NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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11:55 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

THE PRESIDENT: In the absence of clergy, may we each bow our head in a moment of silence.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, December 16, the Senate met pursuant to adjournment. The Journal of Sunday, December 15, was read and approved. On motion, Senate adjourned.

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

Senator Bruno.

SENATOR BRUNO: Madam President,

can we ask for an immediate meeting of the Judiciary Committee in the Majority Conference Room.

THE PRESIDENT: Thank you, Senator.

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

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 Bruno.

SENATOR BRUNO: Madam President, can we at this time adopt the Resolution Calendar.

THE PRESIDENT: All in favor of adopting the Resolution Calendar please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe that there is a privileged resolution at the desk by Senator Nozzolio. I would ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Nozzolio, Legislative Resolution Number 6317, urging the New York City Congressional delegation to propose an amendment to the Constitution of the United States modifying the filling of vacancies in the United States House of Representatives.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is

adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe there's another privileged resolution, by Senator Hassell-Thompson. I would ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Hassell-Thompson, Legislative Resolution Number 6682, commending the Epic Theater Center upon the occasion of its designation for special recognition.

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 Bruno.

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

THE PRESIDENT: Yes, there are, Senator.

SENATOR BRUNO: Could we make the substitutions, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Spano moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 1971 and substitute it for the identical Senate Bill Number 720, Third Reading Calendar 1705.

Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 11710A and substitute it for the identical Senate Bill Number 7475A, Third Reading Calendar 1709.

Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 11744 and substitute it for the identical Senate Bill Number 7683, Third Reading Calendar 1730.

Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 11835 and substitute it for the

identical Senate Bill Number 7785, Third Reading Calendar 1731.

Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 11515 and substitute it for the identical Senate Bill Number 7821, Third Reading Calendar 1732.

Senator Fuschillo moves to discharge, from the Committee on Alcoholism and Drug Abuse, Assembly Bill Number 8429 and substitute it for the identical Senate Bill Number 7868, Third Reading Calendar 1734.

Senator Maziarz moves to discharge, from the Committee on Alcoholism and Drug Abuse, Assembly Bill Number 8775 and substitute it for the identical Senate Bill Number 7874, Third Reading Calendar 1736.

And Senator Paterson moves to discharge, from the Committee on Rules, Assembly Bill Number 11775 and substitute it for the identical Senate Bill Number 7652, Third Reading Calendar 1743.

THE PRESIDENT: Substitutions ordered.

Senator Bruno.

SENATOR BRUNO: Madam President, if we can stand at ease for just a moment, we're waiting for the return of the report of the Judiciary Committee.

THE PRESIDENT: The Senate stands at ease, Senator Bruno.

(Whereupon, the Senate stood at ease at 12:01 p.m.)

(Whereupon, the Senate reconvened at 12:24 p.m.)

THE PRESIDENT: The Senate will please come to order.

Senator Bruno.

SENATOR BRUNO: Madam President, can we return to the order of reports of standing committees.

And I believe that there is a report from Judiciary at the desk, and I would ask that that report be read at this time.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Volker, acting chairman from the Committee on Judiciary, reports the following nomination:

As a judge of the Court of Claims, James J. Lack, of East Northport.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Madam President, the Judiciary Committee had the hearing today and voted unanimously to send the name of Senator James J. Lack, of East Northport, to the floor.

And to make an opening statement on the nomination, I will refer to Majority Leader Senator Joseph Bruno for a statement.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President and colleagues, I stand to speak about a Senator that joined the Senate sometime close to the time that I did, within a year or two after, and who has, over these past years, served with great distinction in every way that he has been asked to serve. He has made we, his colleagues, proud of him as a Senator. His wife, Therese, is here, daughter, Kara, and he's made them proud, I'm sure.

And when Jim Lack goes on, as he will, to the Court of Claims, he expands his jurisdiction, he expands his public service,

but he builds on the base that he has had here as chair of Judiciary, which is one of the prestigious, powerful, important committees in the Senate. And he has done that with great diplomacy, with his superior intellect as he approaches all the things that have to be considered, and he has done it in a way that has been beyond reproach.

So we're indebted to Jim. I personally, as part of leadership here, Jim, have been indebted to you for your service in the Senate for all of these 22-some years, and am totally confident that as you go on to be continuing in public service that you will continue with the excellence that you have demonstrated here with your colleagues.

So we're sorry to see you leave the Senate, but we're very, very happy for you, for your extended constituency, and that you will continue your good work on behalf of so many people. So I'm going to congratulate you in advance, and I urge my colleagues to move this nomination.

Thank you, Madam President.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Thank you, Madam President.

You know, when you look back on the calendar, and I look at -- in fact, starting in January, I'll be starting my 25th year in the Legislature. For those of us who have been here for a long time, you think back where we were when we started and how did all of a sudden, overnight, it seems that 25 years have passed.

I was very happy and proud to have been elected back in 1978 to the Assembly, the same year Jim was elected to the Senate. And during these past 24 years, I've certainly, like many of us have, seen many members come and go. Every member has their own style, their own temperament, their own way of impacting the system. But there are a few of them who have really made a major impact on this system. There are a few of them who I have met who have made a major impact on me personally, in my own life and my own political career.

And it's Jim Lack who I have spent hours and hours with, as my seatmate right

here for the past 16 years, sitting alongside him in the conference for 16 years in the Majority, sharing offices in -- when I was first elected for my first day in the Senate, and sharing conference rooms with him and fighting with him over whether the conference table was 6 inches over on my side or his.

But he came to this -- and he talks about the citizen legislature. He came to this Legislature with a background in consumer protection, came here and took that background and was the prime sponsor of the Bottle Law that really changed the way that we treat our environment and our community in this state. He was a person who was ahead of his time.

You know, before it was fashionable for many of us Republicans to be friendly with organized labor, Jim Lack was chair of the Labor Committee in the Senate and led the way so often in protecting the rights of workers, making sure that injured workers, through workers' comp, were protected, and made sure that within our Senate Majority conference there was a voice in reaching out and speaking for organized labor across the state.

He was a true leader in his effort when he chaired the National Conference of State Legislatures, where he rose up through the ranks and worked real hard in committees and became the chairman of this national group and traveled across this country and across the world, meeting with other legislatures, but always came back home here to say that we were the best.

When he chaired the Judiciary Committee, he took that same passion that he has shown in his own life and his own political career to that committee as well. In all the years I've been here, there is probably no one that I think has more of an institutional memory of this house than Jim Lack, no one who has had more of a commitment to the rank-and-file members and to this institution than Jim Lack.

And I know that -- you know, I had a chance to spend some time with Jim's mom. And I know that Jim's mom was very proud of her Jimmy, as she would call him, as a Senator. And unfortunately, she's not here today to share this day when we'll be able to

call him a judge.

But it's a day that your family will certainly all be proud, Jim. All of us who consider to be your close friends are very proud of you for what you have done for us, for your community on Long Island, for the people of this state, for legislators across this nation who have looked up to you.

So to Therese, to Kara, to Jeremy, who is not here, and to your mom, who is here looking down, we say that we all love you, we're going to miss you tremendously. But the Governor made an excellent choice. And what better time than this holiday season for us to be able to say some nice things about a real good guy who's going to be an outstanding judge.

Congratulations, Jim.

THE PRESIDENT: Senator LaValle.

SENATOR LAVALLE: Thank you, Madam President. I rise to support this nomination of a colleague. Senator Lack's district is the district to the immediate west.

Jim Lack and I first met in 1977,

which was the first year that I served in this chamber, and he was the Commissioner of Consumer Affairs in the County of Suffolk.

At the time, myself and then Senator Pisani had the notion that there were food products in cans or elsewhere that were on the shelf or in the grocery store for a considerable period of time and, without any labeling, the consumer did not have an idea of whether that was a new product or an old product.

And I reached out for cooperation and some guidance and assistance from the then Commissioner of Consumer Affairs. And I must tell you that he was enthusiastic, he was -- and the people that worked with him in his department. The things that we did in going through grocery stores -- and we found that a grocery store in my village was probably the greatest offender and the greatest abuser of having products on the shelf for -- that were years and years old. And so that was our first introduction.

We then got to know one another. And when the Second Senatorial District seat

became available, I received a call from the county chairman at the time. And the senator, Jim's predecessor, really kind of late in the game, as we would say, decided not to seek reelection, and so the party in Suffolk County was looking for individuals.

And when he called me, I indicated that our then -- our Consumer Affairs Commissioner, now he had moved to the Better Business Bureau, would be an excellent, excellent choice. And there were certainly other people who voiced that approval.

And Jim certainly has, through elections and through his work in this chamber, has indicated that he has been a very focused and knowledgeable legislator.

On a personal basis, we have seen our children grow up, we have seen them get married, we have seen our parents pass away. And so over these 26 years that we've known one another, it has been not only in a collegial, professional way but also a way that we interact on a personal basis.

Jim Lack has been, in the years that I've been here both as a member and a

staff member and seen people chair the Judiciary Committee, he has been just a fantastic chair. The person that succeeds him will have to reach very high to get over the bar. And certainly he has made an enormous contribution to improving the court system, changes to the Estate Powers and Trust Laws, the EPTL, and on and on. And I know that Jim will make a very good Court of Claims judge.

I wish you good luck, Jim, and to your family, congratulations.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Madam President, and as I said at the hearing, in the Judiciary Committee hearing, I believe I am the second most senior member of the Judiciary Committee after Senator John Marchi. I've been in the Legislature for 30 years.

And I've known Jim Lack for just about 25 years, whatever he's been in the Legislature, and knew him actually before, casually, in his career with consumer protection and several other areas.

But let me just say that we have worked together, since he became chairman of

Judiciary, in trying to deal with some of the complex problems involved not only in the judiciary but in the entire justice system. Because one of my charges in Codes, as chairman of Codes, is to also oversee part of the civil justice system. And we have worked on many projects together -- not always agreeing, but always we have tried to provide a united front in behalf of the Senate.

And there are a lot of people who we've confirmed over the years to judgeships, but I can't think of hardly any who have had the competence and the ability that Jim Lack has. And there's no question in my mind he will make a great Court of Claims judge.

And I wish him the best, and Therese and Kara and also Jeremy. He has a great family. And as I tell my wife, without my wife, I wouldn't be anything. Without Therese, it would be much more difficult.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Madam President. I too would like to join my colleagues in rising to second the nomination of my friend and colleague, Senator -- soon to

be Judge -- Jim Lack.

Picking up on some comments that Senator Spano made, I know that each of us in this house develop relationships with individuals both professionally and personally. And from a professional standpoint, when certain issues come up and colleagues are mingling and talking about how to handle those issues, issues about Senate rules or often ethics or legal matters that pertain to certain types of legislation, often referenced in those conversations are "Why don't we see what Jim Lack thinks about this, because he has a perspective on that issue."

Or, as Senator Spano mentioned, he understands the rules of the house and often was very proud of the fact that the Senate stood for something and today still stands for something.

On a personal basis, I will be saddened to see my friend and colleague leave the Senate, but I will have a friend and colleague who will soon the joining the Court of Claims.

And just on a couple of personal

notes, I will tell you that in the mornings, Senators Spano and Maziarz, Senator Lack and I have been walking for several years. And I know it might not show on any of us. But he is probably the fastest walker. He should be a sprinter, because he moves quite quickly. And I know that Senator Maziarz in particular has had trouble keeping up with him.

But, Senator, I think that's indicative of your entire career, that many of us have had trouble or will have trouble in keeping up with you professionally.

So I just want to wish you the very, very best. And as I said, I will miss you as a Senate colleague, but you will always be a good friend.

THE PRESIDENT: Senator Stafford.

SENATOR STAFFORD: Madam President, when you've been here as long as some of us, you make friends by osmosis. And what I mean by that is you really learn about each other, you learn the strengths. All of us have had that experience.

And I can share with you that one of the real -- and, as you know, interestingly

enough, you don't make that many close friends. But one of the real and close friends that I've made here in the Senate is Jim Lack.

He has relatives that live in my district. I was concerned -- this was years ago, I handled a closing for his brother, and his brother said, "What can I do for it?" His brother is a doctor in our area. And he sent me a case of Beefeater gin. That made me a little nervous. That wouldn't be the case today, by the way. But that was -- that's all history. It's all history. (Laughter.)

But I do say, as has been said here today, but it should be said over and over, Jim does have such a great legal ability, understands people, and will do such a great job.

And I have to share this with you, Therese and Kara. You should be recognized, but Jeremy also has become a friend of mine. And not being here, I have to share with all of you there is not a sharper, brighter, plus personable fellow than Jeremy Lack. So we certainly are thinking of him at this very,

very important occasion.

We compliment the Governor on another great appointment. And I know we'll hear a great deal about the great work that Judge Lack will be doing.

Thank you.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR BRESLIN: For the past several years, I've served as the ranker on Judiciary. And Senator Lack has provided not only myself but all the members, Democratic and Republican alike, every accommodation.

And he had only one goal as the chairman of Judiciary, and that goal was the betterment of the judiciary, whether it be in the passage of laws that cleaned up or modernized the EPTL, or whether it be judges that were being approved and sent down to us by the Governor. Whether it was 18B, which he made every effort to make and have it become law, or court reform, he was always on the cutting edge of doing what was right and

making things better for the judiciary. And it isn't a coincidence today that by his nomination we are in fact making the judiciary better.

Thank you very much, Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: I agree with Senator Breslin -- as I usually do -- about the great qualifications of Senator Lack.

Senator Lack I met when I first came here in 1986. I remember his work on the Long Island Power Authority bill in 1987. My favorite incident was the time that we were having a dispute about Robert's Rules of Order and Senator Lack came over to show me a document known as Mason's Rules of Order, which are the rules of order for government procedure.

And, from that day in 1996, I have never seen another copy of Mason's Rules of Order. I think Senator Lack actually wrote that document to convince me of his view on that particular rule.

But it's just an example of his

scrupulous attention to detail, his enthusiasm and passion for issues, his work on consumer protection, also labor issues, products liability, and of course the difficult task of picking the judges here in the state of New York.

This time we pick him as a judge. I think he'll be outstanding. He has always had a dynamic approach as an individual, an articulate voice as a speaker. I've never had the opportunity to get to know him that well, as Senator LaValle or Senator Stafford have. I don't know his family, but I'm sure they're very proud of him, as they should be.

And we certainly here in the Minority -- Senator Connor spoke to me this morning about Senator Lack. The former leader Senator Ohrenstein also spoke to me to congratulate Senator Lack from their work with him as leaders of the Minority conference while Senator Lack served 24 years in the Senate.

We're all very proud of him and certainly wish him well. I didn't think that as a leader the first thing I would do would

be to get up and extol the virtues of a Republican, but it was most apropos in this case. And we certainly look forward to viewing Senator Lack's work on the court and trying as desperately as we can to replace him in his service to this chamber.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Madam President, I'm here to support the nomination of Senator James Lack for Court of Claims judge.

Senator Lack has been a confidant and a friend whose advice has proved invaluable to me over the years. He's been my seatmate for 24 years and been part of the strong Suffolk delegation, which included Senator Trunzo, Senator LaValle, and myself and him, and now of course we have Senators Fuschillo and Marcellino as well.

He has served the public and the state very well with his legislation over the years. He's served the people of Suffolk very well as part of our strong delegation which I mentioned. He's raised a beautiful family, has a wonderful wife. He's a special person

and one that we'll not soon forget.

I think there's no doubt in my mind that I'm going to miss him, and many of us here will miss him. We wish him well. We know he's going to be a wonderful judge, and we wish him well in his future career.

And bon voyage, Jim.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I rise since I'm in the business of doing legal work before judges, and I want to make sure that I stand up and speak in case I ever appear before Jim in any of my cases.

But having tried a lot of cases, I think the most important thing for a judge is not only to know the law, the substantive law and the issues that are being dealt with, the rules of evidence, the procedural rules, but also to be able to apply those rules in a fair and an even-handed manner.

Although on first meeting Jim, he's a very outgoing, very forceful, intimidating individual. But on the other hand, deep down, to those of us who know him, he's a man with a

huge heart and a man with a sense of fairness second to none.

Jim, you're going to make a great judge, and I hope I have the honor to appear before you at some time.

THE PRESIDENT: Senator Saland.

SENATOR SALAND: Thank you, Madam President.

I rise in support of the nomination of Senator Jim Lack in what is certainly a joyous and yet I'm sure a bittersweet moment for him -- perhaps purely joyous for his family; he'll have the opportunity to return home now, instead of the trek to Albany that he's been engaged in for 24 years.

But bittersweet in the sense that I'm sure that the relationships, the accomplishments, the commitment that has tied him so closely to the state capital and to his constituents in his district will not easily be transitioned into the judgeship.

Bittersweet for me because Jim Lack is among my dearest of friends. He and I and his wife, Therese, and my wife, Linda, spent a loot of time together. As I mentioned briefly

in the Judiciary Committee, Jim is not only a friend of enormous standing but a mentor.

And we've all heard from a number of our colleagues about the multidimensional Jim Lack. Jim is certainly a superb intellect, globally bright and, in my opinion, quite the Renaissance man. He's a man who's devoted to his family. He's a man who's devoted to the task, whatever it may be. And he brings this extraordinary capacity and energy to whatever it is that the issue may be.

And I'm sure, although I didn't have the opportunity to know of his accomplishments or share the accomplishments that he had as the chair of the Labor Committee, I can tell you from firsthand experience that as the chair of the Judiciary Committee he has been just unending and tireless in his devotion to the judiciary. And there are things that he has done that I'm confident would have been a far greater task and maybe not a doable task for another chair of that same committee.

There are many ways in which I

could thank Jim. One of the ways perhaps would be if I had my wife, Linda, here to thank him as well. And Jim and Therese and Kara are aware that she had every intention of being here, but unfortunately a personal situation has required her to stay at home.

Jim is the, as was pointed out, I believe, by Senator Spano, is the former president of the National Conference of State Legislatures. And I tell you from my involvement that the same type of dedication, the same type of energy, and the same crisp, analytical ability that he's demonstrated here time and again, both on the floor and in conference, is really his hallmark at the NCSL.

He's a man whose contributions have not merely been to the chamber that we reside in, and to this legislative institution, but the legislative institutions of all fifty states.

He's an extraordinarily dedicated and extraordinarily capable and extraordinarily judicious man whose analytical abilities, combined with all of his other

qualities, will make him the superb judge that I'm confident that he will be.

And God bless you, and I wish you nothing but the best for you, Therese, Kara, and certainly Jeremy as well.

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: Madam President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

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

Senator Trunzo.

SENATOR TRUNZO: Madam President, I stand here to second the nomination of James, better known to me as Lacky, as the Court of Claims judge.

Jim and I have been working together very closely over the many years. We shared offices in the state office building in Haupauge, and so I got to know Jim very, very well. And really, when Nick Spano had indicated the fact that as chairman of the Labor Committee, when Senator Anderson

appointed him as chairman of the Labor Committee, and myself as the chairman of the Civil Service and Pensions Committee, together, I think we together, Jim, Nick, and I, have revolutionized the whole labor movement for the Republican Party here in the state of New York.

But I know the other side of Jim Lack, which I ain't going to go into, because he is a good guy. He has been an outstanding legislator, one that I've been proud to know and to work with, to kid around with him, to insult him at times and whatever else had to be done, as friends normally do.

But I commend the Governor for appointing him as a judge of the Court of Claims. And, Jim, I wish you the best of luck, and I'm going to miss having you around.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President. I made my remarks in the Judiciary Committee about Jim Lack. I'm going to just add one other postscript to those.

Jim, you have proven, in my

judgment, to have the attributes of the great hitters in baseball: you know how to hit a curve ball. I threw a bunch of them in the Judiciary Committee at you when you were the chair. And I think this is a message perhaps to those who follow Jim Lack in our understanding of the judicial system. I would throw a curve ball at Jim Lack about what practitioners did, being a practitioner myself, and he always seemed to have the right answer.

He would talk about how the intricacies of what we do here affect lawyers planning for their clients, judges handling cases in front of them. That is what the legal system is all about.

And I think his -- certainly his spectacular performance in swinging at the Dollinger curve ball, that's what you're going to see on the bench, Your Honor. And I know that you know how to hit it, I've seen you hit it out of the park. And I only hope that when you see those pitches as a judge, you will again use that bat honed in Long Island and in the politics and experiences in this chamber

and send that ball into the deep stratosphere in the night.

Congratulations and good luck.

THE PRESIDENT: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President. I get up here and sort of -- almost it's a sad day to see Jim leave.

I know that when I first came here eight years ago and I kind of looked around this chamber and our conference, Jim was an attorney, he was from Long Island, he was forceful, he was outgoing. We really didn't have a whole lot in common.

But I have to say that mostly through working with Jim on judicial appointments for the area that I represent, there are a lot of county court judges and family court judges today that were -- the system of being appointed and being confirmed was made much easier, Jim, because of the advice that you rendered to me.

And Senator Libous mentioned our morning walks. And he's absolutely right, Jim; you walk far too fast, particularly for me.

But I know that there were many times, tension-filled days, like today is, when very controversial issues were going to be coming up, and Jim would give us his morning analysis of all those. And I'd have to say that when it came to Spano, Libous and Lack, Jim Lack was always right, the other two were almost always wrong. (Laughter.) So I learned early on to take Jim's advice to heart.

And, Jim, we just want to congratulate you. I'm truly going to miss you, Jim, miss your advice on a lot of important topics to me and to the constituents of my district.

And I do have a message for you. Beverly said that if you need any help with the Court of Claims, just give her a call and she'll help you out. Okay?

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR MEIER: I'm very pleased to rise to support the nomination of my good

friend Jim Lack to the Court of Claims.

When you come here as a new member, you find out pretty quickly that this institution operates on two principles, seniority and collegiality. When you're new, there's a lot of guys willing to teach you about seniority and how that works. Jim Lack was one of the guys who taught me about collegiality.

You quickly learn when you're new here that Jim Lack is one of the best people in this body to go to talk to if you have a question about legislation, about public policy. And I found out what kind of a guy Jim Lack was when something occurred in my second term. It was important to me to have a seat on the Energy Committee because of the large Power Authority assets in my district, and there was no room on that committee. It was Jim Lack who gave up his seat so that I could sit on the Energy Committee and adequately represent the people of the North Country.

And with Jim Lack, no kindness is too small. When my daughter was about to get

married, it was Steve Saland and Jim Lack who counselled me through the process, providing important tips on how to deal with the bride, the mother of the bride, and not least of which was Jim Lack, who counseled me on how to deal with the macatuna [ph]. For those of you who don't understand what I just said, you can look it up or ask Jim Lack, who is an encyclopedia of such knowledge.

I said once before about another judge, and I say this proudly about you, Jim: Judges find the law in books. They find justice in a life well lived, in a well-rounded life, and in a sound grounding in what is important and valuable in life. You combine all those things. You will be a wonderful judge. God bless you and good luck.

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President. I too want to join my colleagues in praising our good friend Senator Lack and wishing him well as he moves on.

And I'm reminded of what a great success he has been in yet another area, and that is as a distinguished member of Cornell

University's Board of Trustees. He has represented this chamber, two separate majority leaders, as a very earnest member of that board. And as such, he has developed a very warm rapport with a number of people in the Central New York area, in the Finger Lakes area.

In his travels nationally and internationally, we have all been fortunate that Senator Lack has regarded not just his own district but all of New York State as his home or as his bailiwick, and he has done wonderful things to promote us as a state, as a people, and to explain to those who might be less informed about our many bounties and our great strengths.

We have been well served by him, not only as a legislator but through his capacity as past president of the National Conference of State Legislatures. He has been a representative to all of us in this chamber and to our constituents in the process.

This gives him a unique background moving into the judiciary branch of government, and one which will show temperance

and an understanding and compassion that might be lacking in other judges.

So for your great breadth of experience, we are indeed fortunate, and so is the state. And the Governor is to be commended in his wise choice in your position.

THE PRESIDENT: Senator Seward.

SENATOR SEWARD: Thank you, Madam President.

It gives me a great deal of personal pride to stand and to support the confirmation of our good friend Jim Lack to become a judge of the Court of Claims.

I arrived as a member of this chamber 16 years ago. And over those 16 years, as have so many mentioned here today, we've grown very close in terms of friendship with Jim Lack, and something that's very dear to me and something that even though he's going on will remain with us in the future, and I'm very pleased about that.

Much of what my colleagues have said I would echo in terms of Jim Lack's intellect, his hard work on behalf of his constituents in Suffolk County, but also on

behalf of the people of the entire state and of course with his presidency of NCSL; in fact, his hard work on behalf of people all over the United States of America. And that's a great legacy that will remain in terms of Senator Lack's hard work as a legislator.

And of course, building on what Senator Hoffmann had mentioned in terms of Jim Lack's involvement with Cornell University, I've been privileged to represent Cornell as part of my district these last 16 years. And I know firsthand, because of Jim Lack's work as a member of the board of trustees of that great institution, how much he has contributed to the ongoing success of that great research university.

In fact, we're very pleased that his son, Jeremy, is a student there, an outstanding student at that.

And so personally, on behalf of my constituents as well, and specifically on behalf of the Cornell University, I want to congratulate Jim Lack on his confirmation as a judge of the Court of Claims. We also want to acknowledge his wife, Therese, and his

daughter, Kara, and of course Cornell alum Jeremy, because you all have meant a great deal to that community and to me personally. And for that we thank you, congratulate you.

We know you're going to make an outstanding judge of the Court of Claims. Congratulations.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President. I'm not going to repeat all of the great things and good things that I'm sure my colleagues have said about Senator Lack.

The Senator has been a good friend and a mentor of mine since I was elected eight years ago. We shared a common part of Suffolk County, and I always looked to Jim for advice and counsel. Didn't always take it, but I always looked to him for it. The times I didn't take it, I probably was wrong, I should have.

But the Senate will be losing a sense of institutional knowledge that is hard to replace; in fact, impossible. When you've

been here as long as Jim and you have served as well and you've done as much, you learn things. And Jim is that type of a person. Whatever job he takes on, he takes it on full boat, no half-hearted stuff. He goes for it, he gains the knowledge, he gains the intuition, and he makes his decisions based on knowledge.

Jim knows the Senate. There have been many times I've heard him talking about rules and this and that that could be used and could be done. When we were in floor debates and battles on the floor, Jim always seemed to know the answer and always seemed to know how to get things done.

That will be missed in this house, besides his friendship and besides his -- well, I'm not going to miss his friendship, because he's going to be in Suffolk County and I'm going to always have access to him, and we will get together from time to time. But we'll miss him here in Albany.

And, Jim, we all wish you well and I wish you well personally. And to Therese and Kara and your son, who couldn't be here

but I'm sure wanted to be here, we say God bless and Godspeed.

THE PRESIDENT: Senator Larkin.

SENATOR LARKIN: Thank you, Madam President.

I too rise to -- someone said second him, and a couple of people here in the back row said to say it took a long time for Therese to convince him to quit.

But, you know, I go back to Jim when I was a member of the Assembly and we served on some joint committees. Jim, I think if you remember when Dan Walsh put together the joint tax committee and everybody was looking at everybody else. And Dan Walsh looked around and said, "Jim, legally, can we do it?" And Jim Lack said, "I'll think it over." And that's how that joint tax committee started that set a lot of the policies that are being enjoyed today.

And I think that a lot of the accountants, Jim, would remember that when we decided to pool everything instead of just sending something back to the CPAs or the constituent with a form letter that says "We

got your tax return and one of these days we're going to look at." We started going back with the window -- you remember the window you produced? And the window said "to John or Mary Smith," so then they were sure that somebody in the Tax Department had it.

I guess finally, because there's a lot of other people, when I became the president of NCOIL, Jim came to me and said: "Remember, you're just the president of an insurance organization. You are to lead, not follow, and every so often listen. They may have some good ideas."

Jim Lack, you've been a friend and a supporter. I can't tell you how much I appreciate everything you've done for me. And I want to say to his family -- what a wonderful family -- may God bless you always.

THE PRESIDENT: Senator Maltese.

SENATOR MALTESE: Madam President, I would be remiss if I didn't rise to add my words and accolades to my good colleague Jim Lack.

Speaking as a Senator, he always was a font of good judgment and wisdom and

good advice. In the questions of judiciary, the questions of potential judges, the questions dealing with the law, he always was available, always would get right back to me.

Where we had questions that related to potential candidates and where you had apprehension on their parts or you had some feeling that they wouldn't be acted on, he always allayed their fears, whether or not they were ultimately picked.

He was the perfect man for the perfect position, just as he is as he is sent to the judiciary. He certainly goes with our wishes for Godspeed, good luck, and congratulations on this fine appointment of the Governor.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, my colleagues, I rise to associate myself with the remarks, support and adulation and friendship that we have all shared as colleagues of this great body, as members of our conference in particular, with Jim Lack.

I just want to reference two points among those that have been made. I recall

that one of the first issues that I confronted as a Senator that Jim Lack was intimately involved with aggressively supporting, and that was something near and dear to me, when Jim was chairman of the Labor Committee supporting the construction, expansion, of the library at the New York State School of Industrial and Labor Relations at Cornell, something Jim was very much a part of, as M.P. Catherwood, who was one of my original mentors, and the library is named after M.P.

Certainly it was wonderful to see Jim's aggressive approach to that, a chore that I certainly supported. But we needed a leader, and Jim was our leader that pushed that through. And, Jim, for that I will certainly be forever grateful.

One other anecdote that comes to mind was when Jim spoke to the Appellate Division members in the Fourth Department out of Rochester, New York, and it was very interesting to see how judges were so attentive to a senator. I'm sure that had nothing to do with the fact that Jim made so many judges through the years in his capacity

as the chairman of the Judiciary Committee.

Jim, I hope that the judges give you as much respect in your position as a judge as they gave you as a senator. I'm sure that will happen. But nonetheless, you will be missed here.

Godspeed, we wish you well, and we know you will be a fine member of the judiciary, as you were a fine member of this body.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

I too rise and just want to offer my congratulations to Senator Lack and his family. And I must admit never seen him smile so much in the five years, almost, that I've been here. And, Therese, take that as a compliment.

But he's been a tremendous help to me. And probably the most discouraging thing I heard last night when he talked about his career -- and I say that as the junior senator from Nassau County, after almost five years --

that he is still the junior senator from Suffolk County after 25 years. I don't know what the future holds for me, but I know it's certainly bright for you.

Jim has certainly been a tremendous help to me with his insight of the inner workings of Albany. But for me personally, my best recollection is going to be of his friendship. And at a time, a personal time in my family when there was a crisis, this man came to rise to the occasion, to help my family, and I will forever be indebted and grateful to him. So I just rise to wish him the best.

And when you look back on your career here, you should look back with a smile on your face and say to yourself that in your 25 years in this Legislature, which is a great body, and I pinch myself every time I walk in here, you have truly left your mark and made a difference.

So best of luck. Congratulations to you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Thank you, Madam

President. It's my pleasure to rise and to join in the seconding of the confirmation of Jim Lack.

You know, it's very difficult in this house when we have the opportunity to say goodbye to somebody, at least from this chamber. I remember saying that when Manny Gold retired. And it's difficult, whether it's a Republican or Democrat, whether it's somebody that you've debated vigorously at times, like Senator Dollinger. I think we all have a respect for the institution of the State Senate.

And Jim Lack has been an integral part for so many years of this Senate chamber. He's a person that we've relied upon when issues of ethics have arisen, in looking for his guidance. And certainly any chairmanship of a committee that he's held, whether it was Labor or Judiciary, he's done it efficiently, with all his heart, and he's been a pioneer and an innovator in his chairmanship of those committees.

So yes, it's very difficult to say goodbye to a friend, a neighbor on Long

Island, a colleague for so many years. But it's always time -- our time all comes in this business where we have to move on, whether it's by the voter or it's a personal decision, as Jim has made.

But I just want to mention what a wonderful family you have, Jim. You know, Therese, we can say that you are truly a saint, being married to Jim all these years. And to Kara and Jeremy, who's not here, both of you have done a job with your children that I know how proud you are. And those of you who have seen them grow up know what a great job that you've done and how proud you should be of your children. But what's also important, Jim and Therese, your children are very proud of you.

So we wish you the best of luck, Jim, in your new endeavor.

THE PRESIDENT: Senator Rath.

SENATOR RATH: Thank you, Madam President. I rise to add my congratulations to soon-to-be-Judge Lack.

There's very little to add after so much has been said, but there may be a

relationship of mine that has been a little different the last several years. And it's been that Jim has served as chairman of the budget conference committee that worked on local government issues. And did I have a chance to learn a lot, sitting next to Jim Lack, as he was moving us through that. I appreciate your wise counsel and your patience with my efforts to learn and understand.

You've always spoken to all of us too, not only individually but collectively, in terms of our ethical approach and the need to be squeaky-clean, as it were. And I don't think we will any of us forget that, because that comes from deep experience and understanding of the challenges we face.

And you've been, of course, very supportive of the judges association, the Supreme Court Judges Association, of which my husband, I was very proud he was president. And you were there at the meetings, and they always loved to see Senator Lack come in because they knew they were going to hear what was really going on with the judiciary when you came in.

And finally, as you go to the judiciary, I would remember a time when Judge Kehoe ascended to the judiciary. And one of the wise sages of the Legislature said to me: "You know, the judges are always really glad when they get someone from the Senate to come up to the judiciary, because they can usually figure out what the senators meant when they passed legislation."

So good luck. You take a lot of institutional memory with you. And the people of the State of New York will be very fortunate to have another kind of service from Jim Lack.

THE PRESIDENT: Senator Wright.

SENATOR WRIGHT: Thank you, Madam President. I too join all of my colleagues in our support for Senator Lack today.

There's very little that I can add that hasn't been articulated and articulated very well. I've had the occasion to spend going on ten years now in the company of my colleague, and I found over the course of that time that he was someone you learned to respect, you took advice from. And on

occasion, I would attend national meetings and find that they too responded in very much the same way that all of us here did in the New York State Senate, seeking his advice, seeking his input, following his leadership, following his example.

All of those things that have been articulated this morning are very much true and very indicative of the way Jim has handled himself here in this chamber over more than two decades. But what I will always remember is each and every time that I encountered Jim when we returned from a long recess, were back after election or whenever the occasion is, when you're just meeting him, the first thing he asks is: How is your wife, and how are your kids?

And through all the business that we go through here in the Capitol and back in our district, I think we all respect and understand the importance of our family, and he's always put that first -- his family, our families.

So we're very glad and I'm very glad to be here to support his confirmation

and say to his family, you can be proud because we are. Best wishes, Jim.

THE PRESIDENT: Senator Leibell.

SENATOR LEIBELL: Thank you, Madam President.

I think it's pretty clear from the comments here today that our friend Jim Lack is going to be sorely missed. Jim has been in every respect a great legislator, and he has chaired one of our most influential committees and has done so with great expertise. More than that, he's been a colleague and a dear friend to all of us.

And I guess the vast majority of us are junior to you, Jim. And so we've all come in and been able to take your wisdom, your advice and your counsel. I know I certainly did.

You're going to be a great judge. It's a great nomination. And I'll look forward to many years of our friendship together.

THE PRESIDENT: Senator Hannon.

SENATOR HANNON: Madam President, I just would like to add my recommendation for

confirmation of Jim Lack, his family.

He's not only been personal friends, but I think he has added a special vigor, an intellectual vigor to the deliberations of this body, to the procedures of this body, to serving on the Ethics Committee, to knowing what the statutes are and having the intelligence and the intellect and the wisdom to apply them correctly.

And the driving force that Jim has added to us we will sorely miss. And I am delighted that he will be in a courtroom, he will be able to add that to the judicial wisdom of this state. And I concur in all of the good things that my colleagues have said about him.

Thank you.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: Thank you, Madam President.

As has been said here, there's very little to add after all of these accolades. But I would like to add one observation.

My first exposure to the expertise, knowledge and experience of Senator Lack was

as a member of the Consumer Affairs Committee. We sat there with the chairman. Many issues came up. And the person who, because of his background and experience, had the most to say that made sense was Senator Lack. He knew a great deal, a great deal more than the chairman, who happened to be a guy by the name of Joe Bruno. Now, apparently Senator Bruno has not remembered that. But I have.

We wish you all the best, and your family. And we know that this is something you have yearned for, deserve, and will benefit the people of this state in accomplishing it.

THE PRESIDENT: The question is on the confirmation of James J. Lack as a judge of the Court of Claims. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: James J. Lack is hereby confirmed as a judge of the Court of Claims.

(Applause.)

THE PRESIDENT: Judge Lack, as president of the New York State Senate, let me congratulate you, be the first to congratulate you with that official title.

I have known Senator -- former Senator, now Judge Lack for many years. The first impression of the Senator is definitely that he is a person of substance. As you get to know him and work with him, you know that that impression is definitely a reality.

I have always found Judge Lack in my dealings with him to be eminently professional, informed, and in the words of my dad, who was also a judge, a student of the law. You always interpret the law and blend it effectively with the facts. With my background on the State Supreme Court bench, I know that you will make an outstanding addition to the court system in New York State.

When I was with the Governor at lunchtime, I congratulated him on choosing my friend and colleague, Judge Lack, for this definite benefit to the people of the state of New York. Best wishes to you and your family

in all of your future endeavors.

Senator Kuhl.

SENATOR KUHL: Yes, Madam President. May we return to the order of reports of standing committees. My understanding is there's a report from the Rules Committee at the desk. I'd ask that it be read.

THE PRESIDENT: Report of the Rules Committee.

The Secretary will read.

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

Assembly Print Number 7535A, by Member of the Assembly Parment, an act to amend the Education Law;

Assembly Print 11460A, by the Assembly Committee on Rules, an act to amend the Education Law;

Senate Print 7597, by Senator Wright, an act to amend Chapter 519 of the Laws of 1992;

720, by Senator Goodman, an act to amend the Executive Law;

6193A, by Senator Leibell, an act in relation to legalizing, validating, ratifying and confirming;

7475B, by Senator Morahan, an act to amend the Public Health Law;

7683, by Senator LaValle, an act to amend the Environmental Conservation Law;

7785, by Senator Velella, an act to amend the Insurance Law;

7821, by Senator Breslin, an act to amend the Public Lands Law;

7859, by Senator Skelos, an act to amend the Real Property Tax Law;

7868, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

7871, by Senator Kuhl, an act to confirm, ratify, validate and legalize;

7874, by Senator Maziarz, an act to amend the Vehicle and Traffic Law;

7875, by Senator Maziarz, an act to amend the Vehicle and Traffic Law;

7876, by Senator Wright, an act to amend the Vehicle and Traffic Law;

7877, by Senator McGee, an act to amend the Vehicle and Traffic Law;

7879, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

7880, by Senator Rath, an act to amend the Social Services Law;

7870, by Senator Velella, an act to amend the General Municipal Law;

And Senate Print 7652, by Senator Paterson, an act to amend the Highway Law.

All bills ordered direct to third reading.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, I would move to accept the report of the Rules Committee.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report is accepted.

We'll return to the order of motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Morahan, I move to amend Senate Bill Number 7475B by striking out the amendments made on 7/22 and restoring it to its previous original print number, 7475A.

THE PRESIDENT: So ordered, Senator.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Bonacic, I wish to call up Senate Print Number 7654, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1566, by Senator Bonacic, Senate Print 7654, an act to amend the Tax Law.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, I now move to reconsider the vote

by which the bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, I now move to recommit the bill to the Committee on Rules.

THE PRESIDENT: So ordered, Senator.

SENATOR FUSCHILLO: Thank you.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time go through the noncontroversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 260, by Member of the Assembly Parment, Assembly Print Number 7535A, an act to amend the Education Law, in relation to the total salary.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator LaValle.

SENATOR LAVALLE: Yeah, to explain my vote, Madam President.

THE PRESIDENT: To explain your vote?

SENATOR LAVALLE: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR LAVALLE: Thank you, Madam President.

Madam President, when this bill was in committee I voted without recommendation. And my reason for that, although I am going to vote for the bill today, is that this is an issue of compensation dealing with our district superintendents, and that this could potentially have an impact on superintendent salaries and other salaries.

It's my feeling, given the budget constraints that we will be facing, that all

of the issues facing education should be put on the table at the same time dealing with mandates and property taxes and school expenditures and so forth.

I know that the district superintendents have been waiting for some relief, and in some cases this has caused us not to attract some of the best people and have in other cases allowed individuals to retire early.

But putting that aside, I will vote in the affirmative, Madam President.

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

Senator Kuhl, to explain your vote?

SENATOR KUHL: Yes, Madam President. To explain my vote, yes.

This is a bill that I have carried in the Senate and actually negotiated with the chairman of the Assembly Education Committee. Back in 1993, this body, along with the other house, with the consent of the Governor, agreed to put a cap on BOCES superintendent salaries. At that time there was a tremendous

and very abusive situation which allowed for a Long Island school superintendent to retire with a million-dollar golden parachute.

Since that time, this Legislature has enacted significant reform on the BOCES level dealing with adoption of the budgets, et cetera, et cetera, et cetera, so that those abuses are no longer available and no longer able to be carried out by various school boards at the BOCES level.

What we have found now is that there are 19 BOCES school superintendents who have been at this cap for some time, out of 38 existing positions in this state. Normally we view occupational situations where there needs to be a ladder. A BOCES school superintendent is the top of the ladder as far as employment goes, but at the current time they're not at the top of the ladder salarywise.

Their salary right now is capped at about $128,500. And while that may seem significant, people in this chamber should know that the average salary statewide for school superintendents is roughly the same, for school superintendents, and that the

salary average for big schools across the country are in the neighborhood of $175,000 a year. So that this position, which is really the pinnacle of administrative positions in this state, really is very underpaid.

Keep in mind, and the bottom line is, this is a local option to be enacted at the local level. It has nothing to do with state expenditures of dollars. And so for that reason, the bill is coming forward.

And it's taken us many years to get to this position. And certainly I vote in the affirmative in support of the bill.

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

Senator Oppenheimer. To explain your vote, Senator?

SENATOR OPPENHEIMER: Yes, thank you. To explain my vote.

This has been very long coming. And I think there is no county that was in a worse situation than Southern Westchester BOCES. We were not able to get anyone to take the job for well over a year, close to two.

And that was because there was not one district, individual school district that was paying as low as the BOCES superintendency. So we finally convinced someone to take a good salary cut and accept the job, but that was only after the BOCES superintendency had been vacant for a very long time.

This is absolutely essential. I think when we originally passed the bill a decade or so ago, maybe not that much, we certainly didn't mean to cap it at one year and never let it progress through the years with the inflation that was going on, with the increases that were going on in our school systems and with our superintendents.

So I think this is certainly a move that will ease the situation. We will hopefully be able to find BOCES superintendents who are willing to take the job. It is an all-encompassing job and one that has a lot -- offers a lot of support for all the various school districts.

So I commend Randy Kuhl and am happy to cosponsor it. Thank you.

THE PRESIDENT: Senator

Oppenheimer, you vote in the affirmative?

SENATOR OPPENHEIMER: I am voting in the affirmative.

THE PRESIDENT: You will be so recorded, Senator.

Senator Dollinger, to explain your vote.

SENATOR DOLLINGER: Thank you, Madam President.

This restriction on salaries I think originated in Long Island with a superintendent who probably inadvertently gave his name to this law. And I'm actually proud, Senator Kuhl, to be voting in favor of repealing Murphy's law.

I only wish that the law of unintended consequences could be repealed as well, because this is clearly an instance where the State Legislature got involved in doing the one thing that I have always railed against: we shouldn't be in the business of putting artificial caps, artificial prices, interfering with the private marketplace in which we allow people to sell their services and allow government or the private sector to

buy those services. Let the marketplace resolve the questions of what they're worth and what those we charge with paying their salaries, what they decide to pay them.

This was a bill that grew out of the ire of a superintendent getting a million-dollar golden parachute. I think that I understand the motive for it. I may have even voted for it. But my lesson in ten years here is that if the Legislature is doing its job, it stays out of the business of setting salaries, setting prices, fixing the terms of competition. Let the marketplace do it.

We're going back to the marketplace now. That's where we belonged all along, Madam President. I'll vote aye.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1300, by the Assembly Committee on Rules, Assembly Print Number 11460A, an act to amend the Education Law, in relation to appointment.

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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1608, by Senator Wright, Senate Print 7597, an act to amend Chapter --

SENATOR DOLLINGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1705, substituted earlier today by Member of the Assembly Sanders, Assembly Print Number 1971, an act to amend the Executive Law, the Civil Rights Law, and the Education Law.

SENATOR DOLLINGER: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1707, by Senator Leibell, Senate Print 6193A, an act in relation to legalizing, validating, ratifying and confirming actions of the Brewster Central School District.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1709, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11710A, an act to amend the Public Health Law, in relation to rates of payment.

SENATOR DOLLINGER: Lay that bill aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1730, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11744, an act to amend the Environmental Conservation Law, in relation to land use.

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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1731, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11835, an act to amend the Insurance Law, in relation to permitting.

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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1732, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11515, an act to amend the Public Lands Law, in relation to state aid.

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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1733, by Senator Skelos, Senate Print 7859, an act to amend the Real Property Tax Law, in relation to including certain vacant.

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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1734, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8429, an act to amend the Vehicle and Traffic Law, in relation to reducing.

SENATOR HEVESI: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1735, by Senator Kuhl, Senate Print 7871, an act to confirm, ratify, validate and legalize certain propositions.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1736, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8775, an act to amend the Vehicle and Traffic Law, in relation to providing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1737, by Senator Maziarz, Senate Print 7875, an act to amend the Vehicle and Traffic Law, in relation to repeat convictions.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1738, by Senator Wright, Senate Print 7876, an act to amend the Vehicle and Traffic Law, in relation to aggravated driving while intoxicated.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 10. This act shall take effect March 1, 2003.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1739, by Senator McGee, Senate Print 7877, an act to amend the Vehicle and Traffic Law, in relation to driving while ability-impaired.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 17. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1740, by Senator Fuschillo, Senate Print 7879, an act to amend the Vehicle and Traffic Law, in relation to the threshold for driving while intoxicated.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1741, by Senator Rath, Senate Print 7880, an act to amend the Social Services Law, in relation to medical assistance reimbursement.

SENATOR HEVESI: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

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

THE PRESIDENT: Yes, there is, Senator Bruno.

SENATOR BRUNO: I would move to accept the message.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message of necessity is accepted.

Senator Hevesi, the bill is now laid aside.

THE SECRETARY: Calendar Number 1742, by Senator Velella, Senate Print 7870, an act to amend the General Municipal Law --

SENATOR DOLLINGER: Lay it aside,

please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1743, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11775, an act to amend the Highway Law, in relation to designating.

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, 60.

THE PRESIDENT: The bill is passed.

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

SENATOR BRUNO: Madam President, can we at this time take up Calendar Number 1705.

THE PRESIDENT: The Secretary will read Calendar Number 1705.

THE SECRETARY: Calendar Number

1705, substituted earlier today by Member of the Assembly Sanders, Assembly Print Number 1971, an act to amend the Executive Law, the Civil Rights Law, and the Education Law, in relation to prohibiting discrimination.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Explanation, Madam President.

THE PRESIDENT: Senator Hoffmann, an explanation has been requested by Senator Dollinger.

SENATOR HOFFMANN: Thank you, Madam President.

My first order of business is to acknowledge the original prime sponsor of this measure, who has left this chamber to take on a new responsibility with the City of New York, working with the United Nations. And all of us are indeed indebted to Senator Roy Goodman for his diligence in this area over the last 30 years.

This marks the 31st year that this bill has been before the Legislature, but the first time that it's been before this house.

I think it's appropriate to read briefly from Senator Goodman's original preamble, to perhaps set to rest a few of the misconceptions about this bill, which is known as the Sexual Orientation Nondiscrimination Act.

In his preamble, Senator Goodman wrote: "The Legislature reaffirms that the State has the responsibility to act to assure that every individual within this state is afforded an equal opportunity to enjoy a full and productive life, and that the failure to provide such equal opportunity, whether because of discrimination, prejudice, intolerance, or inadequate education, training, housing, or health care not only threatens the rights and proper privileges of its inhabitants but menaces the institutions and foundations of a free, democratic state."

I think that with that preamble we understand that this is indeed a compassionate and wholly appropriate measure that is before us today. The summary of its provisions include, in Section 1, the intent to reaffirm the right of every New Yorker to a full and

productive life free of discrimination.

Section 2 amends Section 291 of the Executive Law to declare the opportunity to obtain employment, education, and the use of places of public accommodation, as well as ownership, use, and occupancy of housing accommodation without discrimination because of sexual orientation, to be a basic civil right.

Section 3 amends Section 292 of the Executive Law to define "sexual orientation" as "heterosexuality, homosexuality, bisexuality, or asexuality, whether actual or perceived. However, nothing contained herein shall construed to protect conduct otherwise proscribed by law."

Section 4 amends Section 295 of the Executive Law to expand the responsibilities of the Division for Human Rights to include studying the problem and working toward the elimination of discrimination because of sexual orientation.

Section 5 amends Section 296, Subsection 1, of the Executive Law to prohibit discrimination based on sexual orientation by

employers, licensing agents, employment agencies, and labor organizations. This section also prohibits employment advertisements and applications which express any limitation, specification, or discrimination as to sexual orientation.

Section 6 also amends the Executive Law to prohibit discrimination based on sexual orientation in the advertisement of apprenticeship training programs.

Section 7 also amends the Executive Law to prohibit discrimination based on sexual orientation by owners, lessees, proprietors, managers, superintendents, agents or employers of places of public accommodation, resort, or amusement.

Section 8, also amending the Executive Law, prohibits discrimination based on sexual orientation with respect to publicly assisted housing accommodations.

Section 9, also amending the Executive Law, prohibits realtors from inducing the sale of property by representing that a change has occurred or will -- or may occur in the composition of a neighborhood

with respect to the sexual orientation of the neighbors.

Section 10, also amending the Executive Law, prohibits an education corporation or association which holds itself out to the public to be nonsectarian from denying the use of its facilities to any otherwise qualified person by reason of his or her sexual orientation.

Sections 11, 12, 13, 14 and 15 also amend other sections of existing law with similar provisions, all designed to create equal opportunity in this state for people of diverse sexual orientation.

The bill does not amend -- and this is very important for those people who are concerned about what this bill does do -- this bill would not amend the Human Rights Law, Article 15, Section 11. "Nothing contained in this section shall be construed to bar any religious or denominational institution or organization or any organization operated for charitable or educational purposes which is operated, supervised or controlled by or in connection with a religious organization from

limiting employment or sales or rental of housing accommodations or admission to or giving preference to persons of the same religion or denomination or from taking such action as is calculated by such organizations to promote the religious principles for which it is established or maintained."

There are those who have lobbied vigorously against this bill, claiming that it would dictate to religious entities how they must conduct their internal practices. And it is very important to establish that that would not be the case. But where the general public is affected, in the practice of virtually every other aspect of our activities in this state, it would no longer be an acceptable course of action to discriminate against any citizen of New York State on the basis of their sexual orientation, real or perceived.

I want to thank the Governor for his strong commitment to this measure. He has established a mark of leadership that all of us in this chamber must admire for many, many reasons. But today is in fact a proud day because he is going into an important area

with his leadership in this measure, and we admire him for his leadership in leading us forward in SONDA's discussion today and in the previous months.

I also would like to thank Senator Bruno for his willingness to acknowledge that the times have changed. And he said yesterday the time has come to bring this measure to the floor for a vote, and he committed his own support for it at that time.

I thank all of the people who have been patiently waiting for more than 30 years for this measure to come to a vote in the Senate. I thank those people who kindly and compassionately shared their own personal history, their own stories of discrimination, and helped spark in those members of this chamber a new sense of compassion and awareness as to why we should have a law addressing prohibition of any discrimination for sexual orientation in New York State.

This is indeed a proud day for the New York State Senate, Madam President. Thank you.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President.

I want to thank Senator Hoffmann for quite a meticulous and detailed explanation, particularly the specificity of Article 15, Section 11, which had become somewhat controversial, brilliantly stated and really underscoring that the time has come.

And like Senator Hoffmann, I want to thank Senator Bruno for acknowledging that the time has come by allowing this bill to come to the floor.

In many ways, this is really the Federal Civil Rights Act of 1964 finally applying to Americans who live in New York State who in spite of that passage were not afforded the same protections as those who were benefited some 38 years ago. The fact is that there are people in this state who are gay and lesbian and bisexual who haven't had the opportunity to receive fair housing and equal opportunity in employment, credit, and educational opportunities because of the way they conduct their lives.

We're talking about people that

have committed no offenses against society, people who believe in the same ideals that we do, people who believe in the same values that we do, and yet we have, as a society, imposed our judgment upon them.

So it's not only a legal victory today, it's kind of a celebration. It's a celebration of the right of people to live the way they should want to live. In many respects, it's the type of a life as may have been described in the Bible in the story of David and Jonathan that Plato made the very basis of his philosophy: It is a deep affection that is as pure as it is perfect. It dictates, pervades great works of art, like those of Shakespeare, Michelangelo and, on the lower frequencies, those people in this state who are just looking for fair housing and equal employment. It is misunderstood in this century, but it is actually fine.

We come here today to make sure that those rights are extended and that this historic day gives those rights to Americans who, just by their birth and their belief in our American system, should have had those

protections for over 225 years.

And I'm proud to be standing here as part of it. It's a day that I'll remember in this chamber as much as any other one. And I'm very glad to speak in favor of the bill.

I want to thank all of those who have lobbied, all of those who have lent not only their voices but their reputations to passing this legislation. This really is a time not only to celebrate but to remember those who 31 and a half years ago first tried to enact this legislation when they introduced a bill. Not all of them are here to see it, but I know wherever they are that they are smiling on us, who finished a job that those Americans, not only gays and lesbians but people who are not, struggled unremittingly and courageously over the years to try to achieve.

We'll all remember we were here today, and I'll bet more of us will say one day that they voted for this bill.

(Laughter.)

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam

President. On the bill.

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

SENATOR DUANE: I'd first like to say that it's quite a challenge to be the only openly gay person in the State Senate. It's hard to be the only one. There are times when I'm tempted to remain quiet and not speak out against those issues which are harmful to the gay, lesbian, bisexual and transgender community.

And honestly, every time I speak out, it's like coming out all over again. Maybe it's gotten a little bit easier over time. But I always have to make the decision whether to come out by speaking out.

And if I didn't, I guess I wouldn't get the hate mail and those horrible phone calls and, you know, hear about jokes which are not funny at all. You know, sometimes when I've been in the press -- and I'm often asked on these issues -- all of a sudden, in the middle of the night, I'll get phone calls, people will ring my door buzzer. And I thought that that came with the territory.

And when I started to go out with my now partner, Louis, the first time that I was in the paper when we were together and the phone started ringing and the doorbell started, he said: "What is going on? What is this?" And as I say, I just kind of thought it came with the territory.

So to put his mind at ease, and I guess, you know, to be smart, I took my name off the buzzer and I took my name off my mailbox so that -- I wouldn't take my address or phone number out of the phone book, but I wanted to make it a little bit harder -- actually, something else. What happened was, one night when we came home from the movies, there was a person sitting outside our door. And even I was frightened then.

And so I took my name off the mailbox and the doorbell, but I didn't take my name out of the phone book and I didn't take my address out. So now if someone wants to get to me in my apartment building, they're going to have to check on all the doors.

But when I talk to other gay elected officials from around the country and

right here in New York State, we're all subjected to the same thing. And you can only imagine what it's like for people to come out who aren't that high-profile, who don't have the protection of a public office. I mean, it comes with the territory. And I don't want you to feel badly for me, because I have a job which I love. But I say it as an example of what happens in the world.

You know, when I was elected I vowed that I would bring my voice to the halls of government, and especially for those who had no voice, and to demand justice for people that don't have a voice. And I think it's the right thing to do, and I'm still committed to doing it.

You know, history is being made in New York State today. Today we're voting on the Sexual Orientation Nondiscrimination Act, which will protect New Yorkers from being denied employment, housing, public accommodations, education and credit simply due to their sexual orientation. But this will improve the quality of life for all New Yorkers, just as it did when we created

these exact same protections for citizens based on race, sex, creed, color, national origin, disability, age, and marital status.

New York now joins 12 other states, including the District of Columbia, in protecting citizens from discrimination based on sexual orientation. With your vote today, we can hold our heads up high, knowing that for so many of you this will be a politically courageous thing for you to do as well as the right thing to do. And I'd like to thank so many of you in advance for your open-mindedness, your courage, and your support.

Sadly, this is also a bittersweet day for me as well as for many New Yorkers who wanted to include freedom from discrimination for everyone as part of today's vote. On the one hand, we are witnessing an event on the floor of the State Senate that has been over 30 years in the making. Gay and lesbian New Yorkers will no longer have to risk losing their basic necessities merely because of who they are. And, yes, votes such as this are the main reason why I entered public service.

There's a glaring omission, though, which overshadows this bill, and it is of such importance that it made me pause before deciding to vote for this bill. And that's something I never dreamed could happen. The bill that we are voting on today excludes those who probably could use these protections the most, our transgendered citizens.

Madam President, I believe there's an amendment at the desk and I ask that we waive its reading and I ask to be heard on the amendment.

THE PRESIDENT: There is, Senator, and you may proceed on the amendment. The reading is waived.

SENATOR DUANE: Thank you, Madam President. Thank you.

The amendment is quite simple but its implications are enormous. This amendment replaces the language of the bill and replaces it with my version of SONDA, S1985. My amendment is exactly identical to the bill before us and provides the exact same protections based on sexual orientation. However, my bill adds one more category,

gender identity and expression.

"Gender" is defined in my bill as gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.

This language should be included in the current SONDA legislation to ensure that our transgendered citizens are protected from discrimination. It is vitally important.

"Transgender" refers to transsexuals, including male and female preoperative, postoperative, and nonoperative, as well as drag performers, cross-dressers and others who do not strictly adhere to traditional gender roles and expressions. It includes gays, lesbians, bisexuals, and heterosexuals, including those with effeminate or masculine presentation.

Gender-inclusive civil rights is needed to protect both those who identify as transgender and gender-variant lesbians and gay men who are routinely denied access to

basic health care, service in restaurants or stores, housing, employment, and contractual services because of their gender identity and expression.

Many preoperative and postoperative transsexuals are fired the moment their employers find out about their plan to undergo sex reassignment surgery or learn they already have undergone such surgery. Transgender people often face severe discrimination when attempting to find a place to live. Many transgender and gender-variant people are denied equal treatment in public accommodations. They are asked to leave restaurants, hotels, stores, medical facilities, and educational institutions. They are denied credit and even refused access to rest-room facilities.

Even those who do not express their gender variance in the workplace live in fear that their employer will discover the fact that they cross-dress in their private lives and fire them because of it.

The leading fact for HIV infections among people of transgender experience is

discrimination. Every day homeless people are not afforded a shelter bed because of their gender expression. Many are forced into high-risk activities such as prostitution, if only to obtain a safe place to sleep for another night.

It's heartbreaking. In fact, there's a whole category of children who I call the port kids because they live and work around New York City's Port Authority. They have no place to live, they've been thrown out of their homes, and they make their living in ways that they do not even want to discuss because of the shame. And yet they go back and do it again the next night, because that's how they survive. The port people live and work at night around the Port Authority Bus Terminal.

So affording protections to transgendered people is not a new idea, and it's an idea whose time has come in New York. Two states, Minnesota and Rhode Island, already afford these protections, and 37 cities have passed nondiscrimination laws which protect transgendered people. I firmly

believe that the only hope many transgendered individuals have for a decent, safe and rewarding life is to pass legislation which protects them from discrimination. Amending SONDA can make a really difference in their lives today, and we should not miss this opportunity.

By voting for this amendment, we will send a powerful message that no New Yorker deserves to be discriminated against, that no New Yorker deserves to be homeless and hungry simply because they do not conform to traditional views of gender identity.

I offer this amendment today with a heavy heart. There are those small but powerful groups in the gay community who are willing to turn their backs on the transgender community simply to ensure that a watered-down version of SONDA passes today. I personally have been a victim of a vicious and mean-spirited campaign which accuses me of trying to kill SONDA merely because I am in favor of transgender inclusion.

And I want everyone to know I have

no interest in killing SONDA. SONDA is something which has been a major part of my platform since before the day I got here. And I want to make this crystal-clear, that while I support SONDA wholeheartedly -- and I hope all of you will -- I will not be bullied, shamed, or threatened into retracting my support for the transgender community, and no amount of money or threats to withhold money will ever convince me otherwise.

I'm embarrassed today for my community. Instead of banding together to ensure protection for all, we are fighting among ourselves and greedily seeking our own self-interested version of SONDA. This is tragic, especially in light of the example given to us by the African-American, Puerto Rican, and Hispanic caucuses in their dealings on hate crime legislation. Hate crime legislation finally became law in New York in 2000. It could have been law in 1990, but courageous legislators, including and especially David Paterson, stood their ground and insisted that they would not support any version of hate crimes which did

not include the gay and lesbian community.

Because of their convictions, we today have a comprehensive hate crimes law in New York. Thank you. I want you to know that although some of the gay and lesbian community have chosen not to follow your example, there are those including me who will never forget it and will always fight to include those less fortunate than ourselves when considering legislation.

So I urge my colleagues today to do the right thing and vote for this amendment. We were elected to the Legislature to protect all of our citizens, and I believe I have outlined how essential it is to protect our transgendered citizens.

SENATOR HEVESI: Madam President.

THE PRESIDENT: Senator Duane, are you moving that the bill be so amended?

SENATOR DUANE: Yes, Madam President.

THE PRESIDENT: All right.

Senator Hevesi.

SENATOR HEVESI: Thank you, Madam President. I'd like an opportunity to be

heard on the amendment.

THE PRESIDENT: On the amendment. You may proceed.

SENATOR HEVESI: Thank you, Madam President.

I rise today in support of Senator Duane's amendment, and I do so in the context of being arguably the most conservative Democrat within the Democratic conference, possibly with the exception of Senator Gentile.

And I understand that this entire issue of SONDA is very complicated, there are lots of nances to it, and when you add the transgender component, it becomes even more complicated for many people.

So let me simplify it for everybody where I'm coming from so, since I am a conservative Democrat and my district is a fairly solidly Democratic district, but a moderate district, and I've got religious organizations in my district, and rabbis, and many of whom have contacted me opposed to not only a transgendered component but SONDA in and of itself. So let me simplify it.

I oppose anyone for any reason being discriminated against. I don't care whether or not that individual is being judged by what the color of their skin is or their gender or their age or their sexual orientation. I don't care either, Madam President, whether or not that individual has a predisposition to some behavior or a lifestyle that they were born with or whether they choose to engage in that behavior. I don't care.

What I care about is that the people that we attempt to protect through hate crimes, and through what we're doing today, are the people who are consistently victimized because of those characteristics. It's irrelevant to me whether, even though it's distasteful to some people, whether they may find it personally distasteful or whether the dictates of someone's religion -- and I have great respect for everyone's opinions on this -- but whether the religion says that there is something wrong with a particular behavior.

In my opinion, as long as the

behavior doesn't harm anybody, even if it offends somebody's sensibilities, and the person who practices it through their own choice or because they don't have a choice, is victimized consistently and targeted because of that behavior, then we in the government have to step in and protect them. That's what SONDA does.

And I too am disappointed, Senator Duane pointed out, that the transgendered community is not included in this bill, for the reasons that I've just stated. But particularly because the way this all came about really was reprehensible.

And, Madam President, let me be very clear on this, and I'll speak on the main component of SONDA in a similar context: We didn't get this bill on the floor today because we had an open debate and discussion and people can, if there's a consensus, move a bill to the floor and vote on it. And I'll use the hate crimes example. When finally hate crimes was allowed out onto the floor, it passed with a strong majority. It even passed with the majority of the Republican

conference. Yet it had been bottled up for years.

So the way this came to the floor today was not through some democratic process, although I commend the Republican leadership a little bit -- I want to be a little bit charitable, because they are finally doing it -- for bringing it here. But it was done because Governor Pataki contacted the Empire State Pride Agenda and essentially said to them: If you endorse me, I'll push Senator Bruno to go ahead and bring this to the floor.

I mean, this is not Dan Hevesi saying this. This has been reported in the New York Times. And the problem I see is that we have become so complacent that this is now just accepted. It's somewhat shameless.

And the Empire State Pride Agenda, I don't know whether to fault them for their actions here, because they are trying to achieve an ends. I don't know whether they pressed the Governor to include transgendered individuals. I don't know what they did.

But I will tell you this. When I first ran for the Senate in 1998, I filled out

a questionnaire for the Empire State Pride Agenda, a voluminous questionnaire. And I thought I had agreed with them on almost every issue. I didn't on one, one question. And they withheld their endorsement of me in 1998 because of it. They were very principled at the time.

But Governor Pataki -- and I guess I applaud him somewhat for finally moving on this, even though it was done exclusively in the name of political expediency -- the Governor has been in office for eight years now and hasn't done anything on this. And so the Empire State Pride Agenda gets boxed into a position at the end where they have to make a terrible choice. And they made that choice. And it may be the right choice; I'm not sure.

But the reason I'm saying all this, Madam President, is that the process here is just awful. And this is my final day in the Legislature here. And I guess I'll use this moment to just beg everybody, we've got to change the process here. This is just bad, bad government.

So having said all that, I support

Senator Duane's amendment on transgendered individuals. They're being targeted. I'm sorry if it offends some people, their behavior. It doesn't hurt anybody. The only people being hurt are the people who are being targeted. Transgendered people are being targeted. Gay people are being targeted. Let's protect them.

It is not an intellectual injustice to both oppose homosexuality on religious grounds or because you personally find it distasteful and at the same time suggest that even though I have those feelings, I don't want anybody victimized. Nobody should be thrown out on the street from their housing because they're gay or transgendered or a lesbian or bisexual. They shouldn't. They shouldn't be denied education. And you can oppose homosexuality and still support this bill. And you can still support the amendment that includes transgendered individuals.

And I respect all the people in this house who are going to vote against the amendment, and I respect the people who are going to vote against SONDA. That is your

right to do it. And God bless us for at least having the opportunity today, though it came about through a really bad process, of having an open discussion about it.

So having said that, I applaud Senator Duane for his years of advocacy on this and reject any insinuation that he was trying to tank SONDA for some improper reason. I commend Senator Nancy Larraine Hoffmann, Republican State -- former Republican State Senator Roy Goodman, who carried this for many years, and everybody who just keeps an open mind about this, even if you wind up disagreeing with the way the vote winds up going today.

So I support this amendment here today, and I will be supporting SONDA also.

Thank you, Madam President.

THE PRESIDENT: Those Senators in agreement with the amendment, please signify by raising your hand.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Connor, Dollinger, Duane, Gonzalez, Hassell-Thompson, Hevesi, L. Krueger,

Montgomery, Onorato, Paterson, Sampson, Santiago, Schneiderman, A. Smith, Stachowski, and Senator Stavisky.

THE PRESIDENT: The amendment is lost.

Senator Maltese, on the bill.

SENATOR DUANE: Madam President.

THE PRESIDENT: Senator Maltese, Senator Duane has indicated he'd still like to speak on the bill.

Senator Duane, you may proceed on the bill.

SENATOR DUANE: Thank you, Madam President, to continue on the bill.

Obviously I'm not surprised at the outcome, and I'm disappointed that the amendment failed. But I am encouraged by the good number of votes and pleased about the progress that we've seen today.

You know, when I first entered the Senate in 1999, I don't really think that many of my colleagues knew very much about the transgender community. And I think I might have been the first person to actually say "transgender" on the floor of the Senate. I'm

not betting on that, but I think it's probably true. And I think I might have been the first person to bring someone of transgender experience onto the floor when I brought on Barbara Ann Perina.

So we've come a long way in the short years that I've been here in the Senate. And just last week Senate Majority Leader Bruno held a press conference where SONDA and the issue of transgender inclusion was addressed. I mean, who could have imagined that five years ago?

So anyway, I promise the transgender community I'm not going to forget and I'm not going to give up the fight for your inclusion. The battle for that begins right away.

And on the bill, I am very, very happy that thousands and thousands of New Yorkers will no longer have to face fear of discrimination based on their sexual orientation. And I can assure you, everyone, that this legislation will impact the lives of thousands of New Yorkers.

When I first started to come here,

I would drive along 90 -- or 787, actually -- or right where they meet (laughter), and I would see a big sign for Cracker Barrel. Cracker Barrel is a restaurant that fires people if they think that they're gay or wouldn't hire people if they thought they were gay. Now, they did succumb to the pressure of the shareholders and based on a shareholder vote, they just a couple of weeks ago changed their policies. But every time I passed that Cracker Barrel billboard, I thought: Look at that, a company here in New York State that's allowed to discriminate based on sexual orientation.

So I'm glad that that will no longer be the case, I hope, and I think, in New York State today. And I'm very grateful and I feel an awful lot of humility to be a member of this body on such a historic day.

You know, the discrimination against gay people starts at such a young age. Think about it. If a child is African-American or Jewish and they're in the playground and some other child says something horrible to them, makes some kind of bigoted

remark, what happens? Well, that child goes home to their parents, whoever the adult is in their lives, and they say: This terrible thing happened today, this child called me this horrible name, my friend, they were making fun of me in the playground, I can't take it.

And that parent, who probably looks like that child, maybe Asian like that child is Asian, or is raising the child in the same religion, will say: That's terrible. You should be proud of who you are. Hopefully that parent will go to the school, talk to the teacher, the principal, find out why this is happening to their child that they're being made fun of.

Well, what happens if you're a gay kid -- or not a gay kid, but someone taunts you because they think you are? What happens to you? You go home that night and you don't say anything to anyone because you think what you are is so terrible that you can't tell the parent or the adult in your life what happened to you. And for many of us, that kind of scar takes a lifetime to overcome. And sadly, some

people never overcome that.

And so what we're doing today is so very important. Passing SONDA is very, very important. I would be remiss if I didn't point out, though, that there are glaring problems with the New York Division of Human Rights. Currently, there's a huge backlog there. Years and years go by before cases are resolved. With the passage of SONDA, the challenge in that agency will be even greater.

And so I hope that we will also take to heart how important it is to reform that agency, which is the place in New York State where you can go if you have been discriminated against, no matter what the reason.

I also think we ought to have a private right of action for people who are discriminated against. But I'll save that for another day, and I'm sure you're glad to hear that. (Laughter.)

I want to conclude by thanking the early activists of the gay, lesbian, bisexual and transgender community, those brave and farsighted individuals who fought so hard and

suffered so much so that we could get to this point today. There are those who lived proud lives before Stonewall, those who fought against oppression at Stonewall, and those who struggled to found organizations, many of which still support us today, though with different configurations and many more members and supporters. Unfortunately, a lot of those early people, early pioneers, have died before this bill came to the floor today.

I want to thank the parents of gay people who have stood with us, as well as the nongay people who have supported us and fought for us. I'd like to thank the activists and organizations, including the Empire State Pride Agenda, members and staff from the early days before it was even called the Pride Agenda, and those who are with the organization today. In the movement, we're all family members, we all fight with each other, we all work with each other, and today we will celebrate the passage of this legislation today.

I also want to thank all the legislators, past and present, who supported

our civil rights. I want to thank Governor Pataki and Senator Joe Bruno. And I want to thank those who have supported these civil rights, especially my friend, the pioneering Assembly Member Deborah Glick, and Steve Sanders, the Assembly sponsor of this legislation. And I want to thank in advance everyone who is going to vote for this bill.

Today is a day for us to celebrate. And let's celebrate with those who are now going to have statewide protections. And you know what? Tomorrow starts another chapter of fighting for equality for all New Yorkers.

Thank you.

THE PRESIDENT: Senator Maltese. On the bill?

SENATOR MALTESE: Madam President, on the bill.

First of all, I would like to express our appreciation to the leader for making it very clear to us who oppose this legislation that this was a question of conscience and would be determined as a question of conscience without pressure of any kind.

I'll be relatively brief, since all of us have had in excess of 30 years, and perhaps longer, to study and listen to the arguments, pro and con. I'd like to express a couple of concerns that we have, or I have as an attorney.

My first concern is that while the legislation specifically excludes owner-occupied two-family houses from the -- from this legislation, it does not exclude owner-occupied premises that may be larger and have more families. In addition, it does not exempt any non-owner-occupied premises. And I think that's something that could very well lead to disquiet in communities that I represent and other communities, and in the feelings of many, many people who regard homosexuality as immoral.

Next, I would like to bring up the concern that has been expressed to me by religious leaders, that while the exemptions do apply to religious educational institutions as far as the selection of prospective students, there does not appear to be, in the advice of counsel, any exemption for religious

institutions in their hiring practices. And this seems to be an infringement upon their religious rights and probably would be cause for court litigation in the future.

There are many, many New Yorkers that feel that by conferring these rights on homosexual men and women, they are infringing on their rights as Catholics or those that are members and see themselves as the inheritors of 2000 years of Judeo-Christian morality.

The statute itself in the preamble cites that it is not intended to promote a particular course of conduct or a way of life. I respectfully submit that the passage of this legislation would in fact do that very thing.

Homosexuals or anyone else, for that matter, do not have the right to have no one disagree with them as to the morality of homosexuality. Nor do they have a right to be free from what would be called attitudinal discrimination against their sexual orientation.

Society will respond to this legislation as it has responded to homosexuality over the years. There has been

a definite change in the feelings and emotions generated by not only homosexuality but this specific piece of legislation.

The Catholic Church and the Catholic Conference, which has made its views well known, have indicated and alluded to the Catholic catechism, which speaks about respect, compassion and sensitivity for everyone, including specifically homosexuals.

The other groups that have come forward I feel deserve to be respected here in this house. The church groups, the many church groups that are concerned about children and about the morality of their members have expressed severe concerns and reservations about the passage of this legislation.

The bill, there is no question the bill has profound social, legal, and moral aspects. The bill itself is, I feel, a step in the wrong direction. We cannot legislate politeness. We cannot legislation courtesy. We cannot legislate the way people feel. I think that comes through mutual respect.

I do not think that everyone who

opposes this bill can be called a bigot, as has been done in some quarters, and certainly not in these chambers, or lacks compassion or tolerance. Much has been said over the last few years about the fact that all of us know or -- know people who are gay or that all of us, perhaps, in our family or close friends, have people who are gay. I don't think that that necessarily means that we have to accept that as a grounds for voting for this legislation.

At the same time, because this is such an emotional issue, I think that we who oppose the bill can oppose it in good conscience. As I said at the very beginning, this has been termed a question of conscience by the Majority Leader and some of us. And over the some 30 years that I've been here in various capacities, I've seen that the three issues that arouse these same emotions are abortion, the death penalty, and homosexual rights.

I think that the persons across the state and across the nation that feel that this confers a special status on homosexuals,

I think they're correct. I think that this will lead to an attitudinal change that not only still provides for compassion for all of our citizens, irrespective of sexual orientation; at the same time, this is a watershed issue, there's no question. I share that reasoning with the supporters of this bill.

This is something that we as legislators should take a good, hard look at before we decide to vote whichever way we decide to vote. In the course of the years that I've been here, I've had occasion to speak to legislators, as I indicated, on the question especially of abortion and the death penalty, legislators who were sorry that or expressed remorse -- and as a matter of fact, even a governor who had expressed sorrow or remorse at a prior position. And I just ask respectfully my colleagues, no matter how they vote, to treat this as a question of conscience and vote their conscience.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President.

THE PRESIDENT: On the bill?

SENATOR LIZ KRUEGER: Yes, on the bill, thank you. Excuse me, I was listening to Senator Maltese.

We talk about this as a question of conscience, or some talk about it as a question of conscience. And I will make the argument, and I will make the argument up front, that I will of course be voting for this bill. This is simple. We're trying make this too complicated.

If you ask yourself the question do you believe that anyone in our state should be discriminated against, you have to answer no, you don't believe in discrimination. No one who sits in this body is going to stand up and say yes, I want people to be discriminated against because of who they are. I challenge that none of you will.

That's all this bill is. Perhaps 31 years ago it was a more complex issue in people's lives. Times have changed. We do learn. Sixty years ago, in this country, you still had people debating the right to discriminate against people because of the

color of their skin. If you were African-American in this country, it was okay to be discriminated against in statehouses. And it was wrong then, but there were people in statehouses all over this country who were prepared to discriminate against people because of the color of their skin.

This country has a history -- not a proud history, but a history of discriminating against people based on their religious beliefs. And yet today there is no one in this house, I would argue, who would stand up and say: Yes, I support discrimination because of someone's religion.

And there have been points in the history of this country where people felt it was okay to discriminate because of your gender. Women could be discriminated against under the law.

So this is a progressive process we've been going through in this country. But again, it is the year 2002. It is way past the time when I would argue anyone sitting in a statehouse anywhere in this country would stand up for discrimination.

And so for me, I have to ask anyone who thinks that it is an issue of conscience to support discrimination: How are you defining that for yourself today? This is not a bill that's talking about asking religious organizations to change their religious teachings. This is a bill saying that in the State of New York we will not tolerate discrimination. It is simple. It is way past due.

I am sorry that Tom Duane's amendment to include transgender members of our community was not included, because I would argue it's exactly the same question: Do you support discrimination? We can't support discrimination. No one in this house supports it.

And again, don't overcomplicate the issue. No one should be thrown out of their job or thrown out of their house or fail to get equal rights under the laws of New York State because of their sexual orientation or their gender identification. It's simply not okay. It's simply past time that we move this bill.

I appreciate Dan Hevesi's comments earlier from a conservative perspective about why this bill may or may not have gotten here and his support for it. I will applaud everyone for their support for this bill today to get it done, because we need to move forward. And we need to not continue to debate in the State of New York whether or not it is ever okay to discriminate against any of our citizens.

So thank you to everyone who does vote for this bill today. And ask yourself the question, if you vote no, what is your definition of conscience? Thank you very much.

Thank you, Madam President.

THE PRESIDENT: Senator Montgomery. On the bill?

SENATOR MONTGOMERY: Yes, Madam President.

I would just like to join my other colleagues in thanking the sponsor. Certainly, Senator Hoffmann, you can take credit, but we do know that Senator Goodman carried it many years before. And our

Majority Leader, for allowing this process to take place. I wish we could have this process for every single issue we have to deal with that's difficult, that we can open it up and those of us who decide we can support, do that, and those of us who can't, vote no.

But today is really a very special day because I think it reflects one of the issues that this nation has, from the very almost inception and certainly very beginning of our democratic government, has had to deal with. And that is what do we do to make sure that every single individual that we consider an American be granted equal rights. It's what our Civil War was about. We had to go through years of struggle for civil rights and voting rights for women and for African-Americans, for 18-year-olds. We've had to deal with this issue. What do we do about the rights of all individuals to make sure that what I believe to be -- even though the Constitution had an error in it, it referred to some people as 3/5th, we have essentially, our country has had to live that down in many, many respects.

So this I think today is an indication. And there are hundreds and thousands of people who live in my district -- they are my neighbors, they are my friends, my staff, my family -- these are the people who are going to be extremely happy because we are doing what has been given a charge to us, and that is to make a legal contract between two people valid, not based on anything except that they are a legal family.

And so I feel very good about this. It removes a sort of weight from our shoulders. I know that we still have a little bit more to do -- a lot more to do, actually. But certainly this is a great step. It's in the tradition of what America represents. And I believe that we all can take pride in the fact that -- certainly those of us who support this legislation can take pride in that we're taking this step today.

Thank you, Madam President.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Madam President, many of you in this chamber remember my husband. What some of you may not

know is that he wrote his master's thesis and Ph.D. dissertation on skilled black labor in the antebellum South. He subsequently taught black history. And people would ask Leonard, Why black history? And he always had a very simple answer: Discrimination against one is discrimination against everyone.

Reminds me of the commercial "You don't have to be Jewish to like Levy's rye bread." (Laughter.) And you don't have to be gay, et cetera, to understand that discrimination is wrong.

Take a look at the bill we have before us. It only adds two words to the various sections that deal with discrimination. Those two words are "sexual orientation." Not a very dramatic change, but I believe a change long overdue.

I vote aye.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

I join with many of my fellow Democrats in applauding the sponsors of this bill and those who support it. And as my

fellow Democrats have said, whenever there's a little bit of prejudice against any one of us, there's prejudice against all of us.

And even though many of us don't remember actually, we remember by reading when there were signs in Boston in windows which said "No Catholics need apply" or when Jews were precluded from joining clubs or blacks weren't allowed in West Point. All within recent memory. And again, whenever there's discrimination against one of us, there's discrimination against all of us.

And even though I don't agree that he's the most conservative member of our Democratic side, Senator Hevesi was eloquent in saying that based upon the discrimination, discrimination against anyone is sufficient for us to rise and say if we can't do it amongst ourselves, we must do it by statute.

This statute by the addition, as Senator Stavisky has said, of including the words "sexual orientation," makes it the law. Again, it would be much better if we could do it between and among ourselves. But when that isn't possible, when that discrimination

continues to exist, and continues to exist on a day-in-day-out basis, as Senator Duane so beautifully expressed, then it's time for us to come together as a body and time for us to come together as Democrats and Republicans and pass this very monumental legislation.

And I urge all of my fellow Senators to vote in the affirmative.

Thank you, Madam President.

THE PRESIDENT: Senator Schneiderman.

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

I must say that as I've listened to the debate and people have come forward to lobby on this piece of legislation, something has struck me fairly dramatically. And what struck me is how much the arguments against this legislation have in common with arguments that were made against the efforts to end discrimination based on race and the efforts to end discrimination based on religion. Senator Breslin spoke about this briefly.

But I think that in all honesty I must agree with Senator Krueger. I think that

as a matter of conscience I don't really understand the basis for saying we should discriminate against one group of New Yorkers because of what they are as opposed to what they do.

We all discriminate. We discriminate when we make decisions about what kind of car we want. The word "discrimination" is not in and of itself evil. But there's a difference between discriminating against someone because they've committed some sort of act that harms another and discriminates against someone because of the way they were born. And that is what this has in common with discrimination against religion, discrimination against people based on race. And I have not heard one argument that in any way changes my mind on that central issue.

There are arguments made that this will disrupt religious institutions and organizations. Well, in New York City we've had a law, essentially the same law on the books since 1986. There's been no such disruption. Everyone is going on with

business. And the people who are gay in the City of New York have that additional protection, that additional assurance that if they commit some sort of act of misconduct, then they may face consequences. But just because of what they are, how they are born and how they are living their lives, with no harm to anyone else, they cannot be discriminated against.

I would urge that any religious objections to this should really focus in on the centrality of the legislation and the moderate nature of this bill. The Republican mayor of New York City, who's been supervising the administration of this bill since he was elected, has submitted a memo in support. The Republican governor of New Jersey, Christine Whitman, and I want to quote from her when they were enacting legislation:

"Discrimination regardless of reason in any aspect of daily life must be identified, fought and eliminated. Diminishing the rights of any individual or any group will inevitably lead to the diminishing of us all.

So this is not something that is a

partisan issue as a matter of conscience. And I would respectfully submit it's not a religious issue as a matter of conscience. I don't want to let this debate pass without recognizing the fact that many of the major religious organizations in the state of New York support this bill, including the New York State Council of Churches, including the Episcopal Diocese of New York, the American Jewish Congress, the Central Conference of American Rabbis, New York Conferences of the United Methodist Church and the United Church of Christ.

I think that this is a fundamental step forward. I'm sorry it took so long. I'm sorry that our transgendered brothers and sisters are left out. We are not abandoning that fight here today with the passing of this bill.

But I would respectfully request that all of my colleagues who are looking at this legislation and thinking about it as a matter of conscience, as Senator Maltese said, to the extent that you are thinking about your religious issue views, your fundamental

understanding of what it is to be an American and what this country stands for on the issue of discrimination, that you really take a close look at the reality of life in the city of New York.

This doesn't hurt anyone. This protects people. And I don't disrespect people who have different views from me, but I certainly do not in any way, shape, or form accept the argument that there our religions should require us to accept discrimination against people based on what they are. There were arguments like that made against efforts to integrate the races. There were arguments like that made against efforts to end discrimination against Jews and Catholics.

And I think that we're seeing here today the passing of another barrier. I hope it passes overwhelmingly. I think it should pass overwhelmingly. It's been a long time coming. There are other steps still to take. But I think that it's important for us as a state and as a body in the Senate to send a strong signal that we do not support discrimination against people based on what

they are as opposed to what they do.

Thank you, Madam President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President.

I want to just comment on the politics that brought this here, address for a couple of minutes the arguments that have been made against this bill, and then talk about what I think this bill means.

I want to thank Senator Bruno for allowing this bill to come to the floor 32 years, 30 years after its first drafting. It seems to me that we've waited a long time to create freedom in this state. But I commend Senator Bruno for his courage in bringing this to the floor.

To those who have advocated for this bill, I would simply like to quote an old line from something my children sang in kindergarten: "Make new friends, but keep the old. One is silver, the other's gold." And those who have stood up, from Senator Ohrenstein all the way that this bill has been

in this house, I think the gold support of those who have stood up and argued for this bill for decades must be recognized.

Secondly, the two arguments that I've heard most often against this bill in my judgment, when analyzed in detail, don't hold water. The first is that this bill creates special rights for one particular group. Let me just remind everyone of the history of New York State's Human Rights Law.

After the bill was first passed in the '60s, which included just race and color, there was a question about whether religion, religious beliefs were protected or whether you could discriminate against someone, as Senator Schneiderman said, because they were Jewish or Catholic or fundamentalist Christian or Seventh Day Adventist.

The State Legislature in 1967 amended the bill and specifically included religion. No one on that day said we're creating special rights for religious people. No one said that. What they said was, we're going to prevent people's religious beliefs from being held against them when they want to

rent an apartment or when they want to take a job. Because what you believe on Sunday doesn't affect how you work on Monday.

In 1984, we again amended the law, and we included provisions about marital status, so that you couldn't be discriminated against whether you were married or single. And no one said we are creating special rights for those who are married or we're creating special rights for those who are single.

Then, sure enough, we added a provision that I think Senator LaValle argued for: Genetic predisposition. We specifically included in our Human Rights Law the notion that your genetic predisposition could not be held against you, that that which you inherited from your mother and your father could not be used as a basis for someone to say we're not going to allow you or we won't rent an apartment to you or we won't allow you to build a house.

And no one said in this chamber we're creating special rights for people who suffer from genetic predispositions. No one said it. It wasn't talked about then.

And lastly, we made changes that dealt with issues of disability -- blind people, people who had hearing problems. And we specifically said you can't discriminate against them if they have hearing aids or if they have visual aids, because we said those are fundamental rights, they're not special rights. And no one in this chamber said we were creating special rights for those people.

Why is it today when we extend this to sexual orientation does anyone say we're creating a special right? We're not creating a special right. We're simply extending the same protections that we now extend on the basis of -- and I'll read from it -- age, race, creed, color, national origin, sex, disability, genetic predisposition or carrier status, or marital status of any individual.

I would suggest, ladies and gentlemen, that every person in this chamber today, every single person, is protected in one way or another by our Human Rights Law, because we won't allow other individuals to prejudge you by what you believe, by what you look like, by what genes you inherit from your

parents. And neither today should we do that on the basis of sexual orientation. We're not creating special rights; we're simply creating human rights.

The second argument that I've heard that people have said: This bill today will somehow condone a lifestyle, that we will somehow give the power of government to a particular lifestyle. I would just suggest to you that when you set people free, when you give them free will, when you give them free choice, you are not condoning what they do. You are telling them that they are free to make their own choices, to live their own lives. Government, by simply saying you are free, isn't being held accountable for what you do with that freedom.

It seems to me, ladies and gentlemen, that this bill is all about freedom. And I'm quite disappointed that people would say New York should not be a freer place.

The law of freedom is very simple. In our Bill of Rights we said that government cannot do certain things, cannot take away

freedoms for the people. And that Bill of Rights says that government can't do these things. And we amended it with the 13th, 14th, and 15th Amendment. And we expanded the protections that people had so that they could be free.

And then we decided in the late 1950s that it wasn't enough just to make people free, but government actually had to intervene to be an ensurer of that freedom, that government had to tell private individuals that they could not interfere with other people's freedom, with their freedom of choice, with their freedom of personhood, with their right to live their own lives without hurting anyone else and make their own choices about what they do. Live their own lives.

Ladies and gentlemen, I'm going to leave this chamber after today and I will not come back as a member. But today I'm enormously proud that in one of the last votes I ever am going to cast, I'm going to make New York State a freer place. I'm going to take the words of that old song that we sing all the time, "My Country 'Tis of Thee:" "from

every mountainside, let freedom ring."

When we pass this bill and it becomes law, as it should, the freedom to be free from prejudice for those who have been discriminated against will become a reality. New York, in a small way, will be a freer place.

I'm proud, Madam President, that one of the last votes I cast will be to make that freedom a reality for those who have been denied it in the past. Celebrate freedom, ladies and gentlemen. Vote for this bill that sets another group of New Yorkers free from the stain and the hatred of prejudice.

Thank you.

THE PRESIDENT: Senator Connor, to close for the Minority.

SENATOR CONNOR: Thank you, Madam President.

Madam President, I certainly through college and law school knew people who were gay and who certainly in the rarefied environs of academia, you know, did not appear to be discriminated against. It didn't seem that political then.

But very soon after I was out of law school, I got involved in this funny business called politics. And we had a Democratic Club, what you would call pretty far on the left then. And I bring this out because I don't view this as a left or right issue on the political spectrum. And I found myself very quickly the president of this club. And literally the first meeting, and we're in the early '70s, we're getting ready for the next year's presidential race. And they used to have couples could join at a different rate than individuals. You know, different rate of dues.

And the then membership secretary rushed up to me at the end of a meeting, and she was what you would call old left-left-left, and said, "These four guys want to join as two couples." And I said, "$7 a couple." "But they're guys." I said, "I don't care. If they're a couple, they're a couple. Take the dues."

That next year, I was very proud to be part of a campaign that elected one of the first gay or lesbian -- in our slate, it was

lesbian. I think in the slate in Manhattan it was a gay person -- to the national convention, openly.

This all became important to me several years later, in 1978, late '77, when there was a big club meeting to pick the nominee for the State Senate. And several hundred people crowded into a large hall in a very closely contested endorsement meeting. And I looked out there, and the two couples that I once had invited to join were there, and they spoke for me, and I won a very narrow victory.

I pledged during that campaign to make one of my priorities, one of my priorities as a senator the passage of a gay civil rights bill. It had already been an issue in New York City. What later became Intro 1 started out as Intro -- and I forget the number. I forget any number that has more than two digits in it. And I remember testifying in the early '70s in favor of that. But I said one of my priorities will be to support the passage of -- we didn't call it SONDA then, it was the gay civil rights bill.

One of the first bills I introduced when I got here in 1978 was a bill that banned discrimination in the civil service on account of sexual orientation. That later was mooted out by an Executive Order which this governor, Governor Pataki, has continued as well. The need for that. I should say.

But here we are, nearly 25 years later, and I'm proud to say I'm still working on one of my two or three legislative priorities. One of the others was election law reform. We still have to do that one.

But in the meantime -- and let me -- I want to acknowledge someone who I was proud to serve with when I first got here, someone in the Assembly. I remember a couple of times giving him a ride home to New York, Bill Passannante. He told great stories. He had been here for many, many years. And he was, I believe, the sponsor way, way back, decades ago, of the first gay civil rights bill. And Bill has passed on. Many of us knew Bill. I think he's probably smiling now. He was way, way ahead of his time.

And, you know, when I first

circulated that nondiscrimination bill in the civil service, I didn't get so many sponsors on this side of the aisle at the time. Not too many. A handful of Democrats. I think there was actually a couple of Republicans -- certainly Senator Goodman was one of them -- who cosponsored that.

We've come a long way since then, and America has come a long way, and New York's come a long way. And New York State has fallen behind where everybody else has come. It should not have taken 25 years. Indeed, while I'm going to support this bill, I am very, very disappointed that it is not all-inclusive, that it doesn't include transgendered people, because there is real discrimination going on there.

In some respects, you know, the good side and the bad side get ahead. There is now, if you will, probably less discrimination than there used to be, when this bill was first filed, against gay and lesbian people than there is against the transgendered. I mean, if you want to look at where the real heavy-duty discrimination is

now coming down. Not that there isn't discrimination otherwise.

But the one thing I've learned in those 25 years is you take your priorities and grab them when you can, one step at a time.

So while I certainly support a more inclusive bill that includes transgendered, I am going to vote for this. And I'm going to vote for this because I believe it's the right thing to do. I'm going to do this for someone who is one of the closest persons to me, who I'm happy to say I will be having dinner with tomorrow night as he visits New York with his friend. And I want to tell him, I want to tell him that New York passed SONDA. It will mean a lot to him.

And if the cameras weren't on and my mother weren't watching, I'd tell you who I'm talking about. But the fact is it will mean very, very much to him and mean very much to my family. It means a lot to a lot of New Yorkers that we've passed this.

And I want to thank Senator Bruno for bringing this bill to a vote. It may have languished for 25 years, but Senator Bruno got

it out here in eight years, so that's pretty good. Can't blame him for the other 17 years, that was a backwards-looking leadership in those days.

But here we are. I'm just delighted, I'm just delighted that we can adopt this. But I really -- my colleagues, you'll find out -- and I say this to those who will oppose this -- you'll find out, we're going to be back here not so long making it a more inclusive bill. And you'll find out this wasn't so bad and the amendments we're going to do in the future aren't so bad from the standpoint of public reaction. The public supports this. It's about time the Legislature adopts it.

Thank you, Madam President.

THE PRESIDENT: Senator Bruno, to close for the Majority.

SENATOR BRUNO: Thank you, Madam President, colleagues.

We have been eight years getting here to this vote. And over those eight years, this issue has been talked about, written about, viewed -- the media -- debated.

And after all of this time, we have the bill before us on the floor. And I guess you can say better late than never. And it's here.

Now, over these years, I, as I have lived my life and gotten older each year, as we all do, maybe I have become more enlightened. But over the years, I've always felt that the present antidiscrimination laws in this state were adequate and they prevented discrimination against everyone that lives here in New York State. And that was my feeling. And I thought legislation like this was maybe counterproductive, unnecessary.

But as I have moved along, my feelings have become that if there's such strong feelings out there that this is necessary, it just adds "sexual orientation" to a law that is very expansive and, when you look at that Human Rights Law here in this state, covers almost everyone. Race, creed, color, sex. So we are where we are.

And I am going to vote for this legislation and have decided that I would vote for it to express tolerance, antidiscrimination, and just to recognize that

people are free to live their lives as they see fit.

So, Madam President, I would encourage my colleagues to vote in favor. It is timely. The time has come. And timing in our lives is everything. Politically, timing is everything. I think the time has come to move on with our lives, to get this issue behind us. And I will, when the vote is taken, vote in favor.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 18. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Balboni, to explain your vote.

SENATOR BALBONI: Madam President, the debate today has been lopsided on behalf of those who are in favor of the bill. I know that those people who wish to vote against this bill have very valid and sincere concerns. In our attempt to protect classifications, we dilute those protections

already given. We raise expectations that a bill such as this will end discrimination or hatred or prejudice, and it will not.

Many years ago, when I was in the Assembly, I debated against this bill. And on that day my mind was full with the intricacies and the constitutional consequences of this act. Today my mind is full with the images of the day the tower fell, how the people running in terror were of every race, creed, and religion, rich or poor, fat and skinny, all New Yorkers, all Americans.

And I'm reminded of the preamble that says "We the people of the United States, in order to form a more perfect union, to ensure domestic tranquility, provide for the common defense, promote the general welfare, and to secure to ourselves the blessings of liberty for our families and for those who follow, do ordain and establish this Constitution."

Madam President, it's "we, the people," not "some people." I vote against discrimination, and I vote for the bill.

Thank you, Madam President.

THE PRESIDENT: Senator Balboni, you will be recorded as voting in favor of the bill.

Senator Farley, to explain your vote.

SENATOR FARLEY: Thank you, Madam President.

I think everybody in this chamber is opposed to discrimination. But I think there's a flaw in this bill that I'd at least like to reiterate. It's the lack of a comprehensive religious exemption. Religious organizations, ministries, businesses, and so forth are not exempted. And I think that alone is enough to make someone vote no.

I vote no.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1705 are Senators Alesi, Bonacic, Farley, Fuschillo, Gentile, Kuhl, Lachman, Larkin, Leibell,

Libous, Maltese, Marcellino, Maziarz, McGee, Meier, Morahan, Nozzolio, Padavan, Rath, Seward, Skelos, Stachowski, Velella, Volker, and Wright. Also Senator Hannon. Ayes, 34. Nays, 26.

THE PRESIDENT: The bill is passed.

(Applause.)

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, can we ask for an immediate meeting of the Finance Committee in the Majority Conference Room.

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

Senator Bruno.

SENATOR BRUNO: And can we at this time take up Calendar Number 1741.

THE PRESIDENT: The Secretary will read.

Can we please have order. If the individuals would take their conversation outside the chamber, please. We have to proceed with business.

THE SECRETARY: Calendar Number 1741, by Senator Rath, Senate Print 7880, an act to amend the Social Services Law, in relation to medical assistance reimbursement.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT KUHL: Can we have some order in the chamber, please. We have some other business to take care of.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: I believe Senator Hevesi is seeking an explanation on the bill, Mr. President.

ACTING PRESIDENT KUHL: Is that correct, Senator Hevesi?

SENATOR HEVESI: I am.

ACTING PRESIDENT KUHL: Senator Rath, an explanation of the bill before the house has been requested by Senator Hevesi.

SENATOR RATH: Thank you, Mr. President.

The bill that we're talking about eliminates the requirement that local governments repay Medicaid funds which were advanced to them since 1972 by the state for

certain mental health services. The counties are in dire straits, everyone knows, financially, and this is a measure for them to relieve some of the heavy-duty pressures on their budget.

ACTING PRESIDENT KUHL: Senator Hevesi, why do you rise?

SENATOR HEVESI: Mr. President, would the sponsor please yield?

ACTING PRESIDENT KUHL: Senator Rath, do you yield to a question from Senator Hevesi?

SENATOR RATH: Of course.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HEVESI: Thank you, Mr. President.

I very much appreciate the pressure on counties and understand the intention of this bill. If I can just turn your attention briefly to the sponsor's memo in support, the budget implications, the statement is that this legislation will have no impact on the state budget.

My question is the following. If

the state is essentially forgiving debt to municipalities in the amount of $170 million, then presumably that amount, that $170 million, is currently on the books for the State of New York as an account receivable, as money that would be coming in. So my question is if we forgive this debt, then wouldn't it be the case that we have essentially accounted for $170 million in additional revenue that we will not be seeing, and therefore it will have a budget impact on the state because it will increase the size of the deficit, understanding that we never expected to receive the cash. But wouldn't this increase the size of the deficit because this amount had to have been recorded as revenue that we expected to receive?

SENATOR RATH: My understanding is that as the accounting procedures of the state handle that $172 million, those dollars will not impact on the budget that we're presently looking at down the line in the future, this next future budget that we're going to deal with.

SENATOR HEVESI: Mr. President,

will the sponsor continue to yield?

ACTING PRESIDENT KUHL: Senator Rath, do you yield to another question from Senator Hevesi?

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

I appreciate that. I'm just trying to figure out how that's the case. So if we didn't pass the legislation today, is it not the case that the state has on its books the expectation of receiving $170 million in the current fiscal year from these counties?

SENATOR RATH: Senator, the dollars that the state had extended to these counties I believe had been handled year after year after year. And so the use of those dollars has not been available to the state, because they were on the books and not being used.

And so I think that that's something that the Governor, as he presents a new budget to us, will make clear how he

expects to move on that.

ACTING PRESIDENT KUHL: Senator Hevesi.

SENATOR HEVESI: Okay. On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Hevesi, on the bill.

SENATOR HEVESI: Mr. President, with respect to the sponsor -- and I appreciate what she's trying to do here -- I don't understand how it would be possible that this does not indicate that we are going to see a larger deficit for the state, even if this is a worthwhile bill. And it is, and I'm voting for it. Because I think counties need this type of relief. They need greater relief, notwithstanding the fact that the state is not in a tremendously good fiscal position in order to be able to do these types of things.

But I don't know how it's possible, even if we didn't have an expectation that the money would be coming, from an accounting point of view, that we would not have an increase in our deficit if we passed this

bill. Simply put, if we had an expectation that we were going to receive $170 million, irrespective of the fact that the money had been promised to us or we had been expecting it for years and years and years, that means it's on the state's books as money that's coming in to us.

If we then write it off by forgiving this loan, the deficit will have to increase by the exact same amount, because the revenue we had been banking on we have just said we're no longer going to bank on it. And so that would presumably, and I don't see how this couldn't be the case, that means our deficit would increase by $170 million.

And I think the problem here, Mr. President, is that the current gubernatorial administration seems to want to do everything piecemeal. We did the 1199 health-care package piecemeal. There were behind-doors negotiations on the budget. My understanding now is that the state is considering bonding out against receivables from the tobacco settlement for a short-term infusion of cash, but the Assembly Speaker rightly doesn't want

to do it until he sees a full fiscal picture of how the state plans to cope with what we hear -- we don't know for a fact, but we hear -- is a $2 billion budget deficit this fiscal year and up to $8 billion next fiscal year.

And the Speaker is right. And if we had that tobacco bill on our desks right now, there's no way I'd vote for it. I don't think it's sound fiscal policy. But even if I did at this current time, I wouldn't vote for it because I don't know what the plan is from this administration to deal with the fiscal crisis that we are in.

And therefore I'm upset that we now have this bill, however well-intended and however well-justified, and I'm going to vote for it because I don't know the implications of this $170 million, whether it means that we now have to plug that hole somewhere else or whether people have been underestimating the true extent of our fiscal crisis right now. It's all very upsetting.

And it's yet another indication of how we don't do government well here in

New York State. We don't do government well in this house, the Assembly doesn't do government well, and the Governor doesn't do government well. And it's a problem.

So I'm going to vote for this bill, Mr. President, but this is absolutely symptomatic of the problem that we have in New York. It's government -- piecemeal government, it's government behind closed doors, it's government hopping from one crisis to the next, it's government in secret, it's government without full airing and discussions. And the result is what we've done for the past, you know, five, six, seven years is we've cut taxes, we've increased spending, and we've increased borrowing.

And the result is we are going to have a fiscal crisis in this state that is unprecedented in the history of New York State. And how we're going to deal with it is -- I'm not very sanguine about how we're going to deal with it, based on additional piecemeal approaches that I see such as this bill here today.

So I guess I applaud Senator Rath

for providing relief to counties. But once again, it is one within the context of bad, piecemeal government here in New York, and it's leading us on a very destructive path.

I'll be voting aye.

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

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 1742, by Senator Velella.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1742, by Senator Velella, Senate Print 7870,

an act to amend the General Municipal Law, in relation to certain impairments.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT KUHL: Senator Velella.

SENATOR VELELLA: Yes, Mr. President.

When we passed a bill, Chapter 461 of the Laws of 2002, it created additional presumptions for certain cancers for firefighters; namely, the cancers of the breast and reproductive systems. When we did that, we inadvertently omitted New York City's firefighters, who have a large number of women in their ranks now.

And this bill will just include the women in the New York City Fire Department for equal rights as they do for the rest of the state firefighters.

ACTING PRESIDENT KUHL: Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, I'll just briefly explain my vote before the vote's cast rather than afterwards.

I'm going to vote against this

bill, Mr. President. I voted for all these bills. We marched down the road of creating a presumption of disability for firefighters and police. So that quite frankly -- and I know that Senator Velella isn't prepared to take this bill this far, but my prediction is sometime in the next ten years, somebody is going to come up with a bill that says if you sneeze while you are a firefighter, no matter where you are -- this may be true of the police as well -- no matter where you are, if you sneeze, it's going to be considered, presumed to be disability- or service-connected.

I appreciate what Senator Velella is trying to do. I know there's a higher-than-normal incidence of cancers among firefighters. But it seems to me to go so far as to create the presumption and expand it to the whole scope without significant etiological studies -- the etiology being the source of disease -- it seems to me that it's not justified.

I understand the politics of this bill. I understand the implications of this

bill. I think we're foisting onto the City of New York a continuing obligation that is just -- originally started with the proper intention related to heart disease because of the high stress of the job. I think this bill just goes too far.

Quite frankly, if I had my chance to vote on a bill for firefighters across the state, I would vote no now. Maybe it's my lame duckness talking, Senator Velella, but it seems we've got to draw the line somewhere. The line seems to be endless, and we're marching down an endless path of just increasing the exposure of our municipalities for any, any infirmities suffered by our police and fire. That's too far.

I'm going to vote no, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR PATERSON: Mr. President, I just want to explain my vote. Briefly.

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

SENATOR PATERSON: This bill appears to omit injuries to the respiratory system, which have been the greatest worry of New York City firefighters ever since September 11th. I am advised that there's going to be an attempt to include that in a later bill.

Breast cancer detection, interestingly enough, is on the rise among men, in addition to women. That's just something I want to point out.

And I am in favor. I vote aye.

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

SENATOR VELELLA: Mr. President, to explain my vote.

ACTING PRESIDENT KUHL: Senator Velella, to explain his vote.

SENATOR VELELLA: As Senator

Paterson indicated, the Majority is working on a comprehensive bill which will be coming up in hopefully January -- it's not complete yet -- to include all of the disabilities as a result of 9/11.

I vote in the affirmative.

ACTING PRESIDENT KUHL: Senator Velella will be recorded in the affirmative.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, having suggested during the debate that I would explain my vote, I'd now like to explain my vote, if I may.

And simply this, Mr. President. I would vote for the respiratory bill, because I think there is significant evidence about linkages between respiratory exposures and firefighters.

I think that the evidence with respect to reproductive, breast and neurological cancers is more removed. And before we attach the presumption, which as a practical matter is to make it a covered disability, it seems to me that that just goes too far.

I won't be here to vote on the respiratory bill, Mr. President. I hope that my successor has the wisdom to vote for it.

ACTING PRESIDENT KUHL: Senator Dollinger, you wish to be recorded in the negative?

SENATOR DOLLINGER: Yes, Mr. President. Thank you.

ACTING PRESIDENT KUHL: Senator Dollinger will be recorded in the negative.

Announce the results.

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

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 1709, by Senator Morahan.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1709.

THE SECRETARY: Calendar Number 1709, substituted earlier today by the Assembly Committee on Rules, Assembly Print

Number 11710A, an act to amend the Public Health Law, in relation to rates of payment.

SENATOR LIZ KRUEGER: Explanation, please.

ACTING PRESIDENT KUHL: Senator Morahan, an explanation of Calendar Number 1709 has been requested by Senator Krueger.

SENATOR MORAHAN: Simply put, this bill would allow adult homes that are freestanding -- not adult homes, I'm sorry.

This would allow assisted living facilities that are freestanding, built only for that purpose, to include some reimbursement of the capital expense to build that facility in the reimbursement aid for Medicaid, to allow them to compete more fairly or to make them as competitive as those nursing homes and other homes and adult homes that just converted some beds without any great expense.

SENATOR LIZ KRUEGER: Thank you.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 1608, by Senator Wright.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1608.

THE SECRETARY: Calendar Number 1608, by Senator Wright, Senate Print 7597, an act to amend Chapter 519 of the Laws of 1992, amending the Energy Law.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT KUHL: Senator Wright, an explanation of Calendar Number 1608 has been requested by Senator Duane.

SENATOR WRIGHT: Thank you, Mr. President.

The legislation we're referring to is referred to as Article X. It's due to

expire on the 31st of this month, 2002. This bill would provide an extension of the existing statute.

We've had three different versions introduced this session. We've been unsuccessful in achieving negotiations. So we're suggesting that we extend the existing statute at the present point in time, continue discussions, and at the same time send a clear and precise signal that New York is prepared and ready to build additional generating assets.

ACTING PRESIDENT KUHL: Senator Skelos, why do you rise?

SENATOR SKELOS: Mr. President, can we have the last section read for the purposes of Senator LaValle voting.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: The chair

recognizes Senator LaValle for purposes of a vote.

SENATOR LAVALLE: No.

ACTING PRESIDENT KUHL: Senator LaValle's vote is cast in the negative.

SENATOR SKELOS: Please withdraw the roll call.

ACTING PRESIDENT KUHL: The roll call is withdrawn. We're on debate.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I believe there's an amendment at the desk.

ACTING PRESIDENT KUHL: There is an amendment at the desk, Senator Duane.

SENATOR DUANE: I'd like to waive its reading.

ACTING PRESIDENT KUHL: The motion is to waiver the reading and have an opportunity to explain the amendment.

Senator Duane is recognized for the purposes of explaining the amendment at the desk.

SENATOR DUANE: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Duane, excuse me just one moment.

Can we have a little order in the chamber, please. Sarge, would you remove that conversation in the back.

Senator Duane, on the amendment.

SENATOR DUANE: Thank you, Mr. President.

My amendment would change the definition of "major electric generating facility" from 80 megawatts capacity to 15 megawatts capacity. It would change the composition of the board on the electric generation siting and the environment from seven persons to nine, which would increase community representatives from two to four, and it changes those appointments from being made by the Governor to the highest-ranking elected county official or, in the case of New York City, the borough president. And two community reps would have to reside within 2 miles of the proposed site.

It also modifies existing facilities, which would increase the capacity by more than 15 megawatts and put that in the

Article X siting process.

Now, one of the major complaints is about the preapplication process, and my amendment addresses that. The health impacts from the incremental increase of pollution from other facilities in the area and their adverse environmental and health impacts would have to be addressed. And in addition, all of the residences and places of business within the local area would be mailed a project notification in language which they could understand, and it would describe the proposed facility, its location, the anticipated emissions and discharges, and also what will be the anticipated health impacts.

It increases the intervenor fees to a dollar for each kilowatt of generating capacity for the preapplication scoping plan, which is very important, where a lot of the shall we say action is, and $4,000 for each 1,000 kilowatts after that for during the application phase.

The applicant for a certificate would be expanded to include anticipated emissions to air and discharges to water and

groundwater, pollution control equipment to be used, a description and evaluation of alternate locations, energy supply source alternatives and demand-reducing measures, as well as a description of the mitigation measures proposed to address all of the environmental and the health impacts.

Also, the cumulative impact of this facility and other facilities, including a better analysis of air quality based on existing and projected emissions, would have to be put forward, including -- and we know now the danger of this, it's particulate -- PM2.5, particulate matter.

There would be a federal criteria of what pollutants and toxins are, a comprehensive demographic look at the site that so that we could avoid environmental racism. And the applicant would include cost information, which has been difficult to find, comparative costs of alternate fuels, a plan for conservation and efficiency.

This legislation, I can tell you from personal experience, is really sorely needed. It was virtually impossible, without

the threat of a lawsuit, to have neighborhood and community environmental impacts closely looked at. The neighborhood, the community was at a huge disadvantage, and it was only by the threat of legal action that finally a decent though not terrific agreement could be made between the community and the siting or the regeneration of a power plant in my community.

Now, this amendment, which is really my legislation, would in no way impede the siting of additional power facilities. That's not what this is about. What this amendment is about is making sure that even more circumstances are taken into account so we don't just address the energy needs of our communities, which is incredibly important, but that we also do that in a manner which does not threaten the health and well-being of neighboring residents and people doing business in that area.

The more involvement we have from the more people, the more expertise we have on the impacts of a new power plant, the better off we're going to be when those plants get

sited. Under present legislation, the community does not have the say, does not have the ability to be heard in a manner which they really need to.

So I urge my colleagues to vote for this amendment, because it will in no way -- I repeat, in no way impede the siting of power plants, it will only make sure that they are done safely and in the least disruptive, least harmful ways to our neighborhoods. So I urge you to vote for this amendment.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the amendment?

Hearing none, those Senators in agreement with the amendment please raise your hand.

THE SECRETARY: Those Senators recorded in agreement with the amendment are Senators Andrews, Brown, Connor, Duane, Hassell-Thompson, Hevesi, L. Krueger, Montgomery, Onorato, Schneiderman, M. Smith, Stachowski, and Stavisky.

ACTING PRESIDENT KUHL: The amendment is lost.

Any Senator wishing to speak on the bill?

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I will be brief.

We are here at the end of the year about to vote on what is clearly a one-house bill that does not address any of the problems that have been identified with the current siting process, and not just identified by the Assembly, which has overwhelmingly passed legislation incorporating all of the elements that Senator Duane has just discussed in his proposed amendment, but also legislation proposed by the Governor.

Everyone involved in this process understands that the current law is fatally flawed. Why we would come forward now to vote on a four-and-a-half-year extender for a law we know will not be extended, because the Assembly is not going to do it, I think is really beyond me.

I think it sends the wrong message. I think it sends the message that the Senate is not really willing to get in with the

Governor and with the Assembly and participate in the debate to make this a better law, to protect our communities better, to provide for more public involvement.

I also would urge everyone from New York City, from Long Island, from the Hudson River Valley, areas in which there are currently laws that provide additional protection that would be superseded and wiped out by this legislation, that your constituents probably do not want those laws eliminated.

This is not a bill that is going to go anywhere. I would like our house to join the Assembly and the Governor in acknowledging that the current law is fatally flawed. It's time to sit down and really negotiate seriously a new law. I urge everyone to vote no. This sends the wrong message to all of our constituents as to where the Senate is on this critical piece of legislation.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR STAVISKY: To explain my vote.

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

SENATOR STAVISKY: Very briefly, I hope the advocates of this legislation take the time to negotiate a proper bill on energy siting with the Assembly and, when we come back in January, pass a proper bill.

Thank you. I vote no.

ACTING PRESIDENT KUHL: The Secretary will announce the results.

SENATOR ONORATO: Party vote in the negative.

SENATOR SKELOS: Party vote in the affirmative.

ACTING PRESIDENT KUHL: The Secretary will record the party-line vote and announce the results.

THE SECRETARY: Ayes, 36. Nays, 24. Party vote.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Skelos. Senator Skelos, that was a party-line vote with exceptions?

SENATOR SKELOS: Party vote with exceptions.

ACTING PRESIDENT KUHL: Okay. The Secretary will record the exceptions and announce the results.

THE SECRETARY: Ayes, 32. Nays, 28. Party vote with exceptions.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Would you please call up Calendar Number 1734.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1734.

THE SECRETARY: Calendar Number 1734, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8429, an act to amend the Vehicle and Traffic Law, in relation to reducing the blood alcohol level.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT KUHL: Senator Fuschillo, an explanation has been requested by Senator Hevesi.

SENATOR FUSCHILLO: Thank you, Mr. President. The legislation will lower the state's blood alcohol from .10 to .08 and allow New York State to conform with the federal requirement that states lower the blood alcohol levels to .08 by next year.

But equally as important, we are taking a giant leap forward in the state's effort to combat drinking and driving. Now, I heard an argument the other day from actually a reporter who called me up, and he said that there's a report that's going to be issued shortly that shows in 1982 in New York State more than a thousand fatalities were related to alcohol and drinking and driving, and now in 2001 it's down to approximately 498. One could only hope that with the continuing efforts of the state, we would see, someday, that number down to zero.

I want to thank Senator Bruno for his support in bringing this legislation out that has already passed the Assembly, and the

Governor has indicated his support to sign it into law. Thank you.

ACTING PRESIDENT KUHL: Senator Hevesi, why do you rise?

SENATOR HEVESI: Thank you, Mr. President. Would the sponsor please yield?

ACTING PRESIDENT KUHL: Senator Fuschillo, do you yield to a question from Senator Hevesi?

SENATOR FUSCHILLO: Yes, I do, Mr. President.

ACTING PRESIDENT KUHL: The sponsor yields.

SENATOR HEVESI: Thank you, Mr. President.

I think that the sponsor's work in this area has been absolutely exemplary. I just have one brief question, if the sponsor would indulge me. There have been some press reports indicating that the state has forfeited some money as a consequence of not having passed some aspects of DWI legislation. Could you just elaborate or clarify for me exactly what we've lost and why we lost it?

ACTING PRESIDENT KUHL: Senator

Hevesi, the sponsor indicates he can't hear you. So you want to make sure you speak into your mike and a little louder, please.

SENATOR HEVESI: I'm sorry.

ACTING PRESIDENT KUHL: And could we have the conversations in the back of the room -- Senators, please take your seats.

SENATOR HEVESI: Mr. President, should I repeat the question?

ACTING PRESIDENT KUHL: Please.

SENATOR FUSCHILLO: If you would, Senator.

SENATOR HEVESI: That's probably the first time I've been accused of not speaking loudly enough.

My question, after having commended the sponsor for his work in this area, was simply if he would clarify and articulate for us exactly what monies the state, according to some recent press reports, has forfeited as a consequence of not having passed some aspect of DWI legislation that we're acting on today.

SENATOR FUSCHILLO: Mr. President, through you.

The money that the State of New

York has lost, Senator Hevesi, is dollars that the federal government placed under what was called an incentive category, which awarded federal highway transportation dollars to states that accelerated their approval of .08.

Back in 1998, there was a pool of dollars that the state could have received, and I believe it was up to $36 million that New York State had lost by not doing repeat offenders last year. And as you know, last session and the session prior to that, we had passed a comprehensive DWI package that I had sponsored, and in there were the conforming requirements for .08 and also for repeat offenders.

Because of the inability or inaction of the Assembly, as I like to say, federal highway transportation dollars, because we didn't do repeat offenders, were lost for New York State for dedicated funds for highway construction projects. But we didn't actually lose dollars, they were put into a public safety category of $22.6 million.

SENATOR HEVESI: Thank you.

Mr. President, would the sponsor yield to one additional question?

ACTING PRESIDENT KUHL: Do you yield to one additional question?

SENATOR FUSCHILLO: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR HEVESI: Thank you. I just want to be clear about it, because I think the perception was that the state's failure to enact a change to .08 had resulted in the loss of money that would have been forthcoming.

It was exclusively the failure of the state to enact repeat offender criminal increases that resulted in the forfeiture of that money?

SENATOR FUSCHILLO: It resulted in the forfeiture of $22.6 million dedicated for highway transportation projects, which the state received but can only use it for public safety projects.

What's important to note, Senator, is that the federal government has required

states to adopt just the .08 category, have it enacted by September 30th of '03. The state must officially certify by July 15th of next year to the federal government that they have approved and signed into law .08.

The bill that we're passing right now has an effective date of November of the subsequent year when it's approved. We have already passed an amendment to this bill that would change the effective date to March of next year.

SENATOR HEVESI: Understood. Thank you.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Hevesi, on the bill.

SENATOR HEVESI: Thank you, Mr. President.

You know, I have been exceedingly critical of the Majority in this house on a slew of different issues. But I would also like it to be reflected -- and this will probably be the final things I say on the floor of this house -- that I have really called it like I saw it with respect to the

other house too, and been critical of Democrats when they have failed also.

And I voted for Senator Fuschillo's omnibus bill that we did earlier this year, all of the pieces of which we just passed separately today. They were coupled, the Assembly was upset by that, and therefore we didn't pass any of these requirements, and we had the financial problems as a result.

But let me say this, two things. First of all, highlighting for the 15th time one of the ways to solve this problem would be automatic conference committees, so we at least have a discussion when similar bills, like-minded bills are passed. We don't have that. And it allows both houses to engage in the passage -- and this is not the case with this bill, let me be fair about it. But generally it allows both houses to pass something, knowing that it's unacceptable to the other house. They then have political cover for whatever constituencies are advocating for it or whom are opposed to it, and they can say, oh, we did our thing, the other house didn't do it. And as a result, we

have incredible gridlock. Okay?

I don't believe that that's what happened here, although the end result here is that the Assembly -- and I was critical of the Assembly when we passed Senator Fuschillo's bill earlier this year on this. There is no reason why the omnibus bill should not have been passed by the Assembly. There is no reason today why any one of the five separate bills, four of which deal exclusively with increased penalties for recidivist drunk drivers, should not be passed by the Assembly.

I don't know why the Assembly doesn't act on these things. I don't understand it. I don't understand why the Assembly doesn't eliminate or extend the statute of limitations on violent felony offenses. I don't understand that. Senator Skelos has sponsored repeatedly a bill that would do that. I support it. For rape victims, for victims of the sexual abuse scandal in the church, they are unable to have any kind of justice on the criminal level because -- not because this house hasn't done it, but because the Assembly hasn't done it.

And I'll give you another example. Senator Volker sponsors a bill where he increased the penalties for assaults on transit workers, and he jumped the second-degree assault from a current A misdemeanor to a D felony. Instead of jumping it to an E felony, he did one greater, to have leverage with the Assembly, because they won't do it.

So let me be completely nonpartisan and completely honest and straightforward here and fault the Assembly for not having acted on these recidivist DWI bills and a slew of other things that they haven't acted on. And a lot of times, much more than not, I agree with the Assembly's position over the position of the Majority in this house. But when they're wrong, I'll stand up and say it.

And Republicans in this house have been critical of Democrats in the Minority here in the State Senate for not putting pressure on the Assembly. I am putting pressure on the Assembly, to the extent that they listen to outgoing State Senator Dan Hevesi: They should pass these recidivist DWI

bills. There's no reason not to pass them.

The Assembly should pass the extension of the statute of limitations on violent felony offenses, particularly the sexual offenses. They should increase the penalty to at least an E felony for second-degree assaults. And there are a slew of other things that they should do on the criminal justice area that they haven't done. They should do that.

And so having said that, Mr. President, Senator Fuschillo does a great service today in moving us forward to hopefully decreasing the incidence of DWI fatalities and accidents and increased insurance premiums and all of the other negative things that go on as a consequence. So he's to be commended for that.

And let me just say, Mr. President, as my final words here in the State Senate, I beg that the members of this house recognize that we have been in a descent, since I've been in this house for the past four years, a descent in terms of openness, in terms of good government, in terms of advancing policy

through discussion and collaboration. I've voted thousands of times in this house; not once has a bill been defeated on the floor.

Put a bill out. Let it be defeated if it's going to be defeated, if it's this DWI bill. Let it be defeated if the votes aren't there. Let's have open, honest discussion, let's have hearings, let's have automatic conference committees. Let's not subjugate the minorities, particularly when it's not necessary, since so many Minority members, such as myself, are not marginal members. I couldn't be beaten by a Republican in my district. Don't punish us. There's no reason for it. Nobody has a monopoly on common sense.

We have to reform the reapportionment system so we don't lock in forever this institutional control of the Democrats in the Assembly, Republicans here, so there's no accountability, there's no openness here.

This camera here, this C-SPAN-type coverage, is the only coverage that we have here. If the capital -- I've said this

repeatedly -- if the capital of New York State was New York City, we couldn't get away with half the stuff that's gotten away with because of the press coverage that would exist in the City of New York. That's got to change. The press has been asleep at the switch here.

And finally, let me say -- because I want to end this on a positive note -- collectively, Mr. President, the legislators in this house are terrific. They are caring, kind, considerate, smart, they want to make positive change. Individually, they work hard, they are generally nice people. They are wonderful. Collectively, this institution functions in a way that is years past dysfunctional. It's so bad, it's such an embarrassment that it's become accepted and the shame has gone out the window.

And the same is true, I just don't fault this house. It's the Legislature. It's both houses. And so let me conclude by saying, Mr. President, I love this institution; I hate the way it functions. I love the individual members of this institution; I despise the way that

collectively they organize to advance policy in this house.

Because at the end of the day, we're all here to do a good thing. We're all here to advance policy, even if we represent incredibly diverse interests, and come together. And if I don't have the votes on something I want, let it be defeated. But let me have my say. Let me bring bills to the floor. Let's have an open discussion.

Having said that, Mr. President --

ACTING PRESIDENT KUHL: Senator Hevesi.

SENATOR HEVESI: I'm concluding.

ACTING PRESIDENT KUHL: Senator Hevesi, I was letting you have your say --

SENATOR HEVESI: I'm concluding right now.

ACTING PRESIDENT KUHL: -- because you're far off the bill that's before the house. So if you could, please, conclude, Senator, we'd appreciate it.

SENATOR HEVESI: Having said all of that, Mr. President, it has been a pleasure to serve here in this body. It really has. I

will miss it here. But I beg everybody here to please do reform for reform's sake, not to pay lip service.

ACTING PRESIDENT KUHL: Senator Hevesi --

SENATOR HEVESI: And, Mr. President, you have been the best presiding officer of this institution since I've been here.

ACTING PRESIDENT KUHL: You can keep going now, Senator, if you'd like to.

(Laughter.)

SENATOR HEVESI: Thank you, Mr. President.

(Applause.)

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 5 --

SENATOR GENTILE: Mr. President.

ACTING PRESIDENT KUHL: Yes. Senator Gentile.

SENATOR GENTILE: Yes, I didn't want the opportunity to pass without also adding my words of congratulations to Senator Fuschillo and everyone who has worked hard to

bring this bill to the floor.

Certainly the blood alcohol level is an issue that I've worked with as a prosecutor, is something that I have been very concerned about throughout my years in law enforcement. And to see the fact that we today have the opportunity to vote on this bill, probably the last bill that I'll be voting on, along with Senator Hevesi, in this house, is significant.

So certainly statistics bear out that those states that have .08 laws already in effect -- a 1997 study showed that those states had 275 fewer fatalities in those 15 states that already had .08 alcohol levels. So it's clear that .08 saves lives. This is good legislation.

Of course it doesn't address the issue of treatment. And treatment also is a major factor here. Treatment reduces recidivism. That's an issue that we still have to work on. It's not part of this legislation, but nevertheless it is something that should be companion to this. It doesn't mean that this isn't a good piece of

legislation.

I want to congratulate Senator Fuschillo. Certainly it's been a pleasure working with him, and everyone in this house. And I will say ditto to what Senator Hevesi said on his behalf also.

ACTING PRESIDENT KUHL: Thank you for the compliment, Senator. (Laughter.)

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Fuschillo, to explain his vote.

SENATOR FUSCHILLO: Thank you, Mr. President.

I enjoyed the spirited discussion that kind of got off the issue a little bit. But certainly let me just bid my colleagues a farewell. It's been a pleasure working with you.

And the same goes to Senator Stafford. It's certainly been an honor and a privilege to be in the same chambers as him.

I think Senator Gentile said it best. This is not the answer to get every drunk driver off the road. But we are taking a giant leap forward.

There are other components. And Senator Hevesi, to answer your question, the argument in the Assembly has been to us in this house, do .08, get it off the table and then we'll talk about repeat offenders. I want to say shame on them, because time has gone by and people have died and people have been injured in this state and certainly throughout the country. But you're correct in stating that the states that have implemented .08 prior to the required date that the federal government states has had a significant reduction in fatalities on their roads.

But we must go ahead, and we must go after the repeat offenders. And you saw what we've done today. And we must continue to support the chemical dependency programs

that I had the measure of running before my life in the Senate. We can't forget about them. And we put forth a "Road to Recovery" program last year which was an ambitious program. Another part of the blame goes to the Assembly because they couldn't pick it up.

But I want to just rise, Mr. President, and thank the Mothers Against Drunk Driving and the advocates throughout this state that have such a personal attachment to this issue because of the losses of their children, of their spouses, aunts, uncles, friends and certainly loved ones. Today is a great victory for everybody who has been supporting this legislation.

And to those that have lost their lives so tragically in the state of New York because of a drunk driver, we have not forgotten and we will continue to on.

So thank you very much.

ACTING PRESIDENT KUHL: Senator Fuschillo will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill

is passed.

Senator Skelos. Senator Skelos.

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

ACTING PRESIDENT KUHL: We will return to the order of reports of standing committees.

There is a report from the Finance Committee at the desk. I'll ask the Secretary to read.

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

As a member of the New York State Olympic Regional Development Authority, Edwin H. Weibrecht, of Lake Placid.

As members of the Capital District Transportation Authority, James S. Cappiello, of Albany, and Denise A. Figueroa, of Cohoes.

As a member of the Niagara Frontier Transportation Authority, Gregory Stamm, Esquire, of Williamsville.

As a member of the Port Authority of New York and New Jersey, Charles A. Gargano, of New York City.

As a member of the Board of Directors of the Great Lakes Protection Fund, Michael J. Elmendorf II, of Latham.

As a member of the Small Business Advisory Board, Jennifer L. Carey, of Freeport.

As a member of the State Board of Real Property Services, Frank B. Cernese, of Montrose.

As a member of the State Environmental Board, Gail S. Port, of Forest Hills.

As a member of the State Public Transportation Safety Board, John S. Delaney, of Selkirk.

As members of the Empire State Plaza Art Commission, Barbara Kaiser Bray, of Albany; Georgiana G. Panton, of Rensselaer; and Amy G. Solomon, of Delmar.

As a member of the Greenwood Lake Commission, George T. Vurno, Esquire, of Greenwood Lake.

As a member of the Niagara Frontier State Park, Recreation and Historic Preservation Commission, David S. Broderick, of Lewiston.

As members of the Medical Advisory Committee, Stoner E. Horey, M.D., of Canisteo, and Kathleen Benson Smith, of Oswego.

As director of the Municipal Assistance Corporation for the City of New York, Edward J. Munshower, of New York City.

As a member of the Administrative Review Board for Professional Medical Conduct, Winston S. Price, of Brooklyn.

As a member of the Advisory Council on Alcoholism and Substance Abuse Services, Elaine Ellis, of Tupper Lake.

As a member of the Advisory Council to the Commission on Quality of Care for the Mentally Disabled, Jeffry Luria, of Central Bridge.

As a member of the Passenger Tramway Advisory Council, James R. Ruhl, Ph.D., of Ballston Lake.

As a member of the Board of

Visitors of the Binghamton Psychiatric Center, Frances Felice, of Binghamton.

As a member of the Board of Visitors of the Brooklyn Developmental Disabilities Services Office, Celeste Andruzzi, of Brooklyn.

As members of the Board of Visitors of the Capital District Developmental Disabilities Services Office, Sharon Brooks, of Fort Johnson, and Penelope A. Pajak, of Scotia.

As a member of the Board of Visitors of the Creedmoor Psychiatric Center, Alfred Koral, of Oakland Gardens.

As a member of the Board of Visitors of the Queens Children's Psychiatric Center, Annette Aronow, of Bayside.

As members of the Board of Visitors of the Rochester Psychiatric Center, Barbara Bates, of Bergen, and John W. Hally, of Avon.

As members of the Board of Visitors of the Valley Ridge Center for Intensive Treatment, Tammy J. Carnrike, of Norwich; Irad S. Ingraham, Esquire, of New Berlin; Alan D. Pole, of Norwich; and Thomas M. Whittaker, of

Norwich.

ACTING PRESIDENT KUHL: The question is on the nominations. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominees are unanimously confirmed.

Senator Bruno.

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

ACTING PRESIDENT KUHL: None whatsoever, Senator. The desk is clean.

SENATOR BRUNO: None, the desk is clean.

Mr. President, then we are going to conclude this session and end the year, and with the expectation that we will not be back until regular session, January 8th.

And I'm very conscious and I see that many of our colleagues have started their Christmas season early, undoubtedly doing some shopping.

But for seven members, on both sides of the aisle, this will be the last session that we will be adjourning that they will be part of the Senate. And I really want to close this last session of the year in recognition of their great public service and wishing them well as they go on in their lives and in their careers, where I'm sure they will find a place where they will be contributing in a very positive way.

And those members are Senators Dollinger, Espada, Gentile, Senator Hevesi, Lack, Santiago, and Senator Stafford.

Now, Senator Stafford has the distinction of having served 37 years, and most recently as the Finance chair. Thirty-seven years. Before you were born, undoubtedly.

And my entree into the Senate was really through Senator Stafford. He was the youngest elected senator, when I first knew him, in New York State. And when I first entered this chamber, ever, it was at a time when he had just taken office. And he brought me into this chamber, and I will never forget

the awe and the feeling that I had, just coming in, feeling as if you are in a very sacred place.

So to Ron, as we adjourn this session, and to my colleagues on both sides of the aisle, I just want to say thank you for your public service and wish you well.

And there being no further business -- Senator Stafford.

SENATOR STAFFORD: I have to say that --

ACTING PRESIDENT KUHL: The chair recognizes Senator Stafford.

SENATOR STAFFORD: -- I never want to make a mistake. I told you when I made my concluding remarks, which were supposed to be concluding, last summer, that I had sat behind Senator Bruno's chair for 15 years. I sat there for 22 years.

Now, on a serious note, thank you.

(Laughter; applause.)

SENATOR BRUNO: And again, on behalf of leaders on both sides of the aisle, I wish you all a merry Christmas, a happy New Year, and safe holidays.

And, Mr. President, there being no further business to come before the Senate, I would move that we stand adjourned, subject to the call of the Majority Leader.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned, subject to the call of the Majority Leader.

(Whereupon, at 4:20 p.m., the Senate adjourned.)