NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 8, 2003

3:11 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 today to give the invocation is the Reverend Dr. George Miller, III, president of the Practical Bible College in Johnson City, New York.

REVEREND YOUNG: Let's pray.

Our gracious and loving Heavenly Father, we humbly come before You today. We're amazed as we think of the great thought that the awesome Creator, God of this universe, allows us to come before Him and call Him Father. May we each sense Your love for us as individuals. May we trust You completely.

God, these leaders before me today I thank You for, because they are gifts from You. I thank You for their willingness to serve the people of the State of New York.

These men and women are students of Your purposes and resources and human lives and history. You have chosen them for action, action that can make a great and beautiful difference in this State of New York and even around the world.

May they each realize that they cannot lead alone, but that they need each other and, even more important, that they need a God who gives to them wisdom, guidance, and courage.

God, you have said in Your word that if any of us lacks wisdom, let us ask of God who gives generously to all. I pray that the precious gift of wisdom be granted to these leaders to be able to apply relevant values to the decisions before them.

May Your spirit inform and encourage them. May they receive wisdom to chart correct courses to all their goals. Help them to be guided by Your truth. In all our differences, give them shared reality and an accurate view of every issue in a way that will lead to consensus. Lead this body of men and women to the decisions that will lead to

greatness.

God, also we pray that You would accept our thanks for allowing us to live in such a great country, the United States of America. We thank You for the freedoms that we enjoy every day, and may we never take them for granted.

In this great land in which we live, however, we realize that we are experiencing often confusion, fear, and disappointment. That You are the God of hope, give us all hope.

Guide our President, his cabinet, those in elected national positions. Protect our troops around the world and especially in Iraq and Kuwait. Bring about soon a surrender of the Saddam Hussein regime, and may this war end. We pray for peace in our individual hearts, peace in our nation and around the world.

In conclusion, Lord, I ask that as the Apostle Paul tells us to do good to everyone at every opportunity, may we each obey that command, realizing that the command alone would be a powerful step toward peace

and prosperity.

I pray these things in the name of our great God and Savior, Jesus Christ.

Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, April 7, the Senate met pursuant to adjournment. The Journal of Friday, April 4, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Kuhl, would you please place a sponsor's star on Calendar Number 255.

THE PRESIDENT: The bill is so starred, Senator.

SENATOR FARLEY: Madam President, on behalf of Senator Seward, on page 8 I offer the following amendments to Calendar 124, Senate Print 1566, and I ask that that bill retain its place on the Third Reading Calendar.

Thank you, Madam President.

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

Senator Skelos.

SENATOR SKELOS: Madam President, I move that we adopt the Resolution Calendar in its entirety.

THE PRESIDENT: All those in favor of adopting the Resolution Calendar in its entirety 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, I believe there's a substitution at the desk. If we could make it at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 12, Senator Nozzolio moves to discharge, from the Committee on Crime Victims, Crime and Correction, Assembly Bill Number 11 and substitute it for the identical Senate Bill Number 958, Third Reading Calendar 195.

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 57, by Senator LaValle, Senate Print 294, an

act to amend the Education Law, in relation to the inclusion of fiscal notes.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 66, by Member of the Assembly Magnarelli, Assembly Print Number 4697, an act to amend Chapter 206 of the Laws of 1974 amending the Labor Law.

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, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 99, by Senator Balboni, Senate Print 517, an act to amend the Family Court Act and the Domestic Relations Law, in relation to the issuance of orders of protection.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 10. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 142, by Senator Skelos --

SENATOR PATERSON: Lay that aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 259, by Senator Kuhl --

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 267, by Senator Golden --

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

270, by Senator Rath, Senate Print 1681, an act to amend the Penal Law, in relation to aggravated harassment of an individual using a facsimile machine.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 311, by Senator Saland, Senate Print --

SENATOR LIZ KRUEGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 341, by Senator Libous, Senate Print 2894, an act to amend the Mental Hygiene Law, in relation to renaming the Binghamton Psychiatric Center the Greater Binghamton

Health Center.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 366, by Senator Maziarz, Senate Print 1512, an act to amend the Criminal Procedure Law, in relation to permitting a social worker or other professional to provide.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 371, by Senator Spano, Senate Print 1936A, an act to amend the Penal Law, in relation to the reckless assault of a child resulting in serious physical injury.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 379, by Senator McGee, Senate Print 3230, an act to amend the Penal Law, in relation to the minimum sentence of imprisonment.

THE PRESIDENT: Senator McGee.

SENATOR McGEE: Madam President, please lay that bill aside for the day.

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

SENATOR McGEE: Thank you.

THE PRESIDENT: Senator Skelos, that completes the reading of the noncontroversial calendar.

SENATOR SKELOS: Thank you, Madam President. If we could go to the controversial reading of the calendar.

THE PRESIDENT: Would the members please take their conversations outside the chamber.

The Secretary will read.

THE SECRETARY: Calendar Number 57, by Senator LaValle, Senate Print 294, an act to amend the Education Law, in relation to the inclusion of fiscal notes.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, Madam President. If the sponsor would yield to some questions, please.

THE PRESIDENT: Senator LaValle, will you yield for a question?

SENATOR LaVALLE: Yes, I will.

THE PRESIDENT: You may proceed, Senator.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. Through you.

Senator, how will this be implemented, and who will enforce the legislation?

SENATOR LaVALLE: This bill would require, as you know, fiscal notes for any action, amendment to the rules, or new rules that are adopted by the Board of Regents, the State University and the City University. And they would submit that to the legislative bodies so that we would have an idea of what impact these resolutions or these rules would have on our life.

And the best example I can give to you, Senator, is the standards that were created by the Board of Regents and the fiscal impact that that has had on our budget. While almost every member of this body is supportive of those standards, we needed to know how that would impact our budgets.

And we require fiscal notes of many bodies, or certainly of this body, so that we understand what the impact is. And we're merely asking the education governing

boards -- SUNY, CUNY, and the Board of Regents -- to give us that information.

SENATOR HASSELL-THOMPSON: Through you, Madam President, if the sponsor will continue to yield.

SENATOR LaVALLE: Yes.

THE PRESIDENT: The Senator does yield.

You may proceed, Senator.

SENATOR LaVALLE: Yes, I'd be delighted.

SENATOR HASSELL-THOMPSON: Thank you.

Then, Senator, will this legislation deter the boards from taking any necessary action when it deals with increases in expenditures?

SENATOR LaVALLE: It certainly would -- like any fiscal note provides the body Division of the Budget with information that they need. But I do not believe anyplace contained in here indicates that they have to make changes.

We certainly will be, when we understand what the fiscal impact is, would be

having a dialogue with that body to say do you realize that it would have X impact on our budget, and maybe you need to have -- make changes.

Now, that body may simply say to us: No, we're going to stand by that action, and we simply are providing you with the information needed as to what the fiscal consequences would be.

SENATOR HASSELL-THOMPSON: Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator, will you yield for another question?

SENATOR LaVALLE: Yes, I'd be delighted to.

THE PRESIDENT: You may proceed, Senator.

SENATOR HASSELL-THOMPSON: Thank you.

Will the boards have to notify the State Education Department before the adoption of the resolutions?

SENATOR LaVALLE: I'm sorry, Senator, I couldn't --

SENATOR HASSELL-THOMPSON: Would the boards have to notify the State Education Department before the adoption of these resolutions? I mean, in other words, it's almost like a ratification. Do they have to before the adoption of these resolutions?

SENATOR LaVALLE: Certainly the -- to use the example of the Commissioner of Education, here we're asking that the -- let me just go to that section dealing with the Board of Regents.

It says: "Prior to the adoption of a resolution or any alteration or amendment to the rules and regulations prescribed by the Regents that may require an increase in expenditure of the state's money, in the fiscal year of the adoption or any future year, a fiscal note shall be required."

So that's all that we're simply saying, that a fiscal note is required as to any impact that this would have. It doesn't bring the Commissioner -- that the Commissioner has to advise us or whatever. It's the board, upon their action.

And just remember that the

Commissioner actually works for the Board of Regents and is their administrator and the implementor of their policies.

So it's actually the board resolution -- it's the same way as we work here. Legislation that we pass, we require and ask for a fiscal note, fiscal impact, so that we know what the consequences are. We're really asking for the same thing of the education governing boards.

SENATOR HASSELL-THOMPSON: Madam President, final question, if the sponsor will yield.

THE PRESIDENT: Senator, will you yield for a final question?

SENATOR LaVALLE: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR HASSELL-THOMPSON: Okay, thank you.

Senator, is this an attempt by the Legislature to kind of overstep or by pass the authority that I presume now belongs to the SUNY and CUNY boards and the Regents in making this policy decision?

SENATOR LaVALLE: No, absolutely not. Policy decisions -- and this legislation does not, in its language nor its intent, is to intrude in the policy of the three boards that hold, under our statutes, the policymaking for education, in the case of the Board of Regents that covers both elementary and secondary and higher education, the SUNY board and the CUNY board.

This legislation clearly has as its intent to tell us in the state -- Division of the Budget, the Legislature -- what are the fiscal consequences of their actions.

Many people, and I use again as an example, were supportive as a matter of policy of the higher standards for elementary education. But this body and many of its members were surprised at the fiscal consequences. Had we known from the very beginning we could have, in partnership -- in partnership -- better planned for how we would meet the policy consequences and the fiscal consequences as they impacted the State of New York.

And that's all we want to know. As

we ask in any fiscal note, just tell us how much is it going to cost. We do not challenge nor ask about the policy behind it, because that's clearly delineated in the Constitution when it comes to the Board of Regents, in statutes that we, we as a Legislature, developed and empowered them to be.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

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

Senator Diaz.

SENATOR DIAZ: Thank you, Madam President. Through you, Madam President, can I ask a question to the sponsor?

THE PRESIDENT: Senator, will you yield for a question?

SENATOR LaVALLE: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR DIAZ: Thank you, Senator LaValle.

I have here something that says: "Under current law, a fiscal note is not required prior to the adoption of a

resolution, alteration, or amendment to the rules and regulations by the SUNY Board of Trustees, the CUNY Board of Trustees, or the Board of Regents.

"There are many instances when these boards have adopted resolutions that require a significant increase in state funding in order to implement proposed changes. These changes can cost millions if not hundreds of millions of dollars to put into effect. However, there is no acknowledgment regarding those costs when the board votes for these proposals."

My question, can you name any resolution, any alteration, or any amendment that the board has implemented or voted for that could cause that --

SENATOR LaVALLE: Yes, I'd be delighted to.

And one of the recent changes or adoption of rules by the Board of Regents was done to implement legislation that this body and the Assembly passed and the Governor signed into law requiring defibrillators to be in our schools.

The impact when you looked at the regulations -- and I just spoke to Commissioner Mills about this very, very recently. When you look at the regulations, the regulations seem, in my judgment and the judgment of other people, to have expanded and broadened the legislative intent.

And so it would be important for us as well as school districts to have understood what that impact is after the regulations were adopted. Which were enormous on our school districts.

I talked about the standards that the Board of Regents adopted requiring our school districts -- and again, I indicate that almost to the person in this body, there is support for those standards, the higher standards. But the fiscal impact should be known. Which is huge. Which is huge.

When we talk about certain requirements that I'm hearing in the middle school that are regulatory changes that have an impact, I think we need to know about that so we can plan for it in our budgets.

Or we can go back and say to the

Board of Regents, in the case of the legislation requiring defibrillators, that they have broadened that beyond the intent of the sponsor and this Legislature.

And I could go on and on. When the State University does certain things to broaden its enrollment and student body, those actions have an impact on our tuition assistance program, whether it be at the community college level or the senior college level.

And, Senator, I could go on. It was obvious that, having spent some time in this chamber dealing with educational matters, that it has gone far beyond the regulatory reach and the impact, fiscal impact has become greater and greater.

And I think we just need to know, and I think the sponsors on our governing boards need to be more conscious that their policy decisions have grave and significant fiscal impacts both to the state and to the localities.

SENATOR DIAZ: Madam President, through you, would the sponsor yield for

another question, last one?

THE PRESIDENT: Senator LaValle, will you yield for another question?

SENATOR LaVALLE: Yes, I will, Madam President.

THE PRESIDENT: You may proceed, Senator Diaz.

SENATOR DIAZ: I don't know if I get you right, but you said that what they did before was approved by this body, by the Assembly and the Governor signing it. My question -- and I would like to understand this very clear -- my question, when they do a resolution, alteration, or amendment that has to do with money, to increase the budget or whatever, don't we have to approve that? Or they could do that on their own?

SENATOR LaVALLE: Senator, I gave two separate examples.

One, the higher standards for education, was something done on their own initiative and done within the scope of their authority. That action, this body, this legislative body had no input, had no -- I mean, we could have the authority to make

changes to that scope or that reach, but what we were left with was the bill. They took the action, handed us the bill, and said "your problem."

What I'm trying to do here is establish a partnership. And partners talk to one another. Partners dialogue. They don't just enjoy the dinner and then just hand you the bill.

The second example was how a regulatory action broadened the authority of legislation that we passed. And the fiscal consequences was had on the local school districts, on the local school districts.

Now, here again we have to try and ameliorate that state mandate. Because back in my district, all I hear is the state mandates something but doesn't pay for it, or it doesn't pay enough of its fair share.

So I think we need, and through fiscal notes hopefully, hopefully, will give us better communication in the partnership between the Legislature, the Governor, and these educational governing bodies.

SENATOR DIAZ: Thank you.

Madam President, on the bill.

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

SENATOR DIAZ: It is, to me, something very interesting that for years and years our minority community has been working or has been forced to work under certain rules. When our community starts growing and we start getting -- reaching academic, political, or those levels where we can compete with the rest of humanity in the state and in the nation, there are always someone coming up with some idea of "let's remediate something."

And every time that someone calls for reform or changes, they're always to affect our community, black and Hispanic community, and those changes are always to the detriment of our people.

I know Senator LaValle. He's a very honest and very dedicated person. I just -- I'm just worried that when our people, members of our community, get appointed to positions such as regent or board of the colleges, then we have to change the ballgame

to tie their hands. But those hands were not tied before our people got there.

So I am very, very interested in seeing how things change, changes, when our people get to positions of power. And I'm -- you know, I -- I've got problems with this bill.

Thank you, Madam President.

SENATOR OPPENHEIMER: Madam President.

THE PRESIDENT: Senator Oppenheimer, why do you rise?

SENATOR OPPENHEIMER: I'd like to question the sponsor, if he will yield.

THE PRESIDENT: Senator Volker has been waiting to ask a question.

Senator Volker, do you yield?

SENATOR VOLKER: Okay.

SENATOR OPPENHEIMER: Oh, I'm so sorry. I didn't see you.

THE PRESIDENT: All right, Senator Oppenheimer. Senator Volker will yield.

SENATOR VOLKER: I yield. I yield.

SENATOR OPPENHEIMER: I also have a lot of problems with this bill. I'd like to ask the sponsor, if he will yield --

THE PRESIDENT: Senator LaValle, will you yield for a question?

SENATOR LaVALLE: I would be delighted.

THE PRESIDENT: Senator Oppenheimer, you may proceed with a question.

SENATOR OPPENHEIMER: Thank you so much.

In many ways this looks to me like it's just another attack on the Board of Regents. If you could tell me, Senator LaValle, is this -- this would cover both education issues and noneducation items; right? Correct?

SENATOR LaVALLE: Senator, this bill applies to the State University of New York, the City University of New York, and the Board of Regents. It includes all three governing boards dealing with education and higher education in the State of New York.

SENATOR OPPENHEIMER: So if you would continue to yield, that would mean

both --

THE PRESIDENT: Senator LaValle, will you yield, please?

SENATOR LaVALLE: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR OPPENHEIMER: That would be noneducational as well as educational issues?

SENATOR LaVALLE: The -- well, when it -- certainly City University, State University deal with higher education. The Board of Regents has a broader ambit that deals with the professions, the museums, the libraries.

So the answer is yes, is yes.

SENATOR OPPENHEIMER: The reason I questioned, if you will continue, is because you were using the CPR or the --

SENATOR LaVALLE: Defibrillators.

SENATOR OPPENHEIMER: -- the defibrillators as an issue.

SENATOR LaVALLE: For our elementary and secondary schools, Senator.

SENATOR OPPENHEIMER: As an

issue. Right.

Okay. The last question I have for the Senator --

THE PRESIDENT: Senator LaValle, will you yield for a question, first of all?

SENATOR LaVALLE: Yes, I'd be delighted.

THE PRESIDENT: Senator Oppenheimer, you may now proceed with a question.

SENATOR OPPENHEIMER: On the issue of -- I'm just looking now at K through 12, the education policy which is set by the Regents. Would you not say that we have the input, in either voting for it or not voting for it or extracting what we wish out of it, in our ability to pass a budget?

SENATOR LaVALLE: Senator, the Legislature in all three cases -- in the Board of Regents, State University, and City University -- their impact is very analogous to the election or selection that we have to members of the MTA, to the public benefit corporations.

We elect members of the Board of

Regents, we confirm the Governor's appointments to the City University and the State University. After that, they have broad regulatory powers.

And again, I use as the greatest impact that we have had is the standards for our elementary and secondary schools -- that again, I say, we favor. But what we did not know at the time that they adopted it -- and we had no input, no discussion -- we were left with the bill from those policy changes and those regulatory changes.

Now, I suppose this body could, if it wished, say, delay the impact of certain requirements, could change as a matter of law those requirements. We could do that. But the fact of the matter is that then gets into something that Senator Hassell-Thompson talked about, questioning do we get into the issue of policy.

Under the Constitution, we -- the Constitution has delegated to the Board of Regents certain powers as a corporation running the University of the State of New York. And we have on an annual basis

given the State Education Department powers to promulgate regulations to implement certain laws.

Whether it be the laws that we passed for the handicapped, the Board of Regents takes that law, or the Commissioner, and they then add -- sometimes intentionally, sometimes an unintentional result -- a certain fiscal impact on the local school districts.

The local school districts, as you know, as a valued member of the Education Committee, come to us. And they said: What did you do? You passed these changes for the handicapped that have an enormous impact on our budget. Give us more money. You passed and required us to have defibrillators in our district. Give us the money. It costs more money.

And it goes on and on and on. I think we need to know what that fiscal impact is. That's all this bill does. That's all this bill does. It's narrowly focused on the issue of just let us know what the impact is.

As I say, you and I go to dinner, you say, "Senator, thanks for the dinner," and

you hand me the bill. That's not fair. Unless we had an agreement prior that I was taking you to dinner, Senator.

SENATOR OPPENHEIMER: Thank you, Senator LaValle. Your sincerity is not questioned, and your hard work and understanding of educational questions is not questioned.

On the bill, please.

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

SENATOR OPPENHEIMER: I'm really pulled in a couple of directions. If it's a noneducational issue, I don't mind seeing a fiscal impact on it. But I -- as far as educational policy, I feel that has to stay in the domain of -- in the question of K through 12, in the domain of the Board of Regents.

It is probably the most stellar feature that we have of any state concerning the creation and establishment of educational policy. It is very valued, and we are admired by many states for our Board of Regents. And therefore, I think to say everything has to be brought down to a monetary consideration is

doing education a disservice.

I see education as the primary, principal responsibility of state government, since there's no mention of it at the federal level and it then devolves upon us. And there can be no more important issue than how we educate our children.

And I think the Board of Regents, in putting forth a set of standards -- which is going to be costly, but it is more costly if we do not educate our children to the level where they will be able to hold jobs and participate in the economy, hopefully be voting citizens, know their issues. That's not going to be done unless we try and bring them up to these standards.

So I'm going to be voting no, because this sounds to me like it's getting into -- we're trying to set a number on what it costs to educate properly, give a child a sound education.

As for the noneducation issues, I can see the value of it. But I cannot see it -- it would hamper our education standards and our support for education.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Madam President, I rarely rise to speak on my colleagues' bills, Senator LaValle's bills. In fact, many of the bills we disagree with, on bills. As I think a lot of people know.

But on this one, this is a rather mild message. To me, the whole issue is the Education Department. As I -- you know, I've been here a long time, and we've had our differences with the Board of Regents and with the Education Department. But I don't believe I've ever seen a time when the Education Department has directly intervened in creating havoc for us, and more fiscal problems.

When the school districts start telling us about mandates, inevitably we get into something that the Ed Department has done. They say, Well, it's the state. And we say, Well, it's the Education Department.

The defibrillator situation -- by the way, we passed a simple, straightforward, fine bill. Senator Kuhl passed this last year. None of us knew -- at least I didn't know, and I don't think Randy knew -- that it

was going to be totally brutalized by the Education Department's idiotic regulation. Which many schools, you will find upstate, are ignoring, because it is absolutely unaffordable for some schools.

And then we're the ones that get criticized for that. We didn't ask for that. They were mad, by the way, from what I understand, because we didn't consult with them enough. So they said: The hell with you people, we're going to do this huge thing. It's the biggest mandate, by the way, that we passed last year -- and we didn't pass it. They did.

The year before was the building aid situation. They were talked with. I understood they were mad because we didn't talk with them enough before we did it. Well, the fiscal people tell me that that wasn't true, that our fiscal people, our education people, talked with them about finding a way to make it easier and cheaper to deliver building aid so it wouldn't create any problems on a local level.

Well, the Education Department,

they didn't exactly do a regulation, but they did some standards that turned into a fiasco. And to this day, a year and a half later, we're still having problems and straightening them out because the Education Department will not thoroughly comply with what this body told them to do.

Now, I'll admit to you that I'm especially irritated because yesterday the Education Department came out with some grants that they do every year for after-school money. Which Buffalo, the city that I don't represent -- but I do -- was a major participant for many, many years. Virtually every city in the state.

For some strange reason, this year, for the first time, the Education Department said they didn't like our application, or their application, and gave the City of Buffalo, with some of the largest problems in the State of New York, no money.

We hear rumors internally that they're mad at Buffalo because Buffalo was late with filing a certificate or audit papers. Which everybody in the state knows

happens all the time. One year New York City didn't file for a whole year. They went over. We all knew about that. But it exposed some problems that the Ed Department has with their questionnaires, their audits. And admittedly that Buffalo has got it in and so forth, but they were late. So it caused embarrassment to them.

My problem is I'm a little tired -- more than a little tired -- of bureaucrats telling this body what we should spend, how we should spend it, and ignoring this body, whether it's Senator LaValle or whether it's Senator Oppenheimer or whoever it is. It seems to me -- and my bill would have been a lot stronger than Senator LaValle's. His, you know, is a nice bill. It tells them from now on you got to tell us what's going on. I plan on putting -- if I put any bills in on education, I'm going to say this bill cannot have any regulations by the Ed Department to implement it. Which I think would send a really strong message.

But I am serious, I want to help kids as much if not more than anybody. But I

am tired of a -- what sometimes is called an education aristocracy that doesn't care about money and that has the attitude that kids can't be taught unless you spread hundreds of millions of dollars of money around. Well, you know, the answer is yes, we got to give money. And this Legislature and this house has been extremely generous to education. We've all been criticized for it, but that's the way it is.

But when we allocate money, we should know what we are allocating it for. And we don't have to have somebody who is a bureaucratic educated whatever -- and a group, by the way, that we have virtually no say in. Because the Board of Regents now, the way that operation works, we have almost no say in the Board of Regents or in the Ed Department. And that's wrong. And we'll eventually change that one way or another.

But I think the biggest point is that Senator LaValle's bill is a move toward making sure that we in this body, when we do legislation, we know not only what we're voting for but that our budget shows the money

in there that should be paid, and not have somebody in the Ed Department decide to make it 200 million instead of 100 million.

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN: Yes, Madam President, I rise to speak on the bill.

I think it is a good bill --

THE PRESIDENT: You may proceed, Senator.

SENATOR LACHMAN: I think that Senator LaValle listened to some of the comments that Senator Stavisky -- who unfortunately is not in the chamber today, so I can't speak for her final opinion -- and that I had made on the bill. It's a slight improvement over last year's bill that I voted for, and I think we voted 58 to 2 for that bill.

I think it is a bill that is pro-education, and at the same time it does permit the state legislator to act as a state legislator, commenting on what I said yesterday regarding the adoption of the budget. We are a Legislature, we have to oversee certain things, and we have to make

certain that good education takes place from K through and beyond it.

It's not a coincidence that last year's bill, the Board of Education did not oppose it, the Department of Education does not oppose it now, the CUNY Board of Trustees and administration don't oppose it, and even one of the most progressive unions -- really one of the most progressive unions in the state of New York, the Professional Staff Congress, has not said that they would oppose this bill.

This bill gives us in the State Legislature the opportunity to seize the initiative and act like legislators and improve guidelines for education as well as for noneducational issues and health issues such as defibrillators.

Thank you.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If, through you, the sponsor would yield to one question.

THE PRESIDENT: Senator LaValle, will you yield for a question?

SENATOR LaVALLE: Yes.

THE PRESIDENT: Go ahead, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

Senator, in your legislation it says that a fiscal note will be secured from the Division of the Budget. What if the Division of the Budget doesn't want to come up with a fiscal note? What happens?

SENATOR LaVALLE: Senator, when the -- let's assume this is law. When we direct in our law for a party to do certain things, we expect them to do it.

Now, I don't know what else you would require of this, because we're very clear here in what we're asking the boards to do, the Commissioner, the Chancellor, and the Division of the Budget. And each party should, if this were the law, they should comply with the law.

SENATOR LIZ KRUEGER: Thank you.

Madam President, to speak on the bill.

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

SENATOR LIZ KRUEGER: Thank you.

Senator LaValle, thank you for your answer. And I do support your bill.

The reason I asked the question was it was not apparent to me that the language of the bill required the Division of the Budget to provide a fiscal note when requested by CUNY or SUNY or the Regents.

The reason I support your bill is because I do believe that we should have fiscal notes and fiscal analysis done on every decision that gets made here in the state by major institutions. And in fact, a frustration of mine has been that we pass legislation through this house all the time where the fiscal notes either don't exist or, worse, are meaningless.

We've passed legislation this week alone where a fiscal note says it will cost the state something this year and in future years. Well, again, following up to some degree on your own comments and on Senator Volker's comments, isn't that ridiculous? We're passing costs on to localities, we're trying to do our own budget analysis in tough

fiscal times, and yet I think that we should hold ourselves to as high a standard as you are asking our institutions of higher education to hold themselves.

And so I'm concerned both that our failure in this house to do accurate, correct fiscal analysis of the costs of our actions -- and I am concerned in this context that if the Governor's agency, the Department of the Budget, simply decides that this isn't a mandate on them, this just says CUNY, SUNY, and the Regents can't act until they get a fiscal note, and the Department of the Budget chooses not to give them a fiscal note, that we have put them in a bind where they would be frozen.

So my question was not because I opposed your legislation, my concern was a linguistic one of making sure that when this legislation passes, if it does in both houses, that the Governor and his agency, the Department of the Budget, understands that they have a new mandate, so to speak.

And again, I'd like to take this opportunity to highlight that we shouldn't be

passing any legislation in the New York State Senate that doesn't have accurate, factual fiscal notes that, I would argue, for the benefit of the people of the State of New York not only show the fiscal implications for the State of New York, but also show the fiscal implications for our localities. Because on so many different issues that we pass laws on here, we transfer a share of those expenses to our localities.

Thank you very much, Madam President.

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

Then the debate is closed.

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: Those recorded in the negative on Calendar Number 57 --

THE PRESIDENT: Senator Oppenheimer, do you wish to be heard?

SENATOR OPPENHEIMER: To explain

my vote, please, Madam President.

THE PRESIDENT: All right. You may proceed to explain your vote once you've been recognized, and you are so recognized.

SENATOR OPPENHEIMER: I would say that I can concur on most issues as far as having fiscal notes. It's been a point that I have been making for many years, and I think it's a valid one.

My specific concern is this body trying to make education policy. Do we know the value or the cost of providing Latin or AP biology or calculus? It is simply not a realm that we have expertise in. And it is not something that you can set dollar amounts on, in my opinion.

In most every other area, I would concur, fiscal notes are superb, and I would seek them. But not in the area of educational policy. We just don't know enough in this body.

I vote no.

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 57 are Senators Andrews, Diaz, Hassell-Thompson, Montgomery, and Oppenheimer. Ayes, 54. Nays, 5.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 142, by Senator Skelos, Senate Print 557, an act to amend the General Obligations Law, in relation to exoneration of certain crime victims.

SENATOR SCHNEIDERMAN: Explanation.

THE PRESIDENT: Senator Skelos, an explanation has been requested.

SENATOR SKELOS: Thank you, Madam President.

This bill amends the General Obligations Law by bringing back the assumption of risk doctrine in certain civil lawsuits. The defendant, who is generally a victim or a Good Samaritan, would have to prove by a preponderance of the evidence, by showing that the plaintiff committed the crime and that the defendant's actions were

justified under the circumstances.

The criminal then would have assumed the risk of his injury by his intentional actions against the victim.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Briefly on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR SCHNEIDERMAN: I believe the sponsor, for my purposes, has been cross-examined on this previously.

The reason that I have concern about this is that sometimes, under the rubric of being tough on criminals, we can make very serious changes in the law with unintended consequences that can inflict serious, serious harm on individuals but also serious harm on our system of justice.

New York already has a rule, a common-law rule, and I would respectfully submit that the rule currently in effect is better than the rule proposed by this legislation. Currently, under common law, if

a plaintiff is injured while engaged in conduct that is a serious violation of law and the injuries are the direct result of that violation, a lawsuit may be dismissed, but the judge can take all factors into account.

The legislation before us would change that rule and provide a much broader requirement that if the injury that was sustained by the plaintiff arose during the commission of a crime, not that the injury was a direct result of the crime. This is a critical distinction.

We have a law that this is an amendment to of comparative negligence in New York State. The point of the comparative negligence statute, which is relatively new, is to allow our justice system to take into account every possible factor. The statute we're voting on now would permit, for example, if someone was running down the street having committed a robbery and the police were in hot pursuit, a vigilante who just didn't like the looks of the fleeing felon, from pulling out a gun and killing them.

And there would be no possibility

that a court could consider the relative merits of the claim, could take into account the fact that this was a felon, could take into account the need to stop the person.

This is an anti-democratic bill in the most fundamental sense. It stops judges and juries from considering all the facts. It imposes a legal requirement that limits the system of justice in its ability to take into account all possible factors.

It's important for us to bear in mind our laws do not just protect good people. Our laws protect everybody. And someone may be doing a bad act and that bad act very well may require that any claim against that -- by that person against someone who injured them be thrown out. But let's let the common-law rule apply. Let's let the courts consider all factors.

This bill would prevent the courts from considering the factors now that have led to frequent dismissals of lawsuits by those accused of crimes against those who have injured them in the course of the commission of those crimes.

The bottom line is that the system right now, subject to some judicial decisions which I disagree with and which we can all criticize, works pretty well. This bill would throw out the baby with the bathwater. There would be people who deserve to be punished who would go without punishment if this bill is passed.

There would be people who inflict harm disproportionate to the need to stop a crime, without any regard to the need to stop a crime. Because, again, the language of the proposed bill is that if the injury was sustained by the plaintiff arose during the commission of the crime. That can include fleeing from the scene of the crime.

This opens the door to a lot of people who are committing bad acts going free. You don't have to be interested in protecting criminals to oppose this bill. I strongly support the common-law rule in existence now that enables a judge to dismiss a case if they find that a felon committing a serious violation of the law suffered an injury that was a direct result of that violation.

That's the law now. I don't see any reason to change it. And I know that there will be cases, the law of unintended consequences being what it is, where this statute would prevent civil actions against people who really should be brought to justice for their misconduct.

I'm going to vote no. I encourage everyone else to vote no.

Thank you, Madam President.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Normally I don't get up and respond, because I know Senator Morahan wants to move the session along today.

But you're almost correct, Senator Schneiderman. And some of your comments perhaps are a bit dramatic in their scope.

Number one, this is not just intended as a hard-on-criminals piece of legislation. What it does is it says under certain circumstances individuals who commit a crime should not be able to get a windfall civil judgment because the injury occurred during the commission of the crime.

I think you should note in the legislation that whatever the response is to the criminal activity, it has to be justifiable pursuant to Section 35 of the Penal Law. So the example that you used, if the police are in hot pursuit and a vigilante appears and shoots the criminal dead or injures him severely, I don't believe that they would be successful by a preponderance of evidence to have the assumption of risk doctrine applied under these circumstances that you laid out.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I appreciate the sponsor's comments. And I love being called almost correct by Senator Skelos. That is a very high compliment, given the source.

My reading of the statute is somewhat different. And I do think that partly this is exactly why I believe in leaving more latitude to judges. I do not think that Article 35 of the Penal Law would

necessarily require a court to dismiss an action under those circumstances.

And once again, we have a common-law rule that is working pretty well, and I think we have to exercise great care in entering an area where we have opened the door to a court's consideration of every possible factor to look for that one case that I can't think of now, if my example was wrong -- that one case that even Senator Skelos can't think of now -- where an injustice would be done because we won't allow the courts to take into account all of the possible factors.

Thank you, Madam President.

THE PRESIDENT: Senator Krueger.

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

THE PRESIDENT: Senator, will you yield for a question?

SENATOR SKELOS: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

Perhaps Senator Schneiderman, in

his just closing statement, started my question for me. We changed the state law in 1975. Your memo in support of your legislation says "This bill was drafted in response to the growing number of cases brought by criminals seeking civil negligence damage awards against their victims."

It's 27 years -- almost, really, 28 years since we changed the law in 1975. What is the evidence that we need this law? How many of these cases have been going through where juries and judges have not made the correct decision of fairness under the existing law?

SENATOR SKELOS: A number of the cases are old. There are more recent cases, and we'd be happy to send them to you.

SENATOR LIZ KRUEGER: Madam President, through you, thank you. If the sponsor could continue to yield.

THE PRESIDENT: Senator, will you yield?

SENATOR SKELOS: Yes.

SENATOR LIZ KRUEGER: Thank you, Senator Skelos.

SENATOR SKELOS: If I could just comment.

SENATOR LIZ KRUEGER: Please.

SENATOR SKELOS: Senator Balboni mentioned to me, and he could probably cite it for you and even autograph his St. Johns Law Review article exactly on this subject. And I'm sure at any point Senator Balboni could repeat it verbatim to the entire assemblage here today if you would so wish. Within the two-hour limitation that we have.

(Laughter.)

SENATOR LIZ KRUEGER: Madam President, through you, on the bill.

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

SENATOR LIZ KRUEGER: Unfortunately, because I don't think I have time to read Senator Balboni's paper before the vote today, I will vote no today.

But I will keep an open mind after having an opportunity to review the data, that perhaps the next time this legislation comes up we could have a more educated discussion with all of us having a chance to share the

data before it comes to the floor.

Thank you, Madam President.

THE PRESIDENT: Senator Balboni.

SENATOR BALBONI: Madam President, very quickly.

This Legislature has addressed this issue many, many times before. The discussions with Senator Dollinger go on for pages and pages and pages.

But let me be very clear about this. Senator Skelos is right, Senator Schneiderman is wrong. Let me tell you why.

Because in Senator Schneiderman's saying "consider all the facts," what he's not telling you or not even acknowledging is that litigation is expensive. Not the outcomes of litigation, litigation itself. And that's the point of Senator Skelos's bill and of similar bills that I've carried and other people in this chamber.

Again, we have this huge financial crisis. Every sector, whether it's medical malpractice premiums, whether it's school districts, insurance companies, auto rates, everybody is talking about litigation costs.

But yet in this state we're still going to hold on --

THE PRESIDENT: Senator -- excuse me, Senator Balboni.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Will Senator Balboni yield?

SENATOR BALBONI: Yes, I would.

THE PRESIDENT: You may proceed, Senator DeFrancisco.

SENATOR DeFRANCISCO: Senator, did you go to law school?

(Loud audience reaction.)

SENATOR BALBONI: Did I go to law school?

Madam President, I'd like to say that I guess some of us were out very late last celebrating the victory of a certain college upstate, and therefore perhaps our equilibrium has been tainted.

SENATOR DeFRANCISCO: A serious question. If you'd answer this question.

THE PRESIDENT: Senator Balboni, that was nonresponsive.

Senator DeFrancisco.

SENATOR DeFRANCISCO: The question is this. Having no court system would save a lot of money in litigation. Don't you agree that there is a place in this world, this country, to resolve disputes by way of litigation?

SENATOR BALBONI: Madam President, through you, no, I do not. Not when you've committed a felony, John. That's the deal.

When you step outside the boundaries of society to flaunt the rules of our society, you have no place in the court system. That's the point. And why can't we say, on this floor, you don't have a right to use the courts if you've committed a felony? You don't.

You can't tell me that in the examples that Senator Schneiderman has talked about, where there's a criminal act, where you go and you shoot somebody, that the argument follows, well, then you lose the deterrent effect if you don't have the ability to sue the person who commits a criminal act against the criminal, in the case of shooting a

fleeing felon.

That is a specious argument at best, because the deterrent effect does not come from a lawsuit, it comes from criminal prosecution. That's common sense.

The point here is that litigation is expensive. Litigation is what drives costs. So for the felon in this state, let's say no. Let's say you're not entitled to get to our courthouse, you're not entitled to flaunt our rules and then come back and use them.

THE PRESIDENT: Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: I'd like to see if he would answer another question.

THE PRESIDENT: Senator Balboni, will you yield for a question?

SENATOR BALBONI: Yes.

SENATOR DeFRANCISCO: Does it matter to you whether or not the felon has been convicted of the felony before these rules apply?

SENATOR BALBONI: Yes, it does.

SENATOR DeFRANCISCO: So if you

are not convicted of a felony --

SENATOR BALBONI: Then you're not a felon.

SENATOR DeFRANCISCO: -- even though it looks like felonious behavior by the facts, you would be allowed to recover under these circumstances?

SENATOR BALBONI: Madam President, through you, I'm sure that the Senator is aware -- because I know he went to law school -- that any type of case that would be brought under this statute that Senator Skelos proposes, you have to be convicted.

And, secondly, it would be brought by a motion for summary judgment at the outset of the trial, or a motion to dismiss. That would be considered by a judge. A judge, of course, would make the determination, not only whether or not the person was convicted of a felony but, secondly, if the act that was the subject matter of the lawsuit occurred during the commission of the felony. There's a two-part analysis that's done.

And the point of this statute is that you don't have to go to depositions, you

don't have to go to the cost of litigation, you don't have to go to jury trial. I have tried these cases, ridiculous cases where the person did not belong in court. It cost the County of Nassau back then literally tens of thousands of dollars to defend this thing over time, and that was wrong. Because they committed a felony. It shouldn't have been in the courtroom.

Anyway, Madam President, with that, this bill is a very important bill. It sends a great signal. And I believe it should be passed forthwith.

Thank you very much.

THE PRESIDENT: Senator Diaz.

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

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

SENATOR DIAZ: I never thought that I would see what I have seen today. And I have seen something very interesting here.

I am not a lawyer. I am not going to law school. I am not a trial lawyer. I am simply a reverend that ran for office

believing that he will come here to try to protect the victims and not the criminals.

I'm here to protect the victims. Criminals have been protected for so long. And to tell someone -- to tell someone that they could get a gun, they could go into my house to rob me and then, if I do something to them, they could sue me, why don't we better tell them: Here's my daughter, here's my wife, help yourself?

This is outrageous to come here trying to protect the criminals. Criminals should go to jail. That's where they belong. That's where they belong. And not -- and we should not be here protecting criminals and sending them messages telling them that they can go ahead and do whatever they're doing in our community.

Senator Skelos, that's a good bill.

Senator Balboni, I'm with you.

My fellow over there, I'm sorry for you.

Thank you very much.

(Laughter.)

THE PRESIDENT: Does any other

member wish to be heard on this bill?

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I think -- listen, we're -- we sometimes get a little bit carried away here.

I just want to say, in closing, that we are addressing a serious issue and that everyone here should take a very close look at what this statute provides.

The jurors from my district and from Senator Balboni's district and Senator DeFrancisco's district who take an oath to do justice, when they take every factor into account I believe have the ability to assess whether or not someone should be allowed to bring a claim because the claim arose in connection with that person committing a crime.

But I would urge everyone to consider the breadth of the statute. This does not just exonerate victims. My good colleague, this is not about victims of crimes. This exonerates -- or prevents, protects from liability vigilantes, third

parties who just might decide that someone who didn't even commit a crime -- because look at the statute. It could be someone attempting to commit a crime. And some third party -- forget about the jury, forget about the judge, can never be brought to court. No one can even hear that claim if someone dies or someone is paralyzed.

This statute is an extremely broad statute. And I do not think that my good friend Senator Balboni, upon reflection, really does believe that you don't have access to our civil justice system, to the courts of this nation, if you commit a crime.

Remember, there are a lot of very bad people out there who are protected by our laws. They say hard cases make bad law. Well, there are a lot of times in which there are decisions that are made that I have troubles with, but ultimately, for the last several hundred years, the right to take your case to a judge and jury has been as important a part of our system of government as any other.

And, arguably, this is what has

defined our nation and made us a success where many other experiments in democracy and republican forms of government have failed.

Everyone has access to the courts, everyone should have access to the system of justice. It doesn't mean they win, and it doesn't mean it's an expense-free enterprise. But, frankly, democracy is very, very expensive. Dictatorships are a lot cheaper.

I support democracy. Let's not rush to change the law that doesn't need changing. Let's not prevent any one person who should be subject to liability from being hauled before the bar of justice. I urge a no vote.

THE PRESIDENT: Senator Kuhl.

SENATOR KUHL: Yes, Madam President, just a point of information. Could you, the desk or the Journal Clerk tell me how many times Mr. Schneiderman has spoken on that bill?

I believe it was three times, and that's a violation of the rules. But I did not want to raise the issue, I wanted to provide him the courtesy.

I would just remind the members of the house that in fact there is a rule that a person can only speak on a bill twice.

Thank you, Madam President.

THE PRESIDENT: Thank you, Senator Kuhl.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: I just want to explain my vote.

The fact of the matter is in civil litigation there's a system that we have that I think makes a lot of sense. It's called comparative negligence. That you're judged based upon what you've done, whether you're negligent or not negligent.

And to have a blanket rule that you're always considered to be at fault no matter what the circumstances may be, based

upon another proceeding, I think is wrong.

Judges are there to make sure the rules are applied. There's appellate courts to make sure the rules are applied. Blanket rules may take care of most of the cases that everyone feels are outrageous, but it also is going to hold in its net those cases that aren't outrageous where someone's comparative negligence should have been taken into account in a civil proceeding.

I vote no.

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 142 are Senators Andrews, DeFrancisco, Dilán, Duane, Hassell-Thompson, L. Krueger, Montgomery, Parker, Paterson, and Schneiderman. Ayes, 49. Nays, 10.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 259, by Senator Kuhl, Senate Print 2558A, an act authorizing the Commissioner of General Services, on consent of the Commissioner of

the Department of Transportation, to transfer and convey.

SENATOR SCHNEIDERMAN: Explanation.

THE PRESIDENT: An explanation has been requested, Senator Kuhl.

SENATOR KUHL: Yes, Madam President.

This is a very simple-oriented bill. It allows or gives --

THE PRESIDENT: You may proceed, Senator.

SENATOR KUHL: This bill, if passed, would give the Commissioner of the Office of General Services the permission to transfer a parcel of land currently owned by the State of New York to a municipality. In exactness, it would be the County of Steuben.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, thank you. If the sponsor would yield for a question.

THE PRESIDENT: Senator Kuhl, will you yield for a question?

SENATOR KUHL: Yes.

THE PRESIDENT: You may proceed, Senator Schneiderman.

SENATOR SCHNEIDERMAN: I wonder if the sponsor could tell us what's the cost of this transaction, how much money is being provided.

SENATOR KUHL: There's no provisions for the transfer of any funds that I know of, Senator.

SENATOR SCHNEIDERMAN: Through you, Madam President. Is it anticipated that --

THE PRESIDENT: Senator Kuhl, will you yield for a question?

SENATOR KUHL: Yes.

THE PRESIDENT: You may proceed with a question, Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

Do we have any information at all as to the value of the land that is to be conveyed?

SENATOR KUHL: No.

SENATOR SCHNEIDERMAN: Through

you, Madam President, if the sponsor would yield for one final question.

THE PRESIDENT: Senator Kuhl, will you yield for a final question?

SENATOR KUHL: I'd be happy to yield for a question.

THE PRESIDENT: You may proceed, Senator Schneiderman.

SENATOR SCHNEIDERMAN: How, if the sponsor knows, is a determination to be made during this period of fiscal crisis as to the value of the land that is being conveyed through this statute?

SENATOR KUHL: Well, Senator, I'm sure you're aware of the Public Lands Law -- in particular, Section 34 -- which authorizes the conveyance by the Commissioner of General Services of parcels of property owned by the state to municipalities for basically general purposes -- transportation, things of that nature.

There is no provision to allow for the transfer of property for a transfer station of garbage. This bill would allow that to happen.

Currently, there is a piece of property which is right in the way of an interstate highway system that is being proposed. It's the intersection of I-86 and I-99, which is about 6 miles north of the Pennsylvania border and runs through Steuben county. The county operates a transfer station at that location right now. The highway would take that transfer station out of existence. It will be taken by certainly eminent domain.

The county has a wish to reestablish and relocate that transfer station, so the state is -- has a piece of property that is not being used. It is essentially a surplus piece of property. But there is no statutory provision under the current law that allows for this transfer from the state to the county for this particular purpose.

Now, you will note in the legislation that's proposed that should the purpose for which this parcel is being conveyed ever cease, that the property then reverts back to the State of New York. So it

is essentially a temporary transfer for a public purpose which is not authorized under the current Public Lands Law, particularly Section 34.

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

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

SENATOR SCHNEIDERMAN: My understanding of the law that we're discussing, or the area of law that we're discussing, is that there is a requirement for fair compensation.

The statute before us requires that the conveyance of the land is to be made at such time and on such terms and conditions as the Commissioner of General Services may fix and determine, including payment of such consideration as the Commissioner of General Services determines to be fair and equitable.

I think the concern that has expressed by some is that this is something that violates what I suppose Senator Volker was referring to earlier when he stated that when we allocate money or do things that cost

money, we should know what we are allocating it for.

It would be good for us to know before we pass legislation how much money is actually involved. I don't know the standards by which the commissioner is going to make this determination. It sounds as though this is certainly something that is for a worthy municipal purpose.

But I think, in keeping with the debate that's gone on earlier today, the times do require us to be cautious about the amounts of money that are involved in any such undertaking, and it would be prudent for us to find out how much money is involved when we're making transfers of this type.

Thank you, Madam President.

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

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 267, by Senator Golden, Senate Print 1504 --

SENATOR SKELOS: Madam President, would you please lay that bill aside at the request of the Minority. For the day, lay it aside for the day.

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

THE SECRETARY: Calendar Number 311, by Senator Saland, Senate Print 1917, an act to amend the Family Court Act, in relation to evidence of child neglect.

SENATOR HASSELL-THOMPSON: Explanation.

THE PRESIDENT: Senator Saland, an explanation has been requested.

SENATOR SALAND: Thank you, Madam President.

Madam President, this bill proposes to take the current language, which deals with somebody who regularly and voluntarily participates in a drug or substance abuse

program, where that person would otherwise be accused of neglecting a child, and says that instead of making the determination as to whether that person has voluntarily and regularly participated in such a program in the fact-finding section, what this would propose to do would be to place it under Section 1052 of the Family Court Act in the dispositional section.

The essence of what this is about is that it effectively -- the ability to allege that one is voluntarily and regularly engaging in a substance and alcohol abuse program effectively serves as a means by which to at least initially obviate the neglect proceeding that would otherwise occur where somebody has neglected their child, allegedly due to misusing drugs or alcohol to the extent that that person loses the self-control of his or her actions.

The idea behind this is that it would be in the best interests of the child and in fact for the family to have the ability to have a situation in which the court would monitor and be able to effectively determine

that the person is not merely using their voluntary attendance at a drug rehab program, in essence to get out from underneath a neglect petition.

This would effectively require some meaningful participation in the program and avoid what would otherwise be the use of an affirmative defense to squelch a neglect petition.

There have been cases in which this has in fact occurred. This in part, I think, reflects the reality of attempting to deal with situations that far too frequently occur within our system, and in part I would also think would reflect some of the changes we made when we adopted the ASFA legislation in early 2000 in which we dealt with issues at that time which effectively said in New York thereafter the safety and well-being of a child would have primacy in terms of determining these types of proceedings and that, while family preservation certainly remained critically important, not where it jeopardized a child's well-being.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: I will yield to Senator Velmanette Montgomery, if that's all right with the chair.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, I'm just going to speak on the legislation.

I think we've seen this before. We've had debates and discussions about it with Senator Saland. And I just want to point out that I understand that Senator Saland seeks to address the safety of children whose parents are found to be in this position.

But one of the problems that I've raised with this is that we are removing for parents a carrot which says that in order to be eligible to be reunited with the child or to continue and not be charged with abuse or neglect, you must participate in a program for rehabilitation and treatment.

So by not putting it on the front end, and by there not being an assurance that the decision will go in favor of the parent even if they participate, it removes an

incentive, it seems to me, for those people who might be helped by treatment to go and seek treatment by virtue of the fact that they will be allowed to continue to be with their children.

So I'm opposing this, even though Senator Saland is proposing that the dispositional phase of the case is when the factor of drug treatment comes into play, rather than the initial phase.

So I'm going to continue to oppose this legislation, Madam President, because I think that we stand a chance of in fact discouraging parents to go into treatment and rehabilitation.

Thank you.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. If the sponsor would yield, Senator Saland.

THE PRESIDENT: Senator, will you yield for a question?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR HASSELL-THOMPSON: Senator Saland -- through you, Madam President -- has there been any thought to the impact that this law may have on those programs and the individuals who use them?

SENATOR SALAND: I would think that they in fact would have a very beneficial impact on the individuals that use them, inasmuch as there would be, in effect, an equal sign that voluntary and regular participation would have to equal meaningful participation.

The idea behind it being that that meaningful participation would assist the family in sustaining the family unit and really would be in the best interests of the child and that it would not merely be an effort to try and avoid what occurs in conjunction with a neglect proceeding, making it into an adversarial proceeding in which the idea is winning.

I don't think the idea is winning. Whether you be the respondent or the

petitioner, the idea is what's in the best interests of the child.

And I would think that this would very much be in the best interests of the child.

SENATOR HASSELL-THOMPSON: Madam President, if the sponsor would continue to yield.

THE PRESIDENT: Senator, will you yield?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR HASSELL-THOMPSON: So, Senator Saland, are you saying to me that you do not believe that this bill removes the regular and voluntary participation?

Because my understanding or my interpretation of this bill is that you are legislating as opposed to allowing for voluntary participation.

SENATOR SALAND: No, what this would say would be that to the extent that somebody is regularly and voluntarily

participating -- and let me get the exact language here so that I make sure that you and I are both on the same page.

If you look at page 2, under Section 1052, down around lines -- the beginning on line 17, "whether the respondent has enrolled in a recognized rehabilitation program and is participating therein in a regular and satisfactory manner."

Satisfactory, meaningful -- I used the term "meaningful." I would think that the two would be somewhat similar.

And if you take a look at the section before that, which is immediately above that, that deals with Section 1046 of the Family Court Act, which is the section that deals with evidence.

And the kind of conduct that they're talking about there I would think sort of speaks for itself. You know, "Proof that a person repeatedly misuses a drug or drugs or alcoholic beverages to the extent that it has or would ordinarily have the effect of producing in the user thereof a substantial state of stupor, unconsciousness,

intoxication, hallucination, disorientation or incompetence, or a substantial impairment of judgment or a substantial manifestation of irrationality, shall be prima facie evidence that a child of or who is the legal responsibility of such person is a neglected child."

And I propose to take out "except that such drug or alcoholic beverage misuse shall not be prima facie evidence of neglect when such person is voluntarily, regularly participating in a recognized rehabilitation program" and say that you weigh that type of, I think, extraordinarily poor and lacking in parental ability -- if not in just general parental good sense -- conduct, and you bring that to the end of the equation and say: We want you to be the guardian, the parent, the glue that helps your child get through life and get through life capably. In your condition, you can't do that. So we think that it's imperative that you not merely agree to voluntarily participate in a program, but that participation be meaningful or -- again, using the term in the bill -- satisfactory.

Participating in a satisfactory manner.

And I think that that is critically important to the best interests of the child.

SENATOR HASSELL-THOMPSON: Madam President, through you.

THE PRESIDENT: On the bill?

SENATOR HASSELL-THOMPSON: Not yet.

THE PRESIDENT: Do you have another question?

SENATOR HASSELL-THOMPSON: If the Senator will continue to yield.

THE PRESIDENT: Senator, do you yield?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

Senator, can you, for me, in the terms -- since you are the sponsor of the bill, can you help me to understand what you mean by "satisfactory" and how that would be determined as a legislator versus someone who

is from the medical profession?

SENATOR SALAND: I don't pretend to sit as a judge. I think the judge, when he or she takes the totality of the circumstances, will have the ability. It's almost, you know, what is a reasonable or prudent person standard. I think a judge has -- we don't define what is reasonable or prudent when we put that standard in law.

But very similarly, I think what a court determines to be satisfactory, whether that person is participating in a satisfactory manner -- and I would assume that that would mean not merely regular attendance but attendance in a fashion in which the end result is that this person has the ability to avoid the kinds of behavior that I referred to before under 1046 and meaningfully relate with his or her child in a fashion, again, that would be in best interests of the child.

But that would come from the totality of the circumstances as the court would determine at that time.

SENATOR HASSELL-THOMPSON: Madam President, through you, if the sponsor would

continue to yield.

THE PRESIDENT: Senator, will you yield?

SENATOR SALAND: Certainly.

THE PRESIDENT: You may proceed.

SENATOR SALAND: Let me also add, Senator, that this talks about prima facie. I mean, once you establish prima facie, or once you create the ability to -- once you've stated your case, you effectively then are transferring the burden over to the other party.

So in this case where I'm eliminating the language about prima facie evidence, in effect what I'm saying is I'm taking that out of the mix, not going forward, and I'm just saying the time for you to go forward will be at the end of the hearing, that we're not going to give you effectively that ability at the beginning of the proceeding.

SENATOR HASSELL-THOMPSON: So my question that you agreed to yield to, are you stating that without this language that judges now faced with these cases do not have the

ability to make reasonable or satisfactory assessments using -- I think your words -- meaningful participation such as regular attendance, et cetera, et cetera?

SENATOR SALAND: No. What I'm saying is that there is a divergence on how to deal with this particular section.

There's at least one court that has said that in fact the refusal of a parent to engage in meaningful participation in a program constitutes in and of itself neglect. That is in a recorded case; I don't recall whether it was a Family Court case or an Appellate Division case.

There are other courts who have construed this to mean once you show that you're voluntarily and regularly participating, that you have effectively made your case, and it prevents the presumption otherwise set forth with regard to negligence from going forward.

SENATOR HASSELL-THOMPSON: Madam President, if the Senator would continue to yield.

THE PRESIDENT: Senator, do you

yield?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR HASSELL-THOMPSON: Thank you, Senator. Thank you, Madam President.

In past debates, Senator Saland, you used the term "immunity bath" for the protection which respondents now have under the law.

However, current law states that if any evidence that the child's physical, mental, or emotional condition is impaired or in danger of being impaired, the proceeding may continue. Can you help me with that?

SENATOR SALAND: You may recall when I used that, I said it really doesn't fit. And if you're looking at the transcript, I'm willing to bet you can find that.

SENATOR HASSELL-THOMPSON: Yes, I do.

SENATOR SALAND: So I said it really doesn't fit, but it was something akin to an immunity bath. And I used that for lack

of any other term at the time.

So what is the rest of your question?

SENATOR HASSELL-THOMPSON: Current law. Because my concern with this bill -- I'm sorry, Madam President, through you. And I really was trying not to go on the bill, because I want to continue to ask you just a couple of more questions.

THE PRESIDENT: Senator, will you yield for another question?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR HASSELL-THOMPSON: Thank you.

See, my contention is that, number one, we're taking a certain judicial discretion from judges in the courts in some of the legislative initiatives in this bill.

Secondly, it appears that this bill removes voluntary participation in alcohol and drug rehab programs as what I consider to be an affirmative defense for child neglect

proceedings. And it instead authorizes the court to consider such participation in the disposition phase of the proceeding. And it also allows the court to require such participation in dispositional orders.

To my question. There are concerns that parents who lack sufficient financial resources to provide themselves with adequate counsel end up losing on both ends. And --

SENATOR SALAND: Let me say that with regard to the first part of your comment, I would agree with you insofar as it does, and it was my intention to do away with the affirmative defense.

I would, however, beg to differ with you --

SENATOR HASSELL-THOMPSON: I'm sorry, I couldn't hear you. And I apologize for your colleagues.

Madam President.

SENATOR SALAND: Madam President.

THE PRESIDENT: Senator, do you yield?

SENATOR SALAND: Yes, I yield. But I believe it's a question of order. The

Senator cannot hear me.

I think what I had just said was something to the effect of I would concur with your observation that it does away with the affirmative defense, and that is something which, quite candidly, I had hoped to accomplish with this bill.

But I would disagree with your contention that it denies discretion to the court. I think, if anything, it provides more discretion to the court.

I have a comfort level with that. And some people may not have a comfort level with that. And it may well reflect the fact that I've at some time in my life spent a lot of time practicing and handling these types of cases in Family Court.

But you then went on to say something else, Senator, and I don't quite recall what that something else was.

SENATOR HASSELL-THOMPSON: What I was saying was -- if I may, Madam President -- there are concerns that parents who lack sufficient financial resources to provide themselves with adequate counsel will be

unable to navigate through the confusing Family Court system, and it potentially sets up a situation where children may be forced to stay in foster care longer and may even lead to cases where parents' rights are terminated.

SENATOR SALAND: There is certainly no desire to have children languish in foster care longer. I mean, that's not what this is about.

And I would just merely say to you whatever is the extent of representation that's being provided now would not in any way, shape, or form be impaired by this bill.

All this bill does is say we will entertain this issue, not at the beginning of the proceeding -- and whomever the counsel might be at the beginning of the proceeding would assumedly be the same counsel at the end of the proceeding -- we will entertain it at the end or dispositional phase of the proceeding.

And it would be my hope, my very serious and fervent hope, that as part and parcel of that dispositional hearing that the court would say where that parent has

participated and participated meaningfully or satisfactorily, as the case would be, that it's working. And we very much want to maintain that family unit, to preserve that family unit.

In other instances the court may say, Unless you're going to participate more meaningfully, we're going to remove your child. Or the court may say, Yeah, we'll remove your child, you take -- you participate in the program and show that you mean it and we'll be back in court six months from now, and hopefully then I can make the order returning your child to you, and you'll both benefit from it.

As I said, I don't profess to be a judge. But nonetheless, cases are determined on their facts. And I think these cases are more than facts, they involve families. And I think the court has to have the ability to assist when we're talking about children. And I believe this is a tool to accomplish that.

SENATOR HASSELL-THOMPSON: Thank you. That's the point at which I want to speak on the bill, Madam President.

THE PRESIDENT: You may proceed on the bill.

SENATOR HASSELL-THOMPSON: Thank you.

Senator Saland, you know, I applaud your efforts in this bill and in many others, and certainly some that Senator Meier has put forward, since I have been here in the State Senate.

But I always am concerned that somewhere in here the incidences of parents who are substance abusers are somehow lost in an attempt to save children.

And certainly it has been, from my own many years of professional experience working with these parents, that children have been my greatest concern. I have been the greatest advocate for children under these circumstances. And working with women for at least 20 of the last 25 years of my career, working specifically with women and children of substance abusers, I have had some experience with many of these cases and certainly have represented both children and parents in the courts.

And so I don't want anyone to construe my concern about the legislation as not being one who is not concerned about children, because certainly I am. But I am concerned that this particular bill creates a disincentive for parents to enroll in substance abuse rehabilitation programs. It does not give parents or guardians credit for their actions in the fact-finding portion of a neglect proceeding, but rather simply takes program participation into account in the dispositional phase, like any other circumstance.

This legislation fails to consider the fact that many of the respondents do not have money for an adequate defense and would likely suffer the consequence of such lack of representation. The element of this exception will likely create more cases where children are unnecessarily removed from their homes.

Substance abuse, as a reminder, is a disease. For the inflicted individual, it's a lifelong struggle to maintain sobriety. One slip should not place the individual in a situation where they have to go through an

entire court proceeding and put their sobriety in greater jeopardy because of the emotional stress, unless there are other circumstantial reasons for the proceeding.

Thank you, Madam President. I will vote no.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. Since so many of the questions have been raised already, I'll go directly to speaking on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I'd like to highlight again, as my colleague Ruth Hassell-Thompson just spoke so eloquently on, that I think that the dangers of this bill override the advantages.

And I do also, I respect Senator Saland's work on issues around children and families and improvements that have been made in the Family Court system because of the work that he has done over the years.

But for me, what stands out in this

bill is it will discourage parents of children who have substance abuse problems from voluntarily going forward to seek treatment because of the fear that the act of seeking treatment and exposing themselves to someone else -- an institutional setting or the government -- that they have a substance abuse problem, will cause the outcome to be that they lose their children until the dispositional period, which can be months and months and months. It will discourage them from seeking the help that is in the best interests of themselves and their children.

Even if I were to argue that it's not the intent of Senator Saland's bill to discourage people from voluntarily participating in drug treatment, my own experience also, in twenty years of working in community-based organizations with families who have had substance abuse problems and other issues, is that's exactly what happens.

When we put the burden on families to believe that they risk the loss of children if they go forward to seek help, all we do is encourage them to hide the problem, making it

worse.

Now, under the existing law as it stands, a court can still recognize dangers to the children and remove those children from the home whether or not the parent is participating in a drug treatment program. But under the law as Senator Saland has proposed changing it, families will not go forward to seek help because they will believe that they are at risk of losing children simply by asking for the help, when before they weren't at that risk.

I have seen it happen with families in my own work when it comes to substance abuse. I have seen women stay with domestic violence abusers because they believe that seeking help will somehow translate to an accusation that they failed to protect their own children, and so they stay quiet. I have seen families in the City of New York not come forward to seek help to avoid eviction and homelessness because of the belief that they will lose their children on the grounds that they neglected them by ending up homeless.

I believe that the goals of the

state, and I believe the goals of Senator Saland, are not to try to break up families unnecessarily, are not to take children away from their parents unnecessarily, and are not to discourage people from voluntarily participating in drug treatment.

And I will also highlight that all of the research shows that adults who go forward on a voluntary basis to participate in substance abuse programs are the people who are the most successful in the outcome of those programs. When people go into programs under threat or under court order, they have a much lower success rate than people who voluntarily participate in these programs.

And so to change our laws to discourage people from being able to go forward, admit they have a problem, get services and keep their families together I do not believe will be in the best interests of children, their families, or the State of New York.

So I would urge my colleagues to vote no on this bill, and urge Senator Saland to reevaluate his own position on this.

Because I know that his goals are the same as mine on behalf of children and getting substance abuse treatment for adults who are suffering from this illness.

Thank you very much, Madam President.

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

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 311 are Senators Andrews, Dilán, Duane, Hassell-Thompson, L. Krueger, Montgomery, Parker, Paterson, Schneiderman, and A. Smith. Ayes, 49. Nays, 10.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Madam President,

is there any housekeeping at the desk?

THE PRESIDENT: Yes, there is, Senator.

Senator McGee.

SENATOR McGEE: Thank you, Madam President.

On behalf of Senator LaValle, on page number 16 I offer the following amendments to Calendar Number 260, Senate Print Number 2562, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR McGEE: Thank you, Madam President.

On behalf of myself, on page number 24 I offer the following amendments to Calendar 379, Senate Print Number 3230, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: That amendment is also received, and the bill will retain its place on the Third Reading Calendar.

SENATOR McGEE: Thank you, Madam President.

I wish to now call up my bill, Print Number 2482, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 278, by Senator Volker, Senate Print 2482, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Senator McGee.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

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

THE PRESIDENT: The amendments are received, Senator.

SENATOR McGEE: Thank you, Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, there being no further business to come before the Senate, I move we stand adjourned until Wednesday, April 9th, at 11:00 a.m.

THE PRESIDENT: On motion, the Senate now stands adjourned until tomorrow, Wednesday, April 9th, 11:00 a.m.

(Whereupon, at 5:00 p.m., the Senate adjourned.)