NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 14, 2004

3:10 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, please.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, June 13, the Senate met pursuant to adjournment. The Journal of Saturday, June 12, 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 Marcellino, I wish to call up his bill, Print Number 6116, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 579, by Senator Marcellino, Senate Print 6116, an act to authorize.

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

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

SENATOR McGEE: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR McGEE: Thank you.

Madam President, on behalf of Senator Larkin, I wish to call up his bill, Print Number 6016A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 934, by Senator Larkin, Senate Print 6016A, an act to amend the Agriculture and Markets Law.

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

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

SENATOR McGEE: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR McGEE: Madam President, on behalf of Senator Nozzolio, I wish to call up his bill, Print Number 432, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 137, by Senator Nozzolio, Senate Print 432, an act to amend the Penal Law.

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

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

SENATOR McGEE: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR McGEE: Thank you, Madam President.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you,

Madam President.

Amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Volker, page number 8, Calendar Number 229, Senate Print Number 5991;

By Senator LaValle, page number 18, Calendar Number 510, Senate Print Number 1662A;

By Senator Rath, page number 19, Calendar Number 556, Senate Print Number 6129A;

By Senator Wright, page number 25, Calendar Number 759, Senate Print Number 6507;

By Senator Farley, page number 38, Calendar Number 1021, Senate Print Number 7165;

By Senator Balboni, page number 45, Calendar Number 1134, Senate Print Number 7141;

By Senator Hoffmann, page number 56, Calendar Number 1334, Senate Print Number 4321A;

By Senator Rath, page number 58, Calendar Number 1358, Senate Print Number

7013A;

By Senator Larkin, page number 59, Calendar Number 1377, Senate Print Number 6750;

By Senator Libous, page number 59, Calendar Number 1378, Senate Print Number 6830;

By Senator Hannon, page number 66, Calendar Number 1509, Senate Print Number 7046;

By Senator Wright, page number 16, Calendar Number 458, Senate Print Number 6024;

By Senator Trunzo, page number 57, Calendar Number 1345, Senate Print Number 6512A.

I now move that these bills retain their place on the Third Reading Calendar.

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

Senator Skelos.

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: Can we have the noncontroversial reading of the calendar, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 27, by Senator Kuhl, Senate Print 1876A, an act to amend the Vehicle and Traffic Law, in relation to appropriate reduced speeds.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 122, by Senator Spano, Senate Print 5236A, an

act to amend the Vehicle and Traffic Law, in relation to registration.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 170, by Senator Volker, Senate Print 5408A, an act to amend the Correction Law, in relation to eligibility.

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, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

251, by Senator Larkin, Senate Print 5863A, an act to amend the Vehicle and Traffic Law, in relation to the operation of an ATV.

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, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 271, by Senator Maltese, Senate Print 93A, an act to amend the Labor Law and the Penal Law, in relation to certain employment of minors.

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, 44.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 376, by Senator Volker, Senate Print 4844A, an act to amend the Penal Law and the Criminal Procedure Law, in relation to criminal diversion.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 387, by Senator Wright, Senate Print 4890E, an act to --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

464, by Senator Alesi, Senate Print 5942, an act --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 480, by Senator Trunzo, Senate Print 6273, an act to amend Labor Law, in relation to requiring signs at airports.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: Yes, I vote no.

Not out of any disrespect for the sponsor, but simply to state that, you know, while I think it's pretty common sense that if you assault an individual in an airport, whether it's a security guard or one of the

guards at the gate, or intimidate that individual, that's just common sense it's a crime.

And I just don't think it's good precedent to require signs indicating what's a crime on every specific aspect of human life.

So I would vote no.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 480 are Senators Balboni, DeFrancisco, and Kuhl. Ayes, 42. Nays, 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 514, by Senator Marcellino, Senate Print 5861A, an act to --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

560, by Senator Johnson, Senate Print 6175, an act to amend the Transportation Law, in relation to the safety inspection requirements.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 610, by Senator Spano, Senate Print 6454, an act to amend the Labor Law, in relation to establishing sanctions.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 826, by Senator Spano --

SENATOR SKELOS: Lay it aside for the day, please.

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

THE SECRETARY: Calendar Number 829, by Senator Fuschillo, Senate Print 6611A, an act to amend the General Business Law and the Abandoned Property Law, in relation to the acceptance.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 830, by Senator Skelos, Senate Print 6612B, an act to amend the General Business Law, in

relation to fees assessed.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 831, by the Assembly Committee on Rules, Assembly Print Number 10866, an act to amend the General Business Law.

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, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 834, by Senator Balboni, Senate Print 7180, an

act to amend the General Business Law, in relation to requiring commercial towers.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 868, by Member of the Assembly Sweeney, Assembly Print Number 10002, an act to amend the Navigation Law, in relation to leaving the scene of an accident.

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, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 875, by Senator Robach, Senate Print 6399A, an act to amend the Education Law and others, relating to the availability of additional pension benefits.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 877, by Senator Mendez, Senate Print 6790, an act to amend the Civil Service Law, in relation to leaves of absence.

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, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 897, by Senator Little, Senate Print 6603, an act to amend the Real Property Tax Law, in relation to payment.

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, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 914, by Senator Padavan, Senate Print 7014, an act to amend the Administrative Code of the City of New York and the Retirement and Social Security Law.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 916, by Senator Golden, Senate Print 7017, an act to amend the Retirement and Social Security Law, in relation to providing.

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

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, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 917, by Senator Marchi, Senate Print 7159, an act to amend the Administrative Code of the City of New York and the Retirement and Social Security Law, in relation to providing.

THE PRESIDENT: There is a

home-rule message at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 933, by Senator Hoffmann, Senate Print 5109, an act to amend the Agriculture and Markets Law, in relation to the award of grants.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 935, by Senator Hoffmann, Senate Print 6349, an act to amend the Agriculture and Markets

Law, in relation to producer security.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 947, by the Assembly Committee on Rules, Assembly Print Number 8657A, an act to amend the State Finance Law and the Civil Practice Law and Rules, in relation to renaming.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

948, by Senator Kuhl, Senate Print 5178 --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 967, by Senator Marcellino, Senate Print 4212, an act to amend the Labor Law, in relation to waiting periods.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 975, by Senator Spano, Senate Print 7161, an act to amend the Labor Law, in relation to permitting employers.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1020, by Senator McGee, Senate Print 7010A, an act to authorize the payment of certain transportation aid.

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, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1037, by the Assembly Committee on Rules, Assembly Print Number 9078B, an act to authorize the Congregation Mesifta Ohr Hatalmud.

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 Bonacic recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1040, by Member of the Assembly Gromack, Assembly Print Number 9749A, an act to authorize Head Start of Rockland County, 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, 48. Nays, 1. Senator Bonacic recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1085, by Senator Flanagan, Senate Print 7088A,

an act to amend the Agriculture and Markets Law, in relation to the penalties.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1095, by Member of the Assembly Weinstein, Assembly Print Number 7518, an act to amend the Judiciary Law, in relation to the period of disqualification.

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 PRESIDENT: Senator DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: Yes. This

bill basically limits jury duty from what used to be a maximum -- you wouldn't be called for a period of four years; now, up to six years.

The purpose is, basically -- the reason is basically that we want to encourage jury service and we want to make certain that people are not inconvenienced as much as they were in the past. This was made possible by a prior bill that eliminated a lot of exemptions to jury service.

The point, however, I want to make, that the passing of this bill in no way suggests that some unrelated legislation that's talked about by the Office of Court Administration to limit the peremptory challenges has anything to do with this limiting the number of times a juror could serve. They're totally unrelated.

And I would not be in any way in support of that proposal to limit peremptory challenges.

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

The Secretary will announce the

results.

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1096, by Senator Golden, Senate Print --

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1113, by Senator Stachowski, Senate Print 1165, an act to amend the Penal Law, in relation to the definition of assault in the second degree.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1152, by Senator Morahan, Senate Print 3084, an act to amend the Election Law, in relation to making certain technical corrections.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the first of December.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1173, by Senator Seward, Senate Print 1447A, an act --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1175, by Senator Balboni, Senate Print 4752B, an act to amend the Insurance Law, in relation to claims for loss or damage.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 7. This act shall take effect January 1, 2005.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1222, by Senator Flanagan, Senate Print 6172, an act to amend the Vehicle and Traffic Law, in relation to eliminating.

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 1227, by Senator Maziarz, Senate Print 6636, an act to amend Chapter 33 of the Laws of

1998, amending the Social Services Law.

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 Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1332, by Senator Seward, Senate Print 3253C, an act making certain findings and determinations with respect to a certain revenue anticipation note.

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

Read the last section.

THE SECRETARY: Section 5. 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 1342, by Senator Bonacic, Senate Print 6339, an act authorizing the County of Orange to convey certain parklands.

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

Read the last section.

THE SECRETARY: Section 5. 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 1366, by Member of the Assembly Glick, Assembly Print Number 9948A, an act to amend the Social Services Law, in relation to certain individuals.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1371, by Senator Farley, Senate Print 7127 --

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1419, by Senator Morahan, Senate Print 6153, an act to authorize the Village of Spring Valley, located in Rockland County.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1429, by the Assembly Committee on Rules, Assembly Print Number 8214A, an act to amend the County Law, in relation to wireless communications service surcharges.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1430, by Senator Hoffmann, Senate Print 175, an act to amend the Tax Law, in relation to certain tax credits.

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, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1431, by the Assembly Committee on Rules, Assembly Print Number 9152, an act to amend the County Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1434, by Senator Kuhl, Senate Print 744, an act to amend the Tax Law, in relation to including income.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1435, by Senator LaValle, Senate Print 756A, an act to amend the Environmental Conservation Law, in relation to adding.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first of April.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1438, by Senator McGee, Senate Print 2770, an act to amend the Education Law, in relation to including dentists.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1447, by Senator LaValle, Senate Print 5980, an act to amend the Criminal Procedure Law, in relation to the designation of fire marshals.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1448, by Senator Leibell, Senate Print 6065, an act to amend the Correction Law, in relation to authorizing.

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, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1450, by Member of the Assembly Sweeney, Assembly Print Number 9564, an act to amend the Education Law, in relation to the eligibility.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1454, by Senator Wright, Senate Print 7194, an act to authorize the Village of Cleveland, in the Town of Constantia.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1455, by Senator Wright, Senate Print 7306, an act to amend the Tax Law, in relation to authorizing.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1469, by Senator Volker, Senate Print 5145A, an act to amend the Criminal Procedure Law, in

relation to the procedure following a verdict.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1493, by Senator Padavan, Senate Print 7183A, an act to amend the Local Finance Law, in relation to the sale of bonds and notes.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1508, by Senator Hannon, Senate Print 7045, an

act in relation to allowing the Sisters, Lovers of the Holy Cross of Westbury to file.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1510, by Senator Hannon, Senate Print 7047, an act authorizing the assessor of the County of Nassau to accept an application.

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

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1516, by Senator Kuhl, Senate Print 7397, an act to amend the Public Officers Law, in relation to providing.

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, 54.

THE PRESIDENT: The bill is passed.

Senator Duane.

SENATOR DUANE: Thank you, Madam President. If I could have unanimous consent to be recorded in the negative on Calendar Number 251 and Calendar Number 1447.

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

Senator Skelos, completes the noncontroversial reading of the calendar.

SENATOR SKELOS: Thank you, Madam

President. If we could go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 387, by Senator Wright, Senate Print 4890E, an act to amend Public Service Law and the Public Authorities Law, in relation to net energy.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR WRIGHT: Thank you, Madam President.

The bill provides, for the first time in New York, the concept of net metering applicable to wind. As you can note by the bill number, we've been through a series of amendments over the past year-plus, achieving an agreement with the Assembly sponsor.

And in turn, this provides for reduced fees when it comes to interconnection, waives the exemption from standby rates, and develops within the arena of residential and agricultural applications the use of wind as

an alternative form of energy and the ability of the owner to generate revenue therefrom.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President. I just rise to explain my vote.

Last year I voted against this bill. But according to the sponsor and the Assembly, they have now, through the process of several amendments, reached an agreement which I believe is fair and equitable to all. Therefore, I'll be supporting this bill this year.

Thank you.

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

Senator Krueger.

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

THE PRESIDENT: Senator Wright, will you yield for a question?

SENATOR WRIGHT: I will, Madam President.

THE PRESIDENT: You may proceed,

Senator.

SENATOR LIZ KRUEGER: Thank you.

Senator, I did vote for the bill last year, but I raised a concern then and I will still raise it. Why are we only dealing with one source of renewable energy in this bill, rather than expanding it to include solar energy and other fuel-cell-related types of renewable energy?

Speaking for the City of New York -- and the research sort of has been growing for us down there in New York City, where windmill power is not a realistic option to expand too much alternative energy in the five boroughs, but solar energy and the voltaic fuel cells and other types of new renewable energy offer a much greater possible universe of expanded alternative energy.

Why don't we roll that into this bill also and go forward and make this a better bill that would serve a greater set of options that I believe have the same goal as your own with this legislation specific to wind power?

SENATOR WRIGHT: Well, I believe,

Senator, as I pointed out last year, any alternative like this requires some form of subsidy by the ratepayers. Consequently, we are trying to minimize the impact on the ratepayers.

There currently is solar available under existing statute that provides for net metering. And in fact, when last checked not too long ago, the thresholds that were allowed for solar have yet to be met. And that statute is several years old.

So there are available, within statute, existing alternatives. Adding wind is one more alternative. And as the alternatives become more financially viable, thereby requiring less of a subsidy by ratepayers, we certainly will give that consideration.

SENATOR LIZ KRUEGER: Thank you, Madam President.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

There's an old expression that when

a dog bites a man, it's not news; when a man bites a dog, it is news.

We actually accomplished something this session, as reflected by this bill. Last year -- I commend the sponsor for his work on this, and our colleagues in the Assembly -- this was opposed by most of the environmental groups. This year, it is supported by all of the environmental groups.

The modifications that were made eliminated some of the market and regulatory barriers that would have increased the customer's cost of investing in on-site renewable generation facilities. And by coming to a compromise, we are finally going to provide at least for some net metering to encourage the use of wind energy in New York.

So I wish we had more success stories like this. But it's great that we are accomplishing this. And I would urge any of my colleagues who voted no last year that the environmental groups that opposed the bill, it has switched from a one-smokestack bill to a one-tree bill.

So it's with great pleasure that I

will be supporting the bill this year. And I hope we will have a few more success stories before we adjourn next week.

Thank you.

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

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 464, by Senator Alesi, Senate Print 5942, an act to amend the Tax Law, in relation to permitting all bars and restaurants.

SENATOR SCHNEIDERMAN: Explanation.

THE PRESIDENT: Senator Alesi.

SENATOR ALESI: Thank you, Madam President.

This bill comes at the request,

actually, of a constituent who is in the food and tavern business and noted that it would be beneficial for those small businesses who would like to offer Quick Draw but cannot meet the 25 percent food sales requirement. And therefore, this bill would remove that part of the bill.

That's it.

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

Senator Sabini.

SENATOR SABINI: Madam President, would the sponsor yield for a question, through you.

THE PRESIDENT: Senator Alesi?

SENATOR ALESI: I'd be happy to. Thank you.

THE PRESIDENT: Senator Alesi does yield.

You may proceed, Senator, with a question.

SENATOR SABINI: Thank you, Madam President. Through you.

While I can understand the merits for this bill, and I know that it does have

some support from some of the people in the hospitality industry whose business has been affected by -- adversely affected by the smoking ban, I just wanted to ask the sponsor if -- the converse effect of economy for this bill.

Which is, what effect is this going to have on bars and restaurants that currently offer Quick Draw who invested money to improve their place and maybe bought ovens or started a food business in order to get Quick Draw as a marketing tool?

Because I think that some people would feel that sort of their own business is going to be cannibalized now by -- you know, if they were the only establishment in a neighborhood or a town that had Quick Draw and now everyone's going to have it, isn't that going to hurt the people who have been loyal contractors with the State Lottery Division and been supportive of us?

SENATOR ALESI: Well, through you, Madam President, let's make it clear that this is optional. Not everyone is going to have it. Nothing mandates that everyone is

going to have it.

But we do operate in a free-market system, and anybody that's in business understands that. Without regard to Quick Draw or any other amenities that a tavern would offer, there's nothing that would stop one tavern from operating across the street from another tavern.

So it's a business world; there are certain risks as far as competition is concerned. And I believe your scenario would be a reach, with all respect.

SENATOR SABINI: Madam President, through you, could I address the sponsor with another question.

THE PRESIDENT: Senator Alesi, will you yield?

SENATOR ALESI: Certainly.

THE PRESIDENT: Since he yields, you may.

SENATOR SABINI: Thank you.

I'll take that as a no, then, that nobody has sort of asked that question, which is do the people that have Quick Draw now feel that they're going to have less business

because of that. That really is the sense of my question.

SENATOR ALESI: I think that that would be from your inference from the way you're reacting to my response, Senator. But I can't say whether it's a yes or a no.

SENATOR SABINI: Okay. Thank you, Madam President.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: Thank you, Madam President.

When Quick Draw was first suggested to this body and our colleagues in the other house -- as proposed by then Governor Cuomo, I recall -- many of us had some serious concerns about the appropriateness of this type of gambling venue in convenience stores and particularly in bars, where people who would be drinking would be perhaps less inclined to be reserved and appropriate in the amount of money they left on that bar in the form of gambling.

We suggested then that if it were adopted, even with the restrictions proposed -- size, portion of revenue for food,

and every five minutes -- that in time those restrictions or limitations would be eroded and Quick Draw, which we labeled crack, crack gambling, would be even more pervasive and more destructive.

And our fears are now justified. We've gone to every four minutes. They want to eliminate food. And the next thing will be to eliminate size. So every small convenience store, bodega, bar, tavern in the state will eventually -- for those who wish to see it expanded, it will come about.

Now, why is this a problem? Well, you know, you can gamble as much as you want depending on how fast you are in filling out those cards. Who are the individuals who are more prone to be in the small bars and taverns and convenience stores throughout this state? Are they going to be millionaires, the very wealthy, the affluent? No. They'll be largely low-to-middle-income people who will be tempted to wage their paycheck. Instead of spending that money on goods and services for their families, it will go into that machine.

So video crack is what it is, a

highly addictive, compulsive form of gambling that has contributed to the million or more people in the state who are problem and compulsive gamblers.

This is the wrong thing to do. It was wrong to start it in the first place. But to make it even worse in this fashion makes no sense whatsoever.

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

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I think that I'd like to just rise in respect for Senator Padavan and the work he's been doing on these issues to highlight to us how dangerous certain particular types of gambling are.

Quick Draw has proven itself to be, as he said, a serious attraction for the problem gambler. The combination of drinking and gambling together in an intensive, ongoing, potentially hour-upon-hour structure is exactly the type of thing we ought to be working to try to make sure we protect our

population from getting caught up in.

And that at minimum, before we looked at any other issues relating to an expansion of this kind of gambling, we should be building in programs for problem gamblers, and we should be doing true cost-benefit analysis of the revenue being raised, quote, unquote, for the State of New York from expansion of this type of gambling versus the actual costs to both our people and to our communities from rapidly expanding the type of activity that not just is likely to increase the number of problem gamblers we have in the state, but truthfully also correlate with an increase in problem drinking, since these are two things that are done side by side in bar establishments.

And while I have my own concerns overall about expansion of all types of gambling, I think that the research has shown that in Quick Draw in particular, this is the type of gambling that is harming our populations and our communities.

So I'll also be voting no against this bill. And I think we should be doing far

more homework, as Senator Padavan keeps pointing out to us, about the true cost impacts for our communities as we continue to move forward with expansion of gambling of all types.

Thank you, Madam President.

THE PRESIDENT: Senator Alesi.

SENATOR ALESI: Madam President, if I may, please. Thank you.

I'd just like to point out to my colleagues that this bill doesn't question the nobility of gambling. It doesn't address that at all. It takes for granted that gambling is already part of the social structure and it is a legal enterprise with regard to Quick Draw.

And this bill in particular, it's simply aimed at assisting small businesses that already, as the earlier Senator noticed, are competing in the marketplace. And the 25 percent food set-aside is really an arbitrary figure. There's nothing that says that someone gambling is even going to eat in an establishment.

But what does happen is that those establishments that maybe sell 20 percent of

their marketable goods cannot participate in Quick Draw. And this would assist them. If they sell 15 percent or 24 percent, they're out of the market.

So this bill simply recognizes that the arbitrary 25 percent set-aside does not help those small businesses that would benefit from Quick Draw sales, and it doesn't take into account in any way, shape, or form the efficacy of gambling.

Thank you, Madam President.

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: Those recorded in the negative on Calendar Number 464 are Senators Duane, L. Krueger, Montgomery, Padavan, and Saland. Ayes, 52. Nays, 5.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 514, by Senator Marcellino, Senate Print

5861A, an act to amend the Environmental Conservation 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 948, by Senator Kuhl, Senate Print 5178, an act to amend the Vehicle and Traffic Law, in relation to special hauling permits.

SENATOR LIZ KRUEGER: Explanation, please.

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

SENATOR KUHL: Thank you, Madam President.

This is a bill that would exclude municipalities from being required to have permits for overload vehicles.

SENATOR LIZ KRUEGER: Madam

President, if, through you, the sponsor would yield.

THE PRESIDENT: Senator Kuhl, will you yield for a question?

SENATOR KUHL: I'd be happy to.

THE PRESIDENT: You may proceed, Senator, with a question.

SENATOR LIZ KRUEGER: Somehow I was waiting for a longer punch line. It threw me off.

Through you, Madam President. Are we talking about increasing the size of trucks that will be on our roads or the number of this-size trucks on our roads?

SENATOR KUHL: The basic emphasis of this is to increase the number of trucks that will actually be allowed to operate on the roads under overload permits.

Municipalities currently, I believe -- the number is something like 7,000 to 8,000 of the -- I think it's roughly 25,000 permits that are offered every year. And what that does is it restricts the other people who might want to travel interstate or intrastate commerce who are private sector from actually

getting those permits.

And so that's one of the genesis. There is a provision for the enlargement of the permit up to -- I believe it's 117,000 pounds, with the understanding that there's a seventh axle that's being provided which is supposed to even the load across the road so that it doesn't create any damage to the road system as such.

There's a fee that's attached to this as part of that which would generate some additional revenue under that provision. Obviously, if the municipalities are excluded from having to make that application, then they are giving, if you will, a tax break to the municipalities.

But obviously, on the other end of that, you have private-sector people coming in who will fulfill that new void, if you will, for additional permits. So that portion of the bill is revenue-neutral.

SENATOR LIZ KRUEGER: Thank you.

Madam President, if the sponsor will continue to yield, please.

THE PRESIDENT: Senator Kuhl,

will you yield for a question?

SENATOR KUHL: Yes, I will, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

Does this bill allow municipalities to exempt themselves from this law and prevent these greater numbers of larger trucks from driving through their municipalities? Or if the state passed this law, would they be required to allow these vehicles down their roads?

SENATOR KUHL: I think if your question, Senator, is is this going to allow municipalities to essentially operate without any restrictions or requirements, the answer is no.

They're still bound by the overall weight limits. They just don't have to get an overload or overweight permit per se.

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

THE PRESIDENT: Senator Kuhl,

will you yield for another question?

SENATOR KUHL: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

No, my question, I think, was too vaguely spoken, since that wasn't the question.

The question is, if I am the City of New York, even if the State of New York passes this law, can I still say no, 17,000-pound trucks cannot come down my roads, they're too heavy for my roads, even though New York State is now recognizing and allowing these larger vehicles on state roads?

SENATOR KUHL: You as a person, Senator, representing the City of New York shouldn't have any concern whatsoever, because the visible load permit system does not apply to the City of New York as it currently exists.

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

THE PRESIDENT: Senator Kuhl,

will you yield for another question?

SENATOR KUHL: Yes.

THE PRESIDENT: You may proceed with a question.

SENATOR LIZ KRUEGER: Thank you. The Senator is so knowledgeable about transportation law.

If I was representing the City of Troy, would it apply to me? Or is only New York City excluded?

SENATOR KUHL: Well, if you were traveling in the city of Troy on a state highway, yes, you would have to make an application, generally speaking, for an overload weight permit.

But what this does is now, being a municipality, if you are reaching out and currently getting those overload permits, you would be excluded from having that obligation now in the future, after the Assembly passes the bill and the Governor signs it into law.

SENATOR LIZ KRUEGER: Thank you.

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

THE PRESIDENT: Senator Kuhl,

will you yield for a question?

SENATOR KUHL: Yes, I'd be happy to, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

In the memo attached to the bill, it talked about the need to do this so that American trucking companies could compete with Canadian companies. If it's product being moved from Point A to Point B in the U.S. versus Canada, where's the competition there?

I mean, are -- is American product driving up to Canada, driving across Canada, changing trucks and coming back? I'm a little confused on that.

SENATOR KUHL: No, the problem is, Senator, quite frankly, is that in this country we seem to be more restrictive than in some neighboring countries.

So that what you have is a truck that has to comply with the weight permits has to kind of underload itself and then go to the border, which the weight limits then essentially change, and so that they could

then carry more product in Canada.

So what you're finding is that the Canadian trucking industry has a greater capacity to move product than we do here in this country. So if you're going to compete against them in their own country, then you limit our trucks to having a lower, if you will, load to carry, which then gets to be more costly.

That's the reason.

SENATOR LIZ KRUEGER: Thank you.

Madam President, briefly on the bill.

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

SENATOR LIZ KRUEGER: Thank you.

I'm going to bow to the greater knowledge of Senator Kuhl about trucking and transportation than I have.

I will say that I think that the record shows that the larger the trucks, the greater damage we're doing to roads, the greater risk there is in accidents.

And that, frankly, our goal should be to be expanding our rail system to move

heavy leads of products from location to location, and we should be working to decrease our reliance on trucks for long-distance hauling and large quantities of hauling.

So in my heart I believe that this isn't the direction we should go. We should be going towards more rail traffic for moving product, not bigger and bigger trucks.

But at the same time, I don't have the expertise to make enough of an argument to myself to vote against the bill. So thank you, and thank you, Senator Kuhl, for the explanation.

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

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 4. 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.

Senator Skelos.

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

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

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1173, by Senator Seward, Senate Print 1447A, an act to amend the Insurance Law --

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR SEWARD: Certainly, Madam President.

This legislation would create the New York Health Benefit and Cost Commission, which would be made up of 13 members, with appointments by the Governor, the Majority Leader of the Senate, the Speaker of the Assembly. And I might add the Minority

Leaders in each house as well would have appointments to this commission.

What this group would do is, upon the request of the Governor or legislative leaders, the commission would review and issue a report on any proposed new legislation that would mandate a particular health benefit to insurance policies in New York or do an analysis of existing health benefit mandates that are currently in law.

Now, the commission would have public hearings and gather information and provide both the Governor, the legislative members, and the general public with some good, sound data regarding such issues as the cost of health mandates, utilization rates, the access to health care and health benefits, anything to do with the proposed or existing health benefit mandates.

SENATOR LIZ KRUEGER: Thank you, Madam President.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. If the sponsor would please yield for one question.

THE PRESIDENT: Senator Seward, one question. Will you yield?

SENATOR SEWARD: Certainly. For one question, Madam President.

THE PRESIDENT: You may proceed with a question, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

Senator Seward, I appreciate your explanation. I couldn't agree with you more about how important it is for us to be evaluating our health insurance programs and the cost.

So my question is, why doesn't this bill include in it or why don't we also bring to the floor a bill by Senator Balboni, S3757A, which would amend the Insurance Law to require review of health plan rates, increase applications and to repeal certain provisions of the law?

This was a law. We let it sunset. We are now not requiring health insurance companies to go to the Department of Insurance to have ongoing reviews for any rate increase per year.

It's a bill that worked when we had

it in law. It grew out of issues that took place before 1996. The law went into effect -- it's now been sunsetted for, just double-checking, I think since 2000. Or a little after 2000. Excuse me if I have my dates wrong. It's been reintroduced since the 2001-2002 session.

And it just seems to me, based on what you were describing your bill to be, this is exactly the type of bill we should also be passing in the Senator or incorporating into your bill. So I'm wondering why we don't do this one also.

SENATOR SEWARD: Well, Madam President, the legislation before us has to do with health insurance mandates, either proposed or existing mandates.

Senator Krueger is addressing a separate issue, which obviously we continue to review. I would best answer the Senator, Madam President, by simply saying that's a discussion for another day, which we're welcome to have, concerning Senator Balboni's legislation. This particular -- and your input is appreciated on that issue.

SENATOR LIZ KRUEGER: Thank you.

SENATOR SEWARD: This particular legislation is quite a bit different because of the fact that we do need, I believe, as a legislature, as policymakers to have before us good, sound data regarding the true costs and benefits of the various proposed and existing health insurance mandates.

This legislation before us I think is very worthy on its own. The other legislation that the Senator discusses I think is a discussion for another day.

SENATOR LIZ KRUEGER: Thank you.

Madam President, briefly on the bill.

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

SENATOR LIZ KRUEGER: Thank you. I respect Senator Seward's response.

I do think the two are extraordinarily germane. And the bill he's putting before us today, it's saying before we expand mandates in health insurance there should be a public review, there should be a commission, there should be discussion of the

costs and the benefits and the pluses and minuses for the State of New York.

I think actually in Senator Balboni's bill -- which requires, on the other side, insurers to come to the commission on insurance to have public hearings, to hear the debate of the realistic, or lack thereof, arguments for these types of rate hikes -- that it's the same argument, whether we're looking at what will health insurance cover or what will health insurance cost from both the consumer perspective and the industry perspective.

So I did purposely want to take the moment to highlight for my colleagues that this is an important bill, a bill that we should pass through this house that is, I think, directly germane to the arguments that Senator Seward makes in his current bill.

I believe we owe it to the people of New York to have both a public and a transparent process for making decisions about what kinds of coverage we're going to mandate in health care insurance in the State of New York, and to also have an equally open,

transparent, and public process for making determinations of how much those rate costs can go up by any specific insurance company in any given year.

So I am glad to hear that Senator Seward believes this is a topic for another day. I hope that day will be soon.

Thank you, Madam President.

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

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

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

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

THE PRESIDENT: Yes, there is, Senator.

Senator Libous.

SENATOR LIBOUS: Madam President, on behalf of Senator Padavan, on page 65 I offer the following amendments to Calendar Number 1478, Senate Print Number 7231, and ask that said bill retain its place on the Third Reading Calendar.

On behalf of Senator Hannon, on page 49 I offer the following amendments to Calendar Number 1202, Senate Print Number 7058, and ask that said bill retain its place on the Third Reading Calendar.

And on behalf of Senator Kuhl, on page 21 I offer the following amendments to 633, Senate Print Number 6073, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Volker.

SENATOR VOLKER: Madam President, if we can stand at ease momentarily.

We're waiting for the copy of the Rules report and a couple of other things, and

then we're going to do the extender in a little while.

THE PRESIDENT: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 4:08 p.m.)

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

ACTING PRESIDENT BONACIC: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there's a report of Finance Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT BONACIC: Reports of standing committees.

The Secretary will read, please.

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

As a member of the Workers' Compensation Board, Frances M. Libous, of Binghamton.

ACTING PRESIDENT BONACIC:

Senator Libous.

SENATOR LIBOUS: Mr. President, could I request permission to abstain from voting on this nominee, please.

ACTING PRESIDENT BONACIC: Without objection, Senator Libous will be excused from voting on this appointment.

All in favor of the confirmation of Frances M. Libous for member of the Workers' Compensation Board, please say aye.

(Response of "Aye.")

ACTING PRESIDENT BONACIC: Any opposed?

(No response.)

ACTING PRESIDENT BONACIC: Carried.

Frances M. Libous is now a member of the Workers' Compensation Board.

(Applause.)

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: As a member of the Ogdensburg Bridge and Port Authority, Frederick J. Carter, of Ogdensburg.

As a member of the Small Business

Advisory Board, David K. Wilcox, of Holland Patent.

As a member of the Empire State Plaza Art Commission, Barbara W. Thuesen, of Ithaca.

As a member of the board of directors of the New York Convention Center Operating Corporation, Mary A. D'Elia, of New York City.

As a member of the Council on Human Blood and Transfusion Services, Robert A. Dracker, M.D., of Liverpool.

As members of the State Hospital Review and Planning Council, Michael A. Berman, M.D., of New York City; Renee Garrick, M.D., of Bedford; Richard H. Ketcham, of Fredonia; and Marc I. Korn, of East Amherst.

And as a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at Montrose, William M. Laufenberg, of Congers.

SENATOR MORAHAN: Mr. President.

ACTING PRESIDENT BONACIC: Senator Morahan.

SENATOR MORAHAN: Yes, Mr.

President, it's my pleasure to vote for this wonderful nomination of Bill Laufenberg from Rockland County.

Bill enlisted on his 18th birthday in the U.S. Navy in 1942, four months after the Pearl Harbor attack. Bill served in Europe, Africa, the Middle East, as well as assignments in the Asiatic, Pacific, and Korea war zones.

He received commendations for participating in Operation Greenhouse, the atomic testing in 1951, and he retired in 1963 as a master chief petty officer.

He went on to receive a B.S. degree and a master's degree in history from the University of Rochester. He taught American history in secondary schools, served as the district supervisor of social studies in the South Orangetown Central School District, and went on to serve as a department chair in the Ramapo Indian Hills School District.

He has had 27 years' experience as an educator. He currently serves in many civic volunteer posts and is an active member of the American Legion, Korean War Veterans,

and a life member of the Veterans of Foreign Wars.

It is my pleasure to vote for this nominee.

Thank you, Mr. President.

ACTING PRESIDENT BONACIC: Thank you, Senator Morahan.

Senator Johnson.

SENATOR JOHNSON: Move the nominations, Mr. President.

ACTING PRESIDENT BONACIC: All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BONACIC: Opposed, nay.

(No response.)

ACTING PRESIDENT BONACIC: The appointments are carried.

The Secretary will read.

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

Senate Print 7473, by the Senate Committee on Rules, an act making appropriations for the support of government.

ACTING PRESIDENT BONACIC: Without objection, the bill is reported to third reading.

Senator Skelos.

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

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 50, by Senator Padavan, an act to amend the County Law;

1897, by Senator Seward, an act to amend the Tax Law;

1928A, by Senator Saland, an act to amend the Criminal Procedure Law;

3580, by Senator Flanagan, an act to amend the Real Property Law;

4086A, by Senator Meier, an act to amend the Real Property Tax Law;

5394B, by Senator Paterson, an act to establish;

5501A, by Senator Libous, an act to

amend the Civil Practice Law and Rules;

5526B, by Senator Larkin, an act to amend the Real Property Tax Law;

5728A, by Senator Wright, an act to amend the Public Service Law;

5889, by Senator Kuhl, an act to amend the Education Law;

6511, by Senator Hannon, an act to amend the New York State Medical Care Facilities Finance Agency Act;

6735, by Senator Kuhl, an act to amend the Public Authorities Law;

6741B, by Senator Rath, an act to amend the Social Services Law;

6871, by Senator LaValle, an act to amend the Environmental Conservation Law;

6892, by Senator Hannon, an act to amend the Vehicle and Traffic Law;

7244, by Senator Wright, an act to amend the Environmental Conservation Law;

7350, by Senator Hoffmann, an act to amend the General Municipal Law;

7360A, by Senator DeFrancisco, an act to amend the Executive Law;

7366, by Senator Skelos, an act to

amend the Education Law;

7401, by Senator Seward, an act to amend the Volunteer Ambulance Workers' Benefit Law;

7408, by Senator Saland, an act to amend the County Law;

7412, by Senator Little, an act to amend the General Municipal Law;

7418, by Senator Meier, an act to amend the Town Law;

7442, by Senator Balboni, an act to amend the Criminal Procedure Law;

7444, by Senator Padavan, an act to amend the General City Law;

And Senate Print 7448, by Senator Morahan, an act to amend Chapter 256 of the Laws of 2003.

All bills ordered direct to third reading.

SENATOR SKELOS: Move to accept the report of the Rules Committee, Mr. President.

ACTING PRESIDENT BONACIC: All in favor of accepting the report of the Rules Committee say aye.

(Response of "Aye.")

ACTING PRESIDENT BONACIC: Opposed, nay.

(No response.)

ACTING PRESIDENT BONACIC: The report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 1507.

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: Calendar Number 1507, by the Senate Committee on Rules, Senate Print 7473, an act making appropriations for the support of government.

ACTING PRESIDENT BONACIC: Senator Skelos.

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

ACTING PRESIDENT BONACIC: Yes, there is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT BONACIC: All in favor of accepting the message of necessity

and appropriation signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BONACIC: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT BONACIC: The message is accepted.

The Secretary will read.

THE SECRETARY: Section 26. This act shall take effect immediately.

ACTING PRESIDENT BONACIC: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I believe there's an amendment at the desk. I would waive its reading and ask to be heard on the amendment.

ACTING PRESIDENT BONACIC: The reading is waived.

Senator Schneiderman, on the amendment.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

This is an amendment to honor a commitment that we made to the City of

New York, to the taxpayers and voters of the City of New York last year.

In the 2003-2004 state budget, which we passed overriding the vetoes of the Governor, we were supposing to be addressing and attempted to address a fiscal crisis in New York City. As everyone here knows, after September 11th there was a devastating economic as well as social and psychological impact on the City of New York.

We didn't do much for the City of New York in last year's budget, in fact. We didn't really honor a lot of the commitments that were made during the emotional days following September 11th.

We did not reinstate the annual $114 million payment to the city that was paid for decades to compensate for the elimination of the stock transfer tax and that we killed a month after the September 11th catastrophe. We didn't equalize education aid and are now facing stalled budget negotiations because of that. We didn't do anything to equalize transit aid or deal with Medicaid costs.

The only two things we did in last

year's budget for New York City were that we provided the authority for the city to tax its own residents at higher rates, which the city did -- we raised sales taxes and property taxes -- and we committed ourselves to a payment of $170 million a year for 30 years so that the city could refinance its MAC debt.

Now, the MAC debt, from the Municipal Assistance Corporation, is around from the 1970s; $2.5 billion is left over. And by our commitment, we would save the City of New York $500 million a year.

What has happened since we passed that legislation and overrode the Governor's veto last year I think is almost a study in passive resistance by the Executive branch. The Local Government Assistance Corporation, which the Governor controls two out of the three appointees, refused to make the payments and sought a declaratory judgment that they didn't have to make the payments that are the one thing we did for New York City last year to help with its fiscal crisis, the commitment of $170 million a year for refinancing the MAC debt. They sued to try and stop us from even

doing that.

On May 13, 2004, the Court of Appeals of the State of New York declared the MAC Financing Act constitutional, legal and proper, and we were able to go forward.

New York City is planning to sell about $1.5 billion of its old debt by June 15th, and an additional $1 billion in July, just implementing the program that we committed ourselves to last year. These sales cannot proceed without a state appropriation of the $170 million for this year and budget language clarifying the terms of the restructuring. We haven't done either of those.

So this amendment, very simply, adds the appropriation of $170 million that we committed ourselves to, that the Governor has been fighting tooth and nail to stop, and that we owe to the people of the City of New York.

Quite frankly, if we pass this budget extender without adding the $170 million, we are acquiescing in the Governor's ongoing refusal to provide this much-needed assistance to the City of

New York.

Now, we had a discussion last week about the relative burdens borne by the city and other parts of the state. I made the point that all of the studies of the budget that I'm aware of indicate that the citizens of the City of New York, the taxpayers, pay out about $3.5 billion more than they receive back in services and funds from the State of New York. So the city subsidizes the rest of the state.

During its fiscal crisis, the one thing we committed to do was to provide this $170 million. I think we should pass this amendment and we should put the Governor in the position of having to publicly acknowledge what he's doing behind the scenes, which is trying to kill a piece of legislation he didn't like last year which we passed, which he tried to block in court.

The City of New York needs this money. They're not going to be able to sell their bonds. The price of the bonds is not going to be as good. We've already cost millions of dollars just by the delay and the

insecurity in the markets created by the resistance of the Executive branch.

So I would urge my colleagues to support this amendment. Let's fulfill our commitment to the City of New York. Let's enable them to refinance their MAC debt. Time is running out. And as with the money for summer jobs we addressed last week, we will not get an opportunity to do this again.

So this amendment would simply fulfill our commitment, add a $170 million appropriation to the city so that they can refinance the MAC debt. And I would urge that everyone support the amendment so that we can allow the city to get on with these badly needed bond sales in a timely manner.

Thank you, Mr. President.

ACTING PRESIDENT BONACIC: Thank you, Senator Schneiderman.

Does any other Senator wish to be heard?

Those Senators in agreement with the amendment please signify by raising your hands.

THE SECRETARY: Those recorded in

agreement with the amendment are Senators Breslin, Duane, Gonzalez, L. Krueger, C. Kruger, Lachman, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Sampson, Schneiderman, A. Smith, M. Smith, Stachowski, and Stavisky.

ACTING PRESIDENT BONACIC: The amendment is lost.

Please read the last section.

THE SECRETARY: Section 26. This act shall take effect immediately.

ACTING PRESIDENT BONACIC: Senator Schneiderman.

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

ACTING PRESIDENT BONACIC: On the bill, Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

This is our 11th -- this is our 10th budget extender. We have now modified the constitutional structure of the State of New York. We now govern the State of New York with one-week budget extenders. It is an unusual process that has never been tried before in any other state, but it's something

that we're stuck with.

Because we are now governing the State of New York with one-week budget extenders, it is incumbent on us to make sure that in those budget extenders we address all of the issues we're supposed to be addressing as a legislature.

This extender does not address many issues that are on our desks, many issues that concern our constituents. I think some of my colleagues may speak about the fact that this extender fails to move forward to implement an important cost-saving program that would enable senior citizens to obtain discount cards.

We authorized the state to choose a Medicare prescription drug discount card provider, and it as of June 1st hasn't been done. This costs New York City taxpayers $83,000 every day. We haven't addressed that in this extender. So we shouldn't be voting for extenders that don't address these bills.

This extender does not enact any of the Medicaid reforms proposed by either the majority or the minority. We are costing

local governments millions of dollars a day. This extender does not redress the imbalances in our state's school funding formula. It doesn't even have any provisional step towards resolving that critical issue.

So I would request my colleagues that if you think about what we're really doing here this year, which is running the state on one-week extenders, we have to do a better job of forcing the Governor, if he's the obstacle, or the Assembly, if they're the obstacle, or moving our own house forward to address these issues, because this is not moving forward at the kind of pace that gives me any assurance that we're going to be able to undo the harm we're doing. Every day we're costing the taxpayers millions. Every day we're costing local governments millions.

I'm going to vote no on this extender, as I have in the past. And I would once again urge my colleagues we cannot continue to operate this way. If we're going to run the state on one-week extenders, let's deal with these issues in the extenders or let's stay here till we pass a budget. I vote

no, and I urge everyone to vote no.

Thank you, Mr. President.

ACTING PRESIDENT BONACIC: Anyone else wishing to speak on the bill?

Read the last section.

THE SECRETARY: Section 26. This act shall take effect immediately.

ACTING PRESIDENT BONACIC: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1507 are Senators Breslin, Duane, L. Krueger, Lachman, Onorato, Parker, Paterson, Sabini, Schneiderman, A. Smith, and Stavisky. Also Senator Montgomery. Ayes, 47. Nays, 12.

ACTING PRESIDENT BONACIC: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT BONACIC: Yes, we have a motion, Senator.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you,

Mr. President.

On behalf of Senator Kuhl, I wish to call up Calendar Number 1321, Assembly Print Number 10052.

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: Calendar Number 1321, by Member of the Assembly DiNapoli, Assembly Print Number 10052, an act to amend the Environmental Conservation Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the Assembly bill was substituted for Senate Print Number 6878 on 6/7.

ACTING PRESIDENT BONACIC: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

SENATOR FUSCHILLO: I now move that Assembly Bill Number 10052 be recommitted to the Committee on Rules and the Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT BONACIC: So

ordered.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT BONACIC: The amendments are received.

SENATOR FUSCHILLO: Thank you.

ACTING PRESIDENT BONACIC: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

There being no further business to come before the Senate, I move we stand adjourned until Tuesday, June 15th, at 3:00 p.m.

ACTING PRESIDENT BONACIC: On motion, the Senate stands adjourned until Tuesday, June 15th, at 3:00 p.m.

(Whereupon, at 4:36 p.m., the Senate adjourned.)