NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 12, 2003

10:10 a.m.

REGULAR SESSION

SENATOR PATRICIA K. McGEE, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT McGEE: The Senate will come to order.

I would ask all present to stand and join me in the Pledge of Allegiance.

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

ACTING PRESIDENT McGEE: We're joined in the chamber this morning by Pastor Robert Mackay, Seventh-Day Adventist Churches of Oneonta, Norwich, Lincklaen Center, and Utica, from Morris, New York.

Pastor.

PASTOR MACKAY: Thank you.

Good morning, Senators. My scripture passage is taken from Lamentations, Chapter 3, verses 22 and 23: "The Lord's loving kindnesses indeed never cease, for His compassions never fail. They are new every morning. Great is Thy faithfulness."

Let us pray, shall we.

Thank You, gracious God, that all these blessings we encounter this morning are due to Your increasing love, Your unfailing compassion, and Your unchanging faithfulness.

What an honor it is to recognize these attributes of Your character.

Please join us in these Senate chambers and, more so, dispatch Your holy spirit to reside in the chambers of our individual hearts, where You may speak to us words of encouragement to boost our faithfulness, to enlighten us with wisdom, and to empower us through compassion as we serve You and the people of New York.

Amen.

ACTING PRESIDENT McGEE: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, June 11, the Senate met pursuant to adjournment. The Journal of Tuesday, June 10, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT McGEE: 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 Volker, on page 23 I offer the following amendments to Calendar Number 569, Senate Print 2326, and I ask that this bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: Madam President, on behalf of Senator Saland, on page 21 I offer the following amendments to Calendar Number 536, Senate Print 4224, and I ask that that bill retain its place on the Third Reading Calendar.

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

Senator Skelos.

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

ACTING PRESIDENT McGEE: There are. The Secretary will read.

THE SECRETARY: On page 20, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 7476A and substitute it for the identical Senate Bill Number 4119, Third Reading Calendar 499.

On page 51, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 8578 and substitute it for the identical Senate Bill Number 4621, Third Reading Calendar 1209.

And on page 53, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 8432 and substitute it for the identical Senate Bill Number 5369, Third Reading Calendar 1227.

ACTING PRESIDENT McGEE: Substitutions ordered.

Senator Skelos.

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

ACTING PRESIDENT McGEE: The Secretary will read.

Just one moment. Can we have some quiet, please.

Thank you.

THE SECRETARY: Calendar Number 127, by Senator Wright, Senate Print 1068A, an act to amend the Environmental Conservation Law, in relation to identification of traps.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 160, by Senator Seward, Senate Print 1591, an act in relation to creating the D.R. Evarts Library District.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 200, by Senator Flanagan, Senate Print 2372A, an act to amend the Public Authorities Law, in relation to the financing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 340, by Senator Libous, Senate Print 2579, an act to amend the Mental Hygiene Law and the

Correction Law, in relation to reimbursement.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 414, by Senator McGee, Senate Print 2754A --

SENATOR SCHNEIDERMAN: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 499, substituted earlier today by Member of the Assembly Nolan, Assembly Print Number 7476A, an act to amend the Labor Law.

ACTING PRESIDENT McGEE: Read the last section.

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

November.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 573, by Senator Marcellino, Senate Print 4131A, an act to amend Chapter 122 of the Laws of 2000 amending the Environmental Conservation Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39. Nays, 1. Senator Padavan recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 720, by the Assembly Committee on Rules

Assembly Print Number 8136, an act to amend the Executive Law, in relation to authorizing crime victims' awards.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 727, by Senator Nozzolio, Senate Print 4734A, an act to amend the Correction Law, in relation to custody and supervision.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 765, by Senator Maziarz, Senate Print 565C, an act to amend the Real Property Law, in relation to requiring.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 774, by Senator Kuhl, Senate Print 4720A, an act to amend the Private Housing Finance Law, in relation to housing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT McGEE: The bill is passed.

Could we please have some quiet. Please? Thank you.

The Secretary will read.

THE SECRETARY: Calendar Number 808, by Senator Fuschillo, Senate Print 3294A, an act to --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 818, by Senator Flanagan, Senate Print 3581, an act to amend the Public Health Law and the Correction Law, in relation to requiring.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 850, by Senator Trunzo, Senate Print 1777, an act to amend the Executive Law, in relation to requiring state agencies.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 931, by Senator Spano, Senate Print 3778A, an act to amend the Navigation Law, in relation to increasing the pilotage fees.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 4. This act shall take effect January 1, 2004.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 956, by Senator Skelos, Senate Print 3343B, an act to amend the Public Officers Law, in relation to authorizing deputy sheriffs.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1034, by Senator Marcellino, Senate Print 3060B, an act to amend the Penal Law, in relation to surreptitious surveillance.

ACTING PRESIDENT McGEE: Senator Skelos.

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

ACTING PRESIDENT McGEE: There is a message of necessity at the desk.

SENATOR SKELOS: Move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

The Secretary will read.

THE SECRETARY: Section 6. This act shall take effect on the 60th day.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1047, by Senator Flanagan --

SENATOR SKELOS: Lay it aside for the day, please.

ACTING PRESIDENT McGEE: The bill

is laid aside for the day.

THE SECRETARY: Calendar Number 1049, by Senator Kuhl, Senate Print 2244A, an act to amend the County Law, in relation to authorizing wireless communications.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1075, by Senator Saland, Senate Print 3919A, an act to amend Chapter 942 of the Laws of 1983 and Chapter 541 of the Laws of 1984.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1088, by Senator Farley, Senate Print 812A, an act to amend the County Law, in relation to wireless communications service.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1157, by Senator Wright, Senate Print 5342, an act to amend Chapter 519 of the Laws of 1999, amending the Alcoholic Beverage Control Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1164, by Senator Brown, Senate Print 3326B, an act to amend the Highway Law, in relation to the designation of the "Jennifer Bolender Memorial Overpass."

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1194, by Senator Breslin, Senate Print 588, an act to amend the Uniform City Court Act, in

relation to qualifications for city court judge.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1195, by Senator Kuhl, Senate Print 744, an act to amend the Tax Law, in relation to including income from a managed Christmas tree operation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1197, by Senator Skelos, Senate Print 2124A, an act to amend the Retirement and Social Security Law, in relation to allowing the transfer.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT McGEE: Thank you.

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

SENATOR SKELOS: Thank you.

ACTING PRESIDENT McGEE: Thank you, Senator Skelos.

THE SECRETARY: Calendar Number 1198, by Senator Hannon, Senate Print 2922, an act to amend the Lien Law, in relation to extending the period before which a notice of lien for a public improvement is discharged.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1199, by Senator Volker, Senate Print 3260, an act to allow certain employees of the Niagara Frontier Transportation Authority.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1200, by Senator Maziarz, Senate Print 3341, an act to --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1201, by Senator Balboni, Senate Print 3756, an act to amend the Real Property Law, in relation to requiring sellers.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1202, by Senator Volker, Senate Print 3893, an act in relation to granting Nancy Janish certain service credit.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1203, by Senator Marchi, Senate Print 3943, an act to amend the Navigation Law, in relation to pilotage fees.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1204, by Senator Wright, Senate Print 4063A, an act to amend the Agriculture and Markets Law, in relation to the definition of milk.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1205, by Senator Fuschillo, Senate Print 4103, an act to amend the General Municipal Law, in relation to regulation of taxicabs and limousines.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1206, by Senator Hannon, Senate Print 4236, an act to --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1207, by Senator Bonacic, Senate Print 4327 --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1209, substituted earlier today by the

Assembly Committee on Rules, Assembly Print Number 8578, an act to amend Chapter 244 of the Laws of 2000.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1210, by Senator Lachman, Senate Print 4672, an act to amend the Penal Law, in relation to tampering with a fire protection device.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR BROWN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1212, by Senator Kuhl, Senate Print 4908, an act to amend the Vehicle and Traffic Law, in

relation to weights and dimensions.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR BROWN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1213, by Senator Kuhl, Senate Print 4910, an act to amend the Vehicle and Traffic Law, in relation to obstruction.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1214, by Senator Libous, Senate Print 4921, an act to amend the Vehicle and Traffic Law, in relation to fines for parking in a handicapped parking access aisle.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2003.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1215, by Senator Saland, Senate Print 5059A, an act to amend Chapter 147 of the Laws of 2001, amending the Education Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays 2. Senators Fuschillo and LaValle recorded in the negative.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1216, by Senator Marcellino, Senate Print 5077, an act to amend the Environmental Conservation Law, in relation to environmental protection.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1217, by Senator Flanagan, Senate Print 5087, an act to amend the Parks, Recreation and Historic Preservation Law, in relation to the Long Island State Park.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1218, by Senator Little, Senate Print 5132, an act to amend the General Municipal Law, in relation to bail monies.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1219, by Senator Johnson, Senate Print 5141, an act to amend the Public Officers Law, in relation to allowing.

SENATOR BROWN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1221, by Senator Golden, Senate Print 5279 --

SENATOR BROWN: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1222, by Senator Kuhl, Senate Print 5281, an act to amend the Public Officers Law, in relation to waiving the residency requirement.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1223, by Senator Rath, Senate Print 5285 --

SENATOR BROWN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1224, by Senator Balboni, Senate Print 5308, an act to amend the Criminal Procedure Law, in relation --

SENATOR BROWN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1226, by Senator Hannon, Senate Print 5322, an act to amend Chapter 303 of the Laws of 1999.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1227, substituted earlier today by the Assembly Committee on Rules, Assembly Print

Number 8432, an act to amend the Environmental Conservation Law, in relation to taking fish fixed by regulation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1228, by Senator Robach, Senate Print 5428, an act to amend a chapter of the Laws of 2003, relating to authorizing the City of Rochester.

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

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2003.

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT McGEE: The bill is passed.

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

SENATOR HANNON: Yes, Madam President. Could we go to the controversial calendar, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 414, by Senator McGee, Senate Print 2754A, an act to amend the Highway Law, in relation to the designation and maintenance.

SENATOR BROWN: Explanation.

SENATOR SPANO: Lay it aside temporarily.

ACTING PRESIDENT McGEE: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 808, by Senator Fuschillo, Senate Print 3294A, an act to amend the General Business Law, in relation to --

SENATOR BROWN: Explanation, please.

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

SENATOR FUSCHILLO: Thank you very much, Madam President.

On a beautiful, sunny day on February 17th of this year, down in Florida, it was 81 degrees, the humidity was 72 percent, and the Baltimore Orioles were in spring training. And a young man by the name of Steve Bechler, who was just brought up from the minor leagues, signed a contract with the Baltimore Orioles, and passed out during spring training while he was doing sprints.

They later found out that when this young man -- vibrant, 251 pounds -- was rushed to hospital, all his organs were shut down except for his heart. They were pumping him with fluid to try to revive his body, but they couldn't get his body temperature down. Twenty-three hours later, he died. And the fluids ballooned him to 325 pounds.

And the autopsy revealed that ephedra was in his body. And the product that

he bought from a store had what they call a stacking ingredient in it -- it contained aspirin; ma huang, which is the Chinese herb of ephedra; and caffeine. And he also took the pills with a cup of coffee.

And what it did is it sped up his metabolism, constricted his blood vessels in his skin, and it prevented the body from cooling itself.

His death certainly highlighted the awareness of the dangers associated with ephedra. His wife, that night, 23-year-old Kiley, was going back to Seattle; they told her to turn around and come back, seven months pregnant. She gave birth to a baby two months ago, Hailey.

Certainly a tragic event. But, as I said, it highlighted the awareness of this issue. So we did some research, we held a public hearing a few weeks ago. And Senator John Sabini was there, and I appreciate his input.

And we had testimony from individuals. A young couple from Long Island, Tom and Karen Schlendorf, talked about their

20-year-old son, a student at the University of Albany, who took ephedra, died four hours later from a heart attack.

We heard testimony from a gentleman, Doug Hanson, who has two kids, now age 12, age 6. Five years ago his wife was training in the city at a gym. She worked in the garment center, 37 years old. Her so-called trainer or nutritionist told her to take ephedra: It will be good, it will help you lose weight, it will help you muscles, and this is the miracle pill.

She died of a heart attack at the age of 37. Autopsy report: ephedra.

So we looked into this even further. We found out that there's no federal regulation, it's not regulated by the FDA.

It's supported, the ban is supported by the American Heart Association, the Medical Society of New York State. General Nutrition Centers, one of the largest distributors in the country, worldwide has more than 5,300 stores, last month pulled the product in its shelves. Twin Labs, a manufacturer of the product, said we're not

manufacturing the product anymore.

The product has been banned by the NCAA, the International Olympic Committee. NASCAR is considering a ban. The NFL has banned it. Minor league baseball has banned it. Commissioner Bud Selig is calling on the players' union to ban it in major league baseball. The NBA wants it banned, and the NHL wants it banned.

So in the absence of any federal regulation, I feel it's important that the State of New York provides a safety mechanism for its residents.

Thank you, Madam President.

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

Senator Schneiderman.

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

SENATOR FUSCHILLO: Yes, I will, Madam President.

SENATOR SCHNEIDERMAN: I note that in this proposed regulation, Section 3 states that this shall not pertain to any drug containing ephedra or ephedrine "that is

lawfully sold, transferred or furnished over-the-counter without a prescription pursuant to the Federal Food, Drug and Cosmetic Act or regulations adopted thereunder."

What in fact are we banning? Doesn't that provision mean that it's still possible to buy over-the-counter products containing ephedrine?

SENATOR FUSCHILLO: No. No, it's not. Only by prescription only, Senator.

It bans the product -- if you read the section before that, it lists the specific products. Ma huang is the product we're targeting, which is the Chinese herb.

SENATOR SCHNEIDERMAN: So in Section 3, which has two parts, it refers to "nothing in this section shall pertain to a drug sold pursuant to prescription," but then it also goes on to say "or furnished over-the-counter without a prescription."

So my only question is this. What are the products that are furnished over-the-counter without a prescription containing ephedrine that would still be

available, if any?

SENATOR FUSCHILLO: Cold medicines.

SENATOR SCHNEIDERMAN: Cold medicines.

SENATOR FUSCHILLO: Right. Which are regulated by the FDA.

SENATOR SCHNEIDERMAN: Thank you. No further questions.

Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I would like to say that I think this is a good example of the state government stepping in where it's necessary.

And I think that it's nice that Senator Fuschillo, who has protected us earlier this year from secondhand smoke, is stepping in with another serious medical problem.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Marcellino.

SENATOR MARCELLINO: Yes, Madam

President. I would like to congratulate my colleague from Long Island, once again, for taking leadership on a very serious issue. I have had constituents in my district who have suffered from the effects of ephedra. They have lost children.

And this is a serious, serious problem with over-the-counter medications where claims are made that cannot be substantiated, in many cases, without proper medical attention, without proper medical advice, and, if not used correctly, can lead to serious injury and/or death.

And again, Senator Fuschillo is to be congratulated for taking this action and we hope that the federal government will move in and do so on a nationwide basis, because this is an extremely serious problem and should not be taken lightly.

And the word should go out to all youngsters, and anybody who's looking for weight loss or any other situation, that this is not the way to go, these over-the-counter, quick-fix medicines that make all kinds of crazy claims that cannot be substantiated and

in many cases lead to serious problems, serious problems.

So let's take a good word from our colleague. I've very proud of him for doing this, and I'm proud of this body for acting the way it has.

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

Senator Sabini.

SENATOR SABINI: Thank you, Madam President.

I just want to also congratulate the sponsor. The Consumer Affairs Committee held a field hearing in Amityville in which we heard testimony from several experts and also very compelling testimony from people who lost family members.

And while I believe that there are some positive uses for the substance known as ephedra, having doctors be the ones prescribing it I believe is the only way to go.

We heard in several cases of people at impressionable ages taking this substance and becoming critically ill from it. And if

it's available over the counter, certainly people at a young age would be less likely to understand the dangers of this and the possible harmful effects.

So I congratulate Senator Fuschillo and intend to vote aye.

Thank you.

ACTING PRESIDENT McGEE: Thank you, Senator Sabini.

Any other Senator wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 818, by Senator Flanagan, Senate Print 3581, an act to amend the Public Health Law and the Correction Law, in relation to requiring.

SENATOR SCHNEIDERMAN:

Explanation.

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

SENATOR FLANAGAN: Thank you, Madam President.

This bill requires that overnight camp operators have to check the sex offender registry for prospective employees, to check whether or not they're on the registry.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 30th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Schneiderman.

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

I think everyone appreciates the concern expressed in the bill that Senator

Flanagan has just put before us.

I would like to call attention to the fact that there has been opposition from the camp directors, really for a very basic reason, which is that it is an extreme burden on small businesses to conduct the kinds of investigations we're calling for.

So I would urge that while it's important for us to protect the children of our state in every way we can, we also have to be cognizant of the need to provide funding if we are going to be requiring businesses to undertake investigations pursuant to this sort of legislation.

And as of right now, the state budget really is deficient in terms of our providing the resources needed to take advantage of things like the registry of names or the DNA database or other uses of technology that are very, very important to the expansion of the effectiveness of our criminal justice system.

But I would urge that we take a look at the cost imposed on businesses as we continue to expand these sorts of activities.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Schneiderman.

The Secretary will read.

THE SECRETARY: Calendar Number 1034, by Senator Marcellino, Senate Print 3060B, an act to amend the Penal Law, in relation to surreptitious surveillance.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR MARCELLINO: Thank you, Madam President.

I'm very pleased to get up and speak on this bill, because it's been a long time coming.

This house has passed this bill on a number of occasions, usually unanimously. And we have had some problems getting it through the other house. But recently we've managed to get a breakthrough and we've managed to negotiate a joint agreement. The Governor has stated he will sign on, and in fact has sent a message of necessity to get

this bill on the calendar today so we could act on it.

The bill establishes an appropriately severe criminal penalty for those who install, possess, or use a surreptitious viewing device to observe, capture visual images of another person in a place where the other person has a reasonable expectation of privacy and has not given his or her consent.

The bill would also establish a criminal penalty for those who use such devices to capture visual images of the intimate parts of another person or who sell, disseminate, distribute or publish these images.

In addition, the bill would add these offenses to a list of crimes included in the Sex Offender Registry Act. In other words, the perverts who use this stuff, create this stuff, and take these images would now be listed under Megan's Law for all to see and all to know. And we would therefore know who these people are once and for all.

This is a form of virtual rape,

ladies and gentlemen. This kind of activity takes people in their most intimate times, when they are feeling secure and have every expectation to be completely private, and some pervert is taking their picture for use and dissemination amongst others and on the Internet. Once on the Internet, it's never retrieved. That incident goes on and on, to the embarrassment of the individuals involved.

I have to thank the several advocates who came forward -- especially Stephanie Fuller, from my district -- who came forward and, despite the personal embarrassment that they have suffered, spoke out and urged the passage of this bill.

I have to congratulate my colleague in the other house, Robin Schimminger, for working tirelessly to bring this bill to the floor.

I have to congratulate Senator Bruno and Speaker Silver for their actions to bring this bill to the floor so that we could get it resolved and we can close a major loophole in this business.

And then, finally, I have to

congratulate the Governor for his action and willingness to sign this bill as quickly as we can get it passed.

This is a major step. We've closed a major loophole in the law. And we've eliminated a serious problem and made it a crime, a serious crime where people will do crime, serious time in prison, not just a slap on the wrist.

We have created the following list of crimes.

We create a Class E felony for the unlawful video surveillance in the second degree. It punishes those who intentionally use or install imaging devices to surreptitiously view, broadcast, or record a person undressing. It punishes those who use or install an imaging device to surreptitiously view, broadcast or record under the clothing of another person, the so-called up-skirt shot.

It creates a Class D felony for unlawful video surveillance in the first degree. It punishes those who commit the crime of unlawful video surveillance in the

second degree and also has been convicted within the preceding ten years of unlawful video surveillance.

It creates a Class A misdemeanor for disseminating an image or images of a sexual or other intimate part of another person.

It creates a Class E felony for the dissemination of unlawful surveillance images in the first degree. It prohibits those who unlawfully obtain and then sell, publish or disseminate images of the sexual or other intimate parts of another person.

It punishes, obviously, repeat dissemination of this particular conduct and, again, expands the scope of Megan's Law once and for all to allow for the inclusion of these persons convicted under the unlawful surveillance in the first or second degree.

The time is right. I'm very pleased that this bill will now become law. And again, I wish to thank everybody involved.

For those who would like to, I'd like, Madam President, to open this bill for cosponsorship to any and all in the chamber

who would like on the bill in the usual manner. If anyone doesn't care to be on the bill, they should notify the desk and their name will not be added onto the bill. Otherwise, I would like all names of our colleagues put on the bill.

ACTING PRESIDENT McGEE: Thank you, Senator Marcellino.

Any other Senator wishing to speak on the bill?

Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 60th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1200, by Senator Maziarz, Senate Print 3341, an act to amend the Real Property Tax Law, in relation to providing a tax exemption.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1201, by Senator Balboni, Senate Print 3756, an act to amend the Real Property Law, in relation to requiring sellers.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1206, by Senator Hannon, Senate Print 4236, an act to amend the Surrogate's Court Procedure

Act, in relation to the authority.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1207, by Senator Bonacic, Senate Print 4327, an act to amend the Public Authorities Law, in relation to the power of the State of New York Mortgage Agency.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1210, by Senator Lachman, Senate Print 4672, an act --

SENATOR DUANE: Explanation, please.

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

SENATOR LACHMAN: Okay. This bill, Senate 4672, relates to tampering with the fire protection devices. And it is a series of measures in response to a series of dormitory fires that have occurred over the last three years, primarily but not limited to college campuses.

In January, I believe in 2001, many of us recall there was a dormitory fire at Seton Hall University which was due to tampering with equipment that would have prevented a fire, and this led to the death of several students.

Because there are frequent fire alarms in college dormitories at all times, there is evidence that dormitory fire

protection devices tend to be tampered with. However, this bill is not limited to college dormitories. It includes all fire protection devices, including those in schools, hospitals, apartment buildings, office buildings, and public facilities.

The bill creates two new crimes related to tampering with fire protection devices such as smoke alarms, fire alarms, and sprinkler systems.

And it creates, one, a second-degree tampering with a fire protection device. And this is tampering with a device for the first time by an unauthorized person. And this would be a Class A misdemeanor. The sentence for a Class A misdemeanor is more than 15 days but less than one year.

Now, the second-degree tampering with a fire protection device is the same -- and the first-degree tampering of a fire protection device is the same as the second degree but includes, in addition, that the perpetrator is a repeat offender, this was not the first time that the perpetrator had done this, but it could be the second or third time

when he's apprehended.

Second, and this is very important, a person has to be injured as a result of this tampering. And, thirdly, there could be $250 or more in property damage as a result of tampering with a fire protection device more than once.

Now, the Class E felony is a sentence of one year but no more than four years.

Currently, someone who tampers with a fire protection device may be subject to homicide charges, such as negligent homicide or second-degree murder, for reckless disregard of human life if someone should die. But those have been difficult to prove in courts of law.

Now, this adds criminal penalties which fire departments throughout the state would be asked to enforce.

ACTING PRESIDENT McGEE: Thank you, Senator Lachman.

Senator Duane.

SENATOR DUANE: Thank you, Madam President. If the sponsor would yield.

ACTING PRESIDENT McGEE: Senator Lachman, would you yield for a question?

SENATOR LACHMAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: Thank you, Madam President. Through you, was there a hearing on this bill?

SENATOR LACHMAN: As far as I know, the bill came out of the Rules Committee.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Will you continue to yield, Senator Lachman?

SENATOR LACHMAN: Yes.

ACTING PRESIDENT McGEE: He continues to yield, Senator Duane.

SENATOR DUANE: Prior to its going to the Rules Committee, was there a public hearing?

SENATOR LACHMAN: No, there was no public hearing. It came to the Rules Committee based upon a bill by Senator

Dollinger last year which did not have a public hearing either.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Will you continue to yield, Senator Lachman?

SENATOR LACHMAN: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DUANE: What happens now? What's the -- what would happen to someone who tampered with a fire device now?

SENATOR LACHMAN: As far as I am informed, there are no criminal procedures against the individual.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Lachman?

He continues to yield.

SENATOR DUANE: So if someone were found guilty of tampering with a fire device, nothing would happen, they would go

scot-free?

SENATOR LACHMAN: They could go scot-free.

The college could be asked to create greater inspection of their fire alarm system, but there would not be any criminal procedures. Except if someone should die, and that would be very difficult in terms of homicide charges.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: So through you, Madam President, right now, under any of the tampering laws on the books, a DA would be unable to bring a charge against someone who tampered with a fire alarm or a fire extinguisher? They'd be unable to do anything at all?

SENATOR LACHMAN: Under current law, the local fire departments and fire inspectors are asked to address tampered-with fire protection devices, but there is no state law short of homicide.

SENATOR DUANE: So through you, Madam President, if the sponsor would continue

to yield.

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

SENATOR LACHMAN: Absolutely.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: So even if, after an investigation, it was discovered that a person had actually tampered with a fire device, the police would be unable to arrest that person for having tampered or that person could not even get a desk appearance ticket?

SENATOR LACHMAN: This would depend upon the decision of recommendation of the local fire department.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

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

SENATOR LACHMAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: And if the local fire department recommended that a person be arrested or given a desk appearance ticket if they were accused of tampering, would they then have to appear in front of a judge? Would the person, the tamperer, the alleged tamperer then have to appear in front of a judge?

SENATOR LACHMAN: This would depend upon local jurisprudence and would not be similar throughout the state of New York. It is quite erratic, and there is no uniform system.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Lachman, do you continue to yield?

SENATOR LACHMAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: If a person were accused of tampering with a fire alarm in a hospital in New York City and the fire department investigated and they believed that

they had the perpetrator, what would happen when that perpetrator was brought before a judge in New York City?

SENATOR LACHMAN: There is no law as to penalties for this perpetrator on a criminal basis.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

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

SENATOR LACHMAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: Then the alleged perpetrator could not be arrested?

SENATOR LACHMAN: I'm not saying that. I'm saying there's no law on the books that would expedite what you would like to expedite. It would be up to the local jurisdiction, and especially the fire department's recommendation.

SENATOR DUANE: And through you, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DUANE: What, under present law, is the array of choices that a district attorney could bring? What kind of charges, without this law, could a district attorney bring against an alleged perpetrator?

SENATOR LACHMAN: This would be on an individual basis, since there is not any overall law throughout the state of New York.

SENATOR DUANE: Through you, Madam President, if the sponsor would continue to yield.

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

SENATOR LACHMAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: I'm just hoping to get at is there -- actually, let me -- I'm going move off that for a moment, Madam President. But if the sponsor would continue to yield.

SENATOR LACHMAN: Yes.

SENATOR DUANE: Would a teenager

who is arrested under this law, could a teenager potentially be treated as an adult in the criminal justice system?

SENATOR LACHMAN: As far as I understand, under this law as it is promulgated, the answer is no.

SENATOR DUANE: A teenager could not --

SENATOR LACHMAN: Underage teenager.

SENATOR DUANE: An underage teenager could never be treated as an adult under this legislation?

SENATOR LACHMAN: I didn't say never could. But under the law that exists, this has not been done up to now.

SENATOR DUANE: But through you, Madam President, under the law which is before us today, could a teenager be treated as an adult?

SENATOR LACHMAN: As far as I know, a teenager could not be treated as an adult even under the law today.

SENATOR DUANE: Through you, Madam President, not under the law as it

exists today, but the law as it is sitting on our desks today, could a teenager be treated as an adult?

SENATOR LACHMAN: Under the law that is on our desks today, the teenager cannot be considered an adult, with one possible exception, and that is really not on the desk today. What is on the books in terms of the death of individuals that have had a fire detector tampered with would be considered homicide, and that would follow that rule.

So outside of the area of actual homicide and the killing of an individual or the maiming of an individual or bodily harm to the individual, there is no such law.

SENATOR DUANE: And through you, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Lachman, do you continue to yield?

SENATOR LACHMAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DUANE: What the sponsor

has indicated is sort of a persistent offender of this law, what is the number of times that makes an offender a persistent offender, under the law on our desks today?

SENATOR LACHMAN: Under the law today, a persistent offender would be that offender who does this more than once.

Under the law today, let me state again, there is no statewide law dealing in an area that is non-homicide which deals with the problem.

SENATOR DUANE: And through you, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Lachman, do you continue to yield?

SENATOR LACHMAN: Absolutely.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR LACHMAN: My pleasure.

SENATOR DUANE: Are there any memos in support or in opposition to this legislation? From DAs or criminal justice organizations or the New York City Fire Department or --

SENATOR LACHMAN: Not that I'm aware of, unless it arrived today.

SENATOR DUANE: And through you, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LACHMAN: Yes, I do.

It's good to be standing for a while rather than sitting. Thank you, Senator Duane.

SENATOR DUANE: Was this bill made available to other senators to sponsor?

SENATOR LACHMAN: The bill was made available to all senators to sponsor.

The bill follows the format of the bill that Senator Dollinger sponsored last year and was open for anyone and everyone to sponsor at the beginning of the session.

SENATOR DUANE: And through you, Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT McGEE: Senator Lachman, do you continue to yield?

SENATOR LACHMAN: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR DUANE: Is there an Assembly sponsor for the bill?

SENATOR LACHMAN: No, there is not. At this time.

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

ACTING PRESIDENT McGEE: Senator Duane, on the bill.

SENATOR DUANE: Thank you. I wanted to give this bill, you know, some hearing because there were no public hearings on the bill.

And, you know, I've said -- and I want to be consistent on this on bills, particularly when they increase criminal penalties or create a new class of crime -- I think we really need to be responsible in terms of making sure that we hear from everyone that could be interested in it -- juvenile justice advocates, criminal justice advocates, district attorneys. I think it would be important to hear from fire departments around the state on a piece of

legislation like this.

So I just want to make the point that pieces of legislation that are important enough to create a new class of crime really need to have the most thorough of public airings on it.

I continue to have some questions on this. I'm not convinced that there aren't already laws on the books that would deal with someone who committed this crime. I still have some concerns about how it would impact people who are under the age of 18 or, for that matter, under the age of 21 who might be impacted by this bill.

It's not that I don't think there should be consequences for wrongful behavior; I absolutely do believe that. But I want to make sure that we are as careful as possible when we craft these bills and put them on the floor.

And another question, which I didn't get a chance to ask, but which I'll just put on the table for further thought, is whether or not this bill builds in the possibility of alternatives to incarceration

for those who may be convicted of this new crime.

So I'm going to vote no on this now -- I don't feel any urgency, there isn't a companion bill in the Assembly -- with the hope that I can continue to work with the sponsor and, if we do need to create a new category of crime for this offense, that we could work together to make sure that all questions are answered.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Is there any other Senator that wishes to speak on the bill?

Senator Diaz.

SENATOR DIAZ: Thank you, Madam President. Would the sponsor yield for a question, please.

ACTING PRESIDENT McGEE: Senator Lachman?

SENATOR LACHMAN: Yes, sir.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR DIAZ: Through you, Madam President. Senator Lachman, what made you --

you know, what was the purpose of you presenting this bill? What was in your mind, to prevent what?

SENATOR LACHMAN: I assume you're asking about my motivation.

SENATOR DIAZ: Yes.

SENATOR LACHMAN: Okay. Forgive me for not being able to face you. I have to face the chair and Madam President.

As you know, I have been a college professor for many years and dean of a university. And there had been many times when fire detectors when went off when they shouldn't have gone off, as well as not going off when they should have gone off.

And many colleges and universities complained -- even though this bill would refer to other public institutions, but essentially, colleges and universities -- that children, that young people, young adults are not fully protected by the law.

And after reviewing the legislation that had been prepared by my colleague last year I would agree, they're not fully protected by the law, either as a misdemeanor

or as a felony.

Meanwhile, you have -- just some examples of other Class E felonies: voter registration fraud, harassment of rent regulated tenant, unlawful wearing of a body vest, tampering or misuse of forensic DNA evidence, failure to file income tax returns for three consecutive years, bigamy, incest, repeated offense of supplying a minor with dangerous fireworks, advertisement of sale of unauthorized recordings, either repeat offense or large volume.

And I posit my belief that the danger to college and university students equals, if it's not superior, to the dangers that are -- that I have just mentioned that are Class E felonies.

So there was --

ACTING PRESIDENT McGEE: Excuse me just one moment, Senator Lachman.

Senator Larkin.

SENATOR LARKIN: Madam President, there will be an immediate meeting of the Rules Committee in Room 322.

ACTING PRESIDENT McGEE:

Immediate meeting of the Rules Committee in Room 332.

Thank you so much, Senator Larkin.

SENATOR LACHMAN: I think I've answered your question.

SENATOR DIAZ: Madam President, on the bill.

You know, I think that Senator Lachman is trying to do his best to prevent death, to protect our students and to protect life.

As a fellow Democrat, I feel very proud to see Senator Lachman introduce such a bill. It is very difficult for us Democrats to introduce, sometimes, any piece of legislation here. And to see a fellow Democrat being put through this kind of questioning by another fellow Democrat, it is kind of a difficult thing to understand.

So, Senator Lachman, you know, I'm very proud of you. I'm very proud of you to introduce this kind of legislation. As a Democrat, I want to congratulate you for your courage, for your knowledge, your dedication, and you're favoring, supporting a bill that is

a very important bill.

And, you know, thank you very much for that bill.

ACTING PRESIDENT McGEE: Is there any other Senator that wishes to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1212, by Senator Kuhl, Senate Print 4908, an act to amend the Vehicle and Traffic Law, in relation to weights and dimensions.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam President, could we lay that bill aside

temporarily. There are some Senators in the Rules Committee that want to address it.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1219, by Senator Johnson, Senate Print 5141, an act to amend the Public Officers Law, in relation to allowing.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Again, Madam President, with the consent of the Majority we would request that that bill be laid aside temporarily so the Senators can return from the Rules Committee to address it.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1221, by Senator Golden, Senate Print 5279, an act to amend the Penal Law, in relation to promoting prostitution.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the --

SENATOR LARKIN: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1223, by Senator Rath, Senate Print 5285, an act to amend the Domestic Relations Law, in relation to children born to a married couple.

SENATOR LARKIN: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1224, by Senator Balboni, Senate Print 5308, an act to amend the Criminal Procedure Law, in relation to designating.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill

is passed.

ACTING PRESIDENT MEIER: Senator Larkin.

SENATOR LARKIN: Mr. President, can we take up Calendar Number 414, by Senator McGee.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 414.

THE SECRETARY: Calendar Number 414, by Senator McGee, Senate Print 2754A, an act to amend the Highway Law, in relation to the designation and maintenance.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator McGee, Senator Schneiderman has requested an explanation of Calendar 414.

SENATOR McGEE: Thank you, Mr. President.

This bill amends the Highway Law to allow a town to designate a little-used agricultural or recreational road as a minimum maintenance highway.

The purpose is allow appropriate design and maintenance on little used

agricultural and recreational roads and keep such roads open rather than closing them at certain times of the year.

It would recognize and standardize an already accepted practice. Many rural or town roads are currently so classified and posted.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

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

SENATOR McGEE: Absolutely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: What, if any, is the definition of seldom-used highways, here or elsewhere in the law, that would allow to us understand what actions a town board may take pursuant to this statute?

SENATOR McGEE: Those are usually designated as primarily for access to agricultural or recreational lands.

I might add, a farmer might have a field somewhere that he has a road that leads to it. I might add they might have a cottage somewhere that is only used during the summertime.

And given the fiscal problems that not only as a state recognizing, but local governments have the same, it's much easier on the local governments to not have to maintain those roads permanently.

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

ACTING PRESIDENT MEIER: Senator McGee, do you yield?

SENATOR McGEE: Absolutely. Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: I guess my concern is that -- and maybe I'm missing something -- is there anything in this bill that actually provides any definitional guidance as to how much use on a road would enable it to be designated as a, quote, seldom-used highway?

SENATOR McGEE: I don't think that it's within the bill itself. But I believe it's in previous laws that have been passed, because a number of the states already have empowered localities to do the same.

And in New York State, some localities are have already adopted local laws to adopt this issue. And it's based on guidelines adopted and published by the New York State Local Roads and Research Coordination Council in 1992.

Title 17 of the New York State Official Compilation of Codes, Rules and Regulations contains those requirements for the posting of such minimum maintenance roads in the state.

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

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

SENATOR McGEE: Absolutely. Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: Is there

any additional exposure that we might be opening local governments to for liability if they designate a road as a seldom-used highway and reduce the maintenance and then someone is injured as a result of the poor maintenance?

SENATOR McGEE: I would suspect that that would be a decision made by the local government, Senator Schneiderman. This allows them to the option to do so.

I would point out that the New York State Association of Towns and the New York State Farm Bureau are in full support of this bill.

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

Thank the sponsor for her answers.

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I understand the issue that we're trying to address here. However, I am concerned about the lack of any real definition of what constitutes a seldom-used highway.

This opens the door for different local governments having vastly different

standards for seldom-used highways and for reducing maintenance, which essential for public safety on roads, without any clear guidance from the Legislature.

There are roads that are used very seldom for ten months of the year but that may lead to a swimming hole that are used a great deal in the other two months of the year.

So I would suggest that more guidance is in order if we're going to provide such permission to local governments.

I understand the need that we're attempting to address. And certainly many of the smallest communities in the state suffer the most severely from the fiscal crisis.

But that is the concern I've expressed here today. Mr. President. I hope that as we move forward to try and solve this issue that more guidance will be forthcoming, either through legislation or through regulation.

Thank you.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes,

thank you, Mr. President. On the bill.

In committee, I had some serious reservations, most of which have been articulated by Senator Schneiderman.

But I just wanted to stress that I think this is a safety issue. As we talked about this, my concern was that many times when we talk about minimum maintenance, it becomes no maintenance. And it's haphazard.

The biggest concern that I have is that many times these roads are used by cyclists or hikers or whatever. And to maintain these roads becomes important, particularly for bikers.

And so I can't always be sure, nor can you, most of us in municipalities, in terms of how these roads are accessed. So for us to -- I know that we have to be concerned about the fiscal considerations. But I think that public safety issues probably will become more costly to us than the actual maintenance of the roads.

So as I did in committee, I will continue to vote no on this bill.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

The debate is closed, then.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Hassell-Thompson and Lachman recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1212, by Senator Kuhl, Senate Print 4908, an act to amend the Vehicle and Traffic Law, in relation to weights and dimensions.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1219, by Senator Johnson, Senate Print 5141, an act to amend the Public Officers Law, in relation to allowing state officers and employees.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1221, by Senator Golden, Senate Print 5279, an act to amend the Penal Law, in relation to promoting prostitution.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 9. This act shall take effect on the first of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Duane and Montgomery recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1223, by Senator Rath, Senate Print 5285, an act to amend the Domestic Relations Law, in relation to children born to a married couple.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

I'm going to vote no on this, because not everyone that uses assisted means of reproduction is actually married. And I think the bill should be more inclusive. So I'm going to vote in the negative in the hopes that this bill will come back and be more inclusive.

Thank you, Mr. President.

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

Announce the results.

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

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR LARKIN: Mr. President, can we return to reports of standing committees.

I believe there's a couple of bills there.

ACTING PRESIDENT MEIER: Reports

of standing committees.

The Secretary will read.

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

Senate Print 1067, by Senator Wright, an act to amend Chapter 647 of the Laws of 2002;

2230, by Senator Meier, an act to amend the General Municipal Law;

2610B, by Senator Kuhl, an act to authorize the Village of Addison;

2757A, by Senator Seward, an act to amend Chapter 725 of the Laws of 1989;

2787, by Senator Maziarz, an act to amend the Real Property Tax Law;

3257, by Senator McGee, an act authorizing;

3922A, by Senator Velella, an act authorizing;

4086, by Senator Meier, an act to amend the Real Property Tax Law;

4234, by Senator Maltese, an act to amend the General Municipal Law;

4649, by Senator Lachman, an act to

amend the Public Authorities Law;

4831, by Senator LaValle, an act to amend Chapter 434 of the Laws of 1999;

4948, by Senator Kuhl, an act to amend the Public Authorities Law;

4950A, by Senator Velella, an act to authorize;

5046, by Senator Hoffmann, an act to ratify, legalize and validate;

5107, by Senator Golden, an act to amend the Penal Law;

5113, by Senator Little, an act to amend the Local Finance Law;

5125, by Senator Kuhl, an act to amend the Vehicle and Traffic Law;

5148, by Senator Johnson, an act to amend the Public Officers Law;

5166, by Senator DeFrancisco, an act to amend the Estates, Powers and Trusts Law;

5244, by Senator Libous, an act to amend the County Law;

4539, by Senator Oppenheimer, an act to authorize;

5311, by Senator Meier, an act in

relation to legalizing;

5315, by Senator McGee, an act to amend the Highway Law;

5321, by Senator Golden, an act to amend the Criminal Procedure Law;

5325, by Senator Saland, an act to amend the Education Law;

5331, by Senator Flanagan, an act to amend the Vehicle and Traffic Law;

5347, by Senator Velella, an act to authorize;

5360, by Senator Balboni, an act authorizing the Village of Roslyn Estates;

5372, by Senator Padavan, an act to amend the General City Law;

5373, by Senator Meier, an act authorizing;

5375, by Senator Balboni, an act to authorize;

5383, by Senator Golden, an act to amend the Private Housing Finance Law;

5396, by Senator Volker, an act to amend the Penal Law;

5412, by Senator Meier, an act authorizing;

5438, by Senator Rath, an act to amend the Criminal Procedure Law;

5514, by the Senate Committee on Rules, an act to amend Chapter 576 of the Laws of 1974.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Larkin.

SENATOR LARKIN: I move to accept the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

Senator Larkin.

SENATOR LARKIN: Return to motions.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator McGee.

SENATOR McGEE: Thank you, Mr. President.

Amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Little, page 13, Calendar Number 315, Senate Print 1783;

Sponsored by Senator LaValle, page number 23, Calendar Number 595, Senate Print 4082;

Sponsored by Senator Flanagan, page number 33, Calendar Number 795, Senate Print Number 4990A;

Sponsored by Senator Marcellino, page number 45, Calendar Number 1016, Senate Number 2174A;

Sponsored by Senator Velella, page number 51, Calendar Number 1211, Senate Print Number 4696A;

Sponsored by Senator Wright, page number 18, Calendar Number 484, Senate Print Number 3800;

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 adopted, and the bills will retain their place on the order of third reading.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On page number 34, I offer the following amendments to Calendar Number 819, Senate Print Number 4016, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Seward, I wish to call up Senate Print Number 3878A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number

782, by Senator Seward, Senate Print 3878A, an act to amend Chapter 650 of the Laws of 1998.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Larkin.

SENATOR LARKIN: Mr. President, can we just stand at ease for a few minutes. We're waiting for some paperwork.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 11:26 a.m.)

(Whereupon, the Senate reconvened at 11:46 a.m.)

SENATOR MORAHAN: Mr. President.

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

SENATOR MORAHAN: I rise for a point of information, sir, on the status of the Senate at this moment. Would you please clarify that for me?

ACTING PRESIDENT MEIER: The Senate is standing at ease, awaiting a message of necessity from the Governor.

SENATOR MORAHAN: Thank you very much.

(Whereupon, the Senate stood at ease at 11:47 a.m.)

(Whereupon, the Senate reconvened at 12:00 p.m.)

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

SENATOR VELELLA: Mr. President, if we can return to motions and resolutions, I believe there are some motions to be taken up.

ACTING PRESIDENT BALBONI: We will return to the order of motions and

resolutions.

Senator Leibell.

SENATOR LEIBELL: Mr. President, on page 52 I offer the following amendments to Calendar Number 1220, Senate Print Number 5182, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT BALBONI: The amendments are received, and the bill will retain its position on the Third Reading Calendar.

Senator McGee.

SENATOR McGEE: Thank you, Mr. President.

On behalf of Senator Maziarz, I wish to call up his bill, Print Number 4991, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: Calendar Number 935, by Senator Maziarz, Senate Print 4991, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT BALBONI:

Senator McGee.

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

ACTING PRESIDENT BALBONI: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BALBONI: Senator McGee.

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

ACTING PRESIDENT BALBONI: The amendments are received and adopted.

SENATOR VELELLA: Mr. President, can we stand at ease for a few moments.

ACTING PRESIDENT BALBONI: The house stands at ease for a few moments.

(Whereupon, the Senate stood at ease at 12:04 p.m.)

(Whereupon, the Senate reconvened at 12:05 p.m.)

ACTING PRESIDENT BALBONI: Senator Velella.

SENATOR VELELLA: Mr. President,

I believe there's a privileged resolution at the desk by Senator Sampson. Can we have the title read and move for its immediate adoption.

ACTING PRESIDENT BALBONI: Clerk will read.

THE SECRETARY: By Senator Sampson, Legislative Resolution Number 2043, urging the New York State United States Congressional delegation to support HR1600, an act to posthumously award a Congressional Gold Medal to Jack "Jackie" Robinson.

ACTING PRESIDENT BALBONI: On the resolution, all those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BALBONI: Any nay?

(No response.)

ACTING PRESIDENT BALBONI: The resolution is adopted unanimously.

SENATOR VELELLA: Mr. President, can we take up Calendar Number 1260 at this time.

ACTING PRESIDENT BALBONI: Clerk

will read.

THE SECRETARY: Calendar Number 1260, by the Senate Committee on Rules, Senate Print 5514, an act to amend Chapter 576 of the Laws of 1974.

SENATOR VELELLA: Mr. President, I believe there's a message of necessity at the desk.

ACTING PRESIDENT BALBONI: Yes, there is, Senator Velella.

SENATOR VELELLA: Move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT BALBONI: Opposed, nay.

(No response.)

ACTING PRESIDENT BALBONI: The message is accepted.

Senator Velella.

SENATOR VELELLA: Can we call the bill before the house.

The bill is before the house.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT BALBONI: Senator Schneiderman has requested an explanation, Senator Golden.

SENATOR GOLDEN: Thank you, Mr. President.

This bill is an extender that will extend rent regulations till June 16th, to allow it to be extended for one day so that the rent regulations for the State of New York will remain in place until that time.

ACTING PRESIDENT BALBONI: Thank you, Senator Golden.

Senator Schneiderman, why do you rise?

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

ACTING PRESIDENT BALBONI: On the

bill.

SENATOR SCHNEIDERMAN: I think we obviously have no choice but to vote for an extension of rent regulations.

Unfortunately, we have come to the end of the legislative session this year without having negotiated a comprehensive bill that addresses many of the failings of the current law.

We spend a lot of time in this house talking about the fact that we sometimes come up with bills that the Assembly stands as the obstacle to. In this particular situation, it is absolutely clear that the obstacle to protecting tenants in New York is this house.

The Assembly has passed a bill providing comprehensive reforms of the system of rent control and rent stabilization. We have not been able to do so.

And I think while we have to support an extension for one day -- although we may have to provide other extensions next week, since it doesn't seem that we're close to getting anything that's acceptable to the

tenants in the city and in the suburbs who are at risk -- we have to focus on the fact that this is where the spotlight comes on the Senate.

It's not a victory for tenants just to renew the existing laws. It is, in fact, a betrayal of tenants. The Assembly's bill provides for critical reforms that are essential for maintaining our system of affordable housing in New York.

According to a recent report, we have lost at least 168,000 units from the rent control and rent stabilization system in the last decade. This is the loss of a critical resource. That's like closing down schools. That's like closing down firehouses. That's like shutting down factories. It is a catastrophe for thousands and thousands of working people in this city.

So let's take responsibility for what is now on our plate. If the Senate does not deliver the reforms that were in the Assembly bill, we have failed. And that is the fact we have to deal with in the next seven days.

We have to take away the statutory vacancy bonus. It's now 20 percent; reduce it to 10 percent at the most. We have to deal with the vacancy decontrol problem. We have to expand the scope of the rent protection laws to cover Mitchell-Lama and Section 8 buildings.

These are all things that are on the table that the Assembly has passed overwhelmingly. It's now our turn.

So while I urge everyone, of course, to support this one-day extender, we have a week left to deal with far larger issues. And this is not something we should adjourn without addressing.

Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. On the bill.

ACTING PRESIDENT BALBONI: On the bill.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I am embarrassed to be a member of

the Senate on a day when we are doing a one-day extender on a bill that we have known was coming up for sunset since this bill was renewed in 1997.

Senator Eric Schneiderman talked about what we should be passing. I just want to highlight that because we are not even anywhere near passing the bill that Senator Padavan has sponsored here in the Senate and was passed by the Assembly in February, we are now going to go home while almost 2 million people in New York City wonder whether they will continue to be able to stay in their homes if we do not do our jobs.

And we're talking about senior citizens who panic easily about their futures, and rightly so. We're talking about families with children. We're talking about, unfortunately, too many unemployed people who are already in daily panic over their inability to meet their monthly rent payments.

We are talking about a time where we are losing affordable housing every day in the areas of the state of New York that are affected by this legislation, where our rents

are continuing to increase not just because of the failed errors of this house in 1997, the last time we renewed the law, but as we speak the City of New York is exploring Rent Guidelines Board increases of up to 8.5 percent, if not more, at a time when the fixed income of senior citizens and the disabled do not go up 5.5 or 8.5 percent per year, where, again, our housing courts in New York City are filled and overwhelming and overbrimming with the number of people being dragged in for evictions because they cannot afford to pay their current rent, and every moment that we don't act on rent regulation is another lost unit of affordable housing for them to stay in or find for themselves to go to.

We should be staying here now and through the weekend to hammer out the differences between the Senate and the Assembly. It should come as no surprise to anyone that today was the last day we had before June 15th to get this done. We've had a bill in the Senate for multiple months -- Senator Frank Padavan's bill -- that matched

the Assembly bill. We had no discussions in the Housing Committee on this legislation. We created no conference committees between the two houses, no task forces to work across both parties in both houses to deal with this issue.

The fact that we are going to pass a one-day extender today, literally at the last moment, is something that none of us should not recognize is an embarrassment about this Legislature's failure to be able to function for the people of New York.

So I will vote for this, as opposed to alternative, which is to let this bill sunset with nothing in place. But we have to get this done. And I would argue, if I could amend this bill -- which I cannot at this point -- that we should stay here until we get this done and not go home and not adjourn to next week.

Thank you.

ACTING PRESIDENT BALBONI: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. Just briefly on the bill.

ACTING PRESIDENT BALBONI: On the bill.

SENATOR HASSELL-THOMPSON: In my district, there's 15,000 units of housing which is Mitchell-Lama. Further down in the southern portion of my district is a smaller but very important Mitchell-Lama. Both of these developments are post-1973.

I am going to support, as my colleagues are, this bill. But I am deeply concerned that between now and Monday, the commitments and promises that I've heard made to the tenants across the state of New York, and particularly in the City of New York, I have heard nothing reflected that says that we're going to pass the right kind of rent control bill.

We have an obligation to do the right thing. And we certainly have the opportunity, and I know we have the talent and the skill to be able to do that.

So doing this extender means that when we come back on Monday, I would hope that if we needed to adjourn and stay here for as long as it took us to pass the casino bill --

and if we were as good at doing that as I know we can be about doing this tenant bill, then I will feel better about the work that we will have done next week.

But certainly we have a tremendous obligation, and I think that we have shirked it. And this extension does not do anything but do as my colleague has said, embarrass us because we waited until the 11th hour.

Thank you.

ACTING PRESIDENT BALBONI: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

At the risking of uncharacteristically sounding sarcastic about this, I often here in this chamber that downstaters don't understand upstaters and upstaters' interests, which I actually don't agree. I think that's not true. It's certainly not true, I don't think, in my case.

But here we are extending tenant protection for one day. And if that's not insensitive to people who live downstate, I don't know what is.

I get calls, hundreds, literally hundreds of calls from people in my district worried about whether or not they're going to be able to stay in their homes. And if that's not insensitive to the basic ability of people to live downstate, I just don't know -- you know, I just don't know what is.

We're talking about people's homes. And to, you know, say well, you know, we'll pass a law that will let you stay in your homes till Monday, it's a disgrace. And it's not as if we didn't know that this day wasn't coming upon us.

So, you know, I'm kind of torn about whether or not to vote for this bill, whether I should vote no to send a signal that the way the Legislature has treated this issue is a disgrace, or to vote yes because I want to be part of the group of people that want to assuage people's fears till Monday.

But, you know, to just -- to extend inadequate rent protection for one more day is really a disgrace. And we should be able to do better than this.

Thank you, Mr. President.

ACTING PRESIDENT BALBONI: Senator Lachman.

SENATOR LACHMAN: Yes, I would like to say, with your permission, Mr. President, that I will support this bill -- reluctantly, but I will support it because there is no other alternative.

However, we all know that rent stabilization is imperative to the viability of life and the quality of life in the city of New York.

And I would like to undo the errors that were made seven years ago when this came before the State Legislature. And in the last seven years, 100,000 people who were living in rent-stabilized apartments are no longer living in those apartments.

I think we'll on Monday, I hope, have an earnest and clear debate and come up with a program and conclusions that serve the city and the state of New York and make living in the city and the state viable for New Yorkers.

Thank you.

ACTING PRESIDENT BALBONI: Any

other Senator wishing to be heard on the bill?

Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT BALBONI: The bill is passed.

Senator Velella, why do you rise?

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

ACTING PRESIDENT BALBONI: Yes, we have a motion.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President. I wish to call up my bill, Senate Print Number 1053, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: Calendar Number 1040, by Senator Fuschillo, Senate Print 1053,

an act to authorize the Long Island Progressive Baptist Association.

ACTING PRESIDENT BALBONI: Senator Fuschillo.

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

ACTING PRESIDENT BALBONI: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT BALBONI: Senator Fuschillo.

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

ACTING PRESIDENT BALBONI: The amendments are received.

Senator Velella.

SENATOR VELELLA: Would you recognize Senator Saland, please.

ACTING PRESIDENT BALBONI: Senat or Saland.

SENATOR SALAND: Mr. President, I request unanimous consent to be recorded in

the negative on Senate 5514.

ACTING PRESIDENT BALBONI: Without objection.

SENATOR SALAND: Thank you.

ACTING PRESIDENT BALBONI: Senator Velella.

SENATOR VELELLA: Mr. President, there being no further business, I move that the Senate stand adjourned until Monday, June 16th, at 3:00 p.m., intervening days to be legislative days.

ACTING PRESIDENT BALBONI: On motion, the Senate stands adjourned until Monday, June 16th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:20 p.m., the Senate adjourned.)