NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 4, 2004

3:08 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

THE PRESIDENT: With us this afternoon to give the invocation is the Reverend Glyger Beach, from Vanderveer Park Methodist Church, in Brooklyn, New York.

REVEREND BEACH: Thank you, Madam President.

It's a joy to be with each of you, and especially to pray, in particular, for Republicans and Democrats in one house. I haven't seen you all like this before. Such a joy. Thank you for this great privilege.

Shall we pray.

God of all nations, races, faces, and languages, we acknowledge Your awesome presence in this assembly of ordained Senators. You have declared in Your word that all governments are ordained by You for the

welfare of Your people.

Thank You for these Senators You have set aside for the welfare of the great State of New York. Endow them with courage and conviction. Add wisdom to their knowledge, and flavor their ambition with a sense of service. Give them faith, that they may see in every difficulty an opportunity, in every blessing a responsibility, in every protection a purpose.

Provide for each of those who serve in New York's Senate a full measure of Your care and protection. Protect and bless their families as they are away from them in service to their state. Bless the work of this Senate, bless the State of New York, bless all the people of New York.

Grant unto the Senators right attitudes and timely objectives. Make them willing to see moral objectives together, that in united action this state may be resolved for righteousness and peace for all of its peoples.

Today we bless You for the future which You hold out before us, for its

promises, for its challenges, for its opportunities of service of Your people and our state. We thank You for the present moment, for this august body representing every district of our great State of New York. Bless each Senator in whatever way that will enable them to serve You and bring glory to Your holy name.

God bless America. God bless New York State. In Your holy name we pray, amen. God bless you. Thank you.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, May 3rd, the Senate met pursuant to adjournment. The Journal of Sunday, May 2nd, 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 McGee.

SENATOR McGEE: Thank you, Madam President.

On behalf of Senator Hoffmann, I move to recommit Senate Print Number 4906, Calendar Number 932 on the order of the first report, to the Committee on Agriculture.

THE PRESIDENT: So ordered.

SENATOR McGEE: Thank you, Madam President.

THE PRESIDENT: Senator Skelos.

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

THE PRESIDENT: Yes, there are, Senator.

The Secretary will read.

THE SECRETARY: On page 4, Senator Saland moves to discharge, from the Committee on Finance, Assembly Bill Number 1233 and substitute it for the identical

Senate Bill Number 481, First Report Calendar 937.

On page 5, Senator McGee moves to discharge, from the Committee on Finance, Assembly Bill Number 8657A and substitute it for the identical Senate Bill Number 4895A, First Report Calendar 947.

On page 6, Senator Volker moves to discharge, from the Committee on Finance, Assembly Bill Number 9387 and substitute it for the identical Senate Bill Number 5802, First Report Calendar 950.

On page 6, Senator Larkin moves to discharge, from the Committee on Finance, Assembly Bill Number 9580 and substitute it for the identical Senate Bill Number 6105, First Report Calendar 952.

On page 6, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 10436 and substitute it for the identical Senate Bill Number 6394, First Report Calendar 956.

On page 16, Senator Velella moves to discharge, from the Committee on Health, Assembly Bill Number 9534 and substitute it

for the identical Senate Bill Number 6001, Third Reading Calendar 269.

On page 34, Senator DeFrancisco moves to discharge, from the Committee on Judiciary, Assembly Bill Number 10963 and substitute it for the identical Senate Bill Number 4956, Third Reading Calendar 662.

On page 34, Senator DeFrancisco moves to discharge, from the Committee on Judiciary, Assembly Bill Number 10967 and substitute it for the identical Senate Bill Number 5166, Third Reading Calendar 663.

And on page 42, Senator Golden moves to discharge, from the Committee on Local Government, Assembly Bill Number 10844 and substitute it for the identical Senate Bill Number 6847, Third Reading Calendar 779.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar, with the exception of Resolutions 4749, 4752, and 4796.

THE PRESIDENT: All in favor of

so adopting the Resolution Calendar, please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The calendar is so adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could have the title read on Resolution 4749, by Senator Golden, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Golden, Legislative Resolution Number 4749, honoring Edmund J. Moderacki upon the occasion of his designation as recipient of the 2004 Outstanding Contribution by a Senior Citizen Award.

THE PRESIDENT: Senator Golden.

SENATOR GOLDEN: Yes, I rise today to sponsor a resolution for Ed Moderacki, who is receiving it tomorrow in Albany. He comes from Brooklyn, New York, and

he will be in Albany here tomorrow to receive the 2004 Outstanding Contribution by a Senior Citizen.

Here is a gentleman that has worked very hard in our community in Brooklyn, New York, in trying to make the quality of life for the seniors that much better. Ed is the president of the Bay Ridge chapter of AARP. He is also the retired persons rep on the Bay Ridge Community Council.

He is also the president of the St. Anselm's Roman Catholic Holy Name Society. He is a member of the Bay Ridge Community Council. He's a member of the Senior Advisory Board of the Bay Ridge Center for Older Adults. He is a member of the legislative committee on the interagency Bay Ridge Council of the Aging.

He has worked all his life in helping people, in making a difference. He worked out of the manufacturing/engineering of Sperry Rand Corporation, and he received special recognition for work on a Pacific missile range and a Canadian weather ship radar projects.

Ed was also in the U.S. Marine Corps in the Pacific area during World War II, and now is involved in various veterans activities.

Ed is what it's all about here in this great state. It's about contributing, it's about working, it's about being part of the fabric of this great city and great state. And I'm honored to bring forth this resolution today.

Thank you.

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: If we could have the title read on Resolution 4752, by Senator McGee, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator McGee, Legislative Resolution Number 4752, paying tribute to the life and selfless heroism of Corporal Jason Dunham of Scio, New York.

THE PRESIDENT: Senator McGee.

SENATOR McGEE: Thank you, Madam President. My remarks will be very brief on this resolution today, almost as brief as the life of Corporal Jason Dunham.

Jason Dunham was a 22-year-old individual who was a U.S. Marine Corps corporal. He gave his life selflessly as he threw himself upon a grenade, thereby saving the life of two of his fellow Marines.

Corporal Dunham will remain young in our memory and young in our hearts and a hero forever, coming from the small town of Scio in Allegany County, New York, truly a hero who stands for the freedom of the people of our world.

And I wish that we would all remember each and every one of our individuals who are serving in the armed forces in honor of freedom for the entire world.

Thank you so much.

THE PRESIDENT: 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: Madam President, there's a resolution by Senator Marcellino, 4796, at the desk. If we could have it read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Marcellino, Legislative Resolution Number 4796, mourning the untimely death of United States Coast Guard Petty Officer 3rd Class Nathan B. Bruckenthal, and paying tribute to his courageous actions in the Persian Gulf.

"WHEREAS, It is the sense of this Legislative Body to convey recognition of the loss of a courageous Coast Guardsman who sacrificed his life while serving in the war

in Iraq; and

"WHEREAS, This Legislative Body is deeply moved to mourn the untimely death of United States Coast Guard Petty Officer 3rd Class Nathan B. Bruckenthal, and to pay tribute to his courageous actions in the Persian Gulf; and

"WHEREAS, Petty Officer Nathan Bruckenthal, 24, a Guardsman serving with the coalition Maritime Interception Operations Team, made the ultimate sacrifice for his country on Saturday, April 24, 2004; and

"WHEREAS, Born and raised in Stony Brook, New York, Petty Officer Nathan Bruckenthal had also lived in Connecticut, Hawaii, Washington, and most recently Dania, Florida; and

"WHEREAS, Petty Officer Nathan Bruckenthal enlisted in the Coast Guard six years ago and was excited at the prospect of life at sea and eager to follow his family's legacy of public service; and

"WHEREAS, Petty Officer Nathan Bruckenthal is survived by his wife, Patricia, his father, Eric Bruckenthal, his uncle,

Steven Bruckenthal, and many other family members and friends; and

"WHEREAS, Petty Officer Nathan Bruckenthal is truly a hero to our society; and

"WHEREAS, The banner of freedom will always wave over our beloved New York and all of America, the land of the free and the home of the brave; and

"WHEREAS, Residents of this great state must never forget the courage with which these men and women served their country, and must recognize that no greater debt is owed than that owed to those who gave their lives for their beloved nation and to those who continue to be missing in action; and

"WHEREAS, The freedoms and security we cherish as Americans come at a very high price for those serving in the military in times of conflict. It is fitting and proper that we who are the beneficiaries of those who risk their lives, leaving their families behind, express our appreciation and eternal gratitude for their sacrifices and courageous acts; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the untimely death of United States Coast Guard Petty Officer 3rd Class Nathan B. Bruckenthal, and to pay tribute to his courageous actions in the Persian Gulf; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the family of Petty Officer Nathan Bruckenthal."

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

One of the toughest things I've ever had to do in public life was to visit the family of Petty Officer Bruckenthal and offer my condolences at their loss. And it was a terrible loss, and a terrible loss to the community.

The Bruckenthals have a history in their family of public service. The father is the police chief of the village, and other relatives have served in the Army and in the military over the years in various conflicts

in protection of our liberty and our country.

Nathan was 24 years old, a life cut short in its prime, leaving a wife, grieving -- who is pregnant with what hopefully will be a healthy child to carry forth the family -- leaving two younger brothers. It's just a tragic loss to that particular family and to the community as a whole.

Like all other families, everybody has a tendency to -- in all families, we bicker amongst ourselves from time to time. But woe be it to anybody that comes in and takes on any other member of the family. We all cleave together and defend that other member.

Well, the family is coming together in the community to support the Bruckenthals at the time of their loss of a very fine young man. I did not know the young man personally, I never had the privilege of meeting him, but I have met his parents on many occasions. They're fine people and have instilled in their young son the values of service above self and service to their community.

This is a great loss to them, a great loss to the community, and it's a great loss to our nation when we see young people whose lives are cut short. My mother taught me a long time ago that you're not supposed to bury your children, that it's the worst possible thing a parent can go through and have to suffer through.

The community is behind the Bruckenthals, they're with them. There are signs all over the community supporting the parents at this time of their loss. And I just wish to offer my condolences to the family and to let them know that this chamber is behind them, this legislative body is behind them at their time of need and at their time of loss, and we will always be there for them in anything they need.

I thank my colleagues for supporting this resolution, and I would open it up to our chamber and any other people who wish to be on it. And if you don't wish to be, just notify the chair in our usual procedure.

I certainly would think that would

be an appropriate thing, and I think the family would be very appreciative of it.

Thank you, Madam President.

THE PRESIDENT: Senator Flanagan.

SENATOR FLANAGAN: Thank you very much, Madam President. I want to join my colleague Senator Marcellino and start by just thanking him for offering this resolution.

I represented the Village of Northport for 16 years in the State Assembly and had many, many, many occasions to interact with Rick Bruckenthal in particular. And obviously we all mourn the loss of individuals and, collectively, groups who have been affected by the war.

And the Bruckenthals in particular -- Senator Marcellino alluded to this -- it has been a very challenging, tough year for this family. In particular for the chief, because of some issues going on in the Village of Northport. But I would offer you a couple of brief things.

Like Senator Marcellino, I did not know Nathan personally, but I have known the Bruckenthal family for some time. Rick

Bruckenthal is a great guy. He is the kind of person you want to have as your friend. He's the kind of person you want living in your community. And he is exactly the kind of person you want to be your police chief.

His son and my son, his youngest son, they play lacrosse together, I see him at the games, I see his wife Pat, who works at Stony Brook University.

These are really fine people, and my heart aches for them because this is the first time, at least for me personally, where it's someone right from our community. I think of our colleague Betty Little. You know, she's fortunate and her family's back and everyone's doing well, but like that [snapping fingers] something can happen to someone that you know and you love.

It is very important for us, and fitting, that we do take time out, honor the Bruckenthal family and Nathan in particular in some small way, and be able to go back to our community and say that we are extraordinarily proud of this young man.

And the good thing is that his name

will live on, with his wife being pregnant. Even though he's not around, they will have a lasting legacy in that family.

And to my friend Rick Bruckenthal and his family, I wish them only the best.

Thank you.

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: Madam President, may we open the resolution. And if anyone chooses not to be on it, as is customary in the house, they can notify the desk.

THE PRESIDENT: Any member who does not wish to sponsor this resolution please notify the desk.

The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Velella.

SENATOR VELELLA: Madam President, may we return to reports of

standing committees. I believe there's a report at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Hannon, from the Committee on Health, reports the following bill direct to third reading:

Senate Print 5646A, by the Senate Committee on Rules, an act to amend the Public Health Law, the State Finance Law, and the Insurance Law.

THE PRESIDENT: Without objection, the bill is reported directly to third reading.

Senator Velella.

SENATOR VELELLA: May we proceed to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

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

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 721, by Senator Bonacic, Senate Print 6393, an act to amend Chapter 915 of the Laws of 1982 amending the Public Authorities Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 728, by Senator Saland, Senate Print 1924A, an act to amend the Penal Law, in relation to

custodial interference.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 746, by Senator Kuhl, Senate Print 4908, an act to amend the Vehicle and Traffic Law, in relation to weights and dimensions.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 762, by Senator LaValle, Senate Print 6163, an act in relation to contracts of the East Hampton Union Free School District.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 763, by Senator Saland, Senate Print 6199, an act in relation to adjusting certain state aid payments.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 790, by Senator Skelos, Senate Print 6624, an act to amend the Correction Law --

SENATOR LIZ KRUEGER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 796, by Senator Bonacic, Senate Print 986, an act to amend the Education Law, in relation to allowing for prorated refunds.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 818, by Senator Little, Senate Print 6471, an

act to amend the Real Property Actions and Proceedings Law and the Public Lands Law, in relation to illegal cutting.

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 602 of the Laws of 2003.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 824, by Senator DeFrancisco, Senate Print 6986, an act to amend the Surrogate's Court Procedure Act, in relation to clarifying.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 844, by Senator Volker, Senate Print 665, an act to amend the Penal Law and the Criminal Procedure Law, in relation to the offenses of bail jumping.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT FUSCHILLO: The bill is laid aside.

THE SECRETARY: Calendar Number 874, by Senator Robach, Senate Print 6387, an act to amend Chapter 167 of the Laws of 2003 amending the Education Law.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FUSCHILLO: The

bill is passed.

THE SECRETARY: Calendar Number 882, by Senator Marcellino, Senate Print 4130, an act to amend the Environmental Conservation Law, in relation to the leasing of space on towers.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 888, by Senator Meier, Senate Print 1267, an act to amend the General Municipal Law, in relation to allowing certain shared purchasing contracts.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 889, by Senator Fuschillo, Senate Print 1781A, an act to establish the Baldwin-Grand Canal Repair and Maintenance District.

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

Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 890, by Senator Fuschillo, Senate Print 1782A, an act to establish the Baldwin-West End Canal Repair and Maintenance District in the Town of

Hempstead.

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

Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 891, by Senator Larkin, Senate Print 1806A, an act to amend the General Municipal Law, in relation to providing a local government mergers law.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 902, by Senator Rath, Senate Print 6630, an act to amend the County Law and others, in relation to streamlining the process of local governments.

ACTING PRESIDENT FUSCHILLO: Read the last section.

THE SECRETARY: Section 11. This act shall take effect immediately.

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

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

SENATOR VELELLA: Can we go to the controversial reading of the calendar, Mr. President.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number

790, by Senator Skelos, Senate Print 6624, an act to amend the Correction Law and the Criminal Procedure Law, in relation to the registration of sex offenders.

ACTING PRESIDENT FUSCHILLO: Senator Krueger.

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

ACTING PRESIDENT FUSCHILLO: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I rise not so much to object to Senator Skelos' bill but to highlight yet again, on the floor of the Senate, so many other issues relating to sexual assault that we are not addressing in the Legislature and now have not addressed for multiple years.

Yet again, we raise concerns about the registry of people found guilty of sex abuse, but we have still not addressed the differences in the two houses' bills on clergy sex abuse and the obligation we have and the commitments I think we have made to the public to make sure that we change our laws so that we don't have a double standard in the State

of New York as to who is reported and who is not reported for potentially committing sexual violence among citizens of our state.

And yet again we talk about strengthening the criminal procedures for sex offenders. And again, it's not an objection to the legislation today, but what have we done for the victims of sexual assault?

We have still not passed legislation that would ensure that every emergency room in the state of New York had adequate resources to make sure that they did a thorough review of the victim, reporting in the kind of counseling that they need, the guarantee of health care that they need.

We still require victims of sexual abuse to go through a complex process while they have been survivors of sexual assault to make sure that there is reimbursement for the health care costs of providing them the services that they need.

We still have not guaranteed that every rape crisis center has coordinated work with a sexual assault nurse examiner. We have still not assured that every geographic area

of the state, particularly rural parts of upstate New York, do not have -- we still have not made sure that every area has the kinds of services that we find in urban hospitals for survivors of sexual assault.

There's an endless list of legislation that we should be passing that would make real commitments to men and women who have been the survivors of sexual assault. And I wish that we took as seriously the needs of these survivors as we seem to take to adjust the technical amendments of our criminal law when it comes to offenders.

So again, I'll vote for the bill. I have no objection formally to the bill. I object to the fact that we don't look at all sides of this issue equally.

Thank you, Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Stavisky.

SENATOR STAVISKY: Mr. President, on the bill.

ACTING PRESIDENT FUSCHILLO: On the bill.

SENATOR STAVISKY: I very briefly

want to commend the sponsor for this legislation.

I knew very little about this issue until approximately six months ago, when a Level 3 sex offender moved into my Senate district and, in fact, relatively close to where I live. And unfortunately, nobody was notified. We didn't know that he was there.

And this is a step in the right direction to closing some of the loopholes. The problem with the Level 3 offender is that he wouldn't be Level 3 if there weren't the very distinct possibility that he was going to commit the same crime again.

This is an area of concern to many of the people who live in Bayside as well as in the rest of the state. And I hope that additional loopholes -- the notification to the community and so on -- is tightened. I think this is a step in the right direction, and I will vote for this bill.

ACTING PRESIDENT FUSCHILLO: Any other Senator wish to speak?

Read the last section.

THE SECRETARY: Section 23. This

act shall take effect immediately.

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 844, by Senator Volker, Senate Print 665, an act to amend the Penal Law and the Criminal Procedure Law, in relation to the offenses of bail jumping.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Volker.

SENATOR VOLKER: This is a bill that passed the Senate for the last five years, I believe, which came to us -- I was just looking here. I think it came to us initially, in 1999, from the City of New York.

And the reason the bill came here was because the amount of money, time, and effort they're spending in pursuing people who either were on appearance tickets or who were released on their own recognizance was

absolutely enormous.

In fact, some defense attorneys in the city of New York realize that if their clients walk away and never show up, that because of the 30-day grace period and because of the backlog of numbers -- for instance, let me just give you an idea. There were 43,020 defendants back in 1995 -- and it's gotten worse, by the way -- but 43 percent of those people who had desk appearance tickets didn't appear.

Now, the problem is that in many cases those appearance tickets are never turned into warrants. Or, if they're turned into warrants, they get stacked up in an office somewhere. In the meantime, a lot of these people get arrested again. And they're probably about the only people who would get charged with bail jumping in this case, because they've got to get caught and brought back.

Actually, this bill, I think, is pretty reasonable in the area of bail jumping. If you receive an appearance ticket -- and most appearance tickets are for offenses. Not

all of them, but a lot of them are. And in this bill, the new penalty for bail jumping would be the lowest possible charge, which is a B misdemeanor, and would mean that you potentially could go to jail for three months.

Now, the problem here for the city is that pursuing these people probably takes away millions of dollars from the cost of being able to pursue criminal justice issues. And it really makes not a lot of sense.

Now, it's true that if the warrant, for instance, is for a misdemeanor, then it becomes a Class E felony, which of course is the lowest felony area.

And so I think that the main thing about this is this is a money-saving area, this is -- it's silly that you give people appearance tickets and they don't show up. In fact, what's going to happen is the City of New York has begun to do other things rather than appearance tickets, simply because so many people don't show up.

So I think this is a common-sense bill, and I ask everyone to support it.

ACTING PRESIDENT FUSCHILLO:

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, if Senator Volker would just answer --

SENATOR VOLKER: Sure.

ACTING PRESIDENT FUSCHILLO: Senator Volker, will you yield for some questions?

SENATOR VOLKER: Sure.

ACTING PRESIDENT FUSCHILLO: The Senator yields.

SENATOR MONTGOMERY: Thank you.

Senator Volker, I note that this -- we've had this bill before us in prior years. Has it changed in the language? I can't see any changes that have been made.

SENATOR VOLKER: No, it's basically the same bill from 1999.

The problem with it is that I realize that some defense attorneys -- this is a nice deal for a lot of defense attorneys. And we can't get the Assembly to do it.

I think Joe Lentol, by the way, is seriously thinking that this is something that needs to be done. If I know the Assembly,

they'll probably want to downgrade some of the penalties in it.

But we ultimately should do it, because it will be a huge saving to the City of New York.

SENATOR MONTGOMERY: Thank you, Senator Volker.

Mr. President, I will just restate some of the concerns that I raised in last year's debate on this same legislation.

I do note that there is a memo in support from the city. I presume that the Mayor supports it.

But let me just say that this is one more piece of legislation that I think certainly, in my mind, reinforces our tendency to punish particularly the poor people, and probably young people as well.

I suspect -- and I don't have any statistics. I don't see anything in the sponsor's memo that indicates from where the majority of these warrants are or these desk tickets are issued. I suspect that a large percent are issued in precincts in my district. And I know that a lot of those

warrants are for things like graffiti writing and turnstile jumping and so forth and so on.

Those -- in some instances, people have these tickets and they're not even aware. And if they're stopped by the police, having been issued one of those desk tickets and they didn't appear, they are arrested immediately and taken in.

Now, what this does is increases the amount under the charge so that in addition to the original charge, whatever it was -- it could have been a misdemeanor, it could have been even less -- they now are charged with a Class D or Class E felony. So they now have a real record.

And we know that the bulk of those are going to be levied, once again, on people who are most vulnerable, most likely to come in contact with the police, and most likely to have a desk ticket written even if they've done nothing.

And so now those very same people are going to have the record of an E or D felony, even if they've done nothing, because they didn't answer the desk ticket and the

warrant.

So I'm going to continue to oppose this legislation. And I also -- notwithstanding the mayor's support of this, I think that it is going to certainly cost the state more because, in the process, we will increase the number of people perhaps who will be charged under this particular law as a technical parole violator.

And as we know, there are large numbers, thousands and thousands of people who are returned to prison not because they committed any other crime but because there was a technical violation of their parole -- they didn't meet their parole person on time, they didn't pass the urine test, they didn't meet their curfew. There are thousands of reasons why people are reincarcerated for other than committing a new crime. And this is one more of those possibilities.

So I'm going to continue to oppose this. And I certainly hope that my colleagues will join me in opposing this legislation, because it is another use of the criminal justice system to address an issue and it's

directed specifically to poor and young people in New York City.

Thank you, Mr. President.

ACTING PRESIDENT FUSCHILLO: Thank you, Senator Montgomery.

Any other Senators wish to be heard on the bill?

Read the last section.

THE SECRETARY: Section 16. This act shall take effect on the first of November.

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 844 are Senators Hassell-Thompson, Montgomery, and Parker. Ayes, 56. Nays, 3.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

Senator Velella, that completes the controversial reading of the calendar.

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

ACTING PRESIDENT FUSCHILLO: No.

SENATOR VELELLA: May we stand at ease for just one minute.

ACTING PRESIDENT FUSCHILLO: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:46 p.m.)

(Whereupon, the Senate reconvened at 3:48 p.m.)

ACTING PRESIDENT FUSCHILLO: Senator Velella.

SENATOR VELELLA: Mr. President, there being no further business to come before the house, I move we adjourn until tomorrow, Wednesday, May 5th, at 11:00 a.m.

ACTING PRESIDENT FUSCHILLO: On motion, the Senate stands adjourned until Wednesday, May 5th, at 11:00 a.m.

(Whereupon, at 3:50 p.m., the Senate adjourned.)