NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:17 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

THE PRESIDENT: With us this afternoon to give the invocation is Reverend Steven James Simpson, from the Congregational Christian Church of Ravena.

REVEREND SIMPSON: Thank you, Lieutenant Governor.

And good afternoon, everyone. I thought we'd pray for rain today.

(Laughter.)

REVEREND SIMPSON: Let's pray.

Gracious and Almighty God, holy is Your name. We come to You this afternoon with prayers much like those prayed every Sunday morning in my local church in Ravena, and by people of faith in countless similar churches throughout the state of New York on any given Sunday.

O, Great Physician, we pray for those who are sick or in pain or grieving. By Your Holy Spirit, touch these people who are most in need of Your healing touch and comforting presence.

Protector God, we pray for those who put themselves in harm's way -- police officers, firefighters, and those who serve in the military -- asking that You protect them as they perform their duties to protect us.

God of Truth, we pray for those who are in leadership in all levels of government, that You would give them wisdom in the important decisions they make that affect many lives. In particular, we pray this afternoon for this session of the New York State Senate. Give these public servants Godly wisdom and Godly courage to stand for what is right and what is good for the people.

O, Prince of Peace, ruler of all nations, may be the discussions and decisions made here today be pleasing in Your sight. These things we lift up to You, O God who listens.

Praying in Jesus' name, amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 12, the Senate met pursuant to adjournment. The Journal of Saturday, May 11, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Seward, on page 25 I offer the following amendments to Calendar Number 545, Senate Print 6722, and I ask that that bill retain its place on the

Third Reading Calendar.

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

SENATOR FARLEY: Madam President, I offer amendments to these following Third Reading Calendar bills:

Senator Wright, page 7, Calendar Number 117, Senate Print 3931;

Senator Lack, on page 41, Calendar 791, Senate Print 6912;

Senator Trunzo, page 45, Calendar Number 848, Senate Print 7011;

Senator Trunzo, on page 45, Calendar 851, Senate Print 7076;

Senator Padavan, on page 57, Calendar 991, Senate Print 4331;

Senator Trunzo, on page 63, Calendar 1048, Senate Print 7086;

Senator Kuhl, on page 64, Calendar 1055, Senate Print 4606A;

For Senator DeFrancisco, on page 68, Calendar Number 1100, Senate Print 4240;

For Senator Alesi, on page 69,

Calendar 1104, Senate Print 7167;

Senator Kuhl, on page 69, Calendar 1109, Senate Print 6653;

Senator Leibell, on page 72, Calendar Number 1136, Senate Print 5089A;

And Senator LaValle, on page 80, Calendar 1188, Senate Print 6614.

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

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

Senator Skelos.

SENATOR SKELOS: Madam President, there's a privileged resolution at the desk by Senator Rath. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Rath, Legislative Resolution Number 5447, honoring Dorothy Coughlin, of Genesee County, upon the occasion of her designation as the recipient of the 2002 New York State Office for the

Aging Senior Achiever Award.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a privileged resolution at the desk by Senator Marchi. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Marchi, Legislative Resolution Number 5475, honoring Mike Azzara, Staten Island newspaperman.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: If we could go to the noncontroversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 17, by the Assembly Committee on Rules, Assembly Print Number 9159, an act to amend the Insurance Law, in relation to mortgage guarantee insurance.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 34, by Senator Skelos, Senate Print 426A, an act to amend the Education Law, in relation to

drug testing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 312, by Senator Morahan, Senate Print 2457A, an act to amend the Real Property Tax Law, in relation to providing a tax exemption.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 378, by Senator LaValle, Senate Print 6372A, an act to amend the Highway Law, in relation to the New York State Scenic Byways System.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 568, by the Assembly Committee on Rules, Assembly Print Number 8823B, an act to amend the Real Property Tax Law, in relation to creating.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 601, by Senator Volker, Senate Print 200A, an act to amend the Penal Law, in relation to causing the death of a peace officer.

SENATOR GENTILE: Lay it aside,

please.

THE PRESIDENT: The bill is laid aside, Senator.

THE SECRETARY: Calendar Number 649, by Senator Maltese, Senate Print 2681, an act to amend the Election Law, in relation to the Board of Elections.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 672, by Senator Velella, Senate Print 6949, an act to amend the General Business Law, in relation to collateral loan brokers.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 705, by Senator Balboni, Senate Print 4017, an act authorizing the assessor of the County of Nassau.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside, Senator.

THE SECRETARY: Calendar Number 711, by the Assembly Committee on Rules, Assembly Print Number 9426, an act to amend a chapter of the Laws of 2001 as proposed in legislative bills numbers Senate 4489 and Assembly 4618.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a chapter of the Laws of 2001.

REVEREND SIMPSON: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Dollinger recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 825, by Senator Trunzo, Senate Print 6416, an act authorizing the assessor of the Town of Islip.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Dollinger, to explain your vote.

SENATOR DOLLINGER: To explain my vote.

Madam President, last week I suggested that we should post signs heading on to Long Island that would contain a Burma Shave commercial about the need for property tax exemption filings. That failed to stop the flood.

I want my colleagues -- and I by no means mean any disrespect to Senator Trunzo, but Senator Balboni has one, Senator Hannon has one. I am reporting this contagion to the CDC, the Center for Disease Control.

(Laughter.)

SENATOR DOLLINGER: There seems to be general incompetence in Nassau and Suffolk County. For some reason, these are the only two counties which I've seen, I think, in the entire time I've been here, where they can't realize that when a not-for-profit company buys a piece of property, you've got to take into account the tax-exempt status and the real property taxes that have accrued on the property or will accrue.

I would suggest that the general incompetence -- I hope it's quarantined in those two counties on Long Island. I hope that the lawyers who represent these community groups will suddenly wake up that they'll either be sued for malpractice or they will come to the conclusion, when they close on a piece of property, that they have to take into

account the real property tax status.

Madam President, I hope that the CDC can come up with an inoculation that will work in these two counties and we can eliminate this useless problem from coming to our attention. We'll wait and see how the quarantine does, Madam President. I expect that, who knows, this week we'll still see more bills back here.

I'll vote in the negative.

THE PRESIDENT: Senator Balboni, to explain your vote.

SENATOR BALBONI: Yes. I'd like to assure Dr. Dollinger that the condition is benign and, as a matter of fact, in most cases beneficial.

(Laughter.)

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

Senator Balboni, you will be recorded as voting in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 53. Nays,

1. Senator Dollinger recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 843, by Senator Johnson, Senate Print 6652, an act to amend the Vehicle and Traffic Law.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 847, by Senator Seward, Senate Print 6852A, an act to amend the Highway Law, in relation to that portion of the state highway system.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

857, by Senator Alesi, Senate Print 1130A, an act to amend the Penal Law, in relation to the crimes of unlawful failure.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 864, by Senator Saland, Senate Print 2782, an act to amend the Penal Law, in relation to including school buses.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 868, by Senator Volker, Senate Print 3937, an act to amend the Penal Law, in relation to endangering the welfare of a child.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 870, by Senator Spano, Senate Print 6105B, an act to amend the Penal Law, in relation to the reckless assault of a child.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 897, by Member of the Assembly Englebright, Assembly Print Number 10017, an act to amend Chapter 779 of the Laws of 1986.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 914, by Senator Larkin, Senate Print 6355, an act to amend Chapter 356 of the Laws of 2000.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 928, by Senator LaValle, Senate Print 1210A, an act to amend the Education Law, in relation to the requirements of certification.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 947, by Senator Hoffmann, Senate Print 6510, an act to amend the Agriculture and Markets Law, in relation to the payment of indemnity for domestic animals.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

966, by Member of the Assembly Matusow, Assembly Print Number 5973B, an act to amend the General Business Law, in relation to providing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 970, by Member of the Assembly Schimminger, Assembly Print Number 9980, an act to amend the General Business Law, in relation to exempting certain security guards.

THE PRESIDENT: Read the last section.

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

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

THE SECRETARY: Calendar Number 972, by Senator DeFrancisco, Senate Print 431, an act to amend the Navigation Law, in relation to the operation of a vessel recklessly.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 987, by Senator Lack, Senate Print 1020, an act to amend the Election Law, in relation to polling places in Suffolk County.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 993, by Senator Padavan, Senate Print 7282, an act to amend the General Municipal Law, in relation to urban development action areas.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

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

Senator Skelos, we have news. That does not complete the reading of the noncontroversial calendar. We have an addition.

SENATOR SKELOS: Madam President, will you please call up Calendar Number 760, by Senator Balboni.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: Calendar Number 760, by Member of the Assembly Koon, Assembly Print Number 1141, an act to amend the Social Services Law, in relation to confidentiality.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

Senator Skelos, that does complete the reading of the noncontroversial calendar.

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

THE PRESIDENT: Thank you, Senator Skelos.

The Secretary will read.

THE SECRETARY: Calendar Number 312, by Senator Morahan, Senate Print 2457A, an act to amend Real Property Tax Law, in relation to providing a tax exemption.

SENATOR PATERSON: Explanation.

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

SENATOR MORAHAN: Thank you, Mr. President.

This bill is a bill that would allow school districts, counties, villages and towns in a certain county, depending on its population, to allow a 10 percent exemption for firefighters and emergency service workers, ambulance workers.

SENATOR BALBONI: Last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 1. Senator Hevesi recorded in the negative.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 601, by Senator Volker, Senate Print 200A, an act to amend the Penal Law, in relation to causing the death of a peace officer.

SENATOR GENTILE: Explanation.

SENATOR SKELOS: Lay it aside

temporarily.

ACTING PRESIDENT BALBONI: Lay the bill aside temporarily, please.

THE SECRETARY: Calendar Number 705, by Senator Balboni, Senate Print 4017, an act authorizing the assessor of the County of Nassau to accept an application.

ACTING PRESIDENT BALBONI: I predict that bill will be laid aside for the day.

THE SECRETARY: Calendar Number 857, by Senator Alesi, Senate Print 1130A, an act to amend the Penal Law, in relation to the crimes of unlawful failure.

SENATOR MONTGOMERY: Explanation.

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

SENATOR ALESI: Thank you, Senator, for giving me the opportunity to revisit this bill again.

This bill does two things, Mr. President. It makes it illegal to disobey an order by a uniformed police officer to stop in a vehicle. It also makes it illegal for the

person to flee a uniformed police officer when given an order to do so.

ACTING PRESIDENT BALBONI: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. Would Senator Alesi yield for a question?

SENATOR ALESI: Yes, Mr. President, I'd be happy to yield for a question.

SENATOR MONTGOMERY: I believe that, Senator Alesi, when we debated the bill the last time, I think that one of the issues that we raised was the fact that you did not indicate that the police officer must be in an officially marked and designated police car.

In other words, at that time we had unmarked cars on the highway. Was that true, do you recall?

SENATOR ALESI: Mr. President, through you, relative to the bill at hand, without regard to any previous bill that's passed this house of the Legislature, this bill does in fact say that an unmarked car would not require someone to pull over under

the circumstances described.

SENATOR MONTGOMERY: All right.

ACTING PRESIDENT BALBONI: Senator Montgomery, do you wish the gentleman to yield?

SENATOR MONTGOMERY: If Senator Alesi would continue to yield.

SENATOR ALESI: Yes, Mr. President.

SENATOR MONTGOMERY: Yes. Now, the bill refers to low-speed pursuits, relates to low-speed pursuits encountered when a person, for whatever reason, ignores the command to pull over.

And I know that on some occasions, in many instances -- in particular, women traveling on a highway in an area that is pretty isolated may not feel comfortable stopping where there's no lighting, no possibility of any other person and is asked to pull over.

In those instances, what is to protect that person who genuinely has a legitimate fear of stopping, even though it may be -- it may appear to be a police

officer? It seems to me that that's a legitimate reason, especially if you're not speeding, to not stop for a police stop. And under your legislation, it would still be a crime.

So what would protect a person in that circumstance vis-a-vis your legislation?

SENATOR ALESI: Mr. President, through you, we all know that law enforcement officers are engaged in probably one of the most noble services that are provided to society, and at the same time, one of the most dangerous.

In fact, I'm very pleased today, although the rules of the house don't permit me to make introductions, to at least acknowledge that there are three such noble servants joining us here today from Monroe County.

And when you ask, Senator Montgomery, what would protect someone who is concerned about being ordered to pull over by an officer in uniform in a marked vehicle with lights flashing, I would simply say that I could think of no safer place to be than under

those circumstances.

SENATOR MONTGOMERY: Mr. President.

ACTING PRESIDENT BALBONI: Senator Montgomery.

SENATOR MONTGOMERY: Briefly on the legislation.

ACTING PRESIDENT BALBONI: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes. Senator Alesi, I certainly appreciate your respect for the police, and I have similar respect.

However, there are a couple of police departments that are now being investigated -- I think one on Long Island, one upstate -- and the primary or at least one of the issues that the departments in those instances have to address is the fact that there has been misconduct on the part of individual police officers who pulled people over, especially women, and demanded certain activities of those women even though they were in uniform, in marked cars, and so on and so on.

So I have a real problem with this. I would personally have a problem being stopped in certain areas of this state, day or night -- but especially night -- by a police officer, because I certainly have not had the same experience as you have had, that in every single instance of an encounter with the police have I had a positive and safe and respectful experience.

So I'm voting no on this bill, Mr. President, because I think that it could possibly open up more opportunities for police officers to engage in the kind of conduct that we know has happened in the past.

Thank you.

ACTING PRESIDENT BALBONI: Senator Montgomery, you will be recorded in the negative.

SENATOR ALESI: Will Senator Montgomery yield for a question from me, please.

ACTING PRESIDENT BALBONI: Senator Alesi, why do you rise?

SENATOR ALESI: Would Senator Montgomery yield.

ACTING PRESIDENT BALBONI: Senator Montgomery, would you yield to a question, please?

SENATOR MONTGOMERY: Yes, I certainly will.

SENATOR ALESI: Thank you, Senator.

Just for clarification. I'm not sure, but did I understand you to say that you've been in positions where you've felt uncomfortable?

SENATOR MONTGOMERY: Absolutely.

SENATOR ALESI: And through you again, Mr. President, if Senator Montgomery would continue to yield, would I safely conclude, then, in the aura of discomfort that you felt that you might have not obeyed an order to yield yourself?

SENATOR MONTGOMERY: Senator Alesi, it has nothing to do with whether or not I was speeding. I was not speeding. It certainly has nothing to do with whether or not I was disobeying any law, because I was not.

So I can assure you that I

certainly have had encounters that have not been as pleasant as you indicate your trust and relationship with law enforcement is. Not at all times for me, but certainly there have been times when I have had extremely frightening and unpleasant encounters.

And that's what I refer to when I say that I would not feel comfortable stopping for someone pursuing me, even in a marked car, with lights flashing, on some roads, especially at some times in this state and anywhere else in this nation.

SENATOR ALESI: Thank you.

Mr. President, as a follow-up to my question, I assure you, Senator, I did not mean to put you in an embarrassing situation with my question. It was simply asked so that I would more clearly understand what the concerns of someone who has actually disobeyed an order to pull over would be.

And therefore, understanding those concerns, I would be better able to address the following questions or questions that I would expect would follow. And if in the event that there would be some opportunity to

make this bill better, which at this point I don't believe there is, I would at least have availed myself of that with your response.

I should also point out that Governor Pataki, in his concern, out of concern for some of the issues that you raised -- for example, women being concerned about being pulled over by an unmarked car - the Governor very wisely, very compassionately did order that unmarked state police cars no longer be used for those kinds of purposes. So there is an awareness and certainly a sensitivity for the kind of issue that you brought up.

However, I would still say that when a police officer orders someone to pull over, if that officer is in a marked car and in uniform and with lights flashing, then under all normal circumstances it is probably for the good of that driver, who perhaps might have a light out or some other problem with the car, that that driver pull over.

And if the driver ignores the order, then the police officer has the option, under this legislation, to write up the driver

for failing to obey.

Thank you, Mr. President.

SENATOR MONTGOMERY: Mr. President, I appreciate that explanation. I certainly do appreciate the fact that the Governor has removed unmarked cars.

I think what my suggestion would be, however, is that in the event that an officer deems it necessary to ask someone to pull over, and they're obviously not breaking the law in any obvious way, that they should be allowed to proceed to what would be a safer stopping location before the officer automatically -- before they're automatically to be charged with breaking the law. So that they feel safer at least in terms of an officer searching that car or stopping them to get out of the car.

SENATOR ALESI: Thank you, Senator.

And to follow up, Mr. President, I think that the bill clearly states within a reasonable amount of time. So I think that that would afford somebody the opportunity to find a well-lighted place or something.

Especially if the person, at least under the first part of this bill, is not traveling in excess of the speed limit and is probably just being ordered to pull over, perhaps because there is a taillight out or something like that, and it would probably be more for the safety of the driver.

And again, the officer has the option or not of imposing this under circumstances that would be reasonable.

Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, if Senator Alesi would yield for a question.

ACTING PRESIDENT BALBONI: Senator Alesi, do you yield for a question?

SENATOR ALESI: For Senator Paterson, I would yield for an unlimited number of questions within five minutes or so.

ACTING PRESIDENT BALBONI: That is delightful.

Senator Paterson, please proceed.

SENATOR PATERSON: I am flattered, Mr. President.

I notice that this is an A print of the bill. We debated the bill two years ago. I'm trying to figure out what has been added to the legislation from the time we first discussed it. And I thought perhaps Senator Alesi would tell us, while I think of another question, because I don't want to miss this great opportunity for dialogue with the Senator.

SENATOR ALESI: Through you, Mr. President, it has always been my habit to try to accommodate my colleagues as much as possible during their questioning.

And without regard to any previous bills, I understand that this is an A print. I suspect that probably, as a result of my willingness to accommodate any reasonable suggestions on this floor in the past, that the Senator might be referring to the section that deals with unmarked cars.

SENATOR PATERSON: Thank you, Mr. President. I want to thank Senator Alesi. This was something that Senator Montgomery and I raised with him two years ago, and he acceded to our requests. And I wasn't aware

of it until now.

But that was the real issue that we had with this bill previously, that when the motorist cannot determine who is actually stopping them, it is difficult to assume that it's a policeman.

If the Senator would continue to yield.

ACTING PRESIDENT BALBONI: Senator Alesi, do you continue to yield?

SENATOR ALESI: As I said before, I would accede to any reasonable request.

ACTING PRESIDENT BALBONI: Senator Paterson, please proceed.

SENATOR PATERSON: Speaking of reasonable, Senator, the reasonable period of time in which the vehicle is supposed to stop is kind of a subjective terminology. And it has been the case sometimes that the officers might think that the motorist is understanding the command.

And really, my question relates to what is the meaning of, you know, the terminology "having been directed to stop." Is that flashing lights? Is it a siren? It's

possible that a motorist could be looking in the wrong direction and not see the flashing lights.

And so my question just is, do you think this would be specific enough, with the reasonable amount of time standard, and adding what seems to be a rather vague sense of what the command should actually be to stop, that it could be so subjective that it's almost remote?

SENATOR ALESI: Through you, Mr. President -

ACTING PRESIDENT BALBONI: Senator Alesi.

SENATOR ALESI: -- Senator, I understand your concerns with this issue.

I think it is probably beneficial that the term "reasonable amount of time" be subjective so that it affords the officer in question the opportunity to accommodate not only the driver that he or she is trying pull over, but also to accommodate other drivers that might be on the road or to accommodate situations such as a one-lane bridge.

And while it is subjective, there

are a number of things that law enforcement officers do on a daily basis that are subjective, not the least of which is have the ability and the permission, through their training, to exercise the ability to estimate speed, for example.

ACTING PRESIDENT BALBONI: Senator Paterson.

SENATOR PATERSON: Mr. President, if the Senator would yield for one last question.

ACTING PRESIDENT BALBONI: Senator Alesi, do you yield?

SENATOR ALESI: I wouldn't want to limit the Senator to one last question. However, I'd be happy to yield to the next one.

ACTING PRESIDENT BALBONI: Senator Paterson, please proceed.

SENATOR PATERSON: Mr. President, if the Senator would clarify for the body what is actually the command to stop. Is it accomplished by just the flashing lights, a siren, a combination of the two?

I'm just curious as to what the

motorist has to notice that allows the operator of the vehicle the opportunity to stop in a reasonable period of time.

SENATOR ALESI: Through you, Mr. President. Thank you for the question, Senator. I believe that the answer to that would be in keeping with the questions that are usually posed to someone applying for a learner's permit. And it would be something indicative of flashing lights or a siren or any of those things.

As part of learning to drive and as part of the test itself, you would have to answer correctly that when someone is flashing their lights or sounding a siren that you'd be required to pull over.

Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Any other Senator wishing to be heard on this bill?

If not, please read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BALBONI: Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, I'm going to vote yes on this bill.

I was very concerned, as was Senator Montgomery, that previously the bill did not include unmarked vehicles, which could properly frighten a motorist into wondering who's actually stopping them. That did happen in the state of Maryland. There was an incident right here in upstate New York where that occurred.

And even though police with unmarked vehicles would not understand why the public doesn't stop when they ask them to, they don't understand that that has, at times, been a way in which perpetrators have committed crimes against civilians, by posing or acting as police.

I still have a concern, as does Senator Montgomery, that perhaps the officers, particularly when stopping women, could be

more sensitive to the area unless they are in an actual chase of the vehicle. And I think that might be something we might add to sensitivity training.

But certainly, so as not to injure other motorists, I think it is probably most prudent to vote in favor of this bill.

ACTING PRESIDENT McGEE: Senator Paterson will be recorded in the affirmative.

Announce the results.

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

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 601, by Senator Volker.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 601, by Senator Volker, Senate Print 200A, an act to amend the Penal Law, in relation to causing the death of a peace officer.

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, 56.

ACTING PRESIDENT McGEE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 760, by Member of the Assembly Koon, Assembly Print Number 1141, an act to amend the Social Services Law, in relation to confidentiality.

SENATOR PATERSON: Explanation.

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

SENATOR BALBONI: Thank you, Madam President.

This particular measure would amend Section 459G of the Domestic Relations Law, specifically the Domestic Violence Prevention Act which we enacted some years ago.

And the reasoning behind this statute was to provide for confidentiality in the designation and operation of a safe house for victims of domestic violence.

However, several cases in Rochester, New York, have underscored and revealed a problem. There were several cases in which a site that was going to be a shelter or a domestic violence center was disclosed, through public documents, to an individual who sought retribution against their spouse, and an attack occurred.

Therefore, what this bill seeks to do is to close that loophole by providing in the same section of law the fact that facilities that are anticipated to be a shelter for domestic violence victims are also wrapped up in the confidentiality provisions of the current statute.

Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Balboni would yield for a couple of questions.

ACTING PRESIDENT McGEE: Senator Balboni, will you yield to Senator Paterson?

SENATOR BALBONI: Yes, I do, Senator Paterson.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Senator, Section 459G, does it speak to the zoning classifications or permits sought in preparation of the facility?

I would imagine that a predator who is looking for someone who had been abused to exact some retribution for this might actually go back to the sites of the permit granting or perhaps the zoning classification procedures to further try to figure out where this facility might be. Particularly in small towns, they're probably only going to be in one place.

And my question is, having really cured the problem in this legislation as you have, will it also protect it from a problem from that source?

SENATOR BALBONI: Madam President, through you. Senator Paterson, the statute -- the bill specifically states "any application submitted." Within the contents

of that application may in fact be the section, lot and block number, for purposes of receiving funding from any agency.

And therefore, within that context, it would be kept confidential.

ACTING PRESIDENT McGEE: Senator Paterson.

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

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

SENATOR BALBONI: Madam President, I so yield.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: So this applies as much to state facilities as the local ones as well?

SENATOR BALBONI: Through you, Madam President, yes, it does.

SENATOR PATERSON: All right, Madam President, I think I have one last question for Senator Balboni.

ACTING PRESIDENT McGEE: Senator

Balboni, will you take one last question?

SENATOR BALBONI: I will, Madam President.

ACTING PRESIDENT McGEE: The Senator takes one last question.

SENATOR PATERSON: Senator, I'm just very much in appreciation to you for this work on the issue and have to ask you a question I've asked you many times before. Has the other house taken any action on this bill?

SENATOR BALBONI: Madam President, through you, this is -- I appreciate that question very much. With the passage of this bill in this house, this bill will then be transmitted to the Governor's desk for signature. It has already passed the Assembly unanimously.

And let me point out that though the instances that were the inspiration for this particular measure occurred in Rochester, New York, certainly this is a bill of interest throughout this state. And I'm happy to say that there are residents from Long Island in the chamber with us today who are very

interested in this issue and have come to see how government works.

So it's nice to see that we're actually going to get something done today with the passage of this bill.

Thank you, Madam President.

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: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT McGEE: There is no housekeeping at the desk.

SENATOR SKELOS: There being no

further business, I move we adjourn until Tuesday, May 14th, at 3:00 p.m.

ACTING PRESIDENT McGEE: On motion, the Senate stands adjourned until Tuesday, May 14th, at 3:00 p.m.

(Whereupon, at 4:00 p.m., the Senate adjourned.)