we'll provide it beyond age 44. We would allow that particular plan, I believe -- is that correct? Yes, I'm being told I'm right -- from providing that.

We're not mandating anyone to - except in these situations I talked about. But if a provider wishes to go higher or make that decision, they can. And I believe we should do that, we should allow that.

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

ACTING PRESIDENT McGEE: Senator LaValle, will you continue to yield?

SENATOR LAVALLE: Yes, I would love to.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DOLLINGER: But they could do that now. They don't need anything in this statute to freely create an infertility mandate. In fact, they could do much more than this bill talks about. Blue Cross and Blue Shield could put an IVF in

place that could be available to anybody under age 100.

I mean, I agree with you that currently an insurer could do this. I'm just not sure I understand what the language says when you say there's an age limitation, when it says that -- this bill seems to suggest that anybody can get the treatment any time they need it.

SENATOR LAVALLE: Senator, we have to be, as lawmakers, very careful in our draftsmanship that we do not preclude any actions. I believe this language allows a wide enough berth to allow the insurance providers to move freely in terms of the age requirement. We don't want to preclude anyone from an action they would like to take.

SENATOR DOLLINGER: Through you, Madam President, just one more question for Senator LaValle, if he will.

ACTING PRESIDENT McGEE: Senator LaValle, will you yield for one more question?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: I just want to go back to the efficacy of the treatment. When we talked about IVF, you had indicated there were scientific studies that showed -- I believe the number was 26, 27, 28 percent of the treatments resulted in conception.

My question to you is, how - following a pharmacological therapy -- and I know, Senator LaValle, that there is no simple model for this, given the potential complexities of these problems. But how much or how long would you expect someone to be on a pharmacological treatment before conception occurred?

In other words, how much of the resources available under this mandate are going to have to draw down to get to the goal? Because when we talked about IVF, my concern was that if it only works once every four times and it costs $10,000 a try, it means that you've got to spend $40,000 to have it work.

My question is, do you have any study that suggests how much of this pharmacological treatment people are going to

have to use in order to reach the point of conception? How much will it cost us?

SENATOR LAVALLE: The only way I can answer that, Senator, is that we know that without any help, just through natural means, the baseline is 25 percent. Once we start using drugs, that percentage just goes up.

And I can't tell you where -- I can't tell you whether we go up to 60 percent. You know, you have -- and you would like to pigeonhole this, and unfortunately in some cases you have to use a combination of modalities, both surgical or -- you would use pharmacological first, and then move to -- or maybe in combination, to remove basic obstructions that have taken place.

So I'm not trying to dodge your question, but I don't believe you can neatly put percentages. But what I am saying is the studies certainly show that the success rate jumps, shows empirically -- I don't have that data, I don't know what it is. But it certainly does go up in terms of its success.

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

And I want to thank Senator LaValle, as -

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: As we had the last time we talked about infertility in this chamber, I appreciate not only Senator LaValle's advocacy on this issue, but his candor and, quite frankly, his understanding of the balancing of the many factors that go into trying to determine whether a mandate of this scope, of this potential cost, is the right thing to do in the state of New York.

I'm going to vote against this bill Madam President. I voted against the infertility bill when it included the IVF procedure because I thought it did -- it failed to meet what I think is the test that we ought to apply in cases of every single mandate.

And that is, how many people benefit from it, what's the cost of the individual treatment, and how good is the science that suggests when we utilize the treatment it will result in the beneficial

improvement of health or the beneficial life improvement that we seek through the mandate?

I compared, when we did the last infertility bill, that contraception mandate with the in vitro fertilization mandate, and it was no contest. The number of people that would benefit from it was greater; the cost was much less. And quite frankly, the efficacy of contraception, the use of the birth control pill, was so much better than the one-in-four chance that occurred with in vitro fertilization.

It seems to me, Senator LaValle, that that same burden has to be applied to this legislation. And unfortunately, from my perspective, it also fails.

The cost of the treatments, the pharmacological treatments, can be very, very expensive on a month-to-month basis. At least to my knowledge and understanding, those treatments can start in the $600 range a month and can run as high as $1,200 to $1,400 a month. That is an enormous cost during the period of a woman's peak period of fertility. I mean, if you assume it's from age 24 to age

35, that's an 11-year period. That's 132 months in which we're spending $1,000 a month to achieve conception.

Two, Senator LaValle, I think that the one thing that disturbs me about this is that there's not necessarily -- I haven't heard today an articulation of the science that says once you start the pharmacological therapy it is effective after a certain period of time. What I understood you to say was that it does significantly raise the probability of conception. So if the normal couple faces a 25 percent chance, these drugs will substantially increase that to 40, 50, 60 percent.

The difficulty is, Senator LaValle, these drugs are prescribed to people for whom the chance is very, very small. That's the problem of infertility, is that they have a very small chance of conception. And so when the drugs substantially increase it three- or fourfold, it seems to me we're only increasing it to a very modest number.

And from my point of view, that very significant cost with a very modest

increase in the probability of conception, when you take the cost and the efficacy and you are still stuck with the fact that we talked about when we debated this bill last time -- which is unfortunately, or perhaps fortunately, however you wish to phrase it, the difficulties in conception and infertility still only affect a relatively small portion of the population -- so when you throw all those factors together, you have something that we can't define the cost.

We took out of the last bill -- at least as I recall, Senator LaValle -- the $60,000 cap on pharmacological costs, so we've taken the cap off. We don't have a good idea of what the science will produce. We have a potential for an open-ended, very expensive process, and we don't know how much scientifically it's going to increase conception.

And I think, when you put all those together -- I am frankly astounded by the Massachusetts model of $1.71 a month. I would find it difficult to conceive that it's only that cost. I think it's much greater than

that if these drugs are what they -- at least my knowledge suggests they cost.

When you roll it all together, it's very expensive, it has a science that I think is undefinable. And I will acknowledge, Senator, given where people start, it's very, very difficult to calculate that. Because you can't oftentimes, until you've spent a lot of money, figure out exactly what the reason for lack of conception is.

But I think when you put it all together, Senator LaValle, I still think it's way too expensive. I think it's the kind of mandate that will in the long run, as we saddle our insurance system with more and more mandates, frankly, it just drives up the cost. I think that the long-term benefit for New York is not sufficient to justify the expense.

For those circumstances, Madam President, I'll vote in the negative.

ACTING PRESIDENT McGEE: Senator Lachman.

SENATOR LACHMAN: Yes, Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Lachman, on the bill.

SENATOR LACHMAN: I will be voting yes on this compromise bill.

It is not the same bill that I introduced in these chambers six years ago that never got out of committee, but it is an honest effort at compromise.

I want to particularly thank the American Infertility Association, Agudath Israel of America, and RESOLVE for not giving up over six years and finally agreeing to a compromise that does not necessarily give everyone everything but gives everyone something.

Now, I also want to thank Senator LaValle and Senator Bruno for working with these groups and bringing this bill to the floor today.

Let's cut to the chase. Certain questions were asked. One in six couples cannot conceive who want children. Now, this adds up to 6 million Americans who want to have children and cannot conceive. Two-thirds of all couples who receive treatment,

infertility treatment, two-thirds of all couples can conceive.

Now, only 5 to 10 percent of couples who cannot conceive need drugs for infertility. So we have over 90 percent, over 90 percent of Americans who cannot conceive being able to conceive without IVF measures. Even though that was in my original bill.

In terms of the cost that has been raised, some academic friends of mine -- and academic studies, as I should know, are always finite and cannot always be believed -- did a study of almost 20 states that have various types of infertility bills. And there are various types of infertility bills, ranging from the Massachusetts version, which is very liberal, to the one that was adopted in New Jersey last year that is sort of centrist, and our bill, which is more conservative. And they found that it would only increase the insurance policy by less than $3 a year.

Of course, that's $3 additional. But when you think of the reverence for life that this could create, and that 6 million Americans want to conceive -- one in six

couples -- and cannot conceive, then I have to go with this compromise bill that is before the Senate today.

It's not everything I wanted. It's not everything, I'm sure, that many people in this chamber wanted. But it's the best possible bill that we could get at this time. And I vote yea.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

I rise in support of the bill. I want to congratulate Senator LaValle for all the hard work he has done on this bill to reach this point where we have a bill that has a strong possibility of becoming law and passing in the other house, the Assembly.

This has been a long and tough road for the Senator and others who worked on this bill. It has been difficult to bring the parties together to come up with a compromise that Senator Lachman speaks of that will make this bill viable, will help so many families,

so many people who want to start their families in a way that does not abuse anyone's religious beliefs.

As the father of a daughter who went through the process, I know the difficulties and the anguish young people face in trying to start a family. And I just wish this bill had been in place at that particular time.

But I'm delighted today that we have a bill that we all can stand behind in good conscience, recognizing, as I said on this floor several times before, there is no such thing as a perfect bill. There's no bill that meets everyone's requirements. There's no such thing because we are a diverse community. We are upstate, downstate, midstate, all around the state people. And therefore, all of our constituents may have different feelings about different issues. And we have different political philosophies.

So there's no perfect bill. But this becomes one that is passable, that will do a major portion of the work that we want it to do.

And again, I congratulate Senator LaValle.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Oppenheimer.

SENATOR OPPENHEIMER: Well, I think Senator Onorato just gave us the answer -- oh, on the bill -- of the perfect bill. The perfect bill would say that the New York State Senators are going to get their pay. Perfect bill. But I owed that to him.

I would say that the good and the bad news is the same on this bill, and that's what we've been hearing from the prior statements. The bad news seems to me to be that the -- what are sometimes the most helpful possibilities for producing fertility are excluded. So that's one side.

The other side, you could say, is that therefore the cost is going to be held down for all the citizens who have insurance. And we know a lot of people have difficulty affording to pay for their insurance.

On the other hand, you could say: Well, it's really not so helpful because it's

not offering the most advanced possible way to pursue this.

And on the other hand, you say how can you not approve something, prescription drugs for infertility, which is really the main thing that this bill is going to attack. And I would say that that is why I'm going to vote yes. And I'm going to vote yes because I feel strongly that the prescription drug coverage for infertility should be there.

However, I feel even more important would be drug coverage for contraception. And I hope we can deal with it in a similar manner that we're dealing with this bill, trying to weigh both sides, trying to come to some common ground. Because there are so many more women and spouses and partners who are seeking some assistance in paying for the cost of this coverage. And it's so vastly less expensive.

And the fact is that women are now spending something like 63 percent more out-of-pocket than men are because of the cost of contraception.

So I think we have to -- if we're going deal with this, and I'm quite willing to

vote yes on this, I feel we have to deal fairly with the other issue. And I certainly hope we're going to during the course of the next month.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Read the last section.

Senator LaValle.

SENATOR LAVALLE: Madam President, I rise to explain my vote.

I'm certainly disappointed -

ACTING PRESIDENT McGEE: Senator LaValle, we're not on the roll call yet. Just one minute.

THE SECRETARY: Section 3. This act shall take effect July 1.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator LaValle.

SENATOR LAVALLE: Madam President, I'm sorry that my colleague Senator Dollinger got lost in a labyrinth of his own verbosity on this bill. He has asked very

good questions and I thought, as we answered them, moved to a point that he could support the bill.

The fact of the matter is that this bill, as some of the senators who rose said, it is a balancing act in which we are trying to weigh cost and yet provide something very important to one out of six couples who have a problem. If there is anything that is more sacred, regardless of religion, it's procreation: making a family, creating a family. That is so important.

I would hope that this and many other bills that require insurance coverage meet the important needs of the public, of our citizens. I respect, I respect Senator Dollinger and any other member who feels, in a philosophical or in a real way, that mandates provide some sort of problem to either the insurance company or the uninsured poor. I respect that. I do not challenge it. And I certainly respect our colleague Senator Dollinger for asking these questions, and - but we disagree.

I would hope that members could

support this because it is a public policy that meets a very important need of families and individuals that want to start families.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Montgomery, to explain your vote?

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

I certainly intend to vote yes on this legislation. But I would like to, just for the record, remind my colleagues that we do have a growing number of people who are not necessarily uninsured. Many of them are uninsured, but many of them are paying exorbitant, exorbitantly high rates for their insurance because they work for themselves or they work for very small firms.

They are professionals, young people not eligible for coverage under any plan, and therefore are having to pay for their own private insurance. And their costs are going up.

And many of them are not covered because they can't afford to pay for it.

So I know that this is important,

but we also have to consider the large number of people who have no insurance. And the primary reason for them not having it is because it costs -- the cost goes up quite incrementally as we add these kinds of services and requirements.

So I'm voting yes, but I certainly hope that we can begin to address the large segment of our population that is uncovered because the costs have gone up.

Thank you. I vote yes.

ACTING PRESIDENT McGEE: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 944 are Senators Breslin, Dollinger, Kuhl, McGee, Meier, Seward, Stachowski, and Wright. Ayes, 53. Nays, 8.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Rath.

SENATOR RATH: Madam President, can we take up Calendar Number 878. Thank you.

ACTING PRESIDENT McGEE: The

Secretary will read Calendar 878.

THE SECRETARY: Calendar Number 878, by Senator Meier, Senate Print 6942, an act to adjust certain state aid payments.

SENATOR DUANE: Explanation.

ACTING PRESIDENT McGEE: Senator Meier, an explanation has been requested.

SENATOR MEIER: Thank you.

A State Education Department audit revealed that the Sherrill School District received an overpayment of approximately $189,000 in business aid. This bill would permit them, Madam President, to repay that amount over a period of six years.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Rath.

SENATOR RATH: Madam President, can we please take up Calendar Number 934.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 934.

THE SECRETARY: Calendar Number 934, by Senator Farley, Senate Print 4634A, an act to amend the Banking Law, in relation to annual reporting requirements.

SENATOR DUANE: Explanation.

ACTING PRESIDENT McGEE: Senator Farley, an explanation has been requested.

SENATOR FARLEY: Thank you, Madam President.

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

Among the major changes made here by this bill are these. It adds information on banking institutions which are newly created, which have merged, which have changed their charter. It includes information on any foreign or other banking entity which are closed during the year. It adds information about receipts and disbursements from money transmitter insurance funds.

And it deletes information on the ATM safety variances from the annual report. Instead, this information will be included in a separate ATM safety report which is submitted each January to the Legislature. And it's more appropriate to include this information in the ATM report than it is in the annual report.

Basically, that's it. It's kind of bringing it up to speed.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Through you, Madam President, if Senator Farley will yield.

ACTING PRESIDENT McGEE: Senator Farley, will you yield?

SENATOR FARLEY: Yes, I will.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DOLLINGER: I think I raised this question last year, Senator Farley, but I can't quite find it in the text of the bill.

This eliminates the requirement that the deputies and the special deputies in

the banking department have their salaries published; is that correct?

SENATOR FARLEY: That is correct.

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

ACTING PRESIDENT McGEE: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I voted against this on that basis last year, because I believe that the public ought to know not only what the commissioner is paid but what all the deputies are paid. These are all people who have positions of power and influence in the banking industry in this state. I think the taxpayers should know what they're paying these people as salaries.

I think it was a legitimate public policy reason articulated when they put it in statute. I think it's still something for the good of the public and for their knowledge of their tax dollars are going to be used for. I suggest we keep it, Madam President.

And I'm going to vote against it on that basis.

SENATOR FARLEY: I understand your concern, Senator. And incidentally, this is the only state agency that has that requirement. They are listed elsewhere, their salaries.

And your point is well taken. But what am I going to say? It is part of the bill.

ACTING PRESIDENT McGEE: Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Ayes, 58. Nays, 3. Senators Dollinger, Duane, and Hassell-Thompson recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 934, also Senator A. Smith.

Ayes, 57. Nays, 4.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Rath.

SENATOR RATH: Madam President, could we please return to reports of standing committees.

ACTING PRESIDENT McGEE: The Secretary will read.

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

Senate Print 4643B, by Senator LaValle, an act to amend the General Obligations Law.

Senator Leibell, from the Committee on Civil Service and Pensions, reports:

Senate Print 1345B, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

1438A, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

1544A, by Senator Maltese, an act to amend the Retirement and Social Security Law;

2033A, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

2176A, by Senator Velella, an act to amend the Administrative Code of the City of New York;

2400A, by Senator Seward, an act to amend the Retirement and Social Security Law.

2849A, by Senator Saland, an act to authorize;

3245, by Senator Leibell, an act to allow;

3252, by Senator Leibell, an act to amend the Retirement and Social Security Law;

3302, by Senator Trunzo, an act in relation;

3454, by Senator LaValle, an act to provide;

3729A, by Senator Stafford, an act in relation;

3738A, by Senator Stafford, an act to authorize;

4032A, by Senator Spano, an act to amend;

4511B, by Senator Johnson, an act to amend the Retirement and Social Security

Law;

4603C, by Senator Johnson, an act to amend the Retirement and Social Security Law;

4820, by Senator Oppenheimer, an act authorizing;

4826, by Senator Oppenheimer, an act allowing;

5089A, by Senator Leibell, an act to amend;

5096, by Senator Marchi, an act to amend the Administrative Code of the City of New York;

5283, by Senator Leibell, an act to amend the Retirement and Social Security Law;

5286, by Senator Leibell, an act to amend the Retirement and Social Security Law;

5542A, by Senator Marcellino, an act to amend the Education Law;

5662A, by Senator Saland, an act providing;

5774A, by Senator Seward, an act to authorize;

5852B, by Senator Maltese, an act to amend;

6101, by Senator Maltese, an act to amend the Retirement and Social Security Law;

6152, by Senator M. Smith, an act to authorize;

6204, by Senator Volker, an act authorizing;

6272, by Senator Volker, an act to amend;

6277, by Senator Maltese, an act to amend the Retirement and Social Security Law;

6288A, by Senator Skelos, an act to amend Chapter 501;

6313, by Senator Padavan, an act to amend the Retirement and Social Security Law;

6316, by Senator Stafford, an act to amend the Civil Service Law;

6325, by Senator Maltese, an act to amend the Retirement and Social Security Law;

6472, by Senator Maltese, an act to amend the Administrative Code of the City of New York;

6473A, by Senator Maltese, an act to amend the Retirement and Social Security Law;

6690, by Senator Stafford, an act

authorizing;

6762, by Senator Leibell, an act to amend the Retirement and Social Security Law;

6780, by Senator Marchi, an act relating;

6855, by Senator Maltese, an act to amend the Retirement and Social Security Law;

7154, by Senator Stafford, an act authorizing;

7165, by Senator Volker, an act in relation;

7209, by Senator Johnson, an act to amend the Retirement and Social Security Law;

And Senate Print 7270, by Senator Hoffmann, an act to establish.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Without objection, all bills are ordered directly to third reading.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Madam President. I'd like unanimous consent to be recorded in the negative on Calendar Number 944.

ACTING PRESIDENT McGEE: Without objection, so noted.

Senator Rath.

SENATOR RATH: Madam President, can we please take up Calendar Number 855.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 855, by Senator Volker, Senate Print 136A, an act to amend the Penal Law and the Vehicle and Traffic Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the first day of November.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: May I explain my vote?

ACTING PRESIDENT McGEE: Yes.

Senator Montgomery, to explain her

vote.

SENATOR MONTGOMERY: Madam President, I'm going to vote no on this legislation.

I know that it talks about endangering the welfare of a child. But it's -- as it states in the memo, and I think it's another indication of a practice that we do very often here, and that is it says the crime of endangering the welfare of a child applies to a wide variety of acts which range from very minor offenses or minor activities to very, very serious ones.

So there is no balance between what is not really serious and what is extremely serious, and therefore everything is treated the same, with the same consequence. And it has a fairly serious criminal charge associated with it.

So I'm going to vote no for that reason.

ACTING PRESIDENT McGEE: Senator Montgomery will be recorded in the negative.

Announce the results.

THE SECRETARY: Ayes, 60. Nays,

1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Rath.

SENATOR RATH: Madam President, is there any housekeeping at the desk?

ACTING PRESIDENT McGEE: Yes.

Just one minute, please.

Senator Espada.

SENATOR ESPADA: Thank you, Madam President.

On behalf of Senator Larkin, on page number 53, I offer the following amendments to Calendar Number 917, Senate Print Number 6497, and ask that said bill retain its place on the Third Reading Calendar, please.

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

Senator Rath.

SENATOR RATH: Is there any housekeeping at the desk, Madam President?

ACTING PRESIDENT McGEE: There is no further housekeeping.

SENATOR RATH: There being no further business, I move we adjourn until Wednesday, May 8th, at 11:00 a.m.

ACTING PRESIDENT McGEE: On motion, the Senate stands adjourned until Wednesday, May 8th, at 11:00 a.m.

(Whereupon, at 5:24 p.m., the Senate adjourned.)