NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 9, 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

ACTING PRESIDENT MEIER: The Senate will please come to order.

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

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

ACTING PRESIDENT MEIER: The invocation will be offered by the Reverend James Thornton, of the Salem Missionary Baptist Church in Brooklyn.

REVEREND THORNTON: God, our hope in ages past, our hope for years to come, our shelter from the stormy blast and our eternal home, we come today in humble submission to Your omnipotence, omniscience, and omnipresence.

Bless, O God, our legislators as they deliberate and dialogue concerning the issues of our state, our city, and our community. The challenges are great: serious economic and budget concerns, problems in our educational arena, housing, health, and other societal ills.

Make clear Your will in the midst of these issues. Breathe on them Your peace. Make real the words of the prophet Micah that we might do justly, love mercy, and walk humbly with God.

This is our prayer. Incline Your ear to us and grant us Your peace.

Amen.

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, June 8, the Senate met pursuant to adjournment. The Journal of Saturday, June 7, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Skelos, I wish to call up his bill, Print Number 2841, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 487, by Senator Skelos, Senate Print 2841, an act to amend Chapter 380 of the Laws of 2002.

ACTING PRESIDENT MEIER: Senator Libous.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT MEIER: Senator Libous.

SENATOR LIBOUS: Mr. President, I

now offer up the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR LIBOUS: Mr. President, also on behalf of Senator Skelos, I wish to call up his bill, Print Number 1022, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 184, by Senator Skelos, Senate Print 1022, an act to amend the Social Services Law.

ACTING PRESIDENT MEIER: Senator Libous.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

SENATOR LIBOUS: Mr. President, I now offer up the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Skelos, I wish to call up his bill, Print Number 2661, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 974, by Senator Skelos, Senate Print 2661, an act authorizing the assessor of the County of Nassau.

ACTING PRESIDENT MEIER: Senator Libous.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

SENATOR LIBOUS: Mr. President, I now offer up the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

Senator Wright.

SENATOR WRIGHT: Mr. President, on behalf of Senator Skelos, I wish to call up Calendar Number 452, Assembly Print Number 6893A.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 452, by Member of the Assembly Tokasz, Assembly Print Number 6893A, an act to amend the Penal Law.

SENATOR WRIGHT: I now move to reconsider the vote by which this Assembly bill was substituted for Senate Print Number 2956A on April 29, 2003.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

SENATOR WRIGHT: I now move that Assembly Bill Number 6893A be committed to the Committee on Rules and the Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT MEIER: So ordered.

SENATOR WRIGHT: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator McGee.

SENATOR McGEE: Mr. President, on behalf of Senator Maziarz, I wish to call up his bill, Print Number 3702A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1072, by Senator Maziarz, Senate Print 3702A, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Senator McGee.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MEIER: Senator McGee.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR McGEE: Mr. President.

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: On behalf of Senator Maziarz, I wish to call up his bill, Print Number 836, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 189, by Senator Maziarz, Senate Print 836, an act to amend the Highway Law.

ACTING PRESIDENT MEIER: Senator McGee.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MEIER: Senator McGee.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR McGEE: Mr. President, on behalf of Senator Kuhl, I wish to call up his bill, Print Number 837, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 393, by Senator Kuhl, Senate Print 837, an act to amend the County Law.

ACTING PRESIDENT MEIER: Senator McGee.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: Senator

McGee.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR McGEE: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Bonacic, on page 54 I offer the following amendments to Calendar 1129, Senate Print 5344, and I ask that this bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received and adopted, and the bill will retain its place on the order of third reading.

Senator Farley.

SENATOR FARLEY: Mr. President, I offer the following amendments to these Third Reading Calendar bills:

Senator Hannon, page 5, Calendar

61, Senate Print 463;

Senator DeFrancisco, page 12, Calendar 312, Senate Print 2285;

Senator Spano, on page 16, Calendar 428, Senate Print 1197;

Senator Bonacic, on page 18, Calendar 485, Senate Print 2225A;

Senator Marcellino, on page 23, Calendar 574, Senate Print 4520;

Senator Nozzolio, on page 30, Calendar 727, Senate Print 4734;

Senator Maziarz, page number 41, Calendar Number 912, Senate Print 4872B;

For Senator LaValle, on page 46, Calendar 981, Senate Print 3042;

For Senator Flanagan, on page 47, Calendar 998, Senate Print 4578;

For Senator Marcellino, on page 48, Calendar 1016, Senate Print 2174;

For Senator LaValle, on page 48, Calendar 1017, Senate Print 3405A;

And for Senator LaValle, on page 50, Calendar 1059, Senate Print 2062.

Mr. President, I now move that these bills retain their place on the order of

third reading.

ACTING PRESIDENT MEIER: The amendments are received, and the bills will retain their place on the order of third reading.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. On page 55, Calendar Number 255, my bill, Senate Print 2308A, could you please remove the sponsor's star.

ACTING PRESIDENT MEIER: So ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, are there any substitutions at the desk?

ACTING PRESIDENT MEIER: Yes, there are. Should we make them?

SENATOR SKELOS: I ask that they be made at this time.

And also, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

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

The Secretary will read the substitutions.

THE SECRETARY: On page 6, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 8053, and substitute it for the identical Senate Bill Number 1566A, Third Reading Calendar 124.

On page 12, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 6639 and substitute it for the identical Senate Bill Number 2294, Third Reading Calendar 301.

On page 12, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 7883 and substitute it for the identical Senate Bill Number 2948, Third Reading Calendar 304.

On page 14, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 1062 and substitute it for the identical Senate Bill Number 784, Third Reading Calendar 353.

On page 15, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 5118 and substitute it

for the identical Senate Bill Number 2576, Third Reading Calendar 385.

On page 17, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 1448 and substitute it for the identical Senate Bill Number 1606, Third Reading Calendar 429.

On page 18, Senator Little moves to discharge, from the Committee on Rules, Assembly Bill Number 3504 and substitute it for the identical Senate Bill Number 2962, Third Reading Calendar 478.

On page 23, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 4634 and substitute it for the identical Senate Bill Number 2068, Third Reading Calendar 576.

On page 27, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 6966A and substitute it for the identical Senate Bill Number 3032, Third Reading Calendar 683.

On page 30, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 8136 and substitute it

for the identical Senate Bill Number 3217, Third Reading Calendar 720.

On page 34, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 1975 and substitute it for the identical Senate Bill Number 1032, Third Reading Calendar 806.

On page 40, Senator Flanagan moves to discharge, from the Committee on Rules, Assembly Bill Number 6897A and substitute it for the identical Senate Bill Number 3451A, Third Reading Calendar 886.

On page 46, Senator Wright moves to discharge, from the Committee on Rules, Assembly Bill Number 3302A and substitute it for the identical Senate Bill Number 2426A, Third Reading Calendar 972.

On page 47, Senator Little moves to discharge, from the Committee on Rules, Assembly Bill Number 7158A and substitute it for the identical Senate Bill Number 3929, Third Reading Calendar 989.

On page 47, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 8442 and substitute it

for the identical Senate Bill Number 808A, Third Reading Calendar 1008.

On page 48, Senator Meier moves to discharge, from the Committee on Rules, Assembly Bill Number 2317B and substitute it for the identical Senate Bill Number 4245, Third Reading Calendar 1018.

And on page 53, Senator Morahan moves to discharge, from the Committee on Local Government, Assembly Bill Number 8075 and substitute it for the identical Senate Bill Number 4789, Third Reading Calendar 1119.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, could we move now to the noncontroversial reading of the calendar.

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

SENATOR ANDREWS: I rise, Mr. President, to take this opportunity to thank Reverend James Thornton, from the Salem Missionary Baptist Church, for his invocation this morning -- or this afternoon, I should

say.

Also I'd like to take this opportunity to thank his wife, Angela, and his son Isaiah for accompanying him today.

And I'd just like to say briefly that the Salem Missionary Baptist Church is located -- or was located in my district, up until reapportionment. And because of reapportionment, it was taken out of my district by two blocks.

But the work that the Salem Missionary Baptist Church has been doing over their many years in Brooklyn is well renowned and well known. And as many of you know, one of Brooklyn's nicknames is the "Borough of Churches." And it gives me great pleasure to welcome him and his family to our chambers today.

He is also accompanied by a colleague of mine in the Assembly, Assemblywoman Rhoda Jacobs, who arranged for him to come up here today.

So I'd like to take this opportunity to welcome him and his family to our proceedings.

Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Madam President, can we now move to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 151, by Senator LaValle, Senate Print 924C, an act to amend the Highway Law, in relation to designating the "North Fork Wine Trail."

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 444, by Senator LaValle, Senate Print 334A, an act to amend the Education Law, in relation to

the safety and health of personnel.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 477, by Senator Maziarz, Senate Print 2627A, an act authorizing the Town of Newfane, Niagara County.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 575, by Senator Nozzolio, Senate Print

1930A --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 656, by Senator Volker, Senate Print 4844, an act to amend the Penal Law and the Criminal Procedure Law, in relation to criminal diversion.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 16. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 674, by Senator Leibell, Senate Print 4840, an act to amend the Public Authorities Law, in relation to the general and special powers.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 732, by Senator Farley, Senate Print 3870, an act to amend the Banking Law, in relation to conducting certain criminal record history checks.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 760, by Senator Skelos, Senate Print 2851B, an act to authorize the town of Hempstead,

Nassau County, to lease certain lands.

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

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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 785, by Senator Seward, Senate Print 4532A, an act to amend the Insurance Law, in relation to mortgage guaranty insurance.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 8. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

816, by Member of the Assembly Gottfried, Assembly Print Number 6907, an act to amend the Public Health Law, in relation to clinical laboratory tests or procedures.

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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 831, by Senator Velella, Senate Print 4695, an act to amend the Workers' Compensation Law, in relation to the presumption of certain diseases.

THE PRESIDENT: Read the last section.

SENATOR HASSELL-THOMPSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

837, by Senator Nozzolio, Senate Print 404, an act to amend the Executive Law, in relation to designation of March 10th as "Harriet Tubman Day."

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 861, by Senator Hoffmann, Senate Print 3598A, an act to amend the Public Officers Law, in relation to including certified nutrient management planners.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 886, substituted earlier today by Member of the Assembly Canestrari, Assembly Print Number 6897A, an act to amend the Vehicle and Traffic Law, in relation to providing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 899, by Senator Padavan, Senate Print 1893, an act to amend the Criminal Procedure Law and the New York City Health and Hospitals Corporation Act, in relation to the performance of duties of New York City Health and Hospitals Corporation police officers.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 964, by Senator Balboni, Senate Print 521A, an act to establish the Fernwood Terrace-Stewart Manor Library.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 12. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 972, substituted earlier today by Member of the Assembly Destito, Assembly Print Number 3302A, an act to amend the County Law, in relation to electronic recording.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 977, by Senator McGee, Senate Print 2783A, an act to amend the General Municipal Law, in relation to municipal board members.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 987, by Senator Balboni, Senate Print 3788B, an act to authorize the incorporated village of Port Washington North.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1025, by Senator Morahan, Senate Print 2226B, an act to authorize the Village of Warwick, Orange County.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1053, by Senator Alesi, Senate Print 44, an act to amend the Public Health Law, in relation to mandatory reporting of abuse.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1061, by Senator Mendez, Senate Print 2689 --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1090, by Senator McGee, Senate Print 911, an act to amend the Real Property Tax Law, in relation to residential investment exemption.

SENATOR McGEE: Lay the bill aside for the day, please.

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

SENATOR McGEE: Thank you, Madam President.

THE SECRETARY: Calendar Number 1091, by Senator Trunzo, Senate Print 1000, an act to amend the Education Law, in relation to payment of tuition and fees.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the first of August.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1092, by Senator Robach, Senate Print 1206, an act to amend the Penal Law, in relation to consecutive sentences.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1093, by Senator Maltese, Senate Print 2070, an act to amend the Administrative Code of the City of New York, in relation to the composition of the Board of Trustees.

THE PRESIDENT: Read the last section.

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

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1094, by Senator Wright, Senate Print 2429, an act in relation to granting certain retirement benefits to certain sheriffs.

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

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1097, by Senator Meier, Senate Print 2838, an act in relation to permitting the reopening of

the optional twenty-year retirement plan.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1098, by Senator McGee --

SENATOR MARCELLINO: Lay the bill aside for the day, please.

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

THE SECRETARY: Calendar Number 1099, by Senator Bonacic, Senate Print 2898, an act to amend the General Municipal Law, in relation to creating and establishing.

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

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1100, by Senator Fuschillo, Senate Print Number 2961, an act to authorize the Village of Freeport, Nassau County.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1102, by Senator Morahan, Senate Print 3080, an act to authorize the Rockland Korean Presbyterian Church to file an application.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1103, by Senator Velella, Senate Print 3134, an act to amend the Penal Law, in relation to impersonation or misrepresentation.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1104, by Senator Kuhl, Senate Print 3203, an act to authorize the Village of Watkins Glen

located in Schuyler County.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1106, by Senator McGee, Senate Print 3268A, an act to amend the County Law, in relation to authorizing.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1108, by Senator Johnson, Senate Print 3347, an act to authorize the Babylon Masonic Historical Society.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1111, by Senator Kruger, Senate Print 3415, an act to authorize the Base Medrash Marph, Incorporated.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1113, by Senator Breslin, Senate Print 3733, an act authorizing the Town of Westerlo to discontinue the use of certain lands.

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

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1126, by Senator Spano, Senate Print 5236, an act to amend the Vehicle and Traffic Law, in relation to registration.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1128, by Senator Bruno, Senate Print 5304, an act to amend the Highway Law, in relation to designating a portion of the state highway system.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

Senator Duane.

SENATOR DUANE: Thank you, Madam President. If I could have unanimous consent to be recorded in the negative on Calendar Numbers 656, 861, 972, 1092. I think that's enough for now.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in negative on all of those bills.

Senator Marcellino, that completes the --

SENATOR MARCELLINO: Madam President, may we move to the reading of the controversial calendar.

THE PRESIDENT: That completes the reading of the noncontroversial calendar, so the Secretary will now read the controversial calendar.

THE SECRETARY: Calendar Number 575, by Senator Nozzolio, Senate Print 1930A, an act to amend the General Municipal Law, in relation to enabling.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 2. Senators Duane and Stachowski recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 831, by Senator Velella, Senate Print 4695, an act to amend the Workers' Compensation Law, in relation to the presumption of certain diseases contracted.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 899, by Senator Padavan, Senate Print 1893, an act to amend the Criminal Procedure Law and the New York City Health and Hospitals Corporation Act.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR PADAVAN: Who asked for the explanation, if I may ask?

THE PRESIDENT: Senator Krueger, I believe.

SENATOR PADAVAN: This bill simply requires that security officers at any of the 11 Health and Hospital Corporation facilities in the City of New York be peace officers. The alternative is security personnel akin to a McDonald's or a department store.

Anyone who has been to a busy emergency room or any part of a Health and Hospital Corporation facility would recognize the fact that we need people there who are capable of dealing with myriad problems that unfortunately, at times, include acts of violence.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Madam President, if the sponsor would yield.

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

SENATOR PADAVAN: Yes.

THE PRESIDENT: You may proceed.

SENATOR LIZ KRUEGER: Thank you.

Senator, I've been raising

questions on each peace officer bill that comes before the floor of the Senate because of my concern that we are broadening through this state, piece by piece, a secondary police system.

But in each of the other bills that I questioned, the entity that requested peace officers was the entity that would have them. So we had one with the nuclear power plants, another one with a hospital in Senator Volker's district, a third one recently of a university upstate, requested by the university.

What's different about this bill is this is a bill for peace officer status where the Health and Hospitals Corporation and the City of New York are formally opposed to this.

So I just wonder how this is consistent with even the direction we've gone in the Senate of to some degree recognizing a home-rule request for peace officers. In this case, the entities affected are formally opposed.

SENATOR PADAVAN: I will not speak to all of the other entities you

referred to. Each one has its own particular aspects, factors, considerations.

I'm focused on this particular bill. And I believe, as should anyone who's ever been in one of those facilities, that the protection that both patients and employees are entitled to can only be provided by a peace officer and not some hourly paid guard akin to someone you might find outside a McDonald's.

This is a very, very serious environment. People come there for help, and they don't want to be subjected to criminality. And when that does occur, you need people there with both the training, the background, and the ability, the ability in law to act. And that's why this bill is important.

Yes, it is opposed by the city, for obvious reasons: cost. They would rather contract out with some firm, paying minimum wage or whatever they pay these security guards, than have people there who we feel are important to have there.

THE PRESIDENT: Does any other

member wish to be heard on this bill?

Senator Sabini.

SENATOR SABINI: Madam President, on the bill.

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

SENATOR SABINI: I commend Senator Padavan for this piece of legislation.

The piece of legislation comes out of a court decision as to which I was, I guess, 1/51st of a defendant on, in being the sponsor of a bill at the city level that required the Health and Hospitals Corporation to keep their HHC police.

I had the unfortunate task of having to inform the family of an HHC police officer some years ago, as the ranking municipal official on hand, of his death -- not in the line of duty, but nonetheless of his death.

Our hospitals in New York City are -- can be inherently dangerous places. Things go on in the emergency rooms that are fodder for many TV shows. And some of those things aren't made up. I've seen them myself.

The hospital in my own district, Elmhurst Hospital Center, is the receiving facility for Rikers Island. And while those patients are accompanied by corrections officers, it still is necessary to have a uniformed presence within the hospital to ensure that people who are there for healthcare or to visit loved ones who are seeking healthcare feel safe.

And I commend Senator Padavan for taking steps to make this bill law. We don't need, in our facilities, minimum-wage rent-a-cops in HHC facilities.

And while I don't necessarily know that peace officer status should be committed to every one that we do here, at the same time, New York City's HHC facilities traditionally had their own police force. The last two administrations have tried to privatize that. It's an issue that I don't think works. And I'd like to see this bill pass and become the law.

Thank you.

THE PRESIDENT: The debate is closed.

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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1053, by Senator Alesi, Senate Print 44, an act to amend the Public Health Law, in relation to mandatory reporting.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR ALESI: Thank you, Madam President.

This bill, which we have seen for, I believe, four years in a row, with tremendous support from this house and virtually no support from the Assembly, recognizes that elder abuse is a serious, growing, and very prevalent problem in our society.

Because of that recognition, this bill requires a number of people in their professional capacities who come into contact with people who are physically or mentally incapable of reporting the abuse that they might suffer -- it requires that those professional people, under this mandate, report to the Department of Health the suspected abuse.

Thank you very much, Madam President.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam President, on the bill.

THE PRESIDENT: You may proceed, Senator.

SENATOR SCHNEIDERMAN: I believe this is a bill that's certainly intended to address a very serious issue.

My only concern with this piece of legislation is in Section 4926, where it provides an immunity from liability for reporting based on what essentially is a new exception to the law, immunity for liability

for any person who in good faith makes a report pursuant to this section.

It's really not clear to me who will determine if the report is made in good faith, what the standards are. And I'm afraid that that could exempt from liability someone who potentially is at fault and could make it very difficult, as a practical matter, for a trier of fact to make such a determination.

But even with that flaw, I think the bill has a lot more good in it than bad, and I am going to support the legislation.

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 2. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1061, by Senator Mendez, Senate Print 2689, an act to amend the Election Law, in relation to requiring.

SENATOR SABINI: Explanation.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Madam President, could we lay that bill aside temporarily --

THE PRESIDENT: The bill is laid temporarily.

SENATOR MARCELLINO: -- and move on to the next calendar number.

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: Calendar Number 1090, by Senator McGee, Senate Print 911, an act to amend the Real Property Tax Law, in relation to residential investment exemption.

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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1093, by Senator Maltese, Senate Print 2070, an act to amend the Administrative Code of the City of New York.

SENATOR LIZ KRUEGER: Explanation.

THE PRESIDENT: Senator Maltese, an explanation shall be requested.

SENATOR MALTESE: Yes, Madam President.

This bill is to amend the Administrative Code of the City of New York in relation to the composition of the board of trustees of the New York City Employees Retirement System.

This bill makes the president of the Correction Officers Benevolent Association a member of the board of trustees. The reason that it would be the president of the correction officers is that the correction officers, at present, is the largest group of

uniformed employees that are members of the New York City Employees Retirement System.

Presently, the three largest unions represented on the board are DC 37, the TWA, and the Teamsters Local 237.

The board of trustees, the composition of the board of trustees is governed by Section 13-103. And the members would be a representative of the mayor, the public advocate or a representative, the comptroller of the City of New York or a representative, and each borough president is given one-fifth of a vote, and the three representatives of the three largest unions.

This bill has -- by increasing the number of trustees from seven to eight, we've made appropriate changes in the quorum, raising a quorum from 3 3/5 to 4 1/5, and also in order for the board to act.

The bill has no fiscal implications. And to my knowledge, there have been no memos for or against. Naturally, the Correction Officers Benevolent Association is very much for it.

As far as the equities, I think

that since the three present largest unions are nonuniformed unions, it would seem equitable, since sometimes the interests are different, let's say, that it would seem equitable to allow the president of the Correction Officers Benevolent Association to be a member, or the largest uniformed force to be a member of the board.

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

Senator Krueger.

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

THE PRESIDENT: Senator, do you yield?

SENATOR MALTESE: Yes.

THE PRESIDENT: You may proceed, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Senator Maltese. I appreciated your explanation and your detail.

Is the Correction Officers Benevolent Association the fourth largest union? Would this be adding the next largest

union to this? Or are they simply the largest uniformed local?

SENATOR MALTESE: Madam President, if -- I didn't hear the question, Senator. Could you repeat --

SENATOR LIZ KRUEGER: You had mentioned that the three largest unions are members of NYCERS.

SENATOR MALTESE: And they are nonuniformed unions, right.

SENATOR LIZ KRUEGER: Right. But this would COBA as the fourth.

SENATOR MALTESE: Right.

SENATOR LIZ KRUEGER: But is COBA the fourth largest union in New York City after the three who are already on the board?

SENATOR MALTESE: I don't know whether it would be the fourth largest union. It's quite a large union, as you know. But if I had to guess, I would say -- well, no use guessing. I do not know the answer to that question.

But I am advised that the COBA is in fact the largest uniformed union. The other uniformed unions that are members are

the correction captains, sanitation officers, and EMS.

SENATOR LIZ KRUEGER: Madam President, if the sponsor would yield to one more question.

THE PRESIDENT: Senator, will you yield?

SENATOR MALTESE: Yes.

THE PRESIDENT: You may proceed.

SENATOR LIZ KRUEGER: Senator, I don't know the history of how the other three large unions got onto the board. But I would think that if I was the head of any number of other unions in New York City, I too would want to petition the Senate that I also would have my executive on the NYCERS board.

How do we make a determination now to just pick one additional union and put it on the board?

SENATOR MALTESE: Madam President, this bill has been around in previous years. I know it has been carried at least two or three years, if not four or five years. In that time, I do not recall receiving a memo in support or opposition from

the other unions.

In response to Senator Krueger's question as to how the other unions got representatives, I would put it in one word, clout. And the ability to place a member on the board because of their interest in the board and the interest of their members, so that they would have a representative.

It does seem to me that the other uniformed unions would prefer to have at least one of them represented on the board to protect their interests.

SENATOR LIZ KRUEGER: Thank you.

Madam President, briefly on the bill.

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

SENATOR LIZ KRUEGER: Thank you.

I think I would argue that perhaps every union would like to be on the board of a pension plan. And yet I can't support that, because I think that would make it unmanageable.

So based on the proposal today, I don't think simply because it's a uniformed

local that their interests, for pension purposes, are significantly different than other retirees. So I will vote no on this bill, because I can't see a reason for us to open up NYCERS to one specific local.

Thank you very much.

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

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Ayes, 58. Nays, 1. Senator L. Krueger recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

Madam President, I'd like to

request unanimous consent to be recorded in the negative on three bills, if I may. I was out of the chambers. Calendar Number 1100, Calendar Number 1102, and Calendar Number 1108, please.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the negative on those bills.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1099, by Senator Bonacic, Senate Print 2898, an act to amend General Municipal Law, in relation to creating and establishing.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR BONACIC: Thank you, Madam President.

This is a local bill or an act to amend the General Municipal Law to allow the Town of Wawayanda to establish an industrial

development agency, with all the powers associated with that agency.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Through you, Madam President, if the sponsor would yield for a question.

THE PRESIDENT: Senator, will you yield?

SENATOR BONACIC: I will.

THE PRESIDENT: You may proceed.

SENATOR SCHNEIDERMAN: Through you, Madam President, does the sponsor have any other information that he has to impart to us here today?

SENATOR BONACIC: In addition to this bill, I think it's Senator Breslin's birthday today. And I think that should be mentioned also.

(Applause.)

SENATOR SCHNEIDERMAN: No further questions -- regarding age or anything else.

THE PRESIDENT: Does any other member wish to be heard on Senator Breslin's birthday -- on this bill?

Then the debate is closed.

There is a home-rule message at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 2. Senators Duane and Stachowski recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, can we return to Calendar Number 1061 and call that bill up.

THE PRESIDENT: The Secretary will read Calendar Number 1061.

THE SECRETARY: Calendar Number 1061, by Senator Mendez, Senate Print 2689, an act to amend the Election Law, in relation to requiring.

SENATOR SABINI: Explanation.

THE PRESIDENT: Senator Mendez,

an explanation has been requested.

SENATOR MENDEZ: This bill was debated extensively last year. In fact, the vote was 60 to 1.

The only thing that this bill does is the following. When a person goes to register, that person could elect to bring a photo and ask the Board of Elections to give the identification card as a voter with his or her photograph in it.

It will not be required by the inspectors to demand a voter to produce that identification, because we all know what this kind of a situation really means.

And it has very little economic implications, because the voter, in applying for it, in requesting it, will be paying for his own photo.

SENATOR SABINI: Madam President, if the sponsor would yield for a question.

THE PRESIDENT: Senator Mendez, do you yield?

SENATOR MENDEZ: Oh, yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR SABINI: If the sponsor would just answer the question about -- having read the sponsor's memorandum in support, it says that the bill comes in light of the problems resulting from the 2000 presidential election, particularly in the state of Florida, and that the bill goes in some measure toward trying to eradicate fraud.

Since this is an option for the voter rather than a requirement, if you were going to commit fraud, you wouldn't be wanting your picture on the card. So how does this eradicate fraud or go to eradicate fraud?

SENATOR MENDEZ: I wonder if there is something wrong with your microphone, because I could hardly hear what you just said. Would you mind repeating the question, please, or the statement.

SENATOR SABINI: Okay. Madam President, if I could repeat.

I said, Senator Mendez, in the sponsor's memorandum it says that you drafted this bill out of concerns of the 2000 presidential election and some of the fraud that may or may not have occurred in the state

of Florida.

And I'm wondering that since this is an option for the voter rather than a requirement, how does this help eradicate fraud? If I was going to commit fraud or seek to vote fraudulently, I wouldn't want my picture on the card.

SENATOR MENDEZ: You wouldn't want, number one, people to go to the polls and write the name of a voter -- with the card of a person that they know is either deceased or is out on vacation somewhere. That happened in East Harlem when the priest of the Holy Agony Church went on vacation to Spain and somebody went and signed, forged his name.

That occurs -- I mean, maybe the Board of Elections of the City of New York do not have -- we don't give them as much money as we should. But the fact is that those at least voters, some of them, after they pass on, their names are still there.

So, my dear, dear colleague, nothing about Florida. This is a simple bill. It's not the biggest change in the United States.

SENATOR SABINI: If the sponsor would yield for another question, Madam President.

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

SENATOR MENDEZ: Yes, yes, yes.

THE PRESIDENT: You may proceed.

SENATOR SABINI: In reading the bill, I'm also confused about the format you would use. And I spoke to the city's Board of Elections, and they really don't understand what kind of format you would want either for a voter registration card.

If this bill were to become law, would you expect there to be two kinds of voter registration cards, one with --

SENATOR MENDEZ: No.

SENATOR SABINI: -- voters with photographs and one without?

I mean, Senator, I don't know, you may be getting a new a registration card soon. I hear you may be reregistering or something. Would you expect to have two kinds of cards or one?

SENATOR MENDEZ: Really, my dear

colleague, you are splitting hairs in a beautiful way. And I'm going to tell you why.

This business of two kinds of voters, what is the purpose of any person that goes to register? At present they receive just a card. Right? The same process will occur when somebody goes to register and requests -- brings a photo, requests to see his or her face on that thing.

They do not have to go to present that in the Board of Elections when they go to vote. What kind of jazz is that about two different kinds of voters? I mean, really.

SENATOR SABINI: Madam President --

SENATOR MENDEZ: I hope that I answered your question.

SENATOR SABINI: Well, Madam President, if I may ask a follow-up question, then.

THE PRESIDENT: Senator Mendez, will you yield for an additional question?

SENATOR MENDEZ: Yes, I will.

THE PRESIDENT: You may proceed, Senator.

SENATOR SABINI: My concern is that the format is important. Because if a voter shows up at the polls with one registration card -- which they're not even required to show under current law -- and another shows up with a picture ID card, again, submitted from the city's Board of Elections, that sort of creates two classes of voters, in my opinion, and invites the election inspector to then object to one kind of voter and maybe not the other kind of voter, when under the law they're both equal voters.

And I don't understand what format your bill would then take. Would there be two separate, different kinds of cards? That's what my question really was to.

And I don't think we're splitting hairs. I'm very concerned about voters having access to the polls and yet eliminating the fraudulent voter.

SENATOR MENDEZ: With the registration card, the identification card that the Board of Elections gives out to a person who registers to vote, it just serves

the purpose so that the records of the Board of Elections do say that that person's name appears there.

It's going to be -- everything is going to be exactly the same thing, except that there will be some people that they will like to have their photo and they will be paying for it. Really. Really.

SENATOR SABINI: Madam President, if the sponsor would yield for another question.

THE PRESIDENT: Senator, do you yield?

You may proceed, Senator.

SENATOR SABINI: Senator Mendez, I was just wondering if you consulted with the city's Board of Elections, since this bill only applies to the City of New York in its legal definition. Because their concern is they don't know how they would apply different cards.

And they also -- my other question is, to you, how would you convey the picture to the Board of Elections? In other words, would this be by mail? Would the board be

taking -- I understand that the picture has to be provided by the registrant. But how would they convey that to the Board of Elections?

If I just put a picture in the mail and said it was someone else, would that constitute having -- require the board to affix a picture to a new registration card?

SENATOR MENDEZ: Really. Thank you. And I am not going to accept any more questions.

I mean, this kind of debate, my dear colleague, brings me very bad memories from the last time that this little bill was discussed here.

So you don't like the bill? Sorry, I wish you would. And I wish you would support it. Okay?

SENATOR SABINI: Thank you.

Madam President, on the bill.

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

SENATOR SABINI: I don't share Senator Mendez's bad memories, because I wasn't here to debate the bill.

But as the ranking member of the

Election Law Committee, where this did not come before, because it went right to Rules, I have real concerns over it. And I consulted with the city's Board of Elections officials, and they have real concerns of it as well. They don't understand the format question.

Because if new cards are issued with a blank space for a photo and the photo isn't required, that is going to then raise the inspector's objections to say, Well, how come this fellow has a photo and this one doesn't?

They operationally don't understand how the photo would arrive at the Board of Elections. Do you mail it in? Does it have to come with an affidavit saying it's you? Do you have to show up at the board?

Also, it's an unfunded mandate. These cards will probably cost three bucks a shot. And while I understand people want to have other forms of identification, especially if they're not drivers, I don't know that having an optional picture on the voter registration card is the way to do it.

I share Senator Mendez's concern

about fraud. I don't think this is the way to eradicate it. And I urge a no vote on the bill.

THE PRESIDENT: Senator Stavisky is next.

SENATOR STAVISKY: Since the Senator won't yield, perhaps I can -- or has left the chamber -- I'll proceed on the bill and perhaps ask rhetorical questions instead.

THE PRESIDENT: You may proceed on the bill.

SENATOR STAVISKY: I'm concerned about lines 10 and 11 in the bill where the voter has to supply the photograph. And there's absolutely nothing to stop the voter from -- if I wanted to provide Senator Onorato's picture, I don't think anybody would ever check. And there's no way of knowing, since the name Toby can be male or female.

SENATOR MONTGOMERY: Or mine.

SENATOR STAVISKY: Or Velmanette can be male or female.

Secondly, my second concern is with the cost. The bill memo -- the Senator has left the chamber, but I think -- I wish she

were here to answer the question.

The bill memo, under local fiscal implications, says "to be determined by the affected County Board of Elections." And as far as I know, we have a New York City Board of Elections, not a County Board of Elections. And since this legislation applies only to cities having a population of 1 million or more, I suspect that the chair of the Queens County Board of Elections will be very perturbed by this kind of legislation.

We have no idea what the cost is, and I plan to vote no as a result. Mainly because of the cost. Nobody likes voter fraud, except those who commit it. But I would hope that we reconsider the fiscal implications.

Thank you.

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

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

Again, on the assumption that Senator Mendez doesn't wish to answer any additional questions, I have to say that this

is an unfunded mandate that actually won't make any sense for the City of New York. Since, as Senator Sabini so well expressed, there would be no coherent format for any of this to go forward with.

What I fear would be the outcome of this bill -- although, again, I'm not sure it could ever be made operational the way it's written -- is that it would translate into a scenario where people who didn't have the photo ID would somehow be discriminated against when they attempted to go and vote.

And that comes out of concern about voter fraud that's coming out through national studies around voter fraud and voter ID concerns. The fact that people with disabilities are the least likely to have photo IDs. People who have limited language access skills and don't understand additional rules would be most likely to be discriminated against. People who are living in nursing homes or otherwise dealing with absentee ballots and now would have the additional requirements on photo IDs.

So I cannot support this bill for

two sets of reasons. One, as Senator Sabini so well articulated, this isn't a rational, coherent plan for the City of New York.

Two, if it was implemented the way it is proposed, it could ultimately lead to serious discrimination against voters and, I would argue, increase the problems of voter fraud rather than addressing them in any way.

So I urge my colleagues on both sides to vote no on this bill.

Thank you.

THE PRESIDENT: Senator Morahan is next.

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

THE PRESIDENT: You may proceed.

SENATOR MORAHAN: I heard a lot of my colleagues speaking regarding discrimination, all sorts of things, mandated cost.

Number one, it's my understanding at this time Boards of Elections do give out voter registration cards to those who seek them out. This bill says if someone seeks out that card and provides a photograph and they

elect that they want that photograph on the card for some means of identification, they can do so.

There's nothing mandated about this at all, other than those who would come in can have their photograph affixed to the registration card already by law provided to voters who seek that card.

So I don't see this as an unfunded mandate. I don't think it's discriminatory. It's up to the voter if they want that card with an identification on it.

If someone is going to perpetrate a fraud by sending in the wrong photograph, I don't find that to be very arguable. Because if you want to defraud this system, it's wide open now to fraud. So I don't know that that would serve any purpose to create a fraud by sending someone's picture in. I just don't see it.

So this bill just says, as I understand it, that a voter who elects to have their photograph affixed to a card already available to them by the Board of Elections, they can do so. It doesn't say anything

about -- if someone comes into the board without the card or without the ID card, they still vote. No one is denied the right to vote.

Thank you.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, just briefly on the bill.

I want to go on record and point out to Senator Mendez that we now have this extremely urgent fiscal crisis in the city and it does -- you know, the bill says there is no fiscal implications for the state. But there is severe fiscal implications for the locality. So I think that's a real problem for us. And since this bill is a New York City bill, we have to be concerned about that.

But in addition, Senator Mendez, as you know, many of us in this room have advocated for universal voter registration. I mean, that is one of the things that we feel is extremely important to opening up participation in the electoral process to the widest possible population and constituency.

So we have voter registration going on everywhere -- on the street corners, in churches, in, you know, agencies everywhere, all public agencies, and so forth and so on.

So it's going to be very, very difficult, if not impossible, to have this program implemented in any meaningful way given the fact that we are doing voter registration in so many different venues. And obviously we won't have the facility to take the pictures to begin with.

So, you know, my suggestion would be that if we want -- if we are concerned about fraudulent voting, that we could at least require people who have a driver's license, maybe, if you want to -- that has a photo already on it if you want people to use that as a means of identification. The Board of Elections offers every citizen an ID whether or not they are a driver. That's already in place.

So there are ways that we can -- we have at our disposal of having people identify themselves if that's what we want to do.

But it's very -- it's going to be

very, very difficult to implement this, and it's going to be very costly to New York City, the Board of Elections, and the citizens therein.

So I'm going to vote no on this legislation.

THE PRESIDENT: Senator Parker.

SENATOR PARKER: Yes, Madam President, on the bill.

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

SENATOR PARKER: Let me commend Senator Mendez for her interest in really protecting our system. You know, elections are really important. Protecting the integrity of elections are critical, you know, for legitimacy of all those who sit in this body and for everything that people believe in and expect that things are going to run correctly.

However, I'm not sure that this does what we need it to do.

When we look at fraud and how fraud in fact happens, historically, particularly in Florida -- people like to talk about fraud in

Florida. The problem in Florida was not people coming there who were not on the rolls. The problem was people were denied access.

And when we look at the problems that we have with our system right now, is that that lack of access and the barriers to access, to people participating and exercising their franchise, is where we ought to be concerned.

And I think this body ought to be concerned, I think the United States ought to be concerned. I mean, we model ourselves and we talk about ourselves as this great bastion of participation. But when you look at the top 30 democracies in the world, the United States only ranks about 29th. Only about 29th. In fact, even on the presidential election we have only about 50 percent of the eligible population actually voting.

In my district, you know, of 311,000 people, you know, most of which -- I don't have a lot of children in my district. I have less than 200,000 registered voters. That's of all parties.

I mean, we don't have people

participating. And what we ought to be doing is looking at how we can have people more involved in the process. We like to talk about apathetic voters, we like to talk about people not caring. The real problem in our system, ladies and gentlemen, I contend, is really access to the system.

You know, if we want to do something, let's do this. Let's make it mandatory for people to register, just like we do Selective Service. I'd love to sign on to that bill. I'd love the same way we deny people access to programs because they're not signed up for Selective Service when they turn 18, that's what we ought to be doing for registration.

We know where everybody is. We should do like they do in Italy. In Italy, where they've just been a democracy since 1976, they have a higher rate of voting than we have here in the United States. We ought to be ashamed of ourselves.

And we could assure, you know, a more, you know, egalitarian system and a system that really protects the rights of

voters if we in fact decided that we wanted to do that.

And so I'd love to work with you, Senator Mendez, in improving this bill. And let's develop a package. Let's do some real creative things to make people register to vote. Let's, you know, computerize the system. Let's, you know, take elections off of Tuesdays and make them on a weekend when people really can get there. I mean, there's some things that we ought to really be doing. I'm not sure this is it.

So outside of what Senator Sabini articulated and what's been articulated by other members, I'm going to be voting on this because this does not take us where we need to be.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Will Senator Parker yield?

THE PRESIDENT: Senator Parker, will you yield?

SENATOR PARKER: Yes, sir.

SENATOR MORAHAN: Senator Parker, considering that no one must get this card, no

one must be photographed, and no one must show this card or photograph or any other device to the poll watchers at the time of voting, how do you feel or how do you -- and help me out here -- how do you understand this denying access? How does that deny anyone access to vote?

SENATOR PARKER: Madam President, through you, one of the problems that we see particularly in New York City is that we have a large immigrant population who are now recent citizens. In part, one of the things that we know we enjoy here which is not enjoyed in some other places is in fact the idea of a secret vote.

Oftentimes we will have folks who are afraid to in fact go to register if they feel like their photo is going to be taken. That's one of the reasons why we haven't gone to this earlier on.

So, you know, creating an additional barrier where people now could just pick up a form, write their name on it, fill it out, mail it in, you know, to have to go through another process -- although you're

saying that people don't have to do it --

SENATOR MORAHAN: That's correct.

SENATOR PARKER: -- the reality is that exactly the way Senator Sabini described it is what's going to happen. You're going to create a two-class system, and you're going to have people being denied access.

Because you have people now who come there and are denied, and they're on the rolls. I mean, you know, you should come -- I mean, I know you have a very safe seat. So one Election Day, come down to New York City and come sit at the booth and see how many people are turned away or have to do a affidavit of balloting. It's a real significant problem with people being turned away from the polls.

SENATOR MORAHAN: Madam President, will Senator Parker continue to yield?

THE PRESIDENT: Senator Parker, will you continue to yield to Senator Morahan for a question?

SENATOR PARKER: Yes.

THE PRESIDENT: You may proceed with a question.

SENATOR MORAHAN: Someday I'll explain how soft and how easy my seat is. I think it cost a lot of people a lot of money to get this Senator here.

I agree with you that people are denied or there's confusion or there's some obstacles when they go to vote. Certainly in a city of a million people, that's going to happen, records being what they are. And hopefully as we go through the years and technology, those records will be better purified and more easily accessible.

I could see someday that right at the polling place they will have a computer and they'll be able to pull up on the computer the registration rolls to verify or not verify. And hopefully this session or next year we'll be doing more vis-a-vis have a -- to make things more accessible.

But I think you want to keep -- or I'd like Senators to keep their eye on the ball here, that this is not a requirement. If it's a perceived hurdle -- and I understand, I

have a large immigrant population in my district as well, Senator, and I know that they come from a different culture and they have some concerns about authority or being identified or what have you. And some may be shy that they won't vote because of that.

But I don't think that this requirement, that doesn't exist as a -- it's not a requirement -- is any more harmful than all of the other roadblocks that pop up from time to time trying to get a great population to have great access to exercise their right to vote.

Thank you, Senator.

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

Then the debate is closed.

Senator Ada Smith, do you wish to be heard?

SENATOR ADA SMITH: My name should have been here.

THE PRESIDENT: Well, it is now. You have the floor.

SENATOR ADA SMITH: Thank you, Madam President.

I know that Senator Mendez is greatly concerned about fraud and the election process. I just have some questions based on what I've heard here today.

I heard Senator Morahan say that there would not be an additional cost, and that this doesn't have to be. But if we vote on it and the Assembly votes on it and it becomes law, then it has to be.

And I'm in possession of my voter's registration card, and I don't see any place here for a picture. So we would have to design another card. Which would be an additional cost, Senator Morahan. So there would be cost involved.

And I read something here that has me confused. It says "Not to be used for ID or proof of citizenship." But if you have your picture on it, everyone will be using it for identification. So either we have to settle that dilemma, or we're going against what is written on the cards from the Board of Elections.

To follow up on Senator Sabini, it is clear that anybody can send in a picture.

I can send in Senator Marchi's, yours, Senator Schneiderman, and get an ID for every one of them under my name. What's to prevent that, unless there is some way of setting it up?

Not that I want to be you, Senator Morahan.

But there is definitely the opening for additional fraud that may not exist now. And that's what concerns me. And I ask that all of my colleagues vote in the negative because we're just opening the door for something that Senator Mendez hopes to prevent.

Thank you.

THE PRESIDENT: The debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1061 are Senators Breslin, Duane, Hassell-Thompson,

L. Krueger, Montgomery, Parker, Paterson, Sabini, Schneiderman, A. Smith, M. Smith, and Stavisky. Ayes, 47. Nays, 12.

THE PRESIDENT: The bill is passed.

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

SENATOR MARCELLINO: Thank you, Madam President. May we return to the reports of standing committees.

I believe there's probably a report of the Rules Committee at the desk. And if it could be read now.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

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

Senate Print 2632, by Senator McGee, an act to amend the Tax Law;

3413, by Senator Kuhl, an act to amend the Tax Law;

3583, by Senator Flanagan, an act to amend the Election Law;

3612, by Senator Larkin, an act to amend the Tax Law;

3776, by Senator Bonacic, an act authorizing the Village of Saugerties;

3789A, by Senator Little, an act to authorize;

3834A, by Senator Meier, an act to amend the County Law;

3881A, by Senator Nozzolio, an act to authorize;

4393A, by Senator Skelos, an act to amend the Criminal Procedure Law;

4721A, by Senator Kuhl, an act to amend the Village Law;

4730, by Senator McGee, an act to amend Chapter 263 of the Laws of 1981;

4764, by Senator Maziarz, an act to amend the Education Law;

4768, by Senator Johnson, an act authorizing;

4927, by Senator Marcellino, an act to amend the Environmental Conservation Law;

4945, by Senator Farley, an act to permit;

4971, by Senator Balboni, an act to

amend Chapter 376;

Senate Print 5000, by Senator Kruger, an act authorizing;

5004, by Senator DeFrancisco, an act to amend the Estates, Powers and Trusts Law;

5027, by Senator Meier, an act to amend the Executive Law;

5068A, by Senator Montgomery, an act authorizing;

5082, by Senator Larkin, an act to authorize;

5084, by Senator Velella, an act authorizing;

5100, by Senator LaValle, an act to amend the Town Law;

5158, by Senator Little, an act to amend the Penal Law;

5171, by Senator Volker, an act to amend the Penal Law;

5302, by Senator Skelos, an act to amend the Civil Service Law;

5312, by Senator Nozzolio, an act authorizing;

And Senate Print 5342, by Senator

Wright, an act to amend Chapter 519 of the Laws of 1999.

All bills ordered direct to third reading.

THE PRESIDENT: Senator Marcellino.

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

THE PRESIDENT: We need a motion on the report.

SENATOR MARCELLINO: Oh, sorry.

Move to accept the Rules Committee report.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report is accepted.

Senator Marcellino.

SENATOR MARCELLINO: Any other housekeeping?

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, thank you very much.

Amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Volker, page number 7, Calendar Number 141, Senate Print Number 1388;

By Senator McGee, page number 15, Calendar Number 388, Senate Print Number 2963A;

By Senator Bonacic, page number 33, Calendar Number 776, Senate Print Number 4833;

By Senator Fuschillo, page number 34, Calendar Number 808, Senate Print Number 3294;

By Senator DeFrancisco, page number 39, Calendar Number 866, Senate Print Number 2833;

By Senator LaValle, page number 13, Calendar Number 328, Senate Print Number 3165B;

By Senator Golden, page number 49, Calendar Number 1044, Senate Print Number

1505.

Madam President, I now move that these bills retain their place on the order of third reading.

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

Senator Marcellino.

SENATOR MARCELLINO: Madam President, there being no further business to come before the Senate today, I move we adjourn until tomorrow, Tuesday, June 10, at 3:00 p.m.

THE PRESIDENT: On motion, the Senate stands adjourned until Tuesday, June 10th, 3:00 p.m.

(Whereupon, at 4:30 p.m., the Senate adjourned.)