NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:09 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

THE PRESIDENT: With us this afternoon to give the invocation is Pastor Bill Mayhew, from Faith Bible Chapel in Millerton, New York.

PASTOR MAYHEW: Let us pray.

Father, we come before You today and we lift up our nation at a time of conflict. Father, we pray for comfort for those who have lost loved ones. We pray, Father, for those who are still in combat; those, Father, who are captive.

And, Lord, we thank You for the privilege of our freedom, but these are days that remind us of the cost. So, Father, we pray that as they are there, that You would bless and strengthen and give wisdom to this body as they make determinations even about

their security.

So, Father, we ask that. We seek Your wisdom. Lord, we ask that we be just in our dealings with our troops and with other nations. And, Father, we ask that if it please Thee, this would be a swift and successful end to the present conflict.

Father, I pray that our nation would pull together. I pray that as diverse as our views may be on these things, that we would be as one.

Give us wisdom, grace, and, Lord, we pray that soon we will have peace as well. We ask it in Your precious name.

Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, March 24, the Senate met pursuant to adjournment. The Journal of Sunday, March 23, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

As a member of the State Commission of Correction, Frederick C. Lamy, of Warrensburg.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Madam President, I'm going to defer to Senator Nozzolio to advance the nomination.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President. And thank you, Senator Johnson.

That these -- today we are going to be confirming first Frederick C. Lamy and then Daniel B. Reardon. Both of these confirmations, the nominations come before us as renominations, reconfirmations. Both serve as current members of the Commission on

Corrections.

Before discussing individuals, I just would like to say a word about the Commission on Corrections. And as chairman of the Crime Victims, Crime and Corrections Committee of this great body, it's our responsibility to oversee the operations of the Commission on Corrections. And I daresay, my colleagues, if we were reporting on their performance, they should be given the grade of A plus.

Under the leadership of Chairman Al Croce, they, the commission members -- two of which are, of the three, to be confirmed this afternoon -- are doing an outstanding job in working hand-in-hand with the counties across this state, overseeing construction projects in the hundreds of millions of dollars of value, but motivated by doing the type of job necessary to work with counties to decrease costs, to build the most efficient and effective correctional facilities possible and doing so through their guidance in an effort to save tax dollars.

Fred Lamy comes to the commission

as an -- comes to this house for confirmation as an experienced commissioner, skilled in the issues of corrections. Got that skill working for a number of years as a sheriff from a very distinguished county. That he had served as the Warren County sheriff for a number of years and has been working in law enforcement his entire professional career.

But together with Fred and Dan Reardon, who is again to be confirmed next, Commissioner Croce has, I believe, set forward the best record that the Commission on Corrections has ever had in its state history. Gentlemen, thank you very, very much for a job well done.

Particularly for this confirmation, we want to thank Commissioner Lamy for bringing to the commission the local law enforcement perspective that is necessary, and it is second to none. That he has worked tirelessly as a member of this team. And that as such, Madam President, I move his confirmation.

THE PRESIDENT: The question is on the confirmation of Frederick C. Lamy to

the Commission on Corrections. All in favor please signify by saying aye.

Senator Little.

SENATOR LITTLE: Thank you.

If I may, I would just like to speak in support of the confirmation of Commissioner Lamy.

He is a resident of Warrensburg, New York. He has been -- spent his years in law enforcement, many, many years of his life, beginning in the Warren County Sheriff's Department at the age of 21, in 1968. He was also the Warren County sheriff, elected four times. And he has been on this commission since 1999.

Known as a strong supporter and appropriate of cooperation among law enforcement agencies, Commissioner Lamy works well with all of the agencies throughout the State of New York in his role as a commissioner of corrections.

So it is with a great deal of pleasure and it's an honor for me to support his confirmation for continuing as a commissioner.

Thank you.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Thank you, Madam President.

I rise to support the confirmation of Dan Reardon, who -- I used to represent part of Herkimer County and got to know him very well during that period of time. And I'm sure Senator Seward will also have something to say later.

But this is a fine public servant, someone with extensive law enforcement background, from being a sheriff to a former commissioner of parole, someone who we in the Mohawk Valley are very proud of. And we're very pleased to see the Governor renominating him for another term.

Thank you, Madam President.

THE PRESIDENT: Does any other member wish to be heard on the confirmation of Frederick C. Lamy?

The question again is on the confirmation of Frederick C. Lamy as a member of the Commission of Corrections. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And congratulations and best wishes to you in this position.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a member of the State Commission of Correction, Daniel B. Reardon, of Little Falls.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, as spoken very eloquently already by Senator Meier, certainly we support and endorse and echo his comments.

I know Dan Reardon has been an excellent member of the commission, and that certainly he has the unanimous support of the Crime and Corrections Committee for his renomination.

I know Senator Seward wishes to speak on this nomination as well.

THE PRESIDENT: Senator Seward.

SENATOR SEWARD: Yes, thank you, Madam President.

I think it's a real testament to our nominee that so many people are jumping the gun to speak on his behalf. And it's certainly very, very appropriate.

I've known Dan Reardon for many, many years. He's a constituent, a very respected member of not only the Herkimer County community but throughout the state of New York.

And he has, over his lifetime, exhibited just the skills that are necessary for the position that he has held the last three years as a commissioner of the New York State Commission of Corrections.

He's had extensive background not only in law enforcement, as a local sheriff, a member of the Attorney General's investigations staff, but also, in more recent years, also has been involved with our prison system throughout the State of New York through his work as a commissioner on the State Board of Parole and then, for the last

three years, as a member of the Commission of Corrections.

And I just want to congratulate the Governor for making this renomination of Dan Reardon for this position. He's served very, very well in that capacity, and I know that he will continue to serve in the future.

Of all of Dan Reardon's extensive background, I think the most important point I'd like to make here today is that he used to be on Senate staff, and that makes him a cut above many others.

So with that, I just want to congratulate Dan and his family on the occasion of his reconfirmation as a commissioner of the New York State Commission of Corrections.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Madam President, I just wanted to point out that I didn't make a mistake, it's just that once again I am ahead of my time and very cutting-edge.

(Laughter.)

THE PRESIDENT: Moving right along.

SENATOR MEIER: Thank you, Madam President.

THE PRESIDENT: Thank you, Senator Meier.

Does any other member wish to be heard?

Then the question is on the confirmation of Daniel B. Reardon as a member of the Commission on Corrections. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations, Commissioner.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a member of the Continuing Care Retirement Community Council, Patricia M. Williams, of Ithaca.

As a member of the Council on Human Blood and Transfusion Services, David Lynn Wuest, M.D., of New York City.

And as members of the State Hospital Review and Planning Council, James X. Kennedy, of Geneva; Lucille K. Sheedy, of Warsaw; and J. Patrick Sheehan, of Larchmont.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are all hereby confirmed.

The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Judiciary, reports the following nomination:

As a judge of the Family Court for the County of Erie, Rosalie Stoll Bailey, of Buffalo.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I rise to move the confirmation of Rosalie Stoll Bailey for Family Court judge.

Those of us who were fortunate enough to be at the Judiciary Committee meeting today saw an individual who has a vast experience in the law, from representing indigents in serious appeals in an assigned counsel program in Buffalo, from being a confidential law clerk for a Supreme Court judge, handling complex matters of litigation of a civil nature, and then being appointed as a referee to actually structure an expedited matrimonial part.

And that structure must have been a pretty good structure, because her -- the organization has resulted in 70 percent of matrimonials being resolved through a mediation process. Which is absolutely unbelievable.

She's now being nominated by Governor Pataki, one of his fine nominations for Family Court judge. And I would move that nomination and turn to Senator Rath for a second.

THE PRESIDENT: Senator Rath.

SENATOR RATH: Thank you, Senator DeFrancisco. I would like to add my second to

your nomination of Rose Stoll Bailey for the position of Family Court judge in Erie County.

As many of you know, those of us from Erie County, when we stand up on the floor to speak of our friends who have had this honor bestowed on them by the Governor of the nomination, we all speak like we're family. And in many ways those of us in Erie County are, much as you are in your own regions and parts of the state of New York.

But let me say this about soon-to-be Judge Bailey. She was confidential law clerk, as Senator DeFrancisco stated, to a very close personal friend of mine and my husband's, who as you all know is also a Supreme Court judge. So there is a special camaraderie that comes along when you know someone for over twenty years acting in the capacity as confidential law clerk.

Rose Bailey has distinguished herself, not only by her service to Judge Wolf, but again, as Senator DeFrancisco pointed out, writing and developing a protocol for an expedited matrimonial part that's serving as a statewide -- for a fast-track

model.

And a 70 percent settlement rate? Unheard-of. My husband was good, but, Judge, he was never that good. I mean, he settled a lot of cases in his years, but that -- this is -- that's just extraordinary.

But let me take another little point here to tell you a little bit about Rose Bailey. A graduate of SUNY Buffalo Law School, editor of The Opinion, the law school newspaper. Don't we dearly love to have people go into the judiciary who are paying close attention to the law and what it means.

You drop down a little further, some of her professional awards: Lawyer of the Year by the Women Lawyers of Western New York; recipient of a Special Achievement Award from the Erie County Bar Association Matrimonial Law Committee; recipient of a Pro Bono Award from the Volunteer Lawyers Program.

It reads like many of our resumes read, but I had never read your resume until today. I am now triply impressed by how you've managed to accomplish all you've done, done it so professionally.

And of course when my eye fell upon your work with Kids Voting and the fact that you were chairman of their speakers bureau, I thought, well, now that is absolutely the icing on the cake. Because we all know how important it is for the next generation to follow along and understand what is so important about our democracy and why we should participate.

We have a scholar, we have a legal, bright mind, and someone who has the humanity and the touch with people -- as well as being a wife and the mother of three adult children.

So I am honored to second that nomination. I congratulate the Governor, congratulate the Judiciary Committee for moving this along, and look forward to having Judge Bailey as one of the bright lights, another bright light to come from Erie County from the judicial scene.

Thank you.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Thank you, Madam President.

Mary Lou, you did a great job, and

I think you really said it all.

Rosalie Bailey is one of the most respected attorneys in Erie County. And as Mary Lou said, she guided a system on settling matrimonial cases.

And the funny thing is I didn't notice too much about it for a while until it dawned on me I hadn't heard any complaints about delays in matrimonial cases a few years ago, for the first time in about twenty years. And it was primarily because of the expedited case operation set up by then Administrative Judge Dillon. And of course Rosalie was the person who was at the forefront of taking care of that.

I just have to say that, you know, her -- the judge that she was confidential clerk to was a close friend of mine and a neighbor from about two blocks away from me, Judge Norman Wolf, who was one of the best, brightest judges in the state. And I can assure everyone here that Rosalie Bailey will likely and will also be one of the best and the brightest Family Court judges in the State of New York.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President.

I am pleased to rise and second the nomination of Judge Rosalie Bailey, who is from Buffalo, unfortunately. We're not talking about Kings County, but we are talking about Erie County, and that's important.

I just wanted to say, with regard to this particular appointment, it's such an apropos opportunity to say how much I appreciate the fact that we're nominating and confirming someone who is a woman and certainly someone who has the kind of sensitivity and experience that we would like to see in a judge, especially a Family Court judge.

And I certainly hope that someday soon we are going to be talking about sending the Family Court into the Supreme Court, because I think it's important that we raise that court to its proper position in our system.

And it's also very interesting that

we just happen to have a group of young people, many of whom have also had some contact with a judge, perhaps in Family Court, and they're able to see how some of the judges in our state are actually nominated and how they come to their position. This is one of the functions that we do. And these young people from the Dome Project are watching us, looking to see what kind of people we actually are nominating.

And I'm happy that we have this person who is a very, very excellent example of the kind of people that we would like to see in the courts, on the bench as judges.

So, Madam President, I'm just happy to join my colleagues in seconding this nomination.

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

The question then is on the confirmation of Rosalie Stoll Bailey, of Buffalo, as judge of the Family Court for the County of Erie. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Judge Bailey, on behalf of the Senate, congratulations and continued success, and best wishes in your new responsibilities.

(Applause.)

THE PRESIDENT: Judge Bailey is accompanied this afternoon by her husband, Tom; her daughter, Elizabeth; and her sister, Jean McLaughlin.

Have a great celebration.

The Secretary will read.

THE SECRETARY: Senator Hannon, from the Committee on Health, reports the following bill:

Senate Print 3292, by Senator Fuschillo, an act to amend the Public Health Law and the Education Law.

Senator Johnson, from the Committee on Finance, reports the following bill:

Senate Print 3218, by Senator Johnson, an act to amend Chapter 303 of the Laws of 1988.

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

Senate Print 2036, by Senator Marchi, an act to amend Chapter 395 of the Laws of 1978.

All bills ordered direct to third reading.

THE PRESIDENT: Without objection, all bills ordered direct to third reading.

Senator Skelos, we have substitutions.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar in its entirety at this time.

THE PRESIDENT: Motions and resolutions.

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 Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Social Services Committee in the Majority Conference Room.

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

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Are there any substitutions at the desk?

THE PRESIDENT: Yes, there are, Senator.

The Secretary will read.

THE SECRETARY: On page 8, Senator Marcellino moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 3073 and substitute it for the identical Senate Bill Number 897, Third Reading Calendar 126.

On page 14, Senator Maziarz moves to discharge, from the Committee on Health, Assembly Bill Number 3538B and substitute it for the identical Senate Bill Number 2528A, Third Reading Calendar 225.

On page 15, Senator Hannon moves to discharge, from the Committee on Health, Assembly Bill Number 6791 and substitute it for the identical Senate Bill Number 2932A, Third Reading Calendar 226.

On page 18, Senator Volker moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 6205 and substitute it for the identical Senate Bill Number 2430, Third Reading Calendar 256.

On page 20, Senator Morahan moves to discharge, from the Committee on Local Government, Assembly Bill Number 1401 and substitute it for the identical Senate Bill Number 757, Third Reading Calendar 282.

On page 21, Senator Meier moves to discharge, from the Committee on Social Services, Assembly Bill Number 5390 and substitute it for the identical Senate Bill

Number 2929, Third Reading Calendar 290.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 129, by Senator Seward, Senate Print 1447A, an act to amend the Insurance Law, in relation to creating a New York health benefit and cost commission.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 225, substituted earlier today by Member of the Assembly Destito, Assembly Print Number 3538B, an act to amend Chapter 81 of the Laws of 1995 amending the Public Health Law.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 226, substituted earlier today by Member of the Assembly Gottfried, Assembly Print Number 6791, an act to amend the Chapter 426 of the Laws of 1983.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 243, by the Senate Committee on Rules, Senate Print Number 844, an act to amend the Tax Law, in relation to the tourist home, inn --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

245, by Member of the Assembly Bradley, Assembly Print Number 2769, an act to amend the Tax Law, in relation to extending the period during which the City of White Plains is authorized.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT BALBONI: Lay that bill aside.

THE SECRETARY: Calendar Number 246, by the Senate Committee on Rules, Senate Print 1561, an act to amend the Tax Law, in relation to authorizing an increase.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT BALBONI: Lay the bill aside.

THE SECRETARY: Calendar Number 247, by the Senate Committee on Rules, Senate Print Number 1603A, an act to amend the Tax Law, in relation to authorizing the County of Schenectady.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT BALBONI: Lay

that bill aside.

THE SECRETARY: Calendar Number 263, by the Senate Committee on Rules, Senate Print Number 3058, an act to amend the Tax Law, in relation to authorizing the County of Montgomery.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT BALBONI: Lay the bill aside.

THE SECRETARY: Calendar Number 264, by the Senate Committee on Rules, Senate Print Number 3059, an act to amend the Tax Law, in relation to increasing hotel/motel taxes in Montgomery County.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT BALBONI: Lay the bill aside.

THE SECRETARY: Calendar Number 286, by the Senate Committee on Rules, Senate Print Number 1562, an act to amend --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT BALBONI: Lay

the bill aside.

THE SECRETARY: Calendar Number 288, by Senator McGee, Senate Print 2952, an act to amend Chapter 540 of the Laws of 1992.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 290, substituted earlier today by Member of the Assembly Glick, Assembly Print Number 5390, an act to amend the Social Services Law, in relation to eligibility.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 291, by Senator Balboni, Senate Print 3283A, an act to amend the Economic Development Law, in relation to the creation of the NY-USA Proud program.

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

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT BALBONI: Yes, Senator Skelos, there is a message at the desk.

SENATOR SKELOS: Move to accept the message.

ACTING PRESIDENT BALBONI: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BALBONI: All opposed, nay.

(No response.)

ACTING PRESIDENT BALBONI: The message is accepted.

Read the last section.

THE SECRETARY: Section --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT BALBONI: Lay the bill aside.

THE SECRETARY: Calendar Number 292, by Senator Little, Senate Print 3284, an act to amend the Public Service Law, in relation to directing the Division of Military and Naval Affairs.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number

293, by Senator Golden, Senate Print 3285, an act to amend the Military Law, in relation to directing the Division of Military and Naval Affairs to establish.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 294, by Senator Robach, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT BALBONI: The bill is laid aside.

THE SECRETARY: Calendar Number 295, by Senator Flanagan, Senate Print 3287, an act to amend the Military Law, in relation to waivers of professional continuing

education requirements.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 296, by Senator Leibell, Senate Print 3288, an act to amend the Military Law, in relation to payment of payment funds through electronic fund transfer.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays,

1. Senator Duane recorded in the negative.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 297, by Senator Larkin, Senate Print 3289, an act to amend the Military Law, in relation to directing the Division of Military and Naval Affairs.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT BALBONI: The bill is passed.

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

SENATOR SKELOS: Mr. President, if we could go to the controversial reading of the calendar.

ACTING PRESIDENT BALBONI: The

Clerk will read.

THE SECRETARY: Calendar Number 129, by Senator Seward, Senate Print 1447A, an act to amend the Insurance Law, in relation to creating a New York health benefit and cost commission.

SENATOR LIZ KRUEGER: Explanation, please.

ACTING PRESIDENT BALBONI: Senator Seward, an explanation has been requested by Senator Krueger.

SENATOR SEWARD: Certainly, Mr. President.

This bill creates the New York Health Benefit and Cost Commission, which would be an internal commission with the State Insurance Department. It would consist of 13 members, three to be appointed by the Governor and the Majority Leader and the Speaker of the Assembly, one each by the respective Minority Leaders in each house. And also, we would have the Commissioner of Health and the Superintendent of Insurance serving as members as well.

The purpose of the commission would

be to review and issue a report on proposed legislation to mandate a particular health benefit to be included in health insurance policies in New York State.

And they would go through a full public hearing process, gathering all the data, and make a report to the Governor and the Legislature providing good, sound information to enable both the public and the Legislature to make informed decisions regarding proposed legislation as it relates to new health mandates.

The bottom line here, Mr. President, is that this bill is designed to ensure that health insurance coverage provides the care and the treatment and the services that people need, but also ensuring that coverage is affordable and available.

ACTING PRESIDENT BALBONI: Thank you, Senator Seward.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. If the sponsor would yield to a question or two.

ACTING PRESIDENT BALBONI:

Senator Seward, do you yield to a question?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT BALBONI: Please proceed, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Senator.

Could you clarify to me what the timeline would be? We would have this commission that would have a schedule to release a report by a specific date. And the assumption is that the State Legislature would not go forward with any legislation regarding health insurance until the commission completed a report?

SENATOR SEWARD: Well, Mr. President and Senator Krueger, upon the written request for the commission to review a particular piece of legislation, the commission would have 90 days in which to do their work in terms of coming up with the information.

There is no prohibition in terms of when legislation could pass or not. That remains the sole prerogative of the Legislature.

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

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

SENATOR SEWARD: Certainly.

ACTING PRESIDENT BALBONI: Please proceed.

SENATOR LIZ KRUEGER: Thank you for the clarification, Senator.

So now, as I understand it, the commission would be active at all times and upon request by the Legislature, because a bill had been sponsored, they would then do an analysis within 90 days of that bill. Is that correct?

SENATOR SEWARD: That's basically it, Mr. President. Under the legislation, in order for a study to be done on a particular piece of legislation, it would require a written request on the part of the Governor or the leaders of the Legislature. And only then would they review.

We have -- I know just in the Insurance Committee alone, we have, most

years, about fifty different new mandated -- health mandate legislation that are pending in the committee. The -- this commission would only review those when there's been a written request to do so.

SENATOR LIZ KRUEGER: Thank you, Mr. President. If, through you, the sponsor would continue to yield.

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

SENATOR SEWARD: Yes, I will.

ACTING PRESIDENT BALBONI: Please proceed.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I'm trying to play out the pros and cons of this. So in fact, anything related to a change or decision in health insurance would go through this commission?

So, for example, a proposal for a rate change or a change in the package of health benefits provided by, say, a major healthcare provider in the state would also go through this process of the commission evaluating that?

SENATOR SEWARD: Mr. President, the only items that would be reviewed by this commission would be pieces of legislation that deal with adding a new mandate on health insurance coverages in New York State.

Currently we have, in the law, some 21 services that are mandated and 12 providers that are mandated to be included in health insurance policies that are issued here in the State of New York. And this commission would only deal when there is an addition to those services or required providers.

SENATOR LIZ KRUEGER: So, Mr. President, if, through you, the sponsor could continue to yield.

ACTING PRESIDENT BALBONI: Senator Seward, would you continue to yield.

SENATOR SEWARD: Yes.

ACTING PRESIDENT BALBONI: Please proceed.

SENATOR LIZ KRUEGER: Thank you.

So if in fact this commission had existed last year when there was legislation put through on the Women's Health and Wellness Act through this house and the other house,

then the assumption is that that bill would have -- actually, upon sponsorship, which was of course several years earlier, that would have moved through this commission because that affected the actual coverage in health insurance? Is that how you perceive this would have happened?

SENATOR SEWARD: Well, Mr. President, this commission, had it been in effect in earlier years, would in fact have done -- would have done that review if either the Governor or leaders of the Legislature had requested them to do so.

They don't automatically do that. It's only upon request.

SENATOR LIZ KRUEGER: Thank you, Mr. President. If, through you, the sponsor would continue to yield.

ACTING PRESIDENT BALBONI: Do you continue to yield?

SENATOR SEWARD: Yes.

ACTING PRESIDENT BALBONI: Please proceed.

SENATOR LIZ KRUEGER: Thank you.

So again, for my own clarification,

this commission would exist and would be there, but then upon the request of either the Governor, the Majority Leader, or the Speaker of the Assembly, any of the three, then the commission would go forth with an actual study of the cost/benefit, I suppose, analysis of what the impact of this new requirement in health insurance would be.

But, as you said, it wouldn't necessarily stop the Legislature from moving forward prior to that 90-day timeline for the study to be completed.

Is that a correct understanding?

SENATOR SEWARD: Mr. President, I think Senator Krueger's statements are correct.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, if, through you, the sponsor would yield to one more question.

ACTING PRESIDENT BALBONI: Senator Seward, do you yield to one more question?

SENATOR SEWARD: Yes.

ACTING PRESIDENT BALBONI: Please proceed.

SENATOR LIZ KRUEGER: Thank you.

What would be the parallel, under this commission model, when we put proposals for legislative changes through the budget process or the budget document rather than through individual legislation?

For example, in last year's budget there was funding for fertility treatments included within the budget that hadn't actually been a separate piece of legislation, so that it wasn't even clear that there was a 90-day timeline for that.

How would your proposed commission relate to legislative proposals that are actually not freestanding legislation but rather go through the budget document?

SENATOR SEWARD: Well, Mr. President, that is a unique scenario that has been outlined by Senator Krueger.

But my reaction is that if the Governor or either leader requested this commission to do this, that cost analysis and benefit analysis on a particular new mandate, whether it was part of budget legislation or a freestanding piece of legislation, I think

there's no question that the same process could be followed.

And I might point out as well that the commission could also do a similar review, is empowered under this legislation to do a similar review of existing mandates as well, just as a means of providing information.

Mr. President, we as a Legislature have dealt over the years with a number of mandates to health insurance coverage. We've included many; many we have not. And one of the difficulties in dealing with this type of a piece of legislation is that very often we get conflicting information. Advocates come in and say that we could add a particular mandate for a very low cost, and we get other entities coming in to the office and saying if a mandate bill is passed that it will raise health insurance premiums by 8, 9 percent.

And basically what we're attempting to accomplish through this commission is providing an independent review that would give this Legislature good, sound data, and so that we can make an informed decision.

ACTING PRESIDENT BALBONI: Thank

you, Senator Seward.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I did say that was the last question, but, I'm sorry, your information is very helpful and it raises more questions for me.

So if I could, through you, Mr. President, ask the sponsor to yield for an additional question.

ACTING PRESIDENT BALBONI: Senator Seward.

SENATOR SEWARD: Certainly. I will shorten my answers.

ACTING PRESIDENT BALBONI: There you go.

SENATOR LIZ KRUEGER: I appreciate the detail of your answers, Senator Seward.

It's a fascinating model that you propose, and it raises the question to me -- I guess two questions. One, why don't our state agencies already play this role for us of being able to provide us information,

including with our staffs here at the Legislature, to come to this kind of analysis?

Why would there be something unique about the issues in health insurance that are different than how we go through the process of every other piece of legislation that comes before us and gets negotiated out or doesn't between the two houses?

What's unique or different about the issues of health insurance mandates that would require this kind of commission when we don't use that model for any other piece of legislation that comes before us?

SENATOR SEWARD: Well, Mr. President, I would respond to the Senator in this way. I think what is unique about the questions and issues that we would have this particular commission deal with is the fact that we have a situation in the state and, for that matter, it's a national phenomenon where we have a high number of insured people when it comes to health insurance. And one of the factors that contributes to that is the cost of health insurance.

And every time health insurance

costs rise, we tend to have more people drop out of the market because of not being able to afford the coverage.

And basically what we are attempting to do under this model is to -- before this Legislature adds additional mandates that we have good, sound information regarding what a mandate would cost or perhaps what it would potentially save. It can go either way, depending on the treatment that we're talking about.

And so I believe that because of the fact that we are dealing with this uninsured problem, that it behooves this Legislature, when we're looking at mandates, to have the benefit of the work of an independent body that would provide us with that good, sound information so that we can make judgments on behalf of the people of the state and hopefully, in the end, give them the healthcare that they need but also in such a way that it's affordable and available.

SENATOR LIZ KRUEGER: Thank you.

Might I speak on the bill, Mr. President?

ACTING PRESIDENT BALBONI: On the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate Senator Seward's responses to my questions. And I do find myself on the horns of a dilemma. Because on the one hand, I think that the issues that he raises are important ones for us: How do we evaluate the costs of legislation that we put forward, how do we make the financial analysis for ourselves as a state government and local governments and consumers of legislation we pass? And the fact that there will be costs associated.

And that often we find ourselves, when it comes to healthcare analysis, short the answers we ought to have in advance of passing legislation.

My dilemma is I would argue that we should have exactly this information before us on every bill we pass through the State Senate. That whenever we pass a piece of legislation, we should have full fiscal analysis of what the impact of that legislation will be, both for the positive and

the negative, for our constituents, for local governments, for the state government.

And so my frustration is that we ought to have that level of information in detail available on every single bill that goes through this house. And yet we know we don't. We know that we look at legislation every day and we pass legislation every day that has almost no fiscal information attached to it, no financial analysis available.

We don't even know perhaps what the cost of this new piece of legislation would be if we created this commission.

And so I do applaud you for proposing a piece of legislation that would create a system where we actually had the answers to our questions before -- hopefully before we debated bills on the floor and passed them, and where we would have financial analysis of the costs and the benefits and who would pay for those and what the trade-offs would be.

My frustration is that I would like us to do that with every piece of legislation that comes before us, and that not just in

health insurance, but in a broad arena of legislation. I would argue probably 90 percent or the legislation that comes before this house and our colleagues in the Assembly, the real questions that go unanswered are the fiscal-impact questions, the mandates that we place on our ourselves as a state, on our localities, the advantages and the disadvantages fiscally for moving forward with new laws.

So if I were to vote for this bill, would I be inconsistent with myself believing that we should have this level of information on all of the bills that come before us, or do I vote against a bill where I could see strong arguments for it on the grounds that why should we subset out one specific issue, mandates in health insurance costs, to provide this level of detailed commitment and work on when we don't do that for the rest of the bills?

So I'll wait and see if anyone else speaks before they vote.

Thank you for letting me speak on the bill.

ACTING PRESIDENT BALBONI: Thank you, Senator Krueger.

Any other Senator wishing to be heard on this bill?

Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 225, substituted earlier today by Member of the Assembly Destito, Assembly Print Number 3538B, an act to amend Chapter 81 of the Laws of 1995.

SENATOR SCHNEIDERMAN: Explanation.

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

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

Mr. President, this bill extends the effective date for the limited licensed home care services agency demonstration project for two more years. It is set to sunset on March 31st of 2005. It also requires the Department of Health to issue a report evaluating the program on or before April 15, 2003, and again on or before February 15th of 2002.

This demonstration program was created by Chapter 81 of the Laws of 1995. And this program was designed to allow certified owners of adult homes and enriched housing programs to apply for licensure as limited home care service agencies so that they could provide additional services under that license to their residents.

Thank you, Mr. President.

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

SENATOR SCHNEIDERMAN: Through you, Mr. President, if the sponsor would yield for a few questions.

ACTING PRESIDENT BALBONI: Senator Maziarz, do you yield?

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT BALBONI: Please proceed, Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you. Through you, Mr. President.

I wonder if the sponsor could advise us how old this demonstration project is.

SENATOR MAZIARZ: This demonstration project, Senator, was approved, as I stated, I think, back in 1995.

Now, it did take several years and much prodding by the Senate Aging Committee to get the program implemented. It was implemented in, I believe, 1999, when the proper reimbursement rates were set and the procedures were approved by the Department of Health and the reimbursement rates by the Commission of Budget.

SENATOR SCHNEIDERMAN: Thank you.

And through you, Mr. President, am I correct in understanding that this demonstration project has been renewed through legislation already several times, the last

time being in 2001?

ACTING PRESIDENT BALBONI: Senator Maziarz.

SENATOR MAZIARZ: Through you, Mr. President, the answer to your question, Senator Schneiderman, is that you are correct, yes. It has been renewed on two occasions since that time.

SENATOR SCHNEIDERMAN: And in each of those renewals, a report describing the savings associated with the program and other issues relating to its fiscal impact was required, was it not?

ACTING PRESIDENT BALBONI: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, through you, the answer to that question, Senator, is yes.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. If I may be heard on the bill.

ACTING PRESIDENT BALBONI: On the bill.

SENATOR SCHNEIDERMAN: On the bill.

I'd like to thank the sponsor for

his cooperation in his responses. However, I must say the substance of the responses leaves me a little bit at a loss.

I have with me the transcript of our debate here from March 27, 2001, in which I said to Senator Maziarz: "We have renewed bill in 1995, 1997, 1999. When we did that, did this include the same requirement for a report from the Department of Health describing the cost savings associated with the authorization of these programs?"

Senator Maziarz once again said, "I believe that it did, yes."

I then asked if we had ever received the report, and the Senator told us that we had received a status report on the program but not the report that was required by the legislation.

This is now an eight-year-old demonstration project. There is a report that should have been submitted to us many years ago. When we renewed this in 2001, we were told the report is on its way. Then I find that we have another renewal that comes to us this year which originally, as the bill was

drafted, required a report by February 15, 2003. That was amended. We are now voting on an A print which amended the bill to give them more time to provide that they can give us the report by April 15, 2003.

There's something clearly wrong with this program. I'm not sure how we expect to be taken seriously as a Legislature if we authorize the renewal of demonstration projects, require reports to the Legislature, and then take no action whatsoever to enforce the requirement that we're provided with reports.

I don't know what is going on with this program. I don't know if we're talking about incompetence, corruption, or some parallel universe in which the reports disappear. But this has clearly, in my view, gone too far.

We're talking about a program started in 1995. This is a very serious area. This has to do with the delivery of healthcare and home care services to our senior citizens. There are a lot of people who are very concerned with this. Many of us have

relatives who could be directly affected by this program.

Why the Department of Health is now working on the eighth year of a demonstration project in a critically important area and apparently has the inability to even deliver a simple report is beyond me.

I voted for this extension -- many of us voted for this extension two years ago. That's enough for me. I've had it. I'm not going to vote for the extension, and I'm going send a record of this to the Department of Health. I do not understand what is taking so long.

And, Senator Maziarz, I would urge that the sponsor also undertake to reach out and find out what's going on here. Because this really is a situation that requires us to take some sort of action other than constantly renewing a program that doesn't appear to be getting underway with any sort of speed and seems to be getting underway with an absolute inability to account for itself to the Legislature.

Thank you, Mr. President.

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

SENATOR MAZIARZ: Mr. President, on the bill, if I may.

ACTING PRESIDENT BALBONI: On the bill.

SENATOR MAZIARZ: I was rather disappointed that my good friend and colleague Senator Schneiderman did not ask this year if the Department of Health had issued a report.

Because I have, right here -- Mr. President, I was preparing to answer the question that was never asked -- the report that Senator Schneiderman I believe has asked on at least two different occasions during the course of this debate.

I will hand-deliver this report to Senator Schneiderman as soon as the roll call is done.

ACTING PRESIDENT BALBONI: Now, that is service.

SENATOR SCHNEIDERMAN: Excuse me, Mr. President, will the sponsor yield for one question?

ACTING PRESIDENT BALBONI:

Senator Maziarz, do you yield for a question?

SENATOR MAZIARZ: The sponsor will certainly yield.

SENATOR SCHNEIDERMAN: Senator, is that a final report or is that a draft report?

SENATOR MAZIARZ: No, this is -- this is a preliminary report.

SENATOR SCHNEIDERMAN: Aaaaaaaahhhhh.

(Laughter.)

SENATOR SCHNEIDERMAN: After eight years, a preliminary report.

Thank you, Mr. President. Thank the sponsor.

ACTING PRESIDENT BALBONI: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, through you, Mr. President, if the Senator would yield.

ACTING PRESIDENT BALBONI: Senator Maziarz, do you yield to a question?

SENATOR MAZIARZ: Certainly, Mr. President.

SENATOR HASSELL-THOMPSON:

Senator Maziarz, I was going to ask the question about the report.

SENATOR MAZIARZ: Oh. Well, obviously, someone then is out of script here.

SENATOR HASSELL-THOMPSON: It's quite all right.

But the question I do have to ask you, when we discussed this, I found my notes. And in my notes we were talking about, two years ago, that there were 15 that were licensed and 75 that were pending. Can you tell me how many licenses are pending at this point?

SENATOR MAZIARZ: There are currently 28 licensed programs.

SENATOR HASSELL-THOMPSON: Okay. So between -- through you, Mr. President.

ACTING PRESIDENT BALBONI: Senator, please proceed.

SENATOR HASSELL-THOMPSON: Thank you.

So between our last discussion of this bill and now, we have additional programs that are being licensed?

SENATOR MAZIARZ: Yes.

ACTING PRESIDENT BALBONI: Senator Thompson.

SENATOR HASSELL-THOMPSON: Part of that same question, if you will.

Are we ever intending to make this permanent?

SENATOR MAZIARZ: Senator Thompson, I would certainly support making it permanent. I would desire to make it permanent just so that we don't have to go through this discussion with Senator Schneiderman every two years.

SENATOR HASSELL-THOMPSON: I understand.

My question -- again, through you, Mr. President, the last question.

ACTING PRESIDENT BALBONI: Senator?

SENATOR MAZIARZ: Yes.

SENATOR HASSELL-THOMPSON: In this report, the question that we asked before -- and I'm hoping that the report covers this. But since I have yet to be invited to get a copy of the report, I'll have to ask the question.

When we implement this report, will it contain a series of penalties to the Health Department or provide assistance to the Health Department if that's necessary, to necessitate the continuing of licenses and some of the other concerns?

SENATOR MAZIARZ: Through you, Mr. President, I will deliver a copy of the report to your office today, Senator.

SENATOR HASSELL-THOMPSON: Thank you.

And the penalties to the Health Department?

ACTING PRESIDENT BALBONI: Senator Maziarz.

SENATOR MAZIARZ: There are no penalty provisions within this bill to the Health Department.

ACTING PRESIDENT BALBONI: Senator Thompson, do you wish to continue the dialogue?

SENATOR HASSELL-THOMPSON: I'll wait for the report. Thank you.

ACTING PRESIDENT BALBONI: Great. Terrific.

Senator Krueger, why do you rise?

SENATOR LIZ KRUEGER: Mr. President, if, through you, the sponsor would yield to a question.

ACTING PRESIDENT BALBONI: Senator Maziarz, do you yield to a question?

SENATOR MAZIARZ: Yes, Mr. President.

ACTING PRESIDENT BALBONI: Please proceed.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

So while I'm not on the appropriate committee -- so I could, I suppose, assume that I wouldn't have been offered a copy of the report when this went through committee -- what's the date on the preliminary report in front of you, Senator?

SENATOR MAZIARZ: I believe it was received in my office on March 12th of this year, Senator.

SENATOR LIZ KRUEGER: Perhaps more a comment than a question, but I'll phrase it as a question.

Senator Maziarz, since apparently

you were prepared for Senator Schneiderman's response -- and again, I've only been here for one year, so I missed all the previous extensions -- why wouldn't you have shared the bill with other members of the Senate -- shared the report with other members of the Senate before we were going to vote up or down on the bill today?

Because it seems to me, without looking at the preliminary report, that my evaluation of whether they ought to receive a two-year extension on this program ought to perhaps be related in some way to the information in the preliminary report that Senator Schneiderman has been waiting for for so many years.

ACTING PRESIDENT BALBONI: Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President. Through you, I would say that I was remiss in not delivering it to Senator Schneiderman. It clearly came in to my office just recently. I actually haven't even finished reading it yet, and I wanted -- and it is a preliminary report.

But I did want to have it with me today for this debate to give to Senator Schneiderman personally.

SENATOR LIZ KRUEGER: Thank you, Senator Maziarz.

If I could speak on the bill, Mr. President.

ACTING PRESIDENT BALBONI: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

Again, I am new to this issue and the details of this particular pilot program. But I think that all of us here in the Senate should have taken a look at the preliminary report, given the fact that it's been so many years, and actually had an opportunity to debate the findings of the report in the context of moving forward with whether or not to vote for an extension of this bill.

So I am saddened that we did not have the ability to receive information that might have been relevant to most of us here in making the decision on the vote.

Thank you.

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

Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 225 are Senators L. Krueger, Parker, Sabini, and Schneiderman. Ayes, 58. Nays, 4.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 243, by the Senate Committee on Rules, Senate Print Number 844, an act to amend the Tax Law, in relation to the tourist home, inn, hotel or motel taxes in Saratoga County.

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

SENATOR SCHNEIDERMAN: If the sponsor would just yield for a brief question.

ACTING PRESIDENT BALBONI: Senator Owen Johnson, please.

SENATOR SCHNEIDERMAN: Through you, Mr. President, we now have a series of bills, Calendar 243 through Calendar 286. My question to the sponsor -- or to Senator Johnson is, have the local governments affected by each of these pieces of legislation specifically requested the bills we are about to vote on?

SENATOR JOHNSON: Yes, they have.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

Thank you, Senator Johnson.

ACTING PRESIDENT BALBONI: Senator Schneiderman, does that mean you remove your objections to all of the bills that you laid aside, in that order that you read out?

SENATOR SCHNEIDERMAN: That is correct, Mr. President. In order to expedite things, that was our question for all of these bills.

ACTING PRESIDENT BALBONI: Thank you very much.

Any other Senator wishing to be heard on that bill?

Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 245, by Member of the Assembly Bradley, Assembly Print Number 2769, an act to amend the Tax Law, in relation to extending the period.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number

246, by the Senate Committee on Rules, Senate Print Number 1561, an act to amend the Tax Law, in relation to authorizing.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately on the first month next succeeding.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 247, by the Senate Committee on Rules, Senate Print 1603A, an act to amend the Tax Law, in relation to authorizing the County of Schenectady.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 263, by the Senate Committee on Rules, Senate Print 3058, an act to amend the Tax Law, in relation to authorizing the County of Montgomery.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 264, by the Senate Committee on Rules, Senate Print Number 3059, an act to amend the Tax Law, in relation to increasing hotel/motel taxes in Montgomery County.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 286, by the Senate Committee on Rules, Senate Print Number 1562, an act to amend the Real Property Tax Law, in relation to penalties for late payment.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 291, by Senator Balboni, Senate Print 3283A, an act to amend the Economic Development Law, in relation to creation.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 32. This act shall take effect --

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Balboni, an explanation has been requested of Calendar 291.

SENATOR BALBONI: Thank you, Mr. President.

This bill is one of a series of bills, several of which we've already passed today, that essentially tries to ease the transition from the workplace to the battlefield.

Many people are perhaps not aware that almost half of the U.S. military are what they call citizen soldiers. First of all, it's an all-volunteer army. That's essential to consider. But half of the people, when

deployed, will go from their jobs as lawyers, farmers, doctors, accountants, teachers, will drop everything and will go overseas to place themselves in harm's way.

This bill in particular is a series of what I believe are common-sense changes in the law that will enable our military personnel to go overseas and fight for our freedoms and safeties without having to worry about their personal finances at home. Let me go through just some of the provisions that we're talking about.

This bill would amend the educational military -- actually, the Military Law to provide for educational military leave of absence and tuition relief for students who are called to active duty.

It would expand the Human Rights Law to protect military personnel against discrimination. It would permit military personnel to terminate a car lease if he or she is called to duty. It would provide a maximum rate of interest of 6 percent on all obligations and liabilities while the individual is engaged in state active duty.

It would permit the suspension of professional liability malpractice insurance by military personnel while serving on active duty.

It would create the War on Terrorism Scholarship Program for children, spouses, and dependents of New York military personnel killed or disabled during a war on terrorism or military action in Iraq.

It would permit the suspension of loan payments for public employees who borrowed against their retirement system savings while the employees are engaged in active duty.

It would authorize county-run veterans' service agencies to provide services to active duty, reserve, National Guard, and militia troops.

It would provide the Governor with an authority to issue an executive order temporarily suspending for 30 days while modifying specific provisions of any statute, local law, ordinance, or rules relating to the obligation of military personnel called to active duty relating to the war on terrorism.

It would create a New York-USA Proud Employer of Distinction Award to recognize companies that show exceptional support for military reservists and guard members, and establish the Patriot Discount Program, a voluntary state-sponsored program for merchants who agree to provide reduced-price discounts for merchandise to all military personnel.

It would provide free hunting and fishing licenses for members of the Guard, reserve, and state militia.

And, lastly, it would allow local governments to hire back retired workers to temporarily replace employees called on active duty.

Several weeks ago, I visited the Marine barracks in Albany and I watched a Family Day, a deployment day for the 150 marines coming out of Albany. And for me, it was the first time I'd seen such a deployment. And for me, it was seeing one aspect of the face of war.

There was the soldiers standing there in their fatigues, and their families

standing around them, children hugging them, spouses hugging them and crying. And they were afraid for many, many things, but you could also see the anguish of what this was going to mean to their basic family.

We owe these brave men and women nothing less than to recognize their sacrifice not only on the battlefield but to their families that they leave behind. These are common-sense measures that I'm very proud to be a sponsor and very proud to have before the body today.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Mr. President, if the sponsor would yield for a few brief questions.

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

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: Yes, I'd like to direct the sponsor's attention to

Section 13, the provision providing the Governor with the power to suspend the application of laws, rules or regulations for a 30-day period.

The statute is drafted fairly broadly. It says that whenever residents of the state who are in the reserve or the organized militia are ordered into active service, the Governor can suspend any provision of law if compliance with such provision would create undue hardship for such members.

Could the sponsor please provide some examples of what this might entail or what is anticipated by this broad grant of authority to the Executive?

SENATOR BALBONI: Mr. President, through you, that provision is a catchall provision that would allow the Governor to insulate active duty members from some of the potential hardships that might arise out of various obligations.

It is patterned after Article 2B of the Executive Law that allows the Governor to declare the existence of an emergency and

therefore provide extraordinary powers to the Governor, and is only in effect for 30 days.

SENATOR SCHNEIDERMAN: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Balboni, do you continue to yield?

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

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: Referring to the 30-day limitation, my reading of this is that the Governor can indefinitely extend, without any check on that authority, for additional periods of 30 days. Is that correct? Or does it only provide for one additional extension for 30 days?

SENATOR BALBONI: Mr. President, through you, there are successive 30-day periods in which this power could be given to the -- or utilized by the Governor.

However, by concurrent resolution of the Legislature, this power could be rescinded.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. Thank you.

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

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 32. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 294, by Senator Robach, Senate Print 3286, an act to amend the Military Law, in relation to authorizing additional paid leave.

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

SENATOR SCHNEIDERMAN: Yes, Mr. President, through you, if the sponsor would yield for a question.

ACTING PRESIDENT MEIER: Senator

Robach, do you yield for a question from Senator Schneiderman?

SENATOR ROBACH: I would, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: Thank you.

The question is, what would the fiscal impact of this legislation be if it was enacted? What projections have been done, and what are the current estimates?

SENATOR ROBACH: Sure. Through you, Mr. President, while there is not a fiscal note on this bill, I think that one could conclude, to use the example of, let's say, a state policeman who was called to active duty -- and let me just use this numbers arbitrarily -- who perhaps was making $50,000 and is now going to get paid $30,000 on military leave, what this bill would do is put that $20,000 back in to make he and his family whole during his time of service overseas.

And I don't think there would really be a fiscal impact per se to the state.

These are only state employees. As the bill indicates, where the loss, if any, would occur is that that person would not be completing their job. But the compensation to that individual would actually be the same.

So while there may not be any aggregate planned expense, where the expense would occur is there would be no public employee or someone else would have to be covering that duty.

That's my interpretation of this. There has not been an exact fiscal note done. Nor do I know if there will be able to do one, given the paradigm that exists to compensate these people at their current level of compensation during military service.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. If the sponsor would yield for another question.

ACTING PRESIDENT MEIER: Senator Robach, do you continue to yield?

SENATOR ROBACH: I will, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: Has there been any effort made to ascertain how many state employees potentially might be affected by this section in order to enable us, in an understandable time of fiscal crisis, to make some plan for the hiring of additional employees that the sponsor has referred to?

SENATOR ROBACH: There has been an attempt. I don't know if there's an exact number. This is ongoing and changing through a number of different issues -- one, primarily, the length of the conflict, and also how many people are going to get called up.

So we don't have an exact number that I could give you concretely. We're hoping that that number is going to stay flat and not go up, but no one really knows what that is at this point.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Through you, Mr. President, do we know how many

employees have been called up so far? Roughly, what we're talking about here, how many state employees have been called up?

SENATOR ROBACH: I guess what we'd have to take -- through you, Mr. President, I believe 5,000 New Yorkers are now on active duty. I'm not completely sure how many of those are state employees, who would be the only ones affected by this bill.

So I really don't have the exact answer. I guess my answer to it would be given the circumstances, I will admit to this, our focus was not on the finite number but, again, trying to make those people whole, similar to ones that I have in my district and I'm sure you may have in yours.

Where, for example, I have someone who is an EMT, who's an older reservist who's been called to active duty, has a child in college, two kids in private school, and a wife who currently is not working due to the slowdown in the economy in Rochester. We're trying to keep that family whole during that time.

So our focus or at least my focus

was more on getting this done, putting the memorandum of understanding that the Governor already has in compensating those people into statute.

So I apologize for not having the exact number, but that wasn't the exact focus for me in this legislation. But we are in the process of trying to monitor that more closely.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

Through you, Mr. President, on the bill very briefly.

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I think everyone here shares the concern reflected in this bill to, whenever it is possible, make whole those who are undertaking a significant sacrifice for their country.

I hope that with all of the bills in this package, which I suspect are not going to be enacted into law, that if there is an opportunity to negotiate with the Assembly and

actually do something that will become law and affect the lives of the men and women who are serving, that we pay attention in particular to the broader needs they have upon their return to our state and address some of the issues that have been raised here in recent weeks relating to employment, relating to wages, relating to the delivery of healthcare services.

Everyone here is concerned with those who are serving in the military. We're also concerned with everyone else who is attempting to hold their family together and who we would all like to make whole.

I hope that we will see some other bills come forward that actually are negotiated with the Assembly that will effect some of the purposes behind today's package of bills. And I'd look forward to being able to vote on those later in the session.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Does any other Senator wish to speak on the bill?

Then the debate is closed.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee, that completes the calendar.

SENATOR McGEE: May we please return to the reports of standing committees.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Meier, from the Committee on Social Services, reports the following bill direct to third reading:

Senate Print 3252, by Senator Hannon, an act to amend Chapter 629 of the Laws of 1986.

ACTING PRESIDENT MEIER: Without objection, directly to third reading.

SENATOR McGEE: Mr. President, is

there any housekeeping at the desk?

Mr. President, if there's no housekeeping at the desk, I would ask that you please recognize Senator Stavisky for a petition to discharge S411 from the committee.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: Mr. President, I have a motion at the desk, and I would like to have it called up at this moment.

ACTING PRESIDENT MEIER: The Secretary will read.

Senator Stavisky, you're asking that we waive the reading? I'm sorry.

SENATOR STAVISKY: Yes.

ACTING PRESIDENT MEIER: Okay. The reading of your motion is --

SENATOR STAVISKY: But I would appreciate the opportunity to speak --

ACTING PRESIDENT MEIER: That's right. Reading of the motion is waived, and you're recognized for five minutes to explain.

SENATOR STAVISKY: It will take less than five, much less than five minutes.

Mr. President, back in 1986 we

passed the EPIC program. And in fact, in 2000, we enhanced it. We increased the income levels, we lowered the copayments, quarterly fees were reduced for the low- and moderate-income people. And this became known as the fee plan. The other part, known as the deductible plan, we provided a new measure for people with higher incomes.

Under the fee plan, we had a low quarterly fee for people earning -- individuals earning up to $20,000, and $26,000 for a couple, married people.

The other option has become known as the deductible plan, and single people up to $20,000 -- from $20,001 to $35,000, and for a married couple, up to $50,000.

So these are the two EPIC options that are available for older Americans.

We made it affordable then. Now is the time to make it accessible, accessible for more people. We have limited the out-of-pocket expenses, according to Senate Bill 411, to up to 5 percent of their gross annual income.

What has been happening, Mr.

President, is that the costs of prescription drugs has been increasing between 10 and 15 percent every year. People on Medicare make up approximately 15 percent of our population, but they use 35 percent of the prescriptions that are prescribed annually for people taking these medications.

Drugs make up the largest part of a senior citizen's medical expenditures. And it's time that we reduce their out-of-pocket expenses.

Unfortunately, federal Medicare has dumped many, many seniors. They got rid of the so-called -- the people who are costing the system too much money. And unfortunately, Congress has not taken up the slack. 130,000 New Yorkers in the last two years have lost their federal Medicare -- have had their benefits reduced.

EPIC has picked up some of the burden, but not all of it. And we find that approximately 50 percent, half the older folks receiving Medicare, about half of them have signed up for EPIC. They have over 300,000 participants. But it's time to make it more

affordable. For many seniors, the prescription drugs are nothing more than miraculous. They keep them alive, they keep people alive, they offer opportunities that never existed before for health care.

My amendment -- and I think it's ironic that it's called Senate 411, as in information number -- my amendment would cap the expenses at, as I said, 5 percent. For example, if a senior is earning $35,000, they could spend nearly $3,000 in deductibles and copayments. Under Senate 411, EPIC would limit the cost to $1,550 per person, and they would save approximately $1,200 a year.

Too many people have to choose between food and medication. Some have to cut their pills in half to make them last longer. Others will skip a day. And that, unfortunately, is very, very harmful to people on Medicare.

EPIC was a bipartisan effort back in 1986. And the changes, the enhancements back in 2000 again was a bipartisan affair. And I think it's time that the members on the other side of the aisle join us in this

bipartisan effort to limit the expenses that people face, as I said, at 5 percent of their gross annual income.

And this, I think, will -- the $170 million saving to the people who now are covered under EPIC would be returned to the community. This is not maybe money. The $170 million that people will be saving will be in the economy, they will be using it to buy food, to buy clothing and other necessities in the community. There's no question that this is going to stimulate the economy and it will return itself many, many fold.

So, Mr. President, I urge that this amendment -- this legislation be adopted.

Thank you.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, before you canvass the membership, there will be, following session, an immediate conference of the Majority in the Majority Conference Room.

ACTING PRESIDENT MEIER:

Immediate conversation of the Majority in the Majority Conference Room following session.

Senator Onorato, why do you rise?

SENATOR ONORATO: Mr. President, I'd like to announce that there will be a Minority conference immediately following session.

ACTING PRESIDENT MEIER: Conference of the Minority in the Minority Conference Room immediately following session.

Will those Senators in agreement now with the motion to petition out of committee please signify by raising your hand. Please leave it up so that the clerk can get an accurate count.

THE SECRETARY: Those recorded in agreement are Senators Andrew, Breslin, Brown, Dilán, Duane, Hassell-Thompson, L. Krueger, Lachman, Montgomery, Onorato, Parker, Paterson, Sabini, Sampson, Schneiderman, M. Smith, and Stavisky. Also Senator Stachowski. Also Senator A. Smith.

ACTING PRESIDENT MEIER: The petition is lost.

Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business to come before the Senate, I move we stand adjourned until Wednesday, March 26th, at 11:00 a.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Wednesday, March 26th, at 11:00 a.m.

(Whereupon, at 4:35 p.m., the Senate adjourned.)