NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 19, 2003

10:13 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT McGEE: The Senate will come to order.

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

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

ACTING PRESIDENT McGEE: In the absence of clergy, may we bow our heads in a moment of silence.

(Whereupon, the assemblage respected a moment of silence.)

ACTING PRESIDENT McGEE: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, June 18, the Senate met pursuant to adjournment. The Journal of Tuesday, June 17, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT McGEE: Hearing no objection, the Journal stands approved as read.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the

Finance Committee in the Majority Conference Room.

ACTING PRESIDENT McGEE: Immediate meeting of the Finance Committee in the Majority Conference Room.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Bruno, our Majority Leader, I wish to call up his bill, Senate Print 5552, which was recalled from the Assembly, and it's now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1486, by the Senate Committee on Rules, Senate Print 5552, an act to amend Chapter 454 of the

Laws of 2002.

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

ACTING PRESIDENT McGEE: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT McGEE: Senator Farley.

SENATOR FARLEY: Let's see. I think that's it. Usually we amend it, but this one we're just killing it.

(Laughter.)

ACTING PRESIDENT McGEE: Thank you, Senator Farley.

Senator Skelos.

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

And on behalf of Senator Bruno, I would urge the members to please come to

session so that we can move in an orderly fashion and adjourn in the light of day.

ACTING PRESIDENT McGEE: Thank you, Senator Skelos.

The Secretary will read.

THE SECRETARY: Calendar Number 119, by Senator LaValle, Senate Print 335A, an act to amend the Vehicle and Traffic Law, in relation to increasing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 120, by Senator Maziarz, Senate Print 729B, an act to amend the Vehicle and Traffic Law, in relation to increasing penalties.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 141, by Senator Volker --

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 181, by Senator Maziarz, Senate Print 1819A, an act authorizing the Commissioner of Transportation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT McGEE: The bill is passed.

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

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 258, by Senator Kuhl, Senate Print 2557, an act to authorize the Department of Taxation and Finance.

ACTING PRESIDENT McGEE: There is

a local fiscal report at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 312, by Member of the Assembly Christensen, Assembly Print Number 24 --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

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

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 386, by Senator McGee, Senate Print 2776A, an act to amend the Vehicle and Traffic Law, in relation to persons authorized.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 485, by Member of the Assembly Gunther, Assembly Print Number 4812C, an act to authorize.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 549, by Member of the Assembly Abbate --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 590, by Senator LaValle, Senate Print 301A, an act to amend the Education Law, in relation to terms of community college trustees.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 627, by Senator Spano, Senate Print 2517, an act to amend the Lien Law, in relation to liens.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 689, by Senator Bonacic, Senate Print 2268, an act to amend the Retirement and Social Security Law, in relation to benefits.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the 90th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 694, by Senator Robach, Senate Print 3904, an act to amend the General Municipal Law, in relation to certain payments.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 741, by Senator LaValle, Senate Print 2885B, an act to amend the Education Law, in relation to alteration.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 742, by Senator LaValle, Senate Print 3079, an act to amend the Education Law --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

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

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 788, by the Assembly Committee on Rules, Assembly Print Number 8295, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 799, by the Assembly Committee on Rules, Assembly Print Number 8485A, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 808, by Member of the Assembly Pheffer, Assembly Print Number 6921C, an act to amend the General Business Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 814, by Senator Marcellino, Senate Print 896A --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 820, by the Assembly Committee on Rules, Assembly Print Number 8146A, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 832, by Senator Velella, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 895, by Senator Maziarz --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill

is laid aside.

THE SECRETARY: Calendar Number 918, by Senator Wright --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 919, by Senator Wright --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 974, by Member of the Assembly Weisenberg, Assembly Print Number 6357B, an act to authorize the assessor of the County of Nassau.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

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

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 984, by Senator Maziarz, Senate Print 3701, an act to amend the Real Property Tax Law, in relation to extending.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe Calendar Number 784 was laid aside inadvertently. If we could call that bill up at this time.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 784.

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

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1014, by Senator LaValle, Senate Print 4784A, an act to amend the Environmental Conservation Law, in relation to penalties.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1020, by Senator LaValle, Senate Print 4960A, an act to amend the Education Law, in relation to regulation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1022, by Senator Libous --

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1047, by Senator Flanagan, Senate Print 2057A, an act to authorize the State University of New York.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1086, by Senator Seward, Senate Print 14A, an act to amend the County Law, in relation to wireless communications.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1095, by Senator Kuhl, Senate Print 2478A, an act to amend the Tax Law, in relation to tax on sales and compensating use tax.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1100, by Senator Fuschillo, Senate Print 2961A, an act authorizing the assessor of the Village of Freeport.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1115, by Senator Kuhl, Senate Print 3786, an act to amend the Alcoholic Beverage Control Law, in relation to sale of wine.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1133, by Senator Larkin, Senate Print 3612A, an act to amend the Tax Law, in relation to the use of income.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1137, by Senator Nozzolio, Senate Print 3881B, an act to authorize the City of Geneva.

ACTING PRESIDENT McGEE: There is

a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1147, by Member of the Assembly Bing, Assembly Print Number 7494, an act to amend the Estates, Powers and Trusts Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1149, by Senator Montgomery, Senate Print 5068B, an act authorizing the City of New York to accept.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1211, by Member of the Assembly Weinstein, Assembly Print Number 7510B, an act to amend the Estates, Powers and Trusts Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 180th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1225, by the Assembly Committee on Rules, Assembly Print Number 8707A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1230, by the Assembly Committee on Rules, Assembly Print Number 8714A, an act to authorize the assessor.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1249, by Senator Libous, Senate Print 5244A, an act to amend the County Law, in relation to authorizing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1257, by Senator Padavan, Senate Print 5372 --

SENATOR MALCOLM SMITH: Lay it

aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1294, by Senator Wright, Senate Print 4857, an act to amend the Uniform Justice Court Act, in relation to arraignments.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1377, by Senator Little, Senate Print 4924, an act to amend the Real Property Tax Law, in relation to state aid.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1378, by Senator Volker, Senate Print 4930, an act to amend the Labor Law.

SENATOR MALCOLM SMITH: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1400, by Senator Saland, Senate Print --

SENATOR SKELOS: Lay it aside for the day, Madam President.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1410, by Senator Flanagan, Senate Print 5436A, an act to amend the Executive Law and the Family Court Act.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1430, by Senator Bruno, Senate Print 5545A, an act to amend the Public Authorities Law, in relation to obligations.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1432, by Senator Leibell, Senate Print 5547, an act to amend the Public Authorities Law, in

relation to general and special powers.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1453, by Senator Leibell, Senate Print 4141B, an act to amend the Real Property Tax Law, in relation to providing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1468, by Senator Volker, Senate Print 5452A, an act to amend Chapter 824 of the Laws of 1933.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1476, by Senator Robach, Senate Print 5463A, an act to amend the Correction Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1490, by Senator Kuhl, Senate Print 5582, an act to amend Chapter --

SENATOR MALCOLM SMITH: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1491, by Senator M. Smith, Senate Print 5588, an act to amend the Real Property Actions and Proceedings Law, in relation to recording.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1492, by Senator McGee, Senate Print 5594, an

act to legalize, validate, ratify and confirm.

ACTING PRESIDENT McGEE: There is a local fiscal impact message at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1493, by Senator Larkin --

SENATOR MALCOLM SMITH: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1494, by Senator Diaz, Senate Print 5606, an act to amend the Alcoholic Beverage Control Law, in relation to posting.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of October.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

(Applause.)

SENATOR DIAZ: Thank you, Madam President.

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

(Laughter.)

SENATOR DIAZ: It is with great pleasure and honor that I take this microphone this morning to explain my vote, Madam President.

It is a very difficult vote, very difficult vote. And very exciting, too, because in the six months that I have been here, this black guy from the South Bronx, with kinky hair and broken language, English, has introduced his first bill. And you, the Majority and the Minority together, unanimously, even Tom Duane voted for it.

(Laughter.)

SENATOR DIAZ: So I'm glad. So I thank all of you.

ACTING PRESIDENT McGEE: Senator Diaz will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1494 are Senators Meier, Seward, and Wright. Ayes, 44. Nays, 3.

(Groaning sounds.)

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1495, by Senator Kuhl, Senate Print 5611, an act to amend the Vehicle and Traffic Law, in relation to length of house coaches.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1496, by Senator Leibell, Senate Print 5631, an act authorizing the reductions of future aid payments.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1497, by Senator Velella, Senate Print 5637, an act to amend Chapter 557 of the Laws of 2001.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1498, by Senator Velella, Senate Print 115, an act to amend Chapter 576 of --

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill

is laid aside.

THE SECRETARY: Calendar Number 1499, by Senator LaValle, Senate Print 302D, an act to amend the Education Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1507, by Senator Flanagan, Senate Print 4217B, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1513, by Senator Leibell, Senate Print 5071A, an act to amend the Real Property Tax Law, in relation to improving.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1521, by Senator Golden, Senate Print 5516A, an act to amend Chapter 154 of the Laws of 1921.

ACTING PRESIDENT McGEE: Read rode.

THE SECRETARY: Section 2. This act shall take effect upon enactment into law.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1523, by Senator Wright, Senate Print 5579, an act authorizing the City of Watertown.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1524, by Senator Marcellino, Senate Print 5586, an act to amend the Tax Law, in relation to extending.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1525, by Senator Velella, Senate Print 5589, an act to amend the Labor Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1526, by Senator Velella, Senate Print 5591, an act to amend the Labor Law, in relation to appointments.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1529, by Senator Maziarz, Senate Print 5608, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1530, by the Senate Committee on Rules, Senate Print Number 5610, an act to amend the Tax Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1532, by Senator Morahan, Senate Print 5617, an act to amend the Election Law, in relation to ballot instructions.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1533, by Senator LaValle, Senate Print 5620, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as Section 1 of Chapter 472 of the Laws of 2002.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1534, by Senator LaValle, Senate Print 5621, an act to amend the Education Law and others.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1535, by Senator Velella --

SENATOR MALCOLM SMITH: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1536, by Senator Fuschillo, Senate Print 5632, an act in relation to legalizing, validating, ratifying and confirming.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1538, by the Senate Committee on Rules, Senate Print Number 5640, an act to amend the Civil Practice Law and Rules and the General Municipal Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT McGEE: The bill is passed.

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

SENATOR SKELOS: Thank you very much, Madam President.

Please recognize Senator Farley.

ACTING PRESIDENT McGEE: Senator Farley.

SENATOR FARLEY: Madam President, I'd like to be recorded in the negative on 1494.

ACTING PRESIDENT McGEE: Without objection.

Senator Seward.

SENATOR SEWARD: Yes, Madam President. I was out of the chamber when

Calendar Number 694 passed. I would ask unanimous consent to be recorded in the negative.

ACTING PRESIDENT McGEE: Without objection.

SENATOR SEWARD: Thank you.

ACTING PRESIDENT McGEE: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President. I'd like unanimous consent to be recorded in the negative on Calendar Number 974.

ACTING PRESIDENT McGEE: Without objection.

SENATOR BONACIC: Thank you.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Before we go to the controversial calendar, if we could return to reports of standing committees.

I believe there's a report of Finance Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT McGEE: The

Secretary will read.

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

As a member of the Crime Victims Board, Charles F. Marrota, of the Bronx.

As alternate nonvoting member of the Metropolitan Transportation Authority, James F. Blair, of Ossining.

As a member of the Small Business Advisory Board, Chriss M. Andrews, of Brockport.

As a member of the Fire Fighting and Code Enforcement Personnel Standards and Education Commission, Gerald W. Lynch, of New York City.

As Commissioner of the Interstate Environment Commission, Donna Birch Gerstle, of Staten Island.

As a member of the Saratoga-Capital District State Park, Recreation and Historic Preservation Commission, David Golub, of Schenectady.

As members of the Medical Advisory Committee, Russell Nicholas Ake Cecil, M.D.,

of Amsterdam, and David J. Cerniglia, D.C., of Schenectady.

As members of the Advisory Council on Agriculture, Joy D. Crist, of Walden, and James L. Vincent, of Byron.

As a member of the State Camp Advisory Council, Sheila Cohen, of Freeport.

As a member of the State Council on the Arts, Noreen Reale Falcone, of Skaneateles.

As Major General, New York Guard, Thomas P. Cleland, of Pleasantville, and Thomas F. Barraga, of West Islip.

As a member of the Board of Visitors of the Buffalo Psychiatric Center, Jeanne Allison, of Jamestown.

As a member of the Board of Visitors of the Elmira Psychiatric Center, Richard Arthur Hamling, of Shortsville.

As a member of the Board of Visitors of the Hudson Valley Developmental Disabilities Services Office, Ilyce S. Brinn, of Liberty.

As a member of the Board of Visitors of the Agricultural and Industrial

School at Industry, Don H. Kollmorgen, of Rochester.

As a member of the Board of Visitors of the Long Island Developmental Disabilities Services Office, Mary Fasano, of Massapequa.

And as a member of the Board of Visitors of the Middletown Psychiatric Center, Jean Bonnell, of Middletown.

ACTING PRESIDENT McGEE: All in favor of confirming the nominations as read by the Secretary will say aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The nominations are confirmed.

Senator Meier.

SENATOR MEIER: Thank you, Madam President. I request unanimous consent to be recorded in the negative on Calendar 694.

ACTING PRESIDENT McGEE: What calendar number, Senator? I'm sorry.

SENATOR MEIER: 694, Madam

President.

ACTING PRESIDENT McGEE: 694. Thank you, Senator Meier. Without objection.

SENATOR MEIER: Thank you.

ACTING PRESIDENT McGEE: Senator Skelos.

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

ACTING PRESIDENT McGEE: The Secretary will read.

SENATOR SKELOS: Before we do, would you please recognize Senator Hassell-Thompson.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. I rise to request unanimous consent to be recorded in the negative also on Calendar Number 694.

ACTING PRESIDENT McGEE: Without objection.

The Secretary will read.

THE SECRETARY: Calendar Number 312, by Member of the Assembly Christensen --

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 549, by Member of the Assembly Abbate, Assembly Print Number 5790, an act to amend the Civil Service Law.

SENATOR HASSELL-THOMPSON: Explanation.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 742, by Senator LaValle, Senate Print 3079, an act to amend the Education Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator LaValle, an explanation --

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number

814, by Senator Marcellino, Senate Print 896A, an act to amend the Public Health Law.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR MARCELLINO: Yes, Madam President.

This bill enacts the Toxic Mold Protection Act, which directs the Department of Health to convene a task force which shall advise the department on the development of standards with regard to toxic mold and directs the task force to consider the feasibility of adopting permissible exposure limits to mold in indoor environments and requires the department shall report to the Legislature.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you very much, Madam President. If the sponsor would yield, through you.

ACTING PRESIDENT McGEE: Senator Marcellino, will you yield?

SENATOR MARCELLINO: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you very much, Madam President.

SENATOR MARCELLINO: Madam President, I can barely hear Senator Krueger. If we could turn the volume up a little bit.

ACTING PRESIDENT McGEE: Could we please have some quiet in the room. Those Senators having conversations please take them out of the chamber.

SENATOR MARCELLINO: Can we close the door, please.

ACTING PRESIDENT McGEE: Can we close the back door, please, so that there can be quiet during debate of this legislation.

The Senator yields.

SENATOR LIZ KRUEGER: Thank you very much.

Senator, I'm very excited to see a toxic mold act today. But I do have a few questions about how this task force would be made up.

My understanding about problems in toxic mold, of which there have been quite a few cases in my district in large buildings, that the concern is that this is very tied into the construction standards of buildings, the proper or improper wrapping of pipes, the ventilation systems, the kinds of materials that are being used in construction.

What will be the makeup of this task force, to ensure that not just public health experts but people who actually understand the construction materials and construction industry process are part of this?

So that when the department comes out with its recommendations, we know that the concerns have been addressed or can be addressed not just from the health-standards view of what is defined as an inappropriate level of toxic mold, but what should be the standards in New York State for assuring we don't continue to build buildings where these problems occur.

SENATOR MARCELLINO: Senator Krueger, through you, Madam President, the

membership of the task force is itemized in the legislation. It goes through a listing of the individuals or kind of individuals we would be looking for in the task force, which would include but not be limited to health offices, health and medical experts, mold abatement experts, affected consumers, and affected industries, including residential, commercial and industrial tenants, proprietors, landlords, insurers, builders and managers.

We've got a bunch of technical people involved here, including the types of individuals you were talking about who would be expert in construction techniques.

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

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

SENATOR MARCELLINO: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR LIZ KRUEGER: Thank you, Madam President.

Thank you so much for your explanation. Perhaps because of the shortness of the time we have for the bills today, what's the timeline for the report to come to the Legislature and then our role for follow-up once they do their report?

SENATOR MARCELLINO: It's one year, Madam President.

SENATOR LIZ KRUEGER: Madam President, through you, if the sponsor would yield to an additional question.

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

SENATOR MARCELLINO: Yes, I continue to yield.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR LIZ KRUEGER: Thank you.

And then when the report is provided to the Legislature, is there a specific obligation on the Legislature to respond or to move forward at that time? Or is it simply a report to us so we have information?

SENATOR MARCELLINO: No, it's

simply a report to the Legislature to set up the -- well, to let you know what the report says and to make you aware of what their recommendations are. And if legislation is needed, then we can proceed with that. If not, the department may do so by reg.

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

ACTING PRESIDENT McGEE: Senator Liz Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I'm very happy to see this house moving forward -- and I understand it's a two-house bill -- to start to explore the concerns about toxic mold.

For those of us who may not have experienced this in our own districts, it is a growing problem. It seems to be correlated to the standards used in building new construction, and it seems also perhaps to be a partial outcome of requirements that we put into building codes believing that they were in the best interests of the public but in fact have resulted in some situations where mold starts to grow, goes throughout the

systems, the internal systems of buildings, and is actually making people sick -- what we call sick buildings.

And I think we are overdue in moving forward with this kind of investigation and hopefully, then, health standards and building construction standards to ensure that we don't continue to have this problem in the future.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Sabini.

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

ACTING PRESIDENT McGEE: Senator Sabini, on the bill.

SENATOR SABINI: I congratulate Senator Marcellino on this legislation. It's an important issue.

I had drafted a bill some months ago, in cooperation with experts from the master plumbers industry, to combat this. And I only wish that we had the opportunity to have hearings or solicit some more public input so we could have done even better. I

think the bill is a good jumping-off point.

I look forward to working with the chairman in the future to revisit this issue perhaps in the future, as we see the efficacy of this legislation if it becomes law, and to protect people from a concern that really we don't know the scope of yet.

States outside New York, certain states like California, people are genuinely becoming sick and having to leave their properties and having real insurance problems in turning over their properties. And I think this is a problem we're going to see compound itself in the future.

But I'm happy to support this legislation, a jumping-off point, and I look forward to working with the chairman in the future to come up with even more measures to protect New Yorkers in their home investments.

Thank you.

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

SENATOR MARCELLINO: Madam President.

ACTING PRESIDENT McGEE: Senator

Marcellino.

SENATOR MARCELLINO: Just to set the record straight to my colleague and friend on the other side of the aisle, we did hold public hearings on this bill last year, done on the island, where we took testimony from many individuals and potential members of the task force.

We took recommendations at that point in time. The hearing was an all-day affair and went on for several hours. And we have a stack of testimony. We'd be happy to share some of it with you if you'd like, Senator, so you could hear it. Or read it.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Lachman.

SENATOR LACHMAN: Yeah, I also rise to commend Senator Marcellino for this bill. I think it's an outstanding piece of legislation.

Unfortunately, I witnessed it next door, as Senator Skelos knows. I have a summer apartment in his district in Long Beach. And an entire line of apartments next

door to ours was contaminated by this toxic mold, and people had to move out of the apartments.

So this is a major achievement, and I want to commend Senator Marcellino for it.

Thank you.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 814 are Senators Maziarz, Meier, and Wright. Ayes, 51. Nays, 3.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Hoffmann.

SENATOR HOFFMANN: Madam President, I was out of the chamber earlier this morning when Calendar Number 1494 passed. I wish to be recorded in the negative.

ACTING PRESIDENT McGEE: Without objection.

SENATOR HOFFMANN: Thank you.

ACTING PRESIDENT McGEE: Senator Rath.

SENATOR RATH: Madam President, I was out of the chamber and I'd like to have unanimous consent to be recorded in the negative on Calendar 694.

ACTING PRESIDENT McGEE: Without objection.

Senator Duane.

SENATOR DUANE: Thank you, Madam President. If may have unanimous consent to be recorded in the negative on Calendar Numbers 386, 820, 1115, 1476, 1495, and 1526.

ACTING PRESIDENT McGEE: Without objection.

The Secretary will read.

THE SECRETARY: Calendar Number 832, by Senator Velella, Senate Print 5032, an act to amend the Workers' Compensation Law.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT McGEE: Senator

Velella, an explanation has been requested.

SENATOR VELELLA: Yes, this bill establishes an injury presumption for uniformed court officers exposed to blood or other bodily fluids during the course of their employment or subsequently diagnosed with a bloodborne disease.

Last section.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 895, by Senator Maziarz, Senate Print 502, an act to amend the Penal Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first of

November.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Hassell-Thompson recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 918, by Senator Wright, Senate Print 4890A, an act to amend the --

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT McGEE: Senator Wright, an explanation has been requested by Senator Liz Krueger.

SENATOR WRIGHT: Thank you, Madam President.

The bill before us amends the Public Service Law and the Public Authorities Law relative to net metering for wind. This is the first provision of net metering for wind, and it's specifically targeted to residential and small farm or agricultural

applications.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

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

ACTING PRESIDENT McGEE: Senator Wright, will you yield?

SENATOR WRIGHT: I will, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I'm torn on this bill because it has some good things in it. But you have a bill that does more that is not coming before us today, which is S3055.

So in this bill, just for me to understand, while it allows net metering for wind power, it doesn't allow net metering for solar power. Why are we not including solar power in this improvement?

SENATOR WRIGHT: Madam President, through you, it was our intention to address

the issue of wind initially. We have been moving incrementally on these issues, last year addressing the utilization of waste through anaerobic digesters, this year addressing wind capacity, leaving solar for future capacity.

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

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

SENATOR WRIGHT: I continue to yield, Madam President.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR LIZ KRUEGER: Thank you so much.

While the intention of the bill, as you described, is to improve the opportunities for wind power generation, there are some people who work in that field who don't think this bill will help them.

The American Wind Energy Association is opposing this bill, which surprised me, because they are arguing that

limiting on-site wind generating systems to 10kw for residences and 100kw for farms will mean that many farms won't qualify and that farmers will be unlikely to invest in on-site wind generations under this bill.

They are also concerned that allowing market regulatory barriers as established would increase the customer cost of investing in on-site renewable generation and could actually discourage investment in wind power.

So again, I am not an expert in wind power, and I will defer to your expertise. But it did concern me that the group called the American Wind Energy Association opposed the legislation. I was wondering if you could comment on that.

SENATOR WRIGHT: I would be glad to.

Madam President, through you, I too was surprised that an association that wants to develop the wind industry would be opposed. But I think that of course reflects the dynamics of all organizations, since they are comprised of big generators and small

generators.

And what we have not included, of course, in what we're referring to as small wind as opposed to big wind, is the commercial generators. And the reason that they are not included in this legislation is because we do not believe that the ratepayers need to be in a position, through net metering, to subsidize large commercial investments.

We in fact believe that there is a current proceeding before the Public Service Commission that will address that issue in terms of renewables. If you look at the initial outcomes of that proceeding, they are focusing very heavily on wind.

So in fact there will be a mechanism through the PSC proceeding to provide for large commercial applications, be they agricultural or otherwise. We are trying to focus on the smaller generators without shifting the cost to the ratepayers.

Let's remember, while we are certainly concerned about renewable sources, we are certainly concerned about emissions and environmental impact, we cannot lose sight of

the ratepayer. We are still concerned about costs of electricity in this state.

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

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

SENATOR WRIGHT: I will, Madam President.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR LIZ KRUEGER: Thank you. And thank you for your explanation. And I think we're all learning something.

You talked about that this won't benefit larger wind generators but would help small. But I also have memos from Environmental Advocates and the National Resource Defense Council opposing this bill, because they say that it won't be usable by the small wind generator customers, that the process is too complicated to get through with the PSC to allow it to be likely for small residential wind generators to find it feasible to participate.

So I'm wondering if you could comment about why some of the well-known environmental organizations are opposing this bill.

SENATOR WRIGHT: Well -- again, through you, Madam President -- Senator, I believe that it's a preference for bigger is better as opposed to smaller is sufficient. If you can certainly acquire the entire loaf, that's what's attempting to be achieved here.

However, again, my focus is in terms of establishing net metering for wind. We do that with this bill. My focus is to develop a residential small farm application. We do that with this bill.

I do not believe the process will be too cumbersome. The process mirrors similar processes that have been put into place in the Public Service Commission proceedings and statute, and they are being utilized as we speak.

Should that be the case, that this is not an effective procedure and is not utilized, then we go back and consider it at that point in time. But to predetermine that

something will not work before we've even taken advantage of it I think is very premature at this stage.

ACTING PRESIDENT McGEE: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. On the bill.

ACTING PRESIDENT McGEE: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: I appreciated Senator Wright's comments.

And there is controversy, as I mentioned, quite a few organizations -- including, as I said, the American Wind Energy Association, the Natural Resources Defense Council, the New York Solar Energy Industry Association, Environmental Advocates -- being opposed to this legislation.

But I also want to give Senator Wright credit for having proposed this and an additional bill -- as I mentioned before, that is not before us today -- that would have expanded to include solar energy in this category and other types of wind and solar powering generators that aren't qualified

under this.

So I wish we were doing your other bill today that would expand this to a point where perhaps it would prove feasible and would encourage the use of environmentally correct energy resources such as wind and solar power.

Despite the fact that I think your other bill is a superior bill, S3055, which also has a same-as bill in the other house, and despite the fact that all of these groups that I mentioned before have serious concerns with your bill, I agree that it's worth trying something, taking a look at it, hopefully quickly, and moving on from there and hopefully expanding to include solar power and other types of wind generators so that we can move forward in the State of New York with the types of energy that are clean and renewable and decrease our dependence on oil and other types of energy that not only are environmentally more harmful to us but continue to leave us dependent on the resources of foreign countries.

So I will support the bill,

although with the concern and the hesitation that we should have been passing your other legislation, which would have moved us forward in a broader arena of areas for continued renewable clean energy. Thank you.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, Madam President. On the bill.

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I share many of the concerns expressed by Senator Krueger. And I know Senator Wright has such a good bill that it is really just -- this one just, you know, looks bad by comparison. It's sort of like when I stand next to Senator Balboni, I don't look so good.

(Laughter.)

SENATOR SCHNEIDERMAN: I think that the difficulties that have been raised, though, in my view, particularly by Environmental Advocates and by the New York Solar Energy Industry Association, lead me to

conclude that this bill actually would be a step backwards, that this would make it less likely that we're going to move forward with serious promotion of solar and wind energy.

Under this bill, small residential wind generators are required to pay the costs of interconnection. This is really a bill that favors utilities at the expense of the individuals and small businesses and farms that we're supposed to be encouraging to go out and invest in solar and wind energy.

So I fall down on the other side of the balance, and I am actually going to be voting to oppose this bill, in the hopes that we are able to move forward in the future with more significant legislation.

Clearly it requires us to take on the utilities to a certain extent to get an energy policy enacted in this state that promotes investment in these alternative sources. And it requires giving a little bit more, or in some cases a lot more, to those who would invest in wind and solar energy.

This bill does not do that, and I therefore actually view it as a potential

setback to this effort. So I will be voting no.

Thank you.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Wright, to explain his vote.

SENATOR WRIGHT: Thank you, Madam President.

I appreciate the support for this bill this morning. I appreciate cosponsorship by my Minority ranker, Senator Parker. And I want to point out that this does not in any way diminish our commitment to renewable energy, nor does it diminish any demands in terms of environmental requirements.

What it does do is focus on the cost to the ratepayer. And it's nice to talk about applying costs to utilities, but they in

fact are you and I, they are ratepayers. And so what we've attempted to do is to avoid the concept of profit and to ensure that we encourage renewables and environmental energy through the use of savings and cost avoidance.

And while the big commercial enterprises do not like that and do not advocate that, in fact, individuals who are committed and interested in renewable energy have a vehicle to avoid their cost and to utilize those resources.

On the issue of interconnection specifically, it in fact avoids an interconnection fee. There is none up to kw, which is consistent with existing statute. So I don't believe that we've adversely affected anything. We're sending a clear message to people who want to commit to renewables, just as we are in terms of state policy before the PSC addressing renewable contracts.

I vote in the affirmative.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 918 are Senators Duane, LaValle, Leibell, Schneiderman, and Spano. Ayes, 52. Nays, 5.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Seward.

SENATOR SEWARD: Thank you, Madam President. I would ask unanimous consent to be voted in the negative on Calendar Number 814.

ACTING PRESIDENT McGEE: Without objection.

Senator Skelos.

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

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

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to Calendar Number 1497, by Senator Velella.

ACTING PRESIDENT McGEE: The

Secretary will read Calendar Number 1497, by Senator Velella.

THE SECRETARY: Calendar Number 1497, by Senator Velella, Senate Print 5637, an --

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR VELELLA: Yes, this is the renewal of the pre-need funeral bill, which we had placed in law about two years ago and which will prevent payments of commissions to funeral directors for selling policies to pay for funerals.

We do have in this state, as a result of Assemblyman Gottfried's work and our former colleague Senator Tully's work, a very system of arranging for pre-needs through trust funds. This has been cited as one of the models nationally of pre-need arrangements.

This bill will make the payment of any commissions to funeral directors by

insurance companies illegal. It extends it for four years.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, will you please call up Calendar Number 1498.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1498.

THE SECRETARY: Calendar Number 1498, by Senator Velella, Senate Print 115, an act to amend Chapter 576 of the Laws of 1975.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR VELELLA: This bill expands a program which New York State has for bona fide residents to study in other institutions for the purposes of attending medical or dentistry schools.

New York State currently has agreements with the University of Vermont Medical School, Morehouse College of Medicine, the University of Puerto Rico School of Medicine, and the Sackler School of Medicine in Tel Aviv.

This bill would extend that program to the St. George University School of Medicine and Dentistry in Grenada.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: If the sponsor would yield to a couple of questions.

ACTING PRESIDENT McGEE: Senator Velella, will you yield?

SENATOR VELELLA: One at a time, yes.

ACTING PRESIDENT McGEE: The Senator will yield to your questions one at a time, Senator.

SENATOR STAVISKY: I will try to ask them one at a time.

Madam President, through you. I'm concerned about the choice of St. George's, Madam President. I wonder if the sponsor could explain why St. George's was chosen when there are lots of medical schools outside New York State, even in foreign countries such as Mexico, perhaps, or Canada or Great Britain, with perhaps different kinds of programs.

SENATOR VELELLA: The answer to that, quite simply, is they asked. The others haven't asked.

SENATOR STAVISKY: I understand that the -- Madam President, another question. Sorry.

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

SENATOR VELELLA: Yes, certainly.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR STAVISKY: The reason, I understand, as outlined in the bill is the legislation says there's a lack of qualified

personnel here in New York State, and they want to contract outside.

What is the cost involved? I read the bill, I read the bill memo, and the section -- there's nothing that talks about financial --

SENATOR VELELLA: If I might, maybe the fact that misleads you a little bit that there's no money mentioned here is because this program, while it exists, because of fiscal constraints has not been funded. So it would make them eligible when money becomes available to fund these programs.

So the school in Tel Aviv, the school in Puerto Rico, they don't get any money right now because the funding isn't there for this. So the amount would be tuitions, and that would be worked out when the Legislature and the Governor decide to fund these programs.

Are you signalling me?

SENATOR STAVISKY: I thought somebody was going to use the phrase "unfunded mandate," but I certainly wouldn't do that.

On the bill, Madam President.

Thank you very much.

ACTING PRESIDENT McGEE: Senator Stavisky, on the bill.

SENATOR STAVISKY: Very briefly on the bill.

I'm troubled by this bill, and I'm going to vote no because there's a cost factor which is unknown. The bill talks about -- I think it's at least 20 seats, no more than 40 seats, if I'm not mistaken.

The primary reason is the fact that the SUNY trustees are going to meet relatively soon and raise tuition levels at SUNY. The CUNY trustees have already done so. And in fact, we have a program at CUNY very similar to this program, as part of the City College Sophie Davis Medical School, where they're assigned, once they graduate and the city and state pays the tuition, they're assigned to underserved areas.

It seems to me that this is a cost which should not be borne by the taxpayers of New York. At one time we may have had a shortage of doctors.

Can I wave too?

At one time we may have had a shortage of doctors. I'm not so sure that this particular medical school warrants a contract with New York State, and I will vote no.

SENATOR VELELLA: On the bill briefly, I would just like to --

THE PRESIDENT: You may proceed, Senator.

SENATOR VELELLA: -- possibly help Senator Stavisky accept the concept a little bit more. Because there is a commitment that for our investment, these doctors, when they are educated, will be assigned by the Commissioner of Education to needy areas for a period of three years to perform civic and -- their duty as doctors in needy areas of this state.

So that might help you understand.

SENATOR STAVISKY: I mentioned that. I mentioned that as a preface to my question. And that is exactly what happens with Sophie Davis.

The real problem with Sophie Davis has been -- on the bill, Madam President.

THE PRESIDENT: You may proceed.

SENATOR STAVISKY: The real problem with Sophie Davis has been to enforce the contract that exists between the student and the university. And if they do not fulfill their requirement of public service, to recoup the costs.

And I see in the legislation there is a complicated formula which describes how the state will eventually -- if they ever fund the program, how they can recoup the costs from any recalcitrant students.

But I understand Senator Velella's concern, and I commend him. But on the other hand, I will vote no.

SENATOR VELELLA: Last section.

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

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: Senator

Oppenheimer, to explain your vote?

SENATOR OPPENHEIMER: No.

THE PRESIDENT: The bill is passed.

Senator Oppenheimer, not to explain your vote.

SENATOR OPPENHEIMER: Not to explain my vote. I just wanted to be recorded in the negative, with unanimous consent, on Calendar Number 918, Senate 4890.

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

Senator Stavisky.

SENATOR STAVISKY: I forgot to raise my hand. I vote no on Calendar 1498.

THE PRESIDENT: You did stand, so I saw you. Thank you.

Hearing no objection, you are so recorded as voting in the negative on the bill that just passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President, may I be recorded in the negative on 918.

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

Senator Marcellino.

SENATOR MARCELLINO: Yes, Madam President, I'd like unanimous consent to be recorded in the negative on Calendar Number 918.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, thank you. Will you please call up Calendar Number 1525.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1525, by Senator Velella, Senate Print 5589, an act to amend the Labor Law.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. On the bill.

THE PRESIDENT: You may proceed.

SENATOR HASSELL-THOMPSON: In 1985 I had the privilege of being appointed by former Governor Cuomo to the Apprenticeship and Training Council. And I served until 1992, at which time the council was cut, and I was one of those that was cut from the council.

And I was very disturbed, because one of the things that makes Senator Velella's bill an excellent bill is the fact that there is a necessity to have a good cross-section of both employers and employees representing on this particular council.

So I want to commend Senator Velella and vote with him on his attempts to expand on the New York State Training and Apprenticeship Council, primarily. And I hope that what we will do a better job of is bringing more and more minorities into apprenticeships so that they become more affiliated with our many unions.

And I wanted to commend the Senator on this bill.

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

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, will you please call up Calendar Number 1535.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1535, by Senator Velella, Senate Print 5624, an act to amend the Workers' Compensation Law.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR VELELLA: Yes, Madam President. This bill is needed to address a technical flaw in legislation which was passed

in 1998 with the intent of providing certain safeguards concerning medical records of patients.

The law prohibited the disclosure of workers' compensation records except to parties expressly permitted by law, including the staff of the board, carriers, and claimants' attorneys. However, it did not include the claimant's treating physician.

This bill corrects that.

SENATOR SCHNEIDERMAN: I'm sorry, Madam President, to interrupt such an eloquent explanation, but this was laid aside at the request of Senator Krueger, who's in Rules.

So if it's possible to lay this aside temporarily, maybe we get to hear that extraordinarily eloquent explanation again, if that would be all right.

SENATOR VELELLA: Could we incorporate it by reference into the --

SENATOR SCHNEIDERMAN: Yes, you can ask for it be read back.

Without objection.

THE PRESIDENT: The bill is laid aside temporarily.

The Secretary will continue to read.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, will you please go back to the regular order of the controversial calendar, starting with Calendar Number 919.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 919, by Senator Wright, Senate Print 4932A, an act to amend the Energy Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the --

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR WRIGHT: Thank you, Madam President. Welcome to the chambers this morning.

THE PRESIDENT: Welcome to you also, Senator.

SENATOR WRIGHT: Today we are amending the Energy Law relative to enhanced energy conservation through energy performance contracts that's currently applicable to municipalities. We are expanding that definition to include community colleges. We are defining a series of applications.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1257, by Senator Padavan, Senate Print 5372, an act to amend the General City Law and others.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR PADAVAN: The bill before

us, Madam President, amends the 1996 chapter that established the Relocation and Employment Assistance Program, as well as some ancillary programs, which is a vehicle by which we encourage employers to move into the city, to expand their businesses, to hire more people, to rehabilitate buildings, place capital where it does the most good within the city of New York.

There are several pages of amendments of that original statute, including a provision that expands a program to include Lower Manhattan, south of Houston Street, to deal with development issues that we're all familiar with in that part of the city.

The bill also clarifies a number of other provisions of existing law to avoid any misunderstandings or confusions that may have existed. It does a number of other things in terms of expanding the REAP credit as well as the employment credit.

Basically, in some, it takes the existing law, which has been working fairly well, and makes it more effective.

THE PRESIDENT: Senator

Schneiderman.

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

THE PRESIDENT: Senator Padavan, do you yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: You may proceed.

SENATOR SCHNEIDERMAN: Through you, Madam President, this program, which I think pretty much everyone agrees is a good program that should be renewed, my understanding is that it actually involves two separate credits, the Relocation Employment Assistance Program credit and the Employment Opportunity Relocation Cost credit.

The former, I believe, is a 12-year credit; the latter is a one-year credit to deal with costs of moving.

Is it true that this bill would only extend the latter, the smaller, one-year credit to businesses in Lower Manhattan?

SENATOR PADAVAN: No. I think you're talking about the Employment Opportunity Relocation Cost credit.

SENATOR SCHNEIDERMAN: Yes.

SENATOR PADAVAN: That consists of credits against the city's general corporation tax for certain expenses involved in relocating commercial and industrial jobs into the city from areas outside the state. It is not limited to the area you just mentioned.

SENATOR SCHNEIDERMAN: Madam President.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

Is that credit, though, the EORCC credit current, under the current program, before it would be amended by this bill, is that credit available for Lower Manhattan now?

SENATOR PADAVAN: No, I don't believe so. I believe this bill provides for it to be.

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

SENATOR PADAVAN: Yes.

THE PRESIDENT: The Senator does

yield. You may proceed.

SENATOR SCHNEIDERMAN: So this bill modifies the existing program by making the EORCC available to Lower Manhattan. But is it not correct that it does not modify the existing program by making the REAP credit available to Lower Manhattan?

SENATOR PADAVAN: That's correct.

SENATOR SCHNEIDERMAN: So is there not a concern that, because the REAP credit is available to firms who move from Lower Manhattan to the outer boroughs, that we're essentially competing with ourselves for credits? That one of the credits is provided to Lower Manhattan, but there are other incentives under the REAP program -- which is a longer program -- that actually would encourage firms to move out of Lower Manhattan to other parts of the city?

SENATOR PADAVAN: That is not true. Because there are specific provisions in the bill, which I'd be happy to sit down with you later and point out, that prevent credits from being given to any firm that moves from one part to another part of the

city without any specific gain in that process.

There is no attempt here to exacerbate the Lower Manhattan development problems that exist as a result of 9/11 and other issues involving the securities industry. Quite to the contrary. There's an effort here -- maybe not as much as some would like, but we've been amending this bill every year by expanding and dealing with issues that arise ever since it was adopted.

But nevertheless, the initiative here by the city -- and this is a city bill -- is to encourage development and commercial development in Lower Manhattan, not, certainly, to detract from it.

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

THE PRESIDENT: You may proceed.

SENATOR SCHNEIDERMAN: I think that there's very little dispute that this program is a good program. When it was initially established, the economy was in a very far different state than it is today. And it's designed to encourage the location of

businesses outside of Manhattan south of 96th Street.

However, because the REAP credit under the bill as proposed -- which really is, as the sponsor correctly points out, based on growth and the adding of employees -- is not made available to businesses south of Houston Street, then I think that it really more than offsets the availability of the one-year moving credit, the EORCC credit, which is made available under this bill to businesses moving south of Houston Street.

I think that if we're going to try and address the crisis of the relocation of businesses in Lower Manhattan, it would be -- it's necessary for us -- not just reasonable, it's absolutely necessary that we provide additional incentives and not provide one temporary incentive that in reality, in real economic terms, in the case of most businesses will be more than offset by the credit that we are making available for businesses to leave Lower Manhattan and move to other parts of the city.

According to the New York City

Partnership, the attack on the World Trade Center cost 100,000 jobs, $80 billion in damages and economic losses just in Lower Manhattan.

So I would suggest that the best thing for us to do -- and I gather that the Assembly is attempting to craft a piece of legislation that will do just this -- is to make the REAP credits available, even if on a more temporary basis, to businesses if they relocate in Lower Manhattan.

We certainly should not be doing anything that in any way, shape or form provides an incentive for a business to move from Lower Manhattan during a time when we're also spending tremendous time, effort, and money trying to get businesses to relocate back into Lower Manhattan or to stay in Lower Manhattan.

So I think this bill does make many improvements. I think this is a program that should be renewed. But I do think this actually does some serious damage to our efforts to rebuild and revitalize Lower Manhattan, and I therefore am going to be

voting no in the hopes that we will have a modified bill to vote on in the very near future.

Thank you, Madam President.

THE PRESIDENT: Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you, Madam President. On the bill.

THE PRESIDENT: You may proceed, Senator.

SENATOR MALCOLM SMITH: There's no question, Madam President, that ever since 9/11 there's been a concern about Lower Manhattan and the need to encourage businesses to come downtown.

And most recently, I think you've seen the war that has gone on between Governor McGreevey and our Governor and Deputy Mayor Doctoroff, in that New Jersey has essentially gone back on their word and has decided to offer a number of benefits to sort of pirate the businesses from Lower Manhattan.

As my colleague Senator Schneiderman indicated, clearly the importance of maintaining the REAP program and

maintaining the benefits of the REAP program are important. Clearly, having one-shot REAP benefits is not the thing to do. As you know, the REAP program currently allows for a $3,000 benefit for 30 years for each particular employee for a company that moves below 96th Street.

However, there is a need to do a little bit more. I do understand the Assembly is crafting another bill. But while I am sensitive to Lower Manhattan, I also have to be a little sensitive to the outer boroughs as well. And while the REAP program offers some benefits to companies that move to the outer boroughs, I think a lot of this could be solved by offering REAP benefits to companies that move into Empire Zones as well.

And by virtue -- I should say what that would basically do is offer benefits that you could get in the REAP benefits also if you move into Empire Zone programs.

And I guess a case in point for me in particular, Madam President, I have a business within my district that moved interborough, and their financial projections

and statements was based on the fact that they were going to get REAP benefits. They now do not get REAP benefits, which essentially moves their cost per square foot from $32 a square foot to $68 a square foot, which essentially would render the project null and void.

While I know that Senator Padavan has worked some time on this bill, and Senator Schneiderman is encouraged about moving companies down to Lower Manhattan, there is also a need to make sure that companies, when they move from one part of a borough to another, they can also benefit from the REAP program.

So while I will be supporting this bill suspectly, it is my hope that the Assembly will craft a bill that will allow Empire Zones onto this particular bill, which will then allow REAP benefits for any company that moves into an Empire Zone, which I think will solve this problem of this continual benefit that needs to happen once you move into the Lower Manhattan area.

Thank you.

THE PRESIDENT: Senator Krueger.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR PADAVAN: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

I have concerns in general about these kinds of programs, although I do think that your bill makes improvements on the previous legislation.

How many times has New York City actually taken this advantage away from a company who made a commitment but then failed to actually deliver on the jobs? How often have they gotten their money back, so to speak, after they may have allowed a tax credit that should not have been allowed to happen?

SENATOR PADAVAN: I have no idea, Senator.

SENATOR LIZ KRUEGER: You don't have any idea.

SENATOR PADAVAN: But I do know in this bill there is a provision that seeks to tighten up. For instance, it used to be at the time of the application. Now it's at the time of the actual event.

So there is an effort on the part of the city to make sure that people are not taking advantage of this without producing the desired result.

SENATOR LIZ KRUEGER: Thank you, sir.

Madam President, briefly on the bill.

THE PRESIDENT: You may proceed.

SENATOR LIZ KRUEGER: Thank you.

In general, I have to say I don't like this kind of legislation. I think the history overall has been individualized credits to businesses for staying in one place or moving between boroughs or stopping them from moving across state lines has actually just put us into bidding wars to hold on to businesses where we then end up losing the tax revenue we need to deliver the services in our communities.

And so even the discussion among my own colleagues about relocation from one borough to another to another inside an Empire Zone, outside an Empire Zone, we're actually competing with ourselves in the City of New York for where our businesses sit, rather than doing anything to expand the overall universe of businesses creating new jobs for us in the city.

So my initial instinct is to simply vote against this, because I think the history of this type of legislation has proved that it has not had the kind of impact in job creation that we would have hoped, but in fact have been dollar losers in taxes for our base in New York City and in other localities.

Nonetheless, there are changes in this that at least recognize the importance of focusing on smaller businesses, of closing loopholes in the law that allowed one business to get multiple advantages from multiple relocations of the same bodies and in fact keep it a relatively limited program in scope. The estimated financial impact is between $5 million and $10 million to the City of

New York, which makes it a relatively small program.

So I will -- I'm going to vote against the bill, and I hope others will at least consider that it is time for us to start evaluating that as we continue to give tax credits, tax deductions, tax incentives to anyone who claims maybe they'll come somewhere they wouldn't have otherwise or maybe they won't leave to go somewhere else because of this, that we really need to evaluate how these programs have worked.

Have we actually increased the number of jobs in the state of New York, in the city of New York through these kinds of programs? And there are many of them; this is just one. Or are we simply sucking ourselves dry of tax revenue to run the kinds of programs we need on what potentially are bluffs by people who claim that they would otherwise not have established their businesses or they would have gone to a different state?

And I'm particularly concerned when we seem to be competing with ourselves even

from borough to borough, who gets the job and who loses the job. That's not a net win for the people of New York State or New York City.

So I will vote against this and hope others will start to join me in evaluating what the impact is overall in our tax revenue at the state and city level and on the perhaps unfairness of the idiosyncrasies of our tax policies for businesses.

Thank you.

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

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 37. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1378, by Senator Volker, Senate Print 4930, an

act to amend the Labor Law.

SENATOR MALCOLM SMITH: Explanation.

THE PRESIDENT: Senator Volker, an explanation --

SENATOR MARCELLINO: Lay it aside temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

Senator Alesi.

SENATOR ALESI: Thank you, Madam President. I wish to ask unanimous consent to be recorded in the negative on Calendar 814, by Senator Marcellino.

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

Senator Kuhl.

SENATOR KUHL: Yes, Madam President, I'd like to ask unanimous consent to be recorded in the negative on Calendar Number 694 and also on Calendar Number 814.

THE PRESIDENT: Hearing no objection, Senator Kuhl, you will be so recorded as voting in the negative on both of

those bills.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1490, by Senator Kuhl, Senate Print 5582, an act to amend Chapter 529 of the Laws of 2002.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR KUHL: Thank you, Madam President. May I inquire as to who asked for the explanation?

THE PRESIDENT: Senator Krueger.

SENATOR KUHL: Senator Krueger, this is a bill that essentially delays the implementation of a statute that we adopted in this house last year for approximately six months, until the first of the year, 2004.

SENATOR LIZ KRUEGER: Madam President, through you, if the sponsor will yield.

THE PRESIDENT: Will the sponsor yield?

SENATOR KUHL: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

Senator Kuhl, my understanding is this is a bill that allows a school district to increase their debt or to borrow to pay off their current operating debt for their school system. Are we talking the same bill or --

SENATOR KUHL: I don't think we are, Senator.

SENATOR LIZ KRUEGER: Senator Kuhl, I'm sorry. I had two questions on this bill. Excuse me.

Thank you, Madam President. If I can clarify and ask the sponsor to yield.

THE PRESIDENT: The sponsor does yield, and you may proceed.

SENATOR LIZ KRUEGER: Thank you.

Excuse me, Senator Kuhl. I confused two bills on schools.

Could you explain what the delay in the mandates, these related to school buses and school bus drivers in some way, what are we giving them six months more to do?

SENATOR KUHL: Well, Senator, let

me explain it to you this way. This is a bill, if you've read the memos in support of the bill, that actually requires school districts to establish or I should say implement basic qualifications for all school bus monitors and school bus attendants, as well as requires specific training for school bus attendants that are assisting students with special needs.

Now, we adopted this statute last year; it was intended to take effect on July 1st of this year. In most cases you'd think that that would be sufficient time. But as it happened, there's a requirement in the statute we adopted last year that calls for the Commissioner of Education to promulgate rules and regulations and set up the criteria.

Well, as would have it, those regulations won't take effect until the middle of July. That is two weeks after school districts are supposed to have already implemented the bill. So there's not a school district in this state that can be in compliance with the statute if in fact it's allowed to be implemented on July 1st.

So we thought it only right to delay the implementation, the requirement of school districts to actually have all this training done and offer all these people school bus attendants that require them to interact with the students with needs and also all the other school bus attendants and monitors, that we thought it would be only fair for the school districts to have a little bit of time to actually follow that criteria which is now being established.

So unfortunately, as much as we would like to have had it in effect in about two weeks, the rules and regulations won't be in place for a month. So I don't like to put school districts in a position where they can't comply with this adoption of what I would consider to be a chapter amendment to a statute we adopted last year.

They now will have roughly six months to actually go through this training and make sure that all the people they are hiring are in compliance with what we have told them they need to do.

SENATOR LIZ KRUEGER: Thank you,

Madam President. I'd like to thank the sponsor for the very detailed explanation.

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

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1493, by Senator Larkin, Senate Print 5597, an act to authorize the Monroe-Woodbury Central School District.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR LARKIN: Who asked?

THE PRESIDENT: Senator Krueger requested an explanation.

SENATOR LARKIN: Thank you, Madam

President.

Senator Krueger, we passed this bill on May 28th. There was a requirement that the Assembly wanted to make a minor change, as they did with about six others. This is the seventh bill of this nature.

I might add, for everybody's information, that Calendar Number 485 that we passed on consent is exactly the same as this bill here. It gives the school districts -- we put in the time requirements for the comptroller to monitor their things.

They just wanted another sentence in there. Instead of making a change, we put the whole bill in because of the aging process.

SENATOR LIZ KRUEGER: Thank you.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR LARKIN: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

Senator Larkin, if I could just clarify --

SENATOR LARKIN: Madam President, I can't hear her.

THE PRESIDENT: Could you speak up, Senator.

SENATOR LIZ KRUEGER: Can you hear me now, Senator Larkin?

SENATOR LARKIN: Certainly. I was just saying there's too much noise in the back here.

SENATOR LIZ KRUEGER: In this bill, are we giving a school district the authority to expand their bonds and their debt to pay off their current operating expenses? Is that your understanding of this?

SENATOR LARKIN: Yes.

SENATOR LIZ KRUEGER: Madam President, briefly on the bill.

THE PRESIDENT: You may proceed.

SENATOR LIZ KRUEGER: Thank you.

I appreciate the sponsor's explanation.

My concern here is the same concern I had for the State of New York when we passed

in our own budget the authority to bond out $4.2 billion to pay off operating expenses.

I am concerned that we are, as a state, handling our finances poorly and we are perhaps letting our school districts get themselves further into a debt situation where they will end up eventually coming back to the state and asking for additional money in order to not default because they are borrowing money for general operating expenses. It's a bad policy precedent.

The fact, as Senator Larkin pointed out, that we have done this for other school districts means I will vote for this. But I just felt it was important for us to highlight that we are continuing to allow what is conceivably dangerous financial precedent and practices, not just for our own state government but for our school districts.

And the risk to the state if they are not able to pay both back their debt and continue their school operating expenses is they will come back to the state in default, asking us for further assistance, putting us into a more difficult situation in the future.

Thank you very much, Madam President.

THE PRESIDENT: Senator Oppenheimer.

SENATOR OPPENHEIMER: I think I'll speak also on the bill.

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

SENATOR OPPENHEIMER: I also will support this, because we have done it for other school districts.

But I've said this before on the floor of the Senate, that when I was getting my MBA at Columbia, there was an 11th commandment. And the 11th commandment was "thou shalt not capitalize expense items." It is not generally accepted accounting principles. It is not the way to go. I think we all know that.

But we are in financial straits right now, and so I will approve this because we have approved others. But it is not proper accounting procedure.

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

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1499, by Senator LaValle, Senate Print 302D, an act to amend the Education Law.

SENATOR STAVISKY: Explanation.

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

SENATOR LaVALLE: Madam President, this legislation that is before us was born out of the Enron situations and others where the public accountants, certified public accountants who were the gatekeepers also became the secret-keepers and caused a lot of problems within the securities industry, because what came into question was what was a corporate profit.

We held committee -- Higher

Education held two hearings. I know Senator Stavisky was a participant, and Senator Balboni to my left and Senator Volker to my right and other committee members participated in these hearings in New York City and Albany.

The committee last year held what we call a roundtable discussion with the industry, the Society of Public Accountants and the Big Four and those who are non-CPAs. And we just couldn't really, last year, come to closure on this legislation.

This year, there were some eight meetings with all of the players, including the State Education Department. And I also want to thank the department for their expertise and their involvement in this legislation.

This legislation, if you read -- and I'm just going to read a bit of the legislative findings, because it sets the stage for what I'm going to discuss as the major provisions of this bill.

"The Legislature hereby declares that serious issues have arisen with the profession of public accountancy as a result

of various revelations and questions regarding financial reporting. Restoring public confidence and investor reliance," and it goes on and on.

So what we want to do with this legislation is not only to restore public confidence and investor reliance on information, but I think the profession -- and they should be congratulated -- said: We need to look at our scope of practice, we need to restore public confidence, and we need to do some very serious changes.

This legislation expands the scope of the regulated practice beyond basic attest and the compilation of financial statements, to include tax preparation, financial planning, and other services -- and other services offered by CPAs.

And during the hearings, this was a major focus. Because for many, many large public accounting firms, the majority of their income generated was not from tax preparation or attest functions but was from consultation, consulting services.

This requires registration of all

CPA firms, making them subject to both review and discipline. And it also requires CPAs employed in private industry to register with the State Education Department. There's mandatory peer review of all CPA firms every three years.

And I would say that in the legislation, the peer review has department involvement to make sure that the firms that are chosen to do peer review are strong and have good reputations.

This peer review I liken to accreditation of our colleges and universities. There will be more rigorous requirements for continuing professional education for all CPAs, very, very high standards. This came up during our hearings, that we needed more continuing mandatory education, and also discussions on portions dealing with ethical conduct.

It establishes a separate and distinct procedure for the investigation of professional misconduct and disciplinary action by the State Board for Public Accountancy. And there are penalties for

professional misconduct, and they are very heavy penalties.

A public accounting firm found guilty of professional misconduct is subject to a fine of up to $10,000 for a licensed individual and $20,000 for a firm for each specific charge. If the professional misconduct involves fraud, deceit, or other charges as stipulated in the legislation, the fines are up to $50,000 for a licensed individual and $250,000 for each firm.

It is important for you as members to understand that this legislation was developed as we do with each and every professional licensure or scope of practice legislation, that we have the stakeholders come to the table. The Society of Public Accountants, the nonpublic accountants, the Big Four, and the State Education Department, sat down in eight to nine meetings this year to develop this legislation.

Madam President, that's my explanation. And I'm available for any inquiries.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Madam President, I do have a couple of questions. But before I ask them, I do commend Senator LaValle for a very comprehensive and I think a very well-thought-out bill.

A couple of questions. And I don't mean to nitpick, because in my opinion this bill is good one, and I intend to vote for it. But there are a couple of points that I think ought to be clarified.

First, the mandatory peer review aspect. When we've had peer review, I'm not so sure it's always been successful. For example, I've seen bad experiences with the Office of Professional Medical Conduct where there is very little peer review.

It's sort of like in the City of New York, we have agencies making self-determining -- self -- investigating -- certifying themselves. In other words, if you file something before the city agency and you attest to it, it doesn't always work out for the public good.

And my question is if the peer review determines that a criminal activity

exists, will they be reporting it to the law enforcement officials?

SENATOR LaVALLE: Yes. In the bill, line 53, page 12, it says "The results of peer review shall be filed with the department. Failure to participate in the peer review shall constituent immediate grounds for disciplinary action against the firm or revocation of the registration of the firm."

SENATOR STAVISKY: But my question is --

SENATOR LaVALLE: So the department, Senator -- in my remarks, I talked twofold. Number one, the department is involved in ensuring that the quality of the individuals doing the peer review meet the highest standards. So the department is involved.

The results then go to the department for disciplinary action.

SENATOR STAVISKY: But by "department" we mean the State Education Department.

And I'm referring to the Attorney

General, for criminal prosecution if criminal activity is discovered.

SENATOR LaVALLE: Yes. Senator, that's a good point. The department can always and can here make a referral to the Attorney General.

SENATOR STAVISKY: Thank you, Senator.

If you will yield for another question.

SENATOR LaVALLE: Yes.

THE PRESIDENT: The Senator yields. You may proceed.

SENATOR STAVISKY: You talk in the bill about out-of-state licensed CPAs where they obtain a series of temporary licenses to work -- to practice their profession in the State of New York. This could be a continuing process where they are not certified in New York but they just continue with a series of temporary licensure requests.

SENATOR LaVALLE: Senator, yes, we do allow for temporary permits. And they are for -- in line 30 on page 7, "Applications

for temporary practice permits shall be processed by the department within 30 days."

And it's not for longer than 60 days. So it could be extended for another 60 days.

SENATOR STAVISKY: Thank you.

And my last question concerns the federal legislation, the Sarbanes-Oxley Act of a couple of years ago. How does it dovetail?

SENATOR LaVALLE: Senator, I'm glad you mentioned that. I wanted to mention this in my remarks.

One of the -- and we talked about this at the hearings, as you know --

SENATOR STAVISKY: That's why I asked the question.

SENATOR LaVALLE: -- that the state legislation was to understand that there would be federal legislation, Sarbanes-Oxley, and that we would integrate in a way that would be user-friendly to the profession. And we believe we have done that. We have done that.

And quite honestly, the Big Four that practices across the country, this was a

major concern of theirs. And we gave them a commitment that we would do the best we could not to just heap more and more requirements that did not make any sense, that could not be justified as an integration into Sarbanes-Oxley. And I believe we've done that.

SENATOR STAVISKY: I do too.

And on the bill.

THE PRESIDENT: You may proceed, Senator.

SENATOR STAVISKY: I think this is a very good piece of legislation. With the exception of my skepticism concerning the mandatory peer review, I think it's an excellent bill. And I would hope that in the coming year that it continue with the other side of this building and that we do have a chapter next year.

Thank you.

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

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 13. This

act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: If we can go back and do Senator Golden's bill, Calendar Number 549, at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 549, by Member of the Assembly Abbate, Assembly Print Number 5790, an act to amend the Civil Service Law.

SENATOR HASSELL-THOMPSON: Explanation.

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

SENATOR GOLDEN: Thank you, Madam President.

This legislation would grant additional credit on competitive examinations to siblings of firefighters and police

officers killed in the line of duty as a result of the attack on 9/11/01. Such credit shall be applied after the applicant has qualified in a competitive, and the sibling must serve in the same municipality in which his or her sibling served.

The bill adds a new section, 85-B, to the Civil Service Law, that ten points are given to the surviving sibling only after he or she has passed a competitive examination.

We have a same-as in the Assembly, and the bill is supported by the New York Association of PBAs, Brian McLaughlin, Assemblyman Brian McLaughlin, and the Patrolmen's Benevolent Association.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes. I'm not really sure whether I want to ask the sponsor any questions. I think we wrestled a little bit with this one in committee, so I will let him off the hook with questions.

But I would like to make some comments on the bill, Madam President.

THE PRESIDENT: You may proceed.

SENATOR HASSELL-THOMPSON: When we do legislation, many times we have to be very careful how we tread because we don't want to offend or appear to offend or to be insensitive to the needs of people.

I have not gotten a clear sense from the sponsor of this bill as to why the advantage to siblings. I certainly understand children. I certainly understand parents of victims of 9/11. But I have yet to be able to clearly understand -- when we first talked about this bill I said that if in fact those who were killed on 9/11 had dependent siblings, I could understand any advantages and supports that we would give to this criteria.

But I have to continue to say to you and to this body that there is no sensibilities to me in extending additional credits to siblings of persons unless those siblings had as dependents those persons that were killed in 9/11.

So I will be voting no.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: Let me share

with you the story of Robert Cawley. He lives in my district in Flushing. His brother Michael was a hero on 9/11. He rushed into the towers, saved a lot of lives, but unfortunately didn't get out in time.

Their father is a retired firefighter. The sibling that we're referring to that would be covered by this bill desperately wants to follow in the footprints of his brother and his father.

I can think of no better motivation to have that young man as a firefighter in the City of New York. I've met him. I was with him and his family when we named a street after his brother. That young man gets on the force, there's no question about his dedication and motivation. That's the type of person we want.

Now, there's precedent for this. We give preferential treatment on civil service lists to veterans, young men or women who have been on active duty, as a compensation for their service.

So when you ask the question what is the reason for this, why do we want to do

something like this, I just share with you the story of Robert and Michael Cawley.

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

Senator Krueger.

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

THE PRESIDENT: Does the sponsor yield?

SENATOR GOLDEN: I do.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

I'm just curious, would you agree that Senator Padavan's response is a precedent; that is, the case of the person who had active duty getting advantage in a civil service exam? But this is simply a family member of.

So I'm wondering whether, when you were sponsoring this bill, you were using that or other precedents or whether there are other precedents for the sister or brother of someone who had an affiliation with a government agency getting precedence in taking

exams -- excuse me, getting advantage in taking exams.

SENATOR GOLDEN: Are there other preferences in the City of New York for taking tests?

SENATOR LIZ KRUEGER: For siblings of others who worked for the City of New York.

SENATOR GOLDEN: No. But we do entice and we've done in past legislation in allowing 5 points for those that live within the City of New York.

We have done different preferences over the years so that we could encourage certain employment that would benefit those that lived within the City of New York that they would work in the City of New York.

So, yes, there is preference out there. He's pointed out, my colleague, how the veterans, how we have credits for them. If you're a Purple Heart, recipient of the Purple Heart, that your son and family are automatically accepted into the services and into their schools.

So there is a whole criteria that

has been around for years in the city, state of New York, and in this country.

SENATOR LIZ KRUEGER: Thank you.

Madam President, on the bill.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

I appreciate the sponsor's comments, and also my colleague Senator Hassell-Thompson's comments on this bill.

I do think there are precedents for giving extra points in civil service for people for different reasons. I appreciate your mentioning people who live in the City of New York getting preference on civil service exams. I think that in a perfect world we would ensure that new people coming in to work for the City of New York did live in the City of New York, and that would be a win for our city overall.

I also understand giving preference to people who have been in the military -- and you mentioned the Purple Heart -- because in fact they are people who have made a direct sacrifice and contribution to our country

through their participation in our military, and to some degree it's a natural training match to go from protection of people in the military to protection of people through our fire department and our police department.

But I also know that we have a high priority -- and we should in the City of New York -- to ensure that we are diversifying our police and fire departments, ensuring that in fact it is not just as has historically been the case too often, the family members of people who already worked in police and fire who are the people who continue to work in police and fire.

I completely respect the example given by Senator Padavan. A young man who lost two people in the World Trade Center, his father and his brother, and who still wants to be a member of the New York Fire Department, should be given accolades, and I would imagine will be able to be brought in and pass the test, I hope.

But I believe that in the bigger picture for public policy, for priorities for the City of New York, for the importance of

expanding and diversifying the police and fire department, that it is a precedent we don't want to set that because you are the relative of someone who lost their life while working for the City of New York that that somehow gives you priority in taking an exam or passing an exam.

If we were discussing death benefits for someone, we have seen expanding eligibility for family members who of course were harmed and traumatized by the loss of life at the World Trade Center on September 11th.

But I think that we really don't want to open up this precedent. And I think it would be a new precedent for brothers and sisters of people who worked for the City of New York and lost their life working for the City of New York having some priority to become employees.

So I will be voting against this bill, while I certainly recognize and respect the examples given in Senator Padavan's point about the gentleman who lives in his own district.

Thank you, Madam President.

SENATOR GOLDEN: On the bill.

ACTING PRESIDENT MEIER: Senator Golden.

SENATOR GOLDEN: Thank you, Mr. President.

I rise because of situations that are going on across the City of New York, young family members trying, attempting to become like their fathers, like their brothers, like their sisters that were killed on 9/11. I have Chief Ritchie's -- his son, who was killed, and yet his other son wants to go on and be just like his father and his brother.

And we should allow that credit to take place. And the reason we should is because 9/11 was no normal fire, 9/11 was no normal shootout with a police officer. 9/11 was an act of aggression, it was an attack against this nation, it was an attack against the City of New York and the people that died in that were victims in a war, a war against this country. And they deserve that extra credit.

And I'm proud to have been able to sponsor this bill, and I'm proud of those that vote with this bill, because it's sending the right message.

Thank you, Mr. President.

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

Debate is closed, then.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: To explain my vote.

Mr. President, I can appreciate the story that we've heard from Senator Padavan. And I can share a story with Senator Padavan and with this chamber that would equal that and greater.

One of the first acts that I did when I became senator was to write a letter as

an affidavit for a young man who had just wanted, his whole life, since he was a young boy, to become a firefighter in the City of New York. And I wrote that letter for him, and it gave him the two points that he needed extra to verify that he lived in the Bronx.

He was a rookie, and he was one of the rookies that was killed that day on 9/11. So I understand about giving priorities.

But when I say to you that I have difficulty extending this to siblings, I would hope that the heroism with which the brother died and the father served would be incentive that would help any young man or young woman want to join the fire department in the city of New York or anywhere in the state of New York. And I would want that whatever advantage and opportunities that we could give would be available to them.

But to legislate it and to give priorities to siblings when we are struggling to create diversity is giving an affirmative action -- we're in a time when affirmative action is dying. And so I am -- I will continue to vote no, and I will say prayers,

and continue, for those who are victims of 9/11. But I cannot allow us to be sidetracked by the fact that we still have everyday wars going on in our communities and the war for equality is not dead.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 549 are Senators Hassell-Thompson, L. Krueger, and M. Smith. Ayes, 57. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President. I believe you have five bills at the desk that were previously high that we now have messages for. Could we have the entire list read and then read them in order.

ACTING PRESIDENT MEIER: The Secretary will read the bills which were previously high, in order.

THE SECRETARY: Calendar Number

743, by Senator Maltese, Senate Print 3274B, an act to amend the Education Law.

SENATOR MALCOLM SMITH: Explanation.

ACTING PRESIDENT MEIER: We'll get the bill on the floor first.

SENATOR MARCELLINO: Is there a message of necessity at the desk, Mr. President?

ACTING PRESIDENT MEIER: Yes, there's a message at the desk, Senator Marcellino.

SENATOR MARCELLINO: Move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Senator Maltese, Senator Malcolm

Smith has requested an explanation.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, my intent was that we read the entire list for everybody to understand it and then proceed through a regular reading. Just to let everybody know the numbers.

ACTING PRESIDENT MEIER: The bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1480, by Senator Leibell, Senate Print 5493A, an act to amend the Public Authorities Law.

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

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

SENATOR MARCELLINO: Move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those

opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

The bill is laid aside.

THE SECRETARY: Calendar Number 1489, by Senator Volker, Senate Print 5581, an act to amend the Estates, Powers and Trusts Law.

SENATOR MARCELLINO: Is there a message at the desk?

ACTING PRESIDENT MEIER: There is.

SENATOR MARCELLINO: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

The bill is laid aside.

THE SECRETARY: Calendar Number 1537, by Senator Little, Senate Print 5635, an act to amend the Environmental Conservation Law.

SENATOR MARCELLINO: Is there a message at the desk?

ACTING PRESIDENT MEIER: There is.

SENATOR MARCELLINO: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

The bill is laid aside.

THE SECRETARY: Calendar Number 1541, by Senator Marchi, Senate Print 5650, an

act to amend the Private Housing Finance Law.

SENATOR MARCELLINO: Is there a message at the desk?

ACTING PRESIDENT MEIER: There is a message.

SENATOR MARCELLINO: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

The bill is laid aside.

Senator Saland.

SENATOR SALAND: Mr. President, I would request unanimous consent to be recorded in the negative on Calendar 694, Senate 3904.

ACTING PRESIDENT MEIER: Without objection, Senator Saland will be recorded in the negative on Calendar 694.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Mr. President. Without objection, I'd also like unanimous consent to be recorded in the negative on Calendar Number 1494, Senate Print 5606.

ACTING PRESIDENT MEIER: Without objection, Senator Maziarz will be recorded in the negative on Calendar 1494.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we take those five bills and read them in order.

ACTING PRESIDENT MEIER: All right. The Secretary will take the five bills for which messages of necessity were just accepted and read them in order.

THE SECRETARY: Calendar Number 743, by Senator Maltese, Senate Print 3274B, an act to amend the Education Law.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT MEIER: Senator Maltese, Senator Liz Krueger has requested an explanation.

SENATOR MALTESE: Yes, Mr. President.

This bill is an amendment to the Education Law in relation to the treatment record of animals. It has been requested by the New York State Veterinary Medical Society and is enthusiastically supported by that society.

Basically, this would permit the disclosure of treatment records by vets to law enforcement officials. It specifies exactly which law enforcement officials and, in addition, specifically sets out the rationale.

When the veterinarian reasonably and in good faith suspects that an animal's injury, illness, or condition is the result of animal cruelty; where the veterinarian reasonably believes that disclosure of records is necessary to protect the health or welfare of an animal or the public; or where the vet reasonably and in good faith reports -- or, no, a veterinarian who reasonably and in good faith reports or discloses records to those law enforcement authorities in accordance with these provisions shall be completely immune

from civil or criminal liability.

Previously there was a memorandum in opposition by the Farm Bureau. That memorandum has been withdrawn, and the New York Farm Bureau no longer takes a "no" position.

Their memo reads: "New York's Farm Bureau over 34,000-member family respectfully offers no position on the above-referenced legislation. The newly amended version of the bill has addressed all of the core concerns expressed by the New York Farm Bureau. Our prior concerns with the bill have been extinguished in the recent amendments. New York Farm Bureau appreciates the sponsor's recognition of our concerns and is no longer taking a position on the legislation."

We met, and we worked out amendments that responded to their concerns. This bill now only concerns companion animals. And it is enthusiastically supported by SPCA and, as I mentioned before, the New York Veterinary Medical Society.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. I'll just speak on the bill.

ACTING PRESIDENT MEIER: Senator Liz Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate Senator Maltese's explanation and the changes that were made and am strongly in support of your bill, Senator Maltese.

But I would be guilty if I didn't point out that here we are on the last day of session, we are going to pass this bill, I am sure, and I am glad we are, but we are still -- and this is a bill to protect companion animals, to assure that someone who is aware of abuse of a companion animal can report that information to the proper officials.

And yet I fear we will end the session today having not come to conclusion of our clergy reporting bill, which would require protection of children and the reporting of abuse of children to the proper authorities.

So I just wanted to raise a question for all of us to think about in our

last few hours. We should not be going home tonight, if we are going home tonight, without completing our work on the clergy reporting bill to protect our children if we are prepared to move forward with a bill, as we should, to protect animals.

Thank you very much, Mr. President.

ACTING PRESIDENT MEIER: Senator Maltese.

SENATOR MALTESE: Mr. President, I think I realize the purpose of my good colleague's statement. At the same time, I think it's unfortunate that it be said at the time of the consideration of this bill.

The Veterinary Medical Society has pointed out an interesting fact that I think is substantiated not only by my years in law enforcement but by many, many other law enforcement authorities. And in their memorandum, they say "Animal abuse is a heinous offense by itself. Unfortunately, there is a clear and undisputed nexus between animal abuse and subsequent domestic violence."

They feel that enactment of this

legislation will therefore prove to be an essential tool in addressing future acts of violence, whether directed against animals or humans.

And I think that is something that is well substantiated and something that we should keep in mind. The same heinous individuals who perform acts of cruelty and abuse to animals in many cases do exactly the same thing and even more terrible things to human beings. It indicates a predisposition, I believe, of cruelty and abuse.

And where veterinarians in this case would be able to report their concerns to the proper authorities, I think it serves a dual purpose.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President. There will be an immediate meeting of the Judiciary Committee in the Majority Conference Room, 332.

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

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we return to the order of motions and resolutions.

I believe there's a privileged resolution by Senator Bruno at the desk. We'd like that resolution read in its entirety and move for its immediate adoption.

ACTING PRESIDENT MEIER: Motions and resolutions.

The Secretary will read the privileged resolution in its entirety.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 2397 celebrating the 30th Anniversary of the Legislative Messenger Service.

"WHEREAS, It is the sense of this Legislative Body that the quality and character of life in this great Empire State is greatly enriched by the faithful and diligent work of those organizations which serve to meet the special needs of the community and its citizenry, and expand the array of available life choices; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to celebrate the 30th Anniversary of the Legislative Messenger Service; and

"WHEREAS, The Legislative Messenger Service provides a communications network throughout the Empire State Plaza and neighboring state buildings for Senate and Assembly legislators and their staffs; and

"WHEREAS, The service employs and trains disabled individuals as office personnel and messengers, and is located in the Legislative Office Building; and

"WHEREAS, The New York State Legislature is proud to be one of the first

state employers to hire persons with disabilities. The first legislative messenger was hired in 1973; and

"WHEREAS, Since then, the service has grown to include a director, assistant director, and 29 messengers and message-coordinators; and

"WHEREAS, The Legislative Messenger Service was officially created on January 1, 1989, with the merger of the Assembly and Senate Messenger Services. However, its predecessor, the Senate Messenger Service, had been founded in 1973 by Senator William T. Conklin, with the assistance of Louis Russo, who was the first director; and

"WHEREAS, The Assembly Messenger Service started in 1977. Prior to the official merger in 1989, the two houses shared their respective messenger services. Lou Russo of the Senate served as director of the messenger services beginning in 1973. David Edyvean of the Assembly served as assistant director beginning in 1977. Mr. Edyvean then became director upon Mr. Russo's retirement in 1986. Assistant directors under Mr. Edyvean

were Gerald Gravelle from 1986 to 1994, and Beth Bonesteel, current assistant director, beginning in 1999. Mr. Edyvean retired in 2002 and was replaced by the current director, Kevin Kather; and

"WHEREAS, The Legislative Messenger Service plays a very important part in expediting the work of the New York State Legislature. On October 20, 1991, the service made its 100,000th delivery; and

"WHEREAS, The dedicated members of the Legislative Messenger Service can be relied on to provide swift and dependable service; and

"WHEREAS, Of the 29 members, six have at least 10 years of service, four have at least 15 years of service, seven had at least 20 years of service, six have at least 25 years of service, and three -- Richard E. McDonald, Robert J. Pollock, and Francis W. Rotundo -- have been employed by the Legislative Messenger Service since 'day one' and have 30 years of impressive service; and

"WHEREAS, It is the sense of this Legislative Body that those organizations

which unselfishly devote their energy, talent and thoughtful care on behalf of improving the quality and dignity of life in the community are worthy and due full praise and recognition for their noble and dedicated efforts; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to celebrate the 30th Anniversary of the Legislative Messenger Service; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the Legislative Messenger Service."

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

On behalf of Senator Bruno, who as we all know is involved in negotiations -- otherwise, I'm sure he would be here to say these words -- I just wish to thank the people who serve as our messengers, the people who to some extent are taken for granted because of the work they do.

It's so important. We could not

function as a body -- I know my office couldn't function, and I doubt if anybody else could work without the help of the messengers, who do a job that is an absolute necessity. They do with it pride, they do it well, and they're a credit to the State of New York and are a credit to this house, are a credit to the Legislature.

I do thank you, ladies and gentlemen, for the work you do. And I wish you Godspeed and continued good efforts, because we need you, we love you, and we care for you. And I wish you Godspeed and good luck.

Thank you, Mr. President.

(Standing ovation.)

ACTING PRESIDENT MEIER: Senator Hoffmann.

SENATOR HOFFMANN: Yes, it's a great pleasure for us to be able to thank the messengers for all of their hard work on a day like this.

And I am reminded of all the times when we are faced with many stressful activities and we're rushing from meeting to

meeting and trying so hard to manage all of our responsibilities as legislators, and then we run across the messengers.

And they never fail to show, in their high level of professionalism, that extra bit of kindness. They say hello, they ask how our days are going, they greet us as friends, as associates. And they show a level of pride not only in their jobs but in our jobs as well. And they give us that little lift that helps us remember that we're all here to serve the public.

And so I'm happy to add my voice to my many colleagues who I know would like to express their warm and deep appreciation, not only for the service provided by the messengers but for the great example they set for all of us as we do our jobs.

Thank you.

(Applause.)

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, I thank you, Mr. President. I too would like to add my congratulations.

You know, many mornings we come in and this is a hard job and some days we're not really feeling up to it. But it is so pleasant because so many of the messengers I meet in the elevator and they say, "Oh, you look nice today," or "Good morning," and they are my first smile of the day.

And so for that, I appreciate all of you so very much for the way in which you serve us so very well.

(Applause.)

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

Just to echo what has been said before, when I was here on staff, the messengers helped me a lot. When I got here as a Senator, the messengers helped me a lot. In both houses, in both parties, this is truly one of the absolutely superbly functioning, truly bipartisan aspects of life here in a Capitol that has far too few of those elements.

So thank you, Nadine, everyone else who has worked with me for so many years. And

I know we'll be working together a lot. And if all the rest of us could emulate the messengers a little more, we might actually have a better government in this state.

So thank you again.

(Applause.)

ACTING PRESIDENT MEIER: In case the members haven't noted, our messengers are in the gallery. And as you can all hear --

(Applause.)

ACTING PRESIDENT MEIER: As you can all hear, you have the respect, the gratitude, and the affection of each and every member of the Senate. God bless you.

(Applause.)

ACTING PRESIDENT MEIER: The question then is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is unanimously adopted.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, could we return to the regular calendar.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1480, by Senator Leibell, Senate Print 5493A, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR SCHNEIDERMAN: Explanation.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR LEIBELL: Thank you, Mr. President.

This bill amends Section 1678 of the Public Authorities Law, which will permit the Dormitory Authority to form one or more subsidiaries for a variety of purposes.

These purposes would include bidding, taking, holding, selling, conveying, assigning, or transferring title to property

held by the authority, entering into leases, subleases, operating agreements, security agreements, loan agreements, or other encumbrances, and assuming or incurring any indebtedness or other liabilities secured by such property.

And also, after such subsidiary has taken title to such property, acting in a manner consistent with some or all of the rights, obligations or responsibilities of the prior owner of such property.

ACTING PRESIDENT MEIER: Senator Krueger.

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

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

So when I was reading the bill and then reading the memo, it seemed clear to me that this is intended by the Dormitory

Authority, yet another off-budget authority, to protect itself from liability by creating subsidiaries.

So in a scenario where it invests in or it bonds out money for a facility, which is the role of the Dormitory Authority, the facility defaults on its bonds and the state has to in fact take possession of such facility. But rather than the Dormitory Authority taking ownership of such facility, it would be a subsidiary. And the memo specifically talks about protecting the state from liability.

So my question is, if this was a private company who had made an investment, the investment, so to speak, went bad, it had to become more hands-on, perhaps, by taking over the facility, perhaps in an exactly parallel situation to the Dormitory Authority, would we as the government want them to be able to use subsidiaries to exempt themselves from liability?

So again, my concern is the parity. Should government be allowed to exempt ourselves from future liability when we make

investment decisions if we wouldn't recognize the right of a private company to figure out how to remove itself from liability through the use of subsidiaries?

SENATOR LEIBELL: Well, Senator, I think that probably you're asking a question that maybe goes right to the essence of why we have authorities.

They are not something that is in the private sector. They are meant to perform a particular task that's important to us as a state, as a society, and is less attractive, possibly, for the private sector to do -- for a variety of reasons, including management, financial reasons.

And in this particular case -- and I've met with the Dormitory Authority over a period of some time now -- they were addressing one particular case, which happened to be a hospital in Westchester County. But this is legislation that can be used in other cases.

It does take an asset that is less attractive, but that by putting money into it they will be able to refurbish it, they will

have a revenue stream, and that revenue stream will be able to pay for the tax-exempt bonds that will be issued.

It's probably not comparable to anything you would see readily out there in the private sector, but still it's viewed by the Dormitory Authority, after they go through their various checkoffs as to what's potential in its long-range viability. And it's another method for keeping an important institution or institutions alive.

SENATOR LIZ KRUEGER: Thank you.

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

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

SENATOR LEIBELL: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you. I so appreciate your explanation.

And I do agree with you that one of the reasons for the Dormitory Authority is because the State of New York believes it is a good use of our function as a government to be

able to make loans for community facilities that might not otherwise be built or continue to be there for the benefit of the public.

And that in fact the Dormitory Authority conceivably does sometimes take a higher risk than the market would in the investments that it makes. Again, in the belief that that's good policy for us in the State of New York.

And that in fact if you take higher risks, you might in fact end up in a situation where something goes wrong and the entity is not capable of paying you back.

And I would agree with your example that by and large, in most cases, if a hospital was going to be lost to a community because they defaulted on their bonds to us, that we would want to move forward to try to help ensure the continuation of that institution and, in your example, the betterment of that institution.

My concern, though, again still falls on that liability question. If I am a citizen who ends up being wronged by that institution in some way, even

unintentionally -- and a hospital is an interesting example, because we know of course of the issues of liability in hospitals, and mistakes -- are we doing a disservice, conceivably, to the public or individuals who might not have the same legal protections through our court system because we use subsidiaries to separate ourselves -- in this case, the State of New York -- from what would become our obligations to the public because we were investors and participants or, in this scenario, perhaps the owner/operators of an institution?

So I'm concerned about the balance between the public good in the purpose of the Dormitory Authority and the public good of are we trying to actually avoid liability that should rightly be ours if we are the owner/operator.

SENATOR LEIBELL: The Dormitory Authority or the subsidiary's liability would be on the bonds themselves, not on a slip-and-fall that occurs at the hospital or a potential malpractice.

There should be -- I'm sure the

Dormitory Authority would insist upon this -- there should be the normal types of insurance available to them that would protect anybody who is injured. So that wouldn't necessarily be something that should affect these.

But with respect to the risk of those who invest in it, I would anticipate that because it's possibly a less attractive investment, there will be a higher rate of return for the investment. Anybody who buys a bond, I would anticipate it's like anything else. You can compare it to the private sector; less attractive, they'll pay more.

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

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Senator Leibell, again just for me to perhaps satisfy myself on this, why would we need a subsidiary corporation rather than

it simply being the Dormitory Authority itself? What is an example of why there's an advantage if it's not to avoid responsibility in some scenario?

SENATOR LEIBELL: To answer that, I think we try and keep -- to make the Dormitory Authority work, we try to keep it in a situation where their interest rates would be as attractive as possible.

To the extent they take on less attractive risk or operations, it will affect all their interest rates.

So this can have the benefit of allowing investors to know that in a case like this, it may in fact be a less attractive investment, they'll get a higher return on their dollar, but it doesn't spread across all the other investments.

SENATOR LIZ KRUEGER: Okay, thank you.

Mr. President, briefly on the bill.

ACTING PRESIDENT MEIER: Senator Liz Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I very much appreciate the

Senator's explanation, and I think these are complicated issues. And I think the answers that you gave are correct and are a legitimate argument for the Dormitory Authority going down this road.

But I still find myself in the situation -- particularly with off-budget public authorities, I'm not comfortable with how we monitor and oversee them or their finances or their decision-making or their reporting now.

And the idea of now New York State taking one more step of allowing subsidiary corporations of off-budget corporations for investment and liability purposes, I think we are going beyond the scope of what government intended or this Legislature intended when it originally created authorities.

And that every time you make a new layer of someone else's responsibility, someone else's liability, no obligation to report back to the Legislature and the people, that you create one more potential open-risk problem from a good government perspective and a public accountability perspective.

So while I don't have a specific argument with any of the points you made or the legitimacy in this example, I still would argue it's not really in the best interests of the people of New York State to now allow subsidiary corporations of off-budget corporations without a complete review of what the functions of these authorities are in the 21st century, what the responsibilities and accountability paths are, who's watching, who's getting reports, and who's monitoring.

So I will vote no. But I certainly respect the bill and the argument.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1489, by Senator Volker, Senate Print 5581, an act to amend the Estates, Powers and Trusts Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1537, by Senator Little, Senate Print 5635, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2003.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1541, by Senator Marchi, Senate Print 5650, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, would you call up Calendar 1295, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1295.

THE SECRETARY: Calendar Number 1295, by Senator Johnson, Senate Print 4883B, an act to amend the Public Officers Law.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Is there a message at the desk?

ACTING PRESIDENT MEIER: There is.

SENATOR MARCELLINO: Move to accept, please.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Can we move now to Senate Supplemental Calendar 60A and have the noncontroversial reading, please.

ACTING PRESIDENT MEIER: The Secretary will read.

SENATOR MARCELLINO: Mr. President, before we do that -- our mistake -- can we have the report of the Rules Committee read, please.

ACTING PRESIDENT MEIER: Reports of standing committees.

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 538A, by Senator Larkin, an act to amend the Social Services

Law;

600A, by Senator Hannon, an act to amend the General Business Law;

667A, by Senator Padavan, an act to amend the Executive Law;

992A, by Senator Trunzo, an act to amend the Real Property Tax Law;

1042B, by Senator Johnson, an act to amend the Public Health Law;

2302, by Senator Bonacic, an act in relation;

2472A, by Senator Padavan, an act to amend the Vehicle and Traffic Law;

2515A, by Senator Spano, an act to amend the Public Health Law;

2545, by the Senate Committee on Rules, an act to amend the Criminal Procedure Law;

2611, by Senator LaValle, an act to authorize;

2635, by Senator Padavan, an act to amend the Alcoholic Beverage Control Law;

3234, by Senator Robach, an act to amend the Civil Service Law;

3373A, by Senator Golden, an act to

amend the General Business Law;

4088, by Senator Robach, an act to amend the Civil Service Law;

4179B, by Senator Golden, an act to amend the Vehicle and Traffic Law;

4552, by Senator Morahan, an act to amend the Election Law;

4634A, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

4702B, by Senator DeFrancisco, an act to amend the General Obligations Law;

4829, by Senator Padavan, an act to amend the Real Property Tax Law;

5020, by Senator Padavan, an act to amend the Private Housing Finance Law;

5053, by Senator Velella, an act to amend the Alcoholic Beverage Control Law;

5422A, by Senator Farley, an act to amend the Banking Law;

5434, by Senator Robach, an act to amend the Civil Service Law;

5485A, by the Senate Committee on Rules, an act to amend the Tax Law;

5486A, by Senator Meier, an act to amend the Parks, Recreation and Historic

Preservation Law;

5570, by Senator Bonacic, an act to amend the Insurance Law;

5571, by Senator Robach, an act to amend the Correction Law;

5576, by Senator Padavan, an act to amend the Private Housing Finance Law;

5595, by Senator Golden, an act to amend the Criminal Procedure Law;

5605, by Senator Seward, an act to amend the Correction Law;

5638, by Senator Libous, an act to amend the Mental Hygiene Law;

5653, by Senator Hoffmann, an act authorizing;

And Senate Print 5549, by Senator Oppenheimer, an act to authorize.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: Mr. President, I move to accept the report of the Rules Committee.

ACTING PRESIDENT MEIER: All

those in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

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

Senator Balboni.

SENATOR BALBONI: May we take up that calendar now.

ACTING PRESIDENT MEIER: The Secretary will do the noncontroversial reading of Supplemental Calendar 60A.

THE SECRETARY: In relation to Calendar Number 1509, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 1038A and substitute it for the identical Senate Bill Number 538A, Third Reading Calendar 1509.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1509, by Member of the Assembly Jacobs,

Assembly Print Number 1038A, an act to amend the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1520, by Senator Hannon, Senate Print 600A, an act to amend the General Business Law, in relation to protecting.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1544, by Senator Padavan, Senate Print 667A --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1545, by Senator Trunzo, Senate Print 992A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Senator Balboni.

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

ACTING PRESIDENT MEIER: There is.

SENATOR BALBONI: I move that we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1546, by Senator Johnson, Senate Print 1042B, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect January 1, 2004.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1547, by Senator Bonacic, Senate Print 2302, an act in relation to granting.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1548, by Senator Padavan, Senate Print 2472A, an act to amend the Vehicle and Traffic Law and the Administrative Code of the City of New York.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 3. Senators Fuschillo, Meier, and Nozzolio recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1549, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 1228 and substitute it for the identical Senate Bill Number 2515A, Third Reading Calendar 1549.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1549, by Member of the Assembly Brodsky, Assembly Print Number 1228, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1550, by the Senate Committee on Rules, Senate Print Number 2545, an act to amend the Criminal Procedure Law and others.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1551, by Senator LaValle, Senate Print 2611, an act to authorize payment.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1552, by Senator Padavan, Senate Print 2635, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR BALBONI: Mr. President, would you please lay this bill aside.

ACTING PRESIDENT MEIER: That bill will be laid aside.

SENATOR BALBONI: Thank you very much.

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: In relation to Calendar Number 1553, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 7865 and substitute it for the identical Senate Bill Number 3234, Third Reading Calendar 1553.

ACTING PRESIDENT MEIER:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1553, by the Assembly Committee on Rules, Assembly Print Number 7865, an act to amend the Civil Service Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1554, by Senator Golden, Senate Print 3373A, an act to amend General Business Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1555, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 7192 and substitute it for the identical Senate Bill Number 4088, Third Reading Calendar 1555.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1555, by Member of the Assembly Abbate, Assembly Print Number 7192, an act to amend the Civil Service Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays,

1. Senator Seward recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1556, by Senator Golden, Senate Print 4179B, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Senator Balboni.

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

ACTING PRESIDENT MEIER: There is.

SENATOR BALBONI: I would move now to accept the message of necessity.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

THE SECRETARY: Section 2. This act shall --

SENATOR LIZ KRUEGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1557, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 6435 and substitute it for the identical Senate Bill Number 4552, Third Reading Calendar 1557.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1557, by Member of the Assembly Galef, Assembly Print Number 6435, an act to amend the Election Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1558, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 4400A and substitute it for the identical Senate Bill Number 4634A, Third Reading Calendar 1558.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1558, by Member of the Assembly Ortiz, Assembly Print Number 4400A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1559, by Senator DeFrancisco, Senate Print 4702B, an act to amend the General Obligations Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1560, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 8179 and substitute it for the identical Senate Bill Number 4829, Third Reading Calendar 1560.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1560, by the Assembly Committee on Rules, Assembly Print Number 8179, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1561, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 8617 and substitute it for the identical Senate Bill Number 5020, Third Reading Calendar 1561.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1561, by the Assembly Committee on Rules,

Assembly Print Number 8617, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1562, by Senator Velella, Senate Print 5053, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: In relation to Calendar Number 1563, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 8889A and substitute it for the identical Senate Bill Number 5422A, Third Reading Calendar 1563.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1563, by the Assembly Committee on Rules, Assembly Print Number 8889A, an act to amend the Banking Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 1564, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 8399 and substitute it for the identical Senate Bill Number 5434, Third Reading Calendar 1564.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1564, by the Assembly Committee on Rules, Assembly Print Number 8399, an act to amend the Civil Service Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1565, by the Senate Committee on Rules, Senate Print Number 5485A, an act to amend the Tax

Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1566, by Senator Meier, Senate Print 5486A --

SENATOR LIZ KRUEGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1568, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 707A, and substitute it for the identical Senate Bill Number 5571, Third Reading Calendar 1568.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1568, by Member of the Assembly M. Cohen, Assembly Print Number 707A, an act to amend the Correction Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1570, by Senator Golden, Senate Print 5595, an act to amend the Criminal Procedure Law.

SENATOR LIZ KRUEGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to

Calendar Number 1571, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 7024 and substitute it for the identical Senate Bill Number 5605, Third Reading Calendar 1571.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1571, by Member of the Assembly Finch, Assembly Print Number 7024, an act to amend the Correction Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1572, by Senator Libous, Senate Print 5638, an act to amend the Mental Hygiene Law and the

Correction Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR LIZ KRUEGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

Senator Balboni, that completes the noncontroversial reading of Supplemental Calendar 60A.

SENATOR BALBONI: Mr. President, I would ask for unanimous consent to be recorded in the negative on Calendar Number 1548, by Senator Padavan, please.

ACTING PRESIDENT MEIER: Without objection, Senator Balboni will be recorded in the negative on Calendar 1548.

Senator Velella.

SENATOR VELELLA: Mr. President, I too would like to be recorded in the negative on 1548, by Senator Padavan.

ACTING PRESIDENT MEIER: Without objection, Senator Velella will be recorded in the negative on Calendar 1548.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. If I could have unanimous consent to be recorded in the negative on Calendar Number 1554.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative on Calendar 1554.

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President. With unanimous consent I would request to be recorded in the negative on Calendar Number 1509.

ACTING PRESIDENT MEIER: Without objection, Senator Wright will be recorded in the negative on Calendar 1509.

Senator Balboni.

SENATOR BALBONI: Mr. President, I would like to make an announcement that there will be an immediate conference of the Senate Majority in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate conference of the Senate Majority in the Majority Conference Room.

Senator Krueger.

SENATOR LIZ KRUEGER: Yes, I would like to announce an immediate conference in the Minority Conference Room of the Minority.

ACTING PRESIDENT MEIER: Immediate conference of the Minority in the Minority Conference Room.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 1:05 p.m.)

(Whereupon, the Senate reconvened at 2:23 p.m.)

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President. Can we please take up the Supplemental Active List, noncontroversial reading.

ACTING PRESIDENT MEIER: Senator Morahan, just before we do that, Senator Libous has asked permission to change a vote. Can we take care of that first and then go to the supplemental active list?

SENATOR MORAHAN: Certainly, Mr. President.

ACTING PRESIDENT MEIER: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. Could I have unanimous consent to be recorded in the negative on Calendar 1494 and 1548, please.

ACTING PRESIDENT MEIER: Without objection, Senator Libous will be recorded in the negative on Calendar Numbers 1494 and also 1548.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Mr. President. I would like to request unanimous consent to be recorded in the negative on Calendar Number 1509, Senate Print 538A.

ACTING PRESIDENT MEIER: Without objection, you will be so recorded.

Senator Maltese.

SENATOR MALTESE: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 1548.

ACTING PRESIDENT MEIER: Without objection, Senator Maltese will be recorded in the negative on 1548.

SENATOR MALTESE: Thank you.

ACTING PRESIDENT MEIER: The Secretary will now conduct the noncontroversial reading of the Supplemental Active List.

THE SECRETARY: Calendar Number 54, by Member of the Assembly Grannis, Assembly Print Number 2263A, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 336, by Member of the Assembly Canestrari, Assembly Print Number 7517, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect in six months.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 817, by Senator Rath, Senate Print 2045A, an act to amend the Public Health Law, in relation to the Childhood Obesity Prevention Program.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee, why do you rise?

SENATOR McGEE: I'd like to be recognized for changing a vote, if I may. On 1509, I'd like to be registered in the negative.

ACTING PRESIDENT MEIER: Without objection, Senator McGee will be recorded in the negative on Calendar 1509.

SENATOR McGEE: Thank you.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I ask unanimous consent to be recorded in the negative on Calendar Number 1509.

ACTING PRESIDENT MEIER: Without objection, Senator Nozzolio will be recorded in the negative on Calendar 1509.

Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President. I would ask unanimous consent to be recorded in the negative for Calendar 1509.

ACTING PRESIDENT MEIER: Without objection, Senator Bonacic will be recorded in the negative on Calendar 1509.

Senator Larkin.

SENATOR LARKIN: Mr. President,

I'd like unanimous consent to be recorded in the negative on Calendar Number 1567.

ACTING PRESIDENT MEIER: Without objection, Senator Larkin will be recorded in the negative on Calendar 1567.

Senator Seward.

SENATOR SEWARD: Yes, Mr. President, I would like unanimous consent to be recorded in the negative on Calendar Number 1509.

ACTING PRESIDENT MEIER: Without objection, Senator Seward will be recorded in the negative with regard to Calendar 1509.

SENATOR MORAHAN: I stand to be recognized and ask that the members hold their changing of votes or whatever it may be until after we finish the noncontroversial reading of the supplemental calendar.

ACTING PRESIDENT MEIER: Very well. Thank you, Senator Morahan.

The Secretary will conduct the noncontroversial reading of the Supplemental Active List.

THE SECRETARY: Calendar Number 819, by Senator Hannon, Senate Print 4016A, an

act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect in one year.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 942, by Member of the Assembly Sweeney, Assembly Print Number 4986, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first of January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 999, by Senator Balboni, Senate Print 4747B, an act relating to the payment of taxes or assessments.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR BALBONI: Yes, Mr. President. I'd like to thank Senator Skelos for his leadership on this bill, and I'd like to thank my colleagues.

This corrects a real unfairness that has been perpetuated upon two or three of my districts, two of my election districts in my Senate district, who have been paying a sewer tax when they're not even hooked up to the sewer. So this corrects that deficiency, and it's long overdue.

Thank you very much, Mr. President. I vote aye.

ACTING PRESIDENT MEIER: Senator Balboni will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Just on the bill, Mr. President. I also vote aye.

But I want to congratulate my colleague, Senator Balboni. You know, the County of Nassau, under the county executive, have been collecting this tax inappropriately. So thank you, Senator Balboni, on behalf of the residents of the East Hills community for correcting this problem that they've been faced with for many years.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, I'd like to congratulate my colleague, Senator Fuschillo, for his congratulations of Senator Balboni, who congratulated Senator Skelos. And I hope that everyone now is happy.

(Laughter.)

ACTING PRESIDENT MEIER: Let me exercise a prerogative of the chair to congratulate everyone.

(Laughter.)

ACTING PRESIDENT MEIER: The bill is passed.

And the Secretary will continue to read.

THE SECRETARY: Calendar Number 1326, by Senator Kuhl, Senate Print 5370, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Now would be an appropriate time for any Senators who would

like to change their votes, they'll be recorded.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, I'd like to have unanimous consent to be recorded in the negative on Calendar 1548.

ACTING PRESIDENT MEIER: Without objection, Senator Skelos will be recorded in the negative on 1548.

Senator Farley.

SENATOR FARLEY: 1509, I'm in the negative.

ACTING PRESIDENT MEIER: Without objection, Senator Farley will be recorded in the negative on 1509.

Senator Morahan.

SENATOR MORAHAN: I'd like to be recorded in the negative on 1548.

ACTING PRESIDENT MEIER: Without objection, Senator Morahan will be recorded in the negative on 1548.

Senator Marcellino.

SENATOR MARCELLINO: I also would like to be recorded in the negative on

Calendar Number 1548.

ACTING PRESIDENT MEIER: Without objection, Senator Marcellino will be recorded in the negative on 1548.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President. I'd like unanimous consent to be recorded in the negative on Calendar Number 1548.

ACTING PRESIDENT MEIER: Without objection, Senator Maziarz will be recorded in the negative on Calendar 1548.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I'd like unanimous consent to be recorded in the negative on Calendar 1509 and 1548.

ACTING PRESIDENT MEIER: Without objection, Senator Stachowski will be recorded in the negative on 1509 and 1548.

Senator Bonacic.

SENATOR BONACIC: Mr. President, unanimous consent to be recorded in the negative, 1548.

ACTING PRESIDENT MEIER: Without

objection, Senator Bonacic will be recorded in the negative on Calendar 1548.

Senator Farley.

SENATOR FARLEY: 1548, in the negative.

ACTING PRESIDENT MEIER: Senator Farley will be recorded in the negative on 1548, without objection.

Senator Morahan.

SENATOR MORAHAN: Can we just hold up for a minute, please. We want to do a little counting.

Mr. President.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Is there any housekeeping up there?

I believe there's a report of the Judiciary Committee, which I'd like to have read and move for its adoption.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Judiciary,

reports the following nominations.

As a judge of the Court of Claims, Philip M. Grella, of Merrick.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I rise to move the nomination of Philip M. Grella as judge of the Court of Claims, the Criminal Part.

Judge Grella was before the Senate Judiciary Committee, was found to be well qualified -- very, very well qualified. And in fact, several committee members mentioned that his presentation and his resume was probably, if not the best, one of the best backgrounds for the position to which is he going to be approved today.

I would request that Mr. President recognize Senator Fuschillo to second the nomination.

ACTING PRESIDENT MEIER: Senator Fuschillo.

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

It is certainly a great time in my

life to be able to stand up and second the nomination of somebody of the caliber of Phil Grella. And it doesn't surprise me, the comments from the Judiciary chair, Senator DeFrancisco, that the committee thought this was one of the best individuals that ever came before the committee.

I haven't complimented Governor Pataki in a while because we've had some tense relationships over the past couple of months, but this is certainly one that I'll say, Governor, good job.

Phil Grella is -- putting aside his judicial experience, his 25-plus years in the district attorney's office, and his commitment to his community, Phil Grella is just an outstanding individual.

I know his wife is here, his true partner in life. And, Marilyn, you are certainly his better half. And I have to tell you, it's such a pleasure getting to know you a lot better in the past couple of years.

But, Judge Grella, I am honored to stand up before my colleagues in this house and second your nomination. And I know you

will certainly be a credit to the court, but certainly a credit to the 18 million people of the state of New York.

So I proudly second the nomination and I wish you Godspeed and the best of luck on the bench.

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: Mr. President, during the confirmation process I believe it is wholly appropriate for members who know the nominees to stand up and give you just a little taste of their personality and character.

Judge Grella is the person that you want considering a matter that you carry about. He has a tremendous temperament, a tremendous amount of patience, and a great understanding of human nature. Every time I've had a conversation with the judge, he has been open, forthright, knowledgeable.

He'll be a terrific addition to the bench, and Governor Pataki should be congratulated.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President. I too would like to rise to congratulate Judge Grella. He's a fine person, a fine judge, and a credit to the county in which I live. And he will be a credit to the people of New York State.

Thank you.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: I want to congratulate Senator Marcellino on the brevity of his statement.

But I'm delighted to rise and join in confirming and moving the nomination of Judge Grella. He's a good friend, obviously, to all of us from Nassau County. But what's even more important, he's a good family person, a good human being, and has all the qualifications -- not just book qualifications, but also temperament qualifications to be a great judge.

So congratulations to you, Judge Grella.

ACTING PRESIDENT MEIER: The question is on the confirmation of Philip M. Grella as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is unanimously confirmed.

Judge Grella is with us today in the gallery. He is accompanied by his wife, Marilyn, his brother-in-law and sister-in-law Louis and Joann Ballato, and his brother-in-law and sister-in-law Arthur and Margaret Ballato.

Judge Grella, we wish you well with your important duties. Good luck.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Michael E. Hudson, of Amherst.

ACTING PRESIDENT MEIER: Senator

DeFrancisco.

SENATOR DeFRANCISCO: I again am proud to rise to move the nomination of Michael E. Hudson as a judge of the Court of Claims. This is the Civil Part.

This was a particularly fine day for the Judiciary Committee, because these individuals not only had great backgrounds and great qualifications, as the committee so found, but each of the nominees obviously have the judicial temperament and the service to our community that is so necessary to make good judgments in very, very serious cases.

I would ask, Mr. President, if you would recognize Senator Rath to second the nomination.

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: Thank you, Mr. President. Thank you, my colleagues.

It is with great pleasure that I rise to second the nomination of Michael Hudson for Court of Claims judge. Michael is not only a well-qualified lawyer and a well-qualified person who's worked in the

courts for over 17 years, but a close personal friend.

If you've looked at Michael's resume, you will see that not only was he, as I said, found to be well-qualified, but served eight years in the district attorney's office and 17 years as a confidential clerk to a Supreme Court judge in Erie County. That judge happened to have been my husband.

So you know that we are very good friends, and you know my highest regard for Michael and his wife, Dale, and his son, Matthew.

Michael not only has a deep, deep knowledge of the law, but he has a respect for the system, the system that brings us to the chamber, the system that brings judges to the point where they are no longer part of that political system but they do know that it's the marriage of politics and government that keep all of the systems working that our great country depends on.

Michael has a genuine concern, a genuine concern, not only for the people who will find themselves involved in the judicial

system, but for the system itself, a respect for the judicial system.

And if I can draw your attention to the beautiful piece of art glass directly over where Senator Meier is standing, if you look at it and look at the woman on the right as we look at the symbol of the State of New York, the woman on the right holds the scales of justice in her hand.

And, Michael, I know that you will weigh equally, as that blind justice symbol shows us there, you will weigh the balance of the people who come in front of you as well as the justice system that New York State is so rightfully proud of.

Good luck and Godspeed.

ACTING PRESIDENT MEIER: Senator Maziarz.

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

I want to rise to support this nomination. This is a great day for the judiciary. I was just talking to another Court of Claims judge in Western New York on the phone a very short time ago, and he can

hardly wait to get to work with Mike Hudson because of Mike's vast experience, both in private practice in the district attorney's office in Erie County, and then clearly for the last several years as the principal law clerk to Judge Ed Rath.

I know this is a very special day for Mike. It's a day that's seemed like it's been a long time in coming. And I that being here is very special, with his wife, Dale, and his son, Matt.

But, Mr. President, I know that this is also a very, very special day for Senator Mary Lou Rath. She has sought this nomination for this well-deserved nominee.

And Mike learned a lot from Judge Rath, and I'm sure that he is here today in this room in spirit, and he is also very proud of you, Mike, and very proud of your family.

Congratulations. You're going to do a great job. And it's a great day for Western New York and this chamber.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, I too want to rise on behalf of Mike Hudson.

I've known him for many years. He is a top-flight -- as I said in the Judiciary Committee, and I say this with great sincerity, he is a fine lawyer, always has been a fine lawyer. And obviously any judge has to have a sense of justice, and he does. But the best judges, obviously, are the best lawyers. And Mike Hudson is one of those.

One of the last conversations I had with the late Ed Rath, he mentioned to me that he's the guy that definitely should be a judge in the fairly near future.

And today is that day. Congratulations.

ACTING PRESIDENT MEIER: The question is on the nomination of Michael E. Hudson as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

nominee is unanimously confirmed.

Judge Hudson is with us in the gallery. He is accompanied by his wife, Dale, and his son, Matthew.

Judge, congratulations and best wishes.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Maxwell Wiley, of New York.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Again, I'm proud to rise to move the nomination of Judge Maxwell Wiley for a Court of Claims position. This is going to be a Criminal Part.

And if you've reviewed his resume as the members of the Judiciary Committee reviewed it, it is very, very obvious that he is more than well qualified, and the committee so found, for this particular position.

I would request that Mr. President recognize Senator Krueger to second the nomination.

ACTING PRESIDENT MEIER: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

I rise proudly to second the nomination of Maxwell Wiley to be a judge in the Court of Claims. And I am embarrassed that I don't know Judge Wiley, after so many people here knew other nominees. I think in the County of Manhattan, shockingly, we don't know everyone, although I am trying to.

But learning about Mr. Wiley, who is joined here today by his father-in-law, Ed Rosenthal, what can I tell you? He has been working for the New York County district attorney's office since 1986 and he's currently been a deputy chief of the trial bureau. And I don't think there's any doubt about the extraordinary reputation and work done by the Manhattan district attorney's office.

And given his long history of accomplishment in that very difficult office -- and I must add the fact that he is a alma mater of my alma mater, the University of Chicago -- I am very proud, as a Senator from

Manhattan, although he is not in my district directly, to be able to stand and rise in second of his nomination and to applaud him and to say with confidence that I know he will do us proud as a judge on the Court of Claims.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: The question is on the nomination of Maxwell Wiley as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is unanimously confirmed.

Judge Wiley is with us today in the gallery. He's accompanied by his father-in-law, Ed Rosenthal.

Judge Wiley, congratulations and best wishes to you.

(Applause.)

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I request

unanimous consent to vote in the negative on a series of bills.

Calendar 119, Senate Print 335A; Calendar 895, Senate Print 502; Calendar 1489, Senate Print 5581; Calendar Number 1495, Senate Print 5611.

Thank you.

ACTING PRESIDENT MEIER: Without objection, Senator DeFrancisco will be recorded in the negative with regard to Calendars 119, 895, 1489, and 1495.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President, can we return to the controversial reading of Calendar 60A, supplemental calendar.

ACTING PRESIDENT MEIER: The Secretary will conduct the controversial reading of Supplemental Calendar 60A.

SENATOR LaVALLE: Mr. President.

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

SENATOR LaVALLE: Can I be recognized to have unanimous consent to be recorded in the negative on Calendar Number

1548, please.

ACTING PRESIDENT MEIER: Without objection, Senator LaValle will be recorded in the negative with regard to Calendar 1548.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Yes, Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 1548.

ACTING PRESIDENT MEIER: Without objection, Senator Malcolm Smith will be recorded in the negative on Calendar 1548.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. Mr. President, point of order. It's noisy in back of me.

Mr. President, I would like to be recorded in the negative on Calendar 1548.

ACTING PRESIDENT MEIER: All right. Senator Montgomery, without objection, you will be recorded in the negative on Calendar 1548.

The Secretary will read.

THE SECRETARY: Calendar Number 1544, by Senator Padavan, Senate Print 667A,

an act to amend the Executive Law and the Public Officers Law.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT MEIER: Senator Padavan, Senator Montgomery has requested an explanation.

SENATOR PADAVAN: Thank you, Mr. President.

This bill deals with the very serious problem of providing security requirements in and about facilities that are for the generation and transmission of power. It requires certain standards. It requires oversight.

Currently, there are no such requirements for any of these facilities. They are left to the individual entity to determine what they might be. Some do, and I'm sure responsibly so, have security measures. But again, there is no standard that must be met.

In light of the current environment that we all exist in in this country, we do know that power plants and other related facilities are an inviting target for

terrorists. Therefore, this legislation has as its basic goal the creation of standardized security measures for such facilities.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

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

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I think that it's clear that we need in this time to ensure that there are security measures in place for energy generating and transmission facilities. But I also think we recognize that we have obligations to protect rights to public information through the Freedom of Information Law.

So my one question is, does Senator Padavan know whether the Department of State's

Committee on Open Government has reviewed this legislation and whether they oppose it on any grounds for protection of Freedom of Information.

SENATOR PADAVAN: Yes, I do.

SENATOR LIZ KRUEGER: May I ask the sponsor another question, please, Mr. President.

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

SENATOR PADAVAN: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: You just wanted me to ask you a second question, didn't you, Senator.

And what is their position, Senator Padavan?

SENATOR PADAVAN: They are in favor of this legislation.

SENATOR LIZ KRUEGER: Thank you very much.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1550, by the Senate Committee on Rules, Senate Print Number 2545, an act to amend the Criminal Procedure Law and others.

ACTING PRESIDENT MEIER: Senator Padavan.

SENATOR PADAVAN: Did someone ask for an explanation? No.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 13. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1552, by Senator Padavan --

SENATOR MORAHAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1556, by Senator Golden, Senate Print 4179B, an act to amend the Vehicle and Traffic Law.

SENATOR MALCOLM SMITH: Explanation.

ACTING PRESIDENT MEIER: Senator Golden, Senator Malcolm Smith has requested an explanation of Calendar 1556.

SENATOR GOLDEN: Thank you, Mr. President.

This bill would permit the sanitation officers of the City of New York to issue summonses when a handbill or leaflet containing an advertisement is left on a car. It further provides that it shall be a presumption that the person whose name, address, and other identifying information is in violation of this section of law.

Background. This bill amends a

section of the Vehicle and Traffic Law which already prohibits the placing of handbills and other forms of advertisement on cars. Presently summonses may only be issued by police officers and other enforcement personnel to a person putting a leaflet on the car.

By creating this presumption, this bill will provide that the person who is advertising has caused the leaflet to be placed there.

There is also a present bill in effect in the City of New York, and that's similar to the poster bill, and that's what we based this law on.

ACTING PRESIDENT McGEE: Senator M. Smith.

SENATOR MALCOLM SMITH: Madam President, if the sponsor would yield for just a question or two.

ACTING PRESIDENT McGEE: Senator Golden, will you yield for some questions?

SENATOR GOLDEN: I do, Madam President.

ACTING PRESIDENT McGEE: The

Senator yields.

SENATOR MALCOLM SMITH: Through you, Madam President, does this bill require flyers that are on cars on public streets only? Or are you talking about if they're in parking lots in addition to?

SENATOR GOLDEN: Public streets, not on private property.

ACTING PRESIDENT McGEE: Senator Smith.

SENATOR MALCOLM SMITH: Madam President, if the sponsor would continue to yield.

SENATOR GOLDEN: I do.

ACTING PRESIDENT McGEE: Senator Golden continues to yield.

SENATOR GOLDEN: Thank you, Madam President.

SENATOR MALCOLM SMITH: You indicated, Senator Golden, that this was a similar bill to Senator Padavan's poster bill.

SENATOR GOLDEN: Yes, sir.

SENATOR MALCOLM SMITH: And my question to you is, in terms of enforcement, what is the notice of service?

SENATOR GOLDEN: It would be done through the ECB, Environmental Control Board. They would be the notifying agency. And they would do it through the mail. After a 30-day period, if they had not responded, and then they will serve the subpoena on them.

SENATOR MALCOLM SMITH: One final question, Madam President, through you.

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

SENATOR GOLDEN: I do.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR MALCOLM SMITH: In regard to flyers being placed on cars that are, for instance, in a private parking lot, would this bill also apply to them?

SENATOR GOLDEN: No, it would not, sir.

SENATOR MALCOLM SMITH: Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Smith, on the bill.

SENATOR MALCOLM SMITH: Madam President, I do understand the sponsor's

interest in this bill. And as one who understands the result of garbage and papers that are thrown on the street, as similar to why Padavan introduced his bill, my only concern with this bill is that in many instances you will find, whether it is churches or private companies, particularly in the City of New York, that may put flyers on a particular car for a particular interest, they may actually put flyers on cars that are necessarily parked in an area that they're only affiliated with the particular proprietor or the particular nonprofit institution.

And in those regards, where the nonprofit institution is trying to market their own particular interest or market their own particular program, that particular institution would then be subject to a fine, according to the sponsor's bill.

While I do understand the need for keeping the environment clean, the only concern I have here is that you have a number of nonprofit organizations that tend to market their skills and market what they offer through these particular means.

And where I have not seen any particular outcry from the public to find this offensive, I have no interest in this bill and at this time will have to vote no on the bill. I don't necessarily encourage my colleagues to do so, for this may not be a concern of theirs, but it is one concern of mine.

Thank you.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: I have one question for the sponsor.

ACTING PRESIDENT McGEE: Senator Golden, will you yield?

SENATOR GOLDEN: I do indeed, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR STAVISKY: Since this bill applies only to the City of New York, do we need a home-rule message?

SENATOR GOLDEN: We do not.

SENATOR STAVISKY: Thank you.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1556 are Senators Hassell-Thompson, Montgomery, M. Smith, and Stachowski. Ayes, 56. Nays, 4.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1566, by Senator Meier, Senate Print 5486A, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1570, by Senator Golden, Senate Print 5595, an act to amend the Criminal Procedure Law.

SENATOR MALCOLM SMITH: Explanation.

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

SENATOR GOLDEN: Thank you, Madam President.

Thank you, Mr. President.

This bill would permit -- has there been an explanation requested?

SENATOR MALCOLM SMITH: Explanation.

SENATOR GOLDEN: This bill would permit building inspectors in New York City to issue violations after their inspections. Although it makes building inspectors in New York City peace officers, this bill also would give them the right to carry guns to be able to do their jobs.

As it is presently, an inspector cannot get entrance, the inspector cannot

issue a summons. This gives him the right to issue that summons, and it gives him the right to be able to do his job.

ACTING PRESIDENT MEIER: Senator Krueger.

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

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

SENATOR GOLDEN: I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Thank you for the explanation, Senator Golden.

If this bill just gave them the ability to do a summons once they find a violation, I think I would have no problem with this bill. But this bill gives peace officer status and the right to carry guns to the Department of Building inspectors.

And I don't know if you listen listened to my other concerns on the floor about peace officers bills --

SENATOR GOLDEN: I understand.

SENATOR LIZ KRUEGER: -- but you were a New York City policeman at one time, I understand. And you also know -- we both come from New York City -- that there's been more than a few scandals around Department of Building inspectors.

Do we really think that we should give them the powers of police? Even though I would agree with the portion of the bill that would allow them to write a summons for a building violation right there.

SENATOR GOLDEN: Thank you, Senator Krueger.

But giving the opportunity for these inspectors to carry guns and to be able to perform their jobs -- I don't know, I come from Brooklyn, New York. And in Brooklyn we have sections and throughout the city of New York we have sections where these inspectors encounter some problems and don't issue summonses.

So you can imagine the problems that they will get when they are allowed to issue the summonses. I know as a police

officer I was many a difficult day issuing a summons. And today in the New York City area you know how many summonses are being issued, you know the push that's on in the City of New York. And it's very, very difficult for anybody to issue summonses, and in some cases pretty unsafe.

So I believe that this gives them the ability to go out and do their job and to do it safely and correctly and to do it smartly and in a good conscience and according to the Penal Law.

ACTING PRESIDENT MEIER: Senator Krueger.

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

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

SENATOR GOLDEN: I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Senator Golden, in many of the other peace officer bills -- I think in all of

the peace officer bills we've seen so far this year these were security guards that were then raised in status to peace officers and were required to go through the state's -- I think it's municipal police council training institution to be, I guess, approved as peace officers.

Is that a requirement of this bill, that they must go through the training program for peace officers?

SENATOR GOLDEN: No. Thank you for bringing that up, Senator Krueger.

It would be up to the City of New York to issue a statute within the Building Department on the use of a firearm. They would have to conform to the New York City rules and regulations on those pertaining to owning and operating a gun.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Liz Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you so much.

Well, while I have been opposed to

other peace officer bills, I have to say I am even more opposed to this bill. At least in the other bills we were talking about taking security personnel going through a full training process, not necessarily giving them the authority to carry guns. In most of the peace officer bills, it did not involve carrying guns.

In this bill, we're making building inspectors police with guns, and not even a clear path of how they would be trained to have these responsibilities.

I agree, it is dangerous in some parts of New York City to do your job. But we have inspectors for all kinds of things in New York City, including building inspectors. We have city government representatives who go out throughout our communities for any number of reasons. We have several hundred thousand employees of the City of New York.

In this bill, we're talking about giving people who are inspectors police powers and guns. I can't really believe that we think it is in the best interests of the City of New York to give building inspectors guns

or police powers.

And I don't think we would want to set a precedent for anywhere else in the state that someone who works in an agency in an inspector capacity -- and not a police inspector capacity, but a nonuniform-related capacity as an inspector for some purpose -- to be given police powers.

So I will vote no against this bill, despite the fact that I believe the city does want this bill. And I urge everyone to again reevaluate this whole question of peace officer status and the fact that here we're talking about people who are trained to check to see whether you have a violation of a housing code in an apartment and making them, quote, unquote, quasi-police with police powers and guns.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Golden.

SENATOR GOLDEN: Just to point out, this is not police officer status, it's peace officer status.

And, yes, they would have to go

through the security programs.

ACTING PRESIDENT MEIER: Senator Sabini.

SENATOR SABINI: Thank you, Mr. President. If the Senator would yield for a question or two.

ACTING PRESIDENT MEIER: Senator Golden, will you yield for a question?

SENATOR GOLDEN: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SABINI: Thank you.

Senator Golden, you said that they would be able to carry guns after certain requirements were met if this bill were to become law?

SENATOR GOLDEN: That's correct, according to the state and city regulations.

SENATOR SABINI: If the sponsor would yield for another question, since it's late in the session --

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

SENATOR GOLDEN: I do, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR SABINI: Is there a request from the city on this?

SENATOR GOLDEN: We have a verbal, yes, sir. We do not have a written statement, but we have a verbal.

SENATOR SABINI: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Sabini, on the bill.

SENATOR SABINI: I come from probably the building code violation capital of New York City. The neighborhoods that I represent are rife with building code violations. And I want to make sure the Buildings Department can do their job.

And I was the author of many bills in the New York City Council to make their jobs easier. And if this does that, fine. I'm a little -- I share Senator Krueger's concern that this may be going a little too far. Some of our building inspectors make enough money without a gun. I'm afraid what they'll make with a gun.

But if the city has asked for the bill, I'll trust their judgment on this and vote aye.

Thank you.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1570 are Senators Duane, Hassell-Thompson, L. Krueger, Montgomery, and Padavan. Ayes, 55. Nays, 5.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. If I could have unanimous consent to be recorded in the negative on Calendar Number 1566.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative on 1566.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. If we could return to the original calendar, Calendar Number 1378, we'd like to lay it aside.

ACTING PRESIDENT MEIER: All right. Calendar 1378 will be laid aside.

Senator Volker.

SENATOR VOLKER: Can I explain? 1378 was on the original calendar. We are not going to take it up now because it has been superseded by agreement between the Governor, this house, and the Assembly on fingerprinting.

It's essential that the bill be passed in order for the feds in Washington to accept any fingerprints from this state for any circumstances.

So that has been agreed to, and so I'm just going to lay this bill aside. So I just wanted to tell you that. Okay? Okay.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Mr. President, from the original calendar, can we please take

up 1535.

ACTING PRESIDENT MEIER: We'll return to the original calendar.

The Secretary will read Calendar 1535.

THE SECRETARY: Calendar Number 1535, by Senator Velella, Senate Print 5624, an act to amend the Workers' Compensation Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Is there any housekeeping at the desk at this time, Mr. President?

ACTING PRESIDENT MEIER: Yes, we have some.

Senator Kuhl.

SENATOR KUHL: Are we on the order of motions and resolutions?

ACTING PRESIDENT MEIER: Motions and resolutions, Senator.

SENATOR KUHL: Thank you, Mr. President.

I wish to call up my bill, Senate Print 3199, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 417, by Senator Kuhl, Senate Print 3199, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: I now move to reconsider the vote by which the bill passed the house.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: That bill is on the Third Reading Calendar now, Mr. President?

ACTING PRESIDENT MEIER: Yes, it is, Senator.

SENATOR KUHL: Thank you.

I also wish to call up Senate Print 896A, which is at the desk, Mr. President.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 814, Senate Print 896A, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Yes, I now move to reconsider the vote by which the bill was passed and ask that the bill be restored to the Third Reading Calendar.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is restored to the order of third reading.

SENATOR KUHL: Thank you.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Mr. President, for the information of the members, there will be a meeting of the Rules Committee at 3:30 in the Majority Conference Room.

And until the time for their report, the Senate will stand at ease.

ACTING PRESIDENT MEIER: The Senate will stand at ease pending the report of the Rules Committee.

(Whereupon, the Senate stood at ease at 3:14 p.m.)

(Whereupon, the Senate reconvened at 3:59 p.m.)

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Mr. President, could we please pull up Calendar 1572 on Supplemental Calendar 60A.

ACTING PRESIDENT MEIER: On Calendar 60A, the Secretary will read Calendar 1572.

THE SECRETARY: In relation to Calendar Number 1572, Senator Libous moves to

discharge, from the Committee on Rules, Assembly Bill Number 7161C and substitute it for the identical Senate Bill Number 5638, Third Reading Calendar 1572.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1572, by Member of the Assembly Weisenberg, Assembly Print Number 7161C, an act to amend the Mental Hygiene Law and the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President, could we call up, from the same calendar, Calendar 1573.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1573.

THE SECRETARY: Calendar Number 1573, by Senator Hoffmann, Senate Print 5653, an act authorizing the City of Rome.

SENATOR MORAHAN: Is there a message of necessity at the desk, Mr. President?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR MORAHAN: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 5. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR MORAHAN: If we can return to the original calendar of the day and take up Calendar 312, Mr. President.

ACTING PRESIDENT MEIER: On the original calendar, the Secretary will read Calendar 312.

THE SECRETARY: Calendar Number 312, by Member of the Assembly Christensen, Assembly Print Number 2438A, an act to amend the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR MALCOLM SMITH: Explanation.

ACTING PRESIDENT MEIER: Senator DeFrancisco, Senator Malcolm Smith has requested an explanation of Calendar 312.

SENATOR DeFRANCISCO: Yes. About

a year ago, in our district, there was a series of reviews of various after-school programs at YMCA-type facilities, YWCA programs, as well as Catholic Youth Organization programs.

And there was confusion about whether the programs that were available for children after school, mostly in low-income areas, whether they should be categorized as daycare centers.

The problem with it was -- and there were investigations and there was going to be hearings and the like. And the problem was there a difficulty in interpreting the law at the time.

As a result, there was threats to close all of these after-school facilities in these at-risk areas, at a time when in Syracuse there was a rising problem with youth violence.

So Assemblywoman Christensen and myself put together this bill to make it clear that these after-school centers are truly not childcare centers, where there's -- like a daycare where there's children that are of

young age being cared for and therefore a need for more staff, a need for more elaborate facilities.

And that's what the purpose of this bill is. And it's supported by the New York State YMCAs. Also supported locally, in our area, by the police chief and the county executive, the mayor, basically because there's been a push trying to provide more of these facilities in our area, which is a lot for our area.

The City of Syracuse services 2,000 young people after school with these programs, and most of them would have had to go out of existence because of the additional cost that would have been imposed by that.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR ALESI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: May I request unanimous consent to be recorded in the negative on 1509, Calendar 1509, Senate Print 538A.

ACTING PRESIDENT MEIER: Without objection, Senator DeFrancisco will be recorded in the negative on Calendar 1509.

Senator Morahan.

SENATOR MORAHAN: Mr. President, can we return to motions and resolutions.

ACTING PRESIDENT MEIER: Motions and resolutions.

SENATOR MORAHAN: Can we adopt the Resolution Calendar.

ACTING PRESIDENT MEIER: All those in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar is adopted.

Senator Morahan.

SENATOR MORAHAN: Are there any substitutions at the desk?

ACTING PRESIDENT MEIER: Yes, there are, Senator.

The Secretary will read the substitutions.

THE SECRETARY: On page 26, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 6954 and substitute it for the identical Senate Bill Number 3069, Third Reading Calendar 770.

On page 31, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 6422A and substitute it for the identical Senate Bill Number 1572A, Third Reading Calendar 876.

And on page 38, Senator McGee moves to discharge, from the Committee on Rules, Assembly Print Number 6095A and substitute it for the identical Senate Bill Number 2606A, Third Reading Calendar 1096.

ACTING PRESIDENT MEIER: Substitutions ordered.

SENATOR MORAHAN: Mr. President, if we could return to reports of standing

committees, I understand there's a report of the Rules Committee at the desk.

ACTING PRESIDENT MEIER: Reports of standing committees.

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 722, by Senator LaValle, an act authorizing;

822A, by Senator LaValle, an act to amend the Criminal Procedure Law;

919, by Senator LaValle, an act to amend the Real Property Tax Law;

1131, by Senator Seward, an act to amend the Insurance Law;

1178, by Senator Leibell, an act to amend the Criminal Procedure Law;

1370, by Senator Trunzo, an act to amend the Public Authorities Law;

1816, by Senator McGee, an act to amend the Social Services Law;

1944A, by Senator Hannon, an act to amend the New York State Medical Care

Facilities Finance Agency Act;

2129, by Senator Larkin, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law;

2255A, by Senator Seward, an act to enact;

2925, by Senator Connor, an act to amend Chapter 423 of the Laws of 2002;

2970A, by Senator Flanagan, an act to amend the Criminal Procedure Law;

3126D, by Senator Libous, an act to amend the Tax Law;

3346A, by Senator Golden, an act to amend the Education Law;

3712, by Senator Volker, an act to amend the Criminal Procedure Law;

4149, by Senator Hannon, an act to amend the Public Health Law;

4382A, by Senator Alesi, an act to authorize;

4523, by Senator Marcellino, an act to amend the Tax Law;

4881, by Senator Bonacic, an act to amend the Public Housing Law;

4901, by the Senate Committee on

Rules, an act to amend the Tax Law;

5040, by the Senate Committee on Rules, an act to amend the Tax Law;

5048A, by Senator Balboni, an act to amend the Alcoholic Beverage Control Law;

5120, by Senator Kuhl, an act to amend the Vehicle and Traffic Law;

5377, by Senator DeFrancisco, an act to amend;

5402, by Senator Hoffmann, an act to amend Chapter 78;

5491, by Senator Seward, an act to amend the Insurance Law;

5524, by Senator LaValle, an act to amend the Real Property Tax Law;

5556, by Senator Volker, an act to amend the Mental Hygiene Law;

5590, by Senator Farley, an act to amend the Banking Law;

5599, by Senator Hannon, an act to create;

5613, by Senator Golden, an act to amend the Election Law;

5614, by the Senate Committee on Rules, an act to amend the Retirement and

Social Security Law;

5623, by Senator Velella, an act to amend Chapter 511;

5644, by Senator Hannon, an act to amend the Public Health Law;

5656, by Senator Fuschillo, an act to amend the Village Law;

5657, by Senator Morahan, an act to authorize;

5659, by Senator Larkin, an act to amend the Real Property Tax Law;

5668, by Senator Kuhl, an act to amend the Public Authorities Law;

5674, by the Senate Committee on Rules, an act to amend Chapter 468;

And Senate Print 5676, by the Senate Committee on Rules, an act to amend Chapter 454 of the Laws of 2002.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Move to accept the report of the Rules Committee, Mr. President.

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 Morahan.

SENATOR MORAHAN: Yes, Mr. President. May we have the noncontroversial reading of the 60B supplemental calendar.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of Supplemental Calendar 60B.

THE SECRETARY: Calendar Number 1575, by Senator LaValle, Senate Print 722, an act authorizing the Town of East Hampton, Suffolk County.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1576, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 1553A and substitute it for the identical Senate Bill Number 822A, Third Reading Calendar 1576.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1576, by Member of the Assembly Acampora, Assembly Print Number 1553A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1577, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 1849 and substitute it for the identical Senate Bill Number 919, Third Reading Calendar 1577.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1577, by Member of the Assembly Sweeney, Assembly Print Number 1849, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1578, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 8846 and substitute it for the identical Senate Bill Number 1131, Third Reading Calendar 1578.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1578, by the Assembly Committee on Rules, Assembly Print Number 8846, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1579, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 6430 and substitute it for the identical Senate Bill Number 1178, Third Reading Calendar 1579.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1579, by Member of the Assembly Galef, Assembly Print Number 6430, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, I'll be voting no. And just for the record, why shouldn't we just make everyone in New York State who works for anyone a peace officer and then subtract them later? Now we have animal protection officers as peace officers.

Thank you, I vote no.

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

Announce the results.

THE SECRETARY: Ayes, 58. Nays, 2. Senators Duane and L. Krueger recorded the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1580, by Senator Trunzo, Senate Print 1370, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1581, Senator McGee moves to discharge, from the Committee on Finance --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Senator, can we do the sub first? And then we'll lay the bill aside.

SENATOR SCHNEIDERMAN: Certainly.

ACTING PRESIDENT MEIER: Go ahead.

THE SECRETARY: In relation to Calendar Number 1581, Senator McGee moves to discharge, from the Committee on Finance, Assembly Bill Number 3202 and substitute it for the identical Senate Bill Number 1816, Third Reading Calendar 1581.

ACTING PRESIDENT MEIER: Substitution ordered.

And the bill will be laid aside.

THE SECRETARY: In relation to Calendar Number 1582, Senator Hannon moves to

discharge, from the Committee on Finance, Assembly Bill Number 1377A and substitute it for the identical Senate Bill Number 1944A, Third Reading Calendar 1582.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1582, by Member of the Assembly Brodsky, Assembly Print Number 1377A, an act to amend the New York State Medical Care Facilities Finance Agency Act.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1583, by Senator Larkin, Senate Print 2129, an act to amend the Racing, Pari-Mutuel Wagering

and Breeding Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1584, by Senator Seward, Senate Print 2255A, an act --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1585, Senator Connor moves to discharge, from the Committee on Tourism, Recreation and Sports Development, Assembly Bill Number 6297 and substitute it for the identical Senate Bill Number 2925, Third

Reading Calendar 1585.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1585, by Member of the Assembly Glick, Assembly Print Number 6297, an act to amend Chapter 423 of the Laws of 2002.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1586, by Senator Flanagan, Senate Print 2970A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1587, by Senator Libous, Senate Print 3126D, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1588, by Senator Golden, Senate Print --

SENATOR GOLDEN: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1589, by Senator Volker, Senate Print 3712, an act to amend the Criminal Procedure Law.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1590, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8240 and substitute it for the identical Senate Bill Number 4149, Third Reading Calendar 1590.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1590, by the Assembly Committee on Rules, Assembly Print Number 8240, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1591, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 8242A and substitute it for the identical Senate Bill Number 4382A, Third Reading Calendar 1591.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1591, by the Assembly Committee on Rules, Assembly Print Number 8242A, an act to authorize the Town of Rush.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1592, by Senator Marcellino, Senate Print 4523, an act to amend the Tax Law.

SENATOR MARCELLINO: Lay it aside for the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: In relation to Calendar Number 1593, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 8030 and substitute it for the identical Senate Bill Number 4881, Third Reading Calendar 1593.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1593, by the Assembly Committee on Rules, Assembly Bill Number 8030, an act to amend the Public Housing Law.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1594, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 8543 and substitute it for the identical Senate Bill Number 4901, Third Reading Calendar 1594.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1594, by the Assembly Committee on Rules, Assembly Print Number 8543, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1595, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 8475 and substitute it for the identical Senate Bill Number 5040, Third Reading Calendar 1595.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1595, by the Assembly Committee on Rules, Assembly Print Number 8475, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1596, by Senator Balboni, Senate Print 5048A, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 45th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Parker.

SENATOR PARKER: Mr. President, to explain my vote.

ACTING PRESIDENT MEIER: To explain your vote.

SENATOR PARKER: I'm voting yes on this bill. It's a bill that's really important both for my district and for the

City of New York and the great planet of Brooklyn.

It deals with the West Indian Day parade and the carnival that happens every May. It's going to clear up a great inequity.

I really want to also just congratulate and thank the bill's sponsor, Senator Balboni, who in a great understanding of not just bipartisanship but, more importantly, different cultures and how important this is for the economic development of both the borough and the city, has sponsored this bill. And I wanted to thank him particularly.

So I want to encourage everyone to vote yes on this bill. Thank you.

ACTING PRESIDENT MEIER: Senator Parker will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1597, by Senator Kuhl, Senate Print 5120, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1598, by Senator DeFrancisco, Senate Print 5377, an act to amend the New York City Civil Court Act and others.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 10. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1599, by Senator Hoffmann, Senate Print 5402, an act to amend Chapter 78 of the Laws of 1800 relating to establishing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1600, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 8605A and substitute it for the identical Senate Bill Number 5491, Third Reading Calendar 1600.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1600, by the Assembly Committee on Rules, Assembly Print Number 8605A, an act to amend

the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1601, by Senator LaValle, Senate Print 5524, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1602, by Senator Volker, Senate Print 5556 --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1603, by Senator Farley, Senate Print 5590, an act to amend the Banking Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1604, by Senator Hannon, Senate Print 5599, an act to create a temporary state commission.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1605, by Senator Golden, Senate Print 5613, an act to amend the Election Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1606, by the Senate Committee on Rules, Senate Print Number 5614, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1607, by Senator Velella, Senate Print 5623, an act to amend Chapter 511 of the Laws of 1995.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1608, by Senator Hannon, Senate Print 5644, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR ALESI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1613, by the Senate Committee on Rules, Senate Print Number 5674, an act to amend Chapter 468 of the Laws of 2002.

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

ACTING PRESIDENT MEIER: Yes, there is, Senator Morahan.

SENATOR MORAHAN: I move that we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message of necessity is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1614, by the Senate Committee on Rules, Senate Print Number 5676, an act to amend Chapter 454 of the Laws of 2002.

ACTING PRESIDENT MEIER: Senator Morahan.

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

ACTING PRESIDENT MEIER: There is.

SENATOR MORAHAN: May we move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan, that completes the noncontroversial reading of Supplemental 60B.

SENATOR MORAHAN: Now may we have the controversial reading of Calendar 60B.

ACTING PRESIDENT MEIER: The Secretary will conduct the controversial

reading of Calendar 60B.

THE SECRETARY: Calendar Number 1581, substituted earlier today by Member of the Assembly Parment --

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator McGee, Senator Schneiderman has requested an explanation of Calendar 1581.

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

Mr. President, through you, this legislation establishes a demonstration project for the expansion of the number of beds in assisted living facilities which are unable to meet the demand for available beds.

ACTING PRESIDENT MEIER: Senator Sampson.

SENATOR SAMPSON: Mr. President, would the sponsor yield for a few questions.

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

SENATOR McGEE: Most certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SAMPSON: Through you, Mr. President, to the sponsor, what counties would be eligible with respect to this legislation?

SENATOR McGEE: The counties that would be eligible are counties that have a designated population range.

This is a demonstration project which is a demonstration project for more rural counties. The population range is 110,000 to 150,000. There's Chautauqua, Jefferson, Ontario, Oswego, St. Lawrence, and Schenectady.

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

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

SENATOR McGEE: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SAMPSON: Through you, Mr. President, what would be the additional cost in Medicaid payments for the increase in these beds?

SENATOR McGEE: I'm sorry, I didn't hear him.

ACTING PRESIDENT MEIER: Senator Sampson, could you repeat your question?

SENATOR SAMPSON: Through you, Mr. President, once again, what would be the cost in Medicaid dollars for this additional increase in beds, if any?

SENATOR McGEE: The bill requires from the demonstration project that they submit an annual report stating the cost of the program and cost savings to the state and other program specifics.

If the findings of such a report do not reflect a cost savings to the state, the program can be terminated immediately. As it stands right now, it's set to run through the year 2007.

There is a short-term fiscal impact that is undetermined at this time. For the long --

SENATOR SAMPSON: I can't hear. I can't hear the response.

ACTING PRESIDENT MEIER: Can we have some quiet in the chamber so we can

complete these bills.

Senator McGee, you can go ahead.

SENATOR McGEE: I don't think my mike is on. That's why he's not hearing me.

Thank you.

This bill requires that the demonstration project submit an -- the light is off again. Could I step to the next desk?

ACTING PRESIDENT MEIER: Go ahead, Senator.

SENATOR McGEE: This bill requires that the demonstration project -- it's off again.

This bill requires that the demonstration project submit an annual report stating the cost of the program, cost savings to the state, and other program specifics.

And if the findings of such a report do not reflect a cost savings to the state, the program can be terminated or may be terminated immediately.

As it stands right now, it's scheduled to run to the year 2007.

The fiscal impact, there is a short-term fiscal impact which is undetermined

at this time.

For the long term, assisted living programs will prevent the need of more costly care, resulting in greater cost savings to the state.

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

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

SENATOR McGEE: I certainly will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SAMPSON: Through you, Mr. President. So if there is no cost savings to the state, are you saying it will be terminated at some point in time?

SENATOR McGEE: That's the purpose of the demonstration project. Assisted living facilities are really up-and-coming things in the state of New York, and I think extremely important because they do in fact keep that individual during that period of the time of their life.

Is there a determined cost at this

time? No, because that's a demonstration project. But it will be watched. They have to submit a report.

SENATOR SAMPSON: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1584, by Senator Seward, Senate Print 2255A, an act to enact the Oneida [sic] city school district public construction flexibility demonstration project act.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Seward, Senator Schneiderman has requested an explanation.

SENATOR SEWARD: Certainly, Mr. President.

In all due respect to our clerk, it's the Oneonta City School District. Another Indian name.

But seriously, this bill has been introduced at the request of the Oneonta City School District, which is about to embark on an approximately $14 million rehabilitation project covering five different school buildings. It's going to require a considerable coordination.

And this bill, which is called the "Oneonta City School District Public Construction Demonstration Project Act," would give the school district the flexibility to either go with a single contractor to assist with this coordination or the standard multiple-contractor route.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

ACTING PRESIDENT MEIER: Senator

Seward, do you yield?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: Thank you.

Is there anything in this bill that would require or mandate a project labor agreement for the work contemplated?

SENATOR SEWARD: Mr. President, there is nothing in the bill that would require a PLA, nor would it prohibit it. It gives the school district flexibility.

SENATOR SCHNEIDERMAN: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: Thank the sponsor.

The problem with not mandating a project labor agreement is that this bill is not going to ensure that it will limit competition, corruption and inadequate quality of construction, which is the language in the sponsor's memo. In the absence of a project labor agreement, it doesn't appear that that

will actually be the case.

So I appreciate the fact that the Oneonta school district wants more flexibility, but we have a system of laws in place to ensure competition and fair play and adequate payment for good quality work. And I'm afraid this legislation would cut against that tradition in New York State, so I am going to be voting against it.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, to explain my vote.

I'm going to vote against this bill even though I believe that the object of it is a good idea. But we've had two great examples so far of school projects done with Wicks left

out.

The New York City project left Wicks out, didn't have any labor agreements, and we've had every violation that they ever put Wicks in for happened in the New York City project. Most of them weren't reported in the written reports, but they happened -- substandard wiring, contractors that they didn't want to get business for various reasons, et cetera.

In Niagara Falls, on the other hand, we had the exclusion from Wicks, but with a project labor agreement. Buffalo has in their legislation an understanding about a project labor agreement that everyone except the county executive in Erie County understands is in there.

I was hoping that when the question came up from Senator Schneiderman that Senator Seward would say there was an understanding that there will be some kind of agreement with the various labor unions in the area.

Because there isn't any kind of understanding of that nature, I'm going to oppose the bill, vote no.

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

THE SECRETARY: Those recorded in the negative on Calendar Number 1584 are Senators Breslin, L. Krueger, Montgomery, Onorato, Schneiderman, and Stachowski. Ayes, 54. Nays, 6.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1588, by Senator Golden, Senate Print 3346A, an act to amend the Education Law and others.

SENATOR MORAHAN: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1589, by Senator Volker, Senate Print 3712, an act to amend the Criminal Procedure Law.

SENATOR SCHNEIDERMAN: Explanation.

SENATOR MORAHAN: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1602, by Senator Volker, Senate Print 5556, an act to amend the Mental Hygiene Law and others.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Volker, an explanation has been requested --

SENATOR VOLKER: Lay them aside just for a second, okay.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

Senator Morahan.

SENATOR MORAHAN: Mr. President, on the Supplemental Calendar 60A, could we take up Calendar 1569, please.

ACTING PRESIDENT MEIER: On Supplemental Calendar 60A, the Secretary will read Calendar 1569.

THE SECRETARY: In relation to Calendar Number 1569, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 8956 and substitute it for the identical Senate Bill Number 5576, Third Reading Calendar 1569.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1569, by the Assembly Committee on Rules, Assembly Print Number 8956, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. If we could take up the noncontroversial reading of Supplemental 2, the active list, starting with Calendar 1096.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of Supplemental Active List Number 2.

THE SECRETARY: Calendar Number 1096, substituted earlier today by Member of the Assembly Burling, Assembly Print Number 6095A, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1323, by Senator Johnson, Senate Print 5345, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1333, by Senator Libous, Senate Print 5419, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan, that completes Supplemental Active List Number 2.

SENATOR MORAHAN: Mr. President, could you call up Calendar 1610, from Supplemental Calendar 60B.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1610, by Senator Morahan, Senate Print 5657,

an act to authorize.

SENATOR MORAHAN: Is there a message at the desk, Mr. President?

ACTING PRESIDENT MEIER: There is.

SENATOR MORAHAN: I move that we accept that message.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill

is passed.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. I'd like to request unanimous consent to change my vote to negative on Calendar 1596, 5048A.

ACTING PRESIDENT MEIER: Without objection, Senator L. Krueger will be recorded in the negative on Calendar 1596.

Senator Sabini.

SENATOR SABINI: Mr. President, I ask unanimous consent to also be recorded in the negative on Calendar 1596, Senate 5048A.

ACTING PRESIDENT MEIER: Without objection, Senator Sabini will be recorded in the negative on Calendar 1596.

Senator Stavisky.

SENATOR STAVISKY: Mr. President, with unanimous consent I would appreciate being recorded in the negative on Calendar 1584, Senate 2255A.

ACTING PRESIDENT MEIER: Without objection, Senator Stavisky will be recorded in the negative on Calendar 1584.

Senator Padavan.

SENATOR PADAVAN: By unanimous consent, I'd like to be recorded in the negative on 1596.

ACTING PRESIDENT MEIER: Without objection, Senator Padavan will be recorded in the negative on Calendar 1596.

Senator Morahan.

SENATOR MORAHAN: Mr. President, can we at this time take up Calendar Number 1602, on the supplemental calendar.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1602, on Supplemental Calendar 60B.

THE SECRETARY: Calendar Number 1602, by Senator Volker, Senate Print 5556, an act to amend the Mental Hygiene Law and others.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Volker, Senator Schneiderman has requested an explanation.

SENATOR VOLKER: Right. Mr. President, I apologize. The reason that we had some difficulty here is I didn't realize

this bill is coming up today. I wanted to make sure that this year's bill was the same bill as in the past.

And we have checked it out, and it is the same bill. It's a gubernatorial program bill which deals with the issue of sexually violent predators and the civil commitment of sexually violent predators.

This bill passed the Senate several times. It passed the Senate in 2001 and also passed the Senate in 2002, I believe.

At any rate, this bill relates to the issue of people who are in certain classes of sexual predators, which are defined in the bill, who are committed to prison and then as they are about to be released can then be kept in prison in a confined manner for a period of time for the safety of the public.

The interesting thing about this now -- it's been tested, by the way, by the federal courts on a number of occasions. Senator Hoffmann had a bill that dealt with the commitment that was provided by -- I think it was Washington. I don't remember anymore. But Ken Connolly, who was then my counsel, who

is now the counsel to the DCJS, Department of Criminal Justice Services, drafted a bill for me back in the '90s that dealt with this issue and was, I believe, the first bill that was drafted in this state.

And although this bill that is printed this year is not exactly the same because of court cases, it is very similar to the bill that was originally drafted by us a number of years ago.

And as I say, it provides for a process for people who are about to be released from prison to be kept in custody until they are considered to be allowed to come back into society. It provides protections for those people, allows all sorts of provisions that deal with the predators themselves as well as to protect the public.

And I think that it's a bill that -- and I personally believe ultimately will become law. Although I realize that it is a provision that will get some civil libertarians very upset and has in the past done that.

So that, basically, is what we're

talking about here. It is virtually the same bill as last year except for a few minor changes that relate to court cases and numbers and so forth.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

SENATOR VOLKER: Certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: What are the provisions for a hearing or right to counsel in this piece of legislation?

SENATOR VOLKER: A person that has -- in fact, the rights to counsel are specifically listed in the bill. And the person all the way through the process has the right to counsel. The notification processes are in place. And the person has a right to be represented through the entire proceeding.

I like to say it's something akin, almost, to the proceedings for -- in death penalty cases, although it's a little more

extreme.

SENATOR SCHNEIDERMAN: Thank you.

I'd like to thank the sponsor.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: This is a difficult area of law for many of us because this provides for civilly confining someone after they have served their prison sentence.

And it does provide for substantial due process protections. But as has been pointed out in the past when dealing with attempts to pass laws like this, you really are punishing someone not for something that they've done -- because they've already paid the price for whatever wrong brought them to prison in the first place -- but for what they may do or what we think they might do, which is a very troublesome concept to many of us.

I think the most serious flaw in this process that I see is that in our state the right to counsel in many respects for far too many New Yorkers is really an illusory right. We don't get -- and we have raised the

18-B rates this year, but we still aren't providing the kinds of legal services that the indigent need. And I'm concerned that in civil contexts as well as in the criminal context, and certainly in the case of a civil commitment, we have an increasing disparity in the representation of New Yorkers in our court system.

I hope that we can go forward and attempt to address it. I think many of us have reluctantly supported this bill in the past and rely to a great extent on the fact that it does provide quite elaborate -- or not elaborate, but appropriately elaborate due process protections.

The problem is we have a crisis of counsel for poor people in this state. And this is part of a much larger problem. And it's something that we have not addressed this year. In fact, we are probably making it worse because of a pass-along effect of many jurisdictions, including the City of New York, are going to be hard-pressed to maintain some of the legal services that are currently being provided.

So I appreciate Senator Volker's efforts to make this bill as fair as possible. But until we deal with the problem of unfair disparities in legal representation in this state, none of these procedures is really going to be as good as it should be.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, would Senator Volker yield for --

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

SENATOR VOLKER: Sure.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR MONTGOMERY: Senator Volker, yes, I note that there is an elaborate, a very extensive process for determination. But it seems to refer to a commitment within DOCS where there will be a certain kind of treatment.

SENATOR VOLKER: Right.

SENATOR MONTGOMERY: And I'm just wondering, what is the protocol for treatment

of a person in this category, and do we have people in DOCS or do we anticipate having people in DOCS who will be treating this particular category of offender?

SENATOR VOLKER: The answer is yes. In fact, as you know, Mental Health has a number of facilities that are part of correctional services.

And when we first designed this bill, we even identified a potential prison where it already has a mental health component.

But what would happen, if this bill were to become law, we would set up -- within a short period of time, you would have to set up a place, a specific location where these people would be housed.

Now, keep in mind that this would not apply to people who are incarcerated beforehand, this would be, obviously, people who were incarcerated after the beginning of this law, so you would have some time.

But it was anticipated that both the Department of Corrections, Mental Health, and one other -- oh, Department of Health and

Department of Mental Health, I'm sorry, all three would get together and set up a special place for these people, probably a separate section of the prison system.

And at the time, there was one prison in mind. And the reason I think it's probably better not to mention it is because that probably has shifted -- that is, since then, where it would be.

And admittedly, there's -- there's considerable cost to this. We're not denying that. Because to make up specially housed people is not cheap.

But I think the theory is that if you do that, you also, by the way, are helping these people to get cured or if it is possible to cure these people themselves, and would become somewhat of an experimental facility, I think, to try to treat people who are sexual predators and who are, you know, sexually criminally ill.

SENATOR MONTGOMERY: Mr. President, if Senator Volker would continue to yield.

ACTING PRESIDENT MEIER: Senator

Volker, do you continue to yield?

SENATOR VOLKER: Certainly. Sure.

SENATOR MONTGOMERY: Yes, Senator Volker, this essentially could result in a lifetime of imprisonment, depending on what -- the verdict of the counsel that you set up in the legislation.

And so since we have at this current time basically no facility that I'm aware of in DOCS that adequately treats mentally ill inmates except in the SHUs -- I mean, most of our really seriously mentally ill inmates are in fact treated in SHUs, where they are locked in a cell for 23 hours a day.

And so if we do this legislation and you -- the bill indicates that people who are already incarcerated, when they are ready to be released, they go through this process. And if they are found to be in this category, this predatory category, they could then be recommitted under this for a civil incarceration, possibly for a lifetime. But we have no facility to treat them, based on your legislation here, because right now we

only have the SHUs.

SENATOR VOLKER: Well, Senator, I think you're -- you're certainly -- there's a confusion between SHUs and our mental health facilities. SHUs are not for mental health people, they are for people that either commit crimes in prison or are at prisons that create problems. And they're not necessarily kept there for 23 hours. That's newspaper mythology. These people can -- most of the people only stay in there for a period of time until they can get themselves the back on track.

We have mental health facilities within our prisons where people are watched over and taken care of and so forth if they're in particularly severe shape. Because one thing I think people don't seem to realize about SHUs, those SHUs are also for the protection of the other inmates.

It used to be that I used to have complaints constantly by inmates when I traveled to the prisons about inmates who were there who were attacking them or were dangerous and so forth.

So one of the things that I think has not been realized is that we already have mental health facilities where inmates are specially taken care of because they have some major problems.

Now, Clinton Correctional has some special areas in it. And we anticipated, if this bill were passed -- and by the way, if you notice the expected date, you'll see it's January 1st after it shall become law. And there's a reason for that, to give you some lead time, should this happen, to get things in place for more people.

But of course it wouldn't happen right away, because you'd have to have people convicted and it would be years, for the most part, before these people would actually be civilly committed anyways. You know what I mean? Most of the people will be arrested here and convicted are people who probably will be sentenced to 10 to 20 years, or certainly seven to whatever, because they are severe felons. So we're not just talking about ordinary people who go to prison for fairly minor offenses.

So I think you have to practically look at this that there's no rush to set up a special mental health facility, because you will have plenty of that time to do that. But the anticipation is that someplace like Clinton would be set up where these people in effect would be isolated in the prison system from the other inmates so that they could get, in a sense, better treatment and that they would keep the other inmates safe.

Because that's another part of the problem that we have, is that it's not just the inmates themselves, and maybe protect them from themselves, but also the other inmates who are in the prison system.

SENATOR MONTGOMERY: Thank you, Mr. President. Briefly on this legislation.

I think that there are many aspects of this issue that concern me, but just a couple of them I will mention.

One is at the current time the prison system is not -- does not have the capacity to actually treat people for whatever their mental illness, and that includes sexually violent people.

The legislation that we are discussing here seems to be targeting a particular kind of criminal activity. It is criminal activity that is both sexually motivated violent behavior and mentally ill. So it's a dual diagnosis, and it requires -- my assumption is that it requires a dual approach.

One approach, which we already have in place, is incarceration. People are incarcerated already based on their sexually violent predatory behavior.

The bill, however, goes a step further to say that we should not only incarcerate them for the crime, but we should also keep them incarcerated, up to a lifetime sentence, based on the mental illness that is associated with their criminal behavior. Yet we do not have the capacity, nor have we planned for any process whereby this type of person would actually receive mental health services.

In addition, I am concerned that we include in this legislation specifically youthful offenders who are also incarcerated

or who are judged to be sexually violent predators who are mentally ill.

So there are too many unanswered questions. We are not at this point prepared to deal with the people that we are intending to incarcerate under this legislation. There is -- as far as I know, there is not even a protocol for how we deal with this particularly -- this particular category of mental illness.

So I'm going to vote no on this legislation because I just think that to take such a drastic step as creating a lifetime incarceration for a particular category of people, where we have not even begun to figure out a process whereby we are going to provide treatment, how or where, I just think it is premature. We should not be legislating this kind of an approach without a better plan.

So I'm going to vote no.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, very quickly.

Senator, I think next year when we

have a little time I'd like to take you over to the Correction Department and give you a briefing on the amount of training and the changes that have come in the Correction Department in the last ten years with the MHUs and all the various mental health people that we have in the system.

Part of that came about because we were having so many problems in the system between inmates and the complaints were so prevalent. The media has never zeroed in on it, because we just don't talk about it. And it's not something that we certainly want to brag about, that we have a lot of people in our system who have enormous emotional problems.

Many of those people already are sexual predators. So I guess my disagreement with you is -- the interesting thing about this is this bill could, I think, be very, very important to deal with people that are in a high degree of vulnerability, as they call it, not only for themselves but also for the people of this state. Because we could really begin to do something about the recidivism of

sexual predators, which is extremely high.

There is, under Glenn Goord, who I happen to consider the best correction commissioner we've ever had here -- and I've been involved with a lot of them -- and a very forward-thinking fellow, I don't think that there's ever been a progress in mental health or certainly in health that has been made in our prison system as has been made.

And I understand your reluctance, and I understand all of that. But I have to tell you something. Our prison system is a whole different place than it was ten, fifteen years ago. And if there's anything I think this governor can take great pride in is the fact that, as governor, his people really made enormous and favorable changes in the prison system.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the first of January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. Can we take up Calendar 1609 from Supplemental List 60B.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1609.

THE SECRETARY: In relation to Calendar Number 1609, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 9028 and substitute it for the identical Senate Bill Number 5656, Third Reading Calendar 1609.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1609, by the Assembly Committee on Rules, assembly Print Number 9028, an act to amend the Village Law.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan.

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

ACTING PRESIDENT MEIER: Yes, there are, Senator. You want us to do those now?

SENATOR MORAHAN: Yes.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 29, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 8111 and substitute it for the identical Senate Bill Number 238, Third Reading Calendar 825.

ACTING PRESIDENT MEIER: Substitution ordered.

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT MEIER: Senator Padavan.

SENATOR PADAVAN: May I request unanimous consent to be recorded in the negative on Calendar 1583, Senate Bill 2129.

ACTING PRESIDENT MEIER: Without objection, Senator Padavan will be recorded in the negative on Calendar 1583.

Senator Morahan.

SENATOR MORAHAN: Mr. President, on Supplemental Calendar 60B, I'd like to lay aside for the day Calendar 1589, by Senator Volker.

ACTING PRESIDENT MEIER: Calendar 1589 will be laid aside for the day.

Senator Morahan.

SENATOR MORAHAN: Mr. President, please recognize Senator Balboni.

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR MORAHAN: In a minute.

SENATOR BALBONI: Mr. President, I would request unanimous consent to vote in the negative on Senate Bill 2129, Calendar

5183. Thank you.

ACTING PRESIDENT MEIER: Without objection, Senator Balboni will be recorded in the negative on Calendar 1583.

Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. For the information of the members, we'll be standing at ease for the next few minutes.

SENATOR ALESI: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 5:19 p.m.)

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Would you recognize our colleague Senator Marcellino, please, for a great announcement.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Senator Morahan.

I would like unanimous consent to be recorded in the negative on Calendar Number 1583.

ACTING PRESIDENT MEIER: No.

Without objection -- without objection, Senator Marcellino will be recorded in the negative on Calendar 1583.

SENATOR MARCELLINO: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Saland.

SENATOR SALAND: Mr. President, I would request unanimous consent to be recorded in the negative on Calendar Number 1583, Senate 2129.

ACTING PRESIDENT MEIER: Without objection, Senator Saland will be recorded in the negative on 1583.

Senator Morahan.

SENATOR MORAHAN: Thank you, Mr. President.

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

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

SENATOR MORAHAN: The Senate will

stand at ease.

ACTING PRESIDENT MEIER: The Senate will continue to stand at ease.

(Whereupon, the Senate reconvened at 6:17 p.m.)

SENATOR MORAHAN: Madam President, could we return to reports of standing committees.

I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT McGEE: Yes.

The Secretary will read.

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

Senate Print 385A, by Senator Saland, an act to amend the Public Health Law;

2696A, by Senator Mendez, an act to amend the Real Property Tax Law;

2697A, by Senator Mendez, an act to amend the State Finance Law;

2735A, by Senator Padavan, an act to amend the Environmental Conservation Law;

3332A, by Senator LaValle, an act to amend the Education Law;

3556, by Senator Bruno, an act authorizing;

3801A, by Senator Wright, an act to amend the Public Authorities Law;

4518A, by Senator Robach, an act to amend the Correction Law;

4633B, by Senator Fuschillo, an act to amend the Insurance Law;

5037A, by Senator McGee, an act to amend the Tax Law;

5183, by Senator Volker, an act to amend the Insurance Law;

5352, by Senator Padavan, an act to amend the Administrative Code of the City of New York;

5353, by Senator Padavan, an act to amend the Administrative Code of the City of New York;

5378B, by Senator Alesi, an act to amend the Insurance Law;

5542, by Senator Hannon, an act to amend;

5643, by the Senate Committee on Rules, an act to amend the Public Authorities Law;

5654, by Senator Robach, an act to amend the Education Law;

5673A, by Senator Wright, an act to amend the Energy Law;

5679, by Senator Little, an act to amend the Economic Development Law;

5681, by Senator Golden, an act to amend the Education Law;

And Senate Print 5684, by Senator A. Smith, an act to amend Chapter 261 of the Laws of 1988.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Move we accept the report, Madam President.

ACTING PRESIDENT McGEE: All in favor of accepting the report signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The

report of the Rules Committee is accepted.

SENATOR MORAHAN: Can we take a moment until the calendars get out before we start the noncontroversial reading.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: Madam President, with unanimous consent I would like to be recorded in the negative on Calendar 1596, Senate 5048A.

ACTING PRESIDENT McGEE: Without objection.

SENATOR STAVISKY: Thank you.

ACTING PRESIDENT McGEE: Senator Little.

SENATOR LITTLE: Thank you, Madam President. If I may, by unanimous consent, could I be recorded in the negative on Calendar 814, Calendar 1494, and Calendar 1509.

ACTING PRESIDENT McGEE: Without objection.

SENATOR LITTLE: Without objection. Thank you.

ACTING PRESIDENT McGEE: Senator

Morahan.

SENATOR MORAHAN: Yes, Madam President, can we start the noncontroversial reading of the calendar, Supplemental Calendar 60C, and call for a little order in the house.

ACTING PRESIDENT McGEE: Can we have some quiet, please. Thank you.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1615, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 1108A and substitute it for the identical Senate Bill Number 385A, Third Reading Calendar 1615.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1615, by Member of the Assembly Weisenberg, Assembly Print Number 1108A, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1616, Senator Mendez moves to discharge, from the Committee on Rules, Assembly Bill Number 6348A and substitute it for the identical Senate Bill Number 2696A, Third Reading Calendar 1616.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1616, by Member of the Assembly Powell, Assembly Print Number 6348A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you. To explain my vote, Madam President.

ACTING PRESIDENT McGEE: Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Well, since yesterday I was complaining about the fact that we were passing a law to increase the level for low-income seniors who own their homes to $24,000, I feel that I should at least, when I get up to vote yes today, say that I am very pleased that this house is at minimum raising the SCRIE program to the same level of $24,000.

Although, for the record, we should be doing it to a minimum of $30,000 and including the disabled. But I am very pleased that at the last minute we are passing this bill today.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Liz Krueger will be recorded in the

affirmative.

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1617, Senator Mendez moves to discharge, from the Committee on Finance, Assembly Bill Number 9057 and substitute it for the identical Senate Bill Number 2697A, Third Reading Calendar 1617.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1617, by the Assembly Committee on Rules, Assembly Print Number 9057, an act to amend the State Finance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

SENATOR MORAHAN: Madam President, would you recognize Senator Mendez, please.

ACTING PRESIDENT McGEE: Senator Mendez.

SENATOR MENDEZ: Madam President, I think that this is a very important bill, primarily for all the minority communities in the State of New York.

But I also do know that many other nonminority members here would like to partake and be cosponsors of this bill. So I really want to let all my colleagues know that any one of you who want to be a cosponsor to this bill, please do so, advise the clerk.

Thank you.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Madam President, Senator Mendez would like to have all members who care to be on that bill as cosponsors to be listed. Those who do not

will notify the desk.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: I believe we would like to recognize Senator Hassell-Thompson, please.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Are you ready for me?

ACTING PRESIDENT McGEE: Ready.

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

Today happens to be a twenty-year anniversary again. When I spoke earlier, I talked about having served on the Governor's Advisory for Apprenticeship and Training.

But at that same time, I also had the privilege of serving on the Minority and Women Business Economic Development for the State of New York. And one of the activities during that period was to work with each of the state agencies to create and promulgate language for this bill.

I am very proud of you, Senator

Mendez, because 20 years ago we did not have legislators that were ready to come forward and to create a bill and do a legislative initiative that would make this law. And in those 20 years, we've come a long way. And the importance of our procurement and reporting is very critical. And that is a major piece of this bill.

ACTING PRESIDENT McGEE: Can we have some quiet when one of our members is speaking, please.

SENATOR HASSELL-THOMPSON: Thank you.

The reporting piece becomes very important. And so does the disparity study. Because there is the common belief, which is not true, that we have reached a period where we do not need to have special consideration for women and minorities who want to do business with the State of New York and who want to survive in the world of business.

And so this bill goes a long way toward opening up those opportunities. And I just am appreciative of you, Senator Mendez, for taking the initiative, along with

Assemblyman Towns, to give us the best possible entryway for this bill that is possible. It means that the last 20 years have not been in vain.

Thank you, Madam President.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1618, by Senator Padavan, Senate Print 2735A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

SENATOR MORAHAN: Lay it aside.

ACTING PRESIDENT McGEE: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1619, Senator LaValle moves to discharge, from the Committee on Rules,

Assembly Bill Number 5580A and substitute it for the identical Senate Bill Number 3332A, Third Reading Calendar 1619.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1619, by Member of the Assembly Canestrari, Assembly Print Number 5580A, an act to amend the Education Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1620, by Senator Bruno, Senate Print 3556, an act authorizing the South Glens Falls Central School District.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1621, by Senator Wright, Senate Print 3801A, an act to amend the Public Authorities Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1622, Senator Robach moves to discharge, from the Committee on Rules,

Assembly Bill Number 8798 and substitute it for the identical Senate Bill Number 4518A, Third Reading Calendar 1622.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1622, by the Assembly Committee on Rules, Assembly Print Number 8798, an act to amend the Correction Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1623, by Senator Fuschillo, Senate Print 4633B, an act to amend the Insurance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1624 --

ACTING PRESIDENT McGEE: Can we have some quiet, please. Thank you.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1624, Senator McGee moves to discharge, from the Committee on Rules, Assembly Bill Number 8528A and substitute it for the identical Senate Bill Number 5037A, Third Reading Calendar 1624.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1624, by the Assembly Committee on Rules, Assembly Print Number 8528A, an act to amend

the Tax Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1625, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 8593 and substitute it for the identical Senate Bill Number 5183, Third Reading Calendar 1625.

ACTING PRESIDENT McGEE: Substitution or ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1625, by the Assembly Committee on Rules, Assembly Print Number 8593, an act to amend the Insurance Law.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1626, by Senator Padavan, Senate Print 5352, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1627, by Senator Padavan, Senate Print 5353,

an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1628, by Senator Alesi, Senate Print 5378B, an act to amend the Insurance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1629, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8874 and substitute it for the identical Senate Bill Number 5542, Third Reading Calendar 1629.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1629, by the Assembly Committee on Rules, Assembly Print Number 8874, an act to amend Chapter 384 --

ACTING PRESIDENT McGEE: I'm sorry. Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1630, by the Senate Committee on Rules, Senate

Print Number 5643, an act to amend the Public Authorities Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1636, Senator A. Smith moves to discharge, from the Committee on Rules, Assembly Print Number 7233A and substitute it for the identical Senate Bill Number 5684, Third Reading Calendar 1636.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1636, by Member of the Assembly Destito, Assembly Print Number 7233A, an act to amend Chapter 261 of the Laws of 1988.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Smith.

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

ACTING PRESIDENT McGEE: Senator Smith, on the bill.

SENATOR MALCOLM SMITH: To explain my vote, I'm sorry.

This particular bill that Senator Smith and many of the colleagues in the Senate put together over the last year or so is the extension or the renewal of Article 15A. It actually sisters the bill that Senator Mendez has put forward.

And what this bill will allow for, which is important to many businesses

throughout the state of New York, is a level of participation in addition to a level of monitoring.

What I do rise to do, though, is to do something that doesn't often happen, and that is to thank some of the individuals who were very much involved in the preparation of this bill, those who have been behind the scenes. Where you might see myself and other colleagues like myself who stand before you and represent our interests and our function in the process, there are individuals who behind the scenes drive a lot of what goes on here.

And I wanted to thank personally someone who worked for me who is also a fellow, and that is Chris Labarge, who was in the chambers tonight. He has followed this bill quite some time. Edna Jackson was part of the Program Office, in addition to Mark Leinung. There are a number of other individuals who I know have been involved.

But I think it was only fitting that their names be presented. Because again, while you might see members take credit for

what happens, it is clearly those soldiers in the background that deserve a lot of credit for what they've done, and I wanted the record to so reflect.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you.

I am very sorry that Senator Ada Smith is not in the chambers today so that she, along with Senator Mendez, can receive her accolades from us personally for her efforts also on this 15A bill.

This is the entryway. This is the bill that will lift the sunset and make sure that minority and women businesses continue to do business with the State of New York.

So I want to, in her absence, and for the record, commend Senator Ada Smith for this bill, and to lend my support to those who have worked very, very hard to make this happen so successfully at the end of this session.

Thank you, Madam President.

ACTING PRESIDENT McGEE: The bill

is passed.

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

SENATOR MORAHAN: Madam President, may we go on to the controversial reading of the calendar.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1618.

THE SECRETARY: Calendar Number 1618, by Senator Padavan, Senate Print 2735A, an act to amend the Environmental Conservation Law.

SENATOR MALCOLM SMITH: Explanation.

ACTING PRESIDENT McGEE: Senator Padavan, I believe an explanation has been called for.

SENATOR PADAVAN: Thank you, Madam President.

What the bill does is outlaw for this state, as it does for 14 other states in this country, many of them states where hunting is a very important part of the economy, in places like Montana, Nevada, Oregon, Washington State, Wyoming -- it

precludes the fencing in of an area of whatever size and then placing within that geographic boundary exotic animals, generally referred to as zoo animals, animals that are not native to New York State, charging a fee to an individual to come into that area to take one of those animals, either by rifle or bow and arrow, and call it a hunt.

The word "canned hunt" is a misnomer. It's more "canned shoot." It's like shooting a fish in a barrel, to use a common phrase.

Those who are hunters that I know find this particular activity abhorrent. I have hunted, and I have never heard of anyone that I knew of who was truly a sportsman feeling that this was a sport.

But it is inhumane. It's inhumane for this reason. If you take a normally wild animal, whether it be a zebra, an antelope, some exotic animal not indigenous to New York State, place it in a fenced-in area of whatever size, feed it, keep it, after a while that animal becomes very docile. They see that pickup truck coming down the road, it's

the truck that brings them food. But this time the guy gets out of the cab and takes it, bow and arrow or a rifle.

That's wrong. And this bill will preclude it from happening in New York State.

ACTING PRESIDENT McGEE: Senator Hoffmann.

SENATOR HOFFMANN: Will the sponsor yield for a question, please.

SENATOR PADAVAN: Yes.

SENATOR HOFFMANN: Through you, Madam President. I wonder if the sponsor would indicate whether or not shotgun hunting is also as offensive to him. He mentioned bow and arrow and rifle.

SENATOR PADAVAN: You can use a shotgun, of course. A shotgun with a slug in it or whatever caliber shotgun you want. If it takes the animal down, it takes it down.

SENATOR HOFFMANN: Would the sponsor yield for an additional question.

ACTING PRESIDENT McGEE: Senator Padavan, will you yield for an additional question from Senator Hoffmann?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HOFFMANN: Senator Padavan indicated that he was not happy with the idea that the current statute allowed a 10-acre restriction. I'm wondering if there is a size that Senator Padavan would find acceptable in acreage.

SENATOR PADAVAN: Ten acres was a nominal size which meant that someone could acquire 10 and a quarter acres, fence it in, and do exactly the same thing. It was an attempt that really didn't serve the purpose to which it was intended: to prevent this type of activity.

As far as the size is concerned, if you fence in that area and place within it the type of animals we're talking about, animals that are fed and kept, imported, whatever, there are going to be limits as to the size of the land no matter what you do. I don't care what part of the state you're in. And I've been in every part of the state, from the northwestern frontier to the northeast, one end to the other. And I've been in very dense

areas.

But in any event, I don't care how big that parcel is. If you fence it in, that animal will go to the limit of the land available to it and eventually will get to the fence, and there it will be killed.

SENATOR HOFFMANN: Thank you, Senator.

Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Hoffmann, on the bill.

SENATOR HOFFMANN: I was wondering if Senator Padavan had a size that he would find an acceptable field of hunting activity. I'm not going to use his terminology, "canned hunt," because I think it denigrates an activity that has been in existence for many years. Not that there are a great many enterprises that fit the kind of description that Senator Padavan characterized, but there are others that I think many of us would find perfectly appropriate.

For instance, a farm right now that is not highly successful in the farm economy

will often seek to lease farmland to hunters. There are many types of native species, but there are also other species that will reproduce well here in the Northeastern United States and are perfectly compatible with current ecological and environmental practices.

Red deer, for instance, are not native to New York State, they're European, but they can be brought into this part of the world and thrive. So can fallow deer. And in fact, there are a number of farms right now where fallow deer are raised as an agricultural crop.

All of these farms have fence around them. And why would they have fence? Well, a number of reasons, some relating to the practice of agriculture. One would like to keep inappropriate predators like coyotes out of a fenced area to protect the crops. One also tries to prevent domestic animals like cows and horses from straying into another person's property, whether it be a farmer or a nonfarmer neighbor.

So many of our farms in New York

State are in fact large, fenced areas, some of them numbering into the hundred of acres. And there would be, in my opinion, absolutely nothing inappropriate with somebody importing a species deemed by Senator Padavan's legislation to be nonnative and keeping it on that farm in a several-hundred-acre area, allowing it to graze or allowing it to overfeed on the corn after it's harvested -- or wheat or soybeans or any number of other crops -- and then selling hunting rights to farmers, to nonfarmers who would like to come and have the hunting experience.

This is a perfectly appropriate activity in New York State. In fact, it is one which is encouraged by the Department of Environmental Conservation. We have handbooks, guidebooks, courses that teach good hunting safety. And it is a major activity to bring income into New York State because we are an attractive state for people in more urban areas.

So while I recognize that the three sponsors of this bill -- Senators Padavan, Maltese, and Trunzo -- may have been concerned

about something that they were somewhat less informed with, I'm confident that in this chamber there are many members who respect the right of farmers and other large landowners to take advantage of their property and utilize the activity of hunting leases and occasional hunting for profit, should they choose to do so. And to be told that they would be in violation of the law or, as the sponsors' memo reads, committing an abominable commercial operation, is insulting, is insulting to the farmers of this state.

I take great exception to this piece of legislation, Madam President, and I will vote no.

ACTING PRESIDENT McGEE: Senator Volker.

SENATOR VOLKER: Madam President, I hesitate in a very strong manner in objecting to my good friend Frank Padavan's bill.

And the reason I do is several reasons. Some years ago Frank and I debated for about an hour over a rather sizable bill, and of course Frank has been my friend for --

he's sat next to me now for 29 years. The last time that I debated vociferously against him, I think he didn't talk to me for three months.

But unfortunately, this bill is a clash of cultures. What Frank just described as a canned hunt is what the Humane Society people and the animal people say canned hunts are, which has no -- for the most part, no -- nothing in reality.

This is not about tigers and bears and all that other stuff. This is about an industry that in upstate New York -- and I realize there's none in New York City that I'm aware of -- but in a lot of places is part of a tourist industry. And things like elks and even boar are introduced into that area.

And by the way, you could have a whole park that could be included in this bill. You say "fenced in." Well, parks are fenced in, some parks. And it's not what you think. These animals aren't fed. When they put them in there, they eat themselves. I mean, they get along like anything else.

It's not like -- and I've been in

debates on this, and I've listened to people who have no concept of what this is really all about. And, Frank, I really hesitate to do this. This is the classic confrontation between those of us that live in upstate and rural areas and people who think more like urban people. It's why sometimes you say to me -- and you're right -- that I really don't have the same understanding of people in urban areas.

And I accept that. My roommate next to me here, Senator LaValle, I certainly don't understand sometimes his area on Long Island. And I'm the first to admit that.

But I have to say to you, Frank, for us upstate -- and I'm glad you at least amended out some of the other stuff that was in there. This is not really what you think it is. It's not -- for somebody that lives where I live, and I've hunted and I've fished and all that, I don't believe I've ever done what they call a canned hunt.

But I know there are huge preserves where people go and they pay a few bucks, and sometimes a company will send people there to

hunt on a property, and they'll have a few drinks and a few -- something to eat. And those animals, by the way, are as -- they're as wild as any animals in any part of this country. They're not easy to kill. If they were easy, it would be different. They're not.

So I must say to -- and I hesitate to do this, but I have to say that this is not a good bill. And it's certainly not a good bill for the farmers upstate, it's not a good bill for, I believe, the people -- most of the people of this state.

It's a good bill for the people like the PETA people who have no clue, really, about many of the animals in this state and how to treat animals. They are in part responsible for the enormous slaughter of deer on our highways that has become almost epidemic because, you know, they've cut down on hunting and all the rest of the stuff.

So it just seems to me -- and I'm sorry to do this, Frank --

SENATOR PADAVAN: Don't be.

SENATOR VOLKER: Okay. But I

have to say that on behalf of myself and those that I think I -- I'm in contact with from upstate, this is not a good bill at all.

SENATOR PADAVAN: Madam President.

ACTING PRESIDENT McGEE: Senator Padavan.

SENATOR PADAVAN: I don't want to exacerbate this discussion, because there are many things we've got to do here before we leave. But there are some statements that have been made that are just technically not -- in error.

I have a booklet here which lists a number of these facilities in New York State. Let me refer to one. Old Stone Fence Hunting Adventures in Rensselaer Falls, New York. "Red stag, $1,500." They have a price list depending on what you want to shoot that day. "Buffalo, $1,600." On and on it goes. "Other species available upon request."

They'll put anything in there you want so you can shoot it and hang it up on the wall as your trophy. That's not a unique place. They do exist elsewhere.

Now, as I said earlier, there are a number of states in this country that already preclude -- have done so for many years. And they're not places that you would refer to, generally speaking, as having the upstate/downstate mentality. If you've been to Montana and Wyoming and Oregon, there is no upstate/downstate. It's all upstate, and hunting is a way of life. And they won't allow this to go on.

Now, if a mammal in this state becomes indigenous, through whatever means, then it's precluded from this bill. We bent over backwards to make sure that farmers who raise deer for food and allow it to be hunted are precluded. So don't include them, because we took them out. Venison is a food that is certainly consumed, and so farmers are not going to be impacted in terms of their livelihood if that is what they rely upon.

I could go into a lot more detail, give you a lot more examples, show you a whole bunch of photographs, and bore the tears out of you. The fact remains, I have not personally -- and I know a lot of them who are

hunters who tell me -- and I was talking to one just the other night, who hunts not only all over this state but all over the country, who would not participate in this because they do feel it's inhumane and they do feel it's, frankly, not hunting.

Because you can talk about these large tracts of land. But as I said earlier, eventually you get the animal to the fence, with your pickup truck or whatever the means is. And if it's a nondomestic animal, under this law you would be precluded from not taking it.

With all due respect to my colleague, Senator Volker, I will talk to you tomorrow even if you vote against this bill. But we're not going to be here tomorrow.

(Laughter.)

SENATOR PADAVAN: Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Maltese.

SENATOR MALTESE: Yes, Madam President. First of all, as to Senator Volker's remarks as to whether or not Frank

would talk to him, I think the end result that he would is probably not preferable.

(Laughter.)

SENATOR MALTESE: But as to this very important legislation, I think, being the original sponsor of the bill confining the area to 10 or less acres, I remember much of the debate and the correspondence pro and con.

And both my brothers are hunters, and we discussed it at great length, as did many of my friends. And certainly as far as districts within the City of New York, I would daresay that there are as many hunters in my district as there might be in any upstate area. They are -- many of them have sports clubs and sportsmen's clubs.

The very definition of the word "sport," it takes great offense at this being called anything close to a sport. I have, in all the debate that we had on the original canned-hunt bill, with the exception of some people who came up and advocated for the bill, the majority of them would say to me ahead of time: "I'm for hunting, I'm for shooting, I'm for, you know, taking game," but many of them

would then say, "But this is alien to me. This is not something that I would defend. This is not something that I feel should be done."

And what Senator Padavan said, he said it well. These animals, most of them are tame. They walk up to you and come up to you to be fed from your hand. And it is a crime, it should be a crime to take these animals and then call it sport.

I tried to find the definition of sport and had my legislative counsel just bring it to me. But unfortunately, it doesn't have -- it's a source of diversion or recreation or physical activity engaged in for pleasure. But that's not what I'm after.

If this is a pleasure, if this is a true sport, then I tell you -- and I am not afraid or frightened to go back to my district and defend a vote for this bill under any measure or stretch of the imagination. This is a bill that seeks to remedy a terrible wrong. This is a bill that I believe any true huntsman, any true sportsman would support and advocate.

This is not sport. This is slaughter, a slaughter of a pet. It could just as well be a slaughter of a companion pet. This is not something that our true sportsmen or our huntsmen would want to be identified with. The sport is alien to Americanism, not patriotic. I'll bring anything and everything into it to tell you that this is not something that should be engaged in by people that truly love sport and truly love sportsmanship.

I urge and advocate a vote for this fine bill.

SENATOR VOLKER: Madam President.

ACTING PRESIDENT McGEE: Senator Volker.

SENATOR VOLKER: Can I just respond to that?

Senator Maltese, Senator Padavan, the reason I'm a little upset at this, I agree with you except for one thing. That's not what we're talking about.

What we're talking about is huge plots of land where ordinary animals are out there and it's part of hunting. The thing

that you're talking about is what people -- the animal people are saying, which is ridiculous. I agree with you. I've never done that, and almost none of us in this chamber would do that. That's not what this bill is all about.

And by the way, the animal-rights people know it. They're not so dumb. They use these people who do this sort of thing and -- I don't know, there's none in my area. I don't believe -- I don't know of any of those kind of canned-hunt things in all of upstate New York. There probably are some places, because there are some greedy people that do that sort of thing. This is not about that.

This is about ordinary hunters. And I've got to tell you, I have a tremendous amount of hunters in my area. They all think that this is nuts. And the reason they think it's nuts is that the only difference between just ordinary regular hunting is that you have some sort of restrictions, it may not even be totally fenced, and people go out and they hunt.

It's not as if these are domestic animals that you feed. They don't feed the animals in these places. Ten thousand acres, how you going to feed animals? I mean, you couldn't get to them most of the time.

So I know what you're saying, and I don't disagree with you. That's not what this bill is all about. You may think it is, but that's not what it is.

And by the way, the people that are out there now, we got some frenetic people out there who are extremely worried about the impact of this bill: the Farm Bureau. And they should be. Because there's all sorts of repercussions over this.

And I think the problem is that we're dealing with an issue that is not understood in part of the state and then many people who in upstate New York want to stop hunting. Well, that's fine. But hunting is a big producer in this state, a lot of money, a lot of people in the tourist industry. It's important to the state. And those of us that have been in this state a few years, and I'm one of them, feel very strongly about it.

And, you know, if you want to ban canned hunting in New York City, fine. But don't -- don't try to do it in upstate New York.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Yes, would the sponsor yield.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT McGEE: The sponsor yields.

SENATOR MORAHAN: Senator, I would just like to get some clarification.

This bill, as I see it, changes -- the current law now prohibits this sort of activity in any fenced-in area of 10 or less contiguous acres. Is that correct, that's about all this bill does?

SENATOR PADAVAN: Well, it does two things, Senator.

Previously, as Senator Maltese told you, a bill was passed, I think in 1999, which placed restrictions on this kind of activity

in an area of 10 acres or less, yes.

But as I said in my explanation earlier, 10 acres became really irrelevant, because you can go 10 and a quarter acres and do exactly the same thing.

The issue became, what is it, within a fenced-in area. So we changed that part of the bill, took out the acreage and put in "or in a fenced area or other area of similar type."

But in the process we took out any reference to animals that are hunted or raised in the state that are indigenous to New York State, mammals such as deer, bear, and a variety of other animals that we have. And we restricted it to the nonnative big-game mammal, nonnative. So that brings it into the category generally of animals that are imported, exotic animals.

And I don't want to get Senator Volker exercised again, but I could show you photographs of everything from lions to mountain goats to elk, a variety of other animals that have been taken at facilities such as this.

SENATOR MORAHAN: Madam President.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: If the sponsor will continue to yield.

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR MORAHAN: Then I can assume that currently this activity is allowed on acreage of 10 or less, would those animals be fed in any way right now, or would they just be 10 acres -- I don't know how many animals you can have on a parcel that small that they could all thrive on the natural fauna or whatever.

SENATOR PADAVAN: Of course. Generally, you know, cattle ranches will feed cattle on tens of thousands of acres. They'll bring them out by pickup truck, they'll drop them from helicopters, they'll do what they have to do, particularly during a time of

drought.

And so with animals such as this sort, irrespective of the size, it's not uncommon for these animals to be fed in some fashion or other.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

Thank you, Mr. Sponsor.

ACTING PRESIDENT McGEE: Anyone else wishing to speak on the bill?

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1618 are Senators Bonacic, DeFrancisco, Farley, Hoffmann, Kuhl, Larkin, Leibell, Libous, Little, Maziarz, McGee, Meier, Morahan, Nozzolio, Rath, Saland, Seward, Stachowski,

Volker, and Wright. Ayes, 41. Nays, 20.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Would you call up Calendar 1634, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1634, by Senator Little, Senate Print 5679, an act to amend the Economic Development Law.

ACTING PRESIDENT McGEE: Senator Morahan.

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

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

SENATOR MORAHAN: I move that we accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

The Secretary will read the last section.

THE SECRETARY: Section 43. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

SENATOR MALCOLM SMITH: Explanation.

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

SENATOR LITTLE: Thank you.

I am very honored and extremely proud to be the first sponsor on this bill. And I'd like to begin by thanking Majority Leader Bruno and Senator Balboni, as chairman of the Veterans Committee, for allowing me to be sponsor of this bill.

This year, without a doubt, has been a learning experience for me: certainly on the professional level, learning about the Senate; secondly, learning on a personal level, having my son on active duty in Iraq --

ACTING PRESIDENT McGEE: We'll wait until all conversations are over and then we can listen to you.

Thank you very much.

SENATOR LITTLE: Thank you.

Certainly on a personal level, having a son serving in the Navy and being on active duty in Iraq, I learned several things. I learned the meaning of "in harm's way." I also learned the meaning of the sacrifices that the wives, children, parents and siblings go through when they have someone on active duty.

And I also learned about the anxiety that goes on in a person when you are watching, as we did on television, wondering if your family's life was going to be changed that day.

So as I stand here with this bill and explain what this bill does, I'm very proud of this chamber and proud of our state for trying to do something to show the support for our men and women.

Our military today is all-volunteer, and the military that we have

been calling up in our state are volunteer part-timers. Now, my own son is full-time, has the benefits of military service and military life. But many of the people in New York State that were called up were reservists or were on National Guard. They didn't expect to be called for the length of time that they were called, and many of them were not prepared.

What this bill does is assist their families, shows support for them, and helps them in many financial ways to be able to serve our country without the added worry of wondering about the car lease, the mortgage payment, the tuition in college, the place for your job, what's going on with your family, are you going to be able to afford to talk to them, to have video conferencing with them.

There are so many things in this bill that help a family survive and get through the emotional experience and the anxiety that they experience when their loved one is serving overseas.

We are very proud of all the men and women in our state who participated in

this. Unfortunately, nine New Yorkers lost their lives in this conflict. And part of this bill would allow those children of those families and all of the children of families back to the 1990 conflict that we underwent, their children would have free tuition at a New York City, New York State school, college, SUNY and CUNY, as well as the amount of tuition at a private school if they chose that.

These are things that we can do when a family gives up a loved one and actually lose their life or are so severely crippled that they can't function in life.

There are many other things that are included in this bill, but they are all geared towards one purpose, and that is to enhance benefits to New York military personnel that will minimize the disruptions that military activation may cause in the lives of such personnel and their families.

I'm very proud to be a part of this bill, and I think as a state we stand alone in doing this. I'm sure there will be many other states who will follow.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 43. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Balboni.

SENATOR BALBONI: Madam President, to explain my vote very briefly.

ACTING PRESIDENT McGEE: Senator Balboni, to explain his vote.

SENATOR BALBONI: This session has been noted for the things we have not accomplished. We must look to this bill, the Little bill -- it's a very big bill -- as the way to do business.

It really is. And why is it so appropriate for Betty Little to be doing this? Because few people understand what it's like like she does, to watch TV and know that her son is in harm's way protecting this great nation.

But as so, each one of us have seen

the sacrifices that our men and women who have served in the armed forces and National Guard have performed. The service has never been longer, the duty has never been more frightening, and the need has never been greater for this kind of legislation.

Betty, great job.

Thank you, Madam President. I vote aye.

ACTING PRESIDENT McGEE: Senator Balboni will be listed in the affirmative.

Senator Diaz.

SENATOR DIAZ: Thank you. I would like to explain my vote.

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

SENATOR DIAZ: I also, Madam President, would like to join my colleague Senator Balboni in praising the Little bill and saying that our young men and women, right now, at this very moment, they are being put in many dangers right to -- for the purpose of defending this country and defending the freedom that we all enjoy.

And I think that this bill is the

least we could do for all those heroes, young men and women that have given their lives and their families, suffering, they are lost. And I praise Senator Little for this beautiful, magnificent bill, and I hope, I hope that we could do more.

But at least we're doing something and we're sending a message to our heroes, our young soldiers and members of the armed forces of the United States of America, the best country in the world and the best armed forces in the world. And I'm so proud of being and living in this country and being defended, defended by those heroes.

And right now, the other night I listened, I was watching TV when they've been ambushed and been killed, being -- giving their lives. And again, I repeat myself, this is the least we could do for them.

I'm honored, I'm proud in being part of the members of this Senate that are supporting this bill.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Diaz will be listed in the affirmative.

Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you very much, Madam President. Just very briefly to explain my vote.

Congratulations to Senator Little.

Recently we celebrated the life of a gentleman who was dedicated to supporting benefits on behalf of veterans and those in the military by the name of Mike Handy. Myself, Senator Maltese, Liz Krueger, several members got up and speak on the resolution because of his concern and interest as relates to veterans and the benefits that they receive as well as services when they came back from their particular conflict.

This particular bill addresses so much of what he was fighting for. One of the things I recall his mother -- his wife asking me when I went to the wake was: Do you know if any of the things that Mike Handy fought for for our veterans, for those who are in military conflict, will ever be addressed? And I told her I felt that this year that would happen in this chamber.

Today I'm quite sure that Mike

Handy, wherever he is -- and I'm sure he's up above -- is looking down on us right now, smiling greatly, because we are doing so much for our veterans and those that are in the military.

Because when they come back normally, they end up fighting a war for us wherever they are, and the worst that can happen is when they come back they fight another war for their benefits and on behalf of their families.

So this is a great day for all of our military personnel.

Thank you, Senator Little, for your great work.

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Madam President. Are there any substitutions at the desk?

ACTING PRESIDENT McGEE: Yes,

there are substitutions at the desk.

The Secretary will read.

THE SECRETARY: On page 17, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 6512 and substitute it for the identical Senate Bill Number 2088, Third Reading Calendar 513.

ACTING PRESIDENT McGEE: Substitution ordered.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Madam President. Could we temporarily stand at ease, please.

ACTING PRESIDENT McGEE: Senate will stand at ease.

(Whereupon, the Senate stood at ease at 7:18 p.m.)

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President. There will be an immediate conference of the Majority in the Majority Conference Room.

ACTING PRESIDENT McGEE: Immediate conference of the Majority in the

Majority Conference Room.

SENATOR MORAHAN: We expect it to last 10 to 15 to 20 minutes.

ACTING PRESIDENT McGEE: The time frame will be anywhere from 10 to 20 minutes.

(Whereupon, the Senate reconvened at 8:31 p.m.)

ACTING PRESIDENT McGEE: Senator Robach.

SENATOR ROBACH: Madam President, can we please take up Calendar Number 1633.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1633.

THE SECRETARY: Calendar Number 1633, by Senator Wright, Senate Print 5673A, an act to amend the Energy Law.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR ROBACH: Move to accept the messages of necessity.

ACTING PRESIDENT McGEE: The question is on accepting the message of necessity. All in favor will signify by

saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

The Secretary will read.

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

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR WRIGHT: Thank you, Madam President.

The bill before us this evening does two primary things. One is to reenact Article VI of the Energy Law relating to the energy planning process, and to also reenact Article X, which is the siting of electrical generating facilities.

SENATOR SCHNEIDERMAN: Madam President, through you, if the sponsor would yield for some questions.

ACTING PRESIDENT McGEE: Senator Wright, will you yield for a question?

SENATOR WRIGHT: I will, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SCHNEIDERMAN: Thank you.

I'm curious as to how this bill differs from the straight extender of the current Article X law that was passed by this house two years ago.

SENATOR WRIGHT: In terms of the last Article X bill that was before this house, there are a series of changes that have been made.

First of all, in the preapplication studies process we've included coastal area impacts. In the preapplication intervenor funds, we're making $50,000 from the intervenor fund available for the preapplication process.

In terms of the repowering language that was added in 2001, that is being expanded. In terms of intervenor funds, we're keeping the cap at 300,000. In terms of the

application studies, we're adding water withdrawals and discharges. In terms of demonstrating, the security plan has been added.

Additional parties to the proceedings now includes Park and Rec for both the State and the City of New York. Board consideration in granting a certification will include coastal area impacts. And the intervenor fund will be established with the Comptroller and Tax & Finance. Both the articles sunset on January 2014.

SENATOR SCHNEIDERMAN: Through you, Madam President, if the sponsor will continue to yield.

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

SENATOR WRIGHT: I will, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SCHNEIDERMAN: So then this bill extends the current law, as modified, not to 2007, as was the case with the last bill, but to 2014?

SENATOR WRIGHT: That is correct.

SENATOR SCHNEIDERMAN: Through you, Madam President, does this bill change the eligibility requirement of 80 megawatts of net generating output in the current law?

SENATOR WRIGHT: It does not.

SENATOR SCHNEIDERMAN: So that anything under what's been referred to as the 79.9-megawatt loophole would not be covered?

SENATOR WRIGHT: Well, the threshold is 80 megawatts. Anything under that is subject to a SEQR proceeding.

SENATOR SCHNEIDERMAN: And does this bill have any provisions requiring any analysis of the impact on environmental justice issues on poor communities of color that are unduly burdened in many parts of New York State with an unfair share of polluting facilities?

SENATOR WRIGHT: Well, there are a number of things that are reflected in terms of the environmental justice regulations that were adopted by the agency, DEC. In turn, those regulations are applicable to both air and water permits.

So you have inherent inclusion of environmental justice provisions in the permitting process that the agencies have responsibility for that are part of the signing process by virtue of our agreement with the federal government.

In addition, back in 1999 when we amended this siting bill we added that we would evaluate the impacts on the environment, the ecology, public health, safety, aesthetics, scenic, history, recreational value, forest products, air and water quality, fish, other marine life, and wildlife, and the board must evaluate the cumulative effects of air emissions from existing facilities with particular attention to plants located in areas designated as severe attainment.

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

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

SENATOR WRIGHT: I will, Madam President.

ACTING PRESIDENT McGEE: The

Senator yields.

SENATOR SCHNEIDERMAN: I appreciate the general regulatory framework and the language of intent. But is there any additional provision to address environmental justice issues in this specific bill that we're voting on now?

SENATOR WRIGHT: No, there are no additional add-ons.

SENATOR SCHNEIDERMAN: Okay. Thank you.

Through you, Madam President, are there any emission standards set for NOx and SO2, NOx and SOx, as in the Assembly Bill?

SENATOR WRIGHT: No, there are not, Senator.

This bill is a siting bill. Unlike the companion bills that have been developed in the Assembly the last couple of years that try to wander into various areas of environmental law and standards, we are trying to focus on the siting process and keep it to a siting process.

You know, when this bill was originally enacted, this bill received "three

trees" in terms of endorsement of it as a process. We have done nothing in the intervening years to diminish or take away -- in fact, have only enhanced this bill.

So we have focused on making sure we have a process that works and in fact has worked very well. But we have kept it focused on that process and allow the other statutes relative to air quality, water permits, et cetera, to exist as they do and should.

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

SENATOR WRIGHT: I will, Madam President.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR SCHNEIDERMAN: So then the definition of a siting bill, as you're putting it forward, appears to be different than the definition that's being used in the Assembly. This bill currently is not a "three tree" bill anymore. Isn't this now a "three smokestack" bill?

SENATOR WRIGHT: Yes, it is,

Senator. And that's, of course, what we're trying to point out, that we have done nothing that has changed this bill. We have only added to this bill.

So when it started out as being environmentally beneficial and has not been diminished in any way but in fact has only been added to in ways identified as environmentally beneficial, I cannot reach the conclusion that it automatically becomes "three smokestacks," other than it does not meet the objective of the organization assigning the smokestacks.

The issue really is one of looking at siting and ensuring that we have a uniform, consistent siting process, which is what we have in this bill.

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

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

SENATOR WRIGHT: Yes, I will, Madam President.

ACTING PRESIDENT McGEE: The

Senator continues to yield.

SENATOR SCHNEIDERMAN: Thank you. Does this legislation include any standards relating to particulate matter, as provided for in the Assembly bill?

SENATOR WRIGHT: If you're referring to PM 2.5, it does not. That's in the memo of opposition identified -- I too have it here identified -- as small particulate matter.

I would point that under this current law, previous siting boards have in fact required that projects, when appropriate, study PM 2.5, and have made requirements.

In addition, the agency is reviewing its current PM 2.5 standards and that could be required of all DEC air quality permits, and of course in that situation would then become part of the siting provisions.

SENATOR SCHNEIDERMAN: Thank you.

Thank the sponsor.

Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I'm sorry

that we're here again in the situation we were in two years ago. We have, as in many cases of the law, had an evolution in our knowledge and understanding of how the siting process works and of the needs of our communities.

We know that this is a one-house bill. We know that the Assembly has a very different approach that is supported by, I believe, every environmental organization in the state and the American Lung Association.

I am sorry to have to report that my comments two years ago at the end of the 2000 session apply today. I said, two years ago: "We are here at the end of the year about to vote on what is clearly a one-house bill that does not address any of the problems that have identified with the current siting process, and not just identified by the Assembly, which has overwhelmingly passed legislation incorporating all of the elements that Senator Duane" -- who at that time had introduced amendments -- "just discussed in his amendment, but also legislation proposed by the Governor."

Everyone knows that this is a

one-house bill. Why we would come forward now trying to extend a law to 2014 that has been subject to such severe criticism, not just from the Assembly but from the Governor, I don't know. I suppose this is a case of trying to cover ourselves at the end of a legislative session.

I do not know exactly how the blame should be apportioned between this house, the Assembly, and the Governor. But what is clearly required at this point is a serious effort to resolve an issue that is drifting on and on. And inaction may be the primary mode of functioning in the Legislature in many situations, but it is certainly not what the people of this state expect from us or deserve.

We need to address the environmental justice issues in a siting bill. That is an issue relating to siting. We need to address the particulate matter and NOx and SOx in a siting bill. That is a siting matter.

And we certainly have to deal with the fact that this bill continues to maintain

this outrageous loophole of only applying to siting situations in which you're dealing with 80 megawatts of net generating output.

Many different versions of alternative language have been proposed. I'm sorry, truly sorry that all of the remarks I made two years ago are equally applicable today. It's time for us to move.

And maybe this is something that requires stronger intervention from the Executive. I certainly would welcome that. I think everyone in the environmental movement that has looked to the Governor to provide leadership in this area in the past is looking to him now. Unfortunately, this session we haven't seen it.

So I'm going to be voting no. I encourage everyone to vote no. I hope we will actually come to the table and address this very serious issue as soon as possible.

ACTING PRESIDENT MEIER: Senator Onorato.

SENATOR ONORATO: Mr. President, will the sponsor yield.

ACTING PRESIDENT MEIER: Senator

Wright, do you yield?

SENATOR WRIGHT: I will, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR ONORATO: Senator Wright, I'm sure you're aware that I represent the largest concentration of power plants in the state of New York in my small district located in Astoria and Long Island City. I currently have the New York Power Authority, Con Edison, which has now been taken over by KeySpan at the Astoria site. Ravenswood, with the "Big Alice," they've already added two 79.9 power plants in the area.

How will this affect my district now? Will it allow more sitings in my particular district, supersaturating my particular community, overburdening them with all the power plants being located in one small, particular area?

SENATOR WRIGHT: No, Senator, I can assure you it will not.

As you are no doubt aware, having served on the Energy Committee for a number of

terms now, in fact in 1999 when we made the amendments to Article X to enhance and improve it, one of the very specific additions we added was that the board must evaluate the cumulative effect of air emissions from existing facilities, with particular attention to plants located in the areas designated as severe attainment. That's one aspect.

The second aspect, as you will recall, in 2001 we amended again and provided for enhanced siting processes when there was a substantial and significant reduction of emissions exceeding 75 percent or better.

Both of those amendments are perfect examples of how we have only added to Article X. We have never diminished the requirements or the provisions of Article X. We have only added to and enhanced them as we have done with these amendments.

Now, that may not be satisfactory to some individuals, who have a broader agenda and broader issues over and beyond siting. But that is the focus of what we're trying to do, because we do acknowledge and recognize, first of all, replacing old facilities with

new facilities will have a significant positive impact on NOx, SOx, all the other emissions and in fact will bring new generation of capacity online. That's what we're desirous of doing.

SENATOR ONORATO: Will you continue to yield, Senator?

SENATOR WRIGHT: I will, Mr. President.

SENATOR ONORATO: Senator, regarding the intervenor funds, does your bill now make it a little bit more difficult for an intervenor to obtain funds to fight the --

SENATOR WRIGHT: No, Senator, it does not. And let me again restate, we have done nothing in this bill that diminishes, restricts, adds burdens, adds barriers. That in fact is not an accurate assessment of what we have done.

What we have done is left the intervenor funds unchanged, because to date they have not been utilized completely on any project. So we believe the current funding mechanism is adequate.

In response to concerns raised by

various individuals, we are now allowing that funding to be utilized, $50,000 of it, in the preapplication process. So we are once again adding to the process, enhancing the opportunity for participation, and in fact financing that participation in the process.

SENATOR ONORATO: I have one further question. Would the Senator yield?

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

SENATOR WRIGHT: Yes, I will yield, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR ONORATO: Senator, to your knowledge, has any group asked to become an intervenor and been denied funds for that particular purpose?

SENATOR WRIGHT: Not to my knowledge.

SENATOR ONORATO: Thank you.

ACTING PRESIDENT MEIER: Senator Sabini.

SENATOR SABINI: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Sabini, on the bill.

SENATOR SABINI: I'm struck by the sponsor's confidence that Article X's revisions, the last two revisions, were good legislation and added protections, because the result has been, in Queens County, a riverfront on the East River now polka-dotted with power plants.

And while that may be great for the increased energy consumption for our area, the fact of the matter is that, as Senator Onorato so aptly has stated, his district is now saturated to the point of absurdity. There is a power plant every couple of blocks along the waterfront. And other parts of the Bronx and Queens can't take any more.

And if this is going to be added protection, we don't need any more help. The last added protection resulted in more plants for us.

So I intend to vote in the negative. And if this is added protection, don't give us any more help. Thank you.

ACTING PRESIDENT MEIER: Senator

Oppenheimer.

SENATOR OPPENHEIMER: Well, as you're probably aware, we are looking for alternative energy, an alternative energy source for our nuclear power plant at Indian Point in Westchester. It supplies power to many parts of Westchester, also some to Rockland, and I think some goes into Putnam.

And so I'm really disappointed that we haven't been able to make any progress through the last more than couple of years now. Because if we are going to make any headway removing the nuclear power, we really can't do it unless we have an alternative source of energy right at that site. Because we can't do without the power.

This bill before us is not -- it's really Article X with some small changes. And it fails to address the pollution which is emitted right now by our power plants, and it fails to increase any of the key reforms that are going to be needed in our New York siting process.

And I don't know where that leaves us. I mean, it leaves us with enormous power

implications, but as we all know, it leaves us with enormous health implications also. Because -- I mean, I hadn't heard "NOx and SOx" before, because we call it nitrogen, oxygen, and sulfur dioxide. But that's a cute way of condensing it.

NOx and SOx is causing us so many health problems with the acid rain and smog, and I guess we should throw in global warming. And we're bearing that cost. It's a very high cost, both physically for the people involved and financially for all of us who are left bearing the burden of those medical expenses.

I just hope that something can be done in the next year. It's reached crisis proportion for us.

And we may have to shut down the nuclear power plant, because it's now before the federal government. All of the different communities and the different counties surrounding it have not verified, have not said that the plans for egress in case of an emergency are valid. We say that they are not sustainable, they cannot remove us from the source if there is an emergency at that

nuclear power plant.

If the feds say -- uphold what we're saying, we're going to have to shut down that plant, and we have no other source to supply that amount that will be lost to us.

So I just hope something will happen quickly. I know you're trying, Jim. But let's hope we can try even harder and make it happen in the next year.

ACTING PRESIDENT MEIER: Senator Parker.

SENATOR PARKER: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Parker, on the bill.

SENATOR PARKER: I approached this bill in the way I've learned over this first session that I've been involved in, with mixed emotions, with looking at it and seeing there's some things that we would like to be able to do and in some cases things that don't go quite far enough.

I want to begin by just commending Chairman Wright on his understanding of our situation. We're literally at a situation now

where the state doesn't have enough power. And if it was not for the mild summer that we're having, that we would be really at a point where we'd be ready, both houses, to negotiate this bill.

I mean, the reality is that we are extremely close to having a serious emergency. That, you know, many of us have forgotten, through all the other things that have happened, that just two years ago there were rolling blackouts in California, that we were having a significant emergency here in our own state.

And Chairman Wright's bill really addresses that and really takes up that really important need for us to produce more energy in our state and particularly in the city of New York.

And in that context, the beginning of this bill is Article VI, which in fact presents as a four-year plan for energy throughout the state which is direly needed.

We really need to really comprehensively look at the needs of the state and then our ability to produce energy and to

really just -- you know, this is not just about energy. This is about everybody here who has laptops, everybody who has PDAs and, you know, washing machines in their houses and microwaves and, you know, air-conditioners in the summer. And we run them all at the same time.

And, you know, as long as we go to the switch and we flick it and the lights come on, we're okay. But it's that moment when it doesn't come on that we will truly understand how important having a siting bill is for this state.

At the same time, we cannot site facilities around the state without an understanding and a real analysis of what the impacts are going to be on communities. It is critically important that we look at environmental justice. It is critically important that we look at cumulative impact on communities and health impacts on communities and that we make sure that we bring communities to the table when this happens.

Part of the problem that we have here is really just a lot of, you know, bad

faith on power companies that we're having to deal with. And we really, as elected officials, would love to be at the table from the very beginning, helping to negotiate with plants that are sited and working with communities and industry.

Because at the same time, you know, not only is this important to make industry run, but the industry itself is important for jobs. I have many people in my district who work for KeySpan and Con Ed, so these are not bad words in my district. These feed a lot of families, and so that's important.

But I don't think that this bill goes far enough. And, as we have often talked about in this house, that one-house bills just don't take us where we need to be.

I would love to be involved in the process and have already talked to Senator Wright about that, and others, about us working together to create a real negotiated peace on this issue of Article X, so that we cannot only have a siting bill that would allow industry to be able to site plants and produce the power that we sorely need, but to

make sure that ratepayers have all of the energy they need at a cost that would really be affordable and not have businesses and people running for relief also from us.

And so, unfortunately, I would like to be able to vote yes on an Article X bill, because we sorely need one. But unfortunately, I don't think that this bill is the one that is going to get us quite there.

And so I'd like to put forth my energy to work along with -- you know, continue to work with the committee and the members of the Assembly to make sure that we get an Article X bill that in fact addresses both the needs of the industry as well as the environmental health and community needs that are sorely needed for all of our communities.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Within three minutes, Mr. President, I would also like to commend Senator Wright for working on this Article X bill. But it doesn't go far enough, and it doesn't improve the way it should be improved.

I'm going to just mention two areas of concern to me. The lack of people's involvement through hearings. If anything is below 80 kilowatts, you don't have to have a hearing.

So in one of my communities, you have two or three power plants that are built that total more than 80 kilowatts, even though individually they're less. So I think there's a great injustice done if the people are not involved in the process of deciding what they want to have and don't want to have.

And this leads into a second issue. I have a very diverse and large district. It's not by coincidence, in my opinion, that the Rosebank section of Staten Island and the Sunset Park section of Brooklyn have problems with increases in power plants without hearings. I think that this discriminates against working people and poor people.

And the areas in my community that might be upper middle class don't have these problems that areas that are considered poor or working class do have.

I regretfully will have to vote no.

ACTING PRESIDENT MEIER: Senator Stavisky.

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

I too represent a district in Queens County that abuts or comes very close to the power plants. And I'm concerned not only about the lack of public participation in those -- the 79.9 threshold, but also the effect upon the surrounding community, my constituents.

The pollutants go into the air and people in my district suffer. They suffer from an increased rate of respiratory problems, asthma, hospitalizations, and so on. And I think this is another aspect of an overburdened community that we have here in Queens as a result of the lack of a successful Article X siting bill.

And while I recognize Senator Wright's concern and his desire to resolve the issue, I just don't think we're there. And, Mr. President, I intend to vote no.

ACTING PRESIDENT MEIER: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

It is nice to hear people saying how much we need to coordinate a plan and to find solutions for our problem. It is nice to say that a blackout happens here, happens there, and that we need to build plants and to find a solution.

But ladies and gentlemen, I represent Hunts Point in the Bronx. And I think my district, my district, the one that I represent, the 32nd Senatorial District, is the most affected of anyone here.

We in Hunts Point, we have the highest asthma rate in the nation. This administration, this administration built four power miniplants in my district in Hunts Point. And how come they did that? Because they say that the law says that you need 80 megawatts in order for you not to do an environmental impact study.

So you know what they did in my district? They said, We're going to build them 79.9. So we don't even got to do 80 megawatts, only 79.9. But they did one here

and the next one close to that one. Each one, each one, ladies and gentlemen, each one 79.9 megawatts.

They didn't have to do an environmental impact study because there were less than 80 megawatts. But they put one here, the next one close to that one, and then some -- this much away, they put another one and the other one close to this one. So when you add the both of them, here was about 150 megawatts and the other one, on the other side, 150 megawatts.

But that's not only the injustice that was done to my district. That's not the only injustice. There was 61 sites, ladies and gentlemen, 61 sites that they studied to build 11 miniplants. Sixty-one sites. Eleven of those were to build 11 miniplants. Seven -- and I want to make sure that you listen to me. If you don't understand what I'm saying, I could explain myself a little better.

Seven of those 11 miniplants were built in minority communities. Seven of the 11 miniplants were built in minority

communities. That's not the only injustice. Four of the seven, four of the seven were built in my district.

And now you tell me that we got to do something. Then we have in Queens, half a mile across the river, half a mile from my district, from Hunts Point, we have the Polletti plant, Polletti plant. And that plant has an emission of 8,800 tons of pollution in a year. 8,800 tons of pollution. That's equivalent to 4,000 cars falling on top of my children.

We're talking about injustice? Is that injustice, is that discrimination, is that racism? What is that? They want to build only in the minority communities.

What the state did was circumvent the law. And now we're going to give more power to the state, more power to the administration to get -- because the state needs power plants, because we have to solve the problem. The shortage of electrical power and nuclear power, we have to solve the problem. So let's build them in the minority communities. Let's build them in the Bronx.

So what we need, what we really need, we need environmental justice. You want to build plants? Build them in your own neighborhood. Stop bringing them to the Bronx. Stop bringing them to the minority communities. And stop using us as guinea pigs. We're tired of this already.

So what do they do? Now, now we're going to build more plants, now we're going to give more authority for people to circumvent the law and keep building miniplants. And I bet you that all those miniplants, they're going to be built again in the South Bronx, in Hunts Point, in our minority neighborhood.

I'm going to end by saying this, and I want you to remember this. This administration, this administration built 11 miniplants, seven of them that were built in minority communities. And four of them, ladies and gentlemen, four of the seven were built in my district. That, that is an injustice, not to say a discrimination.

Thank you very much.

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

You know, for years and years and years, going home from Albany, going down the FDR Drive heading downtown, I could always pick out where my district began in Manhattan and in Brooklyn, looking across the river. It was where the big smokestacks were, at 15th Street and across the river in Green Point.

And I would say to people, My district begins at those smokestacks heading south and at these smokestacks heading south.

For whatever reasons, in the past, large power plants were located along the East River. Coincidentally, in the good old days, they weren't the highest-priced pieces of real estate in New York. But what we've seen more recently -- and by the way, the refiring of East River Power and lawsuits have gone on, and I've been a plaintiff in lawsuits. We've stopped this one, and that one started up. Senator Duane has been a plaintiff. We've had ongoing controversy.

And then we got hit with these so-called miniplants, the plants that Senator

Diaz just mentioned. Just under the limit. The loophole plants. The loophole plants.

And why is that threshold there? Well, the feeling, I suppose, was that 79.9 megawatts, it's not a big deal. But when they line three our four of them up in a row in the East River, where you already have other pollutant power plants, in northern Brooklyn and just across the border in Queens and across the river in Manhattan, now you line up four of them. You line up four of them in the East River by Williamsburg and Green Point.

Not totally minority communities. Heavily minority communities with also working-class ethnic white folks living there. Not rich people, though. Not rich people.

My district actually last year got better, not because the miniplants went away but because thanks to the Majority in this house, the boundaries changed and they dumped in -- or they became Senator Lachman's problem. Because the other plants, as you went around the coast of Brooklyn, the miniplants are in Sunset Park, a heavily Latino area. And the plants along the East

River, on the Manhattan side, what they call "Loweesidah," the Lower East Side.

And what Senator Diaz says is true. I would only dispute with him, I'm not sure his district was the most heavily impacted, because I thought mine was, at least until they split it and gave Senator Lachman some of the plants. So there is a problem here.

Now, look, there's a need for more energy, more efficient energy, there's a need to do it in a way that's nonpolluting, there's a way to do it in a way that we can evaluate.

By the way, if you look at maps, that whole corridor across northern Staten Island into Brooklyn, up the East River along Queens right into the Bronx, off the sound where the East River and the sound meet, is a cancer alley, by the way. You look at all the different statistics on cancer and on lung diseases, and the epidemiology is incredible, incredible, in terms of its impact.

Not surprising, though, if you understand two things -- prevailing winds and all the things that get put in those areas, starting in New Jersey, right across northern

Staten Island, right up into the Bronx.

And the sad part is we know this. We've known it before. We've known that we have to do something about an Article X bill for many, many months now. We knew last year it would expire. We came back here with it expired.

And after six months in this Capitol, at 9:00 o'clock on the last night of session, we get a one-house bill? We get a one-house bill with a message of necessity from the Governor? That's the best this Legislature can do? That's the best the Governor can do? We get a message of necessity certifying to the emergency need for an immediate vote on a one-house bill?

That it took somebody six or seven months to cobble a one-house bill together? I can sit down and write one-house bills in five minutes. But they don't become law, they don't solve problems, they don't answer the questions, and they don't meet the health needs or the energy needs of the people of New York.

Mr. President, I vote no on this.

ACTING PRESIDENT MEIER: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President, on the bill.

My colleagues on this side of the floor have been so eloquent and no one more eloquent than, I think, Senator Diaz about what is wrong with the bill. Because what is wrong with the bill is that it continues the process that we've had in place.

And the 79.9 loophole generators clearly are an outrage and are intended to continue, under these rules, to allow to be expanded, particularly in communities of low-income people and communities of color.

And people have talked about all of the health impacts and all of the negative consequences. So I think I will speak about the reverse side for a minute.

If I was in my district today, I would have been testifying -- instead, I had a staff person testifying -- before the Public Service Commission against the plan to take away a power plant in my district on the East Side of Manhattan. Not a poor community, not

a community of color, but a community that has lived with a power plant since 1900 and was perfectly prepared to continue to have a power plant on that site, 9 acres on the East River.

But because someone else determined that that land was too valuable and it was more attractive for development -- development that, by the way, my district doesn't want or need -- PSC is going to approve Con Edison selling off that land so that we will not have a power plant or the space for a power plant to continue in a community that I would argue is not overburdened at this point in time with its fair share of power plants. A community that is not opposed to having a power plant continue to be sited there.

But for other interests, for real estate interests and for the dollar value of the land, all the concerns that my colleagues have raised here tonight do not get factored in. And instead, I am fairly, I suppose, convinced that the Public Service Commission, under Article X rules, will give them permission to close down and no longer have that site necessary for power.

Your bill is about ensuring we have sites for power plants. And for all the arguments that were raised about how power plants are getting sited in poor communities and communities of color, there's something wrong also that we in fact then allow the loss of a site for power plants in the city of New York, which desperately needs energy, as Senator Oppenheimer talked about Westchester desperately needing alternatives for Indian Point that we should close now, but we'll have to close eventually anyway.

So that the process is wrong and the plan is wrong from both directions. And I would argue, as Senator Connor did, that clearly the Governor knows that he is not giving this house a bill that can possibly be passed and move forward when he does so at 9:15 on the last night of session. So I will also be voting no.

But I think that this house needs to look long and hard about what we really do in planning for the future of energy and environmental justice and distribution, including the fact that if we addressed our

grid concerns and issues beyond the city of New York, you wouldn't have to have so many power plants all piled up together in one small section of land.

Energy can be moved successfully from place to place if you have invested and planned in the future to be able to move it from place to place. So I think energy is an issue for all of New York State. And right now what we are doing is we are overburdening the communities who can least best fight against the siting of plants in their communities.

Thank you. I vote no.

ACTING PRESIDENT MEIER: Read the last section.

Hold on a second. Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President, on the bill. I'd like to close.

And I'd like to point out that I've heard what the other side of the aisle has said. I recognize those issues. And I would point out that many of those issues are exactly what I have been talking about in my opening comments. They are broader energy

policy issues than they are siting issues.

And that is what has bogged down the establishment of a siting process and the continuation of Article X. Any energy-related issue has become an issue relative to siting.

That's not what the process entails. That's not what Article X entails. The closure of a plant is not subject to Article X. It's subject to a PSC proceeding. The closure of a nuclear facility, a nuclear response capabilities, are not part of Article X. Those are separate issues.

Alternative energies, renewable energies, we've passed bills here today with your support that pursue those energy policies that have nothing to do with Article X.

The whole issue of the, quote, loophole -- 80 megawatts is a threshold. It does not mean you can go out and build any facility you want under any megawatts anyplace you want anywhere you want anytime you want.

What it means is you have to use a different process. That process is called the SEQR process. That process is an environmental protection law used in this

state, throughout this state, on a daily basis. That process includes hearings. That process was utilized.

Now, I'm not going to defend the outcome of that process, because that's not what this is about. But let me point out that by making that an aspect of this siting, it has resulted in no siting bill. And the ultimate irony is in the absence of a siting bill, the SEQR process now applies to everything, above 80 as well as below 80. So if you felt disenfranchised under the old process, it has only been compounded by this current situation.

The issue of Polletti is a perfect example of why you see new facilities being advocated. So that there is a significant reduction of emissions, so that we do make the positive investments that need to be made. And it not only needs to be done there, it needs to be done throughout the metropolitan area. And only by having a siting bill that will address those issues will that happen.

We do understand that. We are trying to reach agreement on that. We are

committed to focusing on that and to generating new capacity in this state. But we want to do it within a process called siting and focusing on that as opposed to it being the catchall for every disenfranchised issue within the energy arena.

So we are committed to moving forward on siting. I think you've seen this bill make progress. The expiration only occurred six months ago. And fortunately or unfortunately, the energy industry has not been making decisions, because the financial wherewithal has not been there. So we are in a position that we can still address this issue, we can still move forward.

And I remain committed, as I believe others do, to achieving a successful resolution. And among those others I include the Governor, who I think is very sincere about trying to move this process forward but also trying to stay focused on what we're doing.

Madam President, I appreciate the opportunity. I vote aye on the bill.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

SENATOR DIAZ: I want to explain my vote.

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

SENATOR DIAZ: Yes, thank you, Madam President.

I just want to make clear again, to repeat again, that for new siting, 61 sites were looked at to build 11 miniplants. Out of those 11 miniplants, seven were built in minority communities and four of them were built in the Bronx. The Polletti plant in Queens is only half a mile across from the four plants that were built in my district. That's an injustice.

I think that we are here today -- and I know, and I know, Madam President, I know in the six months that I have been here, I know that when a bill comes from the

Majority to the floor, and I am in the Minority, I know that sometimes -- all the time, to speak against it, to talk against the bill is an exercise in futility.

Nonetheless, nonetheless I would like to say that it's an injustice what has been done to my community, it's an injustice what we're trying to do, and it was an injustice what this administration did to build four miniplants in my district.

I'm voting with all my heart, with all my chest, proudly voting no against this bill.

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

Senator Onorato.

SENATOR ONORATO: To explain my vote, Madam President.

Madam President, I've heard a lot of the comments from my colleagues regarding the issue, and it is a very, very serious issue, especially for the metropolitan community. But we all are in recognition of the fact that we do need added power to service the many needs of the community.

But they always keep losing sight of the fact that while they're building these new plants by getting into the loopholes with the 79.9, they are still adding more pollution to the already oversaturated areas in the metropolitan area.

And nowhere does it state here in the siting bill that before you can site a new plant in a given area, that if there are existing plants that have been grandfathered in to allow all kinds of pollution to come in, that they must upgrade their products.

I will continue to vote no on these siting bills until those drastic measures are addressed.

ACTING PRESIDENT McGEE: Senator Onorato, in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1633 are Senators Andrews, Breslin, Brown, Connor, Diaz, Dilán, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Lachman, LaValle, Montgomery, Onorato, Oppenheimer, Padavan, Parker, Paterson, Sabini, Saland,

Sampson, Schneiderman, M. Smith, Stachowski, and Stavisky. Ayes, 36. Nays, 25.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Flanagan.

SENATOR FLANAGAN: Madam President, could we go to the Supplemental Active List Number 3, the noncontroversial reading, please.

ACTING PRESIDENT McGEE: The Secretary will read Supplemental Number 3, beginning with Calendar Number 733.

THE SECRETARY: Calendar Number 733, by Senator Farley, Senate Print 3871A, an act to amend the Banking Law.

ACTING PRESIDENT McGEE: Senator Flanagan.

SENATOR FLANAGAN: Is there a message of necessity at the desk, Madam President?

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

SENATOR FLANAGAN: Move to accept that message, please.

ACTING PRESIDENT McGEE: The

motion is to accept the message of necessity. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message of necessity is accepted.

Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 60th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 770, substituted earlier today by Member of the Assembly McLaughlin, Assembly Print Number 6954, an act to amend the Real Property Tax Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 968, by Senator LaValle, Senate Print 1664C, an act to amend the Town Law.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: Senator Bonacic, to explain his vote.

SENATOR BONACIC: Thank you, Madam President.

You know, I serve as chairman of

Senate Housing. And what is happening in Suffolk is a goal of open space. What the towns in Orange County are doing, and Ulster County, which is in my Senate district, they are pointing to Suffolk County as an example of what our counties can do to preserve open space.

I have opposed the transfer tax in Orange County. I think the tax is regressive, it's exclusionary, it is a detriment to affordable housing, and it's an obstacle to the American dream. And for those reasons, I vote in the negative.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Bonacic will be recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 968: Ayes, 60, nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1343, by Senator Morahan, Senate Print 5489A, an act to amend Chapter 621 of the Laws of

1999.

ACTING PRESIDENT McGEE: Senator Flanagan.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR FLANAGAN: Move to accept that message, please.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Flanagan, that completes the reading of the noncontroversial calendar, Supplemental Number 3.

SENATOR FLANAGAN: Madam President, if we can return to the order of motions and resolutions and take up the substitutions, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: On page 10, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 4421A and substitute it for the identical Senate Bill Number 2027A, Third Reading Calendar 251.

And on page 29, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 8264 and substitute it for the identical Senate Bill Number 3607, Third Reading Calendar 826.

ACTING PRESIDENT McGEE: Substitutions ordered.

Senator Flanagan.

SENATOR FLANAGAN: Madam President, if we could stand at ease temporarily, please.

ACTING PRESIDENT McGEE: The Senate will stand at ease temporarily.

(Whereupon, the Senate stood at ease at 9:30 p.m.)

(Whereupon, the Senate reconvened at 10:00 p.m.)

SENATOR FLANAGAN: Madam President.

ACTING PRESIDENT McGEE: Senator Flanagan.

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

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

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, may I have unanimous consent to be recorded in the negative on Calendar Number 1583.

ACTING PRESIDENT McGEE: Without

objection.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, I request unanimous consent to be recorded in the negative on Calendar Number 968.

ACTING PRESIDENT McGEE: Without objection.

Senator Morahan.

SENATOR MORAHAN: Madam President, I'd like to be recorded in the negative on Calendar 1633.

ACTING PRESIDENT McGEE: Without objection.

SENATOR MORAHAN: Thank you.

ACTING PRESIDENT McGEE: Thank you.

Senator Flanagan.

SENATOR FLANAGAN: Madam President, please recognize Senator Larkin.

ACTING PRESIDENT McGEE: Senator Larkin.

SENATOR LARKIN: Madam President, earlier today when many committees were going on, we passed the calendar for resolutions.

There was a Number 2399 which was designating, in conjunction with the federal government, for August 7th to be Purple Heart Day in America.

And I would like to see us open that up, because as you know, that everybody that helped us should be part of the end of the program.

ACTING PRESIDENT McGEE: Please be advised the resolution is open for sponsorship by everyone. And as is our general custom, if you don't wish to be on the resolution, please notify the desk.

Senator Johnson.

SENATOR JOHNSON: Madam President, without objection, I'd like to be recorded in the negative on Bill Number 1618.

ACTING PRESIDENT McGEE: Without objection.

SENATOR JOHNSON: Thank you.

ACTING PRESIDENT McGEE: Senator Balboni.

SENATOR BALBONI: Madam President, I'd like to have unanimous consent to be recorded in the negative on Calendar

Number 1633.

ACTING PRESIDENT McGEE: 1633?

SENATOR BALBONI: Yes.

ACTING PRESIDENT McGEE: Thank you, Senator Balboni. Without objection.

Senator Flanagan.

SENATOR FLANAGAN: If we could return to the reports of standing committees, I believe there's a Rules Committee report at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

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

Senate Print 316B, by Senator Nozzolio, an act to amend the Education Law;

1238, by Senator Breslin, an act to amend the Retirement and Social Security Law;

1309, by Senator Brown, an act to amend the Vehicle and Traffic Law;

1663B, by Senator LaValle, an act authorizing;

3124A, by Senator Libous, an act to amend the County Law;

3748A, by Senator Seward, an act to amend the Vehicle and Traffic Law;

3762A, by Senator Balboni, an act to amend the Education Law;

4238, by Senator Little, an act to amend the Environmental Conservation Law;

4511, by Senator Rath, an act to amend the General Business Law;

4590A, by Senator Libous, an act to amend the Tax Law;

4808, by Senator Hannon, an act to amend the Public Health Law;

5172, by Senator Bonacic, an act to amend the Agriculture and Markets Law;

5220A, by Senator Seward, an act to amend the Insurance Law;

5503A, by Senator Maziarz, an act to amend the Real Property Tax Law;

5538, by Senator Libous, an act to amend the Alcoholic Beverage Control Law;

5648, by the Senate Committee on Rules, an act to amend the General City Law;

5658, by the Senate Committee on Rules, an act to amend;

5671, by Senator Hannon, an act to

amend the Public Health Law;

5686, by Senator Morahan, an act to amend the Election Law;

And Senate Print 5687, by Senator Morahan, an act to appropriate.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Flanagan.

SENATOR FLANAGAN: Madam President, I move to accept the report of the Rules Committee.

ACTING PRESIDENT McGEE: The motion is to accept the Rules Committee report. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

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

Senator Flanagan.

SENATOR FLANAGAN: Madam President, if we could stand at ease, please.

ACTING PRESIDENT McGEE: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 10:10 p.m.)

(Whereupon, the Senate reconvened at 10:17 p.m.)

ACTING PRESIDENT McGEE: Senator Flanagan.

SENATOR FLANAGAN: Madam President, if we could please go to Supplemental Calendar Number 60D and have the noncontroversial reading.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1637, by Senator Nozzolio, Senate Print 316B, an act to amend the Education Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays,

1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1638, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 2731 and substitute it for the identical Senate Bill Number 1238, Third Reading Calendar 1638.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1638, by Member of the Assembly McEneny, Assembly Print Number 2731, an act to amend the Retirement and Social Security Law.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1639, by Senator Brown, Senate Print 1309, an act to amend the Vehicle and Traffic Law.

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

Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2005.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1640, by Senator LaValle, Senate Print 1663B, an act authorizing Giustina R. Lombardi.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1641, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 6968B and substitute it for the identical Senate Bill Number 3124A, Third Reading Calendar 1641.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1641, by Member of the Assembly Finch, Assembly Print Number 6968B, an act to amend the County Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1642, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 6941A and substitute it for the identical Senate Bill Number 3748A, Third Reading Calendar 1642.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1642, by Member of the Assembly Sweeney, Assembly Print Number 6941A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1643, by Senator Balboni, Senate Print 3762A, an act to amend the Education Law.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1644, by Senator Little, Senate Print 4238, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1645, by Senator Rath, Senate Print 4511, an act to amend the General Business Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1646, by Senator Libous, Senate Print 4590A, an act to amend the Tax Law, in relation to extending.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1647, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 7855 and substitute it for the identical Senate Bill Number 4808, Third Reading Calendar 1647.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1647, by the Assembly Committee on Rules, Assembly Print Number 7855, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1648, by Senator Bonacic, Senate Print 5172,

an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1649, by Senator Seward, Senate Print 5220A, an act to amend the Insurance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1650, by Senator Maziarz, Senate Print 5503A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT McGEE: Senator Flanagan.

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

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

SENATOR FLANAGAN: Move to accept that message, please.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed will say nay.

(No response.)

ACTING PRESIDENT McGEE: The motion is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1651, by Senator Libous, Senate Print 5538, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2004.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1652, by the Senate Committee on Rules, Senate Print Number 5648, an act to amend the General City Law --

SENATOR FLANAGAN: Lay that bill aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1653, by the Senate Committee on Rules, Senate Print Number 5658, an act to amend Chapter 83 of the Laws of 2002.

ACTING PRESIDENT McGEE: Senator Flanagan.

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

ACTING PRESIDENT McGEE: Yes, there is.

SENATOR FLANAGAN: Move to accept that message, please.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

The Secretary will read the last

section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1655, by Senator Morahan, Senate Print 5686, an act to amend the Election Law.

ACTING PRESIDENT McGEE: Senator Flanagan.

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

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

SENATOR FLANAGAN: Move to accept that message.

ACTING PRESIDENT McGEE: The motion is made to accept the message of necessity. All in favor will say aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed,

nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1656, by Senator Morahan, Senate Print 5687, an act to appropriate.

ACTING PRESIDENT McGEE: Senator Flanagan.

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

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

SENATOR FLANAGAN: Move to accept that message, please.

ACTING PRESIDENT McGEE: The

motion is made to accept the message of necessity. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

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

Senator Duane.

SENATOR DUANE: Thank you, Madam President. If I could have unanimous consent to change my vote on 1637 from no to yes.

ACTING PRESIDENT McGEE: Without objection.

Senator Flanagan.

SENATOR FLANAGAN: Madam President, can we move to the controversial reading of Calendar 60D, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1643, by Senator Balboni, Senate Print 3762A, an act to amend the Education Law.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR STAVISKY: Explanation.

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

SENATOR BALBONI: Thank you, Madam President.

This bill would establish the professional licensing requirements for professional and technical personnel who perform clinical testing in clinical laboratories.

This bill is before us this evening for two reasons. The first is that the Association of Public Health Laboratories, in a recent conference in Atlanta, Georgia, at the Center for Disease Control, announced that

they have done a national survey of laboratories in conjunction with an assessment for the laboratories' capability to respond to for bio- and chemical terrorism events.

They have found a majority of laboratories in the United States unfit and unprepared to be able to perform the necessary tests so as to provide accurate, concise, and rapid information in the event of a bio- or chemical attack.

In addition to which, in recent years medicine has changed. Seventy to 75 percent of all diagnoses of our constituents come from the basis or based upon clinical laboratory tests.

This bill before us would provide the necessary standards that are commensurate with a national basis of standards for clinical labs within New York State.

There are three new professional license categories. They are the clinical laboratory technologist, clinical laboratory technician, and cytotechnologist.

This bill has a grandfather clause for the workers who currently work within the

laboratory structure.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: On the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Stavisky, on the bill.

SENATOR STAVISKY: My curiosity was --

SENATOR ONORATO: Aroused.

SENATOR STAVISKY: I'm not using that word.

My curiosity became -- well, the reason I asked that the bill be laid aside was I noticed the bill was introduced on April 1, 2003. And at 10:30 at night -- I've only gotten to page 3, and I'm not a slow reader -- I would have hoped that we would have enough time to at least study the bill, perhaps have a bill memo or any of the, you know, little things that help us to study the issue.

However, I accept Senator Balboni's national security need for this bill, and my objection is withdrawn. But I hope -- I

suspect that this will be a one-house bill, and hopefully we'll have a little time to study it next year.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect September 1, 2005.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1652, by the Senate Committee on Rules, Senate Print 5648, an act to amend the General City Law and the Administrative Code of the City of New York.

SENATOR FLANAGAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1655, by Senator Morahan, Senate Print 5686, an act to amend the Election Law.

SENATOR SABINI: Explanation.

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

SENATOR FLANAGAN: Madam President, please lay that bill aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

SENATOR FLANAGAN: And Calendar 1656, please.

ACTING PRESIDENT McGEE: Calendar Number 1656 has also been laid aside.

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

SENATOR FLANAGAN: Madam President, could we please stand at ease temporarily.

ACTING PRESIDENT McGEE: The Senate will stand at ease temporarily.

(Whereupon, the Senate stood at ease at 10:31 p.m.)

(Whereupon, the Senate reconvened at 11:29 p.m.)

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam President, there will be an immediate

conference of the Minority in the Minority Conference Room.

ACTING PRESIDENT McGEE: Immediate conference of the Minority in the Minority Conference Room.

Senator Bruno.

SENATOR BRUNO: Madam President, can we ask for an immediate meeting of the Rules Committee in the Majority Conference Room.

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

Senator Bruno.

SENATOR BRUNO: And the Senate will stand at ease for another minute or two.

ACTING PRESIDENT McGEE: The Senate will stand at ease for another minute or two.

SENATOR BRUNO: Thank you.

(Whereupon, the Senate stood at ease at 11:30 p.m.)

(Whereupon, the Senate reconvened at 11:52 p.m.)

ACTING PRESIDENT McGEE: Senator

Bruno.

SENATOR BRUNO: Madam President, can we at this time return to reports of standing committees.

I believe there's a report of the Rules Committee at the desk. I would ask that it be read at this time.

ACTING PRESIDENT McGEE: The Secretary will read.

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

Senate Print 4024A, by Senator Velella, an act to amend the Vehicle and Traffic Law;

5689, by the Senate Committee on Rules, an act to amend Chapter 53 of the Laws of 2003;

5692, by the Senate Committee on Rules, an act to amend the County Law and the Public Authorities Law;

And Senate Print 5693, by the Senate Committee on Rules, an act to amend the Local Emergency Housing Rent Control Act.

All bills ordered direct to third

reading.

ACTING PRESIDENT McGEE: Senator Bruno.

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

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The Rules report is accepted.

Senator Bruno.

SENATOR BRUNO: Can we at this time have the reading of the noncontroversial calendar -- what number is it? -- 60E.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1632, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 7432A and substitute it for the identical Senate Bill Number 4024A,

Third Reading Calendar 1632.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1632, by Member of the Assembly Paulin, Assembly Print Number 7432A, an act to amend the Vehicle and Traffic Law.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1657, by the Senate Committee on Rules, Senate Print Number 5689, an act to amend Chapter 53 of the Laws of 2003.

ACTING PRESIDENT McGEE: Senator Bruno.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR BRUNO: I would move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, say nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1658, by the Senate Committee on Rules, Senate Print Number 5692, an act to amend the County Law and the Public Authorities Law.

ACTING PRESIDENT McGEE: Senator

Bruno.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR BRUNO: I would move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

THE SECRETARY: Section 3. This act --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1659, by the Senate Committee on Rules, Senate

Print Number 5693, an act to amend the Local Emergency Housing Rent Control Act.

ACTING PRESIDENT McGEE: Senator Bruno.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR BRUNO: I would move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, say nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

Senator Bruno.

SENATOR BRUNO: Can we have the controversial reading of the calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1657, by the Senate Committee on Rules, Senate Print Number 5689, an act to amend Chapter 53 of the Laws of 2003.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR JOHNSON: This bill is a bill which appropriates money in the budget. It amends the chapter laws which we've adopted for the budget -- Chapter Law 55, 50, 54, 53 -- and changes some of the numbers around a bit.

It doesn't make a large difference. It covers the same things which the budget covered when it passed originally in those chapters.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam

President, through you, if the sponsor would yield for a question.

ACTING PRESIDENT McGEE: Senator Johnson, will you yield?

SENATOR JOHNSON: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

Is this bill a bill on which we've reached agreement with the Assembly?

SENATOR JOHNSON: Yes, it is.

SENATOR SCHNEIDERMAN: This is now a two-house bill going in the Assembly?

SENATOR JOHNSON: Well, it will be a three-house. Isn't that right?

Oh, I'm sorry. Apparently it's not agreed on.

SENATOR SCHNEIDERMAN: Thank you.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1658, by the Senate Committee on Rules, Senate Print Number 5692, an act to amend the County Law and the Public Authorities Law.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR JOHNSON: This, Madam President, is essentially a bill which has the language implementing the budget bill which that just been passed. It's called the Article 7 bill. It's a fiscal plan for the 2003-2004 year, and it allocates the money, as I said, which is in the budget bill.

ACTING PRESIDENT McGEE: Senator Schneiderman.

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

for a question.

ACTING PRESIDENT McGEE: Senator Johnson, will you yield for a question?

SENATOR JOHNSON: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SCHNEIDERMAN: Is this bill agreed upon with the Assembly?

SENATOR JOHNSON: It is not.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1659, by the Senate Committee on Rules, Senate Print Number 5693, an act to amend the Local

Emergency Housing Rent Control Act.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR BONACIC: Thank you, Madam President.

This is a Governor's program bill that addresses rent control. And it extends it eight years. It does not affect the life of any tenant or landlord. There are no changes to the existing rent control law. It would run from today to June 15, 2011.

There are three technical clarifications, and I will quickly explain them to you.

The first is the Urstadt Law that is reconfirmed and clarified, which will continue to give the state sole jurisdiction over housing and rent in the state of New York, including New York City.

The second and third amendments deal with the code, the code being DHCR, that we are now putting in statute. And if I can give you an example of the two changes.

If a unit was vacant and was deregulated at $2,000 a month, if that landlord wanted to voluntarily reduce the rent because the market, in order to fill it, was lower, and charge $1,500 a month with that tenant, well, when that lease got renewed again, that landlord could then kick the rent up to $2,000 a month. And it's still a deregulated unit even though it fell below $2,000.

And last but not least, the other amendment, again, they call it the legal rate. But if the landlord wants to lower it -- again, called the preferential rate -- lower than the legal rate, when they again want to renew, they can kick it up to the legal rate without going through the Rent Stabilization Board, applying for higher rents.

That is a practice that is existing now on all three things that I've explained. And there are no changes other than to go into statute what was in code and reaffirm the Urstadt Law that's been in existence since 1971.

I believe that it gives landlords

and tenants stability and protection for the next eight years.

This bill has not been agreed upon with the Assembly. It's been agreed upon with the Governor, the Senate. And -- but we think -- there is a bill that the Assembly has passed for a four-year extension. We are making it -- our proposal is an eight-year extension.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President, if the sponsor would yield for some questions.

ACTING PRESIDENT McGEE: Senator Bonacic, will you yield?

SENATOR BONACIC: Absolutely.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SCHNEIDERMAN: The -- this piece of legislation at the bottom of page 2, the paragraph that starts at the bottom of page 2, is the provision that's currently in effect restricting local governments from providing for their own rent

regulations. We are now adding a paragraph, it's the first full paragraph at the top of page 3, that provides further restrictions to what has become known as the Urstadt Law.

I'd request that the sponsor explain what further restrictions are provided by this new paragraph such as to make it necessary as an amendment to the current Urstadt Law.

SENATOR BONACIC: First of all, why we are reaffirming the Urstadt Law is there was a judicial decision in 2002 called the Missionary Sisters vs. the DHCR. And there were questions raised as to whether or not it diluted the Urstadt Law.

We want to make it clear that we want the Urstadt Law to apply. We're giving legislative intent that we intend to retain jurisdiction over housing and rent. And basically, whatever interpretations you may get out of the case Missionary Sisters vs. DHCR, we are saying legislative intent, we're controlling it, we're controlling the rents, we're controlling housing decisions for the State of New York, including New York City.

SENATOR SCHNEIDERMAN: Thank you, Madam President. If the sponsor would continue to yield.

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

SENATOR BONACIC: I do.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR SCHNEIDERMAN: Well, in the Urstadt Law, again, the paragraph that starts at the bottom of page 2 of your bill provides that no local law or ordinance shall hereafter provide --

SENATOR BONACIC: Excuse me. Excuse me. Can you just recite the number on page 2, what line?

SENATOR SCHNEIDERMAN: Line 50.

SENATOR BONACIC: Okay, thank you.

SENATOR SCHNEIDERMAN: "No local law or ordinance shall hereafter provide for the regulation and control of residential rents and eviction in respect of any housing accommodations." And then refers to the rent control system.

The new paragraph states that -- and we're on page 3, now line 7, "A city having a population of 1 million or more shall not, either through laws or ordinance with respect to the regulation and control of residential rents and evictions, including but not limited to the provision for the establishment or adjustment of rents, the classification of housing accommodations, the regulations of evictions and the enforcement of such local laws or ordinances or otherwise adopt laws or ordinances pursuant to the provisions of this act."

That language is actually quite different than the language in the Urstadt Law at the bottom of page 2. For example, this would appear to prohibit a city from enacting laws that I've actually used providing special provisions to evict drug dealers or padlock laws that shut down illegal activities.

SENATOR BONACIC: The city still retains jurisdiction over public and safety issues. We're not changing that. That supersedes the rent control laws.

The city has those inherent powers

because they have jurisdiction over health and safety, which is paramount. And they can always go in under that power and supersede the rent regulation laws.

SENATOR SCHNEIDERMAN: Thank you.

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

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

SENATOR BONACIC: I do.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SCHNEIDERMAN: Thank you.

I'm not referring to public safety laws.

By expanding the Urstadt Law to refer not just to the regulation and control of rents and evictions but to the regulation and control of residential rents and evictions -- including the classification of housing accommodations, the regulation of evictions, and the enforcement of such local laws or ordinances or otherwise adopt laws or ordinances pursuant to the provision of this act -- that appears to me that it would

prohibit the local government of the City of New York from having an emergency eviction procedure statute such as the city has.

It's not a public safety law, it's an eviction law providing for different methods to evict premises in which there has been criminal activity. It's not a part of the criminal law, it is a part of the landlord/tenant law.

Why would that not be prohibited under this?

SENATOR BONACIC: No. The way I read this section, the city still retains its emergency powers, as well as powers over public health and safety. That does not change. Whatever powers the city had before, they continue to have. They're not diluted, they're not enhanced. It's exactly the same.

That's the intent of the legislation.

SENATOR SCHNEIDERMAN: Thank you. I know some of the my colleagues have questions on that.

I'd like to move to the provision on page 4, line 34, which has been referred to

as the preferential rent provision.

There are two separate portions of this new language. I understand that -- let's start with the second part, which starts at line 40: "Where subsequent to vacancy such legal regulated rent is adjusted by the most recent applicable guidelines, increases, and any other increases authorized by law is $2,000 or more per month, such housing accommodation shall be excluded from the provisions of this act pursuant to paragraph 13 of subdivision A of Section 5 of this act."

Doesn't that provision take out the current requirements in law that there are income requirements for a tenant as well as a $2,000 rent requirement before a unit will be decontrolled?

SENATOR BONACIC: Okay. As I explained before, the rules that exist now are still the same. If a tenant earns $200,000 per year for two consecutive years and the rent reaches $2,000 a month, it becomes deregulated. That doesn't change. Where the unit is vacant and it hits $2,000 a month, it's deregulated. It doesn't change.

The preferential rent and the discussions under this bill apply where the landlord elects to lower the rent, because that's what the market value is, in order to fill the unit.

We don't -- we're sending a message or -- and we're clarifying, we're not changing the implementation that he can charge the lower rent but when there's a renewal, he can go back up to the $2,000 a month rental.

SENATOR SCHNEIDERMAN: Thank you.

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

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

SENATOR BONACIC: I do.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR BONACIC: And I will continue to yield to all your questions so we can go back and forth.

SENATOR SCHNEIDERMAN: Okay. Thank you very much. I appreciate the courtesy of the respondent, if not the sponsor.

The sentence before that, which is what you were referring to, I believe, starting at line 34 of page 4, states that "Where the amount of rent charged is less than the legal regulated rent for the housing accommodation, the amount of rent for such accommodation which may be charged upon renewal or upon vacancy may, at the option of the owner, be based upon such previously established legal regulated rent as adjusted."

The statement that the rent upon vacancy may, at the option of the owner, be -- go back to the legally regulated ceiling preexisting, does that not indicate that the owner has the option to charge more? It simply states that at the option of the owner, he can charge the preexisting legally regulated rent, but he has the option not to.

Where is the language that indicates in any way that the owner can only opt for the legal limit or less? Where is the language that indicates that the option provided here does not mean that the owner can charge more?

SENATOR BONACIC: Okay. I want

to make sure I understand your question. And let's do it by an example so we can relate to it.

It's a deregulated unit at $2,000 a month. The landlord charges a preferential rate of $1,500 a month. Okay? The legal rate is $2,000. Now, are you saying that when the lease has to be renewed why can't the landlord charge 2,200 or 1,800? Is that your question?

SENATOR SCHNEIDERMAN: Well --

SENATOR BONACIC: In the example that I gave.

SENATOR SCHNEIDERMAN: No, not really. Because -- and this may be inadvertent, but when the rent is $2,000, we know from the next sentence that that unit would be out of the system anyway. If the landlord --

SENATOR BONACIC: If it's out of the system, he could do what he wants with it.

SENATOR SCHNEIDERMAN: So the example I'm thinking of is where the legal limit is $700. The landlord is charging $600. What this sentence says is that on renewal or vacancy of this apartment, upon renewal or

vacancy thereof, the rent may, at the option of the owner, be based upon such previously established legal regulated rent as adjusted by the most recent applicable guidelines, increases, and other increases authorized by law.

My question is this. The rent was $600, the landlord was allowed to go up to $700. This gives the landlord the option, upon renewal or vacancy, to go back to the previously established rent. What language indicates that that option would not enable the landlord to go higher?

It says that the landlord now has an option to go to the legally established rent preexisting the vacancy or renewal. Where's the language saying he can't go higher?

SENATOR BONACIC: Is your question dealing with a regulated or deregulated unit?

SENATOR SCHNEIDERMAN: Regulated.

This sentence has no -- this has no language in it about any particular amount of money. This is about regulated units.

There's no language that I see here, and I'm trying to find out if it's somewhere else in the bill, that says that the option -- that we're giving the landlord in this provision an option which has never existed before in this state, is limited to the option to go to the legal limit preexisting or lower.

I don't see any language here which say this option does not mean that the landlord can opt out. He's got an option, he can go to the legally regulated rent or not. Where's the provision that stops him from going higher? Where's the provision that stops him from going to $800 or $900? If the language is here, I just don't find it.

SENATOR BONACIC: Okay. Let's go over the language together. We're on page 4, and you're talking of line 34 through 45. Am I correct?

SENATOR SCHNEIDERMAN: That's correct. We're actually just talking about the first sentence, 34 through 40, because the other part relates to the $2,000 apartments which we discussed earlier. I'm just focusing on the one sentence between lines 34 and 40.

SENATOR BONACIC: Okay. It says that where the amount of rent charged -- paid by the tenant is less than the legal regulated rent. In your example, 700 is the legal rate; the preferential rate is 600. Correct so far, in your example?

SENATOR SCHNEIDERMAN: That's fine.

SENATOR BONACIC: Okay. The amount of rent for such housing accommodation, which may be charged upon renewal -- now the lease is coming up -- or upon vacancy, at the option of the owner, be adjusted upon the previously established legal rate. That's the $700, right so far?

SENATOR SCHNEIDERMAN: At the option of the owner, gotcha.

SENATOR BONACIC: He can charge the $700, as adjusted by the most recent applicable guidelines, increases, or other increases authorized by law.

Now, there, I believe, he would -- you're saying if he wanted to go to $750 or $650? Is that what you're raising?

SENATOR SCHNEIDERMAN: What I'm

raising is this says that it is the option of the landlord whether or not he wants to go back to the previously established legal rent. It's an option. Where's the language that says he can't go higher?

SENATOR BONACIC: The ceiling is always the legal rate of $700. But he could go to $675.

SENATOR SCHNEIDERMAN: Where does it say that?

Through you, Madam President. I'm sorry to be excluding you. Senator Bonacic is being extremely courteous.

Where does it say he can't go to $800? It gives him an option to use the previously established guideline. It doesn't say his other option is lower. Where's the language in the bill that says, that guarantees for tenants that under this provision the landlord couldn't come back at $800 or $900 or $1,000?

SENATOR BONACIC: There's nothing in this language that you referred to that gives the landlord the authority to go over the previous legal rent rate. In our example,

he can only go as high as $700.

SENATOR SCHNEIDERMAN: But where -- I'm sorry, please point me to some words that say that, that say this -- it says an option, the landlord has an option. It doesn't say that his only option is the legally established rent or lower. Where does it say that?

SENATOR BONACIC: I think the confusion is in your use of "an option." And we're saying that the option, in our example, the landlord has the option of going somewhere between 600 and the legal rate.

It can only be lower than the legal rate or the legal rate. That's the option as provided by law. That's what the law is now. I mean, that's what the code is now.

SENATOR SCHNEIDERMAN: Thank you.

Once again, can you please point me to the provision anywhere in this statute that supersedes this provision? Because this provision is a freestanding provision conveying a new option to landlords, providing a new option to landlords not hitherto existing in the law.

Where else in the law does it say that this provision is superseded and that the legal limit is the maximum? I'm sorry, I just can't find it anywhere in this law -- in this section or any other section.

SENATOR BONACIC: And I will answer you that it's our intent that the language that I'm going to read to you is the ceiling of which the landlord is bound by and can never go higher than the legal rate. Okay?

I'm going to read the part. And it will be up to lawyers to say -- you want it more clear, you want another provision that says in no event can the landlord go above the legal rate. But we think we've covered it here. And I'm going to read it to you.

"Upon renewal" -- again, I'm on page 37 -- "upon renewal or upon vacancy may, at the option of the owner, be based upon such previously established legal regulated rent." Period. He can't go higher, because it says that's the highest he can go. All right? That's how we read it. That's how it was prepared. That's the intent.

Nowhere does it say the landlord has the option to go above the previous legal rent.

ACTING PRESIDENT McGEE: Gentlemen, there's been some leniency here. I wish you would work through the chair.

SENATOR SCHNEIDERMAN: Thank you. Thank you, Madam President. I appreciate Senator Bonacic's courtesy.

I don't -- unfortunately, I think that the concession that this would be up to lawyers to decide is precisely what we're worried about. There is nothing here that states in any way, shape, or form that this option -- the option -- it's upon renewal or vacancy at the option of the owner, the rent may be based on the previously established regulated rent.

It doesn't say "or it has to be lower." There's no other provision that supersedes this and imposes that requirement. I'm afraid this is something that is a time bomb for a tremendous number of tenants.

But let me ask another question. The current provision, the code provision on

preferential rents, only provides that upon vacancy of the tenant who pays a preferential rate the legal regulated rent shall be the legally regulated rent previously established.

Now, in that code section it doesn't say the landlord has an option to use the previously established rent. It states "upon vacancy of the tenant who pays a preferential rent, the legal regulated rent shall be the legal regulated rent previously established by record within four years prior thereto," plus all intervening guidelines.

So if I were a lawyer representing a landlord going into court, I would say: Your Honor, this language is not -- repeat, reiterate -- the statement that the rent shall be the legal regulated rent, it says the landlord has an option to base the rent on such previously established legal regulated rent.

Could the sponsor or respondent or guy who's being put out here please try and help me clarify that issue? Because there's a dramatic difference between the current language and the language in this section.

ACTING PRESIDENT McGEE: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

The option is always the legal rate or lower. It's never higher.

And we jumped to the next question. But when I read that section to you, it says "authorized by law." The landlords cannot now in New York City charge above the legal rate. And the only way they can go higher is when they go through the Rent Stabilization Board and get increases. That's what the law is now in the city.

So that is your protection of why the landlord can't charge higher than the legal rate when we use the word "option."

SENATOR SCHNEIDERMAN: I'm sorry, what line was that on?

SENATOR BONACIC: That was page -- again, I'm on page 4 and I'm on lines 39 and 40, continuing --

SENATOR SCHNEIDERMAN: Where it says that upon renewal or upon -- through you Madam President, if I may continue.

ACTING PRESIDENT McGEE: Thank you. Thank you, Senator Schneiderman.

SENATOR SCHNEIDERMAN: "Upon renewal or upon vacancy the rent may, at the option of the owner, be based upon such previously established legal regulated rent as adjusted by the most recent applicable guidelines, increases, and other increases authorized by law." Is that what we're referring to?

SENATOR BONACIC: Well, what I'm saying is the units that are authorized by law, you can't go above the legal rate. Isn't there a process in place? You have to go through the Rent Stabilization Board, make your expenditures known, to justify a rate increase, to bump up the legal rate.

SENATOR SCHNEIDERMAN: Through you, Madam President.

ACTING PRESIDENT McGEE: Senator Schneiderman, yes.

SENATOR SCHNEIDERMAN: Why, if that is true --

ACTING PRESIDENT McGEE: Are you asking Senator Bonacic to yield again?

SENATOR SCHNEIDERMAN: Yes, if he would continue to yield.

SENATOR BONACIC: And I do.

ACTING PRESIDENT McGEE: Senator Bonacic, do you yield?

SENATOR BONACIC: I do.

SENATOR SCHNEIDERMAN: Thank you.

I'm not going to spend much more time on this. But the question really is why, if that is the intent, are we putting in the language of this critical law for millions of people for the first time ever a concept that it is at the option of the owner to go back to the previously established legal rent, when the existing statute states "upon vacancy of the tenant, the legal regulated rent shall be the legal regulated rent?" No language of option.

Why are we putting in the language of the option?

SENATOR BONACIC: I can see obviously you're troubled by the word "option."

And I'm suggesting to you -- and I'm not only suggesting to you, I pointed to

the language -- the word "option" only refers to lowering the rate below the legal rent rate at owner's option. He can charge the 600, the 625, the 650, or, upon renewal, he can go back the 700. He can never go above the 700, the legal rate.

That's the way it's applied now under the code, and we're just putting it in statute. You're struggling -- you know, we've been on the floor almost 15 hours, and we're struggling with language. But what I'm suggesting to you, the way we drafted the language, it's our intent that the landlord never has the right to go above the legal rate. That's what the language says. That's what we intended it to say.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. If the sponsor will yield for one more question from me.

ACTING PRESIDENT McGEE: Senator Bonacic, do you yield for one more question?

SENATOR BONACIC: I do.

ACTING PRESIDENT McGEE: The

Senator yields.

SENATOR SCHNEIDERMAN: Does this provision not also provide another change? In the current code, it states "upon vacancy of the tenant." This states upon --

SENATOR BONACIC: What line are you reading from?

SENATOR SCHNEIDERMAN: I am now going back to line 38 on page 4. Or line 37, excuse me.

This says "the amount of rent for housing accommodation which may be charged upon renewal or upon vacancy." The current code only allows for this sort of preferential rent provision upon vacancy. Is that not a significant change entitling landlords to modify the rent upon renewal and not just simply upon vacancy?

ACTING PRESIDENT McGEE: Senator Bonacic.

SENATOR BONACIC: Ready, okay.

Right now, under the DHCR code, the landlord can raise the rent when there's a vacancy. I believe that they are presently amending their code to make it upon vacancy or

lease renewal.

And what triggered that was the case that I referred to of the Missionary Sisters vs. DHCR. That's the reason for that language.

And again, I say it again, the landlord can only use it to lower the rent below the legal rate.

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

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: Several things. First of all, I happen to have the Missionary Sisters case here. And it's pretty clear from the holding of that case that it was based in large part on the fact that the lease at issue very explicitly provided for the modification upon renewal and not simply vacancy.

Second of all, here in the New York State Legislature, I don't think we should base our actions on something where we suspect there may be an amendment to the code with which legislation we are proposing a little

after midnight on the last day -- or I guess it's the beginning of the real last day of session -- that we are trying to anticipate a proposal for modification of the code.

Finally, and most critically, I appreciate all of the efforts of my distinguished colleague to deal with this issue. But there simply is no language in this bill that is before us now that indicates in any way, shape, or form that the option unprecedented in all law in this area, the option we are giving to the landlord -- the owner, as it states -- to base their rent after renewal or vacancy upon the previously established legally regulated rent is limited to the option to use that standard or to be lower than that standard. It's just not here.

You know, we're going to be here for a while. I think that if we want to draft a bill that follows the intent indicated by the good Senator, we can draft such a bill. This is not such a bill.

And combining that provision for the term "option" without any guidelines as to whether it's any limitation on that option

with the contrast, dramatic contrast of this language to the current code, I think that there will be some very, very well paid landlord's lawyers in court quite quickly to deal with this issue.

I think this is a bomb hidden in a bill. Whatever people's intentions are, I don't think there's really much confusion as to what this provides for.

The extra tightening of the Urstadt Law I think speaks for itself, because conveniently enough, the paragraph that is the current Urstadt Law precedes the paragraph on page 3 that is the newly imposed restrictions. It is clearly more restrictive than the current law.

And I will leave it to some of my other colleagues to discuss the question of the eight-year renewal.

This bill is a declaration of nuclear war on rent regulated tenants in New York. We should not pass this bill.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

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

ACTING PRESIDENT McGEE: Senator Bonacic, will you yield?

SENATOR BONACIC: Of course.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

Senator Bonacic, you've been referencing one lawsuit several times in relationship to reiterating the Urstadt Law. But isn't it true that there are many lawsuits still outstanding against DHCR in relationship to the changes that were made in the '97 law but never actually turned into regulations by DHCR until, I think, 2000?

SENATOR BONACIC: Yes. I don't think DHCR has ever lost a case, but the answer is yes.

SENATOR LIZ KRUEGER: Thank you.

So, Madam President, if, through you, the sponsor would continue to yield.

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

SENATOR BONACIC: I do.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

So by making these changes, potentially we are choosing to moot out the possibility of those lawsuit decisions, by the way this is written in this bill tonight, without our having a chance as a Legislature to look at what the arguments are in a variety of different lawsuits beyond that one that you and Senator Schneiderman were just discussing, and that there are perhaps further legitimate challenges to whether DHCR overstepped their boundaries as an agency in interpreting the '97 law?

SENATOR BONACIC: I disagree with you there.

I think that what we are doing -- and we do it frequently -- is we give statutory intent of our jurisdiction, in this case over housing and rent. The state is going to be preeminent on housing and rent issues all over the state of New York, including New York City. And that's the

purpose of putting it in statute today.

SENATOR LIZ KRUEGER: Madam President, if, through you, the sponsor will continue to yield.

ACTING PRESIDENT McGEE: Senator Bonacic continues to yield.

SENATOR BONACIC: I do.

SENATOR LIZ KRUEGER: Thank you.

I appreciate the answer. I agree, it's to clarify statutory intent.

My concern is based on having moved a law through in '97 without enough evaluation or dialogue or discussion and debate, still, in the year 2003, the courts are trying to interpret what the intention of the Legislature was in '97.

And why would we want to not only repeat that mistake but, in fact, perhaps make worse the mistakes that we did in '97 but by rushing through an attempt not to clarify but to do away with some of the questions in the courts today because of our previous action?

SENATOR BONACIC: See, there is a great body of collective wisdom that says what we did in '97 was good and it's working. It

does provide affordable housing to people in the city. And we're continuing it just the way it is.

And the fact that we've gone six years through a court process is nothing out of the ordinary. We have court cases that go on for a decade or more trying to decide what the Legislature intended on other subjects.

So I don't really think that that argument has validity in what we're doing tonight, and that is expressing a legislative intent to put into statute that we are going to control housing in the State of New York and we're going to control the issues of rent, just like we control other statewide issues. Whether it's laws on crime, on the environment, on social services, we're not going to have two-tier approaches on things that affect all of the people in the state of New York.

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

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

SENATOR BONACIC: I do.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

I appreciate that answer because I think it does get to a point in front of us. Some people think that what we did in 1997 has worked fine, as you said, for the last six years. Many of us think that it has not worked fine at all.

And I would argue if you were to speak to tenants living in rent-regulated apartments throughout the state, they would tend to side with my position that it hasn't been working very well for six years.

But to get to a question, you talked about, in your opening statement, how this bill will allow for the continuation and stability of the rent-regulated housing universe. Well, we know from six years of history that there hasn't actually been stability, that we have lost many, many units to rent regulation until the pool of affordable housing, the estimates vary from 90,000 up to 120,000.

We know that as the years tick by the number of units that come out because of the $2,000 cap that you and Senator Schneiderman were discussing at length -- that as the years go by, the number of units that come out at 2,000 continues to grow and will continue to grow. One, because costs go up, price of rent goes up, and over time it is a natural phenomenon that people leave apartments, they become vacant and they become decontrolled.

So you talk about stability and that this bill offers stability. But under this bill, in the year 2011, the ending date for your legislation -- that would be 14 years since we implemented the 1997 law with a $2,000 cap -- it would still be $2,000 in the year 2011.

My math may not be perfect, but if we just did a 3 percent increase per year in the cost of rent over that 14-year period, that $2,000 would have become $3,000. And if it was a 5 percent increase per year in rent, that $2,000 would have doubled to $4,000.

So I don't know how you could say

there would be stability in the system with 14 years of a cap at $2,000, the cost of housing going up through the rent guidelines borne in New York City between 3 and 5 percent on average each year, years and years of turnover through natural occurrences.

I would argue that at the end of this legislation in 2011 your, quote, stability to the rent regulation/rent stabilization world in the city of New York would be, in fact, statistically an enormous plummeting of units that participated in this program.

So I was wondering whether you agree with my analysis and think that it's okay and we're just disagreeing about the outcome, or whether you disagree with the analysis.

SENATOR BONACIC: First of all, I think your analysis is correct to the extent that there will be less rent-controlled units and stabilized units in 2011 than we have today.

And according to our statistics, from '97 to today there's been about 40,000

taken out of the system. And there's not an accurate recordkeeping. So, you know, you hear numbers going back and forth. But from the people that work with this, our housing people in state government talking to the city tells us it's about 40,000.

You have about a million apartments, roughly, units that come under rent control or stabilized apartments. We are the largest city in the United States that even has stabilized rent control and rent control itself. There is a body of economists and entrepreneurs that say if we did away with rent control that it would lead to more affordable housing, it would lead to more economic vitality for the City of New York.

Now, this is a political problem for those that represent the City of New York. Because there's a lot more tenants than there are landlords, and they vote. And this issue is very important to them, as it should be.

But when I talk of stability, if we did not do rent control today, those million units might evaporate shortly. So that was the tenor of my remarks when I said it allows

a slow erosion of the present system of government subsiding housing in New York City.

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

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

SENATOR BONACIC: Of course, yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: You're right, there are a body of economists and writers out there who say that we shouldn't have regulation of housing at all. There's bodies of writers and economists who also said that deregulating the airlines would lead to great success for the airline industry, which we continue to bail out; that we should deregulate energy, that we should deregulate electricity.

Personally, I don't think the deregulation model has been working particularly well in a variety of areas of our economy. But nonetheless, going back to housing and the stability of housing, you

brought up just then that the stability question is either we pass this bill tonight or we lose rent regulation completely. Because many of us assume whatever day this is, Thursday or Friday on that clock, that this was the last day of session.

Is this an agreed-upon bill with the Assembly?

SENATOR BONACIC: I indicated in my preliminary remarks that the Assembly has passed a bill for a four-year extension.

SENATOR LIZ KRUEGER: So in fact passing this bill does nothing to assure the future of rent regulation beyond tomorrow, because it's a one-house bill.

SENATOR BONACIC: Well, I think that -- and I don't speak for the Assembly, but to get eight years of no disturbance under the existing rules should give some comfort to tenants knowing that -- because I remember in '97 when I was here, you know, they had a fear they were going to lose their homes.

Here, we're continuing with the system for eight more years. That's twice as long as the Assembly's bill.

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

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

SENATOR BONACIC: Yeah, I do. But I just want to make one other point. You feel strongly that it should be in perpetuity, I assume, in tenant protection. But -- and I don't criticize you from where you live and who you represent. But we live in a world of democracy.

And you have elected officials from the city or the metropolitan area that have rent control or stabilized, you know, apartments and you're here to lobby for them. And everyone in this chamber is listening. And we have democracy at the state level. And we're going to vote on whether, you know, we should do more, do less, or stay the same.

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

ACTING PRESIDENT McGEE: Senator Bonacic continues to yield.

SENATOR BONACIC: I do.

SENATOR LIZ KRUEGER: Thank you.

I suppose first I should answer your question. No, I don't think I've ever been on record that I think that the existing rent regulation laws should exist in perpetuity. I'd argue there are many weaknesses and flaws in our system and that if we had addressed the real issue, affordable housing for the people of New York State over the last fifty years appropriately, none of us would be in this chamber tonight arguing this one way or the other.

But you also talked about democracy. And this bill, in the reiteration of the Urstadt section and the continuation of the recognition of the Urstadt Law in New York State, actually does take away democracy from the people who live under rent regulation, the people of New York City.

Because, as I have argued here at least three nights in a row in my amendments to previous one-day extenders, New York City elected officials should be making determinations about New York City housing

policy, not, with all due respect, elected officials from other parts of the state that neither have rent-regulated or rent-controlled tenants in their districts nor in fact, I think by their own declaration, have any real understanding of what it means to be in a tenant housing crisis because it is not a reality in their district.

So that as you know, Senator, I continue to argue that in this Legislature, the Senate and the Assembly, whether I'm elected from New York City or from Ulster County, we shouldn't be making these decisions. These should be decided by local authorities who represent the tenants of New York City directly.

But to go back to a question rather than just a response, since this bill is not a same-as bill with the Assembly, besides the eight years versus four years, what else is different? Are the other things that we've been discussing -- the Urstadt sections, the sections on pages 4, starting at lines 35, page 5, all of the underlines, are those all same-as with the Assembly, or is just the

years different?

SENATOR BONACIC: No, there are three technical amendments, as we've discussed. And they are not in the Assembly's bill.

SENATOR LIZ KRUEGER: Okay, thank you.

Madam President, if the sponsor, through you, would yield to one additional question.

ACTING PRESIDENT McGEE: Senator Bonacic, will you answer one additional question?

SENATOR BONACIC: I do.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

With great hesitation to revisit the territory that you and Senator Schneiderman went through in such detail, it does talk about applicable guideline increases and other increases authorized by law.

So my concern with that, because I frankly think I agreed with your analysis in most of that debate of those lines, it's my

understanding that under today's DHCR regulations if a landlord illegally overcharges me rent under rent regulation --

SENATOR BONACIC: Illegally?

SENATOR LIZ KRUEGER: An illegal overcharge.

SENATOR BONACIC: Yes.

SENATOR LIZ KRUEGER: -- I, the tenant, only have 90 days to discover that and challenge that. Otherwise, that becomes the legal rent.

So to some degree it's a statute of limitations. Either I, the tenant, figure it out within the first 90 days of tenancy, or whatever the illegal overcharge was became the actual rent.

Is that your understanding? And would that be factored into the flexibility the landlord would have here?

SENATOR BONACIC: Neither house is addressing that issue, in their legislation or our legislation. Whatever practice is going on now, as you've described it, is not part of our legislation.

ACTING PRESIDENT McGEE: Senator

Bruno.

SENATOR BRUNO: If you'll excuse the interruption, I would just like to ask for an immediate meeting of the Rules Committee in Room 332. Thank you.

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

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. That was my last question for the Senator.

I was going to speak on the bill, but perhaps I would be given leave to go to the Rules Committee, and I will just explain my vote at some point.

I can't speak? Oh, excuse me. I will speak on the bill briefly. Thank you.

ACTING PRESIDENT McGEE: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: This house is very clear where I stand on this issue. This is not a bill that I could possibly support or imagine encouraging anyone else to support. Eight years from now, if this bill

becomes law, there won't be enough tenants left in rent-regulated or rent-controlled units for us to discuss a future law around rent regulation and rent stabilization.

I do believe that there are many gray areas that we are not necessarily understanding in these three technical changes to the bill. And the fact is we are given so little time to evaluate this, and there is so much gray area in the law as is from the '97 law, that I have to say I am sure that there is much territory we didn't cover tonight and won't understand or fully appreciate until a few hours of sleep and more time to evaluate.

So I urge my colleagues to vote no on this legislation, and we will see what else we can do before we leave this chamber today or tomorrow.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Krueger.

Read the last section.

THE SECRETARY: Section 13. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

SENATOR PATERSON: Party vote in the negative.

SENATOR BRUNO: Party vote in the affirmative.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Call the roll.

THE SECRETARY: Ayes, 38. Nays, 23. Party vote.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Bonacic.

SENATOR BONACIC: I would just like to explain my vote very quickly.

This legislation simply gives tenants protections for a period of time longer than they've ever had. I know from speaking to tenants when they come up and lobby us, they're always concerned with the sunset. Is it going to continue, are they going to have to leave?

And what we have done here on this legislation is simply reaffirm Urstadt and

give the tenants, as I said, eight years' protection under the existing system, which they have lived with for the past six years.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Madam President, can we take up the Supplemental Active List Number 4, the noncontroversial reading.

ACTING PRESIDENT McGEE: The Secretary will read the Supplemental List Number 4.

THE SECRETARY: Calendar Number 464, by the Assembly Committee on Rules, Assembly Print Number 8362, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 876, substituted earlier today by Member of the Assembly Galef, Assembly Print Number 6422A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 878, by Senator Leibell, Senate Print 2170, an act to amend the Vehicle and Traffic Law.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we take up Supplemental Active List Number 5, the noncontroversial calendar.

ACTING PRESIDENT McGEE: The Secretary will read the Supplemental List Number 5.

THE SECRETARY: Calendar Number 357, by the Assembly Committee on Rules, Assembly Print Number 8017, an act to amend the Labor Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill

is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we call up Calendar Number 1655, by Senator Morahan.

ACTING PRESIDENT McGEE: The Secretary will read Calendar Number 1655.

THE SECRETARY: Calendar Number 1655, by Senator Morahan, Senate Print 5686, an act to amend the Election Law.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR MORAHAN: Thank you, Madam President.

This bill is part of a series of HAVA bills, the Help American Voter Act, that we're trying to enact. This bill, number one, would repeal punch-card voting in the state of New York. Because we still have -- unbelievably or not, we still have punch-card ballots in New York State. And that would

occur before January 1, 2004.

We could also get a waiver, if we had to, to 2006, depending on the filing by the Board of Elections with the federal people.

It also establishes an administrative complaint procedure that is dictated by HAVA. That would be enacted immediately. It would create statewide voter registration base and an election results reporting system required by HAVA. And it would also create a HAVA implementation fund immediately, which is really establishing a bank account without money, but it would be for the use to start to implement the HAVA process.

That's what the bill does.

ACTING PRESIDENT McGEE: Read the last section.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, Madam President. Will the sponsor yield for a question.

ACTING PRESIDENT McGEE: Senator Morahan, will you yield for a question?

SENATOR MORAHAN: Yes.

SENATOR SCHNEIDERMAN: Does this bill, as drafted, cover all of the provisions that the state is required to under HAVA?

It does not identify an official voting machine, require competitive bidding, or address the issue of handicapped accessibility. So there's a question as to whether or not this actually meets the requirements under the law.

SENATOR MORAHAN: This meets partial -- partially meets the requirements. As we go forward with the report from the task force -- I'm sorry, as we go forward, we'll be doing more HAVA bills regarding the machines once there's some decision on what we're doing to do. We're trying to work three-way agreements, but we're not there yet.

SENATOR SCHNEIDERMAN: Thank you.

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

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

SENATOR MORAHAN: Yes.

ACTING PRESIDENT McGEE: The

Senator yields.

SENATOR SCHNEIDERMAN: Thank you. Is the deadline for implementing HAVA for the states not September of 2003?

SENATOR MORAHAN: No, I believe that's when the State Board of Elections will have to make a report on their public hearings and what we did as a task force. That report is in draft form now and must be forwarded to the federal people by September this year.

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

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I think that this legislation doesn't go very far at all towards meeting the requirements contemplated by HAVA. And it fails to address the most critical issues to many of us in connection with this very, very important area of law that is critical to our democratic form of government.

This bill has no provision for voter education programs, poll training programs, is silent on the issue of voter

identification at polls, which is a critical issue and the subject of a lot of controversy.

I don't think this meets the requirements of HAVA. I don't know when we're planning before September to do anything else. And given its deficiencies, I am going to vote no and encourage everyone else to vote no.

ACTING PRESIDENT McGEE: Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

I have some familiarity with elections in New York State. And I'm going to vote against this, and I'm going to tell you why. It epitomizes -- and with all due respect to the sponsor, who I know is trying to get something out there that at least seems to minimally comply with HAVA.

But the fact of the matter is once upon a time in New York State, until eight or nine years ago, we generally approached election matters in a thoroughly bipartisan manner. Now, there were those who said, Oh, it's the club in operation. But the reality was the professionals in both political

parties understood the responsibility to the public to deal with election situations in a way that was bipartisan.

In 1986 I served on a temporary state commission on voting technology, voting machines. And a lot of the existing statute in fact were things that came out of that task force. That was a thoroughly bipartisan effort. I don't remember, in any of the deliberations, any differences or friction that I could have read as having any basis in partisan differences or someone looking for an edge.

In fact, one of the things that Senator Morahan's bill here today, or this bill does is ban punch-card ballots, for example. Now, to my knowledge -- and I may be wrong by a number -- I think there's only about seven counties in New York State that use them, only for absentee or in some cases affidavit, the so-called paper ballots.

The reason it's that limited is one of the things we did in 1986. 1986, not 2000, 14 years before Florida, we had testimony, we had hearings, and we had people tell how

unreliable punch-card ballots were. 1986. We also had vendors trying to sell us punch-card systems as cheap, the best way to getting the technology, you get quick results election night. Yes, quick but not accurate.

We banned them. Our existing statute bans punch-card ballots for anything but absentee ballots, because there were some counties then who were already using punch cards for absentee ballots and they didn't want to change, and we wrote it that way.

But the approach was bipartisan. And I know the Governor appointed a task force to deal with HAVA. It is not down the middle bipartisan, nonpartisan. I think its approach unfortunately, because there are a lot of resources involved here, potentially has in my opinion been overly partisan. And it shouldn't be.

Let's talk about what's not out here yet. Once upon a time, when it came to the national politics -- delegate selection, timing of primaries, methods of getting on the ballot -- the rule was we'll pass what the Republicans need according to their rules and

their system of doing it and we'll automatically pass what the Democrats need for their national convention, their system, their delegate selection process. One year, going back, it was for the Democrats' caucuses rather than delegates on the ballot.

But the rule was what you need under your national rules, we want to accommodate that. And there's no price. There's no trade. The only trade was that reciprocity, that bipartisan reciprocity that we will accord to you what your rules compel.

Unless I missed it earlier today, I don't think we've done those bills even yet. And I know for Democrats a mandated part of the delegate selection process starts later this summer, with the first outreach brochures and whatever.

So I think what we've done here, Madam President, is we've gotten a little partisan and rough about these things, and we ought to go back to the drawing boards. There is a lot at stake here. What is at stake is not just lots of federal money, it's not just, oh, a new voting technology. In 1986, we

dealt with that. We passed rules for testing, so on and so forth.

But we have issues we have to confront, tough issues -- full face ballot, style of ballot. Are we going to keep party columns for all our parties? Are we going to have a Massachusetts-style ballot?

And I think people need to sit down from both parties and work this out in a way that the public is served best. I don't think anybody should be looking for an edge as we do any of these election reforms. And sad to say, I think with HAVA we're playing with fire on a whole lot of money if we don't address more than just the bare minimum here.

We have to tackle some of the more controversial requirements of HAVA, and we have to do it, I think, in a bipartisan way where no one's looking for an edge politically to come out of it. It's the only way the people will be served.

I'm voting no on this, Madam President, for the reasons I've stated.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

SENATOR MORAHAN: Madam President.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: On the bill.

I don't want anyone to walk away from this chamber tonight thinking that this is HAVA and this is the complete work. It's a work in progress. There's much that we have to do and will continue to do over the next few months to see what we have to do to be in complete conformity.

But I think it's important that this Legislature work on this process as opposed to the administration at the Board of Elections trying to implement all of HAVA without any input from those who represent the people.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

Senator Sabini, I'm sorry.

SENATOR SABINI: Madam President, on the bill.

Just to respond to the sponsor's last point, sometimes a partially completed house isn't very pretty. And I don't know that this sends any message to anyone, really, that we're doing the right thing on what is a very important implementation of a federal law. In fact, there's going to be a lot of money involved, coming from someone else paying for something for once, with the federal government picking up the tab.

So while I respect the chairman's -- our Election Law chair's desire to have something move, this is such a collection of scraps that I don't know what it's ever going to look like. And I'd rather have a better idea of what it's going to look like before we move on it.

And I intend to vote in the negative. Thank you.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 7. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1655 are Senators Andrews, Breslin, Connor, Dilán, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Oppenheimer, Parker, Paterson, Sabini, M. Smith, and Stavisky. Ayes, 46. Nays, 15.

ACTING PRESIDENT McGEE: The bill is passed.

SENATOR PADAVAN: Madam President, may I have unanimous consent to be recorded in the negative on Senate Bill 5693, please.

ACTING PRESIDENT McGEE: Without objection.

SENATOR PADAVAN: It's Calendar 1659.

ACTING PRESIDENT McGEE: Without objection.

Senator Golden.

SENATOR GOLDEN: Madam President,

I also request unanimous consent that my vote be recorded in the negative on Calendar Number 1659.

ACTING PRESIDENT McGEE: Without objection.

SENATOR BRUNO: Madam President, can we at this time call up Calendar Number 1656.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1656, by Senator Morahan, Senate Print 5687, an act to appropriate monies.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time return to the reports of standing committees.

I believe there's a report from the Rules Committee at the desk. I would ask that it be read at this time.

ACTING PRESIDENT McGEE: The Secretary will read.

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

Senate Print 171, by Senator Hoffmann, an act to amend the General Obligations Law;

830, by Senator Morahan, an act to amend the Public Health Law;

2475, by Senator Breslin, an act in relation;

2681A, by Senator Hannon, an act to amend the Public Health Law;

2760B, by Senator Libous, an act to amend the Public Health Law;

2887A, by Senator Padavan, an act to amend the Public Health Law;

3964, by Senator Golden, an act to amend the Administrative Code of the City of New York;

3991, by Senator Robach, an act to amend the Retirement and Social Security Law;

4373A, by Senator Leibell, an act to make certain parents;

5213, by Senator Padavan, an act to amend the Local Finance Law;

5473, by Senator Velella, an act to amend the Public Authorities Law;

5479A, by Senator Bonacic, an act to amend the Vehicle and Traffic Law;

5583, by Senator Hannon, an act to amend the Public Health Law;

5607, by Senator Padavan, an act to amend the Real Property Tax Law;

5646, by the Senate Committee on Rules, an act to amend the Public Health Law;

5670, by Senator Little, an act to validate;

5682, by Senator Padavan, an act to amend the General City Law;

5690, by Senator Golden, an act to amend the Penal Law and others;

5691, by Senator Volker, an act to amend the Labor Law;

5694, by the Senate Committee on Rules, an act to amend the Environmental Conservation Law;

Assembly Print 3764B, by Member of the Assembly Sweeney, an act to authorize the County of Suffolk;

And Assembly Print 5582, by Member of the Assembly Gottfried, an act to amend the Social Services Law.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time move to accept the report of the Rules Committee.

ACTING PRESIDENT McGEE: The motion is to accept the report of the Rules Committee. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, say nay.

(No response.)

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

Senator Onorato.

SENATOR ONORATO: Madam President, I would like unanimous consent to be recorded in the negative on Calendar Number 1655.

ACTING PRESIDENT McGEE: 1655?

SENATOR ONORATO: In the negative.

ACTING PRESIDENT McGEE: Thank you very much, Senator Onorato. Without objection.

SENATOR ONORATO: Madam President.

ACTING PRESIDENT McGEE: Senator Onorato.

SENATOR ONORATO: Madam President, there will be an immediate conference of the Minority in the Minority Conference Room.

ACTING PRESIDENT McGEE: Immediate conference of the Minority in the Minority Conference Room.

Senator Bruno.

SENATOR BRUNO: Madam President, can we recognize Senator Velella.

ACTING PRESIDENT McGEE: Senator Velella.

SENATOR VELELLA: Madam President, on Calendar 1659 I'd ask unanimous consent to be recorded in the negative.

ACTING PRESIDENT McGEE: Without objection.

SENATOR VELELLA: Thank you.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: The Senate will stand at ease for approximately 15 minutes.

ACTING PRESIDENT McGEE: The Senate will stand at ease for approximately 15 minutes.

(Whereupon, the Senate stood at ease at 1:20 a.m.)

(Whereupon, the Senate reconvened at 1:55 a.m.)

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President,

at this time if we could take up Senate Supplemental Calendar Number 60F, noncontroversial.

ACTING PRESIDENT McGEE: The Secretary will read Supplemental Calendar 60F.

THE SECRETARY: Calendar Number 1660, by Senator Hoffmann, Senate Print 171, an act to amend the General Obligations Law.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1662, by Senator Morahan, Senate Print 830, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2004.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1663, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 5421 and substitute it for the identical Senate Bill Number 2475, Third Reading Calendar 1663.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1663, by Member of the Assembly McEneny, Assembly Print Number 5421, an act in relation to permitting.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: In relation to Calendar Number 1664, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 9007 and substitute it for the identical Senate Bill Number 2681A, Third Reading Calendar 1664.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1664, by the Assembly Committee on Rules. Assembly Print Number 9007, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1665 --

SENATOR BRUNO: Lay it aside temporarily, please.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: In relation to Calendar Number 1666, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 4789B and substitute it for the identical Senate Bill Number 2887A, Third Reading Calendar 1666.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1666, by Member of the Assembly Lafayette, Assembly Print Number 4789B, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1667, by Senator Golden, Senate Print 3964, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1668, by Senator Robach, Senate Print 3991, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1669, by Senator Leibell, Senate Print 4373A, an act to make certain parents, widows and children.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1670, Senator Maltese moves to discharge, from the Committee on Rules, assembly Bill Number 8679 and substitute it for the identical Senate Bill Number 4549A, Third Reading Calendar 1670.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1670 --

SENATOR BRUNO: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1671, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 8692 and substitute it for the identical Senate Bill Number 5213, Third Reading Calendar 1671.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1671, by the Assembly Committee on Rules, Assembly Print Number 8692, an act to amend the Local Finance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1672, by Senator Velella, Senate Print 5473 --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1673, by Senator Bonacic, Senate Print 5479A, an act to amend the Vehicle and Traffic Law and the Labor Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1674, by Senator Hannon, Senate Print 5583, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1675, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 9000 and substitute it for the identical Senate Bill Number 5607, Third Reading Calendar 1675.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1675, by the Assembly Committee on Rules, Assembly Print Number 9000, an act to amend the Real Property Tax Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1676, by the Senate Committee on Rules, Senate Print Number 5646, an act to amend the Public Health Law, the State Finance Law, and the Insurance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1677, by Senator Little, Senate Print 5670, an act to validate, ratify and confirm.

SENATOR LIZ KRUEGER: Lay it aside.

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

SENATOR BRUNO: I would ask that the message be accepted.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed will say nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

The Secretary will read.

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

SENATOR HOFFMANN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number

1678, by Senator Padavan, Senate Print 5682, an act to amend the General City Law and the Administrative Code of the City of New York.

ACTING PRESIDENT McGEE: Senator Bruno.

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

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

SENATOR BRUNO: I would move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed will say nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

THE SECRETARY: Section 35. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1679, by Senator Golden, Senate Print 5690, an act to amend the Penal Law and others.

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

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

SENATOR BRUNO: I would move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Those opposed will say nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1680, by Senator Volker, Senate Print 5691, an act to amend the Labor Law.

SENATOR BRUNO: Is there a message at the desk?

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

SENATOR BRUNO: I would move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, say nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

THE SECRETARY: Section 31. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1681, by the Senate Committee on Rules, Senate Print Number 5694, an act to amend the Environmental Conservation Law.

SENATOR BRUNO: Is there a message at the desk?

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

SENATOR BRUNO: I would move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1682, by Member of the Assembly Sweeney, Assembly Print Number 3764B, an act to authorize the County of Suffolk.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1683, by Member of the Assembly Gottfried, Assembly Print Number 5582, an act to amend the Social Services Law.

ACTING PRESIDENT McGEE: Read the

last section.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

Senator Duane.

SENATOR DUANE: Thank you, Madam President. If I could have unanimous consent to be recorded in the negative on Calendar Number 1680.

ACTING PRESIDENT McGEE: Without objection.

SENATOR BRUNO: Madam President, can we return to messages from the Assembly.

I believe there is a message from the Assembly at the desk.

ACTING PRESIDENT McGEE: Messages from the Assembly.

The Secretary will read.

THE SECRETARY: The Assembly sends for concurrence the following bill. On motion of Mr. Bruno, and by unanimous consent, the rules are suspended in order to a third reading: Assembly Bill Number 9009.

Calendar Number 1661, by the

Assembly Committee on Rules, Assembly Print Number 9009, an act to amend Chapter 266 of the Laws of 1986.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

Senator Bruno, that completes the noncontroversial reading of Supplemental Calendar 60F.

SENATOR BRUNO: Can we at this time take up the controversial reading of the calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1660, by Senator Hoffmann, Senate Print 171, an act to amend the General Obligations Law.

ACTING PRESIDENT McGEE: Senator Hoffmann.

Senator Schneiderman.

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

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: Many of us have voted against this legislation, similar legislation, because, while we believe that there are some worthy provisions in it, it contains, in line 47 of page 3, a limitation of liability which essentially exempts sponsors of equine activities from liability for an injury to or the death of a participant resulting from the inherent risks of equine activities.

And this is an extraordinary exemption. I think there were 22 no votes on this the last time, and that provision really was the reason.

I'm going to vote no, and I encourage everyone to do so.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Hoffmann.

SENATOR HOFFMANN: Madam President, this particular piece of

legislation is long overdue in New York. And it is a detriment right now to our booming equine industry that we do not have it in place already.

It is referred to as inherent risk. It requires the posting of a sign which indicates that anybody who engages in equine activities understands that there is of course a fairly obvious risk.

The very nature of horses means that they may react suddenly if they're startled or if they should have their footing on unsecure ground. This is just the very nature of this activity, and anybody who engages in it must surely be aware of a reasonable amount of risk.

Injuries are minimal, happen very seldom, and the rare occurrence cited by Senator Schneiderman should in no way discourage us from passing this important legislation.

I would urge all of my colleagues to consider that the great success we've had in the equine world over the last few months with Funny Cide indicates this great

opportunity we have to help move forth this part of our agricultural industry. This measure really deserves passage in this house tonight.

ACTING PRESIDENT McGEE: Senator Duane.

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

ACTING PRESIDENT McGEE: Senator Duane, on the bill.

SENATOR DUANE: And we had that wonderful success without this bill. I urge my colleagues to vote no. We don't need it.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1660 are Senators Andrews, Brown, Connor, DeFrancisco, Duane, Hassell-Thompson, L. Krueger, Onorato,

Parker, Paterson, Sabini, Sampson, Schneiderman, M. Smith, and Stavisky. Ayes, 46. Nays, 15.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1665, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 1722B and substitute it for the identical Senate Bill Number 2760B, Third Reading Calendar 1665.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1665, by Member of the Assembly Wright, Assembly Print Number 1722B, an act to amend the Public Health Law and the Education Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1667, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 7171 and substitute it for the identical Senate Bill Number 3964, Third Reading Calendar 1667.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1667, by Member of the Assembly Abbate, Assembly Print Number 7171, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1670, substituted earlier by the Assembly Committee on Rules, Assembly Print Number 8679, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT McGEE: Senator Larkin.

SENATOR LARKIN: Would the sponsor yield.

ACTING PRESIDENT McGEE: Senator Maltese?

SENATOR MALTESE: Yes, certainly I would, Madam President.

SENATOR LARKIN: Serph, I've read this four times, and I'm totally confused. How are we going to build shade for dogs?

SENATOR MALTESE: Madam President, if that's the only troubling aspect

of this bill, I guess it's just how we would build shade for human beings.

I don't think it's a requirement in this bill that we build new structures. I think it's a requirement in this bill that we prevent exposure and terrible occurrences that happened just this past year where we read in our daily papers about dogs being found frozen to the ground because of uncaring owners.

This bill received unanimous consent from a bipartisan, compassionate Assembly. I'm hopeful that the Senate would treat it the same way.

SENATOR LARKIN: Well, I'm very compassionate to dogs. I have a cat. I wonder if we're going to now take up a bill next session to do it for cats.

But let's be realistic here. It says here the minimum standards will be artificial means to protect a dog from direct sunlight at all times when exposed to sunlight is likely to threaten the health.

For dogs that are left outside, they will have to have -- the shelter must have a waterproof roof, be structurally sound

with insulation appropriate to local climate conditions and sufficient to protect the dog from inclement weather.

The construction will be such that there will be freedom for the dog to walk around, turn around, lie down, and effect the removal of excretion and other waste.

My question is, this is a mandate. This is a mandate on local government. And who's going to do this?

SENATOR MALTESE: Madam President, I don't think it's a mandate on local government. I think it's a mandate on unfeeling, uncaring people that are content to leave dogs, man's best friend, out in the cold to die frozen to the ground or to die from heat prostration.

This refers to dogs that are left outside without means to avail themselves of a nearby structure. The structures do not have to be a specially built, custom doghouse, as seems to be requested there, as spoken about. They can be any structure adjacent to where the dog is confined.

This bill is a preventive bill.

It's a bill that seeks to make people realize their obligation to their own pets, their companion pets. And what it seeks to do is protect dogs that are unable to protect themselves because unfeeling owners or custodians leave them leashed or unable to reach either warmth or shade.

I think it's a good piece of legislation, Madam President, and I urge all my colleagues to support it.

ACTING PRESIDENT McGEE: Senator Larkin.

SENATOR LARKIN: On the bill.

ACTING PRESIDENT McGEE: Senator Larkin, on the bill.

SENATOR LARKIN: I think it's very appropriate that we do. We read in the paper about dogs being left out and all that.

But the question that comes to my mind is, how do we start to say who's going to go around the yard and see that there's a dog on a leash and in there? We talk about the fines in here, what will the fines be used -- who will regulate this, the Department of Agriculture? I don't see that in here.

I commend Senator Maltese for his conscientious effort on the part of dogs, and I'm sure that PETA will be very proud of you, but I still wonder if we're not putting the cart before the horse.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Just -- the hour is late, and I know that there are a lot of issues that come before us that we'd rather not see before us.

This piece of legislation happens to be one that we all ought to relate to in some positive way. And I understand Senator Larkin's concerns.

And I want to assure you, Bill, by the way, that these are not rent-controlled units.

(Laughter.)

SENATOR BRUNO: But on a serious note, on a very serious note, neighbors will call and report that people have tied a dog outside behind their house, 20 degrees below zero, two and three nights in a row.

Two dogs, within two miles from

where I live, were found frozen to death in the backyard, where neighbors had complained that the people were leaving those dogs unattended. Now, does anybody in this chamber feel that that's appropriate?

And another dog was practically fried in the sun with not one bit of shade, not one bit of cover, not having a thick coat, practically cooked in the sun. Does anybody here think that's appropriate? And when people call the authorities, the authorities act as if there's not a thing they can do about it.

Now, you don't have to plant trees for shade. You can put up a canopy. You don't have to have a furnace or a stove heated in a doghouse. But it's appropriate that an animal, a dog, have protection. Just like Senator Larkin likes protection from the elements, like I like protection, like all of the people that we've been talking about like protection.

So I would urge my colleagues to have compassion for those poor dogs that are out there defenseless, now howling, whining

and barking, looking for support from us.

Thank you very much.

ACTING PRESIDENT McGEE: Senator Fuschillo.

SENATOR FUSCHILLO: I agree with Senator Bruno.

(Laughter.)

ACTING PRESIDENT McGEE: Senator Bonacic, did you wish to speak on the bill?

SENATOR BONACIC: Absolutely not.

(Laughter.)

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1670 are Senators Bonacic, Libous, Nozzolio, and Seward. Ayes, 57. Nays, 4.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1672, by Senator Velella, Senate Print 5473, an act to amend the Public Authorities Law.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT McGEE: Senator Velella, an explanation has been requested by Senator Schneiderman.

SENATOR VELELLA: Yes, Madam President.

This bill creates the New York City Transit Authority Safety Advisory Panel, with seven members to be appointed, two by the Governor at the recommendation of the Senate, two by the Assembly, and the balance to be appointed by the Governor.

Members will be selected from law enforcement, emergency response management teams, worker and rider safety. And the panel shall be empowered to study and evaluate the range of strategies available to ensure public safety including ingress and egress from stations by all means of deterring terrorist attacks and criminal mischief.

And this bill, in its second part, will also place a moratorium on the closing of token booths.

ACTING PRESIDENT McGEE: Senator Schneiderman.

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

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: My concern with this bill is that even though the vast majority of people in this house who represent those who use the -- the number of people who use the transit authority are on this side of the aisle, this provides for appointments only by the Temporary President of the Senate and the Speaker of the Assembly.

And while I note that it does also provide very intelligently to prohibit token booth closings, all of the activity, including litigation, relating to token booths that has prevented the MTA from closing token booths thus far has actually been initiated by Senators on this side of the aisle.

So I would hope that we could

provide some way for us to participate in a safety panel responsible for these issues. I will be voting no.

Thank you.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1672 are Senators Andrews, Gonzalez, L. Krueger, Paterson, and Schneiderman. Ayes, 46. Nays, 5.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1677, by Senator Little, Senate Print 5670, an act to validate, ratify and confirm.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Senator Hoffmann.

SENATOR HOFFMANN: To explain my vote, Madam President, just briefly.

ACTING PRESIDENT McGEE: Senator Hoffmann, to explain her vote.

SENATOR HOFFMANN: I understand Senator Little's concern for protecting a compact in existence in her district.

There is, however, a compact in existence in the Senate district immediately adjoining mine -- but at the time it was enacted, I did represent that area, and I have represented the surrounding area for many years -- and it was enacted in 1990 with virtually no input either by the Legislature or by local governments.

I have heard from many members of local governments who believe that their compact should be the first one to be renegotiated and that they should have input.

My vote in opposition to this measure is a protest to this process. I believe that until the compact negotiated by Mario Cuomo with the Oneida Nation of New York

is reviewed and given a proper revision subject to the approval of this legislative body, I cannot in clear conscience support another compact approval.

ACTING PRESIDENT McGEE: Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you, Madam President and my colleagues.

The issues involved with Indian matters are complex and often controversial. I'd like to state that it's clear that the approval here tonight by the Legislature is long overdue, because this Legislature should have the authority to oversee and to ratify those compacts negotiated by the Executive.

The New York State Court of Appeals agrees with that statement and has just issued a ruling to that effect.

But I'd like to make it also clear that the approval of this Legislature this evening does not guarantee the approval of all agreements with native American tribes. Other compacts should be looked at individually. And that I believe this Legislature certainly is acting as the interests of the region are

best reviewed by the Senator representing that region.

This measure is sponsored by Senator Little, who represents the region most affected, most impacted by the compact in question. Therefore, Senator Little's guidance and judgment should be the guidance and judgment that this Legislature takes.

I think it's also important, though, that the precedent we are establishing here is that the local Senator whose district is most affected is the one that's given the greatest deference and the one who's looked to to whether or not the compact itself should be reviewed.

I'm supporting this bill tonight, but I certainly hope that we continue to look to those legislators. I know for a fact that one day I may be asked to review a compact and would expect the same courtesies from my colleagues and the same precedent that we're establishing here this evening to look to the local Senator.

Thank you, Senator Little. We are certainly listening to your judgment,

listening to your guidance.

And that although I reluctantly vote in the affirmative, I do so certainly because this is sponsored by the Senator representing the region most affected by the compact.

Madam President, thank you. I vote aye.

ACTING PRESIDENT McGEE: Senator Padavan, to explain his vote.

SENATOR PADAVAN: Madam President, thank you.

In explaining my vote, first, I have a great deal of respect for Senator Little. And I realize the position she's in with regard to having inherited the situation.

However, we are being asked as a group to vote on a compact that I daresay none of us have read. We don't know anything about what's in there. It's like signing on to a contract that you've never read. And that, to me, doesn't make sense.

Secondly, if you look at the very opening sentence of the bill, it says: "Notwithstanding any inconsistent provision of

law to the contrary." Now, that means a lot of things to me -- labor law, child labor law, environmental law. You could go on and on with that list.

And we're saying irrespective of any law that we either had on the books ten years or put on the books over the past ten years, this compact takes precedence. I think it's a big mistake. It's a pig in a poke.

And as far as the fact that it's in one Senator's district, while I have respect for that fact as well, it does certainly relate to the entire state.

One final comment. I received a phone call earlier this evening -- I should say earlier last night -- from the mayor of Oneida, who has an Indian reservation near him, saying, in effect, we should not do this, because he knows his is next and he doesn't want us to ratify that contract without a lot of significant changes because of the negative result that it has for his city.

I vote no.

ACTING PRESIDENT McGEE: Senator Meier.

SENATOR MEIER: Thank you, Madam President.

I have one of these casinos in my district. In fact, the casino that one of the my colleagues alluded to earlier is in my district.

But I respect the prerogatives of the legislators who represent the area where this particular casino is located. And I respect the local government officials in that area who, by the way, it's my understanding support this piece of legislation. And I respect the members of the Assembly sitting in the other body who also voted for this.

I will vote in favor of it because of that respect that I think those representatives are entitled to. But I would identify with the comments made by my colleague Senator Nozzolio that these compacts are independent matters, they are to be judged independently, and this vote today in no way establishes a precedent for this Senator in terms of any future compacts -- and I might dare even venture to say for this body as a whole for any future compacts.

Under those circumstances and with that caveat, I vote aye.

ACTING PRESIDENT McGEE: Senator Larkin, to explain his vote.

SENATOR LARKIN: Thank you, Madam President.

You know, the Majority Leader is walking out now, but he was part of a project that committed to this state to make six casinos, three in Western New York and three in the Catskills.

We have a project in front of us. And I congratulate Senator Little for stepping up and coming out more than once in conference and saying, We have to put this behind us. We have to move forward.

It was talked back in 1993, in a previous administration, that it was the wrong way to go. The case law was the State of New Mexico, where they turned it over and made the whole compact go back to the legislature.

But we can't keep dragging our heels. My colleagues Senator Nozzolio and Senator Meier said this is just one piece. We're going to have new compacts, and we will

be here, as a legislative body, looking at what the contents of the compact are.

But right now we have an issue to correct that's ten years old. We can stand here today and tomorrow and say, well, we should have done this, we should have done that. Senator Little wasn't there then when it was done. A lot of people in this chamber weren't there when it was done.

But we're now making the right turn and we're doing the right thing. And I'd like to compliment Senator Meier when he said -- and Senator Nozzolio saying that this is the legislator whose district this facility is in and we ought to all be standing by her and saying we are here to help you. And as we move forward to the next facility that's being looked at, we will be able to dot the I's and cross the T's more appropriately.

I think we ought to move forward, we ought to pass it. And thank you, Betty, for standing up.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you,

Madam President. Briefly on the bill.

ACTING PRESIDENT McGEE: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: I find it fascinating to listen to this discussion --

ACTING PRESIDENT McGEE: Senator Krueger, we're on a roll call, so I assume you are explaining your vote. Is that correct?

SENATOR LIZ KRUEGER: I'm sorry, but the hour is late. To explain my vote, thank you.

It is fascinating to me that I listened to this debate on this floor tonight about individual Senators saying they need to respect the rights of one legislator for an issue that is within their district, when this house refuses to recognize the jurisdiction of elected officials from New York City to deal with New York City housing policy.

So I appreciate the comments, and I wish that we were consistent in this house about whose jurisdiction and whose local officials and whose individual legislators should be dealing with issues.

I also just want to say that it is

rare when I agree with Senator Hoffmann on a bill. And I will be voting no.

Thank you.

ACTING PRESIDENT McGEE: Senator Connor.

SENATOR CONNOR: Thank you, Madam President. To explain my vote.

I just want to leave the record, at least for me, clear of something that Senator Padavan said. I've read the Mohawk compact. I read it back in 1993. I read the Oneida compact back when Governor Cuomo did that a couple of years before that.

I had to get it from the Governor's office by a whole lot of pressure, the Oneida compact being the first. I got it and it was stamped "Secret and Confidential." And when they gave it to me, they said, "Don't show it to anybody." I was a Senator, and I was like, you have to be kidding.

I believe then the late Assemblyman Tony Genovesi raised it on the floor of the Assembly that the Legislature should have had a purview over this. IGRA, Indian Gaming Regulatory Act, suggested the Governor could

do it himself. The courts later made that plain that wasn't so. The New York courts have now made it plain it wasn't so for New York.

That said, as many people here know, I've voted against gambling over the years here. I certainly led the opposition to the constitutional amendment. But that said, we have facts on the ground now. The casino exists on the Mohawk Reservation. Senator Little represents that area. And since I have read the compact, I feel quite comfortable voting for her bill.

Thank you.

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

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1677 are Senators Duane, Hassell-Thompson, Hoffmann, L. Krueger, and Stachowski. Ayes, 46. Nays, 5.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Also Senator Padavan. Ayes, 45. Nays, 6.

Calendar Number 1679, by Senator Golden, Senate Print 5690, an act to amend the Penal Law and others.

SENATOR MALCOLM SMITH: Explanation.

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

SENATOR GOLDEN: Thank you, Madam President. I'll try to be brief.

This Sexual Assault Reform Act was enacted in 2000. This Legislature set forth in the legislation that certain parts of this reform legislation still needed to be completed. This bill will complete the reforms begun in 2000 and will additionally provide enhanced protections to victims of sex crimes, and other important benefits.

This bill enacts important new benefits to sex assault victims by allowing the provider of sex assault forensic exams to receive direct reimbursement from the Crime Victims Board. This ensures that victims will not have to make such claims during a time of

crisis, and institutions providing these services are assured of a basic funding source to maintain their services.

This important provision also ensures the confidentiality of victims by providing health-care providers from seeking reimbursement for the cost of these exams, and the victim's insurers, unless the victim agrees to use his or her insurance to pay these costs.

The bill amends the definition of persistent sexual offenses to broaden the number of crimes which may serve as a predicate for these enhanced penalties.

Important reforms also have been made in the Family Court for children, lowering from 12 to 9, so that they can be seen as competent to testify for prosecution.

There are other areas within this bill. The date rape drug GHB, there are three felonies for possession and sale. Although when this Sexual Assault Reform Act was first enacted, part of the act made the possession of the date drug known as GHB illegal. Many industries in this state use the chemical

components of this drug to manufacture many commercial products, including such diverse items as golf balls, herbicides, plastics, and roller coaster parts.

Possession of these chemical components by manufacturer users is permitted under federal law but could be deemed illegal under the new law if we enact it. In order to clarify that such possession for manufacturing purposes is also to be permitted under New York law, the Executive, the Senate, and the Assembly have agreed to enact appropriate clarifying legislation.

However, because of the amount of time left to finish this session this year, this legislation must enact -- we'll enact this when we meet in the next session. The Senate is committed to go forward with this legislation.

ACTING PRESIDENT McGEE: Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Explanation satisfactory.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 72. This act shall take effect on the first of November.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1681, by the Senate Committee on Rules, Senate Print Number 5694, an act to amend the everything Environmental Conservation Law.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR MARCELLINO: Thank you, Madam President.

What seems like an eternity ago, this house passed a brownfields bill that started this process going. I'm not going reiterate the entire explanation for that bill, because I think most of us know it and most of us are aware of the problem, most of

us are aware of the seriousness of brownfields and the reason why they have to be remediated.

The bill that we have before us will enact the brownfield cleanup program and refinance the existing state Superfund program in order to remediate contaminated property across the state, improving public health and turning an environmental and economic drain into an environmental and economic gain.

This bill further authorizes the refinancing of the state's inactive hazardous waste program, the state Superfund program. It ensures the continued protection of public health and the environment through the reform and enhancement of the state Superfund program.

It will assure the most efficient utilization of public and private funding sources for the investigation and remediation of sites under such programs and will ensure remediation efforts are completed as quickly as possible, will provide the statutory authority and funding to address sites contaminated with hazardous substances not currently authorized under the existing state

Superfund program, and will provide for the cleanup of sites under voluntary agreement with the department and provide the technical assistance grants to community-based organizations and municipalities and state assistance for brownfield opportunity area grants.

This is a bill that has been negotiated between the Governor, the Senate, and the Assembly. We have three-way conceptual agreement on every single part of this bill.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

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

ACTING PRESIDENT McGEE: Senator Marcellino, will you yield for some questions?

SENATOR MARCELLINO: Sure.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you so much.

Senator, thank you so much for the legislation. And the hour is late, and the bill is very thick. Just one clarification.

I thought you almost answered my one question at the end. You said conceptually it's been agreed upon by all three parties. Has the Assembly actually submitted their own same-as bill?

SENATOR MARCELLINO: The bill -- no. The bill is being looked at by the Assembly, and they're going over the language of the bill that we have in our hands at the moment. And there are some technical issues that they're still cleaning up.

But the conceptual agreement is there. This is the bill that will be voted upon, I am sure.

SENATOR LIZ KRUEGER: Madam President, if the sponsor would yield to an additional question.

ACTING PRESIDENT McGEE: Senator Marcellino, will you yield for an additional question?

SENATOR MARCELLINO: Certainly.

ACTING PRESIDENT McGEE: The

Senator yields.

SENATOR LIZ KRUEGER: Thank you.

Senator Marcellino, so it's your belief that we will pass a bill in the Assembly that is a same-as tonight and then deal with chapter amendments at some later date to deal with the technical problems?

SENATOR MARCELLINO: That is my hope.

SENATOR LIZ KRUEGER: That's your hope.

SENATOR MARCELLINO: That is my hope and that is my belief, but that is my hope.

The Assembly is not in session at this point in time, so they cannot vote on this bill. But I am hoping that when they come back today, which for us will be tomorrow, because we're still in yesterday --

(Laughter.)

SENATOR MARCELLINO: -- that ultimately this bill will become law.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I appreciate the explanation of

what day it might be somewhere for us.

ACTING PRESIDENT McGEE: Thank you very much.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1683, by Member of the Assembly Gottfried, Assembly Print Number 5582, an act to amend the Social Services Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1661, by the Assembly Committee on Rules, Assembly Print Number 9009, an act to amend Chapter 266 of the Laws of 1986.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Breslin.

SENATOR BRESLIN: Madam President, I would request unanimous consent to be recorded in the negative on Calendar 1660, Print Number 171.

ACTING PRESIDENT McGEE: Without objection.

Senator Meier.

SENATOR MEIER: Madam President, I request unanimous consent to be recorded in

the negative on Calendar 1683.

ACTING PRESIDENT McGEE: Without objection.

Senator Saland.

SENATOR SALAND: Madam President, I request unanimous consent to be recorded in the negative on Calendar 1670, Senate 4549A.

ACTING PRESIDENT McGEE: Without objection.

SENATOR VELELLA: Madam President.

ACTING PRESIDENT McGEE: Senator Velella, that completes the reading of the controversial calendar.

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

ACTING PRESIDENT McGEE: Senator Little.

SENATOR LITTLE: Thank you. Madam President, I wish --

ACTING PRESIDENT McGEE: Please leave quietly. Thank you.

(Laughter.)

ACTING PRESIDENT McGEE: Senator

Little.

SENATOR LITTLE: I request unanimous consent to vote in the negative on Calendar 1670 and 1683.

ACTING PRESIDENT McGEE: Without objection.

SENATOR LITTLE: Thank you.

ACTING PRESIDENT McGEE: Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, I ask unanimous consent to be recorded in the negative on Calendar Number 1683.

ACTING PRESIDENT McGEE: Without objection.

Senator Bonacic.

SENATOR BONACIC: Madam President, I'd ask for unanimous consent to be voted in the negative on Calendar Number 1683.

ACTING PRESIDENT McGEE: Without objection.

SENATOR BONACIC: Thank you, Madam President.

ACTING PRESIDENT McGEE: You're welcome, Senator.

Senator Morahan.

SENATOR MORAHAN: Madam President, may I be recorded in the negative, without objection, on 819.

ACTING PRESIDENT McGEE: Without objection.

Senator Wright.

SENATOR WRIGHT: Madam President, without objection, may I be recorded in the negative on 1670 and 1683.

ACTING PRESIDENT McGEE: Without objection.

Senator Bruno.

SENATOR BRUNO: Madam President, can we return to reports of standing committees.

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

ACTING PRESIDENT McGEE: The Secretary will read.

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

Senate Print 202A, by Senator

Spano, an act to amend the Public Health Law;

2831, by Senator DeFrancisco, an act to amend the General Business Law;

2889, by Senator Krueger, an act to amend the Alcoholic Beverage Control Law;

4791C, by the Senate Committee on Rules, an act authorizing;

5091, by Senator Breslin, an act to authorize;

5363, by Senator Maltese, an act to amend the Insurance Law and the Tax Law;

5411A, by Senator Maltese, an act to amend the Arts and Cultural Affairs Law;

5634, by Senator Saland, an act to amend the Domestic Relations Law;

5688, by Senator Padavan, an act to amend the Education Law;

5695, by the Senate Committee on Rules, an act to amend the Public Authorities Law and the Tax Law;

5696, by Senator Flanagan, an act to amend the Legislative Law;

5697, by the Senate Committee on Rules, an act to amend the Civil Practice Law and Rules;

5698, by Senator Morahan, an act to provide for the election;

Assembly Print 9075, by the Assembly Committee on Rules, an act to amend Chapter 352 of the Laws of 1999;

Senate Print 2949A, by Senator Hannon, an act to amend the Public Health Law;

And Senate Print 5700, by Senator Seward, an act to amend the Insurance Law.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Move to accept the report of the Rules Committee.

ACTING PRESIDENT McGEE: The motion is to accept the report of the Rules Committee. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed will say nay.

(No response.)

ACTING PRESIDENT McGEE: The Rules report is accepted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time have the noncontroversial reading of Calendar Number 60G.

ACTING PRESIDENT McGEE: The Secretary will read the noncontroversial calendar, Senate Supplemental Calendar Number 60G.

THE SECRETARY: In relation to Calendar Number 1684, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 15A and substitute it for the identical Senate Bill Number 202A, Third Reading Calendar 1684.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1684, by Member of the Assembly John, Assembly Print Number 15A, an act to amend the Public Health Law.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: Senator Bruno.

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

ACTING PRESIDENT McGEE: Yes, there is a message of necessity at the desk.

SENATOR BRUNO: I would move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

The bill is laid aside.

SENATOR PATERSON: Lay it aside.

THE SECRETARY: In relation to Calendar Number 1685, Senator DeFrancisco moves to discharge, from the Committee on Consumer Protection, Assembly Bill Number 4399 and substitute it for the identical Senate Bill Number 2831, Third Reading Calendar 1685.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1685, by Member of the Assembly Ortiz, Assembly Print Number 4399, an act to amend the General Business Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1686, Senator Krueger moves to discharge, from the Committee on Rules, Assembly Print Number 3362 and substitute it for the identical Senate Bill Number 2889, Third Reading Calendar 1686.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1686, by Member of the Assembly Gottfried, Assembly Print Number 3362, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1687, by the Senate Committee on Rules, Senate Print Number 4791C, an act authorizing the City of New York.

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

Read the last section.

THE SECRETARY: Section 5. This act --

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill

is laid aside.

THE SECRETARY: In relation to Calendar Number 1688, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 8466 and substitute it for the identical Senate Bill Number 5091, Third Reading Calendar 1688.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1688, by the Assembly Committee on Rules, Assembly Print Number 8466, an act to authorize the Commissioner of General Services.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1689, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 8592 and substitute it for the identical Senate Bill Number 5363, Third Reading Calendar 1689.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1689, by the Assembly Committee on Rules, Assembly Print Number 8592, an act to amend the Insurance Law and the Tax Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1690, Senator Maltese moves to

discharge, from the Committee on Rules, Assembly Bill Number 8910A and substitute it for the identical Senate Bill Number 5411A, Third Reading Calendar 1690.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1690, by the Assembly Committee on Rules, Assembly Print Number 8910A, an act to amend the Arts and Cultural Affairs Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1691, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 8716 and substitute it

for the identical Senate Bill Number 5634, Third Reading Calendar 1691.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1691, by the Assembly Committee on Rules, Assembly Print Number 8716, an act to amend the Domestic Relations Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1692, by Senator Padavan, Senate Print 5688, an act to amend the Education Law.

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

ACTING PRESIDENT McGEE: Yes, there's a message at the desk.

SENATOR BRUNO: I would move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, say nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1693, by the Senate Committee on Rules, Senate Print Number 5695, an act to amend the Public Authorities Law and the Tax Law.

SENATOR BRUNO: Is there a message at the desk?

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

SENATOR BRUNO: I would move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1694, by Senator Flanagan, Senate Print 5696, an act to amend the Legislative Law.

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

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

SENATOR BRUNO: I would move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

THE SECRETARY: Section 12 --

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1695, by the Senate Committee on Rules, Senate Print Number 5697, an act to amend the Civil Practice Law and Rules.

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

ACTING PRESIDENT McGEE: There is

a message of necessity at the desk.

SENATOR BRUNO: I would move to accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1696, by Senator Morahan, Senate Print 5698, an act to provide for the election of delegates.

SENATOR CONNOR: Point of order, Madam President. May I raise a point of order?

ACTING PRESIDENT McGEE: Senator Connor.

SENATOR CONNOR: We are in the session of June 19th, and this bill doesn't exist because the copy I have says it's printed on June 20th. So the bill doesn't exist in the session of June 19th, and I don't think we can do anything on it, I mean, until tomorrow, June 20th. The bill says June 20th.

That's my point of order, Madam President. The bill doesn't exist on June 19th.

ACTING PRESIDENT McGEE: Senator Connor, I'm informed that the bill was in place on June 19th.

SENATOR CONNOR: But the bill was printed on June 20th, Madam President, so it doesn't exist on June 19th. I have the bill here.

ACTING PRESIDENT McGEE: The bill was filed in the Senate, I am informed, on June 19th.

SENATOR CONNOR: May I then move that someone correct the date on the printed version of the bill. Because it says June 20th, 2003, on it, is the date introduction.

Somebody want to change it?

(Laughter.)

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR CONNOR: Oh, now it says 19th.

(Laughter.)

SENATOR BRUNO: Madam President, it's been recognized that Senator Morahan has always been ahead of his time.

(Laughter.)

SENATOR BRUNO: Can we lay it aside temporarily, Madam President.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1698, by the Assembly Committee on Rules, Assembly Print Number 9075, an act to amend Chapter 352 of the Laws of 1999.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1699, by Senator Hannon, Senate Print 2949A, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

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

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1700, by Senator Seward, Senate Print 5700, an act to amend the Insurance Law.

SENATOR HASSELL-THOMPSON: Lay it aside.

SENATOR BRUNO: Is there a message at the desk?

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

SENATOR BRUNO: I would move to

accept the message.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

The bill is laid aside.

SENATOR SALAND: Madam President, can you tell me what bill is before the house?

ACTING PRESIDENT McGEE: There's no bills before the house at the present moment.

SENATOR SALAND: Thank you.

ACTING PRESIDENT McGEE: You're welcome.

Senator Oppenheimer.

SENATOR OPPENHEIMER: I would like to request unanimous consent to be -- to go home.

(Laughter.)

SENATOR OPPENHEIMER: -- to be

recorded in the negative on S2255. I don't have the Calendar Number. S2255.

ACTING PRESIDENT McGEE: Without objection.

Senator Rath.

SENATOR RATH: Madam President, request unanimous consent to be recorded in the negative on Calendar Number 1683.

ACTING PRESIDENT McGEE: Without objection.

Senator LaValle.

SENATOR LaVALLE: Madam President, may I have unanimous consent to be recorded in the negative on Calendar Number 1683.

ACTING PRESIDENT McGEE: Without objection.

Senator Bruno.

SENATOR BRUNO: Madam President, can we now go to the controversial reading of the calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1684, substituted earlier today by Member of

the Assembly John, Assembly Print Number 15A, an act to amend the Public Health Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT McGEE: Senator Spano, an explanation -- Senator Hannon, an explanation has been requested.

SENATOR HANNON: Madam President, this bill would ensure the immediate availability of emergency contraception to a sexual assault victim who seeks emergency treatment for rape in a hospital in New York State.

It would require hospitals to provide information on emergency contraception and, if requested, the actual emergency contraception to the victims.

ACTING PRESIDENT McGEE: Senator Schneiderman.

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

ACTING PRESIDENT McGEE: Senator Hannon --

SENATOR HANNON: Yes.

SENATOR SCHNEIDERMAN: Or, excuse me, if the chairman. I know Senator Spano wishes he were here for this, but I appreciate Senator Hannon stepping in.

This bill provides -- requires every emergency room to provide emergency contraception to rape survivors. And on page 2 indicates that the only circumstance under which it would not be required of a hospital is unless there's a contraindication. And it goes on to explicitly provide that no hospital may be required to provide emergency contraception to a rape survivor who is pregnant.

Is there any other contraindication of which we're aware that might also excuse the provision of this essential product?

SENATOR HANNON: Not to our knowledge at all.

SENATOR SCHNEIDERMAN: Thank you.

And I would -- I think I'll proceed on the bill now. Thank you very much.

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: The hour

is late. This is -- I'm very happy that we're here passing this piece of legislation.

This originally was provoked by a report in December 1999 by New York NARAL, which showed that 54 percent of the hospital emergency rooms in the state of New York did not provide emergency contraception to rape survivors.

The legislation came about because a group of us met with the Health Commissioner, and the Governor, frankly, refused to do this by regulation, which he had the power to do.

I introduced a bill, and very shortly after that Senator Spano introduced a bill, and, working with Assembly members John and Glick and several others, this has come to fruition.

I think that even at this point the Catholic Conference, I'm very pleased to say, has withdrawn its opposition.

This is a great bill. This will provide essential services to many, many women in New York who are in need of them, who deserve them.

I appreciate Senator Bruno's letting this come forward. And this is a fine, fine piece of legislation to close out whatever day this is, the 19th or the 20th.

Thank you.

ACTING PRESIDENT McGEE: Senator Oppenheimer.

SENATOR OPPENHEIMER: Very, very briefly on the bill.

The fact is that there are more than a thousand women in New York who are rape victims who have been sent away from hospital emergency rooms and now, with the passage of this bill, they will have the opportunity to prevent a pregnancy through these emergency contraception bills.

The fact is that most hospitals in New York State do provide emergency contraception. It's those that don't that now will be required to counsel and to offer the emergency contraception right at the site at the hospital.

And as we know, EC is very time-sensitive. It's very important that the rape victim get this attention within 24

hours. It does work up to 72, but not as well.

And so I think we should emphasize just one thing -- and then I'll be concluding -- that emergency contraception prevents a pregnancy before it is established. EC does not interrupt, disrupt or harm pregnancies that have been established within the woman.

So I think this is a bill that, after a tortuous and lengthy trail which has been outlined by Senator Schneiderman, it seems to have agreement by all parties. It is a wonderful bill. And I am so happy to see that we have everybody on board on this bill.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1687, by the Senate Committee on Rules, Senate Print Number 4791C, an act authorizing the City of New York.

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

Read the last section.

SENATOR PATERSON: Explanation.

SENATOR MALTESE: Madam President, this bill authorizes the City of New York to discontinue the use of certain lands as parklands.

The purpose of the bill is to provide for the alienation of parkland in Van Cortlandt Park. Section 1 of the bill provides for the alienation of parkland for the purpose of constructing and operating a water treatment facility capable of treating up to 290 million gallons of water per day from the Croton Watershed.

Madam President, this is pursuant to a consent decree entered into by the United States. Therefore, the City of New York and the Department of Health is under an absolute obligation to filter the water from the Croton

Watershed. And therefore, this bill, the -- also, the City of New York has executed a memorandum of understanding that they will return the parkland to its original state or better subsequent to the construction of the facility.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Maltese would yield for a question.

ACTING PRESIDENT McGEE: Senator Maltese, will you yield for a question?

SENATOR MALTESE: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR PATERSON: Senator, many are concerned about the location of this plant. There is very little available parkland in New York City, the least of which would be in the Bronx.

This particular area would actually be twice the size of the old World Trade Center site. There would be construction that

would exist until the year 2010. There will be the use of trucks which often pollute the air. One of the reasons that the asthma rate is considered to be very high in Manhattan Valley, West Harlem, and Washington Heights is because of the trucking that goes up the West Side Highway.

New York is 21st out of the 25 listed states in terms of least density, and therefore is one of the most dense cities in terms of population. This site is not more than a few hundred yards from Montefiore Children's Hospital and a very dense residential area.

My question is, based on those reasons, how would we want to pick this site for the water filtration plant?

SENATOR MALTESE: Madam President, the selection of the site I do not have information on, that specific site.

But the memorandum of understanding that has been entered into by the city does provide for New York City to set aside the fair market value of lands being alienated for acquisition.

In addition, the City of New York, it would identify additional lands for park improvement and acquisition projects.

The question of where the water treatment facility is located I assume was entered into at the advice of experts. The fact of the water filtration -- the necessity for this water filtration camp is indicated by fact that the Croton Watershed is the smallest of the three surface water systems that together supply drinking water not only to the city but to approximately 1 million residents outside of the city.

The Croton Watershed provides approximately 10 percent of the city's average daily demand during periods of normal rainfall, and up to 30 percent of the city's average daily demand when rainfall is below normal.

Madam President, I have to believe that the City of New York entered into this -- has proposed this legislation as a result of study. The City of New York has no desire to alienate the good graces and the feelings and the neighbors of Van Cortlandt Park or any

other parkland.

This seems like an act of necessity, acting under a consent decree entered into by the United States of America.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, I want to thank Senator Maltese for his answers.

He does make the case for the need for the water filtration plant, and he does make the case for a process by which it was determined that the use of this is very important and that it is a necessity.

I did not feel that I understood how they came to this decision, other than the fact that he did tell us that experts decided it. Cynically, I wonder where the experts live. But the reality is that the siting of these facilities is going to be one that will probably be opposed by whatever community that they adjoin. And that's why I think it is very important that there be some equity in the site selection process.

I guess the necessity inevitably

convinces me that it is important. But if there is any more information about how these decisions are reached, I'd be interested in hearing it.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Madam President. I think I'll just speak on the bill.

I think the cart has been placed in front of the horse in this particular instance. The New York City DEP has not provided the essential information that has been requested and indeed is required by law to be filed with the State Office of Parks, Recreation and Historic Preservation, and shared that information with the Senate and the Assembly.

And that has to be done before a municipality requests state approval for alienation of parkland. Therefore, I feel we're being asked as legislators to vote in a blindfolded, certainly in a premature manner.

This bill would alienate parkland

over the objections of local Assembly members whose constituents are demanding that New York City follow the SEQRA process. This bill would approve alienation of parkland before the DEP substantiates that it is the best site.

And of course I would have to mention here that we think the best site is in Westchester. And we have a community in Westchester that wants this site -- this built in our county.

The fact is, if you do build this in the Bronx, it is south of Westchester. And that means that the water that we drink -- which is largely, almost exclusively, in Westchester County, New York City water -- would not have the same filtration and therefore would require, I guess, a second filtration plant to be built in Westchester to take care of that 10 percent of our water which comes from the Croton reservoir system, where 90 percent of it comes from the Delaware and Catskill system.

So I think wherever this is built, we are going to offer the jobs to the

laborers, who I know very much want this in the Bronx. But it would also have to be built in Westchester as well, and those jobs would be available to those laborers.

So I'm going to be voting no because I don't know how our water, which is also New York City water, would be filtered if the filtration plant is put below our county.

ACTING PRESIDENT McGEE: Senator Sabini.

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

ACTING PRESIDENT McGEE: Senator Sabini, on the bill.

SENATOR SABINI: I'm sorry this comes up so late, because I worked very hard on this project as a member of the New York City Council, and I chaired the committee this passed this back in the late '90s. And we're back here with this now because of a lawsuit that was filed that required alienation of parkland we honestly didn't believe we needed at the time.

We negotiated a $200 million mitigation package, which still stands. Now

the Senate and Assembly will have some jurisdiction over it.

But in answer to some of the questions, I feel the need to tell you, since I spent so much time on this, a couple of things. Number one, the pipes only go through a certain part of the Bronx and Westchester. So you can only build it in a few different places. It's like you can't build a railroad station where there are no railroad tracks. The tracks have got to come first.

We looked at a number of sites. The most preferable site, despite some of the verbiage in some of the memos I've seen, is the Jerome Park Reservoir, which DEP of the City of New York owns. And it's used for water.

However, the opponents, some of them still opposing this plant, were against Jerome Park because they felt it impacted on the neighborhood and lots of people live there and have waterfront views and they wouldn't have those anymore.

So we said fine, we'll look at other alternatives. We looked at a recreation

area in Van Cortlandt Park, in the Shandler Recreation Area. And I know there were some objections by members of this body on that site, so we rejected that.

And we came to the Mosholu Golf Course, and that's where this proposal is today.

Three well-recognized environmental groups agree on the need to have this plant. They don't want to say where, because there is some concern by different people if we put it in one place, people will resent it. It's got to go somewhere. It's got to go somewhere.

And we don't have any choice but to build it, because the city is under a consent decree from the federal government. So it's got to be done. So if it's not there, where? Senator Paterson raised that question. And I agree with him, if not there, where?

But I looked at all the sites, and the City Council looked at all the sites, and that's where they decided to put it because that's the site that had the least opposition from people in the Bronx. And in fact, we were told by many of the people opposing it

today that they would be a lot happier if we just put it in the Mosholu Golf Course and under Van Cortlandt Park.

P.S., for those of you who don't know the New York City water system, there happens to be this huge chamber under Van Cortlandt Park right now, and you'd never know it was there, because it's about twenty stories underground, under the park, in another section of Van Cortlandt Park. And it exists, no one knows it's there, and the park remains a park.

Yes, there will be disruption in the park over the years that this will be built. Yes, there will be a rejiggering of recreation in Van Cortlandt Park. But the fact remains, we have to build this. And if we keep dawdling, if we keep saying not here, not here, not here, we're running out of places.

And with respect to my colleague from Westchester, there are lots of people in Westchester said we could build it there until we actually selected a site -- or talked about a site. And then every time we talked about a

site, they said, Well, not there, and not here.

And this has got to be the best site. I believe it's the best site. And with regard to filtration of the Westchester water that doesn't get down to this because the pipes run, believe it or not, by gravity, the city would be required, I believe, under our current agreements with the other counties, to build you a small filtration plant at the ratepayers of New York City's expense.

Which we do in various parts of everyone's district. In the watershed in Cat/Del and Croton, we do that now. And I assume that would be part of the continuing agreement on cooperating with upstate counties on water.

So I looked at this for a long time, as did members of the City Council. It's the best answer to a bad problem. I believe we have to build it, and I believe we have to build it there. And I honestly don't see another site that's acceptable.

Thank you.

ACTING PRESIDENT McGEE: Senator

Connor.

SENATOR CONNOR: Thank you, Madam President.

Our colleague Senator Sabini said the magic word for many members. You know, you read the memos from the environmental groups, and they worry about replacing trees and parkland and so on. But I say to my colleagues, he said the magic word. This is a golf course.

And I had occasion three or four weeks ago to actually stand where they're going to do this. My son was playing a high school golf match at the Mosholu course.

And by the way, for my colleagues, the Van Cortlandt Golf Course -- which one of the environmental groups points out, oh, it's a public course, you can get to it by subway -- I point out to my colleagues, it is the first and oldest public golf course in America. It goes back into the 19th century when members of what had been a private club, the Mosholu Golf Course, got the city to found the Van Cortlandt Golf Course.

The Mosholu Golf Course, once 18

holes, lost nine of its holes to a play and recreation area in a forested area. What is there on the nine holes that will be affected? A program called First Tee. And I observed First Tee firsthand. It is supported by not-for-profit monies by some very prominent -- the late Mr. Rudin, I think, gave a lot of money toward it. It is a golf education center for young children.

And it's a program where when the children come and they don't have golf clubs, they give them golf clubs, they give them instruction. They have practice tees. They have practice greens. They have great practice facilities for very young kids.

And I watched a lot of these kids out there. And there are a lot of kids in the Bronx, children of color, working-class kids, who, my colleagues, don't have parents who take them to the country club, don't have a chance to play the wonderful sport of golf, a lifetime sport -- because I'm not suggesting they're all going to go on the pro tour. But who knows?

But it's a lifetime sport. And we

all know it has business and social implications. And these kids, as a result of that program, are getting to play golf, to learn how to play golf and be exposed to golf.

That's what goes on at the Mosholu Golf Course. It is basically -- high school teams get to play their matches there, but it's for younger kids, even, in a program called First Tee.

And my problem with this is -- and I understand the City Council was confronted with a problem and all. But in New York City, we have a forgotten group, the kids. The kids.

You know, my son plays on a high school football team. It's the oldest high school football program in America, a hundred years old. They've never had a field. They don't have a field to practice on, they don't have a field to play on regularly. Not in a hundred years they don't. And that's typical of how we treat our kids in New York City.

So here's a place that they put aside, they put aside a nine-hole golf course with practice facilities and all, for kids.

Mostly kids in the Bronx, mostly minority kids. They get to do something they couldn't get to do in a million years otherwise.

And we're going to shut this down. And they'll tell you, the proponents of this will say: Oh, but in seven or eight years after we build it, we'll restore it. Right. And that 9-year-old kid will be 16, and the 12-year-old kid will be 20. You don't get those seven years back.

And I appreciate all the opponents of this, the environmental concerns they raise. I also appreciate all the letters I've gotten from all the unions that want the work. But they're going to get the work, because there will be a filtration plant built somewhere.

I am just not convinced this is the place to go. I'm not convinced this is the place to go. Why disrupt a rare program that our kids get to use, the kids get to use, and put aside that for seven or eight years?

Now, the city has said: Oh, we'll put 243 million or whatever it is, invest it in the Bronx in other parks and so on. Well,

that's good. But I don't see anybody talking about youth programs with that money. Are they talking about -- and there's nothing wrong with green space and growing more trees and fixing up smaller parks and so on. But I don't know that that money is guaranteed for that.

And I don't know -- you know, it's -- and the Court of Appeals, when they decided an earlier version of this, naturally it is parkland. But it is what for some of us is probably the most wonderful parkland, it's a golf course. And a golf course that does great things for kids, that literally runs a program, a very expensive program for kids who couldn't afford it. And it runs it all summer and fall and spring.

And nobody said, Well, where are you going to put First Tee for these seven years? How are you going to replicate that program? That program in the Bronx, for those kids. And until somebody answers these questions for me, I'm tired of New York City's great urban needs for space in Lower Manhattan for office buildings and so on and so forth,

always trumping our kids, always trumping a place to play ball, always trumping a place for kids to do these things.

And that's the unfortunate reality of that urban area, and those of you who represent it on both sides of the aisle understand that. Our kids don't have enough places to play. They just don't.

And I'm not ready to vote to tear up the Mosholu Golf Course, put aside this wonderful youth golf program for seven or eight years while they build this plant. There's got to be a better alternative. People have to look for that alternative.

ACTING PRESIDENT McGEE: Senator Diaz.

SENATOR DIAZ: Thank you, Madam President.

I am from the Bronx, and I know the politics of the Bronx. I hate to see -- I hate to see the City of New York get penalized to pay extra fines, to pay extra money to move this project to another place because of personalities, because of two macho men in my borough. I say, over my dead body.

So the City of New York will get penalized because these two macho men -- what these two macho men from the Bronx have to understand is that this plant has to be built. And the Mayor's office and everyone is saying that this is the best place to build this plant.

So let's stop the macho men, and let's stop the politics of who got more power, and let's do what's right for the City of New York. And what's right for the City of New York? To stop this kind of nonsense. And let's build this plant where it was supposed to be built, in the place that has been chosen, in the place that will be cheaper for the city, in the place that will create jobs for the Bronx, in the place where it will be done better, and in the place where that park would be built in better form than it is.

So let's stop our nonsense, and let's call things the way they are. Two macho men from the Bronx trying to stop this. One saying, Not in my backyard, not in here, not in there, and one saying, Over my dead body.

Ladies and gentlemen, I am from the

Bronx, and this plant should be built in the Bronx. We want this in the Bronx. And it should be built in the place that has been chosen.

Thank you very much.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

While I may not be from the Bronx, 84 percent of my district is in the Bronx. And this community abuts my district. But for the creative redistricting, this would be in my neighborhood.

However, I don't know who the macho men are and all the people who don't want it, but I can tell you about the residents that don't want it. I can tell you about the children who benefit from the programs that are there. Not just from the golf courses, but 48 acres of greenland in the Bronx is like taking all the oxygen out of the area.

And for those who don't live there, it doesn't matter to you. But for those of us who do live there and who benefit from this

open space, understand that there have been other options and choices that have been chosen.

And it's very interesting that the -- that everybody heard everything except the one thing that my colleague said: the least resistance. And the people who live there are always the ones who get dumped on because they have the least representation.

Well, I'm here to tell you that I represent them, and we don't want it.

ACTING PRESIDENT McGEE: Senator Schneiderman.

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

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I concur with what many of my colleagues have already said. This is a terrible place for a filtration plant. And I would urge everyone considering this that there is a site that has been identified -- not parkland -- under the Major Degan, all it requires is an engineering study. There are other options available.

This legislation has been pushed through by a process that has resulted in extraordinary contradictions between the bills and the testimony of those who have been in support of it; notably, the testimony before the Assembly Committee on Cities.

This plant is an extremely dangerous plant. It's going to be across the street from residential housing in a moderate-income community. The community center serving 20,000 children that serves this community is four blocks from the plant. It is across the street from a center for people with disabilities, it's less than half a mile from the Montefiore Children's Hospital.

This is a plant that's going to have 460,000 gallons of chemicals that the EPA has identified as hazardous stored there at all times. This is, in fact, the type of plant that has been referred to in our discussions on homeland security as a very dangerous potential terrorist target.

During the construction process, we're told, there will be trucking 16 hours a

day, six days per week, just to move the waste in and out.

Most significantly, though, there really has been a lot of double-talk about what this is going to look like at the end of the day. We were told that the filtration plant would be 28 acres and that there would be restoration, the park would be rebuilt over the plant.

Unfortunately, this bill actually alienates nine parcels that total 42 acres and only provides for 5 acres to be restored. So we're going to lose, as Senator Connor pointed out, the golf course. We're going to lose a lot of other valuable space also. Forty-two acres is an enormous, enormous piece of property. It is equal to 38 football fields. That is a big chunk of green space in the Bronx that's going to be lost forever.

I agree, we need construction jobs, we should have the jobs. I agree that we will have the jobs if we build in an alternative location. I'm sorry we're here so late dealing with this issue. I do think there is another site available, and I do think that

there are people in the community who are very much willing to work with the city to find another site.

This is a terrible location for a plant. There are better alternatives. I'm going to vote no, and I urge all my colleagues to vote no.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1687 are Senators Andrews, Connor, Gonzalez, Hassell-Thompson, L. Krueger, Oppenheimer, Schneiderman, Stachowski. Also Senator Duane. Ayes, 52. Nays, 9.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Madam President. I'd like unanimous consent

to be recorded in the negative on Calendar Number 1683.

ACTING PRESIDENT McGEE: With no objections.

Senator Montgomery.

SENATOR MONTGOMERY: Madam President, I would like unanimous consent to be recorded in the negative on Calendar Numbers 1679 and 1680.

ACTING PRESIDENT McGEE: Without objection.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1692, by Senator Padavan, Senate Print 5688, an act to amend the Education Law.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR PADAVAN: As most of you will remember, last year we totally revamped

the educational system in the City of New York, giving the mayor significant authority, restructuring many of the components of that large educational complex of over 1 million students.

One of the things we did in the process was create a task force to report back to us by the middle of February on what to do about our community school boards. They did their work, and they did it rather well, the 10-member task force appointed by both houses.

We took the essence of that study and its recommendations and transposed it into legislation, which is what is before you.

We are creating in each community school district in the City of New York a parent council made up of nine parents; two individuals appointed by the borough presidents, with broader expertise and knowledge beyond the particular district, perhaps; and an ex officio member who is a student.

In addition to having one of these parent councils in each district, we have a citywide council for those children in what we

normally refer to as District 75, special ed children. The parents will be on that panel as well and that council as well. However, the two additional individuals would be appointed by the Public Advocate.

The process for selecting the parent members of these councils will be, as required by the legislation, developed by the chancellor. It is required that this be done by the end of October. Those councils will then serve for the remainder of a two-year term, and then thereafter they would be reelected or reappointed, I should say, every two years.

That's the essence of the bill.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 17. This act shall take effect --

ACTING PRESIDENT McGEE: Senator Andrews.

SENATOR ANDREWS: Madam President, would the sponsor yield for a question. Or Senator Padavan.

ACTING PRESIDENT McGEE: Senator

Padavan --

SENATOR PADAVAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR ANDREWS: Senator Padavan, I look at this bill and it says that we have these parent advisory councils and they set some rules and charges for them -- to meet regularly, to prepare meeting notices and minutes, and to appoint a secretary to do these functions.

Is this secretary one of the members of the parent council, or is this a separate employee that's --

SENATOR PADAVAN: A separate employee.

SENATOR ANDREWS: -- that's going to be paid to --

SENATOR PADAVAN: Paid for by the Board of Education.

SENATOR ANDREWS: Okay. And as relates to the special education citywide component, that same person, that secretary, will be employed --

SENATOR PADAVAN: Same thing,

yes.

SENATOR ANDREWS: And who picks this person?

SENATOR PADAVAN: The Department of Education would pick that person. They'd be hired through the same personnel process that any secretary is hired.

SENATOR ANDREWS: Okay. So under the old process with the school boards, the secretary and the executive assistant to the school boards were hired by the school board members.

Now, this person will not be hired by the parent advisory council; right?

SENATOR PADAVAN: That's correct.

What we wanted to do is to ensure, number one, that the duties and responsibilities of the parents' council were as comprehensive as we possibly could do it. The task force I think gave us that in abundance, and we've transposed that into the bill.

We also wanted to make sure they had the resources to do their jobs, to do what we expect of them. And one of them is to have

a secretary to handle in its outlines what the functions of that secretary will be in every district for every parent council.

SENATOR ANDREWS: Through you, Madam President, will the sponsor yield to another question.

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

SENATOR PADAVAN: Yes.

SENATOR ANDREWS: How many children, approximately, are in special education now?

SENATOR PADAVAN: Citywide?

SENATOR ANDREWS: Citywide, yes.

SENATOR PADAVAN: I'm not sure, Senator. I don't want to really guess.

SENATOR ANDREWS: Through you, Madam President, another question to the Senator Padavan.

SENATOR PADAVAN: Yes, go ahead.

SENATOR ANDREWS: Would it be safe to assume it's over maybe 300,000 or 200,000?

SENATOR PADAVAN: No, absolutely not.

SENATOR ANDREWS: Not that many kids?

SENATOR PADAVAN: We have 1.1 million total students in the entire system. Special ed students would probably be a significantly smaller percentage than what you just suggested.

SENATOR ANDREWS: Would the sponsor yield?

SENATOR PADAVAN: Maybe 10 percent at best.

SENATOR ANDREWS: Right now, under this present system, each school district has their own special education, or there's one special education board for the whole --

SENATOR PADAVAN: District 75 is a citywide -- and that's why it's called District 75 -- citywide component that exists that deals with special needs of children that fall in those categories. And we want them to have the same opportunity for parental involvement, parental oversight, parental interface with those who are responsible for the education of those children.

And that's why we created this council for them.

SENATOR ANDREWS: Thank you.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 17. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1694, by Senator Flanagan, Senate Print 5696, an act to amend the Legislative Law.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR FLANAGAN: Thank you, Madam President.

A couple of different things about this bill. There are -- this is a lobbying reform bill, and it has a judicial component

as well. I think there are several basic points that I would like to make.

Number one, I would like to thank Senator Bruno. I've had a number of discussions with him on this subject over the last several months. And I'm glad to see that we have this bill before the house. So I think that's an important component. And I know how seriously he takes this issue because of the number of conversations I've had with him personally on this subject.

But in relation to the bill, there are things that everybody should know. There's been a lot of discussion and a lot of talk about procurement. There's been a lot of discussion and a lot of talk about contingency fees. This bill changes that. That's a pretty substantial change in the law.

And it not only applies to state agencies and state authorities and the Legislature, it applies to all municipalities throughout the State of New York. So that is a significant change from present law.

We also changed the composition of the Lobby Commission. The Lobby Commission

goes from six members to eight members. Right now, the Governor has two appointments on the Lobbying Commission. This would increase the Governor's two votes, or two members on the commission, to four. However, the voting status of all the members would remain the same. There's six total votes; the Governor would have two nonvoting members added to the commission.

And we also create a judicial commission with ten members, seven appointed by the Executive, one by the leader of the Senate, one by the leader of the Assembly, and one by the Attorney General. And the charge of that commission, frankly, is to come back over the course of the next about eight months and report back to this Legislature by February 1st of 2004 on recommendations in a number of key areas.

And I think conceptually there are two basic points I would like to make in relation to this subject and, frankly, any piece of legislation that is out there on this subject.

I try and talk to my own kids about

government and what's the role of government and how and why we make laws. And one of the things, you know, when you're talking to kids who are in school, regardless of their age, you try and keep the message as concise and as simple as possible.

And one of my points to them is many times we make laws to protect people in the realm of the public good, but there are times when we make laws not to go after the good guys but to go after the bad guys, to avoid potential problems and to correct some problems that may exist.

I think what we're trying to do here is take a step forward, advance reform, real reform, true and substantive reform.

And because we're here and we work in a governmental and a political and a legislative body, I want one thing to be reminded to everybody who may listen and who may opine on this subject here and sometime tomorrow, that the overwhelming majority of people who work in this institution and in Albany and around Albany do the right thing.

People try very hard and are very

dedicated in the work that they do. Here we are, after 4:00 o'clock in the morning. People are overwhelmingly dedicated and professional and maintain the strictest and highest levels of integrity.

But every now and then, there are a couple of people who don't follow that standard, so we have to think hard and long about what we do. And I believe this bill goes a long way towards addressing some of those problems.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I guess I'll start with a point of order. Does this bill have a memo attached to it? It's my understanding that we would need to have a memo for this to be properly before the Senate, particularly since it's dated the 19th, which might be yesterday or might be today, and it's a very complex bill.

Is there a memo?

ACTING PRESIDENT McGEE: I'm not sure what you mean. You mean a message of

necessity?

SENATOR LIZ KRUEGER: No, a bill memo. Sponsor's memo.

ACTING PRESIDENT McGEE: Senator Flanagan.

SENATOR FLANAGAN: Madam President, do I have a sponsor's memo with my name on it? No, I do not.

But I was asked for an explanation of the bill, and I think I gave a very detailed explanation of the components of the bill. I'd be happy to answer any questions on the substance of the bill. But I believe I touched on all the salient points of the bill.

SENATOR LIZ KRUEGER: Just again on a point of order, should there be an actual memo in the sponsor's name for this bill for us to be reviewing it tonight? I'm being advised that the Senate rules require a sponsor's memo be available.

ACTING PRESIDENT McGEE: It's my understanding that the Senate rules do call for a memo, and it's my understanding that there is a memo as a work in progress on the bill.

SENATOR LIZ KRUEGER: Madam President, could I recommend that we lay it aside until we get the memo available.

SENATOR FLANAGAN: Madam President.

ACTING PRESIDENT McGEE: Senator Flanagan.

SENATOR FLANAGAN: I'd like to be heard on the point of order.

ACTING PRESIDENT McGEE: On the point of order.

SENATOR FLANAGAN: It is twenty after 4:00 in the morning, and I think we would all like to move ahead as expeditiously as possible. I don't think there's any reason to delay. I think this is a very important subject. We can engage in a colloquy and discussion right now as to the merits and the substance of the bill, and I think we should move forward.

SENATOR CONNOR: Point of order, Madam President.

ACTING PRESIDENT McGEE: Senator Connor.

SENATOR CONNOR: A point of order

is not debatable.

ACTING PRESIDENT McGEE: I beg your pardon, sir?

SENATOR CONNOR: A point of order is not debatable. I'm hearing debate on it.

ACTING PRESIDENT McGEE: Just one moment.

SENATOR BRUNO: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

The Secretary will read.

THE SECRETARY: Calendar Number 1695, by the Senate Committee on Rules, Senate Print Number 5697, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1696, by Senator Morahan, Senate Print 5698, an act providing for the election of delegates.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT McGEE: Senator Bruno, there is a message of necessity at the desk.

SENATOR BRUNO: I would move to accept the message, Madam President.

ACTING PRESIDENT McGEE: The motion is to accept the message of necessity. All those in favor will say aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed will say nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

SENATOR SABINI: Explanation.

SENATOR CONNOR: Madam President, just through the miracle of time travel, this bill has now been introduced on June 19th. And I believe the message is in order.

So I withdraw my prior objection, and I'm supporting the bill. And I'm just glad we could travel back through time and solve the problem.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR SABINI: Explanation.

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

SENATOR MORAHAN: Thank you, Madam President.

This act provides for the election of delegates to the national party convention or a national party conference in 2004, in the spring and fall primaries in such year, and it amends the Election Law in relation to electing delegates to a national party convention and providing for the repeal of certain provisions upon the expiration

thereof.

ACTING PRESIDENT McGEE: Senator Sabini.

SENATOR SABINI: Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Sabini, on the bill.

SENATOR SABINI: In the interests of time, I won't go through a lengthy colloquy with Chairman Morahan.

I just want to point out to my colleagues that the bill applies not exclusively but suggestively to the Republican Party, which I am not a member of. But what the bill does do is says that it's a winner-take-all presidential primary.

That means you could get 49 percent of the vote, 49.9 percent of the vote in a two-candidate race in New York State and get no delegates, or in a five-candidate race you could get 25 percent and get all the delegates.

Now, I don't happen to subscribe to the Republican Party, but in the interests of democracy with a small "d," I think that the

members should know that at least in my party, we don't allow this in any state. We won't seat delegates from states that have that rule.

And if you're interested in pluralism within your party, you'll cast a no vote.

Thank you.

ACTING PRESIDENT McGEE: Senator Connor.

SENATOR CONNOR: Yes, Madam President.

Just let me say while I think it's an unwise choice the Republican Party makes when it has a winner-take-all primary -- and it's probably why, in the last presidential election, the Democrat got 2 million more votes than the Republican -- but the fact is it is, in my opinion, their business.

And if they want to make that unwise choice and in effect discount their own primary voters' votes, then it's -- they will have to answer to those voters.

And in the spirit of what I said earlier about each party according the other

its First Amendment rights to organize itself any way it wants, wisely or unwisely, I'll be supporting this bill.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1696 are Senators Duane, Sabini, and Schneiderman. Ayes, 58. Nays, 3.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1699, by Senator Hannon, Senate Print 2949A, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

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

SENATOR STACHOWSKI: Explanation.

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

SENATOR HANNON: This would subject both certified home healthcare agencies and licensed home healthcare agencies to reporting requirements and add caps to the administrative percentages of expenses that are now applicable to certified home health agencies to licensed home health agencies.

ACTING PRESIDENT McGEE: Senator Stachowski.

SENATOR STACHOWSKI: Would the sponsor yield to a couple of questions.

ACTING PRESIDENT McGEE: Senator Hannon, will you yield for some questions?

SENATOR HANNON: Yes.

ACTING PRESIDENT McGEE: The sponsor yields.

SENATOR STACHOWSKI: I have a memo in opposition from the licensed home health-care providers, and they're concerned about the fact that this is another cap on their reimbursement rate already, and that it makes for an unlevel playing field.

Do you have any response to that?

SENATOR HANNON: Is that a memo on the amended bill or on the --

SENATOR STACHOWSKI: It's on 2949A.

SENATOR HANNON: Okay. Well, there is a cap currently on certified home healthcare agencies. Those are the big agencies. They contract with licensed home care agencies. The cap on administrative expenses on the big agencies is on their administrative expenses.

There is a thought that there ought to be a cap on the small ones. Some people say, well, that's two caps, but it's not on the same money. It's not on the same expenses. Because the licensed agencies are subcontractors of the larger agency.

SENATOR STACHOWSKI: If the sponsor would continue to yield.

SENATOR HANNON: Yes.

SENATOR STACHOWSKI: Through you, Madam President, one of the complaints they've always had, and this is out my way, is that it always seems that there's a closer scrutiny and a lower rate for the people north of

Westchester that has a detrimental effect on delivery in Western New York and obviously a detrimental effect on what the actual person that goes to the home makes.

And they seem to think that this additional charge will only exacerbate that problem when we had just done some adjustment in that area, it seems, just recently.

Is that a reasonable complaint?

SENATOR HANNON: I -- there is some paperwork involved. However, one -- and one of the things in the course of discussions on this legislation is we determined that there is an enormous amount of paperwork already done. And much of the reporting here can simply be done as an addition. It really is not great incremental cost.

That being said, I can't deny that generally in the western part of the state the rates for both home care, nursing home, and other nonhospital services tend to be lower and place entities there who are delivering services at greater peril of future survival.

SENATOR STACHOWSKI: Thank you.

On the bill.

ACTING PRESIDENT McGEE: Senator Stachowski, on the bill.

SENATOR STACHOWSKI: I think because of the opposition of the agencies basically that are delivering in my area, and their concern that this is going to further make their delivery of service more difficult, I'm going to vote no.

I think there are some other reasons that this bill is in. I know that there's some concern by the operators out my way that this bill is in also to help some other situations out.

And for the reasons I mentioned, and the ones I'm not, I'm going to vote no on this bill.

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

Senator Schneiderman.

SENATOR SCHNEIDERMAN: On the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I think this is a very important piece of legislation.

And I hope that the sponsor's message was clearly understood by all.

There are certified home health agencies that receive the overwhelming majority of their funding through Medicaid and Medicare. These agencies subcontract with the licensed home care agencies, which are the sole subject of this legislation.

While the certified home health agencies have to have caps on administrative costs and have reporting requirements as to how they spend our public money, there's a loophole. The agencies they contract with, the licensed home care service agencies, do not have any such requirements.

This bill simply closes that loophole. It creates a comprehensive monitoring system. Home care is increasingly important as our population ages. It is something we want to promote in this state. We want more people staying in their homes and fewer people in institutions.

But in order to do that, as it expands, we have to have some system for monitoring this increasingly expensive service

to the public, increasingly utilized service. And this bill simply closes the loop. There is now this whole category of agencies that don't have to file cost reports. They don't have to report, as the larger agencies do.

So I think this bill actually is a very positive step as we work towards ensuring that our home care services, as they expand at a very rapid rate -- and perhaps not in every part of the state, but certainly in the city of New York and the suburbs, they're expanding at a very rapid rate through these agencies that up until now are outside the scope of legal regulation.

I urge support for this bill, I think it's a good bill, and I think it's only going to provide better services for our senior citizens and for us, as we all hope to live long enough to become senior citizens.

ACTING PRESIDENT McGEE: Senator Oppenheimer.

SENATOR OPPENHEIMER: It's happening very rapidly tonight.

I think it should be said -- and I don't like to disagree with my colleague --

SENATOR SCHNEIDERMAN: Oh, go ahead.

SENATOR OPPENHEIMER: -- but it should be said that the licensed home healthcare service agencies bear a disproportionate burden as far as their administrative and general costs are concerned in the delivery of the home care services.

Last year when the Health Care Workforce Recruitment and Retention funding was allocated, they were not included in the legislation. And now, more than six months later, subcontracting licensed home care service agencies are still trying to secure this pass-through funding from their contractors.

By imposing these additional cuts on these same agencies, I think this bill would exacerbate the current workforce shortage and access to care.

These agencies are the backbone of the home care industry, and I think they are essential to all of us as we age rapidly this evening.

Thank you.

ACTING PRESIDENT McGEE: Senator Hannon.

SENATOR HANNON: I want to just clear up some, you know, misconceptions here.

First of all, these people are a very important cog in delivering healthcare -- subcontractors to the bigger agencies, but providing it through entities that might be hospitals or nursing homes, adult homes, assisted living, whatever.

And what we have to do is have the responsibility for making sure that we're getting a good service delivery for our dollar.

So the first part of the bill talks about rounding out the reporting requirements and requires the bigger agencies who have the information to do that.

The second part of the bill does impose a limit on the administrative expenses. Well, think of that. With that limit, the rest of the money goes for healthcare, the whole purpose of the agency.

Now, it's hard to argue -- and we love the people who come to us and talk to us.

They're the providers. But you know what? We're not here to be friends with them. Our duty is to make sure healthcare is going to the patients.

And that's what this is all about, to make sure of an efficient delivery of service to the patients. So we're trying to get a cap on those costs, make sure that people who are doing the delivery of services are paid a living wage. We're talking differences between a dollar or two an hour, $6 or $7 an hour. And what for? Good healthcare to the people who need it.

So I love the people who run these agencies. They're nice folks. But you know what? We're here for a mission for government. It's our taxpayers' money. We allocate it, we try to get good service, and that's why this bill is here.

Thank you.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1699 are Senators Breslin, DeFrancisco, Diaz, Larkin, Leibell, Maziarz, Oppenheimer, Saland, Seward, and Stachowski. Ayes, 51. Nays, 10.

ACTING PRESIDENT McGEE: Senator Saland.

SENATOR SALAND: Thank you, Madam President. I would request unanimous consent to be recorded --

ACTING PRESIDENT McGEE: Just one moment, Senator Saland.

The bill is passed.

Now, Senator Saland.

SENATOR SALAND: Thank you again, Madam President. I would request unanimous consent to be recorded in the negative on Calendar Number 1683.

ACTING PRESIDENT McGEE: Without objection.

Senator Seward.

SENATOR SEWARD: Likewise, I would ask unanimous consent to be recorded in

the negative on Calendar 1683.

ACTING PRESIDENT McGEE: Without objection.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. There are two bills that I would like unanimous consent to be recorded in the negative. I don't have the calendar numbers. It's Senate Bill S5460 and S2545.

ACTING PRESIDENT McGEE: Without objection.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT McGEE: Senator DeFrancisco.

SENATOR DeFRANCISCO: I request unanimous consent to be recorded in the negative on 1683, Calendar Number.

ACTING PRESIDENT McGEE: Without objection.

Senator Larkin.

SENATOR LARKIN: I request unanimous consent to be recorded in the negative on Calendar 1683.

ACTING PRESIDENT McGEE: Without objection.

Senator Alesi.

SENATOR ALESI: Thank you, Madam President. I request unanimous consent to be recorded in the negative on Calendar 1699.

ACTING PRESIDENT McGEE: Without objection.

The Secretary will read.

THE SECRETARY: Calendar Number 1700, by Senator Seward, Senate Print 5700, an act to amend the Insurance Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 13. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time return to Calendar Number 1694.

ACTING PRESIDENT McGEE: The

Secretary will read.

THE SECRETARY: Calendar Number 1694, by Senator Flanagan, Senate Print 5696, an act to amend the Legislative Law.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

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

ACTING PRESIDENT McGEE: Senator Flanagan, will you yield?

SENATOR FLANAGAN: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you, Madam President.

We've been blessed by two memos now on this bill, at this late hour. But I still have some questions.

ACTING PRESIDENT McGEE: Certainly.

SENATOR LIZ KRUEGER: Thank you.

Senator Flanagan, as you described in your explanation, it would expand from six members of the Lobbying Commission to eight

members of the Lobbying Commission. Four would be appointed by the Governor, two by the Senate Majority Leader and the -- or, excuse me, one each, Senate Majority Leader, Senate Minority Leader, one each, Assembly Speaker, Assembly Minority Leader. And no more than two members appointed by the Governor shall be voting members. So two would be nonvoting and two would be voting.

So in a hypothetical situation, we would have two Republicans from the Governor, one Republican from the Senate, one Republican from the Assembly, one Democrat from the Senate, one Democrat from the Assembly. You would have a weighted advantage of four to two, conceivably, on this commission.

Is this any concern about shifting this to be a perhaps more politicized arrangement for the Lobbying Commission by the proposal that the Governor has made where it adds up partisan -- in a partisan sense imbalanced?

SENATOR FLANAGAN: Madam President.

ACTING PRESIDENT McGEE: Senator

Flanagan.

SENATOR FLANAGAN: The simple answer is absolutely not.

The present law, there's six voting members on the commission right now. We're adding two nonvoting members. It doesn't matter whether the Governor is a Democrat or a Republican, if the Assembly is Democrat or the Senate is Republican. There is nothing in the bill or the law right now that says that the Governor can't appoint a Conservative or an Independent or Minority Leader Paterson couldn't appoint a Republican. They're free to choose whomever they deem appropriate to fill these positions.

Hypothetically, that could happen. Realistically, it could happen. But it's not going to change the present composition of the commission.

SENATOR LIZ KRUEGER: Thank you.

Madam President, if, through you, the sponsor would continue to yield.

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

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR LIZ KRUEGER: Thank you.

This bill seems to have a more limited definition than the Assembly bill that I think many of us have been looking at over the past few weeks, Assembly Bill 9062, that also attempted to reform the lobbying laws.

And I was wondering if you could just explain a little bit how this bill differs than the Assembly bill in terms of the breadth of scope of what's included for -- excuse me, the hour is so late -- under the categories of what's defined as a lobbying activity.

SENATOR FLANAGAN: Well, I would offer a first observation to suggest that while the Senate bill is a little more limited in scope in some areas, it is far more reaching and covers a great deal more substance than the Assembly bill does, by virtue of the fact that we have the judicial commission. They don't have anything like that in their legislation.

One of the differences between the

Assembly and the Senate is that the Assembly bill covers executive orders, implementation of rules and regulations, and they raise the threshold from $2,000 to $7,000 for reportable activities. And frankly, I think that's a detriment.

We keep the threshold to $2,000, which is present law. We'll get a lot more activity covered that way, and we'll have a lot more reporting than would happen under the Assembly bill.

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

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

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR LIZ KRUEGER: Thank you.

I appreciated your explanation.

Although, since the definition of procurement lobbying is narrower in your Senate bill than it was in the Assembly bill, even though it remains at $2,000, since it may

cover a much move limited scope of activities, dollarwise that may not make the difference. Because, again, you're not covering as many categories of activity in the Senate bill as the Assembly Bill did.

Perhaps I'll just jump to an example. In this bill, in your Senate bill, does it include, as a definition of lobbying, lobbying on executive orders?

SENATOR FLANAGAN: Madam Speaker -- excuse me. Madam President, I just answered that question. And the answer is no. I explained that that was the difference between the bills.

SENATOR LIZ KRUEGER: I didn't hear the exact -- Madam President, if, through you, the sponsor would continue to yield.

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

Perhaps because I know the context, as many of us do, about some stories in the news recently about different lobbing situations, but I perhaps don't know how to

define them in the context of your bill, would your bill capture a phone call from Senator D'Amato relating to a line of credit for a downtown office as a lobbying activity that this bill would apply to?

SENATOR FLANAGAN: I believe it would, just as it would cover any activities by people who were advocating on contentious issues like Destiny and other things like that.

SENATOR LIZ KRUEGER: Oh. Thank you.

Madam President, if the sponsor would continue to yield.

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

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR LIZ KRUEGER: Thank you.

So this bill would include lobbying related to Destiny USA, since you mentioned, both in the RFP contracting process and in the other activities that they have been involved in through radio and TV and hiring of

lobbyists and coming here? That would all be covered?

SENATOR FLANAGAN: Madam President, I'm more than happy to answer new questions. I don't think it's appropriate for me to go back and repeat the same answers. The answer is yes.

SENATOR LIZ KRUEGER: The answer is yes.

Thank you, Madam President. I want to thank the sponsor for his answers.

I'm sorry, I have one more question I would like to ask the sponsor. Through you, Madam President.

ACTING PRESIDENT McGEE: Senator Flanagan, would you like to yield for one more question?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR FLANAGAN: My colleagues don't want me to, but I will yield for one more question.

SENATOR LIZ KRUEGER: Thank you.

This bill not only covers lobbying;

it covers, as you mentioned, judicial accountability, a whole new topic that I did not delve into.

But it also would apply to local governments for lobbying, which I would gather, then, means this would supersede all local laws for New York City, other counties and other localities of the state that may have their own lobbying laws and lobbying commissions.

Is that your understanding, this supersedes everyone else's laws in the state?

SENATOR FLANAGAN: Yes.

SENATOR LIZ KRUEGER: Thank you, Madam President. On the bill.

ACTING PRESIDENT McGEE: Senator Liz Krueger on the bill.

SENATOR LIZ KRUEGER: Thank you.

The hour is extraordinarily late -- or early. This is -- but this is an extraordinarily complex bill, and I would politely argue it's not the kind of bill we should be looking at without, at 5:00 o'clock in the morning -- as my own colleagues are pointing out, it is broad-based, it deals with

lobbying, it deals with procurement policy, it deals with judicial accountability.

I can't imagine that any of this has been discussed with any other locality in the state, since we're attempting to supersede their laws at 5:00 a.m. And I would argue that we need to do much more review of this bill before we could support it.

Although I will say I am very pleased to see bills that address lobbying and judicial accountability coming out of this house, I don't understand how we could explain to the voters of New York that we came up with a brand-new bill that we decided to pass at 5:00 a.m. on the day that it was introduced without any further discussion than what we've all lived through right here, with no caucusing with or conferencing with the other house.

And the fact is that the Assembly has had a bill on lobbying that I believe has a Senate sponsor for a same-as bill, and that we should have been moving forward with that.

It's too complex to absorb, digest, ask the right questions, vote on, and say to

our constituents we knew what we were doing and we passed a good bill on lobbying, judicial accountability, and procurement procedures for the State of New York -- not just the state government of New York, but every local government of New York.

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

Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Flanagan.

SENATOR FLANAGAN: Madam President, to explain my vote.

ACTING PRESIDENT McGEE: To explain your vote.

SENATOR FLANAGAN: I would like to make sure that one thing is recorded properly.

And that is while I'm a new member to this house, I think I would be remiss if I didn't state for the record that I am, no pun intended, not a Johnny-come-lately to this issue, nor is the Senate Majority. The Senate Majority passed probably one of the most extensive lobbying reform bills in the last 25 years ago just a couple of years ago.

And on top of that, I know that my colleague Senator Padavan has carried lobbying legislation throughout the session which has been discussed ad infinitum, both in the halls in this building and outside as well.

The Senate Majority has been well poised to discuss this issue, now, six weeks ago, and six weeks from now as we progress.

Thank you.

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1694 are Senators Andrews, Dilán, Duane, Hassell-Thompson, L. Krueger, Parker, Sabini, Schneiderman, and Stavisky. Ayes, 52. Nays, 9.

ACTING PRESIDENT McGEE: The bill is passed.

SENATOR BALBONI: Madam President.

ACTING PRESIDENT McGEE: Senator Balboni.

SENATOR BALBONI: I ask unanimous consent to be recorded in the negative on 1686.

ACTING PRESIDENT McGEE: 1686?

SENATOR BALBONI: Thank you very much.

ACTING PRESIDENT McGEE: Without objection.

Senator Skelos.

SENATOR SKELOS: I request unanimous consent to be recorded in the negative on Calendar Number 1686.

ACTING PRESIDENT McGEE: 1686. Without objection.

Senator Marcellino.

SENATOR MARCELLINO: Without objection, I'd like to be counted in the negative on 1686.

ACTING PRESIDENT McGEE: Without

objection.

Senator Golden.

SENATOR GOLDEN: I'd like to be recorded unanimously in dissent on 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Johnson.

SENATOR JOHNSON: Madam President, I'd like to be recorded in the negative on Calendar 1686.

ACTING PRESIDENT McGEE: 1686. Without objection.

Senator Maziarz.

SENATOR MAZIARZ: Madam President, unanimous consent to be recorded in the negative on Calendar Number 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Maltese.

SENATOR MALTESE: Madam President, without objection, I'd like unanimous consent to be recorded in the negative on Calendar Number 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Paterson.

SENATOR PATERSON: I object, Madam President.

ACTING PRESIDENT McGEE: I beg your pardon, Senator Paterson.

SENATOR PATERSON: Well, you asked for unanimous consent without objection. And I objected.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Madam President, I'd like to request unanimous consent to vote against Calendar Number 1686.

ACTING PRESIDENT McGEE: Without objection, Senator Bruno.

Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, I request unanimous consent to be recorded in the negative on Calendar Number 1686.

ACTING PRESIDENT McGEE: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, I request unanimous consent to be recorded in the negative on Calendar Number

1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Alesi.

SENATOR ALESI: Thank you, Madam President. After careful deliberation, I request unanimous consent to vote in the negative on 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Larkin.

SENATOR LARKIN: Madam President, I request unanimous consent to be recorded in the negative on Calendar 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Leibell.

SENATOR LEIBELL: Madam President, I request unanimous consent to be recorded in the negative on Calendar 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Saland.

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

the negative on Calendar 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Little.

SENATOR LITTLE: Madam President, I request unanimous consent to vote in the negative on Calendar 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Morahan.

SENATOR MORAHAN: Madam President, without objection, I'd like to be record in the negative on Calendar 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Mendez.

SENATOR MENDEZ: Madam President, I request unanimous consent to be recorded in the negative on Calendar 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I request unanimous consent to be recorded in the negative on 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator LaValle.

SENATOR FLANAGAN: Madam President, I request unanimous consent to be recorded in the negative on Calendars 1683 and 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Rath.

SENATOR RATH: Madam President, I request unanimous consent to be recorded in the negative on Calendar 1699.

ACTING PRESIDENT McGEE: Without objection.

Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President. I ask for unanimous consent to vote in the negative on 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Seward.

SENATOR SEWARD: I too would like unanimous consent to be recorded in the negative on Calendar 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator LaValle.

SENATOR LaVALLE: Madam President, I ask for unanimous consent to be recorded in the negative on Calendar Number 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Padavan.

SENATOR PADAVAN: May I be allowed to vote in the negative on 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Robach.

SENATOR ROBACH: Madam President, could I also request unanimous consent to be recorded in the negative for 1686.

ACTING PRESIDENT McGEE: Without objection.

SENATOR ROBACH: Thank you.

ACTING PRESIDENT McGEE: Senator Meier.

SENATOR MEIER: Madam President, I request unanimous consent to be recorded in

the negative on 1686.

ACTING PRESIDENT McGEE: Without objection.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up Calendar Number 1542.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1542, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 9003 and substitute it for the identical Senate Bill Number 5651, Third Reading Calendar 1542.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1542, by the Assembly Committee on Rules, Assembly Print Number 9003, an act to amend the Education Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

SENATOR BRUNO: Madam President, is there any housekeeping to be done at the desk?

ACTING PRESIDENT McGEE: Yes, there is some housekeeping.

SENATOR BRUNO: Can we do that at this time.

ACTING PRESIDENT McGEE: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Bruno, I wish to call up Senate Print Number 4791C, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1687, by the Senate Committee on Rules, Senate Print 4791C, an act to authorize the City of

New York.

ACTING PRESIDENT McGEE: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, I now move to reconsider the vote by which the bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT McGEE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is restored.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, I now move to discharge, from the Committee on Rules, Assembly Print Number 8069C and substitute it for the identical bill.

I now move that the substituted Assembly bill have its third reading at this time and now move for the same vote.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Ayes, 51. Nays, 10.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, I would now move to recommit all remaining bills on the Senate Calendar to the Rules Committee.

ACTING PRESIDENT McGEE: So ordered.

SENATOR BRUNO: And there being no further business to come before the Senate, I would move that we stand adjourned.

We had talked about being out by 6:00, and in daylight, and we are.

(Laughter.)

SENATOR BRUNO: Subject to the call of the Majority Leader.

Have a great summer.

(Applause.)

ACTING PRESIDENT McGEE: The Senate stands adjourned, subject to the call of the Majority Leader.

(Whereupon, at 5:05 a.m., the Senate adjourned.)