NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 9, 2004

3:10 p.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order.

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

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

ACTING PRESIDENT MEIER: We are honored to have the invocation offered by His Eminence, Edward Cardinal Egan, Archbishop of the Roman Catholic Archdiocese of New York.

ARCHBISHOP EGAN: I want to thank Senator Meier for being so kind, and thank all of you for the invitation.

I had some wonderful meetings this morning with several of the Senators, and with our good Governor, and it is always, for me, an honor and a privilege to be here and to be with you. So allow me to thank you for this great honor.

Almighty and Eternal Father, we place ourselves in Your presence to ask Your blessing. This day we seek Your loving care for all who govern us in this Empire State of

New York. May they be women and men of justice, who see in each and every citizen an image of God, endowed with rights that must always be respected and protected.

May they be women and men of compassion who strive, in season and out of season, to care in a special, loving way for those who are the neediest among us.

May they be women and men committed to support of our families, our children, our most distressed communities, and the newcomers and strangers in our midst. May their voices be heard on behalf of peace in our streets and peace across the world.

May all of their families, those whom they love and those who love them, enjoy the grace and blessing of a provident God who cares for each of us, loves each of us, and begs each of us to walk in the style, in the manner of holiness and goodness.

All of this we beg with trust, now and forever. Amen.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Thank you, Mr.

President.

On behalf of my colleagues, Your Eminence, let me welcome you to Albany and to the Senate chamber, and thank you for that beautiful opening prayer.

And also, on behalf of the Irish legislators, I'd like to extend an open invitation to our St. Patrick's Day party next week. And there will be no charge if you agree to sing.

Happy St. Patrick's Day.

ARCHBISHOP EGAN: (Laughing.)

Senator Farley, you have no idea how much I would like to accept that invitation. And I assure you that I'd even do the singing.

But in the city of New York, there are six St. Patrick's Day dinners. Each year I go to four. Each year two are disappointed and wonder what's wrong with me. So I dare not add another.

But if I can escape, believe me, Senator, I'll come up here and we can sing together. Thank you for the invitation.

(Applause.)

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Monday, March 8, the Senate met pursuant to adjournment. The Journal of Friday, March 5, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

As Commissioner of the Office of Mental Health, Sharon E. Carpinello, of East Greenbush.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Move the nomination, Mr. President.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President and colleagues, it's an honor and privilege for me to stand in support of Dr. Carpinello as the commissioner coming in in Mental Health.

Sharon has been a good friend to a lot of us in the Capital Region and in this state for a lot of years. Her husband serves as an esteemed judge for a lot of years.

So doing things in the community, public service is not strange to the family or to Sharon. She's a registered nurse by profession, and has earned her Ph.D. in education, and has received more awards for her commitment and her work than we can relate here today.

So we are very fortunate that Dr. Carpinello continues in state service. And I commend the Governor for his good judgment in proposing Dr. Carpinello to us, and I wholeheartedly support moving her nomination.

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

nomination?

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. I want to second Senator Bruno's nomination in nominating Dr. Carpinello.

Certainly the Governor has sent us a very well qualified candidate. As I said in the Finance Committee meeting this morning, I would ask each of my colleagues to take a moment and look at her resume. It is a resume that is quite distinguished, a resume full of accomplishments, and many of those accomplishments are in her field, in the field of mental health.

As I said to the members of the Finance Committee this morning, one of the things that I am very pleased about is that Acting Commissioner Carpinello cares very deeply, not only for all of the mentally ill, but particularly in setting up programs for children's mental illness.

This is an area that I don't think a day goes by that someone does not at least cross my office, and I know many of my colleagues' office, in discussing these

issues.

We've got some challenges. We have to continue to eliminate the stigma that the mentally ill have in this state. And I think Dr. Carpinello will do a great job at being an ambassador on behalf of all those individuals in New York State with mental illness, and all those who support, the advocates, and individuals like myself who believe in the cause.

So it is an honor for me to second the Governor's very worthy nominee.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Thank you, Mr. President.

You know, very often people who suffer from mental illness are the forgotten people. They don't have lobbyists walking through the halls of this Capitol speaking out on their behalf. But every once in a while, we get a real true advocate and someone who has dedicated a lifetime to dealing with a very difficult population.

Dr. Carpinello has been that type

of career professional that we can be proud of who will make sure that we treat people who, through no fault of their own, were born or who suffer from a mental illness, to make sure that they are treated with dignity, to make sure that we continue to build that community-based system of care across the state for people who need help and support from government, and to make sure that we pay attention to the issues of early intervention and to children's services and adolescent services.

I commend the Governor for an outstanding appointment and very enthusiastically join with Senator Bruno and Senator Libous in seconding the nomination of Sharon Carpinello to serve as our commissioner of mental health.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

I just want to comment on the nomination. I am here to support the

nomination also. But I have to say that, as I always say, I'm from the South Bronx. I represent a minority community, a black and Hispanic community.

And hopefully, I hope, that with the appointment of Commissioner Sharon Carpinello to this department, the injustice the injustice that this department has done in my community could be amended. Because last year, last year the Governor cut $4 million to the whole state. So it was supposed to be that if you cut $4 million, then the cut should be across the board. But one, only one, one organization, in the South Bronx, that serves black and Hispanics, was cut 10 percent out of the $4 million. One organization in the minority community. That's an injustice done last year to an organization in my community, in my district.

And I hope that with this nomination, this kind of injustice -- that I would not want to call a discriminatory decision, but it was an injustice to put 10 percent of the whole state cut to one organization, and that organization happens to

be in the black and Hispanic community.

Yes, I support this nomination. But I hope that things change in that department. Thank you.

ACTING PRESIDENT MEIER: The question is on the confirmation of Sharon E. Carpinello as Commissioner of the Office of Mental Health. 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 confirmed.

Commissioner Carpinello is with us today in the gallery. She is accompanied by her husband, the Honorable Anthony Carpinello; by her daughter, Amy; she's also accompanied by her sister, Sue Rutter; her mother-in-law, Jennie Carpinello; her sister-in-law, Beth; and her brother-in-law, George Carpinello.

Commissioner, we congratulate you and we wish you all the best with your important duties.

(Applause.)

ACTING PRESIDENT GOLDEN: The Secretary will read.

THE SECRETARY: As Commissioner of the Office of Temporary and Disability Assistance, Robert L. Doar, of Millerton.

ACTING PRESIDENT GOLDEN: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT GOLDEN: Senator Meier.

SENATOR MEIER: Thank you, Mr. President.

I'm pleased to second the nomination of Robert Doar as Commissioner of the Office of Temporary Disability Assistance.

As chair of Social Services, I've had the opportunity to work with soon-to-be Commissioner Doar. One of his significant accomplishments, working under his predecessor, has been to work with our child support system. And I must tell you that New York State has really become a model for other states around the country in terms of

how we collect the obligation of parents to care for their children. And a lot of that is because of a system that Bob Doar put in place and has carried forward.

I am convinced that one of the best things that we in this Legislature have done in the last few years has been the radical reform and transformation of the welfare system. We have transformed it from one that uses taxpayers' dollars to trap people in dependence to one which moves people towards employment, towards independence, towards full participation in society.

That is a transformation that Commissioner Doar has participated in and helped manage in his former life. And one of the important things about Bob Doar is he is committed to that mission. Commissioner of the Office of Temporary and Disability Assistance will be, for him, more than a job, it will be a mission, as we work to help people to become independent and to become contributing members of this great society that we call the great State of New York.

Commissioner, I'm proud to second

your nomination and wish you all the best and look forward to continuing to work with you.

ACTING PRESIDENT GOLDEN: Senator Bruno.

SENATOR BRUNO: Mr. President and Chairman Meier, I am also happy to rise in support in seconding the nomination of Bob Doar as commissioner.

And as Senator Meier indicated, this commissioner comes with a depth and wealth of experience in life, in business, as well as in dealing with people who are disabled temporarily, receiving assistance through the state.

And when you take a look at what he has done so far, it is very, very impressive. Because, as Senator Meier indicated, New York has become a model in helping people temporarily disabled get back into a productive way of living. And I think that the numbers have been reduced by about 63 percent since this commissioner has been in place.

And if I'm not mistaken, those people that are willing to step up and be

supportive, as they're supposed to legally, have gone up in terms of his leadership from about $600 million to about a billion dollars that is due for the support of people.

So that's really a credit to the commissioner, a credit again to the Governor for selecting people who are able, capable, and dedicated to public service.

Thank you, Mr. President.

ACTING PRESIDENT GOLDEN: Senator Saland.

SENATOR SALAND: Thank you, Mr. President. I too rise to second the nomination of Rob Doar.

In my prior life, I served as the chairman of Senate Children and Families Committee, and chair of the Human Services Budget Conference Subcommittee, which is so ably chaired by Senator Meier, and in that capacity I had numerous opportunities to deal -- in both of those capacities, numerous opportunities to deal with Rob Doar, a fine gentleman whom I knew also in another prior life when he was a roving reporter for the Taconic Press in Dutchess County.

Rob is not only extremely engaging and bright, but certainly extraordinarily dedicated, and did do some extraordinarily, wonderfully focused and meaningful changes, was responsible for many changes in our support laws. I'm sure he brings to his new position the same kind of zest; certainly, no lack of the same intellect.

And I'm confident that Governor Pataki, once again, has chosen extremely wisely in his choice of commissioners. And I look forward to working with him as he moves the agenda forward on behalf of the Governor.

ACTING PRESIDENT GOLDEN: Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President.

I want to join with the Majority Leader and my colleagues in support of this nomination.

And, like Senator Saland, I remember when Bob Doar was a young reporter in Dutchess County. We know you were not responsible for any of the bad editorials, only the good ones.

But you have, seriously, played a major role for this administration as we have attempted to work with and to reform our welfare system. In fact, you have become a national leader in your area of expertise.

I want to congratulate the Governor for sending us this truly superb nomination today and wish you well. And I know you'll continue to do a great job for the people of the State of New York.

Thank you.

ACTING PRESIDENT GOLDEN: Any other Senators wish to be heard on this nomination?

The question is on the confirmation of Robert Doar as Commissioner of the Office of Temporary and Disability Assistance. All in favor signify yea.

(Response of "Aye.")

ACTING PRESIDENT GOLDEN: Any nays? Any opposed?

(No response.)

ACTING PRESIDENT GOLDEN: I hereby confirm Robert Doar as Commissioner of the Office of Temporary and Disability

Assistance.

(Applause.)

ACTING PRESIDENT GOLDEN: Joining him in the gallery is his wife, Sara Doar; his son, Michael; son, Andrew; daughter, Julie; son, Bobby; mother, Anne; sister, Gael; and his father-in-law, Harry Schroeder, and Julie Schroeder, his mother-in-law.

Congratulations.

The Secretary will read.

THE SECRETARY: As a member of the Workers' Compensation Board, David P. Wehner, of Slingerlands.

ACTING PRESIDENT GOLDEN: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT GOLDEN: Senator Velella.

SENATOR VELELLA: Mr. President, it gives me great pleasure to rise and support the nomination of David Wehner to the position of member of the Workers' Compensation Board.

I've known Dave many years. His service both in the United States Senate and

in the Labor Department of this state truly qualify him for this position.

At a time when this house will be considering major changes within the workers' compensation system and, hopefully, possibly even in the benefits of that system, I look forward to working with Dave so that we can proceed with a great program that we have in place to bring the Workers' Compensation Board right up to the present-day 21st century.

Thank you.

ACTING PRESIDENT GOLDEN: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

It's an honor for me to join Senator Velella and second the nomination of David Wehner to the chairman of the Workers' Compensation Board.

I too have known David for a number of years, from his beginnings when he worked in the U.S. Senate for Senator D'Amato.

And, Dave, I promise I won't tell any stories on the floor today.

But the Governor again has given us

a nominee who is extremely well-positioned and well-versed for his new venture. David brings to the position as chairman of the board a vast knowledge of labor issues and an understanding of the workers' compensation system and how it is supposed to work in protection of workers and also work in favor of employers.

This nominee will do an outstanding job. And, Mr. President, it is a pleasure for me to stand here and second the Governor's nomination.

ACTING PRESIDENT GOLDEN: Senator Spano.

SENATOR SPANO: Thank you very much, Mr. President.

It is my pleasure to join my colleagues in seconding the nomination of Dave Wehner.

I've known Dave for a long time, having served as the chairman of the Labor Committee in the Senate. And working with him in his role in the Department of Labor provides him with the foundation that he will need in working with people who are the

injured workers across this state.

The Workers' Compensation Board directly impacts the lives of injured workers on a daily basis. And we need someone who has shown the energy, the sensitivity, and who has the experience in pulling things together and keeping this agency moving forward in the right direction.

The Governor should be commended for his appointment of all of the members of the Workers' Compensation Board, but particularly for David Wehner, who will make us all proud as he continues to lead an agency that has such a profound impact on people at a time of need. It's my pleasure to support his nomination.

ACTING PRESIDENT GOLDEN: Any other Senators wishing to speak on the nomination?

The question is on the confirmation of David Wehner as member of the Workers' Compensation Board. All in favor?

(Response of "Aye.")

ACTING PRESIDENT GOLDEN: Opposed?

(No response.)

ACTING PRESIDENT GOLDEN: David Wehner is hereby confirmed as a member of the Workers' Compensation Board.

(Applause.)

ACTING PRESIDENT GOLDEN: David Wehner is joined by his wife, Diane; son, Paul; son, Kevin; daughter, Allison; his father, Henry; his mother, Joan; and his brother, Steve.

Congratulations.

The Secretary will read.

THE SECRETARY: As a member of the board of directors of the Great Lakes Protection Fund, Gerald F. Mikol, of Orchard Park.

As director of the Municipal Assistance Corporation for New York City, Dall W. Forsythe, of Hudson, and Edward J. Munshower, of New York City.

ACTING PRESIDENT GOLDEN: The question is on the confirmation of the officials as read by the Secretary of the Senate. All in favor?

(Response of "Aye.")

ACTING PRESIDENT GOLDEN: Opposed?

(No response.)

ACTING PRESIDENT GOLDEN: I hereby confirm all the members read by the Secretary of the Senate.

The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Judiciary, reports the following bills:

Senate Print 557, by Senator Skelos, an act to amend the General Obligations Law;

1089B, by Senator Hannon, an act to amend the General Obligations Law;

1099, by Senator Hannon, an act to amend the Lien Law;

1332, by Senator Leibell, an act to amend the Eminent Domain Procedure Law;

1484, by Senator DeFrancisco, an act to amend the Judiciary Law;

And Senate Print 6308, by Senator DeFrancisco, an act to amend the Estates, Powers and Trusts Law.

Senator Johnson, from the Committee

on Finance, reports:

Senate Print 24A, by Senator Padavan, an act to amend the Executive Law;

761, by Senator Marcellino, an act to amend the Executive Law;

762, by Senator Marcellino, an act to amend the Executive Law;

2577, by Senator Libous, an act authorizing;

5670A, by Senator Little, an act to amend and ratify;

5876, by Senator Spano, an act to amend the State Finance Law;

6098, by Senator Alesi, an act in relation to redistributing;

And Senate Print 6169, by Senator Marchi, an act to amend Chapter 759 of the Laws of 1973.

Senator Kuhl, from the Committee on Transportation, reports:

Senate Print 129A, by Senator Alesi, an act to amend the Vehicle and Traffic Law;

155A, by Senator Maltese, an act to amend the Vehicle and Traffic Law;

513, by Senator Balboni, an act to amend the Vehicle and Traffic Law;

1997, by Senator Robach, an act to amend the Vehicle and Traffic Law;

4121, by Senator Velella, an act to amend the Vehicle and Traffic Law;

5900, by Senator Morahan, an act to amend the Transportation Law;

5941, by Senator Saland, an act to amend the Highway Law;

And Senate Print 6067, by Senator Little, an act to amend the Highway Law.

Senator Saland, from the Committee on Education, reports:

Senate Print 5969, by Senator Seward, an act in relation to legalizing;

And Senate Print 6200, by Senator Saland, an act to authorize payment.

Senator Rath, from the Committee on Children and Families, reports:

Senate Print 1593, by Senator Alesi, an act to amend the Domestic Relations Law;

2311A, by Senator LaValle, an act to amend the Executive Law;

2764, by Senator Robach, an act to amend the Social Services Law;

3572, by Senator Rath, an act to amend the Domestic Relations Law;

5291A, by Senator Rath, an act to amend the Family Court Act;

And Senate Print 6128, by Senator Rath, an act to amend the Social Services Law.

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

Senate Print 1528, by Senator Wright, an act to amend the Real Property Tax Law;

2299, by Senator Volker, an act to amend the Real Property Tax Law;

5869, by Senator Little, an act to authorize;

5979, by Senator LaValle, an act to amend the Town Law;

6024, by Senator Wright, an act to amend the General Municipal Law;

And Senate Print 6068, by Senator Saland, an act to amend Chapter 567 of the Laws of 2003.

All bills ordered direct to third

reading.

ACTING PRESIDENT GOLDEN: All bills reported directly to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, I move that we adopt the Resolution Calendar, with the exception of Resolutions 3743 and 3776.

ACTING PRESIDENT GOLDEN: All those in favor of adopting the Resolution Calendar, with the exception of Resolutions 3776 and 3743, signify by saying yea.

(Response of "Aye.")

ACTING PRESIDENT GOLDEN: Opposed?

(No response.)

ACTING PRESIDENT GOLDEN: The Resolution Calendar is adopted.

Senator Maltese.

SENATOR MALTESE: Mr. President, with reference to Senate Resolution 3788, I

would like -- that is a resolution paying tribute to the lives of the 36 security guards who perished during the September 11th World Trade Center terrorist attack. I'd like to open that to all members of the Senate.

ACTING PRESIDENT GOLDEN: Senator Skelos.

SENATOR SKELOS: Mr. President, we'll put all members on the resolution. If anybody wishes not to sponsor it, they should notify the desk.

And at this time if we could take up Resolution Number 3776, have the title read, and move for its immediate adoption.

ACTING PRESIDENT GOLDEN: The Secretary will read.

THE SECRETARY: By Senator Kuhl, Legislative Resolution Number 3776, memorializing Governor George E. Pataki to proclaim March 9, 2004, as "Occupational Health Awareness and Outreach Day" in the State of New York.

ACTING PRESIDENT GOLDEN: Senator Kuhl.

SENATOR KUHL: Yes, Mr.

President. Thank you for the opportunity to speak.

I just want to note that this resolution has a very important place in our society today. Today is being declared to be, and that's why we're asking the Governor to proclaim it, as Occupational Health Awareness and Outreach Day.

Occupation health awareness is a very important part of the business community, and we're looking to expand on it significantly in this state.

More importantly, I would offer to my fellow colleagues the opportunity to join with me as the sponsor. And I certainly would ask the direction of the Acting Majority Leader here to advise the members that they could be placed on this -- we have no opposition -- and would open it up to the membership at this time.

Thank you.

ACTING PRESIDENT GOLDEN: Senator Skelos.

SENATOR SKELOS: Mr. President, we'll put every member on the resolution. If

anybody cares not to sponsor the resolution, they should notify the desk.

ACTING PRESIDENT GOLDEN: The question is on the resolution. All in favor signify aye.

(Response of "Aye.")

ACTING PRESIDENT GOLDEN: Opposed?

(No response.)

ACTING PRESIDENT GOLDEN: The resolution is adopted.

Senator Skelos.

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

ACTING PRESIDENT GOLDEN: Senator Skelos.

SENATOR SKELOS: Mr. President, before we go to the reading of the noncontroversial calendar -- Senator Balboni prefers that it be "reading of the noncontroversial," as against "noncontroversial reading" -- there are, I believe, certain substitutions at the desk. If we could take them up at this time.

ACTING PRESIDENT GOLDEN: The Secretary will read.

THE SECRETARY: On page 12, Senator Volker moves to discharge, from the Committee on Codes, Assembly Bill Number 8334 and substitute it for the identical Senate Bill Number 662A, Third Reading Calendar 219.

On page 20, Senator Spano moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 8752 and substitute it for the identical Senate Bill Number 5136, Third Reading Calendar 317.

And on page 25, Senator DeFrancisco moves to discharge, from the Committee on Codes, Assembly Bill Number 9693 and substitute it for the identical Senate Bill Number 6111, Third Reading Calendar 383.

ACTING PRESIDENT GOLDEN: So ordered.

The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 160, by Senator Wright, Senate Print 2758B, an act to amend the Public Service Law, in

relation to references.

ACTING PRESIDENT GOLDEN: Read the last section.

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

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GOLDEN: The bill is passed.

THE SECRETARY: Calendar Number 169, by Senator Skelos, Senate Print 5135A, an act to amend the Correction Law, in relation to the registration of sex offenders.

ACTING PRESIDENT GOLDEN: Read the last section.

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

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GOLDEN: The bill is passed.

THE SECRETARY: Calendar Number 179, by Senator Little, Senate Print 5132, an act to amend the General Municipal Law, in relation to bail monies.

ACTING PRESIDENT GOLDEN: Read the last section.

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

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GOLDEN: The bill is passed.

THE SECRETARY: Calendar Number 261, by Senator Fuschillo, Senate Print 6041, an act to amend the General Business Law, in relation to the "No Telemarketing Sales Call" Statewide Registry.

ACTING PRESIDENT GOLDEN: Read the last section.

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

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GOLDEN: The bill is passed.

THE SECRETARY: Calendar Number 303, by Senator Bruno, Senate Print 6023 --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT GOLDEN: Lay it aside.

THE SECRETARY: Calendar Number 363, by Senator Marcellino, Senate Print 2099, an act to amend the General Business Law, in relation to renewals of magazine subscriptions.

ACTING PRESIDENT GOLDEN: Read the last section.

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

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GOLDEN: The bill is passed.

THE SECRETARY: Calendar Number 369, by Senator Skelos, Senate Print 1055, an act to amend the Penal Law, in relation to concurrent and consecutive terms of imprisonment.

ACTING PRESIDENT GOLDEN: Read the last section.

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

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GOLDEN: The bill is passed.

THE SECRETARY: Calendar Number 370, by Senator Volker, Senate Print 1433A, an act to amend the Penal Law, in relation to establishing a three-year period of probation.

ACTING PRESIDENT GOLDEN: Read the last section.

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

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GOLDEN: The bill is passed.

Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: To explain my vote.

ACTING PRESIDENT GOLDEN: Without objection.

SENATOR DeFRANCISCO: I vote negative for a more technical reason than anything else.

We have an elaborate sentencing system that classifies B misdemeanors and A misdemeanors and A felonies down to E felonies with certain sentencing consequences.

As you can see from the bill, it basically says for a Class B misdemeanor, a sexual assault, a period of incarceration for

a period of three years. It's the only B misdemeanor that has that higher three-year probation, as opposed to the one-year probation. It just simply is inconsistent with the sentencing structure that has been established.

I would support this bill if the crime were raised to an A misdemeanor, because all A misdemeanors do in fact have three-year probation sentences. And that's the reason for my opposition. Hopefully, during the negotiations, this can be corrected.

ACTING PRESIDENT GOLDEN: Senator Volker, why do you rise?

SENATOR VOLKER: To explain my vote and explain -- you're right and you're wrong, John.

ACTING PRESIDENT GOLDEN: Without objection.

SENATOR VOLKER: In fact, Tom asked the same question last -- this is actually part of a bigger bill. This was part of SARA, the sexual assault reform bill.

And what happened is we changed all the probation -- we had lengthened the

probation, including A misdemeanors. We forgot to do the B misdemeanor. It is the only time that we are making probation three years for a B misdemeanor. But we're doing it specifically because of the sexual type of crime.

And remember, the likelihood is that you're pleading down from a higher crime when you're doing the B misdemeanor, because it's the lowest misdemeanor you can have. And that's the real reason to afford the three years' probation, if the person needs counseling or help or whatever. And that's the reason we do it.

I agree with you; as a general rule, we shouldn't be changing sentences. But this was part of a whole pattern of sentences that we changed and made them especially tough -- or you can say what you want about them -- but gave special attention to sexual assaults.

ACTING PRESIDENT GOLDEN: The bill is passed.

The Secretary will read.

Senator Montgomery, why do you

rise?

SENATOR MONTGOMERY: I wanted to vote no on that bill, please.

May I have unanimous consent to be recorded in the negative on Calendar 370.

ACTING PRESIDENT GOLDEN: Without objection, you will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 370, ayes, 57. Nays, 3. Senators DeFrancisco, Duane, and Montgomery recorded in the negative.

ACTING PRESIDENT GOLDEN: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 371, by Senator Leibell, Senate Print Number 2360, an act to amend the Criminal Procedure Law, in relation to orders of recognizance or bail.

ACTING PRESIDENT GOLDEN: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of November.

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GOLDEN: The bill is passed.

THE SECRETARY: Calendar Number 372, by Senator Flanagan, Senate Print 2810, an act to amend the Penal Law, in relation to the commission of aggravated sexual abuse.

ACTING PRESIDENT GOLDEN: Read the last section.

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

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GOLDEN: The bill is passed.

THE SECRETARY: Calendar Number 378, by Senator Golden, Senate Print 5321, an act to amend the Criminal Procedure Law, in relation to eliminating the statute of limitations for Class B violent felonies.

ACTING PRESIDENT GOLDEN: Read the last section.

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

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GOLDEN: Senator Krueger, to explain your vote.

SENATOR LIZ KRUEGER: Thank you. I rise to explain my vote.

I voted for this bill because I do think this is an important piece of legislation.

But yet again I rise, and I rise each day that we deal with statute of limitation issues in sex assault, to raise

once again for my colleagues in the Senate the fact that we have still not come to agreement on a clergy reporting bill. We recognize how important this legislation is for the State of New York. The days and the months tick by, and another year of the session.

So I urge my colleagues to please, please come together with the Assembly to pass a same-as bill so that we can assure our constituents that we are seriously concerned about what happens to them if they are the victims of sexual assault.

Thank you, Mr. President.

ACTING PRESIDENT GOLDEN: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 382, by Senator Skelos, Senate Print 6043A, an act to amend the Penal Law, the Executive Law, and the Correction Law, in relation to prohibiting sex offenders.

ACTING PRESIDENT GOLDEN: Read the last section.

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

September.

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GOLDEN: The bill is passed.

THE SECRETARY: Calendar Number 383, substituted earlier today --

ACTING PRESIDENT GOLDEN: Senator Schneiderman, why do you rise?

SENATOR SCHNEIDERMAN: I was rising to explain my vote.

ACTING PRESIDENT GOLDEN: So explain.

SENATOR SCHNEIDERMAN: So?

I just want to note that the legislation that we just passed, if it were to become law, because it provides for restrictions of a thousand feet on sex offenders, requiring them to reside or work more than a thousand feet from a school, will essentially clear everyone out of my district and most of the districts in the city.

So I thank Senator Skelos, but I think you just are in the process of relocating all the sex offenders from the city to other parts of the state. So before this actually goes forward, we may want to think about that angle, because a thousand feet in one place is different than a thousand feet in another place.

Thank you.

ACTING PRESIDENT GOLDEN: The Senator will be recorded in the affirmative.

The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 383, substituted earlier today by Member of the Assembly Magnarelli, Assembly Print Number 9693, an act to amend the Criminal Procedure Law, in relation to peace officers employed by Syracuse University.

ACTING PRESIDENT GOLDEN: Read the last section.

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

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT GOLDEN: The bill is passed.

THE SECRETARY: Calendar Number 412, by Senator Meier, Senate Print 5824, an act to amend the Education Law and the Criminal Procedure Law, in relation to the designation of peace officers.

ACTING PRESIDENT GOLDEN: Read the last section.

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

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GOLDEN: Senator Krueger, to explain your vote.

SENATOR LIZ KRUEGER: Thank you.

I do support this bill, as I supported the bill before it. But I wanted to highlight for my colleagues, after much discussion about the role of peace officers during last year's session, that I'm very

pleased to see both Senator DeFrancisco's bill and Senator Meier's bill recognizing some of the concerns that I have brought to the floor of the Senate, which is that we must be extraordinarily careful when we are creating a secondary police force system in this state.

And through the process of continually approving new peace officers in various university settings, various hospital settings around the state, that that should be raising serious questions to us about are we in fact creating a second tier with different training, different rules, different obligations under the law of peace officers.

So in Senator Meier's bill, they are recognizing the concern and in fact removing from the law the ability of peace officers to, in fact, do warrantless searches. And so I am glad to see Senator Meier moving in that direction with peace officer status in his own -- in community colleges.

And in Senator DeFrancisco's bill, the previous bill, he was highlighting the importance of continuing the full 300 hours of training for peace officers in order for them

to continue to have the status almost equivalent to a police officer in the context of Syracuse University.

Again, in general, I am opposed to expanding the role and powers of peace officers, and I am opposed to the use of -- the carrying of guns by peace officers. But I am very pleased to see, with both of these bills today, that there is growing recognition of where we perhaps are unintentionally going in this state by continually giving more and more authority to peace officers to function as if they're police officers.

Thank you, Mr. President.

ACTING PRESIDENT GOLDEN: Senator Krueger, how do you vote?

SENATOR LIZ KRUEGER: I vote yes, thank you.

ACTING PRESIDENT GOLDEN: You will be recorded in the positive.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 412, ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT GOLDEN: The bill is passed.

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

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Yes, thank you. Mr. President, I would like unanimous consent to be recorded in the negative on Calendar 169.

SENATOR SKELOS: Without objection.

ACTING PRESIDENT GOLDEN: Without objection.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT GOLDEN: Senator Skelos.

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

ACTING PRESIDENT GOLDEN: The Secretary will read.

THE SECRETARY: Calendar Number 303, by Senator Bruno, Senate Print 6023, an act to amend the Public Authorities Law, in

relation to extending.

ACTING PRESIDENT GOLDEN: Senator Schneiderman.

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

ACTING PRESIDENT GOLDEN: On the bill.

SENATOR SCHNEIDERMAN: This is a bill that in prior years probably would have been dealt with in an extremely straightforward way. It's simply an extension of a public authority necessary so they can keep booking events in Saratoga.

But I rise to speak because this year we have been challenged to do something about the overall structure of authorities that have created a system of mismanagement, in some cases misconduct, and in many cases confusion throughout the State of New York.

The great comptroller of the State of New York published, a few weeks ago, a report, "Public Authority Reform: Reining in New York's Secret Government," proposing legislation which, while it has been introduced in the Assembly, has yet to be

introduced in this house.

Among the issues that we have to address are the fact that of the 643 public authorities in New York State, only 11 are subject to the authority of the Public Authority Control Board. There have been numerous instances of misrepresentation, charges of corruption and nepotism in authorities over the years.

Just last year I was involved, along with the comptroller, in uncovering the fact that the largest of the authorities, the Metropolitan Transit Authority, had grossly misstated their finances. The revelation that other authorities were engaged in sweetheart deals has come out in the last year.

The reform proposals that are being put on the table are coming at a time when the public's confidence in government is dangerously low and when the debt of the State of New York is dangerously high.

And I think in this house there are many of us that have some fundamental conservative principles. Well, the public authorities of the state of the New York are a

conservative nightmare. They are massively in debt.

Of the ten top public debtors in the United States, California is the top, but after New York City and New York State, we come to a whole string of authorities, including the Long Island Power Authority, the New York State Thruway Authority, the MTA, the Dormitory Authority. These are the top debtors in the entire country.

The debt is out of control. There's a lack of supervision. And I urge my colleagues, even as we're extending the life of this worthwhile authority that we know conducts good business in Saratoga, and some of us have benefited from its good work, that we have to address the overall issue before this session is out. Let's not let the year go by with the Assembly moving on this critical issue while this house sits silent.

I'm voting yes, Mr. President, but in the strong hope that we're going to address the issues raised in the Comptroller's report and move on his legislation, or some variation thereof, before this session is out.

Thank you.

ACTING PRESIDENT GOLDEN: Any other Senators wish to be heard on the bill?

The debate is closed.

There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT GOLDEN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GOLDEN: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT GOLDEN: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return --

ACTING PRESIDENT GOLDEN: Is there any housekeeping at the desk?

(Laughter.)

SENATOR SKELOS: If we could return to motions and resolutions, I believe

there is a privileged resolution at the desk by Senator Onorato. I ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT GOLDEN: The Secretary will read.

THE SECRETARY: By Senator Onorato, Legislative Resolution Number 3809, commemorating the 56th Anniversary of the reunification of the Dodecanese islands with Greece, to be celebrated on Sunday, March 14, 2004.

ACTING PRESIDENT GOLDEN: The question is on the resolution. All in favor?

(Response of "Aye.")

ACTING PRESIDENT GOLDEN: Opposed?

(No response.)

ACTING PRESIDENT GOLDEN: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Resolution 3743, have the title read, and move for its immediate adoption.

ACTING PRESIDENT GOLDEN: The

Secretary will read.

THE SECRETARY: By Senator Sampson, Legislative Resolution Number 3743, congratulating Dr. Howard Lucks upon the occasion of his designation as recipient of the "High School Principal of the Year" Award by the Association of Orthodox Jewish Teachers of the New York City Public Schools.

ACTING PRESIDENT GOLDEN: The question is on the resolution. All in favor?

(Response of "Aye.")

ACTING PRESIDENT GOLDEN: Opposed?

(No response.)

ACTING PRESIDENT GOLDEN: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to -- is there any housekeeping at the desk? Are there any additional resolutions that have to be passed at this time?

ACTING PRESIDENT GOLDEN: Yes, there are additional resolutions.

SENATOR SKELOS: If you could

please have the Secretary read the numbers and titles of the resolutions, and then we'll adopt them at one time.

ACTING PRESIDENT GOLDEN: The Secretary will read.

THE SECRETARY: By Senator Sampson, Legislative Resolution Number 3737, congratulating Lucille Swarns upon the occasion of her designation as recipient of the "Regional Superintendent of the Year" Award by the Association of Orthodox Jewish Teachers of the New York City Public Schools.

By Senator Sampson, Legislative Resolution Number 3738, congratulating Ms. Katherine Corbett upon the occasion of her designation as recipient of the "Junior High School Principal of the Year" Award by the Association of Orthodox Jewish Teachers of the New York City Public Schools.

By Senator Sampson, Legislative Resolution Number 3739, congratulating Linda Wernikoff upon the occasion of her designation as recipient of the "Educator of the Year" Award by the Association of Orthodox Jewish Teachers of the New York City Public Schools.

By Senator Sampson, Legislative Resolution Number 3740, congratulating Warren Sherman upon the occasion of his designation as recipient of the "Organization Award" by the Association of Orthodox Jewish Teachers of the New York City Public Schools.

By Senator Sampson, Legislative Resolution Number 3741, congratulating Josephine Viars upon the occasion of her designation as recipient of the "Elementary School Principal of the Year" Award by the Association of Orthodox Jewish Teachers of the New York City Public Schools.

And by Senator Sampson, Legislative Resolution Number 3742, congratulating Gloria Fremed upon the occasion of her designation as recipient of the "Teacher of the Year" Award by the Association of Orthodox Jewish Teachers of the New York City Public Schools.

By Senator Saland, Legislative Resolution Number 3810, honoring Matthew Fitzgerald upon the occasion of his retirement as Town Justice for the Town of Hyde Park after more than 25 years of dedicated service.

ACTING PRESIDENT GOLDEN: The

question is on the resolutions. All in favor?

(Response of "Aye.")

ACTING PRESIDENT GOLDEN: Opposed?

(No response.)

ACTING PRESIDENT GOLDEN: The resolutions are adopted.

Senator Skelos.

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

ACTING PRESIDENT GOLDEN: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. I just have a point of information.

I know it's the intent of the chair to treat all the members of this house equally and fairly. But I have noticed today that it appears that Senator Balboni is the only member who has been provided with a noncontroversial calendar. And I would hope that in the future, that the other members be provided both the noncontroversial calendar and the controversial calendar.

I was only provided a Senate

calendar, and I feel somewhat discriminated against and certainly not able to carry out my legislative duties.

So I just would ask you to provide me with the information that -- or at least the members and certainly the Journal Clerk with the information that would allow all the members to be treated equally.

Thank you, sir.

ACTING PRESIDENT GOLDEN: Your point of order is well taken.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT GOLDEN: No, Senator.

SENATOR SKELOS: There being no further business to come before the Senate, I move we stand adjourned until Wednesday, March 10th, at 11:00 a.m.

ACTING PRESIDENT GOLDEN: On motion, the Senate stands adjourned until Wednesday, March 10th, at 11:00 a.m.

(Whereupon, at 4:06 p.m., the Senate adjourned.)