NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 16, 2003

3:17 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

THE PRESIDENT: With us this afternoon to give the invocation is Pastor William B. Balta, from South Westerlo Congregational Christian Church in South Westerlo, New York.

PASTOR BALTA: Proverbs, Chapter 16, Verse 3: Commit your works to the Lord, and your thoughts will be established.

Let us pray.

Dear Father in heaven, we thank You for this day. We thank You, dear God, for this great state that we live in. We thank You, dear God, for this great country that we live in. And, dear God, we just are very, very much knowing that we're blessed.

And, dear God, right now we just ask Your hand upon each one here that

represents each different part of the state. We ask, Lord God, that You be with each one of them in their lives, in their families, in all their doings that they do.

Lord, we know that You love each one of us here, and we're so very grateful for that. And, dear God, now we know that You tell us, if we ask for wisdom, that You'll give it to us freely. You won't hold anything back. So we ask, dear God, today for our Senators and all that is involved in this meeting today. We ask, dear God, for giving them wisdom.

Lord, we know that You hold everything in Your hands, and we thank You that we're able to honor You and start off our business by asking for Your help. We need Your help, and we thank You that we can ask for it.

We ask now Your blessing upon each one, in the business that is going to be conducted, and we ask it in the name of Jesus Christ.

Amen.

THE PRESIDENT: Reading of the

Journal.

THE SECRETARY: In Senate, Sunday, June 15, the Senate met pursuant to adjournment. The Journal of Saturday, June 14, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Madam President, before we go to motions and resolutions, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

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

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. On behalf of Senator Maziarz, on page 6 I offer the following amendments to Calendar 120, Senate Print 729A, and ask that the bill retain its place on the Third Reading Calendar.

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

SENATOR MORAHAN: Madam President, on behalf of Senator Wright, on page 39 I offer the following amendments to Calendar 916, Senate Print 3752A, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR MORAHAN: Thank you, Madam President.

THE PRESIDENT: Senator McGee.

SENATOR McGEE: Madam President, amendments are offered to the following Third

Reading Calendar bills:

Sponsored by Senator LaValle, page number 6, Calendar Number 119, Senate Print 335;

Sponsored by Senator LaValle, page number 11, Calendar Number 251, Senate Print 2027;

Sponsored by Senator Larkin, page number 20, Calendar Number 512, Senate Print 2085;

Sponsored by Senator Golden, page 22, Calendar 551, Senate Print 4186;

Sponsored by Senator LaValle, page number 29, Calendar Number 741, Senate Print 2885A;

Sponsored by Senator Marcellino, page number 32, Calendar Number 805, Senate Print 888;

Sponsored by Senator Skelos, page number 42, Calendar Number 974, Senate Print 2661A;

Sponsored by Senator LaValle, page number 44, Calendar Number 1014, Senate Print Number 4784;

Sponsored by Senator LaValle, page

number 44, Calendar Number 1020, Senate Print 4960;

Sponsored by Senator Skelos, page number 49, Calendar Number 1225, Senate Print Number 5310;

Sponsored by Senator Libous, page number 51, Calendar Number 1249, Senate Print 5244;

Sponsored by Senator Maltese, page number 35, Calendar Number 834, Senate Print Number 71.

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

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

SENATOR McGEE: Thank you, Madam President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

On behalf of Senator Rath, I wish

to call up Calendar Number 817, Assembly Print Number 2800.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 817, by Member of the Assembly Ortiz, Assembly Print Number 2800, an act to amend the Public Health Law.

SENATOR MARCELLINO: I now move to reconsider the vote by which this Assembly bill was substituted for Senator Rath's bill, Senate Print Number 2045, on 5/14/03.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

SENATOR MARCELLINO: I now move that the Assembly bill, Number 2800, be committed to the Committee on Rules, and Senator Rath's Senate bill be restored to the order of the Third Reading Calendar.

THE PRESIDENT: So ordered, Senator.

SENATOR MARCELLINO: I now offer the following amendments.

THE PRESIDENT: The amendments are received and adopted.

SENATOR MARCELLINO: Madam President, I wish to call up Senator Libous's bill, Print Number 2894, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 341, by Senator Libous, Senate Print 2894, an act to amend the Mental Hygiene Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

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

THE PRESIDENT: The amendments are received and adopted, Senator.

SENATOR MARCELLINO: Madam President, I wish to call up my bill, Print

Number 885, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 52, by Senator Marcellino, Senate Print 885, an act to repeal Title 17 of Article 23.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

SENATOR MARCELLINO: I now offer the following amendments.

THE PRESIDENT: The amendments are received and adopted.

SENATOR MARCELLINO: Madam President, I wish to call up Senator Maziarz's bill, Print Number 1819, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

181, by Senator Maziarz, Senate Print 1819, an act authorizing the Commissioner of Transportation.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

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

THE PRESIDENT: The amendments are received and adopted, Senator.

SENATOR MARCELLINO: Thank you.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

I wish to call up Senate Print Number 5100, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1152, by Senator LaValle, Senate Print 5100, an act to amend the Town Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

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

THE PRESIDENT: The amendments are received and adopted.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Larkin, I wish to call up Senate Print Number 3612, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1133, by Senator Larkin, Senate Print 3612, an act to amend the Tax Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

SENATOR FUSCHILLO: I now offer the following amendments.

THE PRESIDENT: The amendments are received and adopted.

SENATOR FUSCHILLO: Madam President, on behalf of Senator McGee, I wish to call up Senate Print Number 2783A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

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

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

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

THE PRESIDENT: The amendments are received and adopted.

SENATOR FUSCHILLO: Madam President, on behalf of Senator LaValle, I wish to call up Senate Print Number 301, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 590, by Senator LaValle, Senate Print 301, an act to amend the Education Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

SENATOR FUSCHILLO: Madam

President, I now offer the following amendments.

THE PRESIDENT: The amendments are received and adopted.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Hoffmann, I wish to call up Senate Print Number 2836, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 219, by Senator Hoffmann, Senate Print 2836, an act to amend the Agriculture and Markets Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

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

THE PRESIDENT: The amendments are received and adopted.

Senator Kuhl.

Senator Schneiderman first.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

On behalf of Senator Oppenheimer, I would like to offer the following amendment on page 49, Calendar Number 1230, Print Number 4539, and ask that this bill retain its place on the Third Reading Calendar.

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

SENATOR SCHNEIDERMAN: Thank you.

And, Madam President, on behalf of Senator Montgomery, I'd like to call up Senate Print 5068A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1149, by Senator Montgomery, Senate Print 5068A, an act authorizing the City of

New York.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

SENATOR SCHNEIDERMAN: And, Madam President, I would offer the following amendments, which are at the desk.

Thank you.

THE PRESIDENT: The amendments are received and adopted.

Senator Kuhl.

SENATOR KUHL: Yes, Madam President. Are there some substitutions at the desk?

THE PRESIDENT: Yes, there are, Senator.

SENATOR KUHL: Could we make those substitutions at this time, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 11,

Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Print Number 999 and substitute it for the identical Senate Bill Number 2269, Third Reading Calendar 253.

On page 11, Senator Kuhl moves to discharge, from the Committee on Rules, Assembly Bill Number 5093A and substitute it for the identical Senate Bill Number 2308A, Third Reading Calendar 255.

On page 16, Senator McGee moves to discharge, from the Committee on Rules, Assembly Bill Number 6546A and substitute it for the identical Senate Bill Number 2777A, Third Reading Calendar 406.

On page 17, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 6893B and substitute it for the identical Senate Bill Number 2956B, Third Reading Calendar 452.

On page 42, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 7108 and substitute it for the identical Senate Bill Number 3053, Third Reading Calendar 955.

On page 43, Senator Flanagan moves

to discharge, from the Committee on Rules, Assembly Bill Number 8175A and substitute it for the identical Senate Bill Number 4578A, Third Reading Calendar 998.

On page 48, Senator Meier moves to discharge, from the Committee on Rules, Assembly Bill Number 8145 and substitute it for the identical Senate Bill Number 5027, Third Reading Calendar 1148.

On page 49, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 7150A and substitute it for the identical Senate Bill Number 2757A, Third Reading Calendar 1233.

On page 49, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 5961 and substitute it for the identical Senate Bill Number 2787, Third Reading Calendar 1234.

THE PRESIDENT: The substitutions are ordered.

Senator Kuhl.

SENATOR KUHL: Yes, Madam President. May we now have the noncontroversial reading of the calendar,

please.

THE PRESIDENT: The Secretary will read.

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

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, 54.

THE PRESIDENT: The bill is passed.

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

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 212, by Senator LaValle, Senate Print 345A, an act --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 227, by Senator Marcellino, Senate Print 772, an act to amend the Labor Law, in relation to designating.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 249, by the Assembly Committee on Rules, Assembly Print Number 7332, an act to amend the Tax Law, in relation to extending.

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 250, by Member of the Assembly Kirwan, Assembly Print Number 4205, an act to amend the Tax Law, in relation to certain tax rates.

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, 54.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 254, by Senator Kuhl, Senate Print 2282, an act to amend the Tax Law, in relation to the sales and use taxes.

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 257, by Senator Volker, Senate Print 2481, an act to amend the Tax Law, in relation to extending the expiration.

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 260, by Senator LaValle, Senate Print 2562A, an act to amend the Public Buildings Law, in relation to designating.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 261, by Senator Rath, Senate Print 2923, an act to amend the Tax Law, in relation to extending the expiration.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 18. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 262, by Senator Maziarz, Senate Print 2930, an act to amend the Tax Law, in relation to extending.

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 315, by Senator Little, Senate Print 1783A --

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 388, by Senator McGee, Senate Print 2963B, an act to amend the Alcoholic Beverage Control Law, in relation to the registration of kegs.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 3. Senators Maltese, Meier, and Nozzolio recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 420, by Senator Kuhl, Senate Print 3438, an act to amend the --

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 428, by Senator Spano, Senate Print 1197A, an act to amend the Alcoholic Beverage Control Law, in relation to requiring persons licensed.

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

THE PRESIDENT: The bill is laid

aside for the day.

THE SECRETARY: Calendar Number 452, substituted earlier today by Member of the Assembly Tokasz, Assembly Print Number 6893B, an act to amend the Penal Law, in relation to establishing standards.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 458, by Senator Volker, Senate Print 3479A, an act to amend the Penal Law and the Public Authorities Law, in relation to assaults.

THE PRESIDENT: Read the last section.

SENATOR BRESLIN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 523, by Senator Velella, Senate Print 4377B, an act to amend the Labor Law, in relation to contracts for public work.

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, 54.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 525, by the Assembly Committee on Rules, Assembly Print Number 8224B, an act to amend Chapter 511 of the Laws of 1995, relating to establishing.

SENATOR KUHL: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 536, by Senator Saland, Senate Print 4224A, an act to amend the Domestic Relations Law, the Family Court Act, and the Social Services Law, in relation to the rights of grandparents.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR KUHL: Would you recognize Senator Saland to explain his vote, please.

THE PRESIDENT: Senator Saland,

to explain your vote.

SENATOR SALAND: Thank you, Madam President.

Madam President, this bill represents the culmination of some three years' worth of work. And I would particularly like to recognize the work of a number of grandparents and advocacy groups, the AARP and the Senior Action Council, that very patiently worked with us over this period of time, with Senator LaValle, with Assemblyman Green over in the Assembly, to basically provide the ability for grandparents to have standing in custody proceedings.

And as we all know, there are not tens of thousands but hundreds of thousands of grandparents in New York State that are effectively heads of households and have young children with them, very often children who are the children of their children.

And where those grandparents have had that long and uninterrupted control, to go into court and be told they had no standing and some other party would, after all those years of their serving as the primary

caretaker, in effect become the custodian of that child, is totally inequitable, totally unacceptable.

This bill, as I said, after some three years of effort, addresses that.

And there are a number of seniors here with us today from the AARP who are looking forward to the enactment of this legislation. And I congratulate them and particularly Bridget Castellano, who certainly worked tirelessly to bring this about.

Thank you, Madam President. I vote in the affirmative.

THE PRESIDENT: Senator LaValle.

SENATOR LaVALLE: To explain my vote, Madam President.

THE PRESIDENT: Senator LaValle, to explain your vote.

SENATOR LaVALLE: Madam President, I rise and I want to compliment Senator Saland for his work on this bill, his focus, his diligence.

This bill came to my attention by Bridget Castellano, who is a constituent of mine. And if there is a lesson to be learned

from those outside of this chamber, it's that citizen participation is important. Citizen participation can make a difference. Citizens have, through many of our deliberations, gotten involved.

And so Bridget Castellano, working with Senator Saland, myself, Assemblyman Green, and others, really did make a difference and will ensure that grandparents will have standing, can provide a nurturing environment for their grandchildren.

So again, Senator Saland, a job well done.

THE PRESIDENT: Both of the Senators will be recorded as voting in the affirmative on this bill.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 536: Ayes, 54. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 621, by Member of the Assembly Brodsky,

Assembly Print Number 501B, an act to amend the Public Health Law, in relation to information relating to immunization.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect August 15.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Kuhl.

SENATOR KUHL: Madam President, would you recognize Senator Nozzolio to explain his vote.

THE PRESIDENT: Yes, I am about to recognize him, Senator.

Senator Nozzolio, to explain your vote.

SENATOR NOZZOLIO: Thank you, Madam President.

I ask permission to explain my vote, that this measure raises the awareness about the very difficult disease meningitis and makes sure students and their families have information about how to prevent it.

Meningitis creates trauma, anguish,

and sadness. And that we issue this edict to schools and other entities across the state in an effort to inform the public about how this disease ravages those young people, particularly in the ages of 15 to 24.

That it was nine years ago, on a Monday in June much like today, that I was introduced to the ravages of this deadly disease when my 21-year-old nephew and godson, Matthew, died of spinal meningitis while serving aboard the U.S.S. Nassau as a Navy NROTC midshipman.

He was an NROTC scholar at Cornell University, extremely fit, a leader of his unit, serving aboard ship as part of summer exercises. Unfortunately, Matthew contracted meningitis, even though in excellent health and physical condition, and was stricken at the prime of his life without so much as a symptom being evidenced.

That killer is a killer that hopefully this legislation will help to prevent. That in my grief, I found many families across my own region and across this state who have suffered similar anguish:

Robert and Sharon Penafeather, of Auburn; Doreen Ferraro, of Rochester, who lost her 20-year-old son, Joe; Cathy Hanagan, of Sodus, whose daughter is now crippled because of the disease; Tom Burke, of Auburn, who lost his grandson, an all-Ivy-League football player at Cornell who, at 21, lost his life.

Most recently, here in the Capital Region, Matthew Martuscelo died at 17, and Lindsay Jerdo, who was 18, died. And I'd like to read into the record briefly a comment made by her sister, Melanie Wheaton, who indicated, as she was brought into the intensive care unit, that she would never forget seeing her sister for the first time in the ICU.

Her eyes were closed. Her face, her arms, legs and torso were bruised so much that it appeared she had been beaten up. Her once ivory-colored skin had taken on a purplish appearance, due to the bacteria's poisoning of her blood. Not only was her body bruised, but it was swollen to twice its the normal size. Her breathing was being assisted with a ventilator. All sorts of cords attached to monitoring devices cascaded from

her body. There were multiple IVs pumping fluids into her body, and everyone entering the room was asked to put on a mask.

And that mask hid Melanie's tears that flowed freely from her eyes on seeing her sister. She could not believe that her healthy sister, 24 hours ago, was now dying.

And that's the insidious nature of this disease, my colleagues. And our efforts are to increase awareness to families who have children in the 15-to-24 age bracket in particular, to know that there is a vaccine for this disease, there is a way to prevent the anguish that occurs -- anguish that I daresay, from my personal loss of my nephew and godson, that no family should have to undergo.

Thank you for your support on this legislation. Thank you, Madam President, for your indulgences in allowing me to explain my vote. I vote aye.

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

The Secretary will announce the

results.

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

Senator Sabini.

SENATOR SABINI: Madam President, I ask unanimous consent to be recorded in the negative on Calendar Number 388.

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

The Secretary will continue to read.

THE SECRETARY: Calendar Number 693, by Senator Robach, Senate Print 4202, an act to amend the Retirement and Social Security Law, in relation to additional pension benefits.

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 704, by Member of the Assembly Abbate, Assembly Print Number 5102, an act to amend the Education Law, in relation to the payment.

THE PRESIDENT: Read the last section.

Senator Onorato.

SENATOR ONORATO: Madam President, I'd like the record to reflect the last vote, recorded as 54, should have been 56.

THE PRESIDENT: Do you have a point of order, Senator?

SENATOR ONORATO: Yes.

THE PRESIDENT: Your point of order is well taken. Thank you, Senator.

The record will so reflect the votes were 56, and not 54, in the affirmative.

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 751, by Member of the Assembly Canestrari, Assembly Print Number 3806B, an act to amend the Local Finance Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a constitutional amendment proposed in a concurrent resolution.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 776, by Senator Bonacic, Senate Print 4833A --

SENATOR BRESLIN: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

780, by Senator Larkin, Senate Print 1374, an act to amend the Insurance Law, in relation to providing.

THE PRESIDENT: Read the last section.

SENATOR BRESLIN: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 782, by Senator Seward, Senate Print 3878B, an act to amend Chapter 650 of the Laws of 1998 amending the Insurance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 854, by Member of the Assembly Hoyt, Assembly Print Number 6833, an act to amend the State

Finance Law, in relation to payment.

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 884, by Member of the Assembly Dinowitz, Assembly Print Number 3039, an act to amend the Vehicle and Traffic Law, in relation to judicial review.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

941, by Senator Larkin, Senate Print 2568, an act to amend the Retirement and Social Security Law, in relation to the twenty-year/age 50 retirement program.

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 998, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8175A, an act to amend the Village Law and others, in relation to recognition.

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 1008, by the Assembly Committee on Rules, Assembly Print Number 8442, an act to amend the Banking Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1017, by Senator LaValle --

SENATOR BRESLIN: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1018, by Member of the Assembly Destito --

SENATOR BRESLIN: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1044, by Senator Golden, Senate Print 1505A, an act to amend the Vehicle and Traffic Law, in relation to violation.

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 1051, by Senator Trunzo, Senate Print 2526A, an act in relation to requiring state agencies.

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 1059, by Senator LaValle, Senate Print 2062C, an act to amend the General Obligations Law, in relation to the authority of caregivers.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th 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 1105, by Senator McGee, Senate Print 3207, an act to amend the Tax Law, in relation to extending the expiration.

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 1107, by Senator Kuhl, Senate Print 3327, an act to amend the Tax Law, in relation to the sales and use taxes imposed.

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 1110, by Senator Meier, Senate Print 3366, an act to amend the Tax Law, in relation to extending the expiration.

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 1148, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8145, an act to amend the Executive Law, in relation to the training of firefighters.

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 1153, by Senator Little, Senate Print 5158, an act to amend the Penal Law, in relation to increasing the penalties for hazing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1156, by Senator Nozzolio, Senate Print 5312A, an act authorizing the conveyance of certain state lands.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1229, by Senator Wright, Senate Print 1067, an act to amend Chapter 647 of the Laws of 2002 relating to fire protection.

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.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1231, by Senator Meier, Senate Print 2230, an act to amend General Municipal Law, in relation to authorizing the Massena Memorial Hospital.

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.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1232, by Senator Kuhl, Senate Print 2610B, an act to authorize the Village of Addison, located in Steuben 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 PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1233, substituted earlier today by Member of the Assembly Gottfried, Assembly Print Number 7150A, an act to amend Chapter 725 of the Laws of 1989.

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 1234, substituted earlier today by Member of the Assembly Wirth, Assembly Print Number 5961, an act to amend the Real Property Tax Law, in relation to providing.

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.

Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President. I ask for unanimous consent

to be recorded in the negative on Calendar Number 1230, Bill 4539, please.

THE PRESIDENT: Without objection, you will be so recorded as voting in the negative, Senator.

SENATOR BONACIC: Thank you.

THE PRESIDENT: Senator Bonacic, I've just been informed that the bill was amended and laid aside.

SENATOR BONACIC: I'll catch it next time.

(Laughter.)

THE PRESIDENT: Your vote is rescinded.

SENATOR BONACIC: Thank you, Madam President.

THE PRESIDENT: You're welcome.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1235, by Senator McGee, Senate Print 3257, an act authorizing the reopening of the twenty-year retirement plan.

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 1236, by Senator Velella, Senate Print 3922A, an act authorizing the County of Westchester to lease certain parklands.

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 1237, by Senator Meier, Senate Print 4086, an act to amend the Real Property Tax Law, in

relation to providing.

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 1239, by Senator Lachman, Senate Print 4649, an act to amend the Public Authorities Law, in relation to prescribing penalties.

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 1240, by Senator LaValle, Senate Print 4831,

an act to amend Chapter 434 of the Laws of 1999, amending the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1241, by Senator Kuhl, Senate Print 4948, an act to amend the Public Authorities Law, in relation to New York State Thruway Authority fees.

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 1242, by Senator Velella, Senate Print 4950A, an act to authorize the Village of Pelham, in the County of Westchester.

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 1243, by Senator Hoffmann, Senate Print 5046, an act to ratify, legalize, and validate certain acts and proceedings of the Board of Education of the Stockbridge Central School District.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1244, by Senator Golden, Senate Print 5107, an act to amend the Penal Law, in relation to authorizing a two-year period of conditional discharge.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th 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 1245, by Senator Little, Senate Print 5113, an act to amend the Local Finance Law, in relation to the sale of bonds to the New York State Environmental Facilities Corporation.

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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1246, by Senator Kuhl, Senate Print 5125, an act to amend the Vehicle and Traffic Law, in relation to overweight permits.

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, 57. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1247, by Senator Johnson, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1248, by Senator DeFrancisco, Senate Print 5166, an act to amend the Estates, Powers and Trusts Law, in relation to the termination of uneconomical trusts.

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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1250, by Senator Meier, Senate Print 5311, an act in relation to legalizing, validating, ratifying and confirming actions of the Rome City School District.

THE PRESIDENT: There is a local fiscal impact note at the desk.

SENATOR KUHL: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1251, by Senator McGee, Senate Print 5315, 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, 58.

THE PRESIDENT: The bill is passed.

SENATOR KUHL: Madam President.

THE PRESIDENT: Senator Kuhl.

SENATOR KUHL: Yes, we inappropriately laid aside Calendar Number 1250. Could you call that up again, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1250, by Senator Meier, Senate Print 5311, an

act in relation to legalizing, validating, ratifying and confirming.

THE PRESIDENT: There is a local fiscal impact note at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1252, by Senator Golden, Senate Print 5321, an act to amend the Criminal Procedure Law, in relation to eliminating.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1253, by Senator Saland, Senate Print 5325, an act to amend the Education Law, in relation to involuntary transfer.

SENATOR SCHNEIDERMAN: Lay it

aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1254, by Senator Flanagan, Senate Print 5331, an act to amend the Vehicle and Traffic Law, in relation to periodic inspections.

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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1255, by Senator Velella, Senate Print 5347, an act to authorize the County of Westchester to discontinue.

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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1256, by Senator Balboni, Senate Print 5360, an act authorizing the Village of Roslyn Estates, County of Nassau.

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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1258, by Senator Meier, Senate Print 5373, an act authorizing certain housing authorities to transfer.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1259, by Senator Balboni, Senate Print 5375, an act to authorize the Iranian Jewish Center/Beth Hadassah Synagogue.

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. Nays, 1. Senator Bonacic recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1262, by Senator Volker, Senate Print 5396, an act to amend the Penal Law and the Correction Law, in relation to the new crime of gang sexual assault.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of

November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1263, by Senator Meier, Senate Print 5412 --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1264, by Senator Rath, Senate Print 5438, an act to amend Criminal Procedure Law and the Family Court Act, in relation to enacting the Domestic Violence Omnibus Act of 2003.

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

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

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

SENATOR KUHL: Madam President,

may we return to the order of reports of standing committees.

I understand there's a Rules report at the desk, and I ask that that be read.

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 175, by Senator Hoffmann, an act to amend the Tax Law;

326A, by Senator DeFrancisco, an act to amend the County Law;

348, by Senator LaValle, an act to amend the State Finance Law;

409A, by Senator Velella, an act to amend the Labor Law;

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

959, by Senator Nozzolio, an act to amend the Criminal Procedure Law;

979A, by Senator Farley, an act to amend the Tax Law;

1064A, by Senator Volker, an act to

amend the Civil Practice Law and Rules;

1390, by Senator Spano, an act to amend the Vehicle and Traffic Law;

1692A, by Senator Rath, an act to amend the General Municipal Law;

2047, by Senator Rath, an act to amend the Vehicle and Traffic Law;

2639B, by Senator Hannon, an act to amend the Vehicle and Traffic Law;

2669, by Senator Golden, an act in relation to authorizing;

2670, by Senator Marcellino, an act to require;

2682A, by Senator Hannon, an act to amend the Long-Term Care Integration and Finance Act of 1997;

3130, by Senator Kuhl, an act to amend the Tax Law;

3225, by Senator Spano, an act to amend the Local Finance Law;

3320, by Senator McGee, an act to amend the Election Law;

3465, by Senator Farley, an act to amend the Retirement and Social Security Law;

3937, by Senator Seward, an act to

amend the Tax Law;

3946A, by Senator Morahan, an act granting;

4124, by Senator Velella, an act to amend the Retirement and Social Security Law;

4137C, by Senator Seward, an act to amend the Tax Law;

4254, by Senator Breslin, an act to amend the Highway Law;

4404, by Senator DeFrancisco, an act to amend the Civil Practice Law and Rules;

4409, by Senator Volker, an act to amend the Public Authorities Law;

4538B, by Senator Oppenheimer, an act authorizing;

4754, by Senator Balboni, an act to amend Chapter 340;

4815, by Senator Leibell, an act to amend the New York State Urban Development Corporation Act;

4857, by Senator Wright, an act to amend the Uniform Justice Court Act;

4883A, by Senator Johnson, an act to amend the Public Officers Law;

4887, by Senator Leibell, an act to

amend the Waterfront Commission Act;

4888, by Senator Marcellino, an act to amend the Real Property Tax Law;

4915, by Senator Kuhl, an act to amend the Vehicle and Traffic Law;

4918, by Senator Kuhl, an act to amend the Vehicle and Traffic Law;

4943, by Senator Leibell, an act to amend the Waterfront Commission Act;

4963A, by Senator Meier, an act to amend the County Law;

4974, by Senator Nozzolio, an act to amend the General Business Law;

4999, by Senator Bruno, an act to amend the Penal Law and the Highway Law;

5090A, by the Senate Committee on Rules, an act to amend the Education Law;

5110, by Senator Hoffmann, an act to amend the Agriculture and Markets Law;

And Senate Print 5460, by Senator Golden, an act to amend the Alcoholic Beverage Control Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator

Kuhl.

SENATOR KUHL: 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 Kuhl.

SENATOR KUHL: While we're on the order of motions and resolutions, I understand that there are some other motions at the desk now. Could we take those up.

ACTING PRESIDENT MEIER: Yes, we will.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

I wish to call up Senate Print Number 2961, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1100, by Senator Fuschillo, Senate Print 2961, an act to authorize.

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, 58.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Wright, on page number 39 I offer the following amendments to Calendar Number 918, Senate Print 4890, 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 order of third reading.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I would request, on behalf of Senator Sampson, on page 34, I offer the following amendments at the desk to Calendar Number 822, Senate Print Number 4347A, and 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 Kuhl.

SENATOR KUHL: Yes, Mr. President, we'd like to announce an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in

the Majority Conference Room.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President, could we also, before we do the controversial reading of the calendar, just note for the members who are present that Calendar Number 315 is being laid aside for the day.

And then let's go to the controversial reading of the calendar, beginning with Calendar Number 212.

And we'd certainly like to remind the members that there are only four scheduled days left in session. And so that we can orderly proceed, if they've had a bill on the calendar that's laid aside, we'd appreciate it if they'd be in the chamber when the bill is called up on the controversial reading for debate.

ACTING PRESIDENT MEIER: The Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 212, by Senator LaValle, Senate Print 345A, an act to amend the Education Law, in relation to

reporting requirements.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator LaValle, Senator Schneiderman has requested an explanation of Calendar 212.

SENATOR LaVALLE: Yes. Senator Schneiderman, this is legislation that we passed last year in this chamber. It's a bill that's sponsored by Assemblyman DiNapoli in the Assembly.

What we are trying to do is that whenever a student who has either an F1 or M1 visa, either has been accepted to a college but fails to show up or is enrolled and doesn't continue in the program that they have been participating in -- leaves, disappears -- that the school has an obligation to contact the State Police. They also have various federal responsibilities under the federal act.

Our reason to have the State Police involved is that the Office of Homeland Security just simply does not have eyes and ears all over the country, and that they have

agreements that they have worked out with local law enforcement agencies. So it's important for the State Police, if they see someone on a list, that they can detain them so that we might question them or do whatever is appropriate.

And this legislation, I think everyone is aware, was born out of the 9/11 incident.

And while our colleges and universities loathe more paperwork, it's unfortunate that this takes a priority in terms of national security, that we know where foreign students who come to New York State to receive a superior education -- that they are abiding by our laws, that they're being good citizens, as most of them are while they are here. But for those who are here to do harm, we want to make sure that we know where the students are and that we are engaging our law enforcement officers.

There's other provisions in here that requires the universities and colleges to provide some data that should not be really overburdensome.

And that's really the provisions of this bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: Mr. President, if the sponsor would yield, very briefly.

SENATOR LaVALLE: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: You're asking the colleges and universities to supply the state police with additional data. Are there any funds provided in the legislation so that they will have a way of paying for the extra cost?

In other words, doesn't this represent, you know, a mandate without money, an unfunded mandate?

SENATOR LaVALLE: Senator, their obligation is only in those situations where a student who has been accepted and never arrives or a student who started and does not continue their studies.

I would assume that those incidents would be very minor and that their reporting

obligation would really be de minimis.

SENATOR STAVISKY: One last question, if the sponsor would yield.

SENATOR LaVALLE: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: Aren't they already required to report this information to the Immigration and Naturalization Service?

SENATOR LaVALLE: Yes. The answer is yes. This is under, now, our homeland security.

SENATOR STAVISKY: Homeland security.

On the bill, Mr. President. Thank you.

ACTING PRESIDENT MEIER: Senator Stavisky, on the bill.

SENATOR STAVISKY: Very briefly, I'm going to vote against this bill, as I did in committee. Because aside from the unfunded mandate, the reporting to the State Police is duplicative and unnecessary, since we already -- they already report it to the federal authorities.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

Once again, I think this is a well-intended but misguided piece of legislation. The federal government, in accordance with the USA PATRIOT Act, has something called the Student and Exchange Visitor Information System, SEVIS. And that was mandated to be fully implemented by the beginning of this year.

This is an Internet-based communications system that all of the educational institutions in the country are to place the information on that's required by the federal government.

What I'm afraid we're doing here is creating a second system of reporting so that some information will go to the state authorities here in New York while the feds are setting up this Internet-based system to provide information to local agencies all around the country.

And my suggestion would be that

perhaps we should take another look at this in light of the service available through SEVIS. I would think that if the federal government, that does have primary responsibility for dealing with these issues, wants to, they can make the information available to the state authorities through this Internet-based system without causing any additional burden to our already overburdened institutions of higher education.

Furthermore, in some situations it very well may be that federal authorities have different or additional information. And it would be better if the state authorities and the federal authorities were working off the same system. Since we are now required to spend all this money setting up this Internet based system, it just doesn't make any sense to set up a separate process.

I'm going to be voting no. I think that the way for us to move on this issue is really to ensure that our local authorities are receiving all the information that's in SEVIS and that there is a seamless flow of information between them and the federal

agencies with primary responsibility for dealing with these issues.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Yes, on the bill.

I think Senator LaValle's intent was positive and noble. And I think that when he initially presented the bill to this chamber, which I believe was a year or two ago, the Office of Homeland Security had not fully been restructured, as it has during the last 12 months under Governor Tom Ridge.

And I agree with my colleagues that it would be duplicative and it might serve the reverse purpose of what it's going to do.

I also will be voting against it for another reason. And I think that since 9/11, many foreign students and foreigners, noncitizens, have been put on the spot. It's important for us to maintain our security at the highest level. But it's also important for us to maintain basic civil liberties.

Again, I say that the intent of

Senator LaValle was good, and I think that changes have been made, and I think we have to abide by certain basic liberties that make the United States of America different from other countries in the world. So I regret that I will have to vote no.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 212 are Senators Breslin, Brown, Dilán, Lachman, Parker, Paterson, Schneiderman, and Stavisky. Ayes, 51. Nays, 8.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President, we again inadvertently laid aside for the day Calendar Number 315. And with the consent of the Minority, we're going to be

coming back to that.

But before we do, I'd like to call out of order Calendar Number 1253 -- that's Senator Saland -- and then go back to Calendar Number 315 in the regular order.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1253.

THE SECRETARY: Calendar Number 1253, by Senator Saland, Senate Print 5325, an act to amend the Education Law, in relation to involuntary transfer of violent or disruptive pupils.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Saland, an explanation has been requested.

SENATOR SALAND: Yes, Mr. President.

Mr. President, this bill is a response to a commissioner's ruling in 1998 which held that it was error for a school district to remove a violent or disruptive student providing that under the existing law the only basis for transferring a student -- and perhaps I should use the term

"transferring" instead of "removing" -- would have been whatever was in the best interest of that student.

This attempts to expand the current ability of a school to include violent and disruptive students. That assumedly not only benefits the student but certainly benefits his or her classmates and the school at large as well.

That removal would occur with the same hearing process that occurs under the existing law and would be subject to the very same requirements and certainly could not be arbitrary or capricious.

ACTING PRESIDENT MARCELLINO: Senator Schneiderman.

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

ACTING PRESIDENT MARCELLINO: Senator Saland, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR SCHNEIDERMAN: Thank you.

I'm not completely clear on the relationship between the interpretation of the law by the State Education Commissioner and the existing statute.

Where is -- what was the interpretation based on, to the extent that you can enlighten us? Because this is adding an additional penalty to the statute, but I'm not sure I understand what brought on this interpretation by the commissioner.

SENATOR SALAND: I'll cite you the hearing case. It is in the appeal of Lamar Reeves on behalf of Lamar Reeves, Jr., from an action in the Board of Education, City School District of the City of Buffalo, regarding Student Suspension Decision Number 13,857, and it was decided January 20, 1998.

And what it says, in part -- it's a somewhat lengthy opinion, about six pages worth -- it says, This -- and I'm now quoting on page 4. It says "This reassignment" -- which refers to the removal of the student from his prior school to another -- "clearly constitutes a transfer. However, a transfer

is not an authorized penalty in student discipline cases under Education Law 3214."

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The sponsor yields.

SENATOR SCHNEIDERMAN: Is there any provision made in this law or elsewhere regarding the nature of the transfer, where the transfer would be to or to control this?

The concern that has been expressed in some situations is that transferring disruptive students around often can create more problems than it solves. And in some areas, it's been used and, some people contend, abused to move students around from one place to another without addressing their underlying problems.

SENATOR SALAND: Well, the language on the first page of our bill, Senator Schneiderman -- and it would begin on line 7 -- basically is the transfer should be

to a more appropriate educational setting in another school.

We leave that ability to those in the administration who would be making that decision. Assumedly they would be far more adept than I would to determine where that appropriate placement would be.

SENATOR SCHNEIDERMAN: Thank you.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The sponsor yields.

SENATOR SCHNEIDERMAN: That's really where the difficulty is. What is the -- what checks or balances are there on this very, very critical decision of what constitutes a more appropriate educational setting in another school?

SENATOR SALAND: As you and I can probably appreciate, it certainly could not be arbitrary and capricious. And that is what's provided for really in the existing law.

Whatever the guidelines are that

currently would control a hearing, where there was a desire to transfer a student under the existing law, would be the same control mechanisms that would exist here.

And as far as I'm aware, there hasn't been a great hue and cry that that has not been working appropriately.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The sponsor yields.

SENATOR SCHNEIDERMAN: And is there any provision for transfers outside of the particular district?

I note that it refers to board of education, board of trustees, or sole trustees, superintendent of schools, district superintendent --

SENATOR SALAND: No, there is not. Nor is that the intent.

SENATOR SCHNEIDERMAN: I see. Thank you.

Thank you, Mr. President. Thank the sponsor.

SENATOR SALAND: Thank you, Senator.

ACTING PRESIDENT MARCELLINO: Senator Lachman, why do you rise?

SENATOR LACHMAN: Yes, through you, Mr. President, will the sponsor yield for a question or two?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The sponsor yields.

SENATOR LACHMAN: First, I would like to commend the sponsor for sentences 6 to 22, which in many ways preserves the civil rights --

SENATOR SALAND: Excuse me, Senator Lachman. I'm having a difficult time hearing you. It's probably my hearing, not your speaking.

ACTING PRESIDENT MARCELLINO: Also if we could have a little order in the chamber, please.

Members, take your conversations

out of the chamber. Staff, take your seats, please.

SENATOR LACHMAN: I would like to first of all, as a preamble to my questions, commend the Senator for having the sentences dealing with the period -- may not be suspended for a period in excess of five school days and/or transferred unless such people and persons in parental relations, such people have an opportunity to a fair hearing. And the way you spell out the hearing, the fair hearing.

And I am not only supportive of this because I wrote this into the New York City Board of Education provisions on suspension, but it is good for the entire State of New York.

But I also have some questions, one of which was touched upon by Senator Schneiderman and one or two of which he did not reach.

And that is I'm not sure what is meant by "a more appropriate educational setting." There was a time in the New York City school system where it would be revolving

doors, and principals -- Principal A would send a student to Principal B, and Principal B would send a student to Principal A. And what Principal A and B could not do, they would send to Principal C.

Now, what do we mean by "appropriate educational settings," and how do we eliminate this revolving door?

SENATOR SALAND: Well, let me try and respond to that in two ways.

Number one, the very fair hearing to which you alluded certainly would be one means by which that would happen. Because, again, any administrative hearing cannot tolerate action that's arbitrary and capricious. So if there's a sense that this is arbitrary and capricious, the proposed transfer, it certainly would have to fall.

The other might be perhaps a bit more general. I would certainly hope that with some of the changes, particularly going on within the structure of the city system currently right now, that it might be a system that might be more responsive and more sensitive to the very issue that you raise and

others have raised as well.

SENATOR LACHMAN: Mr. President, through you, will the sponsor continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: I believe the sponsor will yield.

SENATOR LACHMAN: The last part of the bill, Senator Saland, as you know, deals with a student with a disability, as defined -- blah, blah, blah -- in this chapter. And you will be treating the student with a disability differently than other students. And I agree with that.

But how do you deal with the student with disabilities? That isn't spelled out. And that is in the bill that I have in my hand.

SENATOR SALAND: This section reflects the reality of special ed, or IDEA. We could not lawfully, nor would we want to, transfer a student because of his or her disability. That is precluded by law.

And this merely is an effort to

acknowledge that where there is a student with a disability, we have to be cognizant of what the federal law is and we cannot be insensitive to the fact that that particular student is disabled. And that cannot be whatever is generating the desire to transfer.

SENATOR LACHMAN: Mr. President, will the sponsor continue to yield?

ACTING PRESIDENT MARCELLINO: Sponsor, will you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: He continues to yield.

SENATOR LACHMAN: So there will be no involuntary transfer of a student with a disability even if the student acts out, quote, end of quote, in a classroom setting? Or are there procedures that we follow in this transfer?

SENATOR SALAND: I think in my response to you earlier what I said was that we want to be in compliance with the federal law, as well we should, nor would anybody want to transfer a student simply based upon

whatever that student's disability might be.

If the reason for the transfer or the proposed transfer is not related to the disability, that student can still be transferred.

I mean, the bottom line is you can't say that "I want to transfer Johnny or Susie because it's troublesome because they're disabled."

SENATOR LACHMAN: So what you're basically saying -- Mr. President, through you -- is that a student who acts out in the classroom, even though he has a disability, can still be transferred, even with the disability, to the same school as those who don't have disabilities? Or will another situation or setting be created for him or her?

SENATOR SALAND: I lost you -- as I said earlier, I'm having some trouble hearing. I lost you about 15 seconds before the end.

SENATOR LACHMAN: Okay. Will this student who has a disability who will be transferred, will he be transferred under the

same principles -- will he or she be transferred under the same principles as a student without a disability, or are there separate measures used for that transfer?

SENATOR SALAND: It would be the same process. Again, keeping in mind that the disability can't be what generates the process.

SENATOR LACHMAN: Okay. Mr. President, through you, a final question, a technical question.

ACTING PRESIDENT MARCELLINO: Will the sponsor yield for a final question?

SENATOR SALAND: Yes, Mr. President, I do yield.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR LACHMAN: Now, this might seem like a minor question. It's a technical one. You mention in your bill that a record of the hearing shall be maintained, but no stenographic transcript shall be required and a tape recording shall be deemed a satisfactory record.

SENATOR SALAND: Excuse me, Mr.

President. Can we just get this door closed? I truly am having a difficult time.

SENATOR LACHMAN: Forgive me.

SENATOR SALAND: I heard you through "no stenographic record."

SENATOR LACHMAN: Okay, forgive me. I will try to speak a little bit louder.

In the bill, the bill is written --

SENATOR SALAND: I heard you through "no stenographic record be maintained," and then --

SENATOR LACHMAN: How do you differentiate between a stenographic record and a tape -- if you're using a stenographic record and you're using a tape recording, why only use one for the permanent record and not both for the permanent record? And if you don't need the second one, why even have it at the hearing?

SENATOR SALAND: It basically tracks existing law. And some people seek to have a stenographer; others will accept the recording. Some people feel more comfortable with a stenographer.

SENATOR LACHMAN: One final

question, and on the --

ACTING PRESIDENT MARCELLINO: Is this the final final or the second final?

SENATOR LACHMAN: Final final. This is not, Mr. President, the penultimate, this is the ultimate.

ACTING PRESIDENT MARCELLINO: Senator Saland, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you.

SENATOR LACHMAN: I'm still not clear, though, Senator Saland, and perhaps you can clarify it. If only one of these two is used for the permanent record, whether it be a stenographic transcript or a recording, then why is it necessary to have two during the process or the procedure itself?

SENATOR SALAND: It is not -- Senator Lachman, it's not two. You will receive routinely the tape recorded proceeding. If you prefer to have a stenographer, you can have a stenographer.

SENATOR LACHMAN: That's not

mentioned in the bill. As long as you explain it that way. But it is not mentioned in the bill that way.

SENATOR SALAND: It is not a both.

SENATOR LACHMAN: Okay.

Mr. President, that was my final question. I want to thank Senator Saland for his patience. Thank you kindly.

ACTING PRESIDENT MARCELLINO: Senator Krueger, why do you rise?

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

ACTING PRESIDENT MARCELLINO: Sponsor, will you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MARCELLINO: The sponsor is yielding.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

And, Senator Saland, I apologize if you answered this question while I was in the Rules Committee. So I'm going to hope this is

new territory for us.

In your bill you talk about transfer to an alternative school. I come from New York City, where it's conceivable within one school district you would have multiple schools. But in many parts of the state, I would argue -- perhaps in your own district -- there is one high school, there is one middle school.

So I am concerned where we might be transferring disruptive students to, particularly in light of the fact that while in the bill it doesn't say anything about alternative locations -- I'm sorry, just to reference the memo. In your memo "It says schools are developing alternative sites to deal with disruptive students." In your bill, you say only "transfer to another school."

So I guess it's a two-parter one. What happens when there is no other school? And, two, does your memo imply that there are other alternatives out there that are not school settings? That's not clear to me.

SENATOR SALAND: The answer to your last question is no. And I mentioned, in

response to an earlier question, that a student cannot be transferred out of the district. And if there is no alternative school available, then there is no place to transfer the student.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, briefly on the bill.

ACTING PRESIDENT MARCELLINO: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I will support the bill because I do understand the concern of teachers and parents that one disruptive student can trap an entire classroom of students into a situation where they cannot complete their educational attainment and goals.

But I object to the fact that we're not putting a fiscal cost on this bill. Because surely to come up with real alternatives for children who have serious disruptive behavior in our classrooms we have to talk about investments of where we're placing them.

And particularly in my own city, where we've made announcements of alternative

schools but never followed through on the creation of them -- and I would assume the same is true throughout much of the state -- we're setting ourselves up where to some degree we may be establishing one more unfunded mandate for our public school system.

So I will vote for the bill, but I have serious concerns about how this will ever be operationalized.

Thank you, Mr. President.

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

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of September.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

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

In relation to Calendar Number 1253: Ayes, 58. Nays, 2. Senators Diaz and Duane --

SENATOR DIAZ: Can I be allowed

to explain my vote?

ACTING PRESIDENT MARCELLINO: Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

I'm just voting against this bill because I come from the South Bronx, a Hispanic community. And my community is one of those communities that children are placed -- marked just like disruptive students just because sometimes they raise their voice.

We come from the Caribbean. We have a high tone of voice. And we, when we speak, sometimes people think that we are crazy. But we're not. And our children, by hundreds, are placed in the disruptive children category and are placed in unwanted children.

And I'm afraid that this bill will give more authority or more power to different teachers and schools to keep placing Hispanic and black children in that category. And this is a very dangerous bill for our community.

So therefore I'm voting no on this bill.

ACTING PRESIDENT MARCELLINO: Senator Diaz will be recorded in the negative.

Announce the results.

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

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Smith, why do you rise?

SENATOR MALCOLM SMITH: Mr. President, I would request unanimous consent to be recorded in the negative on Calendar Number 212, Senate Print 345A.

ACTING PRESIDENT MARCELLINO: So ordered.

Senator Sabini, why do you rise?

SENATOR SABINI: Mr. President, I ask for unanimous consent to be recorded in the negative on Senate Calendar 212, S345A.

ACTING PRESIDENT MARCELLINO: So ordered.

Senator Krueger, why do you rise?

SENATOR LIZ KRUEGER: Thank you. I too was in Rules at the time of that vote. I would like unanimous consent to be recorded

in the negative on 212, S345A.

ACTING PRESIDENT MARCELLINO: So ordered.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I also was in Rules, and I would like to be recorded in the negative on Calendar Number 212.

ACTING PRESIDENT MARCELLINO: So ordered.

Senator Bonacic.

SENATOR BONACIC: Mr. President, now that everyone is back from Rules, I'd like to continue with the regular reading of the controversial calendar, Number 315, by Senator Little.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 315, by Senator Little, Senate Print 1783A, an act to amend the Environmental Conservation Law and others, in relation to the practice of forestry.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Little, an explanation has been requested by Senator Schneiderman.

SENATOR LITTLE: Thank you. Thank you for the opportunity to explain this bill.

The need for this bill became apparent in 1995. And the bill before this Legislature is a culmination of a bill that had been drafted and carried by Senator Stafford, another bill by Senator Hoffmann, and another by Senator McGee.

This bill does two things. Number one, it enacts the protection of forestry by enacting the right to practice forestry regulation. It also increases the timber theft penalties.

First of all, to talk about the right to practice forestry, as you know, I represent the Adirondack Park, a park of 6 million acres, 3 million of which are owned by the State of New York. There are probably 99 billion trees within the Adirondack Park. And also, it is the center of the forest products industry. There are many companies

and industries who have located in this section of New York State because of the natural resources of the trees that are available. To a name a few, Finch Pruyn Paper, International Paper, several other paper companies and wood product businesses, including Old Adirondack Furniture, a new business that's there because of that.

Many towns and local municipalities have enacted local ordinances that in some way would have an impact on the practice of forestry. And the number of ordinances, local ordinances that were enacted have increased, so that there are presently 123 towns within New York State with some kind of ordinance.

Now, one of the ordinances, a common one, is clear-cutting. This bill would not do a thing to prevent a local municipality from enacting an ordinance. What it would do is it would allow for the municipality itself, the landowner, or the Department of Environmental Conservation, to seek a review of the ordinance.

The petitioner petitions the DEC, sends the ordinance to the DEC, and within 45

days the DEC makes a statement in regard to that ordinance and what its impact is on the practice of forestry.

One of the things that we need to consider is that this is an important industry for New York State and many of these landowners own thousands of acres of forest land. Many of them own smaller amounts.

If they were not allowed to practice forestry on these parcels of land, they would develop them, because that would be their only other recourse as far as getting some financial gain from their land. So it's important that they continue to be able to practice forestry.

One of the oppositions to this bill, or a comment that was made by the environmental group, is that it would allow for the cutting of trees on the Forest Preserve. It would not. The New York State Constitution forbids the removal of trees from the Forest Preserve. Therefore, if a tree falls down -- if, in the instance of Gore Mountain, where they were allowed to clear some ski slopes, if trees are taken down, if

limbs are taken down, branches, whatever, those trees have to be chipped up and left on the property.

That doesn't help the forest products industry at all. Therefore, this would not supersede, certainly, the New York State Constitution in that way.

Another thing that this bill does is it increases the penalties for the taking of trees. Sometimes -- and if you've ever been in the Adirondacks, you would know that these boundary lines are not marked. You can have a parcel of land of, for instance, 8 acres surrounded by 300 acres of state land.

A timber person who was trying to get some extra trees could go through a private operator's land on the idea they are timbering that land, move into the state land and timber trees from the state land, which we would not want to see happen.

Right now the penalty for unlawful taking of trees is like $10, $25. And so many of these companies would just as soon take a tree and pay the penalty, because the tree is worth far more than the penalty.

This bill increases the penalty and the damages, making it much more substantial, and will act as a deterrent to people who are trying remove trees illegally from private or state land.

Just imagine the cost or the value of a black walnut tree or some of the other hardwood trees that are very difficult to come by -- cherry trees. And if they're stolen, the value of that tree should be considered certainly before -- as part of the penalty.

A third part of this bill is that it would, in accordance with the Attorney General -- who supports this bill -- and the Office of Court Administration, provide educational training to local municipal judges and courts on the control and prosecution of timber theft -- it would also include district attorneys -- to see that if timber is stolen, that they are able to prosecute and they have a better knowledge and ability to go ahead and do that.

This bill is supported by the Adirondack Council, by the Empire State Forest Products, by the Farm Bureau, verbally by the

Attorney General, and by the Association of Towns.

This is an important bill for an important business in the North Country and for New York State. Certainly the practice of forestry is something that we need to promote and promote in good ways and see that it is not impeded by too many regulations.

Thank you.

ACTING PRESIDENT MARCELLINO: Senator Schneiderman.

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

ACTING PRESIDENT MARCELLINO: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I'd like to thank the sponsor for her detailed explanation. We didn't get into my favorite provision of the bill, which is the determination of stumpage value, but I think I'll leave that for another day.

This bill, as with many of -- I know you're ready to talk about it.

(Laughter.)

SENATOR SCHNEIDERMAN: This bill,

as with many of its predecessors, unfortunately is in the situation of being a piece of legislation where there are several issues rolled into one bill, making it impossible in good conscience to vote for the bill.

It is absolutely clear that the fines for timber theft, which are in fact $10 per tree, are woefully out of date. If we had a simple bill before us to increase the fines, I think that no one would have any questions about that.

Unfortunately, this bill has been drafted with several provisions which come close to being -- really, to being poison pills. And that's why Environmental Advocates and the Sierra Club are opposed to it.

In addition to dealing with the question of updating New York's laws relating to illegal harvesting and other crimes, it sets an unrealistically high unenforceable standard for landowners to recover nonforestry reparations from tree thieves. The language in the bill requires them -- and particularly small landowners would not be able to do this

very easily -- to show, quote, permanent and substantial damage to their property.

Instead of providing a stronger weapon with which we could combat timber theft, in fact, this diminishes the power of the current law.

The second and I believe even more egregious failing of this bill is that it opens the door and allows any landowner who doesn't like what the local government is doing to call the commissioner in and the commissioner could intervene in a local proceeding. And the fear of the environmentalists is that there could be repeated requests, that this could be used as a strategy for stalling local laws and chilling local government actions.

And particularly the fact anyone who is concerned about this, any landowner in a jurisdiction, maybe the one landowner who opposes stronger environmental laws that the local government is trying to pass, could call DEC in to impede the local government from taking action.

For those reasons, I feel compelled

to vote against this. I hope we will be able to get a bill out very soon that deals with the very serious problem that is the primary focus of this bill, the question of timber left and our inadequate laws in that area.

But as long as it's rolled into one piece of legislation with these other provisions that really are harmful to our efforts to strengthen environmental enforcement in this state, I'm going to be constrained to vote no. And I urge my colleagues to do likewise.

ACTING PRESIDENT MARCELLINO: Senator Hoffmann, before you do, can we have a little order, please. Conversations, if you can, take them out of the chamber. Staff, please take your seats.

Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

I rise as a proud cosponsor of this piece of legislation. And this bill introduced by Senator Little on the floor today incorporates many of the provisions -- indeed most of the provisions of a piece of

legislation that Senator McGee and I worked on over a period of several years. That is the timber theft bill, of Senate 2748, that was several years in the making and followed the long process that is often engaged by this body of public hearings around the state.

In this case, we held hearings -- and I must credit Senator McGee, who was at that time chair of the Rural Resources Commission and continues to be chair of the Rural Resources Commission. Senator McGee and her staff organized hearings in virtually every corner of the state that has experienced a problem with the growing issue of timber theft.

And while I understand from Senator Schneiderman, who has a district that is wholly urban, issues like stumpage value may seem somewhat comical, to those of us in an upstate area that rely upon income from the forest products industry and from agriculture, it is a very real problem. And to some it has been a severe economic hardship.

So I applaud the rest of my colleagues who have voiced their concern for a

timber theft bill and a forest practices bill to come to the floor in this unified fashion.

And it's not the first time that we've seen an opposition memo from Environmental Advocates, and I'm sure it won't be the last. But this particular memo unfortunately reads from a perspective that has little firsthand appreciation of the lives of people who are affected by the concept of forest industry practices or anybody who has ever been victimized by timber theft.

Several of the features of this bill deserve to be noted. Number one, changing stumpage value to award triple or treble stumpage value or treble damages for the theft of a tree.

Now, there's a reason for this. When someone calls a law enforcement officer usually a sheriff in a rural county, and says, We have had trees stolen, that law enforcement officer may or may not be able to determine that this was in fact a valuable tree.

Typically, in law enforcement, it's easy to go after goods that are consumer items. If you have a television stolen and

you can say, Someone stole a television from my house, you can give a pretty good explanation of what that television looked like, maybe even what the serial number is on it.

But a log is a different story, or a standing tree is a different story. And there is an enormous disparity between an ash of modest value and a beautiful, mature black walnut or cherry tree with veneer quality that could be worth several thousand dollars.

So we have had a need to determine a value that more accurately reflects what that landowner has actually lost. And this bill will do that.

It also awards the cost of maintaining an action. This allows somebody who has been victimized to know that they can recover the actual legal costs of implementing the action.

In the past, many, many people who were victims of timber theft knew that the likelihood of ever recovering anything at all was so small that they were not willing to even undertake the legal process.

And, sadly, there are thieves out there -- and I'm not going to call them loggers, because they're solely disreputable people that should not be given that title at all. These people have preyed upon individuals, often absentee landowners, people who own large tracts of land for their beauty, own them so that they can manage their wood lots, but don't live on that same parcel.

Knowing full well that an absentee landowner is not going to be as quick to determine that a loss has taken place, unscrupulous timber thieves have in some cases stolen hundreds of trees from some of these landowners. And those thieves have known that there was little likelihood that they would ever be brought to justice.

This bill, this law is long overdue. And I hope all of my colleagues will recognize the need for rural residents to have it enacted as quickly as possible.

The bill also allows the cost of restoration to be included in the damages awarded. Now, it's not possible to bring back a 100-year-old tree, but there is damage to

the land that must be considered. Ruts caused by the skidders, ruts caused by heavy trucks, damage to other brush, all of these things can be addressed. And the remediation aspect is carefully written within this measure.

There are several things that this bill does not do. And I would just like to address those, because in our long series of hearings we recognized that the risks of timber theft are so great in this state that there was a temptation to put in place some measures that might have been extreme and might have caused a hardship to legitimate people practicing the forest products industry trades.

For instance, it does not include a seizure provision. And this was a matter of great discussion during the meetings of our task force. And there are very good arguments in favor of seizing all equipment that is used in the process of committing that crime. We do that with drug trafficking right now. We do that in other areas. But we do not put that -- we did not put that in this particular bill.

However, if the problem of timber theft continues to be as great in this state as it has been in the past, that's something that we may well revisit again.

We did not include anything that would require onerous recordkeeping for individual logs. There are states that require a virtual manifest for every log taken from a piece of property and transported to a mill.

In this state, the weight of that load or other ways to determine the size of the trees or the total board feet will be the criteria, as it always has been. However, again, we reserve the right to come back.

And I thank all of the people who raised their concerns about putting onerous provisions in the timber theft law.

But there will be higher penalties and easier prosecution, better education for people in law enforcement, including those at the district attorney level and for the judiciary, and the DEC will be much more integrally involved because they'll now have an opportunity to cite specific language that

is relevant to these days.

In 1963, when had you a black cherry worth approximately $50 for a thousand feet of board wood, it was a relatively reasonable penalty on the books. Today, that same black cherry tree is worth $1200 for a thousand board feet. And it's time for us to address this situation seriously.

There are 14,000 acres of private forest land in this state, more than the total acreage of some states and some small countries, and there are another 1140 acres of public land. All of these lands are at risk. We have a responsibility to protect those lands, their landowners, whether they be private owners or whether they be the taxpayers of the State of New York.

And we know, a conservative estimate is that there is $1 million lost annually in tax revenue because of timber thefts -- tax revenue that should come to the state if these trees were legitimately harvested and the taxes were paid at each step of the way.

So I urge all of my colleagues to

consider the interests of the landowners in the upstate areas and recognize that several of your colleagues who have made this a concerted effort for several years realize that this is a reasonable and a very responsible and a long overdue measure.

ACTING PRESIDENT MARCELLINO: Senator McGee.

SENATOR McGEE: Mr. President, I really rise to compliment and thank Senator Little on bringing the bill to the floor, and certainly thank Senator Bruno for realizing the terrible issue there is on the logging rules and regulations and laws that we have in the State of New York which were so very, very outmoded and certainly needed to be brought up-to-date.

The bill is an excellent bill. As Senator Hoffmann indicated, there are some things that were in the other bills that we had done through the timber theft hearings.

But this is a good bill. It increases and updates the timber theft penalty, which are horribly out of date. It focuses on stopping the repeat offenders who

are running rampant over our innocent victims, and educates our local law enforcement officials and prosecutors on the seriousness of the crime and gives them -- they will learn ways to successfully catch and prosecute the very few bad apples that we have that are out there illegally logging.

Again, I say thank you very much, Senator Hoffmann, for joining me in our timber theft hearings. And thank you very much to Senator Little, who does represent a majority of the Adirondack Park. And certainly her district suffers from a great deal of timber theft.

And so I urge everyone to be very considerate and understand the specific issues that illegal logging does to the State of New York.

Thank you.

ACTING PRESIDENT MARCELLINO: Senator Duane.

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

ACTING PRESIDENT MARCELLINO: Senator Little, do you yield?

SENATOR LITTLE: Yes, I will yield.

ACTING PRESIDENT MARCELLINO: She yields.

SENATOR DUANE: Thank you, Mr. President.

I'm wondering if the sponsor could let me know what is different about the A and B prints than the original bill. I don't think anyone has asked that question before.

SENATOR LITTLE: One thing we added was the educational piece to the bill. And the forest land shall -- oh, this one. Section 861 of the Real Property Actions and Proceedings Law was repealed, and a new Section 861 was added which called for action for cutting, carrying off and despoiling trees and timber and that kind of thing.

So instead of talking about general municipalities, we talked about -- the general municipality law, we specified the municipalities.

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

ACTING PRESIDENT MARCELLINO: Yes, the sponsor, I believe, would continue to yield.

SENATOR DUANE: Thank you. I know that the Environmental Advocates were concerned about the usurpation of local law. But based on what's just been said, it sounds like that issue has been dealt with.

SENATOR LITTLE: Actually, it does not do anything to deter a local municipality from enacting an ordinance. All it says is that the landowner or the municipality or DEC has a right to review.

And there really is no huge delay, because they have 45 days from the time they get the ordinance until they review it.

SENATOR DUANE: Thank you.

Thank you, Mr. President.

And just a word on the bill, if I may.

ACTING PRESIDENT MARCELLINO: Senator Duane, on the bill.

SENATOR DUANE: I just wanted to mention that I feel that the issues raised have been addressed.

And the only other thing I think I need to add is that an area where the environmental activists and I split is that I would very much like to see those black flies obliterated. Other than that, though, I think that we're together on most issues.

SENATOR LITTLE: There's a lot of people in the Adirondacks who would like to see the black flies obliterated as well.

I also would add that some of the amendments for, you know, the change in the bill was because this is the same as a bill by Assemblyman Parment in the Assembly and has been agreed upon.

ACTING PRESIDENT MARCELLINO: Any other Senator wishing to be heard on this bill?

Read the last section.

THE SECRETARY: Section 15. This act shall take effect on the first of March.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 315 are

Senators Andrews, Dilán, Hassell-Thompson, L. Krueger, C. Kruger, LaValle, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Schneiderman, A. Smith, and Stavisky. Also Senator Lachman. Ayes, 44. Nays, 16.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I would like to request unanimous consent to be recorded in the negative on Calendar 212.

ACTING PRESIDENT MARCELLINO: Without objection, so ordered.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT MARCELLINO: Senator Andrews.

SENATOR ANDREWS: Yes, Mr. President. I'd like to be recorded in the negative on Calendar 212, with unanimous consent.

ACTING PRESIDENT MARCELLINO: Without objection, so ordered.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Can we return to the order of reports of standing committees.

I understand that there's a report of the Rules Committee at the desk. I ask that it be read.

ACTING PRESIDENT MARCELLINO: We can return to the order of standing committees.

And the Secretary will read the report of the Rules Committee.

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

Senate Print 2452, by Senator Onorato, an act to amend the Labor Law;

5001, by Senator Lachman, an act to authorize;

5127, by Senator Kuhl, an act to amend the Vehicle and Traffic Law;

5138, by Senator Johnson, an act to amend the State Finance Law;

5145, by Senator Volker, an act to amend the Criminal Procedure Law;

5165, by Senator Leibell, an act to

amend the Public Authorities Law;

5174, by Senator DeFrancisco, an act to amend the Estates, Powers and Trusts Law;

5180, by Senator Velella, an act to amend the Retirement and Social Security Law;

5181, by Senator Velella, an act to amend the Civil Service Law;

5204, by Senator LaValle, an act to amend the Executive Law;

5217, by Senator Little, an act to authorize;

5249, by Senator Rath, an act to amend the Family Court Act;

5303A, by Senator Hannon, an act to amend the New York Health Care Reform Act of 2000;

5314, by Senator Volker, an act to amend the Vehicle and Traffic Law;

5323A, by Senator Trunzo, an act to amend the Real Property Tax Law;

5330, by Senator Alesi, an act to amend the Executive Law;

5345, by Senator Johnson, an act to amend the Tax Law;

5346B, by Senator Rath, an act authorizing;

5368A, by Senator Johnson, an act to amend the Environmental Conservation Law;

5370, by Senator Kuhl, an act to amend the Tax Law;

5381, by Senator Johnson, an act to amend the Environmental Conservation Law;

5386, by Senator LaValle, an act to amend the Education Law;

5388, by Senator Morahan, an act to amend the Penal Law;

5407, by Senator Volker, an act to amend the Criminal Procedure Law;

5416, by Senator Skelos, an act to amend Chapter 138 of the Laws of 1998;

5417, by Senator Maziarz, an act to amend Chapter 352 of the Laws of 1999;

5419, by Senator Libous, an act to amend the Tax Law;

5425, by Senator Golden, an act to amend the Penal Law;

5442, by Senator Meier, an act to amend the Social Services Law;

5448, by Senator Bonacic, an act to

amend the Social Services Law;

5449, by Senator Bonacic, an act to authorize;

5461, by Senator Robach, an act to amend the Alcoholic Beverage Control Law;

5467, by the Senate Committee on Rules, an act to amend the Administrative Code of the City of New York;

5476, by Senator McGee, an act authorizing;

5480, by Senator Morahan, an act to amend Chapter 601 of the Laws of 1999;

5487, by Senator Leibell, an act to amend the Eminent Domain Procedure Law;

5489, by Senator Morahan, an act to amend Chapter 621 of the Laws of 1999;

5499, by Senator Volker, an act to amend the Civil Practice Law and Rules;

And Senate Print 5585, 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 MARCELLINO: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President, can we now -- I make a motion to accept the report of the Rules Committee.

ACTING PRESIDENT MARCELLINO: On the motion to accept the report of the Rules Committee, all those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The ayes have it. The report is accepted.

Senator Kuhl.

SENATOR KUHL: Yes, now can we go to the regular calendar and call up Calendar Number 1303.

It's not on today's active list, but we'd like to take that up at this time.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar 1303.

I believe the bill has been placed on everybody's desk.

THE SECRETARY: Calendar Number 1303, by Senator Bruno, Senate Print 4999, an

act to amend the Penal Law and the Highway Law, in relation to violence committed on school grounds.

SENATOR MONTGOMERY: Explanation, please.

ACTING PRESIDENT MARCELLINO: Senator Volker, an explanation has been requested.

SENATOR VOLKER: Mr. President, I'm discussing this bill because Senator Bruno is busy with negotiations with the Governor and couldn't be here.

This bill is a bill that deals with violence on school grounds and is named Suzanne's Law after Suzanne Lyall, who was a student at SUNY Albany and disappeared from the campus five years ago, on March 2, 1998.

This bill has passed this house on a number of occasions. Basically it would provide protection to schools by increasing penalties for certain violent crimes that are committed on school grounds. For instance, if the penalty for a crime were a Class E felony, it would move it to a Class D, and a C felony to a B.

This is a bill that Senator Bruno believes, and I believe, could have an impact on anybody who would attempt to commit a crime on any of the schools of this state, meaning the buildings, playgrounds, athletic fields, and so forth.

The people that are involved in this bill for some time, Suzanne Lyall's parents, Doug and Mary Lyall -- who, by the way, are here in the gallery with us -- have been pursuing this bill for many, many years and in fact have pursued legislation in Washington and recently was very successful in passing a bill in Washington to further protect children or young students at various schools.

What this bill, as I say, would try to do is to provide additional protection for the vulnerable people who are at our schools in this state. And I think that when Suzanne's Law, which unfortunately has not passed the Assembly -- and we are very, very hopeful by the way that this maybe the year that this bill would pass. And the Governor and the Senate is trying very desperately to

get this bill passed.

ACTING PRESIDENT MARCELLINO: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, if Senator Volker could answer a couple of questions. I know that Senator Bruno is not --

SENATOR VOLKER: I certainly will.

ACTING PRESIDENT MARCELLINO: I believe the Senator yields.

SENATOR MONTGOMERY: Thank you. I understand this is Senator Bruno's bill, Senator.

SENATOR VOLKER: Yes.

SENATOR MONTGOMERY: But I just want to ask you, the legislation refers to school grounds. It was my understanding that Suzanne Lyall was a college student. Is that correct?

SENATOR VOLKER: That's right, yes.

SENATOR MONTGOMERY: All right, thank you.

So the bill, then, that we have

here, though it says in the name of Suzanne Lyall, it's not really a Suzanne Lyall bill, in that it refers to any school for any child -- elementary, high school --

SENATOR VOLKER: Elementary, secondary, college or university. It also refers, by the way, to daycare centers. I didn't mention that, but it -- or nursery schools. And any land within a thousand feet of the school boundary line.

So it does pertain to the situation involved with Suzanne Lyall. But it also pertains to any area where young people would be involved. And it would increase the penalties for any serious crime. And as you know, there's a list of crimes in the bill that are involved.

SENATOR MONTGOMERY: Yes. And through you, Mr. President, if Senator Volker would continue to have a discussion.

SENATOR VOLKER: Certainly.

ACTING PRESIDENT MARCELLINO: The Senator yields.

SENATOR MONTGOMERY: Thank you.

I note that you're right, the bill

refers to a long list of different crimes that would be increased in penalty.

I'm just curious, it was my understanding that Suzanne disappeared and she has not been found to date.

SENATOR VOLKER: That's true.

SENATOR MONTGOMERY: So this bill is not really related to that, but any other thing that may happen on a campus. And I guess Suzanne was the impetus for it. But this does not really speak to what happened to Suzanne Lyall.

SENATOR VOLKER: Well, it does. The assumption is that she was kidnapped. Although, obviously, we don't know exactly what happened. But we assume that she was kidnapped. So this would pertain to that.

Of course, it would also cover federal -- potentially federal statutes and so forth. But you're right, it -- we don't know absolutely for sure what happened. But it certainly would cover kidnapping.

SENATOR MONTGOMERY: So the one case, the one instance that I see in here is -- speaks to unlawful imprisonment, which

I'm assuming you are raising the penalty on that from second to first and kidnapping from third to second.

SENATOR VOLKER: Yeah. Any of the violent crimes would have the penalties raised one degree. Such as a C felony would become a B felony, and so forth.

So what this bill would do is to attempt to deal obviously not just a situation such as Suzanne's case, but any similar case that could occur on a school grounds or college or university grounds.

SENATOR MONTGOMERY: Through you, Mr. President, if I can continue my questioning.

ACTING PRESIDENT MARCELLINO: Will the sponsor yield?

SENATOR VOLKER: Sure.

ACTING PRESIDENT MARCELLINO: He yields.

SENATOR MONTGOMERY: Thank you. Thank you for that clarification, Senator Volker.

So what we're talking about is a bill that covers far more than whatever we

dealt with with Suzanne.

But let me just ask also, does this, in addition to including many, many other types of activities, does it also include anyone who sets foot on a campus, in a high school -- so this doesn't just simply pertain to students, does it not? Or does it pertain to any person who is -- comes within a thousand feet of a school, that person is now charged at a higher degree?

SENATOR VOLKER: Well, not the person, it's the crime. It is the crime. If a person is assaulted, for instance, on school grounds, or anyone who is -- a violent crime is committed against that person, the idea is to set up what amounts to -- and a lot of states, by the way, are doing this. This is nothing new across the country -- are attempting to develop some sort of campus security for various colleges, universities, and schools.

The concept being to make sure that people do not commit violent crimes, obviously, on school property where young people are involved.

SENATOR MONTGOMERY: So the way that the bill is written, it seems that if there is any incident that takes place within a thousand feet, if I'm hearing you correctly, no matter that it's related to a person at school or that has anything to do with the school, it's just two people.

Or if, as your bill says, if it's upon a person less than 11 years old. If it's aggravated assault upon a police or peace officer. Any of these -- reckless assault of a child by a daycare provider.

Anything that happens, whether it's in any way related to the school, whether either of the parties is related to the school, this bill would cover them if they stepped across the street, let's say, just for instance, and that's a thousand feet. If they did this on the other side of the street, they would be charged with a lesser crime.

SENATOR VOLKER: Let's understand here, this is not an incident, this is a violent crime that is specifically listed in the Penal Law. It doesn't mean an incident, it means a violent crime. Anybody who commits

a violent crime obviously would be charged severely.

What this is saying, however, though, if you are committing that crime at or near those school grounds, the crime could potentially be raised by one degree. Which is an attempt to say to anybody who commits violent crimes, obviously, they're going to get arrested anyways, or they should be. But this says the crime would be even more severe because of the location where it is.

SENATOR MONTGOMERY: All right. Thank you, Senator Volker.

Mr. President, on the bill briefly.

ACTING PRESIDENT MARCELLINO: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes, Mr. President. The only basic comment that I have on this legislation, besides the fact that there are any number of crime charges here that go far beyond what is referred to as the Suzanne Lyall case -- we are obviously extremely regretful about what has happened to a young person who was at the prime of her career, just at the beginning, really, of her

career.

And in any instance when a young person meets with an unfortunate situation, such as Suzanne, we can only -- it can only heighten our degree of anxiety and anguish and anger. But certainly I think that it does not memorialize her fairly by labeling this type of bill as a Suzanne's Law.

Because what it simply is is a bill -- it is a sentencing law. It just simply seeks to increase the level of a charge based on where you are standing. It doesn't even go as far as saying if this is a certain group of people, if this is a certain category of person. It just says if you stand on this side of the street as opposed to that side of the street, you can be charged differently.

And I don't think that makes any sense, none, in terms of law enforcement. But certainly I think it is unfair to say that this is a Suzanne Lyall bill. It does nothing to speak to what happened to that young woman.

And I think that we should certainly be looking to figure out ways in which we can better protect youngsters --

especially young college students, because that's what Suzanne Lyall was -- but certainly not to name a simple, straight-out, what I consider to be not-well-thought-out sentencing bill.

So I'm going to vote no on this. It in no way reflects my support of what we should be doing for Suzanne Lyall. But I am opposed to having an inconsistent, not-well-thought-out sentencing bill, and especially it should not be in the name of Suzanne Lyall. I'm voting no.

ACTING PRESIDENT MARCELLINO: Senator Volker.

SENATOR VOLKER: If I might just quickly respond.

And I understand what you're saying, but Senator, let me just tell you, I think it is appropriate for Suzanne Lyall. And I think it's especially appropriate -- I think what you're talking about is the issue of whether a person committed a crime or not. That's not the issue here. The issue is sentencing.

These are violent felons already.

And I think it is fitting that a young person should be named after a bill that deals with attempting to protect school grounds and grounds where young people particularly are involved but not necessarily exclusively young people.

It seems to me that the thing we should be doing -- and I particularly want to thank Suzanne's parents, Doug and Mary Lyall, who have spent enormous amount of time in attempting to deal with these kinds of issues, particularly because of, obviously, the trauma that they've been true through.

And I wanted to say Senator Bruno wanted me to say to the both of you that he particularly feels strongly about your attempt to deal with the Washington situation, and we are most happy that you chose to come here today to listen to this debate.

ACTING PRESIDENT MARCELLINO: Any other Senator wishing to be heard on this bill?

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President. Will the sponsor yield, please?

ACTING PRESIDENT MARCELLINO: Senator Volker, will you yield to a question?

SENATOR VOLKER: Yes. Yes.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR DIAZ: For my own understanding, for my own conscience -- just maybe you already answered the question, but I would like to be clear on it.

When the bill says "sentence of imprisonment for a crime committed against a person on school grounds" --

SENATOR VOLKER: Yes, that's true.

SENATOR DIAZ: -- Senator, that means a teacher committing a crime against a student?

SENATOR VOLKER: A violent crime. Only violent crimes that are listed in the Penal Law. Not just any ordinary crimes.

This is anyone who would commit a violent crime which is listed in the Penal Law specifically, that the penalty for that crime would be increased by one degree.

SENATOR DIAZ: Mr. President,

would the sponsor continue yielding, please.

ACTING PRESIDENT MARCELLINO: Senator Volker, will you continue to yield?

SENATOR VOLKER: Yes.

ACTING PRESIDENT MARCELLINO: He yields, Senator.

SENATOR DIAZ: That also means a student against a student?

SENATOR VOLKER: A violent crime by a student against a student? The answer is yes. Subject, of course, to the rules as far as age which we already have.

SENATOR DIAZ: Thank you, Senator, Mr. President.

ACTING PRESIDENT MARCELLINO: Any other Senator wishing to be heard?

Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I expect I'll vote for this, but I don't do it with any great degree of enthusiasm because --

ACTING PRESIDENT MARCELLINO: Senator Connor, are you speaking on the bill?

SENATOR CONNOR: Yes, on the

bill.

ACTING PRESIDENT MARCELLINO: Senator Connor, on the bill.

SENATOR CONNOR: Thank you, Mr. President.

I expect I'll vote for this, but I really don't have a lot of enthusiasm for these kinds of bills. I've said it many, many times over the years.

It was quite fashionable ten or fifteen years ago to increase penalties for crimes committed against specific categories of people. Senior citizens, whatever. But various types of public servants.

And frankly, when you deal with public servants, there's probably a little more rationale for government to exact stronger penalties because those public servants, be they firefighters, police officers, or whatever, there's a -- when a crime is committed against them, a crime of violence, there's also a further, if you will, insult to government.

But that said, I think we owe protection to all of our citizens. And now we

get into crimes committed in particular places -- churches, schools. I know we've had bills in cemeteries, other things, over the years.

And, you know, I don't know if it matters much to the victim whether they are violently assaulted on school grounds or school property or two blocks way. And I don't really -- and with all -- I certainly sympathize with the Lyalls, I sympathize with all victims of crimes. And you do look for a safe haven on a college campus. People do look for safe havens in various places.

But I think we go far astray when we start to base the punishment on where the crime happened, the age or status of the victim when there's nothing else involved.

Hate crimes? That was different. That was about motive. That was about the intent of the person who committed the crime.

But in this case, I'm not sure that the kind of predators it's designed to enhance punishment for really care whether their victim is on school grounds or elsewhere. I suspect very much that these are crimes of

opportunity for the perpetrators.

I'd frankly be much more inclined to support an enhancement of penalties for all violent crimes, wherever committed, than to just single out a particular area.

So, Mr. President, as I speak, I think I'm talking myself into voting no. And I think I will vote no, because I stood here many years ago and voted no to enhanced penalties for crimes against seniors. Not a great political move, but one I believed in because I do believe in this principle.

I think all of our citizens, no matter what their age, no matter whether they be students or public employees or just citizens walking down the street, deserve the same level of protection and the same level of deterrence against those who would inflict violent crimes upon them.

And therefore, I think -- and I understand what motivates this bill. I understand the desire to do something. But I think if we want to do something, let's consider enhancing all the penalties for the same category of crime no matter who it's

inflicted upon.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Any other Senator wishing to be heard?

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of September.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1303 are Senators Connor, Montgomery, and Parker. Ayes, 58. Nays, 3.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. Would you call up, now, Calendar 1345.

The bill has been distributed; it's on the members' desks.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 1345.

THE SECRETARY: Calendar Number 1345, by the Senate Committee on Rules, Senate Print Number 5585, an act to amend Chapter 576 of the Laws of 1974.

ACTING PRESIDENT MARCELLINO: Senator Kuhl.

SENATOR KUHL: Is there a message of necessity at the desk?

ACTING PRESIDENT MARCELLINO: Yes, there is, Senator.

SENATOR KUHL: Move we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The message is accepted.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

I believe I have an amendment at the desk. I move to waive its reading and ask

to be heard on the amendment.

ACTING PRESIDENT MARCELLINO: Just a second, Senator.

SENATOR LIZ KRUEGER: Certainly.

ACTING PRESIDENT MARCELLINO: We have your amendment, Senator. The reading is waived, and you're free to speak on it.

SENATOR LIZ KRUEGER: Thank you.

As I said here last Thursday when we did a one-day extension, it's a completely unacceptable option while 2 million of New Yorkers are waiting to see what we do on rent regulation and its continuation.

I am offering an amendment today that would in fact provide us a same-as bill in the Senate with the bill that was passed by the Assembly in February. And, in fact, my amendment is identical in language to Senator Padavan's Senate Bill 2954.

This amendment would renew rent control and rent stabilization laws through June 15, 2008, to provide tenant protections and condo coop conversion protection laws that are set to expire today. It would repeal vacancy decontrol provisions that allow

permanent decontrol of regulated apartments when they reach a monthly rent of $2,000.

It would amend and expand rent stabilization coverage to post-1973 Mitchell-Lama rental buildings and project-based Section 8 buildings whose landlords take them out state and federal subsidy programs.

And it would amend or plug owner-use eviction loopholes that now allow landlords to empty entire buildings of regulated apartments based on the claim, often fraudulent, that they want the unit for themselves or a family member.

ACTING PRESIDENT MARCELLINO: All those in favor of the amendment please signify by raising their hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Brown, Connor, Diaz, Duane, Gonzalez, Hassell-Thompson, L. Krueger, C. Kruger, Lachman, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Schneiderman, A. Smith, M. Smith, Stachowski, and Stavisky.

ACTING PRESIDENT MARCELLINO: The

amendment is lost.

Senator Krueger.

SENATOR LIZ KRUEGER: I believe there's a second amendment on this bill at the desk.

I move to waive its reading and ask to be heard on that amendment.

ACTING PRESIDENT MARCELLINO: We have that amendment. And the reading is waived, you're free to speak.

SENATOR LIZ KRUEGER: Thank you.

Having suspected we would lose on the first amendment --

ACTING PRESIDENT MARCELLINO: Wise.

SENATOR LIZ KRUEGER: -- we've also prepared a second amendment with language that is identical to another bill by Senator Padavan, S3123.

This amendment will remove the provision that prohibits cities of 1 million or more from strengthening rent regulation laws to provide more comprehensive coverage than that provided by state laws, commonly known as the Urstadt Law.

Currently, as a provision of the Local Emergency Housing Rent Control Act, municipalities cannot strengthen the laws to provide more comprehensive coverage than that allowed in our state statute. This bill would remove the provision prohibiting cities of 1 million or more from strengthening their tenant protection laws to provide more comprehensive coverage than allowed by state statute.

ACTING PRESIDENT MARCELLINO: Will all those Senators in favor of the amendment please signify by raising their hands.

Let the record note Senator Oppenheimer is raising two hands.

(Laughter.)

THE SECRETARY: Those recorded in agreement are Senators Andrews, Brown, Connor, Diaz, Duane, Gonzalez, Hassell-Thompson, L. Krueger, C. Kruger, Lachman, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Schneiderman, A. Smith, M. Smith, Stachowski, and Stavisky.

ACTING PRESIDENT MARCELLINO: The

amendment is lost.

SENATOR KUHL: Last section.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 2. Senators Duane and L. Krueger recorded in the negative.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President, may we return to the order of motions and resolutions. I have some housekeeping.

On behalf of Senator Flanagan, on page 45, I offer the following amendments to Calendar Number 1047, Senate Print 2057, and ask that it retain its place on the Third Reading Calendar.

On behalf of Senator McGee --

ACTING PRESIDENT MARCELLINO: The amendments are received and adopted.

SENATOR KUHL: On behalf of Senator McGee, Mr. President, I offer the following amendments to Calendar Number 1340, Senate Print 5476, and ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MARCELLINO: The amendments are received and adopted.

SENATOR KUHL: Also, Mr. President, on page 44 I offer the following amendments to Calendar Number 1015, Senate Print 4975, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MARCELLINO: The amendments are received and adopted.

SENATOR KUHL: On behalf of Senator Balboni, Mr. President, on page 43 I offer the following amendments to Calendar Number 999, Senate Print 4747A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MARCELLINO: The amendments are received and adopted.

SENATOR KUHL: Then, on behalf of Senator Seward, Mr. President, I wish to call up his bill, Senate Print 4454A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 784, by Senator Seward, Senate Print 4454A, an act to amend the Insurance Law.

SENATOR KUHL: Mr. President, I move to reconsider the vote by which the bill passed the house.

ACTING PRESIDENT MARCELLINO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR KUHL: I offer up the following amendments.

ACTING PRESIDENT MARCELLINO: The amendments are accepted.

SENATOR KUHL: On behalf of Senator Fuschillo, Mr. President, I wish to call up his bill, Senate Print 3294A, recalled from the Assembly, which is at the desk.

ACTING PRESIDENT MARCELLINO: The

Secretary will read.

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

SENATOR KUHL: Mr. President, I now move to reconsider the vote by which the passed the house.

ACTING PRESIDENT MARCELLINO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR KUHL: I offer up the following amendments.

ACTING PRESIDENT MARCELLINO: The amendments are received and adopted.

SENATOR KUHL: Would you recognize Senator Hassell-Thompson, who I believe has a vote to change.

ACTING PRESIDENT MARCELLINO: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I rise to request unanimous consent to be recorded in the negative on Calendar Number 212.

ACTING PRESIDENT MARCELLINO: So ordered.

SENATOR KUHL: Mr. President, would you please recognize Senator Ada Smith.

ACTING PRESIDENT MARCELLINO: Senator Smith.

SENATOR ADA SMITH: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 212, Bill Number 345A.

SENATOR KUHL: No objection.

ACTING PRESIDENT MARCELLINO: So ordered.

SENATOR KUHL: Would you recognize Senator Connor.

ACTING PRESIDENT MARCELLINO: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President. May I have unanimous consent to be recorded in the negative on Calendar Number 212, passed earlier today.

ACTING PRESIDENT MARCELLINO: So ordered.

SENATOR KUHL: Would you recognize Senator Montgomery.

ACTING PRESIDENT MARCELLINO: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, I would like unanimous consent to be recorded in the negative on Calendar 1253.

ACTING PRESIDENT MARCELLINO: So ordered, Senator.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT MARCELLINO: Senator Kuhl.

SENATOR KUHL: Please recognize Senator Stachowski.

ACTING PRESIDENT MARCELLINO: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar 315.

SENATOR KUHL: No objection.

ACTING PRESIDENT MARCELLINO: So ordered.

SENATOR KUHL: Any other Senators?

Any other housekeeping at the desk, Mr. President?

ACTING PRESIDENT MARCELLINO: No,

the house is clean, Senator.

SENATOR KUHL: There being no further business to come before the Senate today, I move we stand adjourned until tomorrow, Tuesday, June 17th, at 3:00 p.m.

ACTING PRESIDENT MARCELLINO: The Senate will stand adjourned until tomorrow, Tuesday, at 3:00 p.m.

(Whereupon, at 5:44 p.m., the Senate adjourned.)