NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 31, 2004

3:03 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: In the absence of clergy, may we bow our heads in a moment of silence.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, March 30, the Senate met pursuant to adjournment. The Journal of Monday, March 29, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Morahan.

SENATOR MORAHAN: 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: 2943, 3049, 3050, 3809, 3815, 4051, 4056, 4059, and 4400.

THE PRESIDENT: So ordered.

SENATOR MORAHAN: Thank you.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Kuhl, please place a sponsor's star on Calendar Number 119.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: On behalf of Senator Skelos, on page number 27 I offer the

following amendments to Calendar Number 407, Senate Print Number 4835, 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: Thank you.

THE PRESIDENT: Senator Skelos.

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

THE PRESIDENT: Yes, there are, Senator.

SENATOR SKELOS: I ask that they be made at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 5, Senator Balboni moves to discharge, from the Committee on Veterans, Homeland Security and Military Affairs, Assembly Bill Number 9778 and substitute it for the identical Senate Bill Number 6176, First Report Calendar 616.

On page 5, Senator Balboni moves to discharge, from the Committee on Veterans,

Homeland Security and Military Affairs, Assembly Bill Number 5044 and substitute it for the identical Senate Bill Number 6520, First Report Calendar 617.

On page 36, Senator Alesi moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 10037 and substitute it for the identical Senate Bill Number 6228, Third Reading Calendar 533.

And on page 41, Senator Velella moves to discharge, from the Committee on Labor, Assembly Bill Number 10244 and substitute it for the identical Senate Bill Number 6536, Third Reading Calendar 614.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a privileged resolution at the desk by Senator Paterson. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator

Paterson, Legislative Resolution Number 4200, urging the New York State Congressional delegation to act to preserve democracy on the Island of Haiti.

THE PRESIDENT: On the resolution, all in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Whomever wishes to cosponsor the resolution, they should notify the desk.

THE PRESIDENT: Any member who does not wish to cosponsor the last resolution they should notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, just for clarification, if you wish to sponsor the resolution, you should notify the desk.

THE PRESIDENT: If you wish to sponsor the last resolution, please notify the

desk.

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

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

Senator Skelos.

SENATOR SKELOS: Madam President, there's a privileged resolution at the desk by Senator Bruno. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 4181, commending the Sorensco Babe Ruth League of East Greenbush, New York, upon the occasion of their 50th season of play.

THE PRESIDENT: All those in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

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 248, by Member of the Assembly Tonko, Assembly Print Number 1154C, an act to amend the Vehicle and Traffic Law, in relation to snowmobiles, all-terrain vehicles, personal watercraft and such dealers.

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, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 434, by Senator Little, Senate Print 5670A, an

act to amend and ratify a tribal state compact between the St. Regis Mohawk Tribe and the State of New York.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 455, by Senator Volker, Senate Print 2299, an act to amend the Real Property Tax Law, in relation to a taxing district's obtaining the incidents of ownership.

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, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 471, by Senator McGee, Senate Print 2776C, an act to amend the Vehicle and Traffic Law, in relation to persons authorized to supervise.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 538, by Senator LaValle, Senate Print 6334, an act to amend the Education Law, in relation to providing for bias-related crime prevention measures.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date and in the same manner as Chapter 597 of the Laws of 2003.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 548, by Senator Meier, Senate Print 1272, an act to amend the Vehicle and Traffic Law, in relation to authorizing the commissioner to suspend a person's driver's license.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 562, by Senator Little, Senate Print 6331, an act to amend the Highway Law, in relation to the designation of the "Adirondack Veterans' Memorial Highway."

THE PRESIDENT: Read the last section.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid

aside.

THE SECRETARY: Calendar Number 572, by Senator Padavan, Senate Print 5584A, an act to amend the Real Property Tax Law, in relation to the temporary commercial incentive area boundary commission.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 574, by Senator Trunzo, Senate Print 5920, an act to amend the Town Law, in relation to including the Fire Island Pines fire district of Suffolk County.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 575, by Senator Balboni, Senate Print 5932, an

act to amend Chapter 354 of the Laws of 2003 relating to authorizing the incorporated village of Port Washington.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 576, by Senator Morahan, Senate Print 5972, an act to authorize Bethel Gospel Fellowship, Incorporated, to file an application.

SENATOR MORAHAN: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 614, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 10244, an act to amend the Labor Law and the

Arts and Cultural Affairs Law, in relation to employment permits.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the same date as Chapter 630 of the Laws of 2003.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

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

SENATOR BRUNO: Madam President, can we at this time return to motions and resolutions.

I believe there is a privileged resolution at the desk by Senator Spano. I ask that it be read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read the resolution.

THE SECRETARY: By Senator Spano, Legislative Resolution Number 3612, mourning

the death of former New York State Senator and Mayor of Yonkers John E. Flynn.

"WHEREAS, It is the custom of this Legislative Body to pay tribute to citizens of the State of New York whose lifework and civic endeavor serve to enhance the quality of life in their communities and the great State of New York; and

"WHEREAS, It is with great sorrow and deep regret that this Legislative Body records the passing of former New York State Senator and Mayor of Yonkers John E. Flynn, noting the significance of his purposeful life and accomplishments; and

"WHEREAS, John E. Flynn of Yonkers, New York, died on September 23, 2003, at the age of 91; and

"WHEREAS, A lifelong resident of Yonkers, John E. Flynn attended New York University and Columbia University; and

"WHEREAS, John E. Flynn served as the general superintendent of Alexander Smith, Inc., vice president of DeYorgi, Inc., in New York City, and vice president of Gramatan, Inc., in Yonkers, New York; and

"WHEREAS, In 1961, John E. Flynn was elected mayor of Yonkers for the first of his three successive terms. During his tenure as mayor, he created the Yonkers Parking Authority, the Yonkers Youth Board, the Police Cadet Corps, the Recreation Program for the Handicapped, established the Human Rights Commission and the Mayor's Community Relations Committee, consolidated Parks and Recreation into the Department of Parks, Recreation and Conservation, developed the first Senior Citizens Center, and constructed the Murray Skating Rink; and

"WHEREAS, John E. Flynn was elected to the New York State Senate in 1966 and served ten consecutive terms. During his twenty years in Albany, he had approximately 650 bills signed into law and served as chairman of the Senate Standing Committees on Aging, Cities, Disabled and Civil Service and Pensions; and

"WHEREAS, In addition, John E. Flynn was a member of the Governor's Commissions on Acupuncture and Constitutional Tax Limits, as well as the vice chairman of

the State Commission on Causes of Educational Unrest; and

"Whereas, A true citizen of Yonkers, John E. Flynn believed in giving back to the community he loved so much. He was a trustee of St. John's Riverside Hospital in Yonkers, a member of the board of directors of the Westchester County Salvation Army, a president of the Yonkers Rehabilitation Center, the C.Y.O, and the United Givers Fund, vice president of the Yonkers Recreation Commission, Boy Scouts, and the New York State Jaycees, and a member of Rotary and numerous other civil and fraternal organizations; and

"WHEREAS, The quintessential civic leader, John E. Flynn was the recipient of a multitude of awards, honors, and certificates of recognition, acknowledging his efforts of in-depth magnitude, including the New York State Jaycee Distinguished Service Award, the Catholic Youth Achievement Award, the DeMolay Supreme Youth Award, and the B'nai B'rith Brotherhood Award; and

"WHEREAS, John E. Flynn also received the 1975 Legislator of the Year Award

from the United States National Council of Senior Citizens and an Honorary Degree of Law from Mt. St. Vincent College, Riverdale, New York, in 1976, and an Honorary Degree from Mercy College at Dobbs Ferry in 1980; and

"WHEREAS, Truly an extraordinary person who has led an exemplary life of public service, John E. Flynn had one philosophy that he asked all to practice: 'While it is nice to be important, it is more important to be nice'; and

"WHEREAS, John E. Flynn distinguished himself in his profession and by his sincere dedication and substantial contribution to the welfare of his community; and

"WHEREAS, John E. Flynn's commitment to excellence and his spirit of humanity carried over into all fields of enterprise, including charitable and civic endeavors; and

"WHEREAS, John E. Flynn is survived by his daughters, Joan Natoli, Arlene Modzelewski, Elizabeth Flynn, and Judith Flynn-Chen, and nine grandchildren and seven

great-grandchildren; and

"WHEREAS, John E. Flynn, throughout his career and life, served his community and the people of the State of New York with intelligence and caring dedication, continuously striving to effectively fulfill the duties of his position and contributing significantly to the legislative process and the quality of life of his constituents and the communities of the State of New York; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the death of former New York State Senator and Mayor of Yonkers John E. Flynn, and be it further.

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the family of John E. Flynn."

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, thank you, and colleagues.

We've just heard, in this resolution, the chronicle of a great man's

life who passed who, as we heard, served as mayor, served here in this chamber. But all of us knew Senator Flynn not as John Flynn but as Chippy Flynn. And I didn't know until I read that that came, apparently, from his having pitched in semipro ball. And the name stuck with him, Chippy, as the Chippewas team or something.

But, you know, he was here ten years when I arrived. And a member that's been here ten years when a freshman comes in, everyone looks to and looks up to and kind of relates to in whatever ways.

You know, if you ever met a gentleman, Chippy Flynn was a gentleman. When we hear about all the things he did, it was all public service -- all relating, all achieving. He worked -- and his district was not a favorable district to his party when he was first elected. And yet he had the acclamation of all of the people there.

Senator Spano followed him in office in that area, and to his credit he has been representative, following in the footsteps of Senator Flynn.

I called Chippy a number of times, I remember, trying to find my way through the maze that's around here sometimes. He was always responsive, he was always upbeat, he always had a good word. And you just never forget that. I talked with him not too long before he died, I believe he was in Florida, a week or so before. You would not know that he was even sick, and he was pretty ill.

So you talk about a courageous guy, a brave heart. That was Chippy. And when I was visiting with him, I knew he was kind of struggling with conversation. So it wasn't a long conversation, but I had the impression that he was trying to make me feel good. It wasn't anything about him.

And, you know, I just share this thought with you -- and I think it was in the resolution -- the one thing Chippy always said that we all should remember: "It's nice to be important, but it's more important to be nice."

Thank you.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Thank you, Mr. President.

You know, over the years those of us who are lucky enough to serve in this chamber have an opportunity, unfortunately, to speak so often about those who have gone before us. And, you know, when you get up -- and I've been sitting here trying to reflect some thoughts about Senator Flynn. You start to think about, you know, your own mortality and what it is this all worth, what are we doing in this job called the New York State Senate.

And then we sit and say: Will anyone remember? Will anyone remember anything that we have done, and will there be an impact on our community, on the people in this state once we are out of here?

And I go back and I think back to 1966 -- I was 13 years old -- in a grammar school in Yonkers. And we had a field day that day, and it was a nice -- it was in the month of May. And someone came to visit the school, and they said, "Senator Flynn is coming to visit the school." And we were all

so very happy. He would come in, and he had a great Irish wit about him and would come in: "Hey, how are ya?" You know, and he'd look over -- he walked over to me, hit me on the top of the head: "You're Spano." He says: "How ya doin'?" And I was in awe that this Senator even knew who I was and touched me.

And I never forgot that. When I go to sixth-grade classes, I tell them all the time about how Senator Flynn visited us in our grammar school. I never forgot the fact that he was there, and went back 22 years later to run for the Senate to succeed him to represent the city of Yonkers. "Yunkers," as he would always call it.

As I remember, he sat over next to Marty Golden, in that area of the chamber. And there was nobody that ever got up on the floor of this Senate or back home in Yonkers who had more of a love for his community and a passion for the people he represented.

And I saw him as the nicest person in the world. And I saw him bang the desk when they might talk about hurting tenants, hurting seniors, hurting people with

disabilities, not helping the cities like the city of Yonkers. And he was always there to fight.

You know, I watched his career. I learned a lot from him from that first day that he touched me as a grammar school student. And I watched him over the years. And, you know, little things you notice. You know, I would always know Senator Flynn was in town because I would see his car and I'd see his license plate, and I always knew -- and I would notice over the years his license plate went from 35 down to, when he retired, his plate number was 13. And why do you remember that? I don't know. You know.

But as a member of the Assembly, a young member of the Assembly, I remember walking in, coming into his office, having to go through Ken Riddett -- Ken Riddett, who was Senator Flynn's counsel then -- having to go through Ken Riddett to maybe scrounge around to get my name on a resolution once in a while. As a Republican member of the Assembly, you know, it was a little tough going. And it was always Senator Flynn who

would give me that opportunity, make sure that I had a helping hand.

In Yonkers, to this day, if I get up at a senior event and I mention the name "John Flynn," the seniors start with applause. Here's a guy who has been out of office for more than 18 years, and the people remember him and remember that he was the mayor of the city when they built the first senior center in Yonkers. They remember it was Flynn Manor down on Riverdale Avenue that was a senior citizen housing project that bore his name and has a room there with all of his plaques down there that all the senior citizens in Flynn Manor can see on a regular basis.

They remember the John Flynn who was there with the C.Y.O. and the Boys Club and the Chippewa Club, as Senator Bruno mentioned -- all the boys and girls clubs in the city of Yonkers, that he was there.

He was the type of politician who attended every funeral in the city of Yonkers. And I remember that there was one time we were pulling up at a funeral home -- we were traveling together, and we had a little bit of

time to kill, and he said, "Go up to Park Avenue." I said all right. So I drove up. He said, "Pull over here by the funeral home." I said, "Well, is someone there, Senator?" He says, "Yeah, there are cars in the driveway, so there's someone there. So let's stop." I waited in the car that day.

But, you know, he walked in, he knew everybody in the city. And as he touched me in that grammar school class that day, he touched every person in the city of Yonkers. And he showed that he cared; he cared about the people that he represented.

Six hundred and fifty bills signed into law. That's a record, I think, for any member of the State Senate. To head the Select Committee on the Disabled. The day he retired, I remember the group of people with disabilities who put together a benefit for him, just thanking him, and the tears in the eyes of the young people with disabilities and their parents who said, "We're going to lose a champion." And Senator Flynn turning to me and making me promise that whatever we ever do, don't forgot about that population. And I

was glad to become the chair of the Mental Health and Developmental Disabilities Committee to follow that.

He always stopped, he listened, he cared. He wasn't looking over your shoulder for the next person to talk to. You really knew that he made eye contact. He was -- and Senator Bruno said it well -- he would always end his comments with: While it's nice to be important, it's more important to be nice." And that certainly was not a cliche, it was something that he lived by. And he always stopped his comments at the end and said "God bless you."

And every opportunity he got up to speak before any organization, the people just loved the guy.

We will miss him. We certainly missed him. And I -- the way we started, we said: Will anybody remember? I'm glad that many of us in this chamber will remember Senator Flynn. The members of his family, who unfortunately could not be here today, certainly remember Senator Flynn.

I mentioned Ken Riddett, who's

worked for the Senator. And also in the Senate gallery we have a Saratoga Court of Claims judge, Judge Tim Collins. Tim Collins received his first job from Senator Flynn back in 1986, and then later became counsel to Senator Bruno and held that position as counsel to the Majority until his appointment to the position of the Court of Claims. And I'm very glad that Judge Collins is here today seated in the gallery.

So, Senator Bruno, thank you. Thank you for giving me an opportunity to get up on the floor here to speak about someone who always cared. The last comments that I had with him -- and he was very frail, very ill -- was he said, "Don't forget the Westchester Institute for Human Development."

And I remember one quick story I'll tell you, then I'll sit down. When I took over in 1987 as a member of the Senate, we had -- I had a list of a number of people calling me and saying, you know, "Thank you for the grant and the member item that you're going to give us." And I wasn't sure where these were coming from.

And on the way out, Senator Flynn had sent letters out to all of the groups that he funded over the years and said "I recommended to Senator Anderson that we re-fund those groups, and I'm sure Senator Spano will be able to deliver that."

And that's a true story. And it was close to probably a million dollars. And I used that pretty well with Senator Anderson to get what I needed.

But it tells you about a guy that, even when he was retiring, made sure that that level of commitment to the people who put him in office as the mayor of the city and as a member of the State Senate, he never forget them.

So we will always remember, we will always remember Chippy Flynn for his smile, for everything he did, for all the people he touched. And I'm so glad that he visited that St. Peter's School that one day back in 1966, because he had a profound effect on my life.

And so God bless you, Senator Flynn.

ACTING PRESIDENT MEIER: Senator

Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

My recollections of Senator Flynn stem from a slightly different perspective. I was a member of the Syracuse City Council in the early '80s. And in those years, the members of the city councils around the state would travel once a year to Albany to meet with Senator Flynn in his capacity as chair of the Cities Committee. And he provided tremendous inspiration to those of us from Buffalo in the far west, to Yonkers in the east, as well as the New York City counterparts, as to how we should be approaching policy.

Much has already been said about his kindness and his demeanor. But he did something else for those of us who made this trip. He would validate our reason for coming into the capital to lobby on behalf of the cities we represented.

Senator Flynn, who began his career in the city of Yonkers and had served as the chief executive of a city experiencing

tremendous diminution of its tax revenue, understood the kind of fragile balance that every city in this state was facing. He had lived through the '60s. He had experienced what was euphemistically referred to in the newspapers as urban decay. He understood the whole concept of the flight to the suburbs by the people who had assets and simultaneous loss of manufacturing jobs into other parts of the country or even offshore, leaving a poor core to many of these cities without the support they needed to champion their interests.

And as Senator Spano said and as Senator Bruno said, it was Senator Flynn who often recognized the unique responsibility to provide that voice for the people had been in fact abandoned by so many of the other institutions and powerful people who had served them in the past. He recognized that imbalance, and he always tried to find ways to encourage us, when we came into Albany as city councillors, to find creative ways to tap into those institutions that he had helped develop.

He had worked with the other mayors

in the '70s to develop things like urban development action grants, urban development and community development programs. He knew that there were special needs of cities, and he provided some very unique handholding activities for us when we would come in here. He was, in fact, an inspirational force for members of city government all over this state.

And it was a great honor for me, when I took office in this chamber in 1985, to be able to serve with Senator Flynn in the capacity as State Senator. Because only then could I actually put some of the pieces together to see how very challenging it was for him to do the job that he had to do for his own city, his own constituency, and at the same time provide that wonderful support system for members of the city councils all over this state.

We used to love to have our picture taken with him after he swore us in as officers of our little organization. So you would have pictures of city council members from Utica, Buffalo, Rochester, Binghamton,

and Syracuse, all standing proudly surrounding Senator "Chippy" Flynn. That was the highlight of our trip to this capital. Governors and other officers didn't really count that much.

It was seeing Chippy Flynn that made us feel good about what we did and sent us back to our cities with a renewed commitment to deliver for our people. And we always left with that wonderful sense of accomplishment that only comes when a person of his stature says "Good luck, and God bless you."

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Velella.

SENATOR VELELLA: Can we return to reports of standing committees. I believe

there's a report of Finance Committee at the desk.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

As a member of the State Commission of Correction, Alan J. Croce, of Mattituck.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

I'd like to compliment Governor Pataki on once again reappointing Chairman Croce to his position in the Commission on Corrections.

Alan Croce has -- if you look at his background, it's a very, very strong background in criminal justice: Served as our undersheriff for many, many years in Suffolk County and was appointed to the commission, and the Governor appointing him as the chair.

He has dedicated himself, has

energized the commission because he has been energetic and professional about his duties and his responsibilities. He has served in this position the longest of anyone as chairman, and he certainly deserves reappointment.

And, Alan, continue the great job that you have done and the energy and vitality that you've brought to the commission.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on the nomination.

I rise to support this renomination of Alan Croce, echoing the comments of my colleague Senator LaValle. That as chairman of the Crime Victims, Crime and Corrections Committee, we have to work very closely with the Commission on Corrections.

I must say the Commission on Corrections has been under excellent stewardship during these past years, as Alan Croce has time and time again proven to members of this Legislature, this house, the Assembly and the Governor that the Corrections

Commission has been a wonderful partner with local governments in their challenging development of new correctional facilities and the maintenance of their current correctional facilities across this state.

I could think of no finer appointment than this. I appreciate all the work that the commission has done under Commissioner Croce's leadership and urge my colleagues to unanimously support this wonderful renomination.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, very quickly. I guess I'm one of the few people around who was here when this commission was formed many years ago. And Senator LaValle and I were talking, I believe it was formed a few years after the Attica uprising.

Probably Alan Croce -- and I think this is absolutely true, and I've interviewed every one of the chairmen of the commission. And we turned down a couple of chairmen, if I remember right, many years ago -- is probably

the finest chairman that I think in all the years that I can remember of the commission. He's spent a tremendous amount of time working on local prisons, which is primarily what the Commission on Corrections is charged with doing.

I want to commend him. I want to commend the Governor for putting Alan in that position.

But I think that there just is not a realization that our prison system, both on a state level and a local level, is reputed throughout the country to be one of the models. And there's a lot of criticism here because some of the people who -- I don't want to -- I guess I'd characterize them as pro-inmate groups -- would like you to think that our system is not as highly regarded as it is throughout the country.

But I can assure you that one of the reasons it is so highly regarded, one of the reasons we have the only major prison system in the country that is declining in inmate population -- not only in inmate population, but declining dramatically in the

number of nonviolent people in our system -- is New York. And there are many people coming in from outside who tried to use New York as a lever for other states.

But the problem in New York is it's really a model for the rest of the country. And Alan Croce is one of the reasons it is a model for the rest of the country.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I would also like to thank the Governor for this fine appointment, this fine reappointment. Alan Croce is a good friend and a very capable administrator on this commission. He's done a heck of a job, as you've heard from Senator Volker and Senator Nozzolio, no better experts on crime and corrections that these two gentlemen.

And I know for a fact that Alan Croce is a fine person because no less than his wife told me so.

ACTING PRESIDENT MEIER: Senator Onorato.

SENATOR ONORATO: Mr. President, I rise to join my colleagues in commending the Governor on this wonderful nomination. I'm happy that the Governor recognizes what all of us in this chamber recognize about the quality of Alan Croce.

He's been in since 1997. And I can assure you that he's always had an open door, sometimes an open cell for all of us. But I want to thank him for always responding to all of the requests that I have made of him, and he's responded in a magnificent and judicious manner.

And I congratulate the Governor and I urge all of my colleagues to make it a unanimous decision on your renomination.

Congratulations, Alan.

ACTING PRESIDENT MEIER: Senator Trunzo.

SENATOR TRUNZO: Mr. Chairman, I also rise to second the nomination of Alan Croce.

I've known Alan for many, many years, even before he was the chairman of the Commission of Corrections. I've known him

back him when he was with the Suffolk County correction officers group and all that group. And he's been an outstanding individual, and you've heard all that has been said by those who have to do with criminal justice and what have you.

But at any rate, Alan is a great individual. He's done an outstanding job in the position that he's had. And I commend the Governor for reappointing him to this position for another term.

Thank you.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Yes. Being from Suffolk County, I've known Alan for quite a while. He's done an outstanding job in the sheriff's department and an outstanding job in Corrections. And certainly I'm proud as well to add my name to the list of those seconding the nomination of Alan Croce.

ACTING PRESIDENT MEIER: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. Chairman.

I am not from Suffolk County, but I would tell you although I have no direct relationship with Mr. Croce through my committee, I have known him on a personal basis and certainly through some work he's done with our local county corrections officials. And once again, the Governor has sent us a true professional and a gentleman, and I am honored to stand here and support his nomination.

ACTING PRESIDENT MEIER: Does any other member wish to be heard on the nomination?

The question, then, is on the confirmation of Alan J. Croce as a member of the State Commission of Corrections. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Commissioner Croce is with us today in the gallery. He's accompanied by his wife

and our colleague, Assemblywoman Pat Acampora, in the back of the chamber.

And, Commissioner Croce, on behalf of the Senate, we extend to you our thanks for the great work that you have done and our best wishes for your future work.

Thank you.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a member of the Metropolitan Transportation Authority, David S. Mack, of Kings Point.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: David S. Mack has done a wonderful job in his community in many respects -- civic, philanthropic, connected with his alma mater and mine, Hofstra University. But more than that, he's put in ten years on the MTA. All the advances we've made in transportation and financing of transportation, in new methods of paying with a card to get in and out of these subways and trains, all those innovations really were

advanced by David S. Mack, demonstrably the outstanding member of the board and always looking to improve conditions for the commuters and the residents of the City and the Island as well. And, I might say, up the Hudson River way.

So certainly he's done a great job. He deserves to be renominated, as the Governor has done. I commend the Governor on that nomination, and I'd like to advance it at this time.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President. I rise again, this is a banner day for the Governor. He's got two aces in his hand today in reappointments.

David Mack is a fine individual. I've known him for a number of years, being from Long Island. David is a well-known individual. If there's a charity this man doesn't work for and contribute to, I don't know what it is. He is just one superior, one decent person who believes in giving back to his community and giving back to this great

country and this great state of New York because he got a lot out of it.

So, ladies and gentlemen, he's a fine person, he will do an even better job than he did before, I know, because he's that kind of an individual. Thank you to the Governor for this nomination. I second it.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Yes, I hadn't had the pleasure of meeting Mr. Mack for I believe his previous two appointments to the MTA commission, and I did have that pleasure today. He's obviously a very qualified person and serves under Peter Kalikow as the deputy chairman of MTA.

In answer to questions of the Finance Committee, he made it quite clear that he believes that the fares should not go up, that the fares should remain the same. And that is very important to me.

Now, one of my colleagues, Senator Parker, raised the issue of greater transparency in terms of the records, in the future, of the MTA, and he said he will do

everything possible to achieve that.

I think it's an excellent reappointment by the Governor, and I will be proud to vote for him.

Thank you.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

We have two appointments to the MTA, and I will address both of them together, Mr. Mack and Ed Watt.

I have had a lot of experience working with the MTA, against the MTA, on the MTA. But I want to say that Mr. Mack is certainly an example of someone who comes from a background and brings the wisdom from that background to the MTA -- and that we do have problems. And there have been historical problems. But the current MTA management, and I say this as someone who has sued them frequently, is making substantial changes for the better.

It is becoming more transparent, we are moving in the right direction, and that is

going to make it easier for those of who are advocates to fight for more funding for the city to keep the fares down. Because ultimately the responsibility is not with the board of the MTA, the responsibility lies here. If we don't provide them money, there's nothing they can do.

So I commend the Governor for this appointment. I know Mr. Mack, members of his family. And he's not just someone who gives back, he comes from a family who gives back in many different areas. And I've worked with many members of the family, and I look forward to working further with him on the MTA.

I also want to add -- I don't think he's here today -- the second appointment to the MTA, Ed Watt, of the Transport Workers Union, another great addition to the team. As there's new leadership in the MTA, there is new leadership at the TWU that is making a tremendous difference for all of us who ride the buses and subways. And we look forward to further good works in the years to come.

Thank you.

ACTING PRESIDENT MEIER: Senator

Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you very much, Mr. President.

I also rise to commend the Governor on his appointment today. Obviously Mr. Mack is a clear example of someone who is doing well by doing good. His entire family have been very supportive of our entire state. He has been very supportive and very helpful to me personally as it relates to particular stations in my district, along our railroad line.

And although we made our acquaintance in a very strange way, I will tell you one thing he proves is that you never know who you're talking to. And when we had the opportunity to face each other in a professional way, the result was a $10 million contribution toward the repairs of stations in my district, and he was one who led that charge. And I do appreciate that.

Insofar as Mr. Ed Watt is concerned, who is also within my district, I also want to thank the Governor for his forthright concept around selecting

individuals who represent the Transport Workers Union. I think that's very important for them to be able to have some sort of insight and involvement on the inside of the track, so to speak.

So this is a banner day, as Senator Marcellino said, for the Governor.

Mr. Mack, always a pleasure seeing you. And you will continue to do the fine job that you have been doing.

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: Yes, Mr. President. It is great to be able to rise for a constituent and a friend.

Mr. Mack is one of the preeminent names on Long Island and in this state. But I also get a chance to talk with him professionally about his expertise and his concern over the safety issues surrounding our transportation systems. And as we all know, we talked about last week about how we really try to focus our attention on trying make everything as safe as possible.

David Mack's in the forefront.

He's a gentleman who has had a long career in and around law enforcement. He has a great rapport with many of the law enforcement agencies in this state. And he also brings a reach and a grasp that is much broader than most bring to government. And the fact that he would want to do this is really a message for all of us that it's not just -- you can do good works in many ways. And I think that he's decided that it's not just being philanthropic in terms of the arts and the charities, but it's also in terms of his time to make us all a little safer.

So I look forward to working with you in your position. I wish you many good years of this. And I think we're all very proud to have somebody like you in this position.

Thank you, Mr. President.

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

Senator Maltese.

SENATOR MALTESE: Yes, Mr. President. I know my colleagues have said a

great deal about the experience and background of the nominee, David S. Mack. But like so many of my colleagues, I've come to know him over the years and wish to add my words to his eminent qualifications.

I think we all know that there's more to government than background experience. There's dedication involved. And here we have all those qualities all wrapped up in one candidate. Certainly the lack of debate, except for praising comments, at the Finance Committee meeting; so many people have indicated their approval of this fine nomination.

We would do well to have him on the MTA board, as a member of the MTA board because of his grasp of the issues and because of his personal qualities, exemplary qualities that lend so much to the MTA board. As a representative of the city, I especially feel that he can lend a great deal to the board, and I welcome his nomination by Governor Pataki.

ACTING PRESIDENT MEIER: The question, then, is on the confirmation of

David S. Mack as a member of the Metropolitan Transportation Authority. 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.

David Mack is with us today in the gallery. And, Mr. Mack, we wish you well with your important duties going forward. Congratulations, sir.

(Standing ovation.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As an alternate nonvoting member of the Metropolitan Transportation Authority, Ed Watt, of Far Rockaway.

As a member of the Finger Lakes State Park, Recreation and Historic Preservation Commission, Mike Sigler, of Ithaca.

As a member of the Lake George Park

Commission, John Pettica, Jr., of Kattkill Bay.

As a member of the Taconic State Park, Recreation and Historic Preservation Commission, Lucy R. Waletzky, M.D., of Pleasantville.

As a member of the Firefighting and Code Enforcement Personnel Standards and Education Commission, Leon Szczerbinski, of North Tonawanda.

As a member of the Medical Advisory Committee, Steven E. Barnes, D.O., of Silver Creek.

As director of the Municipal Assistance Corporation for the City of New York, Martin S. Berger, of New York City.

And as a member of the State Council on the Arts, Judith O. Rubin, of New York City.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Yes, Mr. President, I was unaware that one or two of my colleagues coupled the nomination of David Mack with Ed Watt.

But I believe that Ed Watt himself deserves appreciation for what he's done on the Metropolitan Transit Authority, and I think it emphasizes a principle which is essential: that even nonvoting members who represent the working men and women of America, regardless of what unions they belong to, should be applauded for what they are doing. Otherwise, how will we know how the workers feel if this man or, in other authorities, women who are working people are not on the commission?

And I am proud to support Ed Watt as an alternate member of the MTA.

ACTING PRESIDENT MEIER: The question is on the confirmation of the above-named nominees. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(Response of "nay.")

ACTING PRESIDENT MEIER: The nominees are confirmed.

The Secretary will continue to

read.

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

Senate Print 6052, Senate Budget Bill, an act making appropriations for the legal requirements;

Senate Print 6658, by the Senate Committee on Rules, an act making appropriations for the support of government;

And Senate Print 6659A, by the Senate Committee on Rules, an act in relation to providing for the administration of certain funds.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: All bills directly to third reading.

Senator Velella.

SENATOR VELELLA: Mr. President, can we take up Calendar Number 670 at this time.

ACTING PRESIDENT MEIER: Senator Velella, we have to do a substitution. Can we do that first?

SENATOR VELELLA: Do the substitution first.

ACTING PRESIDENT MEIER: Okay, thank you.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 670, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 9552 and substitute it for the identical Senate Bill Number 6052, Third Reading Calendar 670.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 670, Assembly Budget Bill, Assembly Print Number 9552, an act making appropriations.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Johnson, an explanation has been requested by Senator Schneiderman.

SENATOR JOHNSON: Mr. President, this bill provides for making debt service payments for the fiscal year 2004-2005

normally appropriated to pay all the bonds and the various authorities and state debt, et cetera, et cetera, et cetera. And that's it.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 671, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 10401 and substitute it for the identical Senate Bill Number 6658, Third Reading Calendar 671.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 671, by the Assembly Committee on Rules, Assembly Print Number 10401, an act making

appropriations for the support of government.

ACTING PRESIDENT MEIER: Senator Skelos.

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

ACTING PRESIDENT MEIER: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: The question is on whether to accept the message of appropriation and necessity. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message of appropriation and necessity is accepted.

The bill is before the house.

Read the last section.

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

SENATOR SCHNEIDERMAN:

Explanation.

ACTING PRESIDENT MEIER: Senator Johnson, an explanation has been requested of Calendar 671.

SENATOR JOHNSON: This bill appropriates approximately $9.6 billion to various state departments and agencies to meet scheduled state payments due from April 1st to April 18th, roughly two weeks, a little more than that. And that's all that bill does.

ACTING PRESIDENT MEIER: Read the last section.

Senator Sabini.

SENATOR SABINI: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Sabini, on the bill.

SENATOR SABINI: Mr. President, once again we're faced with a late budget. It should be no surprise to anyone in this room. We heard some noise earlier in this year that there was going to be a package of reform passed by both houses through a conference committee. Of course, despite the work of that committee, it's late. The budget is

late, as it has been for a generation now.

And I stand here as someone who talks to a lot of people in the streets of our neighborhoods in New York City who don't really understand why we don't get our work done on time. It doesn't make any sense to them. And yet it happens year after year after year.

There are over 200 members of this Legislature on both sides of this building, and I think the combined intelligence and experience and resolve, I believe, with the respect I have for the members of this body and the Assembly, could get this done on time and present a united front to the people of the state with an intelligent spending plan that can be worked out amongst intelligent people. But it doesn't happen.

We know why it doesn't happen. It doesn't happen because the institutional bodies in this building benefit from the fact that it doesn't happen on time. There are many groups, interest groups, some of the interest groups I support, that benefit from if not being on time, because it gives them

more time to negotiate and play political gamesmanship with the proverbial -- and we've heard it for a long time now -- three men in a room. It benefits them as well.

But it really doesn't benefit the people of the State of New York, it doesn't benefit the taxpayers, it doesn't benefit local government, it doesn't benefit the school districts who are waiting to find out what monies they can slot in.

This year we have a new excuse; we waited for the Zarb Commission. We sort of knew what was going to come out anyway. Intelligent people could have figured out where we were going with this. There's a court order. It's pretty clear. Yet we're late again.

And it's bipartisan in its failure, and it's bicameral in its failure. And a member of the Assembly who belongs to the majority party, my party in that body, said to me the other day: "You know, you just don't understand how Albany works." And my response is: It doesn't. It doesn't.

It is shameful that we as a body

will now pass these extenders and do what normal Americans would never do. When faced with a deadline, let's leave town. Let's leave. Let's punt for two weeks and let some faceless folks in budget offices and in leadership staff positions do some more negotiating while we're somewhere else. It's not right.

And no matter what kind of spin you want to put on it, no matter what sort of this pseudo-intelligence that we know better than the folks in the street, we don't. We don't. And the sooner we wise up to that, the better off everyone will be. We really don't know better than they do, because they know when they're assigned a task that has to be done at a certain time, it gets done. It's not that tough.

There are several bills that have been offered by the majority in this house that would make the budget process move smoother. There's a conference committee now. The conference committee should be looking at ideas that haven't been looked at yet. I know Senator Krueger and Senator Paterson both have

bills that would require us to work until the budget is passed, that we don't go away on a recess when a budget is due. And I believe those should be looked at as well.

Now, we did this thing a couple of years ago of not paying the members of the Legislature while a budget hasn't been passed. And we see how effective that's been. Not very effective at all. The only thing it's affected is people's sort of moving around their expenses.

What we really should be doing is coming to an agreement as intelligent women and men in this Capitol and come up with a spending plan that's rational, that works, and that's timely. I'm delighted we have a conference committee, and I know members of this body have worked on hard on that conference committee to reform the budget process. But the fact that that conference committee has not come up with a plan already further underlines the fact that what we're doing is really dysfunctional.

And so I will be voting no on this and on other extenders. Thank you.

ACTING PRESIDENT MEIER: Senator Krueger.

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

I share my colleague Senator Sabini's frustration. And I too will be voting no on this bill.

And he highlighted one bill I have that if we had passed this bill would in fact assure that we do stay and continue to work through the, I guess, break we're about to take to get the budget done. It's S4682, which would require the Legislature to meet daily if it fails to pass a state budget prior to April 1st. Of course we would allow religious holidays off. And I think our constituents would find that reasonable.

But who is kidding who, as Senator Sabini has said. The fact that we now don't see paychecks clearly is not a reason we are motivated to continue to do our work and get the people's business done. As was pointed out, I think, on this floor already today, we who won't get paychecks can go to banks and get loans. That is not holding us accountable

to the people of New York. But a series of budget reform proposals would.

And I too am excited about the fact that we still have a budget reform conference committee meeting between the two houses. And I believe that they have agreed on any number of issues, two way, that we need to move forward on. It won't solve our problem as of April 1st, tomorrow, but it could help us address these problems next year, because it's the 20th year of a late budget. And of course just getting a budget on time is not the assignment. It has to be a good budget for the people of New York State.

And I'm hoping if we can open up our process to more budget transparency, if we can require standardized accounting procedures for our budget, if we can assure that legislators have those budget documents on their desks, in my opinion, at least ten days before we are voting on these budget bills, if we can have ongoing standing conference committees to negotiate not just at the last minute or in fact after April 1st, as Senator Sabini pointed out, but starting from day one

when we get up here, and know we are facing a budget each and every year and that we have responsibilities relating to that budget -- that if we can see eye to eye, if we can come up with some agreements between the two houses in the budget conference committees that are going on today, that maybe this is the last time that we will have to go home and explain to our constituents why yet again we do not have a budget for them on April 1st.

But in fact, in objection to the fact that we have moved nowhere yet, I will also be voting against the extender bill today.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

Twenty years is very long time. And I must say, as someone who spent most of my life in the private sector, I think it's pretty clear that the only thing preventing us from passing a budget on time every year is a lack of political will. We have the money.

In fact, since the Governor announced his Executive Budget, we've come up with -- we've identified significant new resources. Senator Bruno has acknowledged it.

Senator Paterson earlier today laid out a plan that actually comes in slightly less than the Executive Budget that would enable us to fully fund our obligations under the Campaign for Fiscal Equity case.

We have the money. We know what we need to do. It's simply a lack of political will. It's an abdication of our responsibility.

And there are ways we could probably get this done. Senator Krueger alluded to some of them. I know we are now rushing to try and get our budget reform conference committee to come up with something so at least we can put a good face on the fact that we're about to adjourn in the middle of what should be intensive negotiations over the budget.

But that really is not good enough. I mean, it's good to reform the budget process. But the reform that would make the

most difference, frankly, is for us to pass bills that Senator Paterson has sponsored, Senator Krueger has sponsored, requiring us just to stay here. Let's stay here.

You look at negotiations -- when I was involved in negotiations over a deal, we wouldn't break for 12 days in the middle of the negotiation. Just stay there till you get it done. If you break, it's over. And that's true in labor negotiations. That's true really everywhere except here.

So 20 years is an unhappy anniversary. I am going to vote no on this extender also. We can pass a budget on time. We just have to take responsibility for our actions. And I think if we all stayed here, we would find a way to pass a budget pretty quickly.

So whatever proposals come out of the budget reform committee, let's keep our eye on the real target. There are some good things we can do. Forward funding of school budget payments is critical. Let's pass a two-year school budget this year so that every year school districts aren't put at risk and

thrown into confusion by the lateness of the budget. That's a good thing. But it's a good thing by way of making our own irresponsibility hurt a little less.

Let's do something that actually gets a budget passed on time. And I respectfully submit the way to do that is for us to stay here. We're prepared to do it. Our leader sponsors a bill requiring us to do it. I'm going to vote no, and I hope that at some point during my tenure here we are going to come up with a commitment. Because it's not coming up with a procedure, it's simply coming up with a commitment to the people of the State of New York that we are going to meet our constitutional obligation and pass a budget on time.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 40. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 671 are Senators Duane, L. Krueger, Parker, Sabini, and Schneiderman. Ayes, 55. Nays, 5.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 672, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 10402A and substitute it for the identical Senate Bill Number 6659A, third Reading Calendar 672.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 672, by the Assembly Committee on Rules, Assembly Print Number 10402A, an act in relation to providing for the administration of certain funds.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President,

is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: The question is on whether to accept the message of necessity. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Johnson, an explanation has been requested by Senator Schneiderman.

SENATOR JOHNSON: This bill provides language extending various provisions of the law which would otherwise expire on March 31, 2004. That is today. These bills include the following provisions, which I will

not read.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate conference of the majority in the Majority Conference Room, and the Senate will stand at ease.

ACTING PRESIDENT MEIER: Immediate conference of the Senate Majority in the Majority Conference Room.

Senator Ada Smith.

SENATOR ADA SMITH: There will be an immediate conference of the Senate Minority in the Minority Conference Room.

ACTING PRESIDENT MEIER: Immediate conference of the Senate Minority in

the Minority Conference Room.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:14 p.m.)

(Whereupon, the Senate reconvened at 5:02 p.m.)

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Madam President, may we go back to the reading of the controversial calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 434, by Senator Little, Senate Print 5670A, an act to amend and ratify the tribal state compact between the St. Regis Mohawk Tribe and the --

SENATOR HASSELL-THOMPSON: Explanation.

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

SENATOR LITTLE: Thank you.

In 1993, a compact was negotiated between the St. Regis Mohawk Tribe and the

State of New York. This compact had the approval of the federal Indian Gaming Regulatory Act and was approved by them on December 4, 1993. The compact at that time was negotiated by Governor Cuomo and did not have legislative approval.

In 1999, a lawsuit was filed by the Upstate Citizens for Equality, saying that the compact should have had legislative approval. The goal of the lawsuit was not to close the casinos but to force some revisions to include monetary payment.

On June 12, 2003, in a 4 to 3 vote, the New York State Court of Appeals voted that this compact should have legislative approval.

The bill that is before you today does two things. Number one, it ratifies the compact. And let me say that in the meantime the Akwesasne Mohawk casino was built in Hogansburg on the reservation by the St. Regis Mohawk Indian Tribe. The casino is up and running. It employs between 400 and 600 people, some on a part-time, some on a full-time basis, some Native American, some non-Native American.

So this bill before us today ratifies that compact and validates it. The second thing that this bill does is that it allows this casino to have slot machines, and it also provides for revenue sharing.

The slot machines, once they're put in, will have a -- has a proposal that has been agreed upon where in the first four years, 18 percent of the net drop revenue will go to the State of New York. Then it goes up to 22 percent and finally reaches 25 percent of the revenue.

Of that revenue that goes to the state, 25 percent of that revenue will go back to the two counties, St. Lawrence County and Franklin County and to the towns who are affected by a loss of property tax and school tax because of the land claims involved. The two counties will split the share that they get and allocate it to those towns appropriately.

This has been agreed upon by the tribe and will then be -- this amendment will then be agreed by the Department of Interior and the Indian thing.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you. I appreciate the explanation. I have voted no --

ACTING PRESIDENT McGEE: Are you on the bill, Senator Hassell-Thompson?

SENATOR HASSELL-THOMPSON: Yes, on the bill only.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson, on the bill.

SENATOR HASSELL-THOMPSON: Thank you. I have no questions for the sponsor.

On the bill, just very quickly. I have voted no on the legislation, and I will be voting no today because this -- the compact does not include all of the reservations. Particularly, it does not include the Oneidas. And therefore, I will be continuing to vote no.

ACTING PRESIDENT McGEE: Thank you.

Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

I want to compliment Senator Little on a very thoughtful explanation. And I know this is very important to her district and her constituents. And I applaud her willingness to carry the message from her localities. And I think she has done an admirable job of explaining one of those issues that is very difficult for me to explain to my constituents, and that is why they are entitled, in Senator Little's district, to receive revenue at the local level from a casino operation run by Native Americans where in Oneida County and Madison County a very similar casino provides no revenue for those localities.

And many people have asked over a long period of time how this situation came to exist. For those of you who were not here in those years, this was the first casino of its type. There were very few in the United States at the time. The Congress, in its wisdom, provided Native Americans with a revenue stream by giving them a special opportunity to enter into gambling that was not made available to other individuals.

The Indians took advantage of this. I remember saying at the time that I'm sure that many of my Native American friends would have preferred to have discovered gold or oil on their nationland, but if this was their only opportunity for a revenue stream, then they were well entitled to it.

However, the compact required government approval. And therein lies the difference of opinion as to how this compact should differ from the compact that the Oneida nation operates. The compact with the Oneida nation was signed only by the Governor of this state. Mario Cuomo signed that compact; it did not come to this Legislature for legislative approval.

At the time, I was the Senator who represented the area both at the casino and of the nation homeland. The casino, for the record, is in Oneida County, just over the line. The nationland is located within the jurisdiction of Madison County. Presently I only represent the nationland, I do not represent the casino itself.

But my constituents in Madison

County and my constituents in other sections of Oneida County have repeatedly asked why they cannot be given the same treatment of the people in other parts of this state where compacts have been negotiated and then brought to the Legislature and a clear revenue stream is guaranteed to local governments.

I maintain, and my constituents maintain, that the Oneida Nation compact is an illegal compact because it was never brought to this Legislature for a vote and ratification. I will not support a compact in another part of the state until the Oneida compact is renegotiated and a fair revenue stream is directed to the localities that are in its immediate area.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Hoffmann.

Senator Liz Krueger.

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

ACTING PRESIDENT McGEE: Senator Little, will you yield?

SENATOR LITTLE: Yes, Madam

President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you. I appreciate Senator Hoffmann's explaining some of the history of this.

How does your bill change or modify the existing compact? I mean, I understand the issue of it was passed in '93, it went through a court process, the expectation is that the Legislature needs to pass something. But you're also changing the '93 compact. Can you explain how this changes it?

SENATOR LITTLE: Certainly.

SENATOR LIZ KRUEGER: Thank you.

SENATOR LITTLE: The bill actually takes the existing compact, ratifies and validates it. It then adds an amendment to the compact, and that is in the bill under Section 1 of F. And that amendment is authorized pursuant to Section 1 of this act and has been approved or deemed approved by the Secretary of the Interior.

That amendment is the part that adds the slot machines and allows them to have

slot machines. And the actual purpose of this is because the casino is located about 20 miles north of Malone, near the Canadian border, a very remote area. Competes with the Montreal casinos. And they are trying to have the same attraction as other casinos have.

In allowing them to have slot machines, they are giving a share of the revenue to the State of New York and to the local counties and the towns within them.

SENATOR LIZ KRUEGER: Madam President, if the sponsor will continue to yield.

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

SENATOR LITTLE: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR LIZ KRUEGER: Thank you. That was very helpful to me.

So it leads me to my next question, which is since there is litigation in the courts right now that may determine that slot machines and VLT machines are not

constitutional, how would this law, with the modification as you described it, impact what happens in this casino, assuming that case is found -- excuse me, the case finds that these machines are unconstitutional in New York State?

SENATOR LITTLE: Well, I doubt it would change the outcome. But in the meantime, this compact and this amendment would allow for the casino to have slot machines until such time as any court case is finalized, and the appeals process and all.

But in the meantime, this would be allowed. The revenues will come to the State of New York. The local governments would get some revenue back from it as a -- in compensation for the lost tax revenues that they have lost through the land claims.

SENATOR LIZ KRUEGER: Thank you.

Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you. I appreciate the sponsor's explanations to my questions.

I will vote against this bill, not necessarily because I think in the long-term I could not change my mind on this issue, but rather it seems to me at this moment in history, moving forward with this law when we are all awaiting a legal decision by the courts as to the constitutionality of slot machines or video lottery terminal machines, that we ought to wait and see what the courts tell us before we move forward.

Second, I respect Senator Hoffmann's argument from earlier that this would in fact continue an inequity within even casinos in the state of New York, that some could have machines, some could not.

Finally, we had a compact that was passed in '93. My understanding of some of the deals that have gone forward between the state and other tribes since have led us to believe that we perhaps ten years ago weren't as wise as we could be about negotiating fair funding back to the State of New York as its share of revenue for casino gambling.

And so I would add that if we were modifying this compact such that we were

actually evaluating significant new revenue to the State of New York under the terms that have been applied to other casino compacts or agreements with tribes since then, that that might also help argue at least an equity argument between this specific compact in this specific part of the state and other parts of the state and other agreements we've come to.

So it seems to me that we ought to be waiting for the court decision. We ought to be evaluating all of the negotiations the State of New York goes into with any group on any kind of casino and have at least a reasonable standard, an equitable basis both for state monies coming in at the state level and the local level.

We ought to reevaluate older compacts in light of what we now know about agreements that have been made both in the state and other states about contracts or compacts between states and various Native American reservations.

And we also should put this in context, although I don't believe it is specific to Senator Little's bill, we should

put this in the context of the larger question I think we are all struggling with, since our budget continues to make -- or our proposed budget argues that we're going to pay for education throughout the State of New York into the future based on the revenue from VLT and slotlike machines, that we should also be evaluating this individual decision in the context of where do we really stand on the argument that gambling revenue should be our stream of funding for the future of our schools.

And I think these questions are much larger than Senator Little's bill. But I think the timing today for the State of New York is to look at the larger picture and not necessarily move forward on one specific issue that in fact would complicate and even add to inequities in the programs and the operation of gambling casinos in the State of New York.

So I will be, with all due respect, voting no on this bill today and think we should look at it in a larger context.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Nozzolio, on the bill.

SENATOR NOZZOLIO: Madam President, I rise on this measure as I have in the past.

I am somewhat shocked by my downstate colleagues' assessments of these legal matters. That I have, as many of us upstate have, land under siege by land claims. 64,000 acres in the center of my district has been in litigation for 22 years relative to the Cayuga Indian nation.

I'm not sure Senator Krueger's comments about the VLTs and the litigation now pending regarding VLTs have any relevance whatsoever to Indian gaming. That the Indian gaming has been immune from legal challenges from the states for years. But be that as it may.

I rise to comment on Senator Little's bill because I have the greatest

respect for Senator Little, that she has worked very hard on this measure. And it's my understanding that those localities within Senator Little's bill support this measure. And that to me, that's what should be relevant to -- Madam President, can I have some order, please.

ACTING PRESIDENT McGEE: Can we have some quiet so we can listen to Senator Nozzolio.

Thank you.

SENATOR NOZZOLIO: Thank you, Madam President.

That Senator Little is asking her colleagues to support this measure because local governments in Senator Little's jurisdiction have reflected agreements in this legislation that have been worked out on an individual basis with an individual Indian nation. Those relationships are extremely complex, and one size does not fit all in the context of negotiations with specific Indian nations. They're complicated interactions.

And that I think the overriding sentiment of this legislation is that yes,

this body, because of past litigation, does have the responsibility and the authority to oversee Indian compacts; that prior compacts entered into by Governor Cuomo -- done so with reckless disregard for the Legislature, with no input from the Legislature, with no approval process by the Legislature -- were wrong. We believed they were wrong. The courts have certified that that action by Governor Cuomo was wrong.

And that's what Senator Little is here presenting to, in effect, fix: having this Legislature reflect upon an agreement that was made in conjunction with Senator Little's constituents, with the Executive of this state, with Senator Little's input, and reviewed by Senator Little, in presenting the legislation to us for consideration.

I hope that what we establish here today is a rock-solid precedent that says that those legislative measures that come before this body that are honed by the local Senators directly impacted by those claims and by those negotiations, by that compact, would in fact be articulated by the Senator representing

that area.

Senator Little does a wonderful job in representing her area. She is today, by this legislation, establishing a precedent that the local Senator who proffers this bill is in fact doing so with the clear understanding of her local or his local governments that are impacted by this measure.

Someday I may be before this Legislature, before this chamber asking for my colleagues' review of particular issues relative to Indian land claims and Indian compacts in my senatorial district. I am listening to Senator Little today. I hope that all our colleagues in this chamber listen to Senator Little.

Likewise, when I am entrusted with the possibility responsibility of bringing a similar type of measure, if it ever comes to that point, before this house, I would respect the courtesy of my colleagues to listen to me.

That's the precedent that's being accomplished here today, Madam President. That's the reason why I am supporting this legislation, because I believe it's paramount

that we listen to the local representatives who are closest to these very important negotiations and very important issues that impact local governments, localities within that Senator's district.

Thank you, Madam President, for the opportunity to comment on this measure.

ACTING PRESIDENT McGEE: Thank you, Senator Nozzolio.

Senator Wright.

SENATOR WRIGHT: Thank you, Madam President.

I too rise in support of this bill and want to commend Senator Little in terms of her efforts on this legislation.

Let's not forget that these commitments have been in place over a decade. Let's not forget that the facility is there, the jobs are there, this has been an ongoing institution for a number of years. Let's not forget this was negotiated in good faith and the bill that is before us was negotiated in good faith.

It's not about court decisions. If we waited in this chamber for pending court

decisions. There wouldn't be much for us to do. It's not about equity, because all of us know there are numerous things that we do daily here today that are not equitable to everybody in this state.

So those are not the issues before us. The issue is consistency. The issue is good faith. We have been consistent with the Niagara agreement, we have been consistent with the good-faith negotiations that were conducted and that have been concluded.

I, for one, one support the bill and encourage my colleagues to do likewise.

ACTING PRESIDENT McGEE: Senator Sabini.

SENATOR SABINI: Madam President, would the sponsor yield for a question?

ACTING PRESIDENT McGEE: Senator Little, will you yield?

SENATOR LITTLE: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SABINI: Madam President, through you, if the sponsor would address the

fact that this legislation results from the 2003 Court of Appeals decision. And I'm just wondering, since that decision invited legislation action, what happens if we don't do anything, in the sponsor's judgment?

SENATOR LITTLE: Well, if we don't do anything, Senator Sabini, I believe that the casino that has been built that is operating, has over 400 people employed there, will have to cease to operate because it would be operating illegally.

That casino at the present is supervised by the State Police. The Indian Tribal Council pays the State Police to operate in that casino. We would end up having our State Police hold jurisdiction over an illegal casino.

The casino itself is illegal because it has not been validated, the compact. Therefore, we need to do that for it to continue to exist.

SENATOR SABINI: Madam President, if the sponsor would continue to yield.

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

SENATOR LITTLE: Yes, Madam President, I yield.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SABINI: What I'm trying to get at is that this bill didn't pass both houses last year, despite the fact that it passed in this house. And if we don't pass it, there's a threat that the jobs would disappear and that the development, the cash and plant and equipment that costs a lot of money, that the tribe -- and I believe Caesar's is the operator of the casino -- that money would be lost, the jobs would be lost.

But more importantly, as of now, since they're not operating with legislative approval, since this is worked out to get your counties of St. Lawrence and Franklin part of the revenue stream, as well as the state, are we sort of in a limbo here where they could continue to operate but not pay? That's what they've been doing for the past year, is it not?

SENATOR LITTLE: Under the compact that was negotiated by Governor Cuomo,

there was no revenue sharing and the state didn't get any money and the local governments didn't get any money.

You're right, the bill that I proposed last year was simply a validation of the compact. Since that time, we have been able to negotiate with the tribal council and the St. Regis Mohawk Indians to allow them to have slot machines, which they feel they need to be competitive. And in order to get the slot machines, they are willing to salary revenue with the state and with the local governments, who have lost a lot of property tax revenue.

SENATOR SABINI: Madam President, if the sponsor would continue to yield.

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

SENATOR LITTLE: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR SABINI: So this is just very similar to the type of arrangement that was made in the state of Connecticut in a

matter of a couple of days, and they've negotiated this over a couple of years -- and to the benefit of localities that, frankly, where revenue has been a little tight, jobs have been a little right.

And by them sharing in the success, they're now willing to sort of help all the boats in those counties float a little higher with some revenue.

But my question goes toward if we don't ratify this, what is the danger of the operation closing, since it didn't close last year?

SENATOR LITTLE: Well, I think it's only been because it was allowed to continue while we ratified this compact.

We are not the only state who had to ratify a compact after the fact because it was not ratified by the legislature at the time that the compact was negotiated. I had the names of the other states; I believe it was New Mexico and Arizona, but I'm not positive. They also, in those cases, the legislature had to ratify the compact afterwards.

I believe that there was an understanding to allow the casino to continue to operate while this Legislature would ratify the compact. There's a lot to be lost by the St. Regis Mohawk Indian Tribe and the people that depend upon this place for their jobs. There's a lot to be lost by the Native Americans who work there. And there's a lot to be lost by the local governments who can share in the revenue stream, as well as the state's General Fund.

SENATOR SABINI: Madam President, if the sponsor would continue to yield.

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

SENATOR LITTLE: Yes, I will, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SABINI: What I'm just not getting is who is -- who established the understanding they can continue to operate, and when does that understanding expire? So that we know what timetable we're under and whose jurisdiction we're under to prevent the

loss of those jobs and the revenue we're talking about, which is significant revenue for those counties.

SENATOR LITTLE: Well, I believe it's the Bureau of Indian Affairs, who is willing to allow the casino to operate while we go through this ratification and validation process. I believe it would probably be the Attorney General has also agreed to this process.

SENATOR SABINI: If the sponsor would continue to yield.

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

SENATOR LITTLE: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SABINI: What I'm getting toward is, at what point does the Department of Interior and the Bureau of Indian Affairs have the authority or the hammer to come down on the Akwesasne property? Which in effect would be devastating financially to the counties' employment situation and also to the

anticipated revenue that this agreement would bring in. Because I'm trying to get toward the immediacy of this.

SENATOR LITTLE: Thank you.

I believe that the Court of Appeals, when they made the decision that this needed ratification, and it was a 4-to-3 decision, assumed that the Legislature would ratify that compact by the end of last year's session. Since it was the end of the session and it didn't get ratified, they allowed it to go to this.

I would assume that if this body were to vote no as far as the ratification, that then the Bureau of Indian Affairs would begin to look at this a little differently. I believe that they are relying on our good faith to ratify and validate an existing compact that was approved in 1993 by then-Governor Cuomo.

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

ACTING PRESIDENT McGEE: Senator Sabini, on the bill.

SENATOR SABINI: I think the

sponsor has demonstrated exactly why I think this is important that we move forward with this.

This state is going to be asking for lots of agreements around the state for much bigger properties and much more, frankly, higher-employment areas perhaps than this property is. And if the federal government, which regulates Indian gaming, sees that a compact that was worked out that was generous enough to share revenue with counties and the State of New York in what will probably be our smallest gaming property in the state in our lifetimes -- if we're going to reject that, then I would think that the federal government is going to look rather askance at us making future commitments that aren't validated to tribal gaming throughout the state.

We're going to be asking for that as -- we've established the precedent as part of our budget. If you disagree with the premise that you don't like financing a lot of our state on gaming, I can understand that. But if you buy into the idea that some of our revenue is going to have to come from gaming,

if we reject this compact, that in effect is sending a really wrong signal to the folks in Washington who regulate Indian gaming that we're really not -- we're serious in the general but not in the specific.

And this is the smallest specific example we're ever going to get. And I think we should heed Senator Little's call and pass the bill.

Thank you.

ACTING PRESIDENT McGEE: Senator Onorato.

SENATOR ONORATO: On the bill, Madam President.

ACTING PRESIDENT McGEE: Senator Morahan.

Just one moment, Senator Onorato.

SENATOR MORAHAN: Senator, please excuse the interruption.

Would you recognize Senator Duane and have the last section read so he can vote and get out of here, which that's okay by me.

(Laughter.)

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: What a guy.

No, Madam President.

(Laughter.)

ACTING PRESIDENT McGEE: Senator Duane votes no.

Withdraw the roll call, please.

Senator Onorato.

SENATOR ONORATO: On the bill.

ACTING PRESIDENT McGEE: Senator Onorato, on the bill.

SENATOR ONORATO: I want to compliment Senator Little on her initiative on this. I'm definitely going to support this here.

I'm really not totally in favor of the concept of gambling itself. But in view of the fact that these casinos are currently operating and not contributing anything at all to the state, I think it's commendable on your part that you were able to negotiate with the tribe to finally give something back to the

state. And I think it's high time.

Perhaps this is going to set a precedent for the rest of the casinos that are going to be opening up in the state under the Indian jurisdiction, that they should not be the only ones to share in the profits, it should be shared by all the people of the State of New York.

I therefore urge my colleagues to support this legislation.

ACTING PRESIDENT McGEE: Thank you, Senator.

Senator Schneiderman.

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

I have heard in the debate today, as we've heard at various occasions so far this year, the admonition from some of my colleagues from other parts of the state that we have to respect the wishes of the Senator who represents a district with regard to matters in that district. And I think that that is a commendable sentiment.

I have to say, though, representing the City of New York, I find that that

sentiment falters, it seems, when we come south of the Westchester line. The City of New York, we have had the right to deal with our rent laws taken away from us by the state, we do not have control over our finances. And, as of the latest estimates, the City of New York is currently sending more than $3.5 billion more to the rest of the state than we're receiving.

We're not asking for more than our fair share, but I think we deserve our fair share. And we shouldn't be having to raise property taxes and sales taxes in the city while continuing to subsidize every other part of the state.

So I respect Senator Little and the good work she's trying to do on behalf of her constituents, but I hope we can have some equal application of this principle of respect for local sovereignty when it comes to the five boroughs of the City of New York.

I am going to support this legislation, Madam President, and I would love to get support for this principle applied in other areas as well.

Thank you.

ACTING PRESIDENT McGEE: Read the last section.

Senator Padavan.

SENATOR PADAVAN: I'd like to explain my vote.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Padavan.

SENATOR PADAVAN: I'm just going to explain my vote, because I know Senator Monahan wants us to vote and get out of here.

SENATOR MORAHAN: I thought you were going to ask my name right --

SENATOR PADAVAN: Now he really wants us to get out of here.

(Laughter.)

SENATOR SCHNEIDERMAN: Not all of us, Frank.

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

SENATOR PADAVAN: Madam President, some of the previous speakers alluded to the fact that as a result of action in the courts, these compacts, which were negotiated by a prior governor, had to come back to us for ratification. Otherwise, the operations were illegal.

What you should also know is that the plaintiffs in that case, which consisted of the Saratoga Chamber of Commerce, myself, other legislators and other organizations, were the vehicle by which that became a reality.

The same group, however, is in court, as I think someone mentioned, on the issue as to whether or not slot machines and VLTs are legal under our State Constitution.

Now, what's different here primarily, as Senator Little has explained more than once, is the fact that the original compact has been amended in the statute to include a thousand slot machines. And as we have said many, many times in other places and

on other occasions, it's very unwise for us to be leading with our chins and counting on revenue and actually projecting to spend that revenue on a source of income that in a matter of days, if not weeks, may turn out to be totally illegal.

I realize that doesn't change the conditions that we're now faced with with regard to this bill. There are many other issues relevant to casinos and slot machines and VLTs throughout this state that we could talk about and I will not talk about.

But with regard to the very present issue, it is rather ironic that the reason you have an opportunity to do this is because the same people who sued and won gave you that opportunity, but they are the very same people who are in court today that will deny you the slot machines that you've included and which is the basic source of revenue that will be distributed to localities of this state. There is an irony there.

I vote no.

ACTING PRESIDENT McGEE: Senator Padavan will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 434 are Senators Duane, Hassell-Thompson, Hoffmann, L. Krueger, Padavan, and Stachowski. Ayes, 54. Nays, 6.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 562, by Senator Little, Senate Print 6331, an act to amend the Highway Law, in relation to the designation of the "Adirondack Veterans' Memorial Highway."

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 572, by Senator Padavan, Senate Print 5584A,

an act to amend the Real Property Tax Law, in relation to temporary commercial incentive.

ACTING PRESIDENT McGEE: Senator Liz Krueger.

SENATOR LIZ KRUEGER: To explain my vote, Madam President.

ACTING PRESIDENT McGEE: Just one moment, Senator Krueger.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you.

I just wanted to go on record -- and I will be brief, because I respect Senator Morahan's earlier point about the hour -- this is a bill that would open up to the City of New York the right to reevaluate the boundaries and meet to discuss the boundaries of the Industrial Commercial Incentive Program that was created in the '80s.

What I want to say, though, is this, like many other laws that are on the books in New York State, are in fact across-the-board, as-of-right tax exemption programs. This program allows businesses who are building in almost all of the city of New York, nearly all of each of the boroughs -- with one exception, in a section of Manhattan -- to, as of right, get exemptions from their real estate taxes. In the year 2003, this program alone translated into a $2.3 billion tax exemption for the City of New York -- the largest, I might add, of the real estate tax exemption programs.

I feel that anything, any kind of model program that is allowing our tax dollars not to be collected, and thus we don't have that money for other important public services in the City and State of New York, should be going through a thorough review where people are evaluating what are these projects, is the exemption from taxes in the best interests of the State of New York and the City of New York, and that carte blanche right of -- basically right-of-existence tax exemptions

are the kind of model New York State should be taking a serious look at as we move forward.

So I'll vote for this bill, but I do want to go on record that these are exactly the kinds of programs we should be investigating much more thoroughly.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Krueger.

Announce the results.

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT McGEE: The bill is passed.

SENATOR MORAHAN: Madam President, will you please recognize Senator Montgomery.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, I would like unanimous consent to be recorded in the negative on Calendar 548.

ACTING PRESIDENT McGEE: Without objection.

SENATOR MONTGOMERY: Thanks.

ACTING PRESIDENT McGEE: Senator

Morahan.

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

ACTING PRESIDENT McGEE: Senator Hoffmann.

SENATOR HOFFMANN: Yes, Madam President.

On page 38, I offer the following amendments to Calendar Number 555, Print Number 5746, and ask that said bill retain its place on the Third Reading Calendar.

Thank you.

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

Senator Morahan.

SENATOR MORAHAN: Is there any other further housekeeping?

ACTING PRESIDENT McGEE: No.

SENATOR MORAHAN: I understand there's a petition to discharge. Would you recognize Senator Krueger.

ACTING PRESIDENT McGEE: Thank

you.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. I do have a motion at the desk. I would like to have it called up at this time.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Senate Print 5922, by Senator L. Krueger, an act to amend the Legislative Law.

SENATOR LIZ KRUEGER: This is a motion to petition my bill out of committee. It's S5922, an act to amend the Legislative Law, in relation to registration filing fees for certain lobbying entities.

I will just highlight that I would also hope that at some point we will take a look at my bill S4685, which would require members of the Legislature to be physically present for votes, given the absence of members in the chamber as I give this motion tonight.

Let's face it. Lobbying reform is desperately needed in the state of New York.

There are $120 million that were spent on lobbying in this year alone. Public authorities have become the fourth branch of government, to quote Comptroller Alan Hevesi. Billions of dollars are contracted out through the State of New York each year without any review of the lobbying that was involved with the procurement or influencing of those contracts.

Again, nine large state authorities contracted for nearly $4 billion in the year 2002. The MTA recently awarded the largest single contract in its history for producing a thousand subway cars, a contract expected to be worth $3 billion alone. And yet our lobbying laws do not require any serious reporting of this information for us, the Legislature, and the public to understand the process that is gone through to award state contracts and money.

Unlike most other states, New York law does not require lobbyists to reveal their efforts to sway the awarding of state contracts. This is the biggest loophole in the state's Regulation of Lobbying Act of

1977.

In June 2003, Governor Pataki signed his Executive Order 127, which requires would-be contractors to reveal the names of their lobbyists. But these records are kept on paper with individual agencies and authorities and do not include the fees lobbyists are charging, nor do the forms always indicate what contract the lobbyist is trying to influence.

Many state contracts are written not to go to the lowest bidder but rather to the most qualified bidder. Demonstrating such qualifications is one of the biggest industries in Albany. So much money is involved, and so little is known about it because no financial disclosure is required. No one keeps track of all the money spent wining and dining the right people to win these contracts. This lack of accountability and oversight all but invites corruption in our city.

We knew this last year. We almost moved and should have moved on legislation in both houses that was agreed upon by the

Governor to address this major loophole in our lobbying law. I urge that the Legislature must take the steps to protect the integrity of the procurement process by enacting a procurement lobbying reform law, as I have proposed and others have proposed.

With respect to the Executive orders in the rule-making process, the way in which regulations are implemented can benefit groups which can in turn prompt intense lobbying efforts. The public should have the opportunity to know when groups and individuals attempt to go around the public process and influence decisions through informal mechanisms.

This proposal, my lobbying reform bill, is about promoting open good government, bolstering confidence in the practices employed by state and local governments and contracting for goods and services. Taxpayers, including both the public and the business community, have a right to know who is vying for government contracts and how they are working to influence those decisions.

I know there is broad support for

this disclosure. It has come from the Assembly, from the Lobbying Commission, as well as from the editorial pages throughout the state, including the Albany Times Union, Newsday, the Syracuse Post-Standard, the Troy Record, and The New York Times.

My bill is a bill that I think everyone sitting here today agrees with and everyone who should and I hope would be sitting here, if they were in their chairs for us today, would agree with: it is time for New York State to do what the majority of other states have already done, have an accurate, fair, open process for documentation and recording of lobbying fees, who are people working for, who are their clients, how much are they getting paid, what is the assignment.

That is what we owe the public. We are spending their money, and we are not accountable enough to them. And I hope that my colleagues will join me in voting for my motion to discharge my bill, S5922, because I know that most of them are on record as supporting this kind of lobbying procurement reform.

Thank you, Madam President.

ACTING PRESIDENT McGEE: All those Senators in favor of the petition out of committee please signify by raising your hand.

THE SECRETARY: Those Senators in agreement are Senators Andrews, Breslin, Brown, Hassell-Thompson, L. Krueger, Lachman, Montgomery, Onorato, Parker, Paterson, Sabini, Schneiderman, M. Smith, and Stachowski.

ACTING PRESIDENT McGEE: The petition is lost.

Senator Morahan.

SENATOR MORAHAN: Madam Chairperson, there being no further business in front of the Senate, I move that we adjourn till 11:00 o'clock tomorrow, which will be April 1st.

ACTING PRESIDENT McGEE: On motion, the Senate stands adjourned until Thursday, April 1st, at 11:00 a.m.

(Whereupon, at 5:49 p.m., the Senate adjourned.)