NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 20, 2002

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

ACTING PRESIDENT MEIER: The Senate will come to order.

May I ask everyone present to please rise and join me in the Pledge of Allegiance to the Flag.

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

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

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

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 19, the Senate met pursuant to adjournment. The Journal of Saturday, May 18, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

THE PRESIDENT: 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 Nozzolio, on page 27 I offer following amendments to Calendar Number 587, Senate Print 6774A, 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.

SENATOR FARLEY: On behalf of Senator Maziarz, Madam President, on page 30 I offer the following amendments to Calendar 665, Senate Print 6877, 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 Stachowski.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1011, by Senator Stachowski, Senate Print 2558A, an act to amend the General Municipal Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

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

THE PRESIDENT: The amendments

are received, Senator.

Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 5614, honoring the students of Willow Field Elementary School for their participation in the 49th Senate District "Good News! Good Kids!" Youth Responsibility Program.

"RESOLVED, That this Legislative Body pause in its deliberations to express congratulations to this industrious group of students: Alicia Leitgeb, Tyler Bender, Lauren O'Leary, Jimmy Polak, Caitlin Genalo, Tyler Kamide, Paige Dodge, Ryan Mackie, Aaron Barrett, Matt Bartholomae, Danielle Gaudette, Taylor Vogt, Tanner Kreuzer, Melanie Sarko, David Carpenter, Allie Levick, Victor Beaumont, Charity Aubrey, Kim Weaver, Ginger Anderson, Jason MacLeod, Caitlin Spencer,

Alyssa Copp, and Gina Lazara. They have demonstrated outstanding leadership and good citizenship; and be it further

"RESOLVED, That this Legislative Body pause further to welcome the Student Council from Willow Field Elementary School of the Liverpool School District to the Senate chamber, with praise and pride in recognition of their selection as the winner of the elementary school level 'Good News! Good Kids!' Award; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to Sandra Lamirand and Karen Beale, on behalf of the students of the Willow Field Student Council."

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, Madam President. I rise to congratulate the group of fourth-, fifth- and sixth graders of the student council of Willow Field Elementary School in the Liverpool School District.

I got to meet these young people earlier today and was proud to bring them here

for the purpose of honoring them for being selected as the elementary school "Good News! Good Kids!" recipients.

You know, we see all the time today these terrible things that young people are doing. Unfortunately, they get more publicized than the good things. And these young people -- fourth-, fifth-, and sixth-graders -- are a real example to us.

They have done such projects as raising money for the Red Cross after 9/11. They've raised money for the Salvation Army and provided food, cans of food, Toys for Tots campaign. They brought candles to have the appropriate memorial service after 9/11.

They've done so many things I didn't even ask the clerk to read all of them, because they're so fantastic. They're a group of young people doing good things in our community.

And thank you very much for being good kids. You're going to be the leaders of tomorrow. And we thank you for coming, and all the best of luck in the future.

THE PRESIDENT: The question is

on the resolution. All in favor please 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, if we could go to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 28, by Senator Rath, Senate Print 3676A, an act to amend the Real Property Tax Law, in relation to the definition and use.

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, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 183, by Senator Libous, Senate Print 2890A, an act to amend the Social Services Law, in relation to abstraction.

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, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 315, by Senator Volker, Senate Print 3210B, an act to amend the Real Property Tax Law, in relation to providing.

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

620, by Senator Stafford, Senate Print 6091A, an act to amend the Public Authorities Law, in relation to authorizing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4 -

SENATOR PATERSON: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 673, by Senator Spano, Senate Print 7067, an act to amend the General Business Law, in relation to the use of global positioning.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 676, by Senator Padavan, Senate Print 6553A,

an act to amend the Real Property Tax Law and the Administrative Code of the City of New York.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 53. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 678, by Senator Larkin -

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 705, by -

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number

830, by Senator LaValle, Senate Print 6733A, an act in relation to transferring the service award program.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 888, by Senator Nozzolio, Senate Print 3703A, an act to amend the Executive Law, the Criminal Procedure Law, the Family Court Act, and the Social Services Law.

SENATOR MONTGOMERY: Lay that aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 902, by Senator Trunzo, Senate Print 1236A, an act to amend the Retirement and Social Security Law, in relation to the additional

pension benefits.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1016, by Senator Bonacic, Senate Print 6502B, an act to amend Chapter 398 of the Laws of 2000 relating to creating.

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.)

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1038, by Member of the Assembly Gromack,

Assembly Print Number 614A, an act to amend the Vehicle and Traffic Law, in relation to increasing the penalties.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 90 days.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1088, by Senator LaValle, Senate Print 6493, an act to amend the Public Authorities Law, in relation to the composition.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1091, by Senator Bonacic, Senate Print 6557, an act to amend the Public Authorities Law, in relation to the powers of the State of New York Mortgage Agency.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1111, by Senator Kuhl, Senate Print 6777A, an act to authorize the Commissioner of General Services to sell and convey certain state land.

THE PRESIDENT: Read the last section.

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

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid

aside.

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

SENATOR SKELOS: Please go to the controversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 315, by Senator Volker, Senate Print 3210B, an act to amend the Real Property Tax Law, in relation to providing a real property tax exemption.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 620, by Senator Stafford, Senate Print 6091A,

an act to amend the Public Authorities Law, in relation to authorizing the Dormitory Authority.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 888, by Senator Nozzolio, Senate Print 3703A, an act to amend the Executive Law and others, in relation to access to records.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Nozzolio.

Just one moment, please, Senator.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Yes. If we

could lay aside that bill temporarily and go to Calendar Number 1016.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

The Secretary will read.

THE SECRETARY: Calendar Number 1016, by Senator Bonacic, Senate Print 6502B, an act to amend Chapter 398 of the Laws of 2000.

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, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1111, by Senator Kuhl, Senate Print 6777A, an act to authorize the Commissioner of General Services.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator

Kuhl, an explanation has been requested.

SENATOR KUHL: Thank you, Madam President.

This bill authorizes the conveyance of a parcel of land in the Town of Ashland by the Office of General Services -- it's currently maintained and handled by the Department of Transportation -- to the Town of Ashland, for historic purposes.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, I have exactly two questions for Senator Kuhl.

ACTING PRESIDENT McGEE: Senator Kuhl, will you suffer two questions from Senator Paterson?

SENATOR KUHL: I'll take the first one and we'll go from there. How's that?

SENATOR PATERSON: Madam President, I'm interested if Senator Kuhl would explain to the body what the consideration will be for the conveyance.

SENATOR KUHL: Well, the

consideration, Senator, is the savings that the Department of Transportation is going to have as a result of not demolishing this building. It's currently on their plans to demolish this building and actually level it, which would be a considerable expense to them.

The town has indicated they'll take it for the sum of -- as you know, lawyers use a dollar. And in fact, it will save them that demolition money. They will then go and commence the restoration of the property.

And it is an old trolley building. There was a trolley service at one time provided in this area of Chemung County. And they're going to make a historical museum out of it.

SENATOR PATERSON: Madam President.

ACTING PRESIDENT McGEE: Senator Paterson, second question?

Senator Kuhl, second question.

SENATOR PATERSON: Is there a home-rule message required to do this, Senator?

SENATOR KUHL: I don't think that

there was any requirement from our counsel for a home-rule message, Senator.

SENATOR PATERSON: Thank you, Madam President.

I will assume -- on the bill - that the consideration is market value, that it's a fair deal for the state. I sure would have liked to have asked Senator Kuhl that. But, you know, my time and my allotment is elapsed.

ACTING PRESIDENT McGEE: Thank you, Senator Paterson.

Any other Senator wishing to speak on the bill?

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, 52.

ACTING PRESIDENT McGEE: The bill is passed.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Senator

Skelos.

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

ACTING PRESIDENT McGEE: Immediate meeting of the Rules Committee in the Majority Conference Room.

Senator Balboni.

SENATOR BALBONI: Yes, Madam President. Could you please call up Calendar Number 888.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 888, by Senator Nozzolio, Senate Print 3703A, an act to amend the Executive Law and others, in relation to access to records.

SENATOR PATERSON: Explanation.

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

SENATOR NOZZOLIO: Madam President, who requested the explanation?

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR NOZZOLIO: Thank you,

Madam President.

This measure was introduced at the request of the Crime Victims Board, authorizing the board access to sealed records when it's important, essential for them, to enable the Crime Victims Board to investigate claims for victim compensation.

There are just some instances where sealed records must be accessed in order to determine whether or not the applicant to the Crime Victims Board does in fact qualify for assistance.

ACTING PRESIDENT McGEE: Thank you, Senator Nozzolio.

Any other Senator wish to speak on the bill?

Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you, Madam President. Would Senator Nozzolio yield for a question or two?

ACTING PRESIDENT McGEE: Senator Nozzolio, Senator Krueger has asked for some of your time -- Senator Montgomery, I'm terribly sorry.

SENATOR NOZZOLIO: Yes, I would

be glad to yield to Ms. Montgomery.

SENATOR MONTGOMERY: Thank you, Senator.

Senator, your legislation would now open Family Court records, records of youthful offenders, delinquency, and also, in addition, noncriminal cases. Is that correct?

SENATOR NOZZOLIO: That's correct, Madam President.

The Victims Board currently lacks jurisdiction and express authority to obtain records that are sealed -- child abuse records, Family Court records. That in order to understand whether or not a victim of child abuse exists, there needs to be some certification, some type of ability to follow up.

And that's what this is.

SENATOR MONTGOMERY: Madam President, if I may ask continue to ask -

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

SENATOR NOZZOLIO: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR MONTGOMERY: Thank you.

Senator Nozzolio, I'm just trying to figure out what would the Crime Victims Board need information on from sealed records of juveniles in Family Court?

What exactly are they looking to use that information for, if it's obviously a child that is not an adult, has not been tried as an adult, has been tried in Family Court and possibly has been found not guilty, innocent?

SENATOR NOZZOLIO: Madam President, I know Senator Montgomery is extremely sincere on this matter. However, I wish her focus were more in terms of the victim.

Don't knee-jerk in terms of the perpetrator of the crime. The victim is part of those records, Senator. That in order to ascertain whether an individual is so victimized, you need access to those records.

That that's what we're trying to do here, ascertain whether or not a victim was so

victimized. And often the only source for information is in fact the court record, which is sealed.

SENATOR MONTGOMERY: Madam President, if Senator Nozzolio would continue to yield.

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

SENATOR NOZZOLIO: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR MONTGOMERY: Senator, I'm just trying to ascertain what is the importance of having that information on juveniles, whose records have obviously been sealed, or a person who is essentially has been found to be innocent and whose records are sealed, who would be the advantage for the Crime Victims Board except to see that the person is innocent or that the person was indeed a juvenile?

SENATOR NOZZOLIO: Madam President, let me try to answer Senator Montgomery's question this way.

That regardless of who the perpetrator of the particular crime is, when an applicant goes before the Crime Victims Board, they are in fact a victim and are asking for relief from the Crime Victims Board.

The Crime Victims Board is empowered and has the responsibility of checking out the veracity of that application. When an individual goes before the Crime Victims Board and happens to have been victimized by a juvenile whose records are sealed, the Crime Victims Board is handcuffed and is often unable to check the veracity of the claim of the crime victim.

It matters not whether the records are sealed. It matters -- for the perpetrator, the perpetrator has that protection. And that protection is not going to be disseminated in any other way except for to test the veracity of the claim of the crime victim before the Crime Victims Board.

If a victim is a victim of child abuse and seeks redress, either directly or, in all likelihood, a guardian would make the

application on behalf of the child abuse victim, it's up to the Crime Victims Board to test whether that applicant was in fact victimized.

Where can the Crime Victims Board go to determine that? They must go to the court where the child abuse was litigated and determined.

It matters not whether the records are sealed. The victim still was victimized. In order for them to get some modicum of redress, the Crime Victims Board needs to verify that victimization. And this legislation simply enables the Crime Victims Board to do just that.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: Just one last question -

ACTING PRESIDENT McGEE: One last question, Senator Nozzolio.

SENATOR MONTGOMERY: -- if the Senator will continue to yield.

SENATOR NOZZOLIO: Yes, Madam President.

ACTING PRESIDENT McGEE: Yes.

SENATOR MONTGOMERY: Senator, I hear your explanation, but I'm still -- I'm not able to understand specifically that if a person comes to the Crime Victims Board and states that they were victimized by a child, I'm not able to figure what is it that the Crime Victims Board -- why is it that they need to have that child's record unsealed in order to address the issue of a so-called victim?

And if in fact the person was victimized, so to speak, is it the case now that they -- the Crime Victims Board does not help them? Are we now not assisting people who claim that they have been somehow sexually abused by a child?

SENATOR NOZZOLIO: Madam President, I certainly apologize for my abject failure to properly explain this to Senator Montgomery. But let me try it one more time.

That the essence of the application before the Crime Victims Board is to receive relief to an individual who has been victimized. If the Crime Victims Board can't

verify that an individual is victimized, they're not going to pay the crime victim.

So the bottom line is the victim needs compensation regardless of who victimized them. Unfortunately, in some cases it's impossible to verify. The Crime Victims Board has an enormous if not impossible task to verify this victimization, because court records and certain other board records are sealed.

This is an effort to ensure, in those limited cases, that the court records are opened up so that the applicants who are the victims of these crimes can be in fact compensated.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes. I certainly understand Senator Nozzolio's attempt to address the interests and concerns of crime victims.

But I think that the rationale for closing, for sealing records -- and of course we all know that that's a hit-and-miss process to begin with. But nonetheless, the reason that we seek to seal records, especially of young people, juveniles, is that we want to give them a second chance.

And if we keep going in this direction, we now have -- based on Senator Nozzolio's bill, we open these records up no matter the age of the child or the young person, no matter if the person is innocent or not, no matter if it's a noncriminal offense, whatever the case. It is now, based on this legislation, going to be possible for a young person's records to be opened to be investigated by yet one more agency.

So there's very little reason to even seal records if we're going to have them opened at every turn of events for whatever agency is seeking to open them up again.

So I think that we need to find other ways of having the Crime Victims Board respond to victims. I certainly think that's something that we all want that board to be

able to do. But not at the expense of undermining one of the linchpins of our criminal justice system, and that is to have young people's records sealed, especially in certain cases, so that they can go on with their lives.

Thank you. I'll be voting no on this bill.

ACTING PRESIDENT McGEE: Thank you, Senator Montgomery.

Any other Senator wishing to speak on the bill?

Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 888 are Senators Andrews, Brown, Hassell-Thompson, and Montgomery. Ayes, 55. Nays, 4.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Balboni.

SENATOR BALBONI: Yes, Madam President. I'd like to announce an immediate meeting of the Crime and Corrections Committee in the Majority Conference Room.

ACTING PRESIDENT McGEE: There will be an immediate meeting of the Crime and Corrections Committee in the Majority Conference Room.

Senator Balboni.

SENATOR BALBONI: Yes, can we also return to reports of standing committees. I believe there is a report of the Rules Committee at the desk.

ACTING PRESIDENT McGEE: Reports of standing committees.

The Secretary will read.

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

Senate Print 289, by Senator Alesi, an act to amend the Penal Law;

542, by Senator Padavan, an act to amend the Penal Law;

832, by Senator Morahan, an act to amend the Family Court Act;

1362, by Senator Kuhl, an act to amend the Penal Law;

1601, by Senator Farley, an act to amend the Tax Law;

1788, by Senator Kuhl, an act to amend the Tax Law;

2205A, by Senator Santiago, an act authorizing the City of New York;

2363, by Senator Leibell, an act to amend the Civil Service Law;

2784, by Senator Volker, an act to amend the Civil Practice Law and Rules;

4530A, by Senator Seward, an act in relation to adjusting;

4601A, by Senator Trunzo, an act to amend the Vehicle and Traffic Law;

5046, by Senator Saland, an act to amend the Penal Law;

5333, by Senator Velella, an act to amend the Vehicle and Traffic Law;

6032, by Senator Alesi, an act to amend the Alcoholic Beverage Control Law;

6247, by Senator DeFrancisco, an act to amend the General Business Law;

6431, by Senator Saland, an act to

amend the Penal Law;

6528, by Senator Wright, an act in relation;

6582, by Senator Maziarz, an act to amend the Criminal Procedure Law;

6761, by Senator Velella, an act to amend the Real Property Tax Law;

6965A, by Senator Farley, an act to amend the Public Officers Law;

7001, by Senator Stafford, an act making certain findings;

7084, by Senator Hoffmann, an act to amend the Agriculture and Markets Law;

7164A, by Senator Stafford, an act to amend the Alcoholic Beverage Control Law;

7202, by Senator Balboni, an act to amend the General Municipal Law;

7340, by Senator Espada, an act to amend the Executive Law;

7388, by Senator Meier, an act to amend the Social Services Law;

And Senate Print 7430, by the Senate Committee on Rules, an act to amend the Social Services Law.

All bills ordered direct to third

reading.

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

Senator Balboni.

SENATOR BALBONI: Before you do that, Madam President, can I move to accept the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The report is accepted.

Senator Balboni.

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

ACTING PRESIDENT McGEE: Yes, there is.

SENATOR BALBONI: Can we please do that now.

ACTING PRESIDENT McGEE: Senator

Farley.

SENATOR FARLEY: Thank you, Madam President.

On page 17, I offer the following amendments to Calendar 380, Senate Print 6133A. That's on behalf of Senator Skelos. And I ask that that bill retain its place.

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

SENATOR FARLEY: I offer the following amendments on behalf of Senator Skelos, on page 60, Calendar 1094, Senate Print 6635, and I ask that that bill retain its place.

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

SENATOR FARLEY: On behalf of Senator Maltese, Madam President, on page 68, Calendar 1176, Senate Print 7367, I offer the following amendments and I ask that that bill retain its place.

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

Senator Balboni.

SENATOR BALBONI: Madam President, could you please call up Calendar 1210.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1210, by the Senate Committee on Rules, Senate Print 7430, an act to amend the Social Services Law, in relation to medical assistance exclusion.

ACTING PRESIDENT McGEE: Senator Balboni.

SENATOR BALBONI: Yes, Madam President. Could we please have the last section read for purposes of Senator Espada voting.

ACTING PRESIDENT McGEE: The Secretary will.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Espada.

SENATOR ESPADA: Yes, I'd like to vote no on that bill, please.

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

Withdraw the roll call.

Senator Balboni.

SENATOR BALBONI: Madam President, could we please withdraw the roll call.

ACTING PRESIDENT McGEE: The roll call is withdrawn without objection.

SENATOR BALBONI: Oh. Madam President, will you please call on Senator Hassell-Thompson to vote on that particular bill, please.

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.)

ACTING PRESIDENT McGEE: Senator Hassell-Thompson, would you care to announce what you intend to do?

SENATOR HASSELL-THOMPSON: Thank you, Madam President. I wish to vote no on this bill.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson, you will be recorded in the negative.

The roll call is withdrawn.

SENATOR HASSELL-THOMPSON: Thank you.

SENATOR BALBONI: Madam President, could we please withdraw the roll call now. Thank you.

ACTING PRESIDENT McGEE: The roll call is withdrawn without objection.

Read the last section.

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

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, I had asked for an explanation.

ACTING PRESIDENT McGEE: Senator Farley -- Senator DeFrancisco, an explanation of the bill has been requested.

SENATOR DeFRANCISCO: Yes, Senator Farley needs a break this year.

This bill basically is pretty well stated in the one paragraph that comprises the bill. And it basically provides that Medicaid will not pay for an abortion unless it's necessary to save the mother's life or the pregnancy is a result of rape or incest which was reported to a law enforcement agency, or under other conditions required by federal law as a condition of continued state participation in federal Medicaid funding.

And the debate has been going on on this bill for many, many years. And some of the important points, I think, are the fact that we are in the minority in providing this unlimited funding without restriction. Thirty-six other states have restrictions such as this.

Secondly, the amount of funding

that this means approximately every year is over $30 million. And moreover, 90 percent of the abortions that are funded under the current system are abortions at request, without any medical reason behind it.

As a result, I think that we should become in conformity with the other states, the 36 other states, and provide that Medicaid funding for abortions should be limited to these three areas that I described before.

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

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Madam President.

I feel that we are a state that has been progressive and has been caring of women. And I'm very proud of that, that New York State has always been ahead of the curve and that we have consistently demonstrated our support for women.

After all, we had the protection and the opportunity for women to seek healthy, clean abortion services even before Roe versus Wade became the law of our nation. And I

think this is something that we should be proud of, that we have been, in this state, kind to women and have done most of what I would like seen for women in this state. There are still areas I would like to continue to work on.

But I think the thing that is most compelling in this issue is that a well-to-do woman of even average income is certainly capable of having the wherewithal to finance an abortion if she feels that this is something that is absolutely essential to her well-being, her family's well-being, and the well-being of the child when the child is born. I think every child certainly has the right to be born wanted and therefore loved and cared for.

So to say that because you are poor you are not entitled to these freedoms that are provided to women in our country I think is a very sad commentary. And so I don't want to believe that our state only cares for the wealthy and the middle class and doesn't care for the poor woman who wouldn't be able to access this kind of safe and clean service

that she needs.

And as we know from our history, we know that women who can't afford this and didn't have it available in the past -- you know, maybe 30 years ago -- they still did what they had to do. And if a woman has to - feels she has to get rid of the fetus, it will happen and it will happen in a back alley and it will happen with a lot of death.

Because we have awesomely awful statistics on what happened before Roe versus Wade and before New York State made this more progressive policy two years prior to Roe versus Wade.

I also would point out, lastly, that of the interest groups, those who favor this are only a handful and all are very involved within particular religious framework. Whereas those who are very much opposed to this are an enormously broad cross-section of people in this country - unions and religious groups, League of Women Voters, which I am particularly close to, Republican women, Democratic women, just innumerable numbers of organizations. Medical

organizations, nurses' organizations.

So I think this is really a bill that has very limited interest within our state, though it does seem to have a great deal of interest within this body. But I can say that I believe our state is a very strongly pro-choice state and that almost all women and most men believe that this is the way for us to go to maintain it for all people.

I'll be voting no.

ACTING PRESIDENT McGEE: Senator DeFrancisco.

SENATOR DeFRANCISCO: It's a little misleading to suggest that we're going back to the days before Roe versus Wade, because the horrors that the Senator is talking about was at a time when this state held abortions to be illegal. So people could take all kinds of different avenues in order to get an abortion if they wanted one.

Today, abortions are legal. Some feel they're not moral. Some people feel they should not be; others feel that it's a woman's right. But the fact of the matter is

abortions are legal in the state today. This issue is simply who should pay for them.

And this bill basically says the taxpayers should not pay for this procedure, which is an elective procedure. There are many elective procedures that are available to women, men, and all races and creeds. But that doesn't mean the State of New York has to pay for procedures that are elected by someone.

As far as poor people are concerned, you know, there are many different organizations that help the poor on all different aspects of their existence. And there's nothing preventing people to pay whatever the cost of an abortion may be for that person. We have organizations that fight for abortion rights. They certainly -- as the opponents do, they certainly spend an awful lot of advertising dollars and lobbying dollars. I would think that there would be an avenue of funds for people who are poor.

All this bill says is unless it's one of these three enumerated reasons, the State of New York taxpayers should not pay for

a woman's choice in this type of situation.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I listened with fascination to Senator DeFrancisco, because last year when we discussed this bill I said exactly what he just said, that abortion is legal in the United States, it is legal in New York State, there's no dispute here. While we may have a broad dispute about whether or not it should be legal, it is legal.

The issue in this legislation is really not about abortion. It's really about whether or not we're going to discriminate against poor people in the provision of health services. And I would strongly suggest that there are many things that all of us object to in this state budget.

I object to incarcerating people under the Rockefeller Drug Laws. Does that mean that I shouldn't participate in things or try and stop the state from doing that? No, I should try and reform those laws.

I object to spending money to subsidize corporations that don't create jobs and then move out of the state. The fact of the matter is our state is moving -- and Governor Pataki is taking great pride in touting this -- towards more health care coverage for poor people. That is the right direction. HCRA, Family Health Plus, the Women's Health and Wellness Act, these are movements in the right direction.

And the one piece of legislation that's just sort of stuck in the crack of history that will not let us move forward as we should is this piece of legislation.

Abortion is legal, this bill says abortion is legal, but if you're poor, you can't take advantage of it. If you're poor, we may provide you with some health care services but we're not going to provide you with the opportunity to exercise your constitutional right to an abortion, to control your body as provided for by the United States Supreme Court and in the law of our own state.

So I would suggest that anyone who

cares about the provision of health care services to our neediest citizens should vote no on this piece of legislation. I think we are moving in many respects in a good direction in regard to health care in this state. We have a lot further to go far. We have far too many people uninsured.

But please don't vote for this bill thinking that this is something that has to do with whether or not abortion is legal. Abortion is legal. This is simply about denying these services to poor women across our state.

I vote no, and I strongly urge all of my colleagues to vote no. Even if you're antichoice, if abortion is legal I don't understand how you can say it's only legal for the rich and not legal for the poor. That, to me, is an independent and separate wrong that we should not participate in in this house. I vote no.

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. I have debated this bill, I

think, with Senator Farley a number of times. And my views on this bill as a matter of fairness, as Senator Schneiderman mentioned, or as a matter of justice, as Senator Oppenheimer mentioned, are well known.

What I'm intrigued about, Madam President, is that I just don't understand our process here. Last Thursday I believe 58 members of this house voted for a budget that allowed Medicaid funds to be used to pay for abortion. And I didn't vote for that bill. I voted against it. I didn't like the process; I complained about the process then.

But nonetheless, I think with the exception of Senator Krueger, Senator Duane, and myself, every member of the Republican conference voted to allow state funds to be used to pay for medically necessary abortions for women on the Medicaid program. Here we are four days later, and we've suddenly changed our mind?

What I would just suggest, Madam President, is that the place for this amendment was last Thursday. If it had been proposed last Thursday, it would have been a

serious attempt to change the law of this state. And it would have triggered, in my opinion, a serious debate, since the issue was the money and how much we were going to pay for and who was going to be paid for what services. I think under those circumstances I think everybody in the chamber would be reasonable to conclude that this was a very serious effort to try to define what state money should be used for.

To have this vote occur within the shadow of the budget, the first day four days later -- when it doesn't have an appropriation attached to it, when it can't affect the appropriations in the budget, when it comes outside the budget context -- suggests to me as a ten-year veteran of this chamber that there has to be some other purpose behind it.

And I appreciate Senator DeFrancisco stepping up. I know that this bill, this concept is vitally important to members in this chamber on that side of the aisle as well as this. But to do it now, four days after 58 members in this chamber said it was okay and passed a budget, including a vote

from every single Republican in this house in favor of a budget to spend money for Medicaid funding for abortion now, suggests to me, just suggests slightly, I guess, based on my experience, that there has to be some other motive.

And with all due respect, I just - I don't understand our process. I don't understand why we do this now. It would have meant a great deal and I think would have been a fascinating debate when the money was in our hand, when we were standing there about to decide where it goes.

I have voted against this for the justice and fairness reasons expressed by my colleagues. I will vote against it again with just a big question mark saying why now, why didn't we do this when it really mattered last Thursday. And I don't know what the answer to that is, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Dollinger.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. I rise to address the bill.

ACTING PRESIDENT McGEE: On the bill.

SENATOR LIZ KRUEGER: Thank you.

I was quite shocked to hear Senator DeFrancisco describe this as an elective procedure, as if it was parallel to a facelift. Clearly, when women make the very difficult decision to end a pregnancy, it is not an elective decision parallel to cosmetic surgery or other things we might think of as elective.

I do appreciate that this bill is a bit more honest than the debate we had a week ago when we were debating the issue of criminal charges for attacking pregnant women and we were told that that was not a choice bill. And at least today's bill is clearly a bill that delineates the definition are we pro-choice or antichoice. Because, in fact, for poor women, absent Medicaid coverage, they don't have choice. They cannot afford abortions.

We already have 50 percent of the counties in our state that do not have providers for abortions. Ending Medicaid

coverage for abortion for poor women in this state is the equivalent of denying them their legal right to abortion.

And I also have to take disagreement with Senator DeFrancisco's analysis that it costs the State of New York $30 million a year to provide Medicaid coverage for abortion. In fact, it saves the State of New York far more than that each year.

If we were to calculate in a fair and honest budget analysis of the costs of different legislation, we would see that the cost to New York State if we were not providing Medicaid insurance to cover abortions would be dramatically higher to deal with the costs of illegal abortions and hospitalizations for women who ended up hospitalized because of botched and illegal abortions.

We would pay far more for unwanted children who were the result of high-risk, closely spaced pregnancies who were likely, by definition of being from poor families, to have a higher chance of being low birth

weight, requiring additional medical expenses at Medicaid expense.

And we, perhaps most importantly, would deal with decades of costs for unwanted children regarding adoption costs, foster care costs, negligence costs, court costs involved with dealing with the issues of large numbers of children who were unwanted brought here.

So I would argue that your fiscal analysis is wrong, that your analysis that this is an elective procedure is wrong, that your analysis that this in fact does not prevent poor women from getting the abortions they're entitled to under New York State law is wrong, and that it is critical that the State of New York continue its obligation and its responsibility to ensure that we do not discriminate against poor women's right to choice, because that is what the law of this state is.

So I will vote no and urge everyone to vote no. Thank you.

ACTING PRESIDENT McGEE: Thank you, Senator.

Any other Senator wishing to speak

on the bill?

Read the last section.

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

SENATOR DOLLINGER: Slow roll call.

ACTING PRESIDENT McGEE: There are five members standing. A slow roll call has been requested.

The Secretary will call the roll. Ring the bell.

SENATOR BALBONI: Madam President.

ACTING PRESIDENT McGEE: Senator Balboni.

SENATOR BALBONI: Could we please delay the slow roll call just a little bit, to allow the members who are currently in the committee meetings to make their way over here.

SENATOR PATERSON: Oh . . .

ACTING PRESIDENT McGEE: Senator Paterson, you have a pain?

SENATOR BALBONI: Thank you very much, Madam President.

ACTING PRESIDENT McGEE: You're welcome, Senator Balboni.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: I believe a slow roll call has been requested on Calendar Number 1210. If we could start the slow roll call at this time.

I know that there's a committee meeting going on. If we get through the initial round, we'll wait for absentees, for the committee people to come in.

ACTING PRESIDENT McGEE: The Secretary will call the roll.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Andrews.

(No response.)

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: Yes.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: No.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: No.

THE SECRETARY: Senator Brown.

(No response.)

THE SECRETARY: Senator Bruno.

(Senator Bruno was indicated as voting in the affirmative.)

THE SECRETARY: Senator Connor.

(Senator Connor was indicated as voting in the negative.)

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: To explain my vote.

ACTING PRESIDENT McGEE: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: I voted in the affirmative.

I just wanted to comment on a couple of things that Senator Krueger mentioned. That if this bill passed -- the comment was made that if this bill passed and it became law, abortion would only be a legal right for the rich.

I just learned from Senator Schneiderman that the average cost of abortion is $180 to $250. I reiterate what I said

before, there are all kinds of agencies that are providing funds for the poor for whatever problem there might be. And it would seem that there would be enough agencies out there to make certain that the poor had access to abortions if they elected to have one.

And to me, it's a little -- I don't know what the right word is. But to claim that it's cheaper for the State of New York and we're going to save money by aborting children because there might be unwanted children out there that may have problems in their lifetime or may be abused or may get into trouble or whatever it may be, that it's a cheaper solution -- you know, that really tells me that we've got a problem in society about really respect for life if we're talking about it's cheaper to have the abortion and the State of New York will make money if they paid now rather than paid later.

And I don't think that's a good enough reason to oppose this bill. I vote aye.

ACTING PRESIDENT McGEE: Senator DeFrancisco in the affirmative.

The Secretary will read.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Duane.

(No response.)

THE SECRETARY: Senator Espada voting in the negative earlier.

Senator Farley.

ACTING PRESIDENT McGEE: Senator Farley.

SENATOR FARLEY: Thank you very much, Madam President. Just to explain my vote.

ACTING PRESIDENT McGEE: Senator Farley, to explain his vote.

SENATOR FARLEY: Again, this is a piece of legislation that brings us somewhat in conformity with the great bulk of the rest of the nation. It says elective abortions will be paid for under conditions that the federal government has said is where we must pay for it for poor women.

This does not outlaw abortion, as so many seem to imply. But it is a bill that

has passed this house year after year after year which will not even be taken up on the floor of the Assembly, which is unfortunate. But there's many of us that feel very deeply on this issue, and I respect -

ACTING PRESIDENT McGEE: Senator Farley, one moment.

Will you take your conversations outside. Thank you very much.

Senator Farley.

SENATOR FARLEY: Thank you.

I respect the position that many of you have that are pro-choice. And I would presume that you respect the position of people that feel very strongly about life.

Actually, in this bill that we're going to pass today, I hope, there are a number of people that are pro-choice on this side of the aisle that vote in favor of this bill because they feel it is not the position of the government to get in to pay for elective abortion, including our Governor.

This is a piece of legislation which is reasonable. It is one that says that we will pay for abortions where the life or

health of the mother is in jeopardy, in rape, in incest. And for an elective abortion, it's a personal and it's a private decision and it will be paid for with personal or private funds or by Planned Parenthood or whoever might want to pay for those elective abortions.

And again, we always talk about or it's brought up about unwanted children or unwanted -- who are they unwanted by? I think it's very, very dangerous to say that -- and I think it's rather terrible around the world, as a matter of fact, in several countries where the birth rate is lower than the death rate. And it's basically because of abortions.

I vote aye.

ACTING PRESIDENT McGEE: Senator Farley will be marked in the affirmative.

The Secretary will read.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Yes.

THE SECRETARY: Senator Gentile.

SENATOR GENTILE: No.

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hassell-Thompson voting in the negative earlier.

Senator Hevesi.

SENATOR HEVESI: No.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: To explain my vote.

ACTING PRESIDENT McGEE: Senator Hoffmann, to explain her vote.

SENATOR HOFFMANN: I think it's very important to just establish that the rights of poor women are as important in this state as the rights of middle-class or wealthy women. And to deny women of fewer means the same access to quality health care of any kind would be a terrible, terrible abuse.

It pains me to have to speak to this issue again in such a short period of time, but I am saddened that there are so many in this chamber who would like to see abortion

outlawed totally.

I would keep the focus on this specific issue today and say that the poor women of this state deserve the quality care that we would want to provide for any woman of this state. I will vote nay.

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

The Secretary will read.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator L. Krueger.

ACTING PRESIDENT McGEE: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. I rise to explain my vote.

As I said before, I will be voting no on this bill.

Just to respond to Senator DeFrancisco's comments during his explanation of his vote. In fact, $250 for an abortion for the average woman on Medicaid who is a poor woman who is living with an income of under 70 percent of the federal poverty level

is an impossible cost. In fact, $250 may be half of their total income and will prevent them from meeting their other basic needs.

So I would argue that without Medicaid coverage, we would be preventing poor women from getting abortions.

And in response to the comment on the costs involved with unwanted children, in fact it was Senator DeFrancisco who opened that door by arguing for this bill as a cost-saving device, saying that the State of New York would save $30 million a year if we weren't paying for abortion under Medicaid.

In fact, we will have expenses associated with women who cannot afford abortions if we were to implement this bill into law.

And to clarify, I think in response to Senator Farley's comments also, I will fight just as hard for the rights of poor women to keep their children and to meet their children's needs as I will fight for the rights of poor women to have equal access to abortion.

Thank you.

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

The Secretary will read.

THE SECRETARY: Senator C. Kruger.

SENATOR CARL KRUGER: No.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: No.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Aye.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Aye.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Yes.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Yes.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator McGee.

SENATOR McGEE: No.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Yes.

THE SECRETARY: Senator Mendez.

ACTING PRESIDENT McGEE: Senator Mendez, to explain her vote.

SENATOR MENDEZ: Thank you, yes.

Madam President, last week, except for three colleagues of mine in this chamber, everybody voted to make it possible for couples who suffer from infertility to be able to receive taxpayers' monies to remedy that situation.

I think that -- and the women that we were thinking of at the time were not the poor women. They were probably middle-class, professional women, affluent women. And we went out of our way to help them resolve the problem of infertility.

I am voting against this bill

because I really believe that the women who are poor, they should have the monies necessary if they choose not to have a child.

So that I'm voting in the negative. Thank you.

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

The Secretary will continue to call the roll.

THE SECRETARY: Senator Montgomery.

ACTING PRESIDENT McGEE: Senator Montgomery.

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

I am voting no on this legislation. I think it is discriminatory against women who do not have means. They should have the same access to legally endorsed medical care and assistance as every other woman in the state who is covered by any other insurance policy.

So I am voting no to say to women who do not have means that I care about their rights to health care the same as I do every other woman in the state.

ACTING PRESIDENT McGEE: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: No.

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

The Secretary will continue to call the roll.

THE SECRETARY: Senator Morahan.

SENATOR MORAHAN: Yes.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

ACTING PRESIDENT McGEE: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I'll be voting no because I truly believe that reproductive freedom is -- it's a hollow concept if you don't know how you're going to be able to fund it.

And many of the women in this state are faced with just that situation, and they don't know how to go about getting medical

access without having the funds.

So let me mention two other things that were brought up by other senators. I would say that the main reason that we have low numbers of births has absolutely nothing to do with abortion but rather with the costs of raising a child, of educating a child, and of just caring for the basic needs of a child, considering at the same time that in our society both parents have to work in order to be able to maintain an income for a family.

And that addresses a whole plethora of issues which I hope someday to be able to address on the floor of this chamber, including what we pay, minimum wage.

The other thing I'd like to mention is I think it was Senator DeFrancisco said something about, or maybe it was Senator Farley, that the bill covers also not just incest or life but also the health of a woman.

The health of the woman is not mentioned in this bill. And I think that is a glaring point that has to be -- we have to differentiate here. When it comes to the health of a woman, one has to think of whether

she is in a position emotionally, financially, educationwise, jobwise to bring a child into the world.

And I think that poor women are entitled to this choice and their mental health and physical health have to be considered. I'll be voting no.

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

The Secretary will continue to call the roll.

THE SECRETARY: Senator Padavan.

SENATOR PADAVAN: Aye.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: To explain my vote.

ACTING PRESIDENT McGEE: Senator Paterson, to explain his vote.

SENATOR PATERSON: Madam President, a woman's right to choice has been the law of this land and in this state for the last 30 years. There are some who disagree with that, probably for moral conviction, not the least of which would be Senator DeFrancisco and, before him, Senator Farley

and the late Senator Donovan, who felt very strongly on this Medicaid funding issue and fought on this floor for it for hours in the time I was here.

While I respect them, the reality is that to pass this legislation to put it into law would seriously diminish the right of women around this state, all women, to receive these services. Just for the reason that this whole issue is so controversial, you cannot compare this surgery to the normal types of elective surgery that are not covered.

It obviously has very severe consequences for those who go through it. Do they always consider those consequences? Maybe not. But not one woman in this state that seeks an abortion in my opinion should not get one due to financial reasons.

And what happens as a result is that these types of legislation become really tertiary attempts to diminish the law as it stands now. If you want to change the law, then change the law. But as it stands now, to limit the right or the opportunity of those to receive this type of coverage in my opinion

really systematically demeans half of the state's population.

It's certainly time that we recognized that if more people understood the circumstances that people who are put in this position where they have to seek an abortion through the Medicaid system, the more people that would understand it, regardless of their view, they would understand why this is not a good choice for us to make as a Legislature.

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

The Secretary will continue to call the roll.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Sampson, excused.

Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Schneiderman.

SENATOR SCHNEIDERMAN: No.

THE SECRETARY: Senator Seward.

(No response.)

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator A. Smith.

SENATOR ADA SMITH: No.

THE SECRETARY: Senator M. Smith.

SENATOR MALCOLM SMITH: No.

THE SECRETARY: Senator Spano.

SENATOR SPANO: No.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Yes.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: Madam President.

ACTING PRESIDENT McGEE: Senator Stavisky, to explain her vote.

SENATOR STAVISKY: Madam President, the bill on line 7 prohibits the abortion "or where the pregnancy is a result of rape or incest and the incident is reported."

How often are these incidents not reported? How often is the young woman ashamed of what happened? How often do they blame themselves for the action?

Secondly, it was said here that there are social service agencies that will take over the cost of the abortion. Then perhaps by inference we ought to let social agencies take over all health costs.

I think that's a serious mistake, and I vote no.

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

The Secretary will continue to call the roll.

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Aye.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Aye.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT McGEE: Absentees.

THE SECRETARY: Senator Andrews.

SENATOR ANDREWS: No.

THE SECRETARY: Senator Brown.

SENATOR BROWN: No.

THE SECRETARY: Senator Duane.

ACTING PRESIDENT McGEE: Senator Duane, why do you rise? To explain your vote?

SENATOR DUANE: Thank you, Madam President, yes.

I first want to clarify that I was not absent, I was in a committee meeting.

ACTING PRESIDENT McGEE: I don't know as you were marked absent, Senator Duane. So thank you very much for that clarification.

SENATOR DUANE: You're welcome, Madam President. It was said "now we'll call the absents," and I was not absent.

ACTING PRESIDENT McGEE: Okay.

SENATOR DUANE: I don't question Senator DeFrancisco's convictions, although - I -- I don't see him. But anyway -- and I don't think that there's any question on how I feel about this matter.

And I suppose it's an important issue, though it's been discussed ad nauseam

in the Legislature long before I arrived here. I don't think it has much chance of passing in the Assembly.

But I don't understand why it came out of the Rules Committee. It's no surprise that this bill was going to hit the floor. So it could have actually been done earlier in the session. It could have come out of another committee so we could have had a hearing on it.

But I suppose that now we can expect all the big ones to come out of the Rules Committee. So I'll expect that we'll see SONDA come out of Rules soon and the Dignity for All Students Act come out soon.

In fact, just today I had a group of gay and lesbian young people come to my office and lobby the Senate to pass the Dignity for All Students Act. And I really couldn't tell them why it was that we wouldn't pass a bill that would help stop them being harassed or beaten up in school merely because of their sexual orientation or gender identity.

So when they said, "Gee, why

doesn't the Senate take up this bill?" and I don't really know what to tell them, I guess now I could tell them: Well, we can expect to see it come out of Rules soon, because it's that time of year.

Though Dignity for All Students would be new for the Senate. The bill we're voting on today is not.

You know, it's no secret I think there's a certain amount of dysfunction here in the State Senate.

But all that said, I'm going to vote against this bill. I really think that a woman's right to control her body is one of the most important rights that we have in this state, in this nation, and we should in no way ever erode that, no matter what the income level that the woman may have or what her health insurance status may be.

So I'll be voting no on this, Madam President.

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

The Secretary will continue to call the roll.

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Seward.

(No response.)

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Ayes, 32. Nays, 26.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT McGEE: Yes, there is.

Senator Libous.

SENATOR SKELOS: Before we do that, Senator Libous, I'd just like to mention that today is the birthday of two very distinguished members of this chamber.

Senator Johnson Marchi, 81 years old.

(Applause.)

ACTING PRESIDENT McGEE: Senator Marchi, the Senate offers you happy birthday

wishes.

SENATOR SKELOS: And also Senator Paterson, who has a few years to catch up, but we wish him good health and many more years in this chamber also.

ACTING PRESIDENT McGEE: Happy birthday, Senator Paterson.

(Applause.)

ACTING PRESIDENT McGEE: Senator Skelos, certainly this great body wishes our very happiest congratulations to these two very fine gentlemen.

Senator Libous.

SENATOR SKELOS: If we can go back to Senator Libous.

And just so everybody knows, my birthday is February 16th, and you can mark your calendars now.

(Laughter.)

ACTING PRESIDENT McGEE: Senator Libous.

SENATOR LIBOUS: Madam President, certainly to all those in this chamber who will have a birthday this year, I would like to, on behalf of Senator Balboni, on page 27,

offer the following amendments to Calendar Number 611, Senate Print Number 5850, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR LIBOUS: And, Madam President, on behalf of Senator Saland, on page 20 I offer the following amendments to Calendar Number 451, Senate Print Number 5056, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Madam President, I believe that completes the housekeeping.

There will be an immediate meeting of the Banks Committee in the Majority Conference Room.

ACTING PRESIDENT McGEE:

Immediate meeting of the Banks Committee in the Majority Conference Room.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: There being no further business, I move we adjourn until Tuesday, May 21st, at 11:00 a.m.

ACTING PRESIDENT McGEE: On motion, the Senate stands adjourned until Tuesday, May 21st, at 11:00 a.m.

(Whereupon, at 4:40 p.m., the Senate adjourned.)