NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 9, 2004

3:12 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

THE PRESIDENT: With us this afternoon to give the invocation is Rabbi Nachman Simon, from Chabad-Lubavitch of the Capital District in Delmar.

RABBI SIMON: This past Saturday was the Jewish holiday of Tu B'Shvat, the New Year for Trees.

It says in the Bible that man is likened to a tree of the field. There are many comparisons that we can make between a human being to a tree. A tree must have strong roots in order to withstand storms. If the roots are weak and shallow, then any blustery wind will uproot the tree.

This is a lesson for us in New York State to know, that our roots and traditions of leadership and goodness, our strong belief

in God in the Empire State, goes back hundreds of years, that we will be able to withstand any harsh situations or circumstances, whatever they may be.

Another idea about trees is that as tall and beautiful that a tree may be, that it still hasn't reached its fullest goal and potential. The tree has to grow fruits in order that others can benefit from them, and also be able to reproduce other trees like them.

Again, this is an incredible lesson for us all. As much as we have achieved and accomplished here in New York, it still isn't enough. It's most important to bear fruit, or to help others benefit from our goodness.

And also, we always have to remember that as great as the past has been, and also the wonderful things we are in the midst of accomplishing, we should constantly look towards the future in order that future generations will have the same or even better opportunities than we have had.

May it be the will of the Almighty that He help us to achieve greatness for

ourselves and the people of New York by leading the people forward to new heights, and rooted in our past but always looking towards the future. And may we accomplish all this with good health and a happy heart.

And let us all say amen.

THE PRESIDENT: Reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Volker, from the Committee on Codes, reports the following bills:

Senate Print 59, by Senator Alesi,

an act to amend the Penal Law;

422, by Senator Bonacic, an act to amend the Penal Law;

508, by Senator Maziarz, an act to amend the Penal Law;

514, by Senator Balboni, an act to amend the Civil Practice Law and Rules;

561, by Senator Maziarz, an act to amend the Penal Law;

608B, by Senator Volker, an act to amend the Penal Law;

662A, by Senator Volker, an act to amend the Civil Practice Law and Rules;

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

685, by Senator Padavan, an act to amend the Penal Law;

763, by Senator Marcellino, an act to amend the Penal Law;

1653, by Senator Leibell, an act to amend the Penal Law;

1681, by Senator Rath, an act to amend the Penal Law;

3962, by Senator Golden, an act to

amend the Penal Law;

4324, by Senator Kuhl, an act to amend the Civil Practice Law and Rules;

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

5872, by Senator Golden, an act to amend the Penal Law;

And Senate Print 5991, by Senator Volker, an act to amend the Civil Practice Law and Rules.

All bills ordered direct to third reading.

THE PRESIDENT: All bills ordered direct to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Wright.

SENATOR WRIGHT: Thank you, Madam President.

I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate 1353 and Senate

5602.

THE PRESIDENT: So ordered, Senator.

SENATOR WRIGHT: On behalf of Senator Golden, Madam President, I move to commit Senate Print Number 2222, Calendar Number 206 on the order of third reading, to the Committee on Finance.

THE PRESIDENT: So ordered.

SENATOR WRIGHT: Thank you.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Balboni, on page number 7 I offer the following amendments to Calendar Number 83, Senate Print Number 517, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR FUSCHILLO: Madam President, on behalf of Senator Spano, on page number 9 I offer the following amendments to

Calendar Number 105, Senate Print Number 2989A, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR FUSCHILLO: Madam President, on behalf of Senator Skelos, on page number 13 I offer the following amendments to Calendar Number 148, Senate Print Number 1023A, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR FUSCHILLO: Madam President, on behalf of Senator Marchi, on page number 17 I offer the following amendments to Calendar Number 199, Senate Print Number 1884, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there are substitutions at the desk. If we could make them at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 10, Senator LaValle moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 4421B and substitute it for the identical Senate Bill Number 2027B, Third Reading Calendar 123.

And on page 15, Senator Hoffmann moves to discharge, from the Committee on Agriculture, Assembly Bill Number 380 and substitute it for the identical Senate Bill Number 177, Third Reading Calendar 172.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, at 3:25 there will be a meeting of the Civil Service and Pensions Committee in the Majority Conference Room.

THE PRESIDENT: There will be a meeting at 3:25 of the Civil Service and

Pensions Committee in the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there are three privileged resolutions at the desk by Senator Nozzolio. If we could have all three titles read, move for their immediate adoption, and then recognize Senator Nozzolio.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Nozzolio, Legislative Resolution Number 3420, congratulating the Victor Blue Devils Girls Volleyball Team and Head Coach Shelly Collins upon the occasion of capturing the New York State Public High School Class B Championship.

By Senator Nozzolio, Legislative Resolution Number 3421, congratulating the Victor Blue Devils Boys Volleyball Team and Head Coach Frank Clark upon the occasion of capturing the Section V Class B Regional State Championship.

And by Senator Nozzolio, Legislative Resolution Number 3422,

congratulating student athlete Kyle Heath upon his designation as Section V Class B State Cross-Country Champion.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President. On the resolutions.

THE PRESIDENT: You may proceed.

SENATOR NOZZOLIO: Madam President and my colleagues, we're taking up three resolutions in recognition of the extraordinary excellence demonstrated by the Victor High School athletic program.

Not only do we have the boys and girls volleyball champions with us today viewing the proceedings, we also have one of the cross-country stars of this state, who last fall -- Kyle Heath is a cross-country runner; the Victor boys team and Victor girls volleyball teams each winning state championships.

My condolences to Senator Kuhl, where the girls had beaten Corning East High. Condolences to Senator Stachowski, where East Eden High School was defeated. And, Senator Alesi, it was nice that Mark Stevens of

Pittsford Sutherland was able to come in second to Kyle Heath.

We hear so much today about young people who have gone off-track, who have not performed to their talents and capabilities, who may have gotten in trouble. Just simply watch the nightly news, and we hear time and time again of those types of sad stories.

This story is a success story of unprecedented proportion. It's a success story where not just wonderful athletes coached by dedicated individuals performed at the highest levels of competition successfully, but we also have great community leaders, young people who have, together, sustained academic averages above 90 for each of the two teams, as well as the boys cross-country team. So that's three fall sports where their scholastic averages as a team exceed 90 grade-point average. That is an outstanding achievement.

To couple that academic accomplishment with winning state titles is something certainly noteworthy. And my hat's off to, beginning with the superintendent of

schools, Tim McElhern; Yvonne O'Shea, who's Victor High School principal; Mike Vistocco, who is business administrator; Linda Dunsmoor, director of community relations; and Ron Whitcomb, who is athletic director -- along with the boys volleyball coach, Frank Clark, who's head coach, and Freeman Fessler, assistant coach; Shelly Collins, who has given great coaching to the girls volleyball team; and Belinda O'Brien, the cross-country coach.

Each are here today sharing the success of these wonderful student athletes and community leaders.

It's not what you perform on the athletic field of competition that counts, but certainly that success is what we're recognizing today. We're also giving equal recognition to the outstanding academic achievements of these wonderful student athletes, that you are exemplary role models, you are our future leaders in our community.

We hope that each and every one of you going on to school will have opportunities to come back to the Victor community, the Greater Rochester region, Ontario County, to

serve and support this wonderful program that you have helped establish at Victor High School.

It is an honor to represent Victor, primarily because of these great young people and all the wonderful young people that they represent. I'm wearing blue and gold today, the colors of the Victor Blue Devils. I'm very proud of their accomplishments.

And, Madam President, I thank you and this body for recognizing those wonderful achievements in our young people of New York State.

THE PRESIDENT: Thank you, Senator.

The question is on the resolutions. All in favor of the resolutions please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolutions are adopted.

Congratulations and continued best wishes for similar success down the road.

Have a great celebration.

(Applause.)

THE PRESIDENT: Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 47, by Senator Velella, Senate Print 5555, an act to amend the Criminal Procedure Law and the Penal Law, in relation to aggravated criminal conduct.

THE PRESIDENT: Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 126, by Senator Libous, Senate Print 5727A, an act to amend the Alcoholic Beverage Control Law, in relation to increasing the number of days in a payment period.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 132, by Senator Velella, Senate Print 99, an act to amend the Penal Law, in relation to multiple convictions for the criminal sale of marijuana.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 136, by Senator Skelos, Senate Print 277, an

act to amend the Penal Law, in relation to failure to report a sexual assault of a child.

THE PRESIDENT: Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 139, by Senator Skelos, Senate Print 552, an act to amend the Criminal Procedure Law, in relation to limiting plea bargaining for sexual offenders.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 143, by Senator Robach, Senate Print 1206, an

act to amend the Penal Law, in relation to consecutive sentences for sexual offenders on probation.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 163, by Senator Alesi, Senate Print 120A, an act to amend the Correction Law, in relation to the penalty for a sex offender submitting fraudulent information.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays,

1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 164, by Senator Skelos, Senate Print 1016, an act to amend the Correction Law, in relation to the failure to register or verify.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 165, by Senator Skelos, Senate Print 3925, an act to amend the Correction Law, in relation to requiring registered sex offenders to personally appear.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 166, by Senator Skelos, Senate Print 4007A, an act to amend the Correction Law, in relation to the registration of sex offenders.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 167, by Senator Skelos, Senate Print 4168, an act to amend the Correction Law, in relation to the registration of sex offenders.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 168, by Senator Skelos, Senate Print 4455, an act to amend the Correction Law, in relation to the duty of sexual offenders to annually verify their address.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 171, by Senator Nozzolio, Senate Print 5985, an act to amend the Correction Law, in relation to information disseminated on Level One, Two and Three sex offenders.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Nozzolio, to explain your vote.

SENATOR NOZZOLIO: Thank you, Madam President. I ask unanimous consent to refrain from voting in order to explain my vote.

My colleagues, we have just enacted four -- five measures which strengthen our

original efforts to ensure that our communities are safe from sexual predators. Those measures enacted by this house today require law enforcement to inform communities when any level convicted sex offender moves into their neighborhood.

Those measures I wish to bring to your attention as our efforts are ever increasing to ensure that New York's streets in every community of our state are free of sexual predators. That one needs only to look on the news, as we saw this last weekend, where sexual predators, even in the eye of watchful cameras, are unfortunately preying on young people of this nation.

I wish to give special thanks to three of my constituents who have traveled, who have worked, who have brought public attention additionally to needs of Megan's Law changes. Denise Baylor, of Shortsville; Stephanie Ganoe, of Canandaigua; and Janet Schumann, of Macedon, have brought to our attention additional aspects of Megan's Law that need strengthening.

Senator Skelos, the original

sponsor of Megan's Law, is to be thanked for his continuing vigilance in fighting to ensure that this law, this series of laws in New York State are the toughest that we have. And that, Senator Skelos, I thank you for your continued efforts in this very important endeavor.

As chairman of the Crime Victims, Crime and Corrections Committee, I can tell you that I thank the members of this house for doing all we can to make Megan's Law a strong law, a good law, and a law that protects our children in every neighborhood of this state.

Thank you, Madam Chairman -- Madam President, and it is my hope that our energy will be focused now on the Assembly, which continues to drag its feet on these important measures.

Thank you, Madam Chairman.

THE PRESIDENT: Senator, you will be recorded as voting in the affirmative on this bill.

SENATOR NOZZOLIO: Thank you.

THE PRESIDENT: Senator Hoffmann, to explain your vote.

SENATOR HOFFMANN: Yes, thank you, Madam President.

I too rise to support the prime sponsors of all of these very important bills. I commend Senator Skelos, Senator Nozzolio, Senator Volker, and Senator Bruno with taking the lead in dealing with the terrible problem that we have of sex offenders not being properly sentenced, in some cases not being properly identified, and not always being properly monitored upon release from prison.

I think a very, very important step that we're taking today will prevent the unfortunate plea bargaining of many sex-offense crimes to a non-sex-offense crime.

And I have to tell you that it's been my experience that some district attorneys, out of a desire to protect the innocence of a child who has been molested, will sometimes plea bargain those crimes down to a burglary or some other non-sex-offense charge.

This does a tremendous disservice to society. It may spare the child the unfortunate experience of having to testify,

but if that individual is sentenced on a burglary charge, upon release we have no means of tracking that individual as a perpetrator of a sex offense. And we need that ability to be able to ensure the future safety of other children as well.

So this is a very, very significant measure. This package of bills, in total, are significant to protect the safety of young people and of women victims across this state.

But there is one other measure that I hope that we will be able to pass this year, and I too call upon our friends in the Assembly to take a new look at the issue of civil commitment. Those sex offenders who have served their time for their crime but are still judged by clinical evaluation to present a danger to society need to be kept in a secure facility until such time as they are safe upon release.

We simply do not have the resources to assign parole officers to follow every single individual who has committed a sex offense. And there are many who, sadly, indicate at the time they are about to be

released that they are prepared to commit those same crimes again.

We have to take this seriously. We have to address our responsibility as a state to find a way to protect the people of this state who would be their victims.

So I hope that this is the year that the Assembly will finally look favorably on a civil commitment law for sex offenders as well.

THE PRESIDENT: Senator Hoffmann, you will be recorded as voting in the affirmative on this bill.

The Secretary will announce the results.

THE SECRETARY: Ayes, 55. Nays, 2. Senators Hassell-Thompson and Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 180, by Member of the Assembly Sweeney, Assembly --

THE PRESIDENT: Senator Skelos. Excuse me.

SENATOR SKELOS: Madam President, if I could just interrupt for a moment, there will be an immediate meeting of the Education Committee in the Majority Conference Room.

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

The Secretary will continue to read.

THE SECRETARY: Calendar Number 180, by Member of the Assembly Sweeney, Assembly Print Number 9333, an act to amend the Real Property Tax Law, in relation to providing a tax exemption.

SENATOR LIZ KRUEGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Yes, Madam President, I would like unanimous consent to be recorded in the negative on Calendar 132.

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

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Madam President, I would like to request unanimous consent to be recorded in the positive on 171.

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

SENATOR HASSELL-THOMPSON: And in the negative on 163.

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

SENATOR HASSELL-THOMPSON: Thank you.

THE PRESIDENT: Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 47, by Senator Velella, Senate Print 5555, an

act to amend the Criminal Procedure Law and the Penal Law, in relation to aggravated criminal conduct.

SENATOR LIZ KRUEGER: Explanation, please.

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

SENATOR VELELLA: Thank you, Madam President.

This bill creates the crime of aggravated criminal conduct, makes it a Class E felony, which is an enhanced charge for A misdemeanor offenses committed by habitual misdemeanor and felony offenders.

Under the present New York State law, a defendant may be convicted of an unlimited number of misdemeanors and incur little or no jail time for it.

Under this legislation, a defendant who within ten years prior to the date of the offense charged has been convicted of three Class A misdemeanors, three felonies, or a combination thereof within that ten-year period, may be charged with the crime of aggravated criminal conduct, which would be a

Class E felony.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam President, on the bill.

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

SENATOR SCHNEIDERMAN: I'd like to thank the sponsor for his explanation.

And I have voted for this bill in the past. I will vote for it again today.

However, I note that this is a bill that falls into our pattern of continually passing one-house bills that pass Assembly bills like ships in the night.

There has been some criticism of the details of this legislation from the Coalition for the Homeless and other advocates who have expressed concerns that it may be overbroad.

I think that one of the things that has characterized this Legislature over the last few years appears to be our inability to reach agreement with the Assembly and move off of the one-house bills that may make for good

press releases and may look good in our newsletters but really don't get anything done for the people of this state.

So while I support this legislation, I would urge that some view towards actually passing a two-house bill should take precedence over any rigidity in conforming this legislation to what we've passed in previous years.

It's time to get something done in this area, and I hope that we will be able to actually move forward and draft something that the Assembly can pass before the session is out.

Thank you, Madam President.

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: On the bill, Madam President.

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

SENATOR VELELLA: I would just like to first thank Senator Schneiderman for complimenting me on the bill and, secondly, say that this is a Governor's program bill.

The intention of this bill is to

stop the charade that has been going on in the court system that allows misdemeanor after misdemeanor to be charged against people, time and time again, and they never get any kind of serious punishment. It's treated too lightly.

I tell you, let's get the Assembly to pass a bill which restricts the number of misdemeanors that a person can get and be sentenced to a jail time, and we will sit down in a conference committee and iron out the details.

I am sure that the intention of the Governor is to stop people from committing 30 and 40 misdemeanors and never spending a day in jail. And if the Assembly will make that statement, we can arrive at a bill.

I urge you to talk to the Speaker about it.

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

Senator Krueger, do you wish to be heard on this bill?

SENATOR LIZ KRUEGER: Thank you, Madam President, I do.

I was listening intently to the

discussion between my colleagues Senator Velella and Senator Schneiderman and the problems of both houses of this Legislature not coming to agreement. And Senator Velella made the important point of saying when you have a program bill from the Governor, we should be calling conference committees and getting things done and passing same-as bills.

And I have to say I couldn't agree more. I wish we saw conference committees on our budget reform bills, I wish we saw the Governor proposing program bills on the legislative reforms we ought to have in this house and across the aisle in the Assembly, so that there were a large number of important pieces of legislation mattering to the State of New York that both houses could proudly say: We worked together, we sat down, we worked out our differences, we were in conference committees, we sat with the Governor and got something done.

So I am hoping -- as you hope that something will happen on this bill this year, I'm hoping that we have a long list of issues, particularly when it comes to the process of

the budget and the process by which we operate in these two houses, that we will follow the same model and accomplish something this year.

Thank you very much, Madam President.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 136, by Senator Skelos, Senate Print 277, an act to amend the Penal Law, in relation to failure to report a sexual assault of a child.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you very much. I rise to speak on the bill, Madam President.

THE PRESIDENT: You may proceed on the bill.

SENATOR LIZ KRUEGER: Thank you.

While I will be voting for this bill, Senator Skelos, I need to point out that we have passed a series of sex assault bills today and bills on reporting incidents of sex assault for children. And I am so disappointed that what we are not doing today as part of this theme day, as Senator Nozzolio mentioned earlier and Senator Hoffmann mentioned earlier, that what we are not doing today is a clergy reporting bill, which is a bill that too reference --

THE PRESIDENT: Excuse me, Senator. I just want to make sure you can heard.

Go ahead.

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

Following the same theme as Senator Velella and my discussion just a moment ago about two houses conferencing a piece of legislation to actually get it done, this will now be the third year, if we do not pass a

clergy reporting bill, that we have failed in this house and in this Legislature to assure that there is a mandate that clergy too must report sexual offenses on children.

And that if we are, as we claim to be, a house that is concerned about attacks on children, that is concerned about the continuing problem of sexual offense in this state, that I don't believe we should go home or feel good about our accomplishments today with this legislation if we don't act immediately to come to a conference agreement between the Assembly and the Senate between Senator Saland's bill, S2947A, and Assembly Member McEneny's bill, A1516.

The differences are small. The importance to the State of New York is to finally have a clergy reporting bill, so that no one in positions of trust with children are exempt from their obligation to report sexual offense.

So again, I do not stand as criticism to Senator Skelos's bill -- and I will be voting for it -- but, rather, to highlight it's the last bill we're taking up

on sexual offense today, and sexual offenders. And I don't believe that we should go home feeling that we accomplished anything on this floor this week if we do not also deal with the differences between the two houses on clergy reporting and get that bill passed into law. Because that is equally important to protect children and citizens of the State of New York.

Thank you, Madam President.

THE PRESIDENT: Senator Schneiderman.

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

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

SENATOR SCHNEIDERMAN: I also have supported this bill in the past and will support it again.

But I really rise to echo and amplify the comments that Senator Krueger made and that reflect the discussion earlier today.

We have a problem of government by press release in Albany. It's no great secret. Today -- the word is out that today

is sexual assault day in the Senate, or sexual offender day in the Senate. And we're going to pass bills we know are one-house bills and send out press releases.

It's actually one-house-bill day in the Senate, but that does not merit a press release, because every day seems to be one-house-bill day in the Senate.

The clergy reporting bill is one extraordinary example of a place in which we are so close to the Assembly's version it is inexcusable for us not to have dealt with that issue thus far.

Today I note that the Assembly is passing its omnibus budget reform package. We passed a Senate budget reform package earlier this session. The Assembly package addresses things that are not in the Senate package, including lobbying reform and procurement and other things. I hope that will not be an excuse that is used for a refusal to go forward with conference committees.

We should be conferencing -- Senator Velella indicated his willingness to conference the persistent misdemeanor offender

bill. We should be conferencing that bill. And we certainly will work to see that the Assembly passes something so we can get it to the table.

But in areas like budget reform, areas like clergy sex abuse, we have legislation that enables us to go forward. I hope we will take action on many of the bills passed today this year. I do not believe that any of them are going to pass in their current form in the Assembly. But we really have to do a better job in our efforts to get two-house bills passed.

I hope we are not going to adjourn later this year with a lot of press releases about one-house bills generated here, and press releases about one-house bills generated by the Assembly, and have a failure to meet as we've had so many times over the last few sessions.

Thank you, Madam President.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Madam President, I was out of the chamber during much of the debate on this issue. We had two

committee meetings.

But I wanted to commend Senator Skelos for proposing these bills.

I didn't know very much about this issue until I discovered that there was a Level Three sex offender in my Senate district, and, in fact, probably a quarter of a mile from where I live. And it was at that point I realized how difficult it is -- even though to go on the Internet, you do get information about the offender, nevertheless, there is much information that is not available on the Internet. The schools, for example, are not notified except by the local police. There are many defects.

And the individual who lives in my district just moved in right after he got out of jail. He is a young man of about, I think, 18 or 19 years old. Two children were involved, a 4-year-old and an 8-year-old. He did three years in prison.

And we are very concerned about how particularly Level 3, the most serious sex offenders, are treated and the lack of information that is available to the people in

the community, the ones most affected by it.

And in fact, the local residents found out quite by accident that this person had moved into the Bayside community.

So I commend Senator Skelos. This is something that happens everywhere. And it's an issue that I think needs additional redress. And I've written to the Governor on that issue as well.

So I thank you, and I vote yes.

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

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Skelos, to explain your vote.

SENATOR SKELOS: Madam President, just to explain my vote.

I think it's unfortunate that many of my friends on the other side of the aisle

like to refer to many of the pieces of legislation that we're passing today as one-house press-release bills.

I would remind you -- and some of you may have not been here when the legislation was passed, Megan's Law -- that the Senate passed a bill, the Assembly refused to pass the bill. The following year, after young Megan had been killed, we passed a bill and it took Maureen Kanka, Megan's mom, from New Jersey, to come and confront the Assembly to pass the legislation which the Senate had passed.

One of the pieces of legislation, failure to register: A misdemeanor, D felony. It's very simple. I don't think that needs a conference committee. The Assembly could easily pass this piece of legislation. It's pretty clear, a couple of words changed, they could do it.

So I think really what your efforts should be, if I could suggest, is that you discuss these bills with Speaker Silver. The purpose of the bills is solid, to protect young people. We can do it if he just opens

up his eyes a little bit and passes some of the legislation that has been passed in the Senate for a number of years.

But I guess really what I'm going back to is it's unfortunate that you have to refer to some of these pieces of legislation, which the Majority takes very seriously, as one-house press-release bills.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: I vote in the affirmative.

THE PRESIDENT: You will be so recorded as voting in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 180, by Member of the Assembly Sweeney, Assembly Print Number 9333, an act to amend the Real Property Tax Law, in relation to providing a tax exemption.

SENATOR LIZ KRUEGER: Explanation.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, if we could call an immediate meeting of the Crime Victims, Crime and Corrections Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Crime Victims, Crime and Corrections Committee in the Majority Conference Room.

Senator Flanagan, an explanation has been requested.

SENATOR FLANAGAN: Thank you, Madam President.

Very briefly, this is a bill -- this is, I would say, an amendment to a bill that was passed by Senate Trunzo a couple of years ago and was sponsored by Assemblyman Levy last year, Assemblyman Sweeney this year.

This will help provide a true 10 percent property tax exemption for volunteer firefighters and ambulance personnel in Suffolk County.

THE PRESIDENT: Senator Krueger.

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

THE PRESIDENT: Senator Flanagan, do you yield for a question?

SENATOR FLANAGAN: Yes, I do.

THE PRESIDENT: You may proceed, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. Through you, Madam President.

My concern about the bill is not per se the proposed change, but why are we changing this bill and the arrangement of a 110 percent or $3,000 formula just for Suffolk County when it's my understanding that we have passed equivalent bills for a large number of counties in New York State?

It seems to me that your point that it is confusing and has not been able to be implemented -- or rather the memo's point, you didn't make that point yet -- is a reasonable argument. Therefore, it should be equally confusing or not confusing for all these other counties that also have the same option under local law.

So my question, again, is why would we do it for just one county rather than doing an across-the-board change in the formula for all of the counties that currently have this type of option for voluntary firefighters and ambulance participants?

SENATOR FLANAGAN: Well, I would suggest a couple of things.

I represent Suffolk County, and Suffolk County has asked for this bill. Nobody else asked me to do this. So I'm doing this at the request of Suffolk County and the volunteers that I work with.

If someone brought a bill out here or if you brought a bill or I brought a bill out here on the other subject, I'm sure it would be open to discussion and debate.

But certainly this bill relates to Suffolk County. And part of the justification, I had some discussion with our counsel -- let me take a step back for a second. I feel like in law school, you know, they talk about the rule against perpetuities. And there's probably about three or four people who actually understand what the rule

against perpetuities is.

Anybody who truly understands equalization of assessment has my undying respect, and yet I'm scared of somebody like that.

Having said that, looking at Rockland County as an example, if you take the equalization rate in Rockland County, which is 42, an exemption there would be worth approximately $1,260 on a home of comparable value. In Suffolk County, based on the current structure, the exemption would be worth $36.

So this is an effort to provide greater relief so that we can recruit and retain volunteers.

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

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

SENATOR FLANAGAN: Yes, I will.

SENATOR LIZ KRUEGER: Thank you.

THE PRESIDENT: You may proceed, Senator Krueger.

SENATOR LIZ KRUEGER: Senator Flanagan, because you have the data on some different counties, can you tell me how many different counties we have passed this type of county-by-county legislation for, for tax exemptions for firefighters or volunteer ambulance workers?

SENATOR FLANAGAN: I'm sorry, say that again.

SENATOR LIZ KRUEGER: How many counties like Suffolk County have this type of legislation in place?

SENATOR FLANAGAN: I can't attest to the 100 percent accuracy of the list, but I do know Rockland, Chautauqua, Suffolk, Nassau, Putnam, Dutchess, Oswego, Steuben, Wyoming, and Erie. There may be others, but I'm unaware of them.

SENATOR LIZ KRUEGER: Thank you. Thank you very much, Senator.

Madam President, on the bill.

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

SENATOR LIZ KRUEGER: Thank you.

While I am not by definition

opposed to this piece of legislation, and I won't vote against it, I would like to highlight that I have been here now three sessions of the Legislature, or three years. And in my first year, Senator Hevesi was still sitting in my conference. And he would raise issues, each time a bill like this came to the floor, why is it for only for a specific county? Why are no counties represented by Democrats able to bring parallel pieces of legislation to the floor for a vote for their volunteer firefighters and their volunteers in their ambulance systems?

And I would argue that this type of legislation should be passed on a statewide basis for any county or locality to choose, at local option, whether they want to implement. But we should not continue a pattern of using the partisan politics of this Legislature to allow certain counties and localities to bring these kinds of bills to the floor while other counties cannot.

I remember Senator Hevesi raising his concern that in Queens County he could not bring this bill to the floor. I don't

represent Queens County, and I know for a fact in Manhattan I can count how many volunteer firefighters there are. My husband is one of them, so I would not be lobbying for my own husband on this floor.

Nonetheless, I would argue that this is the kind of legislation we should be passing, from an equity perspective, for everyone who serves as a volunteer firefighter or a volunteer ambulance worker in this state, and that we should not allow arbitrary politics to decide what bills come to our floor and what don't on the same issue, county by county.

But having said all of that in my objection to how we're approaching this, I will not vote against these people in Senator Flanagan's district. So I will be voting for the bill.

Thank you very much.

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

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I just would like to make a point

for the record.

I also have a volunteer ambulance company in my district. They do a magnificent job. They operate by their bootstraps, so to speak. It would be very helpful if we had consideration as well under Senator Flanagan's bill.

So I respectfully request that the Senator consider adding Kings County to this legislation. That would be very, very helpful for my district.

But with that, I am voting yes, in anticipation that we will see an amendment to this legislation.

Thank you.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the

reading of the controversial calendar.

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

THE PRESIDENT: No housekeeping, Senator.

SENATOR SKELOS: If you could recognize Senator Ada Smith, please.

THE PRESIDENT: Senator Ada Smith.

SENATOR ADA SMITH: Thank you very much.

Madam President, I would like to announce that there will be a conference of the Senate Minority at 4:30 sharp in the Minority Conference Room.

THE PRESIDENT: There will be a conference of the Senate Minority at 4:30 sharp in the Minority Conference Room.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees.

Just for the information of the Senators, there will be a meeting of the Local Governments Committee probably within the next

five minutes. We'll have that report read, and then we will adjourn.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Robach, from the Committee on Civil Service and Pensions, reports:

Senate Print 1180A, by Senator Maltese, an act to amend the General Municipal Law;

2629A, by Senator Little, an act authorizing;

4412A, by Senator Maziarz, an act to amend the Retirement and Social Security Law;

And Senate Print 6038, by Senator Robach, an act to amend the Civil Service Law.

Senator Saland, from the Committee on Education, reports the following bill:

Senate Print 5742B, by Senator Kuhl, an act to amend the Education Law.

All bills ordered direct to third reading.

THE PRESIDENT: All bills ordered

direct to third reading.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 4:00 p.m.)

(Whereupon, the Senate reconvened at 4:01 p.m.)

ACTING PRESIDENT ROBACH: Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Local Governments Committee in the Majority Conference Room.

ACTING PRESIDENT ROBACH: Meeting of the Local Governments Committee in the Majority Conference Room.

(Whereupon, the Senate stood at ease at 4:02 p.m.)

(Whereupon, the Senate reconvened at 4:12 p.m.)

ACTING PRESIDENT ROBACH: Senator Skelos.

SENATOR SKELOS: Mr. President, if we can return to reports of standing committees, there are two reports at the desk. I ask that they be read at this time.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Senator Nozzolio, from the Committee on Crime Victims, Crime and Correction, reports:

Senate Print 5463C, by Senator Robach, an act to amend the State Finance Law;

6085, by Senator Nozzolio, an act to repeal certain provisions;

And Senate Print 6086, by Senator Wright, an act to amend the State Finance Law.

Senator Little, from the Committee on Local Government, reports:

Senate Print 1934, by Senator Nozzolio, an act to amend the Real Property Tax Law;

2309, by Senator Kuhl, an act to amend the General Municipal Law;

4062A, by Senator Wright, an act to amend the General Municipal Law;

4982, by Senator Little, an act to amend the General Municipal Law;

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

5524, by Senator LaValle, an act to

amend the Real Property Tax Law;

5933, by Senator Larkin, an act authorizing;

And Senate Print 5938, by Senator Bonacic, an act to authorize the Town Board of the Town of Mamakating.

All bills ordered direct to third reading.

ACTING PRESIDENT ROBACH: Without objection, all bills are directed to third reading.

Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business to come before the Senate, I move we stand adjourned until Tuesday, February 10th, at 11:00 a.m.

ACTING PRESIDENT ROBACH: On motion, the Senate stands adjourned until Tuesday, February 10th, at 11:00 a.m.

(Whereupon, at 4:15 p.m., the Senate adjourned.