NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 22, 2004

10:03 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT McGEE: The Senate will 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.)

ACTING PRESIDENT McGEE: In the absence of clergy, may we bow our heads in a moment of silence.

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

ACTING PRESIDENT McGEE: Reading of the Journal.

THE SECRETARY: In Senate, Monday, June 21, the Senate met pursuant to adjournment. The Journal of Sunday, June 20, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT McGEE: 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.

Senator Bruno.

SENATOR BRUNO: Madam President, forgive the interruption.

We need the Sergeant-at-Arms to ring the bells, call the members' offices and get members here to the chamber.

It is four minutes after 10:00, and we're starting the session at 10:00, and we have important work to get done today. So we would appreciate the members getting here and doing their job.

ACTING PRESIDENT McGEE: The Sergeant-at-Arms will ring the bells and bring the members to the chambers.

Motions and resolutions.

Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

I'd like to offer the following. On page number 47, I offer the following

amendments to Calendar Number 1746, Senate Print Number 7399A, and ask that said bill retain its place on the Third Reading Calendar, on behalf of Senator Marcellino.

In addition, on behalf of Senator Rath, on page number 48 I offer the following amendments to Calendar Number 1754, Senate Print Number 7523, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR BONACIC: Thank you, Madam President.

ACTING PRESIDENT McGEE: Thank you, Senator Bonacic.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time have the noncontroversial reading of the calendar.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number

162, by Senator Wright, Senate Print 4932A, an act to amend the Energy Law, in relation to enacting.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 60th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 288, by Senator Larkin, Senate Print 1966A, an act to amend the Environmental Conservation Law, in relation to solid-waste landfills.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 289, by Senator Volker, Senate Print 2326D, an act to amend the Environmental Conservation Law, in relation to allowing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 333, by Senator Marchi, Senate Print 3299B, an act to amend the General Municipal Law, in relation to certain disabilities incurred.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 354, by Member of the Assembly Carrozza, Assembly Print Number 6927, an act to amend the Civil Service Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 456, by Senator Little, Senate Print 5869B, an act to authorize the County of Washington to discontinue use.

ACTING PRESIDENT McGEE: There is

a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 529, by the Assembly Committee on Rules, Assembly Print Number 9198C, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 532, by Senator McGee, Senate Print 6162, an act to amend the Tax Law, in relation to authorizing the County of Allegany.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 579, by Senator Marcellino, Senate Print 6116A, an act to authorize the incorporated Village of Muttontown.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 650, by Senator Larkin, Senate Print 6229A, an act to amend the Real Property Tax Law, in relation to expedited.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 675, by the Assembly Committee on Rules, Assembly Print Number 10810A, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 677, by Senator Bonacic, Senate Print 6777A, an act to amend the Private Housing Finance Law, in relation to farmworker housing.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 782, by Senator Alesi, Senate Print 471A, an act to amend the Executive Law, in relation to

certain notifications.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 800, by Member of the Assembly P. Rivera, Assembly Print Number 10237, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 821, by Senator Meier, Senate Print 6753, an act to amend the Domestic Relations Law and others, in relation to Tax Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 42. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 908, by Senator Padavan, Senate Print 2564D, an act to amend the Administrative Code of the City of New York, in relation to establishment.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 913, by Senator Golden, Senate Print 6974, an act to amend the Administrative Code of the City of New York, in relation to eligibility.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 918, by Senator Padavan, Senate Print 7163, an act to amend the Retirement and Social Security Law and the Administrative Code of the City of New York.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 978, by Senator Maltese, Senate Print 5885, an act authorizing the City of New York to reconvey its interest.

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

Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1011, by Senator Bonacic, Senate Print 4444, an act to amend the Alcoholic Beverage Control Law, in relation to Class A-I distiller's license.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1027, by Senator Rath, Senate Print 6640, an act to amend the Family Court Act, in relation to placement.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 90th day.

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1029, by Senator Rath, Senate Print 6713, an act to amend the Family Court Act and the Social Services Law --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1033, by Senator Saland, Senate Print 217A, an act to amend the Town Law, in relation to authorizing fire district boards.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1059, by Senator Maziarz, Senate Print 510C, an act to amend the Education Law, in relation to prohibiting.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1102, by the Assembly Committee on Rules, Assembly Print Number 7854, an act to amend the Public Health Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1162, by Member of the Assembly Gunther, Assembly Print Number 10165, an act authorizing the Town of Fallsburg to discontinue.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1195, by Senator Hannon, Senate Print 6483A, an act to amend the Public Health Law, in relation to conforming schedules.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 16. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1208, by Senator Leibell --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1216, by the Assembly Committee on Rules, Assembly Print Number 11591, an act to amend the Public Officers Law.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill

is laid aside.

THE SECRETARY: Calendar Number 1250, by Senator Spano, Senate Print 7188A, an act to amend the Vehicle and Traffic Law, in relation to local regulation.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1270, by Senator Maltese, Senate Print 2936A, an act to amend the Administrative Code of the City of New York, in relation to crediting.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1279, by Senator Golden, Senate Print 4186B, an act to amend the Administrative Code of the City of New York, in relation to loans.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1305, by Senator Rath, Senate Print 7000A, an act to amend the Social Services Law, in relation to establishing.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1337, by Senator Breslin, Senate Print 5358, an act authorizing Samaritan Shelters, Inc., in the County of Albany.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1344, by Senator Kuhl, Senate Print 6473A, an act authorizing the City of Corning to convey certain parklands.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1358, by Senator Rath, Senate Print 7013C, an act authorizing the Town of Tonawanda, Erie County.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1402, by Senator Flanagan, Senate Print 6950, an act to amend the Tax Law, in relation to exempting.

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

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of a sales tax quarterly period.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1476, by the Assembly Committee on Rules, Assembly Print Number 10902, an act to amend the County Law.

ACTING PRESIDENT McGEE: There is

a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1497, by Senator Marcellino, Senate Print 7331A, an act to amend Chapter 329 of the Laws of 1994.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1556, by the Assembly Committee on Rules, Assembly Print Number 10803B, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1570, by Senator Hannon, Senate Print 595A, an act to amend the Lien Law, in relation to requiring.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1583, by Senator Johnson, Senate Print 4422A, an act to amend the Vehicle and Traffic Law, in relation to Class D driver's licenses.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1607, by Senator Maltese, Senate Print 7459, an act to amend Chapter 535 of the Laws of 1945.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1632, by Senator Seward, Senate Print 5618D, an act to amend the Insurance Law, in relation to the use of credit information.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 170th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1690, by Senator Golden, Senate Print 7500, an

act to amend the Retirement and Social Security Law, in relation to providing.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1707, by Senator Wright --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1710, by Senator Libous, Senate Print 7613, an act to amend the Civil Practice Law and Rules and others, amending the Education Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 32. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1711, by Senator --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1713, by Senator --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1771, by the Senate Committee on Rules, Senate Print Number 7577, an act to amend the Executive Law.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes --

SENATOR KUHL: 1771? Can you lay that bill aside, please.

ACTING PRESIDENT McGEE: Withdraw the roll call and lay the bill aside.

The bill is laid aside.

THE SECRETARY: Calendar Number 1781, by Senator Skelos, Senate Print 7598, an act to amend the Criminal Procedure Law.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1783, by Senator --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1784, by Senator Saland, Senate Print 7602, an act to amend the Education Law.

ACTING PRESIDENT McGEE: Read the last section.

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

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1785, by the Senate Committee on Rules, Senate Print --

SENATOR BRUNO: Lay it aside temporarily.

ACTING PRESIDENT McGEE: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 1786, by Senator Robach, Senate Print 7611, an act to create a task force to study the feasibility.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 9. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number --

ACTING PRESIDENT McGEE: Can we please have some quiet so the Secretary can hear any lay-asides.

Thank you very much.

THE SECRETARY: Calendar Number 1787, by Senator Marcellino, Senate Print 7616, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1788, by the Senate Committee on Rules, Senate Print 76 --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1789, by Senator Marcellino, Senate Print 7620, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect October 1, 2004.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1790, by Senator Marcellino, Senate Print

7621, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1791, by Senator DeFrancisco, Senate Print 7624, an act to amend the General Business Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT McGEE: The bill

is passed.

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

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

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

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 5767, celebrating the life of Theresa Morahan Simmons and honoring her memory.

"WHEREAS, It is the custom of this Legislative Body to mourn the death of cherished citizens of the State of New York; today, we mourn the loss of Theresa Morahan Simmons, who distinguished herself not only in her profession, but as a caring, compassionate woman as well, a woman regarded by all she knew as a very special person; and

"WHEREAS, With deep regret, this

Legislative Body records the passing of Theresa Morahan Simmons on May 27, 2004, at age 28, noting the loss, with heartfelt sympathy, of a devoted wife, daughter, sister, aunt and niece, and a deeply dedicated teacher; and

"WHEREAS, Theresa Morahan Simmons of Highland Mills and formerly of New City, was born in Suffern, New York, on September 1, 1975, the youngest daughter of State Senator Thomas P. Morahan and his wife, Helen. The seventh daughter, she joined the family when her six sisters ranged in age from 11 to 21 and became the light of their lives, her father's joy and her mother's best friend; and

"WHEREAS, Theresa Morahan Simmons, the beloved wife of Steven Simmons, is a 1993 graduate of Clarkstown South High School. She earned a Bachelor of Science degree from the State University of New York College at Oneonta, where she met her husband, and a Master of Science degree from the Rockland Teachers' Center Institute of the New York Institute of Technology; and

"WHEREAS, As a first-grade teacher,

Theresa Morahan Simmons was devoted to and loved by her students and the faculty at Richard P. Connor Elementary School in Suffern, where she taught for seven years; and

"WHEREAS, Theresa Morahan Simmons was known at the school for her dedication, creativity and compassion for the the students she taught, as well as for her leadership and advocacy in the Ramapo Teachers Association; and

"WHEREAS, She was always kind and gentle with her students, helping them to never be fearful of trying something new or making a mistake. She planned interesting things for them, including a trip to a teddy bear hospital, and invited her whole class to come to the church for wedding in June 2001, not quite three years ago; and

"WHEREAS, Theresa Morahan Simmons had a special bond with the students she taught and enjoyed producing monthly performances with her children, including a fairy tale show, the Pilgrims' story at Thanksgiving, and her favorite, a Mother's Day show, during which the first-graders sang

songs and each student, and Theresa, gave their mother a flower under the arbor; and

"WHEREAS, Theresa Morahan Simmons shared her life and vitality with all those she met. She loved to laugh and to make others laugh. Her husband, Steven Simmons, and teaching were her loves, equal only to her family. She was a very special person and leaves a legacy of inspiration, love and laughter to all those whose lives she touched; and

"WHEREAS, Theresa Morahan Simmons is survived by her loving husband, Steven Simmons; her parents, Thomas and Helen Morahan of New City; six sisters and their husbands with whom she was also a favorite, Margaret and James Casola, Helen and William Travers, Maureen and Joseph Pehush, Joan and Joseph Silvestri, Nancy and Michael Shine, and Eileen and Charles Barker; her mother and father-in-law, Thomas and Sandra Simmons; brothers-in-law Mark and Ryan Simmons; and her godfather, Andrew Scarpulla; and

"WHEREAS, She is also survived by several nieces and nephews who would come to

her for advice, for stories, or to play: Samantha, Matthew and Allison Scarpulla; Lauren, Emily and Brittany Casola; Katie and Kerri Travers; Ryan and Kristin Pehush; Joseph, Casey and Amanda Silvestri; Kelly, Michael and the late Mary Margaret Shine; and Thomas and Christopher Barker; and

"WHEREAS, Theresa Morahan Simmons' life was a portrait of love, commitment and compassion. She truly made a difference in this world that will long be remembered by those she cherished and her spirit will endure as an inspiration to all who had the honor and privilege of knowing her; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to pay tribute to the memory of Theresa Morahan Simmons, to celebrate her life, and to honor her loving accomplishments; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to Theresa Morahan Simmons' husband, Steven Simmons, and to her parents, the Honorable Thomas P. and Helen Morahan, with the deepest

condolences of this Legislative Body."

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Thank you, Madam President, colleagues, Senator Morahan, Helen, all the sisters of Theresa that are here, Steve, Theresa's husband, faculty members, students, grandchildren -- 17 of them here. Helen and Tom can be very, very proud that they have a very beautiful family.

And today, Madam President, is the closing day, formally, of the Senate, and we're pausing in our deliberations on this very, very important day to honor the memory of a loved one of a Senate family member.

And Senator Larkin represents Steve and has represented Theresa and is the sponsor of this resolution, and he will have some words that will follow mine as a representative here of our Majority. And I know Senator Dave Paterson will have remarks, as he represents the Minority here in this chamber. And then we'll hear from Senator Morahan, Theresa's dad.

It's hard to express in words. We

heard the resolution which described a young life, 28 years on this earth, the youngest of seven ladies, six of them here. And Theresa was taken suddenly, tragically, just unexpectedly. And it's hard to comprehend the trauma and the hurt of the family. Words don't create comfort, not for Tom, not for Helen, not for her siblings, not for anyone that knew Theresa.

But you have to take comfort in her 28 years, in that, as we heard, teacher, highly respected by the young lives -- think about the hundreds, thousands of young lives that she touched where she was able to provide an inspiration; the faculty members that were her friends, that carry on her good work; her sisters; her mom; her husband, Steve; Tom -- Tom, you can only just remember how proud Theresa was that you're her dad, leader in the Legislature, leader in your community, leader in the Senate, how proud she was of you, her mom, her family, her husband, all of the good things that she did.

So while you mourn -- and you can't help but mourn such a tragic loss, such a

young, vivacious, dynamic life -- life goes on, and Theresa has left a legacy. She has a legacy that goes on.

And when you think about all of those happy moments growing up, and you think about all of the good things that will be represented by the people who go on with their lives whose lives she touched, with her parents, sisters, young people whose lives she touched, her friends -- she'll live on. Her spirit lives on. She lives on as an inspiration. And that's something that you'll always remember, always, that she made a contribution.

And I believe at the service something was said that life is not -- and I translate very loosely -- measured by the numbers of breaths that we take but by the moments that take your breath away.

Theresa had a lot of moments that were inspirational, that made a difference in people's lives. And those are the times that I know you and Helen and the family and friends and students will always remember.

So we express our condolences to

you, and we honor Theresa's memory here today.

ACTING PRESIDENT McGEE: Senator Larkin.

SENATOR LARKIN: Thank you, Madam President.

Tom, Helen, Theresa's sisters, Steve, the young ones -- the young ones are here to look and say, this was a special, special person. This was a person that they looked to. This was a person that energized them.

When I first heard about Theresa's passing, I was in Highland Mills and I talked to neighbors and they said: It can't be, it's impossible.

She was someone that people went to. Whether it was the community, whether it was seniors and the youngsters, they wanted to grab her time, because they knew she possessed that special quality.

Last week a friend of Tom's and mine said to me, "You know what? I've been reading the obituaries lately, Lark, and they've been taking men, men, men. I guess the good Lord looked around and said, I need a

peacemaker, I need someone loving, caring, someone who can extend themselves beyond the normal arguments of the day, and I need Theresa."

We weren't ready. Nobody was when that moment came. But as the Majority Leader said, when you talk about the moments and the breaths that she had here, you could never deny that she didn't make a positive image on everybody she met. Very clearly, we had a 28-year-old angel in our midst and was gone within a short breadth of time. We had somebody who related to everybody and wanted to be a partner with them.

One of the teachers that lives in Cornwall, where I do, and taught with her said when she used to take the young children and talk about special dates like Thanksgiving and Mother's Day, when she would get the flowers out, she really made an impression. That's an impression that those children will carry forever.

But just think, Tom and Helen, you were the block of granite that raised seven beautiful children. Unfortunately, one has

gone ahead. But that one will be looking at us and you every day, asking you "don't forget me."

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: I can't remember feeling greater anxiety or restlessness speaking on this floor than I do right now. And I was told once that when you're actually feeling that way, the best thing to do is to share it with the audience and maybe they will understand.

The only thing I can think of as I'm sitting here is the fact that when I was 11 years old, I was told by my parents that my brother had been in a car accident and was in a coma and was not expected to live. Strangely enough, he did live. And years later, a policeman was given an award for crossing the county line to save his life.

And about twenty years later, I was talking about the incident with the rest of the family; no one could remember the policeman's name, no one could remember the year that the incident occurred, nobody could

remember the day of the week that the incident occurred. I think I did because I thought that my brother had already passed on and that no one wanted to tell me yet.

You can forget things when they're near-tragedies, but we're amidst a family today who will never forget the day, the year, the time. And so to the Morahan family, the family of Theresa Morahan Simmons, to our beloved colleague Senator Tom Morahan, all of us very much feel the restlessness, the pain, the anxiety, the hurt that all of you feel.

And the interesting thing is that I never met Theresa Morahan Simmons. I know her father, and that's the best I can know her, through him. He has always been a very kind man. I have an interesting connection with him. He once worked for my father, who was Secretary of State of New York when the Senator worked there some years ago.

When he came here, he always been, although he came here 13 years after me, kind of an inspiration to me, fighting through his own struggles and his own health crises, and has given me some very good advice on many

occasions.

And so all I can think of is that famous poem by John Donne, "Death Be Not Proud." This is a day that although we try to understand what went on, we really can't. We give in to our heartfelt feelings and emotions. We can't really explain to ourselves why such a young, wonderful and dynamic person is taken away from us, why a tremendous first-grade teacher's students have to sit here trying to understand why they miss their teacher, who is up in heaven.

We try to rationalize life and really can't. And maybe that's a lesson that life is teaching us, that it really isn't in our purview to know that at this time, that maybe someday we'll understand and maybe someday those who love Theresa so much will be reunited with her and those of us who never met her will get the true spirit of her meaning that we see reflected in her family here today.

We take that message with us as we try to go through the rest of the events of today, which seem meaningless and almost inane

after losing so tragically a life that we did. But we go forward in that hope, in many ways, that hope will triumph over this experience, that our dreams will mean more than the reality of this terrible situation, and that our love will be stronger than death.

It's in that hope that we remember the terrible attack on our country in 2001 and all the people who lost their lives then, many of them running into a building as it was falling down. And we wonder why they did it.

And it makes me think of an essay written in the 17th century by the great Christian writer Abelard, who said that at times of human crisis we all recognize the oneness of our spirit, how we all really are a family.

And in the Christian religion, we're taught to love our neighbors as we would love ourselves. And yet at those moments that are so tragic and so painful that it's beyond description, we recognize that we're really just one family, that we are here today in heartfelt, mournful, lugubrious feeling over someone that many of us never met. But

through the people that we see here today, through the people like Senator Morahan we do know, we feel the experience as if it happened to us or a member of our families.

And so perhaps we'll take that Christian revelation written by Abelard in the 17th century and give it new meaning in a new millennium as we mourn Theresa and know that we should love our neighbors because they are ourselves.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

I rise on behalf of Steven, Theresa's husband; Helen, her mother; her sisters and her nieces and nephews who are here; members of the faculty from the school; her mother-in-law and father-in-law, Tom and Sandy Simmons, to say thank you for taking these few moments to help us grieve in a special way, in a special place.

I merely want to thank Senator Bruno for your very compassionate and kind

words; and to Senator Larkin, for introducing this resolution on behalf of Theresa, his constituent; and to Senator Paterson, on behalf of the Minority, for your very insightful and compassionate words. And they will be memorable.

This -- you know, Theresa was a very special child, but she wasn't perfect. In fact, it was just a little while ago she played hooky from school to come up here and be photographed up there with her dad. And she said, "Dad, you can't show that photograph to anybody." And I said, "I won't, Theresa. It will be our little secret."

But she was proud of me, proud of her sisters . . .

Thank you very much.

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

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The

resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, we're going to add everyone's name to that resolution that is here in the Senate. And thank you.

ACTING PRESIDENT McGEE: Everybody's name will be added to the resolution.

SENATOR BRUNO: Can we at this time stand at ease for a few moments.

ACTING PRESIDENT McGEE: The Senate will stand at ease for a few moments.

SENATOR BRUNO: Just a few moments.

(Whereupon, the Senate stood at ease at 10:47 a.m.)

(Whereupon, the Senate reconvened at 10:55 a.m.)

ACTING PRESIDENT McGEE: Senator Skelos.

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

ACTING PRESIDENT McGEE: Immediate meeting of the Judiciary Committee in the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

If we could return to motions and resolutions, I believe are some motions on the floor to be made at this time.

ACTING PRESIDENT McGEE: Senator Fuschillo.

SENATOR FUSCHILLO: Yes, Madam President, thank you.

On behalf of Senator Little, on page number 16 I offer the following amendments to Calendar Number 568, Senate Print Number 5533A, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR FUSCHILLO: Madam President, on behalf of Senator Kuhl, I wish to call up Senate Print Number 7421, recalled

from the Assembly, which is now at the desk.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1559, by Senator Kuhl, Senate Print 7421, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT McGEE: Senator Fuschillo.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT McGEE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT McGEE: The amendments are received.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Kuhl, I wish to call up Senate Print Number 6329, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT McGEE: The

Secretary will read.

THE SECRETARY: Calendar Number 1043, by Senator Kuhl, Senate Print 6329, an act to amend the Town Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT McGEE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT McGEE: The amendments are received.

Thank you, Senator Fuschillo.

SENATOR FUSCHILLO: Thank you.

ACTING PRESIDENT McGEE: Senator Skelos.

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

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number

1029, by Senator Rath, Senate Print 6713, an act to amend the Family Court Act and the Social Services Law.

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT McGEE: Senator Rath, an explanation has been requested by Senator Hassell-Thompson.

SENATOR RATH: Thank you, Madam President.

This bill was introduced at the request of the Office of Children and Family Services. And what the bill basically does is clarify time frames for filing an Article 10 petition where a child has been removed from the home temporarily.

And it mandates that a hearing be held within five court days of the removal, for court review of the necessity of removal, in every instance, not just when requested by the parents. So that if a child is removed, a hearing has to happen almost immediately.

And it also amends the law to preclude a court finding that reasonable efforts were not made where a social service

district uses both the planning, concurrent planning in its service provisions to a child and his or her family, with looking for the solution. If two solutions are going along together, it does not say that that's inappropriate; in other words, a permanent placement or return to their home.

So the bill is an effort by New York State to come into compliance with Title 4 requirements of timely resolution of a permanency proceeding.

And this was part of a larger bill we had with the Assembly, and the bill was not going through as a larger bill, so both they and we have been splitting it into smaller bills to get some of the important parts through. And this was important, that a child is not in limbo for any length of time, but the hearing happens immediately and the planning happens immediately.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, through you, Madam President, I would ask if Senator Rath would entertain a couple of

questions.

Senator, let me preface what I'm going to say by saying that I certainly am in support of the bill as I understand it. And the difficulty sometimes is when we don't have time to really review, there are some lingering questions.

SENATOR RATH: Sure.

SENATOR HASSELL-THOMPSON: So that's just the nature of what I wanted to ask.

One of which is certainly we want these determinations to be made expeditiously. But is there any provision in the bill that ensures that the -- that parents will in fact receive any form of legal assistance in helping to make the determination?

SENATOR RATH: Okay, let me double-check with counsel.

It's not mandated that they be given assistance. But if they're eligible, yes, they will be able to get assistance. It's not mandated.

SENATOR HASSELL-THOMPSON: Okay. And that's basically the only question. Let

me just make a couple of comments on the bill.

Madam President, on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR HASSELL-THOMPSON: Thank you.

Just -- the only concern that I have is that in an attempt to be expeditious, sometimes it does not allow parents to be able to seek and find appropriate legal services to help them with these kinds of cases. And that's the only nature of the concern.

It is beneficial on behalf of the child, and I think that that continues to have to be the overwhelming reason that we use -- in order to do this as quickly as possible. One of the worst things that happens to children is to be removed from the home. And so if we speed up that process, at least some determination can in fact be made in such a manner that it has the least trauma.

I just want to be sure, however, that parents are still being given an appropriate amount of time to prepare, in the event that separation becomes the ultimate

determination in these cases. And that was my only concern.

Thank you, Madam President.

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

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 1771.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1771, by the Senate Committee on Rules, Senate Print Number 7577, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Senator Kuhl.

SENATOR KUHL: Yes, Madam President to explain my vote.

THE PRESIDENT: Call the roll first, please.

(The Secretary called the roll.)

THE PRESIDENT: Senator Kuhl, to explain your vote.

SENATOR KUHL: The proposal before us calls for an extension of existing law. And while I understand that it's a tremendous balancing act as to when certain types of things take effect, I just want to state for the record that I have received communications from every municipality in my Senate district -- the City of Hornell, the City of Corning, and others -- in which the executives of those communities are voicing strong opposition to the adoption of this legislation.

So based on their particular input, I feel it necessary to honor their request and oppose this legislation. So I am going to be

voting no. Please record me in the negative.

THE PRESIDENT: You will be so recorded as voting in the negative on this bill.

The Secretary will announce the results.

Senator Hannon, to explain your vote first.

SENATOR HANNON: Yes, Madam President.

I would just say that municipalities now have options to do what's contained in this legislation. For us to mandate this upon them I believe is not the proper course, and therefore I feel constrained to vote in the negative on this bill.

Thank you.

THE PRESIDENT: Senator Rath, to explain your vote.

SENATOR RATH: Thank you, Madam President, to explain my vote.

I too will be recorded in the negative on this vote. And I note in other parts of our calendars we're doing what we can

to help historic preservation, and we're adding dollars and incentives -- not only we, but local governments.

And when it comes to smaller projects and preservation projects, the mandates that this bill puts on make it very difficult for small projects to happen, whether they be individual homes or whether they be, say, a grouping of small row houses that were held by one person.

There needs to be a flexibility there for the type of material that is used, and I think that the flexibility is important. And so I too will be in the negative.

THE PRESIDENT: Both Senator Hannon and Senator Rath will be recorded as voting in the negative on this bill.

Would the negatives please raise their hands.

THE SECRETARY: Those recorded in the negative on Calendar Number 1771 are Senators Balboni, Fuschillo, Hannon, Kuhl, Little, Marcellino, Meier, and Rath. Also Senator Skelos. Ayes, 41. Nays, 9.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1208, by Senator Leibell, Senate Print 2359A, an act to amend the Real Property Tax Law.

SENATOR HASSELL-THOMPSON: Explanation, please.

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

SENATOR LEIBELL: Thank you, Madam President.

This bill amends Section 532 of the Real Property Tax Law to subject all state lands in Putnam County to local real property taxation exclusive of improvements erected thereon, in the same manner as is currently done in Rockland County.

During the last several years, the state has acquired large numbers of acreage in this county for environmental protection, parks, watershed protection. Currently, each year, there has been in the Executive budget an allotment that has been put in to compensate the County of Putnam.

This legislation attempts to permanentize this PILOT into law in the same

manner as lands in neighboring Rockland County are adjusted for state taxation purposes.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, Madam President.

Thank you, Senator Leibell, for the explanation.

I just wanted to speak for my colleagues who also have extensive amounts of state parkland in their districts. And I remember an extensive discussion in Local Government with Senator Bonacic on the amount of state parkland that's in his district as well. Even though he's not in my district, I still speak for all of my colleagues sometimes.

My only question is why only Putnam. I think that the implications of this bill could benefit more than just Putnam County, and that was what I'd like to just put on the record.

Thank you.

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

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2007.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1216, by the Assembly Committee on Rules, Assembly Print Number --

SENATOR LIZ KRUEGER: Explanation.

THE PRESIDENT: First, Senator Duane wanted to be heard for a while now.

SENATOR DUANE: Thank you, Madam President. If I may have unanimous consent to be recorded in the negative on Calendar Numbers 289 and 1011.

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

Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: Madam President, this bill would permit a former employee of a state agency to return on a limited basis, contract basis, to render services to this agency which they only are capable of performing or performing at a comparable cost or saving to the state.

And the agencies need these people, and this bill has been drawn very tightly to say the Ethics Commission has to approve this rehire and the Comptroller has to approve this before it's done. Just to help the agencies to make use of the expertise which exists in former employees, and on a limited basis for a limited time.

THE PRESIDENT: Senator Krueger.

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

SENATOR JOHNSON: Yes, Madam President.

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

THE PRESIDENT: You may proceed.

SENATOR LIZ KRUEGER: Is there an

estimate of how many individuals or agencies would be involved in this type of exemption, how large a population of workers who had once worked recently for the State of New York would be participating in this new model?

SENATOR JOHNSON: Well, I don't know if I have a number, but I can tell you the Department of Social Services, the Department of Environmental Conservation, the Power Authority, the Office of Real Property all have been stymied in the past by an inability to bring back someone who is familiar with the topic for a certain period of time.

As you know, right now the Attorney General can bring back a lawyer who worked on a certain case and put him back on it because he's already familiar with it and he can do a much more effective job for that office.

So, yes, in certain limited cases the lack of this expertise has created problems for agencies. We want to eliminate that problem by bringing back people who can handle it on -- as I said, for a limited time for a certain purpose, mostly.

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

THE PRESIDENT: Senator Johnson, do you continue to yield?

SENATOR JOHNSON: Yes, Madam President.

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

SENATOR LIZ KRUEGER: Thank you, Madam President.

Is there a timeline on this -- in this bill so if I were to get this exemption it would be forever or for a specific project, a specific, explicit project with a timeline attached to that, or open-ended?

SENATOR JOHNSON: Madam President and Senator Krueger, the Ethics Commission is very zealous in pursuing violations of the so-called revolving-door regulation. They are only going to permit this -- and they are the ones who have to sign off on this and approve this, ultimately -- they are only going to permit it when a case is made very strongly that this is the most efficacious and

effective and perhaps economic way to resolve their shortage of personnel for that certain period or certain occasion.

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

THE PRESIDENT: Senator Johnson, do you continue to yield for a question?

SENATOR JOHNSON: Yes, Madam President.

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

SENATOR LIZ KRUEGER: Thank you, Madam President.

Could an ex-employee of the State of New York have a job or a consulting job with a company who may or may not do business or be hoping to do business with the State of New York but also, at the same time, through this law, be allowed to come in to consult for a state agency? Would this exclude that possibility in your law?

SENATOR JOHNSON: I would say that that would have to be revealed. They would know who he is, where he's working or

whether he's retired or whatever. And that would all be reviewed prior to engaging this person.

So I think if you don't want to credit the Ethics Commission with any ethics, then I think it could happen. But I think they've got their share of ethics, as everyone else.

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 very hesitant to change a law that I think is working. The Ethics in Government Act of 1987 was enacted very specifically for the purpose of limiting opportunities for abuse by state officials and employees, and to restore the public's trust and faith in government at a time when it was made clear that some in government were violating the public's trust.

I don't think that the year 2004 is an ideal year for the State of New York to go

back on its commitment, particularly given some of the stories and scandals we're familiar with right now in the news.

There's good public policy in ensuring that there is not a revolving-door system in place in New York State, that there is a strict set of rules in our Ethics Commission and in our ethics laws to ensure that we don't open up the risk of people being involved in corruption. Which in fact was the history, unfortunately, in this state prior to the Ethics in Government Act in 1987.

My concern specifically with this bill is it's way too broad. It doesn't put specific time limits for ex-employees to be able to become consultants to state agencies. It doesn't put explicit rules around for what purposes, at what time, with what agencies. It doesn't say explicitly you can't have one consulting job with a particular company or corporation or lobbying organization but then have a second job as a consultant to the State of New York, perhaps with the agency you recently were employed with.

It is too broad and expansive. And

I find it troubling that we would actually attempt to have this open-ended, non-time-limited opportunity to revisit the risks of revolving-door provisions.

I understand the problems of agencies occasionally needing to find a consultant who previously worked for their agency where there may be no one else with the expertise available. But to be honest, I think it serves the public interest best to make it a little tougher for agencies, to reach further to find the next person in line with the expertise rather than open themselves to the potential conflict of interest of rehiring, on a consultant basis, someone who so recently left government to go to work for the private sector.

I find it not too realistic to believe that there are that many situations in the State of New York where there's only one possible person out there who could be hired on a consultant basis for a state agency to get something done or to provide us the information we need. We all like to imagine that we are unique and invaluable and not

replaceable, but I believe that in real life that is rarely true.

And even though I do appreciate that Senator Johnson's effort here is to make it easier for some commissioners in various state agencies to get the information they need in the private sector, I think that the dangers and the risks are greater than the reward if we go down this road.

So I will vote against this bill, and I urge my colleagues to consider voting against this bill also.

Thank you, Madam President.

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

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1216 are Senators Duane, Hassell-Thompson, L. Krueger, Onorato, Paterson, Sabini, and Stavisky.

Ayes, 46. Nays, 7.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1684, by Senator Maziarz, Senate Print 7367A, an act to amend the Parks, Recreation and Historic Preservation Law.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, is there a message of necessity at the desk?

THE PRESIDENT: Yes, there is, Senator.

SENATOR SKELOS: Move to accept the message.

THE PRESIDENT: All those in favor of accepting the message of necessity please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The message of necessity is accepted.

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, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1707, by Senator Wright --

SENATOR HASSELL-THOMPSON: Explanation.

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

SENATOR WRIGHT: Thank you, Madam President.

The bill before us authorizes the New York State Power Authority to provide low-cost energy and energy efficiency services to military installations across New York State.

This is the same bill we debated a week ago, with two modifications. One, this version specifically identifies the various military installations throughout the state that would be eligible, and, secondly, specifically limits the use of this low-cost energy to United States Department of Defense

activities, as to be distinguished from housing installations at those same facilities.

Those were the amendments negotiated with the Assembly.

THE PRESIDENT: Senator Krueger.

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

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

SENATOR WRIGHT: I'd be glad to yield.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

You answered some of the questions in your presentation of why this bill is different than the one we discussed a week ago.

Since we now know the details of what bases and the nature of the energy, reduced-price energy on those bases, do we have an estimate of the cost to the Power Authority of providing this specific

discounted electricity for Defense Department purposes at these 11 bases?

SENATOR WRIGHT: Thank you, Madam President, through you.

No, we do not know the cost. As we articulated last week in debating this same bill, that is dependent upon the utilization, dependent upon the cost of the energy purchased at the particular time that it is purchased, none of which is available to us today.

What we do have is identification of the bases only. Not their utilization, not the demand or any of the cost relative to that, because there has been no granting of low-cost energy at this point in time, merely an authorization to the Power Authority to do so.

SENATOR LIZ KRUEGER: Thank you, Madam President. Briefly on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR LIZ KRUEGER: Thank you.

Thank you, Senator Wright, for your explanation.

I still find myself needing to vote no on this bill, as I voted no on the previous version of this bill a week ago.

We don't know how much this will cost the ratepayers of New York State. We do know it will cost the ratepayers, because if the New York State Power Authority is giving a discount to the Defense Department, they have to pick up that cost somewhere else.

And in fact, in a final analysis, if we knew the numbers, one might be able to make the argument that the economic development or job retention argument was a valid one.

But in the absence of the details, we find ourselves voting for a bill, if we choose to, that we know will potentially increase the rates paid by the other consumers of New York State so that the Department of Defense can have a reduction in their energy bills. And as I said a week ago and I think is just as true today, the fact of the matter is that the federal government continues to offer short shrift to the State of New York when it comes to fair funding.

I suppose ironically, in relationship to defense, we still find ourselves in a fight over the fact that homeland security and antiterrorism funds are being distributed in a way that if we lived in Wyoming, I believe we would receive $45 per person from the federal government, while if we live in New York City or the rest of the state of New York, we receive from the federal government peanuts for our own homeland security.

So with all due respect to the Department of Defense and the important role they play for our country's security and for our state's security, I don't know that the ratepayers of New York should be asked to pick up the tab for the Department of Defense to save some additional dollars when New York State is already subsidizing the federal government at a much higher level than most other states, including when it comes to national security and homeland security.

I'll continue to vote no on this bill. Thank you, Madam President.

THE PRESIDENT: Does any other

member wish to be heard on this bill?

Then the debate is closed.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays, 2. Senators Duane and L. Krueger recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1711, by Senator Hannon, Senate --

SENATOR HASSELL-THOMPSON: Explanation.

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

SENATOR HANNON: Thank you, Madam President.

This legislation implements many of the recommendations of the Senate Task Force on Medicaid Reform. I'll address the specifics of the report and the bill in a second. But I think it was more important to

note that this implements some fundamental changes in the direction of the program, and it reflects, I think, some success that we had here in the Senate -- and I say here in the Senate collectively, because it was a task force that embraced both the Majority and the Minority.

And the success was the fact that as we went around the state during 2003 and 2004, we engaged with the health-care providers, the health-care community, the health-care recipients of this state in something that turned out to be far broader than Medicaid, it turned out to be a question of discussing where the health-care system in the state is going, what philosophies should be involved in that progress.

And we were so successful that we then engaged, I believe, the Governor of this state, who has formed his own task force.

And the one failure we had is we were not able to engage the Assembly, which has been notably silent in regard to changes in regard to trying to bring the state-funded government programs into harmony with the

modern trends of health care in this nation.

This bill represents, really, agreement with the Governor on the provisions in here as to the directions we will be taking. And as such, I think it is an important step.

It would be most useful if we had the Assembly along with this, because obviously they're a necessary partner, but we've not been able to get them to agree on substance. And that has been, I think, one of my unfortunate experiences so far.

In regard to the specifics of this, Senator Meier, Senator Rath, Senator Wright, Senator Padavan, Senator Little have all had substantial input in regard to the specific provisions.

And at some point I'm going to yield the explanation so I can have Senator Meier, my cochair of the task force, participate in the explanation.

But basically what we do is we address the Family Health Plus program, we address the long-term care programs of this state in a number of ways, we address the

nursing home facilities of this state, we address Medicaid managed care, we address the preferred drug lists in Medicaid, we establish disease management programs, and we establish a prescription drug discount program.

It was interesting, as I opened my mail yesterday, that I had information from the NCSL in regard to their March publication. It was a reprint, and the title said "Medicaid: Ten fixes that work." And I noticed that in each of the top five were things we had addressed: reforming long-term care, focusing on the people who are the sickest, emphasizing prevention, reducing prescription drug costs.

These are the types of things we have tried to address. Because as we go forward as a state, we're going to face ever-increasing pressures in regard to health care. And we're going to face ever-increasing pressures on our localities, the counties who have to fund part of the Medicaid system.

Instead of trying to say we can cut, because that's not going to work, what we have to do is make our Medicaid system an

efficient delivery system, not just an efficient payment and billing system.

And so such things as disease management, where, instead of paying efficiently for a multitude of emergency room visits when someone shows up with asthma, with coronary heart disease, what we need to do is make sure that there are interventions before things become an emergency. To the extent we heard many times cases -- Coney Island, Schenectady -- where interventions could reduce to almost zero the emergency room visits.

It's that type of change in philosophy that we have to introduce throughout the entire system.

Senator Meier, I'm going to yield, with the permission of the chair, to explain some more about the bill, especially the provisions in regard to Family Health Plus.

THE PRESIDENT: Senator Meier.

Excuse me. Senator Skelos first.

SENATOR SKELOS: Madam President, if I could just interrupt for a moment, 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.

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

And I thank my cochair, Senator Hannon, and the members of the task force. And also Senator Bruno for the opportunity to really address, in depth, this program.

Reforming Medicaid is, as Mark Twain used to say about the weather, something that everybody talks about but nobody ever does anything about it. This year the Senate, both sides of this aisle, I think really resolved that we need to do something about it.

Medicaid now stands in our state budget as the second largest line item, just behind education, growing over the last three years at an average rate of 10.5 percent a year, threatening to overtake education, and threatening really, in the process, to sink our ability to adequately fund other things.

And at the local level, the county level, it's growing up at about 13 percent per year, posing the single largest fiscal challenge to the City of New York and to the 57 counties outside of it.

So we looked in a very systematic way, and this bill reflects some important elements of the report, at ways to reform that system. And in doing so, we tried to depart from some of the usual questions and answers that we had over and over again that really didn't seem to get us very far.

Family Health Plus has been one of the largest growth elements in this program. It has increased, since its full year of implementation, by some 650 percent. And within this bill before you today, we propose to give the counties and the City of New York real fiscal relief, phasing in, over a period of two years, a complete state takeover of the local share. That's some $125 million in fiscal relief in the first year, growing to over $250 million in the second year.

We propose to restructure Family Health Plus in some ways. One of the things

that we propose is to take a look at the menu of benefits available under Family Health Plus and to reform them so that they track the menu of benefits available under the Healthy New York program.

In addition, we institute an asset test, just as we would with Medicaid, which is not presently part of Family Health Plus. That leaves people with a more than adequate menu of medical benefits available to them, the same menu available under Healthy New York.

If you look at the cohort that we're dealing with within Family Health Plus, they tend to be younger people and people in relatively good health. Their care is provided for by purchasing a privately available insurance product that's done by the counties. The actuarial assumptions that arise from a complete menu of benefits, which are not used, drive the cost of those premiums significantly and contribute to this cost.

So we thought it made more sense to track the Healthy New York menu of benefits for the private insurance product. And where

catastrophic or other things occur, there are ways within the existing system to make sure those people receive adequate care.

Senator Hannon also talked about some other features where we try to assist people to get private capital into financing their own long-term care, through better long-term-care insurance, through tax credits, to encourage that through the development of other financial instruments to get private capital into the long-term-care system, such as the availability of reverse mortgages and other kinds of financial instruments.

If you look at this, what we have really tried to do is to look at systemic reforms in the Medicaid system that move two groups of people that have been really ignored in this debate for quite some time: patients, who many times get care under Medicaid in a very fragmented and kind of ad hoc way -- and that's why we look at things like disease management, for example -- and taxpayers, who really have been very much ignored in Medicaid in this state.

There ought to be a way to put some

humane and basic reform into this system that improves the delivery of health care, gives people at the patient end better health care, greater personal satisfaction, and at the same time gives the taxpayers both quality and a reasonable and prudent expenditure of their funds.

Either Senator Hannon and I could take whatever questions there are.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, thank you, Madam President.

First, let me start by saying that -- on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR HASSELL-THOMPSON: Thank you.

Let me first say that it has come to my attention that this is probably the first time that a Minority member has ever been asked to sit on this kind of task force. And so that I want to begin by commending Senator Bruno for his inclusion of Senator

Paterson in this very difficult and very important debate and discussion.

And then let me say that Senator Paterson and I are both going to vote for this bill. And I preface it by saying that Senator Paterson was a participant, so that no one will jump up and say, Well, he was a part of it.

Yes, he was a part of it, and in his participation, the concerns that I will address were things that he has addressed all along. So this is not something that comes after the fact. And that isn't for the members of the task force, because they know that. This is for the rest of the audience, who may not be aware.

Let me begin by saying that I'll talk about the things in this bill that we are pleased about. And certainly let me add my codicil by saying to you, Senator Meier, I consider you to be one of the most thorough individuals in these chambers. And so that there are very few times that I've taken exception to the things that you say, because I -- we've debated. And in those debates,

it's more than just -- there is passion, there's logic and there's research. And so I appreciate those.

At the same time, however, we need to continue to talk about the way in which this bill cancels the state takeover of Family Health Plus in terms of savings. There is not the perception of the savings that there appears to be in the bill. And we would prefer that the state would cap the local share of Medicaid. That's a concern. So this is just for the record.

The other thing that -- the creation of the disease management demonstration program, which has the potential to both reduce costs associated with chronic and life-threatening medical conditions and improves the health status, obviously, of all the people of New York State, is high on our list of things that we certainly recommend and are very pleased with.

Some consumer-friendly protections in the preferred drug program that were suggested by Senator Paterson that have been included, we're pleased with those. The

Medicaid waiver that will help to keep people at home instead of having to send them to more expensive nursing homes, we're pleased to see that this is also in the bill.

The concern, though, is that -- we have some strong opposition to the implementation of copay for Family Health Plus. One of the things that tends to happen -- and when we look at many of the statistics about the way in which health issues are dealt with in communities, culturally we have those issues to deal with.

But when we're talking about how do we get people to come in early for preventive care so that the cost to us is much less expensive, we will be deterring people by increasing the copay. Copays in and of themselves don't appear, to those of us who have resources, to be a great deal. But to people who have very limited resources, each time we increase the copay, we are discouraging people from coming in to receive the health benefits that they need.

In attending a senior workshop on the Medicaid bill some weeks ago, part of the

concerns that were raised by seniors was the fact that the copay was very, very expensive. Now, I know with the discount cards -- and if we ever get the federal Medicaid regulations straightened out, some of that will be diminished.

But I think that we're doing ourselves -- and the people that we're trying to get to come in for early care, the copay is going to have the opposite impact.

You talked about the kinds of modifications to the Family Health Plus that you think are good. We just kind of think we like it the way it is. And be careful how you tinker with it. That's just a -- because we know that it has increased by 650 percent. But we believe unless you have statistics that say differently, that that 650 percent increase speaks to the numbers of people in this state would do not have any other health services.

And I would venture to believe that if we did a strong outreach and a recruitment, we would almost double that percentage. Because we still have people, families who are

not receiving the kind of health care that they need to because they don't know about the availability of some of these benefits.

And we'd like to see -- this one is a little bit more technical -- we'd like to see a specific time frame for those prescribed drugs to be approved when a person gets a prescription that may not be on the preferred list.

Lipitor, which seems to be a very, very necessary and popular drug for those of us as we've aged -- all those years of Ben & Jerry's and some other things have risen our cholesterol. But it's interesting that those are not the drugs that are on the preferred list. And so while people wait for the approvals, the timeline is too iffy.

Those are some of the more prevailing things. Other sections of the bill require prior approval to be granted in 24 hours. We would recommend that this time frame also be utilized in this instance as well.

I know that there will be other members of this conference who will be talking

on this. But I needed to just share with you some of the ideas and concerns that continue to be relevant to those of us in this conference, and to again thank you, on behalf of Senator Paterson and this conference, for your inclusion of him, not only in the task force, but also his ideas and concepts to make this Medicaid bill better in the state of New York.

THE PRESIDENT: Senator Rath.

SENATOR RATH: Madam President, on the bill.

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

SENATOR RATH: I will attempt to be brief.

I think a sense of history has pervaded this session different than many other sessions. Senator Marchi, you were here when -- I'm about to recall something that you will say, yes, you were. Governor Rockefeller was the governor, Walter Mahoney was the majority leader here in the Senate, and my father-in-law, Ed Rath, was the county executive of Erie County. He came to Albany

to testify against Medicaid, the passage of Medicaid. He was opposed to it. He said, "It is going to bankrupt the counties." Now, Dad wasn't a wizard in everything, but this one he had right.

And today we are taking a historic step in an effort to get it right. Many of us were in county legislatures through the years. How many resolutions did we pass on welfare and Medicaid reform -- how many? How long did it take the federal government to figure out that they had to do something about helping us with welfare reform? No one talks about that anymore. It's done. It's manageable.

This one is about to become manageable, after 35 years of trying to tinker with it, make it better, and trying to help the counties. We're talking property tax here, we're talking about serious problems among the counties. And property taxes are what help -- if they aren't too high, people can stay in their homes. And we have an aging population. We've got to take care of that situation.

I really applaud my colleagues,

Senator Hannon and Senator Meier, for their aggressive activity. My role in this was much like the other five of us who were on the task force.

My specific area was the long-term-care area; some of the pieces in the bill are reflections -- single point of information. How confusing is it when people try to find out what they can do, what kind of help there is available for them, who they should call? Got to take care of it. It's different everywhere that people check into.

Getting some dollars back by reverse mortgages to help pay for long-term-care insurance. Some of the equity in their life insurance. Let's get some of those dollars back into people's hands so they can pay for long-term-care insurance.

A lot of creative pieces here. We are going to move through this today. The Assembly will find a place, I'm sure, in this. The Governor is in accord with this bill. It's a momentous, momentous day. We're starting to turn and go to a more reasonable way of dealing with the health needs of the

people of the State of New York -- not transferring it to the property tax, which can't afford to pay for it.

So thanks to all of you for your support on this vital measure.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. If the sponsor or the cosponsor could yield to a question. I'm not sure which to direct this to.

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

SENATOR HANNON: Yes.

THE PRESIDENT: You may proceed, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President.

This bill is a comprehensive bill with many different sections. So I read through it and find myself liking parts of it. I'm attracted to the concept of expansion of long-term-care options, nursing facility transition options.

But then, when we get into some of the details specifically around preferred drug

lists, as Senator Hassell-Thompson already addressed, and also in Family Health Plus eligibility, I have concerns.

So just for some clarifications for myself, in this bill you're proposing extending the timeline for someone to become eligible for Family Health Plus from when they haven't had coverage for six months to 12 months, so they'd have to wait 12 months without eligibility for benefits before they could become eligible for Family Health Plus?

SENATOR HANNON: The idea is to make sure that we're addressing those people who cannot get insurance in any other way. This is the concept used in government insurance programs of "crowd-out."

There was strong anecdotal evidence that there were corporations encouraging their entry-level employees, instead of covering them for insurance, that they were saying: Go to Family Health Plus.

So the thought was that you had to do something to try to move the pickup of coverage to the proper and appropriate place; namely, the employer.

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

THE PRESIDENT: Senator Hannon, do you continue to yield?

SENATOR HANNON: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

Well, that goes into my next question, actually. Also, on page 19, line 3 of this bill, we will do away with eligibility for Family Health Plus if your employer has discontinued coverage for employees.

So it seems to me on the one hand you were saying you wanted to encourage people to use employer coverage, if it existed, and discourage employers from directing people to Family Health Plus, and on the other hand you're actually saying if you work --

SENATOR HANNON: What page are you referring to, Senator?

SENATOR LIZ KRUEGER: Page 19, line 3, I believe. Let me find my page. Yes, it's -- it was Section 4. You're crossing out

discontinuation of comprehensive health benefits coverage to all employees of the applicant's employer.

So my understanding under existing law is if your employer discontinues health care benefits, then that is a basis for becoming eligible for Family Health Plus under current law. But under your revised bill, that would no longer be a basis for becoming eligible for Family Health Plus.

Do you see that line, sir?

SENATOR HANNON: I think that you have to go to the basic philosophy of what we're trying to do with Family Health Plus. We were trying to expand the number of people in this state who are covered by health insurance.

We found, as we went around the state, that there were people dropping their employees from health insurance. Think of the result. Companies drop coverage, the state picks it up, there is no net increase in the number of residents who have health insurance.

So what we're trying to do is to say to companies: No, we're not picking up

your insurance, we're not picking up the obligation you now have.

In a similar fashion, there's other provisions in here, one of which says that municipal employees, entry-level municipal employees, are not eligible for this program. Because we don't want municipalities transferring costs to the state.

Transfer of costs, change of risks, these are all insurance concepts. These are all things that we feel are necessary to put in place, not just -- this is not saving money. Because let me address something else that Senator Hassell-Thompson addressed, and she talked about the copays. This, again, is an art. It's an art in trying to set the appropriate money.

It's an art because, having gone through three or four years of discussion in regard to insurance, we found out that if you just offer something for nothing, it's not taken as a valuable item. We've seen the studies -- federal studies, other states, just academic studies -- that say when there is a copay of appropriate size, that people value

the service, they value the test, they value the screening, they value the mammogram, and they will participate to a greater percent.

So what we're trying to do here is to take Family Health Plus and let it meet its obligations. This is part of the dual part of the task force, which was -- some of it was saving money; the other part of it was introducing the correct philosophies into these programs.

We have a model in this state that we think we've tried to use as a good model, and that's Healthy New York. It proves that you can have the core health insurance product to be given, you can get people involved, and you can do it in an affordable fashion.

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

THE PRESIDENT: Senator Hannon, do you continue to yield?

SENATOR HANNON: Yes.

THE PRESIDENT: You may proceed, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

Well, I find myself in agreement with your philosophy on this issue, but not in agreement with how you have put it in the bill.

I agree we should be encouraging employers to have health insurance benefits, discouraging them from going out of programs, from reducing their package of benefits. And yet, actually, on this floor several times this session we've had debates around exactly that issue, where I found myself disagreeing with Health Committee bills, Insurance Committee bills because they were actually designed such that employers would be likely to choose to lower their package of health-care benefits for employees, or even drop benefits, rather than continue to pay, because they could get all kinds of tax credits and deductions without providing the same level of health insurance they provided in the past.

So I think you and I agree that our goal in the state of New York should be to encourage employers to cover health benefits, to cover the best health-care coverage

possible for their employees. And yet, again, with this bill and with this line, I'm not convinced that making low-income families ineligible for Family Health Plus because their employer decided to drop health-care benefits, that that is going to be a motivation on employers not to drop coverage -- but it will be a penalty on families who will find themselves uninsured and now ineligible to participate in Family Health Plus.

I'm not sure that low-wage workers -- who of course, by definition, are the people who are eligible for Family Health Plus -- and their children are powerful enough to convince the employers of this state: Don't cut our coverage, because now we can't come to Family Health Plus.

So I agree with the goal, but I don't think that putting the penalty on poor families with children is actually going to motivate the employers of the state of New York to do the right thing.

I think the Legislature is in a better position, through the laws that we

pass, the exemptions we provide or don't provide, the standards and mandates we provide, we are in a better position than the poor working families of this state to have power over employers' decisions in health care.

But I still want to get to the next question --

SENATOR HANNON: If I may interrupt --

SENATOR LIZ KRUEGER: Certainly.

SENATOR HANNON: As an answer, if I may, Madam President, what I have to do is simply differ with you.

What we found out is by such discouraging as this provision, we will have employees continue to have their insurance. No, you're not going to address the state as a whole; you're addressing individual communities one by one by one. And that's where employers have to consider what is the pool of applicants, what is the pool of potential workers to come to that company. They have to look at each of the rival employers to decide whether or not they can

attract a quality pool to be their employees.

The employees are looking for job security, level of income, and benefits. And those decisions are being made, as we found out, throughout the state.

Now, you know why? Where did I get this paradigm? I got it from the very fact that health care is not mandated by anybody. It's a major ingrained tradition. It's become bargained for by unions, but if you're not in a union, you get it as a matter of what the employer feels they have to offer to get employees to their company. It all started in World War II, but that's the model.

Now, there's other people who say we should put mandates on it. Well, that's a debate for another day and another time.

But the model is it's a voluntary system because the employers want to get the good employees. And that's what's happening, and that's why we put these provisions in.

Is this too much detail? You raised the question.

SENATOR LIZ KRUEGER: Thank you.

Madam President, if, through you,

the sponsor would continue to yield.

THE PRESIDENT: Senator Hannon, do you continue to yield?

SENATOR HANNON: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you. I so appreciate the sponsor's analysis of this bill. And he's gotten us into discussions about the employment rate and the unemployment rate in subsectors of the economy and the job market and the competitiveness of the workers of New York State to bargain with employers.

And you were right, at a macro level, in some categories of work and in some specific geographic areas, people actually are so desperate for workers that they actually will offer more and more benefits to get them.

Unfortunately, again within the subuniverse of low wage workers -- because again, this is not an across the board insurance program, this is an insurance program for low-income, low-wage, low-asset families with children -- statistically in New York State these are the families with the

least flexibility in the labor market. The unemployment rate for this subuniverse of workers is in fact as high as 15 percent.

We're not talking about executives, who of course have the ability to negotiate. We're not talking, as you pointed out, about workers in labor unions, because by and large they've got benefit packages as part of a negotiated contract for themselves. We're talking about the entry-level workers, the low-wage workers, the low-skill workers, and the workers in areas of high unemployment where their ability to mobilize for alternative jobs is very, very minimal.

I wish we lived in a state and a country where that wasn't the case, but to some degree Family Health Plus was designed as insurance of last resort for a population of people who don't have other alternatives.

But to jump to my next question, and it relates back to an earlier statement you made, also in this bill, on page 19, we do away with a model that I know has been very effective in New York City to allow agencies to assist people to review their eligibility

for different health insurance and to assist them to enroll.

And so in this bill, turning again to page 19, we do -- starting on line 45, we cross out the current law: "Approved organizations shall be permitted to assist prospective enrollees in completion of enrollment forms at approved health-care providers sites and other approved locations."

Now, while I can understand the argument that we don't want people to get Family Health Plus if they have other options that in fact are valid for them but cost the state less or nothing, in fact my experience in the City of New York with this program is again, given the nature of who this population is, not providing information and assistance with complicated application forms results in people who are eligible not being able to participate in these programs.

While it would certainly decrease the enrollment, I don't believe it would decrease the enrollment with the outcome that those least in need no longer receive the benefit, but in fact, most likely, those most

in need would find themselves not being able to complete a complex application process.

So I would actually suggest an amendment to this section that one could expand the language of this to try to ensure that people are reviewed for their eligibility not just for Family Health Plus, but for the entire package of possible health insurance programs out there, including their rights to employer-driven health insurance, so that the State of New York could be helping people maximize their eligibility for health insurance, maximize their eligibility for the programs that might be the least costly to the State of New York.

For example, people who end up on Family Health Plus but were Medicaid-eligible, it's probably less costly in most situations for those young, at least, children to participate in the Medicaid program, not the Family Health Plus program.

So rather than do away with enrollment assistance, I'd urge that we explore expanding that model to ensure we're maximizing people's eligibility for the most

valuable match in health insurance at the least cost to the State of New York.

I suppose there was a question in there somewhere. It was a recommendation.

SENATOR HANNON: Well, let me just respond to that, if I may, Madam President.

Briefly, there's two things. One is the facilitated enrollment, the process to which you really refer, was appropriate when this was a start-up program. It's no longer necessary to do that now that it's up and running. And there's a number of reasons for that.

The second part is simply this. We found throughout the state that social service departments are overwhelmed, that the facilitated enrollers are delivering a bundle of applications and it takes two, four, five, six months for these things to get approved. Where we need assistance, we feel, is in some way trying to make the social service departments more able to handle this.

So I do believe it's an appropriate provision in the bill. I think there's a good

reason for it. And I think we have further work to do with social service departments.

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

THE PRESIDENT: Senator Hannon, will you continue to yield?

SENATOR HANNON: Yes.

THE PRESIDENT: He will continue to yield, Senator Krueger. You may proceed with a question.

SENATOR LIZ KRUEGER: Thank you, Madam President. We're having such a great broad discussion around these issues.

I will disagree that because a program's been in effect for a few years we don't need facilitated enrollment or information out there. Because in fact the universe of people who come in and out of applications for government benefits of course are a transitional population. It's new people every year.

I'll use, for example, the federal food stamp program, which has been in existence since the early 1970s. We still

have over a million people eligible but not participating in that program in New York State, even though it's a hundred percent paid for by the federal government. And it would be a win-win for the state and the people of New York if all million people who were eligible and not participating joined.

We find ourselves in the same situation with SSI. We find ourselves in the same situation with Medicaid, where people turn to public hospitals with no health insurance, not knowing they're eligible for Medicaid, when in fact it's an advantage to our hospitals to get reimbursement from the Medicaid program. I could go on and on about what I think is the value of facilitated assistance.

Now, you were right, our social service agencies are finding themselves drowning, in some cases, with applications. I would argue that if we hadn't continued to cut back on our administrative reimbursement matches to our localities for operating their programs, they might not find themselves so short-staffed in relationship to the demands

being put on them at the front door for health care, social services, food stamps, domestic violence, et cetera. I certainly know that from my own experience in the City of New York.

But my specific question now is, in the bill it says that there will be a state takeover of local Family Health Plus costs, and yet in the back of the bill is a provision that lets the state renege on this takeover of costs if the savings accruing from all other provisions of this bill are insufficient to cover the costs of the local pickup.

So this bill is much broader than Family Health Plus. We've got preferred drug lists. We've got long-term care. We've got nursing home transitional. We've got some models for clinical drug testing. It's a very omnibus bill. And yet the deal for commitment by the state to take over the costs for Family Health Plus, it's not clear that that's a real offer or real deal, given the insufficient covers of the costs from the other sections of the bill.

Has anybody done the fiscal

analysis of this and what the reality of this might be and where we'd really need to be in the other savings of the other sections of this bill to hold this commitment to the localities if we pass this?

SENATOR HANNON: Let me assure you, Senator, we have more spreadsheets on this than one ever could imagine, and they perform a great tool of putting you to sleep, besides informing.

But aside from the spreadsheets, because these are important numbers, you may have remembered in my opening remarks I may have been dealing with a subject that you don't often deal with. I was very frank to say we don't have an agreement with the Assembly because they've ignored the type of philosophical approaches we've tried to do.

Well, part of the provisions at the end of the bill are to make sure that if they're going to deal with it, they're going to probably have to take some things that would be preempted from the budget.

So the savings that we want, how it's going to be paid for, et cetera, this is

an organic whole. And if they want to further negotiate something like that, that's fine. But as it stands, this works.

SENATOR LIZ KRUEGER: Madam President, briefly on the bill.

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

SENATOR LIZ KRUEGER: Thank you.

I want to thank Senator Hannon for his hard work on this bill, and Senator Meier and the other sponsors.

I understand the goals. I understand the commitments the State of New York needs to balance between assuring that we have access to health care, we have access to health insurance for New Yorkers, with the recognition that the costs continue to grow and we have not been able to get our arms around that rate of growth.

There are sections of this bill that I'd be very happy to support. There are sections of this bill, as Senator Hassell-Thompson said, that are directly parallel to the recommendations that Senator Paterson has made in his own conference

report.

And yet there are so many other pieces of this bill that perhaps, as Senator Hannon said, we don't know yet because it's a one-house bill. But I couldn't be comfortable voting for those changes without knowing where this is ultimately going as an agreed-upon bill.

I'm very uncomfortable, to say the least, in requiring higher copayments for low-income families in Family Health Plus. I'm very disturbed that we're attempting to limit eligibility on a program that this house wanted and supported expansion of and creation of just a few years ago.

Family Health Plus is a great program. It has been an important program to expand health insurance for low-income families and their children. It's a win for the State of New York. The fact that it costs money, and perhaps more money than anticipated by the Senate and the Assembly when the bill was originally passed a few years ago, is a reality for us to deal with, but it is not a justification to hurry pell-mell into now

shifting our priorities, limiting eligibility, potentially encouraging employers to reduce their health care benefits to workers without any assurance that we will have Family Health Plus there to pick up the people who lose their benefits in the labor market.

I am very disturbed that we would be charging copayments of as high as $50 for low-income families to have to turn to hospitals, $25 on an emergency room visit. What does it mean to go to an emergency room and not have the $25 and risk not being cared for?

Now, of course, the law is clear: An emergency room can't turn you down in an emergency. But the failure of the family to be able to pay the $25 means the hospital is picking up the cost. So let's not kid ourselves, we're transferring costs from ourselves to our hospitals, very likely the same hospitals who come to us to say they don't have the money to continue their programs.

The same is true on ambulance services.

So there are so many unknown answers on the financings in this bill and too many concerns for me on how it would impact individuals in various programs to be able to support the bill, even though I appreciate the hard work that was brought that this legislation and the fact that there are specific sections of this bill that I could be very, very excited about if they were freestanding.

I will be voting no.

Thank you, Madam President.

THE PRESIDENT: Senator Little.

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

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

SENATOR LITTLE: Thank you.

As a representative of six counties in northeastern New York, all of whom have experienced high Medicaid increases in their budgets which have resulted in increases to the property tax, I stand here very pleased to see that this bill has come before this chamber and hope that we will pass this and be

able to get support for it from the Assembly as well.

If I may, I would just like to highlight two or three points of this bill. Having been a member of the Medicaid task force, we dealt with all of these issues and how we could possibly still provide quality health care in New York State and yet contain the costs of that health care.

The takeover of Family Health Plus in a two-year cycle is so logical that I don't know how we could not do it. The counties have no share of Child Health Plus, they have no share of Healthy New York, they should not have any share of Family Health Plus.

Taking this over in the first year would provide approximately $125 million to $145 million to the counties, which would help them reduce their property tax impact to the people of their counties.

The containment in having Family Health Plus benefits mirror Healthy New York will help contain the costs of Family Health Plus and still provide good health care to the people who are looking for it.

A second part of it is for the long-term home health care, being able to help people have more care at home and addressing their needs so they do not have to remain in a nursing home, is very important to the quality of life for that person as well as to the cost.

And the third and final thing would be the income tax credits for long-term health care insurance. We've all been supportive of this type of insurance for people who have assets and means so that if they end up in a nursing home, the insurance covers it. However, that insurance has been expensive.

So looking at new products and also allowing a 20 percent tax credit for this type of insurance premium is certainly going to be an incentive for more people to get this type of insurance and not end up on Medicaid.

Something like 80 to 85 percent of all the people in nursing homes right now are on Medicaid. We need to look at this long-term insurance so that we can provide that insurance and not have these people have to resort to Medicaid for their final days.

I'm very supportive of the bill. I certainly will be voting in favor of it, and I would encourage everyone in the chamber to do so as well.

Thank you.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 35. 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. I vote aye, and I think that this is not only an important bill but an important first step, is what it really is, in order to reform the Medicaid system.

I know many counties throughout the state have had to raise their sales tax in order to accommodate -- in order to pay for the costs of a system that's gone awry. We all want to provide as much as we can for those who cannot. But on the other hand, it has to be affordable so that each county can

make sure they pay for it in a responsible way.

So as I say, I'm very happy that this Medicaid reform bill has gone forward. I hope the Assembly at some point soon starts addressing the problem. And, secondly, I hope very much that many of the other recommendations by the Senate task force be adopted soon in another bill to follow this one.

Thank you.

THE PRESIDENT: Senator Meier, to explain your vote.

SENATOR MEIER: Very briefly.

I'm going to vote aye. This bill is a responsible bill. It gives real relief to the counties but incorporates some cost containment.

Now, going back to some discussions we had yesterday afternoon, people want to know why things don't happen in this city and why things don't come together.

After six months of negotiating with the majority in the other body, they've introduced a bill. And what it is, they call

it a rolling cap. And along about the time that the cost of Medicaid will double, in seven or eight years, they will have begun picking up a small percentage of just the growth. And by the year 2014, they get to the real ultimate effect of their bill.

No cost containment, no restructuring of the way that we deliver care to people, no disease management, no addressing the long-term-care system. After six months of trying to engage these people, they've got a solution that takes effect in the year 2014. That's why nothing gets done in this town.

This body, both sides of the aisle, is acting today.

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

Senator Hoffmann.

SENATOR HOFFMANN: Yes, to explain my vote.

Madam President, I want to compliment my colleagues who chaired this task

force and did yeoman's service in crafting a remarkable piece of legislation.

This is a tough, tough issue. Everybody wants to spend more money all the time. There are lots of ways that you can feel sympathetic for people who are in need -- the elderly, the sick. People always want to be bighearted. But there comes a point at which we have to be realistic and find a way to rein in some costs where it's possible and to offer some incentives for cost-containment.

This is a very, very pragmatic piece of legislation. And once again, I have to remark at how proud I am that this house, this body is able to take a tough issue, to wrap its hands around it and collectively say we will find a way to do what's right for the taxpayers of this state. We understand that it's an unfair burden on local government, and we will do our part to fix it.

And it is time for the other chamber to join with us, and not posture and not criticize, but join with us and come up with intelligent solutions that will deal with all of the problems in this state but

particularly, today, with the issue of out-of-control Medicaid costs.

Again, I compliment all of my colleagues who have taken the lead on this. I'm proud that we're taking this action today and I hope, I sincerely hope that it will not be a vain action that we will have to come back and revisit over and over and over again while we wait for the Assembly to wake up and get with the program.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1711 are Senators L. Krueger and Sabini. Ayes, 53. Nays, 2.

THE PRESIDENT: The bill is passed.

Senator Saland.

SENATOR SALAND: Madam President, I would request unanimous consent to be recorded in the negative on Calendar 1771,

Senate 7577.

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

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, I believe there's a report of the Judiciary Committee at the desk.

THE PRESIDENT: The Secretary will read.

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

As a justice of the Supreme Court of the Third Judicial District, William E. McCarthy, of Delmar.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Madam President, I'm proud to rise to move the nomination of William E. McCarthy, of Delmar, as justice of the Supreme Court of the Third Judicial District.

Mr. McCarthy has had -- we've had a

thorough review of his qualifications before the committee meeting. We met this morning. He was found to be well qualified, and his nomination was unanimously recommended to the full Senate. And I'm proud to move his nomination.

For the purpose of seconding, I would ask the chair to recognize Senator Breslin.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you very much, Chairman DeFrancisco.

I rise to echo the comments of Senator DeFrancisco.

Bill McCarthy is a fellow Delmartian, as we say, from the town of Bethlehem, and has had an exemplary career, which has included, among other things, being an attorney for the AFL-CIO, but being a law clerk to both a Democrat and a Republican judge. And I might add, parenthetically, that the Democrat was very difficult to work with.

But he continued on in the Governor's office, and for the past six years has done tremendous service for the Governor

dealing with various state agencies.

And in my opinion, Bill McCarthy will make a wonderful Supreme Court judge.

THE PRESIDENT: Senator Saland.

SENATOR SALAND: Thank you, Madam President.

Madam President, I had the good fortune a number of years ago to work closely with soon-to-be Judge McCarthy when he was working in my offices when I was a member of the Assembly. And while I could not have predicted where the future would take him, I did know that the future would take him good places, because he exhibited the kinds of qualities that one would hope to find in anybody who might be interested in public service.

The fact of the matter was that he was not only extremely capable and bright, but conscientious and dedicated and never shirked from any type of responsibility. I didn't know that one day I would have the opportunity to sing his praise here on the floor.

We've had the opportunity to work with him, "we" being my office, on one or

another matter in his capacity as one of the counsel to the Governor. And I can only say that time and again he has consistently demonstrated, whenever my office has had to deal with him, that the view of the young Mr. McCarthy that I saw a number of years ago was very much justified. And I wish him only continued success.

Governor Pataki has once again sent up an extraordinarily capable and fine potential jurist, and I'm sure that he will do credit not only to the people of the State of New York but to the wisdom of the Governor's appointment as well.

THE PRESIDENT: The question is on the confirmation of William E. McCarthy, of Delmar, as justice of the Supreme Court of the Third Judicial District. All those in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: William E. McCarthy is hereby confirmed.

(Applause.)

THE PRESIDENT: I would be remiss as president of the New York State Senate if I did not add my thankfulness that Judge McCarthy has been confirmed.

I have known Bill McCarthy for many years, in my private practice, when I was on the bench, and now as one of the Governor's counsel. I know of his intelligence, his dedication, and his eminent qualifications for this position. We're blessed.

Congratulations.

He is here with his mother, Marilyn W. Soucy, and his aunt, Marie Muller. Best wishes to all of you.

The Secretary will read.

THE SECRETARY: As a justice of the Supreme Court of the Ninth Judicial District, Robert A. Neary, of Pound Ridge.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I rise to move the nomination of Robert A. Neary as justice of the Supreme Court.

As I mentioned before, and I'll say it maybe for the last time to save time in

these proceedings, all of the candidates were -- their backgrounds and qualifications were examined fully, they came before the committee and they were unanimously approved by the Judiciary Committee for confirmation by the full floor of the Senate.

And as to each of the nominees, the Governor has really outdone himself this time. They're outstanding, qualified individuals for these various positions.

I would ask Madam President to recognize Senator Leibell to second the nomination.

THE PRESIDENT: Senator Leibell.

SENATOR LEIBELL: Thank you, Madam President.

And as with many of us, we know some of the nominees who are coming before us today. I am happy to say that I have known this nominee for, I guess, a few decades now. Goes back to the 1970s.

I first met Robert Neary in the Westchester County district attorney's office. We were both a lot younger, assistant DAs then, and very active and enjoyed the work of

serving as prosecutors.

While I left and went to Putnam County to serve as their county attorney, Bob continued there in the Westchester DA's office and, over the course of his years there, had the opportunity to prosecute many important cases, to try many cases to a verdict.

I'm very pleased that the Governor that submitted the name of Judge Neary, because I know him personally and I know his skills as an attorney, his skills he's exhibited in the past as a judge, his professional knowledge and, so critically important, his integrity. This is an excellent nomination that has been submitted to us.

So I'm very pleased to rise here today and to second this nomination of Robert Neary to the State Supreme Court.

Thank you.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, I too would like to rise to second the nomination of Robert Neary to the Supreme

Court.

Knowing Bob Neary since late in the '60s -- hard for me to believe -- I can attest to his character. And I've now read his background on his legal work and how he worked on 45 murder cases. And I just think he'll be a great judge.

And on a personal note, I'd like to say that -- and I said some of this previously about him -- he was captain of the football team when I was a sophomore at Holy Cross, and he was the kind of person that taught all the younger players, through his hard work ethic and the extra time he put in and the way he got his job done, on how to do varsity football properly. And he was a great inspiration to me.

And today he brought me a picture which now is proof to the rest of you that we do actually know each other since 1968. I have a picture of us from a time when we both played together at Holy Cross.

And I think that he'll bring that same character and leadership to the Supreme Court. And I congratulate the Governor and

congratulate Bob Neary on his confirmation.

ACTING PRESIDENT MEIER: The question is on the confirmation of Robert A. Neary as a justice of the Supreme Court of the Ninth Judicial District. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Neary is with us today in the gallery. He is accompanied by his wife Keary, by his sons Tim and Mike, and by his sister, Mary Ann Hoffmann.

Judge, congratulations and very best wishes to you.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Surrogate's Court for the County of Ulster, Paul L. Gruner, of Stone Ridge.

ACTING PRESIDENT MEIER: Senator

DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination of Paul L. Gruner for judge of the Surrogate's Court for the County of Ulster, and I would request that the chair recognize Senator Bonacic for a second.

ACTING PRESIDENT MEIER: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

First of all, I would like to congratulate the Governor for his outstanding appointment for Paul L. Gruner for confirmation to the Surrogate's Court of Ulster County.

This is a gentleman that's worked all his life in the trenches of practicing law, all sorts of litigation, with a varied practice, including estates. He's been a public advocate in Ulster County for almost 24 years.

And he finds time to be a wonderful father to three children, two of whom are here -- and I understand that his daughter Alexandra is in Ecuador -- plus the rest of

the family that's here, which I'll acknowledge shortly.

But he also gives back to the community. He's a gentleman that serves on the board of trustees of Ulster County for their county blood bank. He's engaged with Little League, and also he's on the board of education of the Rondout Valley School District. A gentleman with family values, someone who we are very proud of.

He's joined today by his bride, Cathy; his sons, Max and Peter; his brother Albert and Nan Rios; his nephews Albert and Daniel; his brother and sister-in-law Eugene and Peggy Gruner; his niece Susanna; nephews Benjamin and Christopher; father-in-law Dr. Peter Corsones; his good friend Al Spada, who's our Ulster County clerk, with his partner in crime, Pat Oliveri, and Brenda Trump.

I hope I got you all.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: The question is on the confirmation of Paul L. Gruner as judge of the Surrogate's Court for

the County of Ulster. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge, who's left at home, anyway?

(Laughter.)

ACTING PRESIDENT MEIER: Congratulations, and best wishes on your on your duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Joseph C. Pastoressa of Saint James.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination of Joseph C. Pastoressa of Saint James as a judge of the Court of Claims.

And I would please ask the chair to

recognize Senator Flanagan to second the nomination.

ACTING PRESIDENT MEIER: Senator Flanagan.

SENATOR FLANAGAN: Thank you, Mr. President. And thank you to Senator DeFrancisco.

Briefly on the nomination, because I know there are several of my colleagues who want to speak.

First and most important, congratulations to Joe Pastoressa, a quality individual, quality attorney, and someone who will make an outstanding jurist in the State of New York.

Congratulations to the Governor for having the wisdom to appoint him to this position.

And we are all fortunate. I've known Joe for some time. He's a gentleman, he has outstanding integrity, and he's got an excellent background. He's worked in the vineyards for a number of years and has had a very diverse experience in the courts and in the legal profession. I'm proud to stand

before you as his representative in this body and second his nomination.

And he is joined by a whole host of people, most importantly his family -- his wife, his three children, his mother -- and a couple of very close, dear personal friends.

But it reminds me too that we are all fortunate in that many of us have guardian angels or mentors or people who look out for us in very special ways. Sometimes those people are here with us physically and other times they're not. But I know that Joe Pastoressa has a guardian angel out in Copague, in Suffolk County, who's watching today.

So Joe, to you in particular, outstanding congratulations to you and your family.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

As a member of the Judiciary Committee, I wanted to rise to second this

nomination or speak on it, along with Senator Flanagan.

While I don't know Judge Pastoressa, I have heard so much about him. And if you looked at his resume, you would see -- having served as chief law secretary to two justices of the Court of Claims, along with other legal experience, you will see that he is well qualified.

He has helped write several key decisions, and I'm sure that now, having served as the law secretary, he will have great fun in being the principal author of his own decisions.

Good luck, Judge Pastoressa.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: I'd like to commend the Governor for putting forward this nomination.

I've known Mr. Pastoressa for a number of years. I see he was a graduate cum laude of Brooklyn Law School, and his career has shown that intelligence and that legal ability over the years.

Working as law secretary to several lawyers, he drafted many decisions. He drafted landmark decisions, made new law. He's a real legal scholar and the kind of a person we need in this position.

I'd like to congratulate his wife, who is probably his inspiration, and his family who are with him, and even some friends of mine, Tracey Curcio and Catherine Cicchelli.

I'm glad to see that they're here supporting you. We all recognize your great abilities, and we're very proud to second or third that nomination.

Thank you.

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

The question, then, is on the confirmation of Joseph C. Pastoressa as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Pastoressa is with us today in the gallery. He's accompanied by his wife, Marianne; his daughter, Christina; his sons, Joseph and Michael; his mother, Nancy Pastoressa; brother, Nicholas; and friends Tracey Curcio and Catherine Cicchelli.

Judge, congratulations and best wishes with your important duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, James J. Lack, of East Northport.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the nomination of James J. Lack for reappointment to the Court of Claims.

I was going to stand up and say something humorous, but I think this is a very serious event, and I think it's more important to really speak about Jim the way I really

feel about him.

Having served with him in the Senate for at least ten years, you get to know a person very well. And there are certain people that you rely on for opinions. And Jim was always one I relied on for an opinion, because he always thought things out thoroughly and explained exactly the way he felt, whether you would agree with the decision or not.

And that's the type of individual that I rely on, people that don't tell you what you want to hear but give you their honest appraisal of the situation. And it helped me, over the years, get through some issues that I was having difficulty with.

Secondly, when you want a judge to preside over a case, whether it's you or a case for someone else, you want someone who is going to be fair and listen to all the facts and call them the way that he sees them. And Jim is that type of individual.

So I'm very, very pleased to rise to move the nomination of Jim Lack for reappointment and I would request that you,

Mr. President, recognize Senator Flanagan to second the nomination.

ACTING PRESIDENT MEIER: Senator Flanagan.

SENATOR FLANAGAN: Thank you, Mr. President.

Two in one day. This is a good day.

Last time Senator Lack was up for appointment to the Court of Claims, I was watching and was not a member of this body. So I actually get a chance to get up and make a few comments today.

I know Jim is joined by his son, Jeremy. And Jeremy and Kara are a testament to Jim and Therese and what they've been able to do and achieve as parents, because they have really wonderful children. And it's great to see Jeremy here today.

And to Senator Lack, congratulations. Obviously, best wishes.

And the only thing I really wanted -- well, two things. Jim Lack has extraordinary institutional knowledge about the Senate and has a tremendous sense of

history. And I would agree with Senator DeFrancisco: very intelligent, very articulate, and someone who has been an outstanding resource on a wide variety of issues, including just the history of what we've done here in this Legislature. And he's actually someone who can tell us many of the good things that we've done, despite what we may hear to the contrary on the outside.

But finally, the only three people that could be happier -- Kara, Jeremy and Therese, for Jim on his reappointment. But I never got a chance to say it, the only one that follows right after them is me. Because I would not have a chance to stand here but for his ascension to the bench.

So Senator Lack, Judge Lack, congratulations again.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: Again, I'd like to commend the Governor on this nomination and say that Jim Lack and I have been friends for several decades.

Caesar Trunzo and I served a

sentence with him between us for almost that full period of time, and we put up with a lot of stuff from Jim Lack. And we know the good things about him, and we don't know many bad things about him. But we know we're happy for him today, getting a position which he really likes.

And I'm getting my ten-year term next time.

(Laughter.)

SENATOR JOHNSON: Kidding.

But anyhow, congratulations. And he does have a beautiful wife and family, and I commend all of you.

Thank you.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President, I rise too, with pleasure, to congratulate my former colleague and friend Jim Lack on his nomination to the Court of Claims.

The Governor is to be congratulated to initially put Jim up there and to maintain his position on the court.

He is a brilliant man, there's no other way of putting it. He knows the business. He knew the business of the Senate, and I'm sure he's doing the same and doing one hell of a job in the courts.

If ever I have the misfortune of having to go before a court, I would like him there, because I know then I would get the absolute fairest treatment that could be done.

The man is a good man, he'll do a good job, and we wish him well.

ACTING PRESIDENT MEIER: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

It's truly a pleasure, a distinct pleasure, to rise to second the nomination of my very, very dear friend.

I had the good fortune of serving in this institution with him, and it was through this institution that I really came to know Jim and his family, Therese, Jeremy, and Kara. And through the course of the years that have followed, we have had the opportunity to share many wonderful moments

together. We've known joyous occasions, and we've known sorrowful occasions, and we've shared them as friends and virtual family would.

I must say that of all the people I've had the good fortune of knowing, I don't think I've ever met an individual who really was more globally bright, more capable than Judge Lack.

I know how proud he is to be here today, not merely because he's being reconfirmed, reappointed, but because he's here with his son, Jeremy. Jeremy unfortunately was unable to be here when Jim was initially appointed, so this turns out to be a double blessing for Jim.

We've heard numerous kudos applied to Jim, both in committee and here on the floor. I can honestly say that there's nothing that I've heard that isn't most deserved. He not only served this institution admirably, but as a legislator he really served many admirably, due to his involvement with and ultimately becoming president of the National Conference of State Legislatures.

And he is somebody who has been, as I said, a friend -- more than a friend, family, if not like a brother. But the bottom line is at times he's been a mentor and truly a source of counsel. Were my wife Linda here today, she would probably say even more glorious things about him, perhaps making me look rather understated.

But I wish him continued success. My love to the family, and I'm sure the people of the State of New York will continue to be extremely fortunate, thanks to the Governor's sending Judge Lack to us for reappointment, to have his continued services on the bench. He's been an exceptional public servant, and this will certainly add to that stature.

God bless you.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

It's a pleasure to rise to support Judge Lack's renomination. And it's great that the judge will have a full term.

Senator Johnson said something that

brought to mind -- and sometimes we forget the amount of time and the number of years that we spend together. And Jim and I have seen our children grow up. Jim's two children, Kara and Jeremy, have become most accomplished in their respective fields. And I know that Jim and Therese are very, very proud of their accomplishments.

We've seen parents pass away, we've seen our own careers move forward.

And I think this is a great appointment, once again, by the Governor. And as so many people said, the judge has a keen intellect, but he will use and has used that intellect within the legal system to come up with fair and wise decisions.

So many of us in our conference know that many times there would be legislation before us and the judge would always talk about case law and other kinds of legal points of view. And I think we miss that. Although his very dear friend, Senator Saland, has followed very ably in his shoes in that regard, in being the conference attorney.

Judge, I wish you much luck, much

success, not only personally but with your family as you move forward in your career.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, I want to congratulate the Governor also on a great renomination.

I would add to Senator Flanagan's thanks for Jim going to the bench because he became a Senator, I would add that Senator DeFrancisco thanks him also, because now he's chairman of Judiciary.

And I thank you, because now I have your old office, which is one of the best offices in all the Capitol. And he's the one that actually remodelled it and made the office what it is.

But in all seriousness, Jim is one of the brightest fellows that I know to come out of the Legislature. I guess my only debate with -- Senator DeFrancisco said that he always looked to him for advice and agreement. I looked to him for advice sometimes, but I didn't agree with him sometimes.

But he and I worked together very closely as chairmen of Codes and Judiciary. And as I have found out, I know as Senator DeFrancisco has found out, it's important for those two chairmen to work together.

Jim and I pulled off -- I don't want to say pulled off a couple of coups, but we did some things together because we decided that some things had to be done. And in our world, sometimes it's very difficult to do things because there are people all over the place who come in from every different direction.

And Jim and I did the change in the jury system, which I think we are both very proud of, that got rid of all the exemptions, which was just -- it was burdening the system so bad that it was clear something had to be done. But the problem is we had to act fairly quickly before every group in the history of the world attacked Albany. And we're pretty proud of that. I know he is, and so am I.

But, Jim, I also want to say that your wife, Therese -- and I don't have to tell you -- was great to my son, who had his

problems many years ago. And of course Therese is a psychologist. He's now -- my son is a doctor of psychology at SUNY Buffalo. And her advice was important to him. And I thank you, I thank your wife for her kindness, and I wish you the very best.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Thank you, Mr. President.

There's not much that I can add that has not been said about Judge Lack. But I would be remiss if I didn't get up and share a few thoughts about someone who has been more than a colleague, has been a good friend -- not only to me, but to so many members of this chamber.

I spent many years sitting in that back row, alongside of Jim Lack, and received the benefit of his counsel. Very often when I didn't ask for it.

(Laughter.)

SENATOR SPANO: But there are few people that I have met in 26 years in the Legislature who have had more of an

institutional knowledge of the way this body and the Assembly works than Jim Lack.

He served us well as chair of the Labor Committee, he served the people of this state well in that capacity, did an outstanding job as the chair of the Judiciary Committee, and is making us proud as a judge in his current capacity.

We miss him. We would have a lot of good fun with Jim Lack. But as John DeFrancisco said, when we need someone to analyze a problem and give us a straight answer, whether we like the answer or not, and an analysis and the resolution of a problem, it would be Jim Lack that we would go to.

And it's that type of person who comes through the halls of this Senate and moves on to become an outstanding judge, but will always be remembered here as someone who was fierce on the floor, was as honest as they come and, as a friend, is as loyal as they come.

The Governor deserves credit for your reappointment, Judge. And to you and to your son, we're glad that Jeremy is here

today. We're all as proud of your dad as you are this day.

Congratulations, Judge Lack.

ACTING PRESIDENT MEIER: Senator Marchi.

SENATOR MARCHI: Mr. President, I'm sure any of the members here that have not spanned the number of years that we've known him, from Day One, when he first walked into this chamber, and with perfect fidelity and reflecting an analysis that jibed with all of us -- and it was evident by the warmth of their remarks that he had elicited a profound respect in his judgment, in the clarity of his views, in the broad range of his knowledge -- that we were singularly impressed.

I'm very, very happy to see this. And it's evidence of the joy with which this membership is reflecting now in your presence. You hear it, and you have every right to be proud and we have every right to be proud to see you there.

So this is indeed a happy day. I don't know why I stayed long enough in the Senate, but now I found out that there was one

more reason, because I wouldn't want to have missed this occasion. It was so appropriate, so good in terms of everything that we've desired in good service to the public and a good friendship.

So again, I'm very proud that I persisted in my return to this body. And I knew this day would come, and it has. And I feel very happy about it.

ACTING PRESIDENT MEIER: Senator Maziarz.

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

I don't think a higher compliment could be paid than the fact that Senator Marchi stuck around here 48 years to vote for your confirmation, Jim.

(Laughter.)

SENATOR MAZIARZ: Obviously, the Court of Claims' gain is the Senate's loss, by virtue of all the comments that my colleagues have made. Just shows you the deep respect, Jim, that we have for you.

And we certainly congratulate you and Therese. And your son is here today, and

that's a great tribute to you.

We miss you a lot here, Jim. As Senator Spano said, we miss your advice, both the solicited and the unsolicited parts. But congratulations, and we'll see you in November.

ACTING PRESIDENT MEIER: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I was outside meeting with some constituents, and I asked if the judicial appointments were underway, and one of my colleagues says, "Yes, all the lawyers are standing up, speaking."

And although I am not a lawyer, I will admit that my son passed the bar a month ago, so I guess I should speak.

Jim, I too miss you, as mentioned by your colleagues, not only for your advice and wisdom -- and again, I will repeat, both solicited and unsolicited -- but also for our morning walks.

Senator Lack, Senator Maziarz, Senator Spano and I would go on our morning

walks at about 6:15. And it was a little difficult waking up Senator Spano, but we usually succeeded knocking on the door. Because Jim Lack never does anything passively, always very aggressive, and he would just rap on that door until Senator Spano would come out.

And he also moves quite quickly for a short person, he walks rapidly. And I miss that, Jim. I miss the conversations we had both about our personal lives and also the conversations about our legislative lives and certainly the work we did here on the Senate floor.

Like all of my colleagues, and to see your son Jeremy here to enjoy this very special moment, from the bottom of my heart I wish you the very best, and godspeed.

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

The question, then, is on the confirmation of James Lack as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is unanimously confirmed.

Our good friend Jim Lack, welcome home. And we say, with great affection and respect, congratulations.

(Standing ovation.)

ACTING PRESIDENT MEIER: If the chair could be permitted a personal note, I'm having dinner with the machatunem this weekend.

(Laughter.)

ACTING PRESIDENT MEIER: Senator Saland will explain to the rest of you what that means.

The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Thomas J. McNamara, of Ballston Spa.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I would move the nomination of Thomas J. McNamara as a judge of the Court of Claims.

And would you please recognize Senator Farley for the second.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. I rise to support the nomination of Tom McNamara.

Let me just tell you a little bit about him. He's a graduate of the State University of New York at Albany, where I taught for many years, and also a graduate of Albany Law School.

Tom McNamara has had an extensive background, not only as a practicing attorney but as an assistant district attorney for the County of Saratoga.

He lives in Ballston Spa, which I share the village with the Majority Leader, Senator Bruno. And we were both concerned about whose constituent he is. Joe wanted to claim him, but he is my constituent.

He's been a town attorney for the

Town of Ballston, which I also represent. Tom McNamara not only has been involved in the community as a good citizen, serving on the board of education, been active in his church. He's been on the Saratoga Hospital board of directors. He's been an outstanding example of somebody that should serve on the bench.

This is an example of Governor Pataki really choosing outstanding lawyers to serve in our judiciary, and certainly on the Court of Claims, for which Tom McNamara is an outstanding, eminently qualified individual.

And it is with pleasure that I move his nomination.

ACTING PRESIDENT MEIER: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

I think we're blessed today to have a number of Capital District judges who also happen to be Irish.

But I rise because Tom McNamara and I are close to being the same age, and we go way back to when he was an assistant district attorney and we would enter into plea bargain

negotiations.

And I've watched him since that time, as a town attorney and now as really the acting Supreme Court judge for Albany County. And in everything he's done, including his community service, he's been the pride of the Capital District.

And I commend the Governor for his renomination.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: The question is on the confirmation of Thomas J. McNamara as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge McNamara is with us today in the gallery. He's accompanied by his wife, Mary Jane, and by his son, Matthew.

Judge, we congratulate you and we wish you well.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Richard E. Sise, of Niskayuna.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I would move the nomination of Richard E. Sise, of Niskayuna, for a reappointment to the Court of Claims, and again ask you to recognize Senator Farley for a second.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

It is with enthusiasm that I rise to support Dick Sise, who's a long-time, dear friend, comes from an incredibly remarkable family. His dad, Chief Judge Bob Sise, long recognized as one of our great jurists in this state, still practicing law vigorously in Amsterdam.

Richard Sise is a graduate of Siena

College and of Albany Law School. I think you went to law school with my daughter Susan. I think you did.

But anyway, I know his wife, Connie, who's a distinguished practicing attorney and a former law professor with me. And his family is truly remarkable.

His brother Joe -- who I thought was the baby, but he's number eight of nine boys -- was the youngest Supreme Court justice in the State of New York, and I think may still be.

And Dick Sise has really served his community well. He's been a prosecuting attorney in New York City and has been very active in my hometown, where he still lives, of Niskayuna.

And Dick Sise is not only well known to our community in the Capital District, but his brother-in-law is seated here and made sure that his nomination comes through, John Cahill, whose sister is Dick Sise's wife, Connie.

So he has a lot of connections, not only with this house but with the State of

New York.

It's with great pleasure that I nominate Richard Sise and congratulate the Governor for this outstanding appointment.

And as I said in the Judiciary Committee, he is being reappointed for a complete term to the Court of Claims, but you haven't heard the last from Dick Sise. He's on his way to the stars.

He comes from a great background, and of course the reason for that is because of his mother, Theresa, who's here. And I believe his son Michael is here, who's in the third grade at St. Pius School, and his daughter, Mary, who's in the sixth grade at St. Pius.

So we're delighted to have that family here and to move the nomination of Richard Sise.

ACTING PRESIDENT MEIER: Senator Breslin.

SENATOR BRESLIN: Well, there's not much left to be said; Senator Farley has documented the entire Sise family history.

Dick has been a friend of mine for

many years. And I'm proud to be able to practice with his wife Connie and sometimes engage in conversation with Connie's brother John.

But Dick and the whole Sise family have really just been the masters of Montgomery County for so long, even though Dick is a resident of Schenectady County. His father, Bob, who many of us growing up as lawyers benefited from his skills as a judge and his skills in advising us how to become honorable in the practice of law.

But this is -- again, I frequently get up and compliment the Governor on his choice of judges. And Dick is really one of the crowning pieces in that selection process.

And I look forward to seeing Dick -- Dick mentioned in Judiciary Committee he would like to serve until such time as he reaches the age of 70. If he continues to serve to then, we will all be blessed by it.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: The question is on the confirmation of Richard E. Sise as a judge of the Court of Claims. All

those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Sise is with us in the gallery, and he's accompanied by his family -- Senator Breslin, you look poised to jump.

Anyway, Judge Sise, congratulations and best wishes with your continued duties.

(Applause.)

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Can we return to motions and resolutions.

ACTING PRESIDENT MEIER: Motions and resolutions.

SENATOR SPANO: There is a resolution at the desk by Senator Nozzolio. Could we ask that the title be read.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator

Nozzolio, Legislative Resolution Number 5766, honoring brothers Lieutenant Colonel Dominic Caraccilo and Captain Edward Robert Caraccilo for being decorated with the Bronze Star Medal.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

May I have a little order.

ACTING PRESIDENT MEIER: Can we have some order in the chamber.

Members who are exiting, could we have the door closed.

Senator Nozzolio.

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

Mr. President and my colleagues, I rise in support of a resolution that honors two New York native sons that have distinguished themselves in defense of freedom as military officers of the United States of America.

It is unusual, if not unprecedented, where two brothers serving in

the United States Army, currently fighting for our interests in far-off places in the globe, have distinguished themselves by being the recipients of the Bronze Star medal.

The Bronze Star is the third highest military honor that anyone can receive in this United States. That the Army has established this medal to provide those who have distinguished themselves by heroic or meritorious achievement, and that this achievement was recognized by the brothers Dominic and Edward Caraccilo of Seneca Falls, New York.

Dominic graduated from Mynderse Academy in Seneca Falls, went on to gain his military training at West Point, and served in my office while he was working to get his master's degree -- as an intern with me, working to get his master's degree at Cornell University.

His brother Edward is also a native of Seneca Falls who distinguished himself with great honor.

Dominic serves as a United States Army lieutenant colonel and has been decorated

with the Bronze Star medal, with the "V" device signifying valor, for supporting the mission of Operation Iraqi Freedom and participating in Operation Northern Delay in Iraq. He is a member of the 173rd Airborne Brigade and a battalion commander with twenty years of distinguished military service.

Edward Caraccilo is a captain in the United States Army, a member of B Company Third Battalion, 187th Infantry Regiment, 101st Airborne-Air Assault Division, and serves as company commander.

They both received the prestigious Bronze Star medal, as the sons of Marie and Bob Caraccilo -- Bob, a great person, Marie -- wonderful contributors to the community of Seneca Falls. Bob is a barber, has worked very hard through his life and, rightly so, is very proud of his entire family and particularly of the service of his fine sons.

All of our communities in the Finger Lakes and all of New York State should be proud of these fine individuals -- brothers, brothers in arms, brothers who are serving the highest calling to protect the

most important democracy ever formed on the face of the globe.

And as we debate legislation today aggressively, I think it's appropriate that we pause to understand the cost and the price of freedom. These young men, coming from a small town, serving in a faraway world, a faraway country, serving the interests of their own country, recognized to receive the Bronze Star, the third highest military honor.

I pause, thank my colleagues for their concern and support of this resolution, a resolution very well deserved, a resolution that we are extremely grateful to present because of the valor of these fine young men, Dominic and Edward Caraccilo.

Thank you, Mr. President.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

resolution is adopted.

Gentlemen, we welcome you today and extend our congratulations and our thanks for your service.

(Applause.)

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, I believe I have a privileged resolution at the desk. I would ask that it be called up at this time, read in its entirety, and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 5695, congratulating the Columbia High School Baseball Team and Coach George Czerno upon the occasion of capturing the 2004 New York State Class AA Championship.

"WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit, nurtured by dedicated coaching and strategic planning; and

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success, and developing a sense of fair play and competition; and

"WHEREAS, The Columbia High School Blue Devils Baseball Team are the 2004 New York State Class AA Champions; and

"WHEREAS, The Blue Devils defeated the Oceanside Sailors, 6-2, to close their season with a 28-2 record and capture its first New York State Championship in baseball, as well as the first for a team from Section II since 1999; and

"WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Coach George Czerno and his team of outstanding assistant coaches, skilled and inspirational tutors, respected for their ability to develop potential into excellence; and

"WHEREAS, The team's overall record

is outstanding, and the team members were loyally and enthusiastically supported by family, fans, friends and the community at large; and

"WHEREAS, The hallmarks of the Columbia High School Baseball Team, from the opening game of the season to participation in the New York State Class AA Championship game at NYSEG Stadium in Binghamton, were a brotherhood of athletic ability, of good sportsmanship, of honor and of scholarship, demonstrating that these team players are second to none; and

"WHEREAS, Athletically and academically, the team members have proven themselves to be an unbeatable combination of talents, reflecting favorably on their school; and

"WHEREAS, Coach George Czerno and his dedicated staff have done a superb job in guiding, molding, and inspiring their team members towards their goals; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Coach George Czerno and

his outstanding athletes have clearly made a contribution to the spirit of excellence which is a tradition at Columbia High School; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the Columbia High School Baseball Team, its members -- Mike Hart, Todd Czerno, Mike Ogle, Mike Szoke, Zach Kirsch, Eric Ferguson, Jim Devine, Keith Glasser, Josh Willimott, Matt Smith, Bryan Rose, Ben Barner, Kyle Meyer, Chris Mascolo, and Jon Nicolla -- Manager Andrew Brewer, Assistant Coaches John Serbalik, Anthony Servidone, Adam Vooris, Hank Wysocki, Dan Batcher and Jeff Rose, and Coach George Czerno on their outstanding season and overall team record; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Columbia High School Baseball Team and to Coach George Czerno."

ACTING PRESIDENT MEIER: Senator Bruno.

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

I wanted to add my welcome and my congratulations to my constituents in the 43rd Senatorial District. Congratulations to the champs. First time ever.

And by the way, team, I wanted to apologize for the empty seats in the chamber. These people, unlike when you're in school, they get elected independently, and they're all out doing things that they feel are important in their constituency, like committee meetings and other things.

So they are not truant, they're not tardy, they're working somewhere else -- frankly, which can't be as important as being in the chamber listening to me.

(Laughter.)

SENATOR BRUNO: But they have to make their own judgments. And that's the way life goes in elective office.

But I really want to acknowledge this team. This is the first-time Columbia High AA basketball champs. And you heard their record, 28 to 2. And George Czerno, their coach, congratulations to you. Terry Brewer, the superintendent, congratulations to

you.

Now, Senator Tom Libous is here, and he represents Binghamton. And who did they beat for the championship? Binghamton. You were listening.

Sorry about that, Senator Libous. But coming in second to a team from the 43rd is not a bad thing. In fact, it's a good thing.

So I want to congratulate all of you -- your faculty, the coach, the players. And I want to just say this to you. You're young, you have achieved something exceptional and great. And when you do that, that doesn't come easily. That doesn't happen by itself. It doesn't happen with you goofing off, smoking, drinking, carousing.

Stuff like that only happens, you're only champs -- you're only champs when you work hard, you're committed, you're dedicated, you're inspired and you do it right. And you did that. So congratulations to you.

And you know what? You're out of high school, go on to college, you go on to

work, and you're going to be in a challenging life out there. Life is challenging. Life has got crises, and it's got joys and it's got pleasure. But what you have accomplished will hold you in good stead as you leave and you go on and meet the challenges that are out there, because you know how to work as a team.

And you also know how to be individuals. It's kind of like the Senators here. You see, they work as individuals, they talk while I'm talking, but when it comes time, they get together as a team and they vote unanimously for this resolution.

And this resolution, I'm telling you this, you come back here fifty years from now -- I'll probably still be here --

(Laughter.)

SENATOR BRUNO: -- and bring your children, bring your grandchildren. They will call this resolution up, by number, because this resolution, when passed in the Senate, becomes part of the history of this state. Goes in the archives. So that's something to be proud of. It's perpetual, and it's an honor, and this doesn't happen just easily.

So I am privileged and I'm honored that I am your Senator.

And for those of you that don't live in the 43rd, move in, because you're of voting age and it gets critically important.

But this is our closing day of the formal part of our session. We're going to go on, probably having to get back here because we have other things to do. But I want to share with you that we're taking time on this day because you're special, school is special, the team is special -- coach, Terry -- you really make a great contribution as role models to other young people like yourselves as you go on, having done what you have done and go on with your lives.

So congratulations to all of you, friends that are here with you, and keep going on being winners in your life as you are now. And that decision and that judgment, no matter what it is that's out there, is up to you.

So congratulations, champs.

(Applause.)

ACTING PRESIDENT MEIER: On the resolution, all those in favor signify by

saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is unanimously adopted.

Welcome to the Senate, gentlemen, and congratulations.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to the reading of the controversial calendar.

ACTING PRESIDENT MEIER: The Secretary will continue to read the controversial calendar, in regular order.

THE SECRETARY: Calendar Number 1713, by Senator Flanagan, Senate Print 7628, an act to amend the Legislative Law, in relation to lobbying and --

SENATOR BRUNO: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number

1781, by Senator Skelos, Senate Print 7598, an act to amend the Criminal Procedure Law.

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

Senator Bruno.

SENATOR BRUNO: Mr. President, with the consent of the Minority, can we at this time take up Calendar Number 1781.

SENATOR HASSELL-THOMPSON: Yes.

SENATOR BRUNO: Thank you.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1781.

THE SECRETARY: Calendar Number 1781, by Senator Skelos, Senate Print 7598, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays,

1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1783, by Senator Wright, Senate Print 7601, an act to amend the Public Authorities Law.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT MEIER: Senator Wright, Senator Liz Krueger has requested an explanation.

SENATOR WRIGHT: Thank you, Mr. President.

The bill before us this afternoon extends the Power for Jobs program, authorizing the New York Power Authority to make a voluntary contribution of $10 million to the program, establishing a rebate program through the NYSERDA.

And you'll note that this is an extension of Phases 4 and 5 of Power for Jobs, which has been the most successful economic development initiative, providing low-cost energy to a number of employers across the state. This particular bill will affect

roughly 300,000 employees employed by those various positions.

ACTING PRESIDENT MEIER: Senator Krueger.

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

ACTING PRESIDENT MEIER: Senator Wright, do you yield for a question?

SENATOR WRIGHT: Yes, I do, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

I think the Power for Jobs program is a wonderful program. And I think it's critical that the state continue it. But this --

SENATOR WRIGHT: Thank you, Senator. We look forward to your support too.

SENATOR LIZ KRUEGER: Thank you. But I do have some questions about this bill, Senator.

I've been contacted by a number of people, particularly in the not-for-profit

university and hospital areas who are eligible for NYSERDA, who are concerned that under your bill it would become a rebate program for them, which would mean they'd have to pay high out-of-pocket costs and then wait for the rebate afterwards.

Why are we going down that road now, sir?

SENATOR WRIGHT: Well, from the very beginning, Power for Jobs was intended to be a means of transitioning from a regulated monopolistic utility system to a restructured delivery of electricity.

Over the period of time, we've encountered a number of difficulties, both nationally and internationally, within the energy arena, which has protracted the transition period. So we've been through several phases of Power for Jobs.

This last phase is intended to again move more of the private companies into the private sector, purchasing their power and minimizing the amount of subsidy that we would provide. In doing this, the rebate is an effective means of doing that, as well as

containing the cost to the state.

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

SENATOR WRIGHT: I'll continue to yield, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

This bill moves responsibility into the Urban Development Corporation, or specifically under control of Charles Gargano. Why would we take a program that hasn't per se been politicized and move a successful program under different authority?

SENATOR WRIGHT: Well, first of all, I don't believe it's politicized simply by moving it to the economic development agency.

And secondly, from the very beginning, ESDC has reviewed and recommended on every application for Power for Jobs. The intent is to identify the economic impact, to ensure that jobs are being created. And that

is a legitimate and viable role for ESDC.

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

ACTING PRESIDENT MEIER: Senator Wright, do you yield?

SENATOR WRIGHT: Yes, I will, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

This is a one-year bill, but I think many of us were hoping that we'd see a three-year extender for Power for Jobs, and that we had an expectation that that would happen before we left session, although obviously we're on the last day.

Do you know where we are with the potential for a three-year ongoing extender for Power for Jobs?

SENATOR WRIGHT: Well, certainly we will continue negotiations, as we have up to this point.

This will extend it through the balance of the fiscal year, which was the

original recommendation as reflected in the budget presented by the Governor.

We're certainly willing to look at longer time frames. However, recognizing the state still faces a deficit, these programs require subsidy. In turn, the cost is estimated, under the old format, of some $55 million. So we reduce that significantly in this process. And it's simply a question of how do we pay for it.

The Assembly has advanced the idea of the three-year extender and simply said the Power Authority will pay. Well, let's face it, that's not realistic nor achievable.

So we will continue to negotiate. And in the meantime, we have the commitment of a $10 million commitment from the Power Authority to move ahead.

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

ACTING PRESIDENT MEIER: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I wish that we were doing the three-year extender. I recognize that it's a

cost factor to the Power Authority.

And as I raised earlier today with my objections to the bill that gave the Defense Department exemptions from their full cost of power, I'd rather see us expanding and continuing on an ongoing basis the Power for Jobs program as we've had it in place, because it's been a successful, important program, as you pointed out, affecting potentially 300,000 workers in businesses that draw down from the Power for Jobs program.

So I won't vote against the bill, but I do want to go on record as saying we would be doing a much greater service to the State of New York and the workers who currently are in jobs that are helped through the Power for Jobs program if we were doing a three-year extender and not making these kinds of complicated changes in the program that are potentially going to result in some organizations and businesses no longer perhaps being able to participate, and will also complicate the situation for them since they will have to pay out high costs in the beginning and then anticipate a rebate.

Again, I don't think the Power for Jobs program was broken, so I'm not sure what we gain by this type of fix. But given my support for Power for Jobs and ensuring we continue a program in the State of New York, I will vote for the bill despite my misgivings.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

Senator Schneiderman.

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

This is a successful program that businesses rely on. And businesses, to make investments, need certainty. The Assembly has just reported a three-year extender of the Power for Jobs program out of Ways and Means. We should see that bill today. Why we are passing a bill that extends the program for one year and makes substantial changes, some of them quite questionable, in a successful program, I don't know. I think this only creates uncertainty.

And I would respectfully suggest that taking this program -- that actually is

working pretty well -- out of NYSERDA and putting it under the direction of the economic development czar can only make the program more political and less focused on the merits of enterprises.

And that would be true in any administration for the person fulfilling that role; I'm not singling anyone out.

But this is a program that's successful. We should send a message to the business community in New York that we are going to renew successful programs, we are going to agree with the Assembly for a three-year extender.

I'm confident we'll see that bill before the day is out. I suggest we vote no on this bill, or just lay it aside. And let's take this program seriously and pass a three-year extender as the Assembly will do today.

I'm going to vote no, Mr. President.

Thank you.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1783 are Senators Hassell-Thompson, Onorato, Paterson, Sabini, and Schneiderman. Ayes, 52. Nays, 5.

ACTING PRESIDENT MEIER: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I request unanimous consent to be recorded in the negative on Calendar Number 1771, Senate Print 7577.

ACTING PRESIDENT MEIER: Without objection, Senator DeFrancisco will be recorded in the negative on Calendar Number 1771.

THE SECRETARY: Calendar Number 1784, by Senator Saland, Senate Print 7602, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Senator Sabini.

SENATOR SABINI: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Sabini, on the bill.

SENATOR SABINI: I just want to compliment the chair of the Education Committee, Senator Saland. This is an example of how we should do things.

We traveled around the state to hear from parents, school administrators, educators on the problem of high-stakes testing. And what we found was -- as you should in a hearing, we listened and found out some very interesting things, including hearing from the parent of one valedictorian who didn't get a diploma because she didn't take one test properly.

We heard the horror stories about the tests that had to be retaken and regiven because of mistakes on the test.

And despite what we had -- I had read from some conservative academia about who would want to eliminate high-stakes testing -- their contention was it would be students from urban areas -- instead, what we found was that

the most vocal advocates on this issue were from school districts like Scarsdale and Lockport, where parents were very concerned about what these tests did to their children's long-term educational prospects.

So I want to thank the chair and say this is really how we should do business. Took an issue, listened to people, went around the state and then made what I think is a good solution.

So I'll be voting aye.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect July 1, 2005.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1785, by the Senate Committee on Rules, Senate Print 7608, an act to amend the Tax Law.

SENATOR HASSELL-THOMPSON:

Explanation.

ACTING PRESIDENT MEIER: Senator DeFrancisco, Senator Hassell-Thompson has requested an explanation.

SENATOR DeFRANCISCO: This is a request from the County of Onondaga and the City of Syracuse to impose a 1 percent additional sales tax.

The reason for the request was that we have not reformed Medicaid. The Medicaid costs to counties are going up astronomically. We passed a bill to help reform Medicaid, to bring the costs in some kind of reasonable control in order to avoid these costs increasing.

And the reason for the bill is that the county legislature and the county executive decided that they needed this 1 percent sales tax to avoid property tax increases.

There was a delay till towards the end of the session in getting this bill because there was a discussion or dispute between the city and the county as to how that money should be distributed. That was

fortunately resolved late last week, and we are on the floor to provide for the 1 percent sales tax that was requested by the County of Onondaga.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

I'd like to thank the sponsor, or Senator Rules' assistant, for the explanation.

This legislation really underscores -- and I'm going to vote yes for it. The local government wants it. They want to raise their sales tax. But this underscores the problem that we've been discussing here for the last few weeks.

You can't have it both ways. We cannot continue to expand the size of the state government and give out goodies to everyone we want without paying for it. And if we're not going to raise state taxes, if we're not going to address the broad-based taxes that bring in the greatest revenue and expand them, we're going to be shoving the costs down to local government.

Our state continues to expand government at a rapid rate. We continue to avoid dealing with the issues in terms of state taxation and state spending. And as a result, we're passing more costs to local government, we're making the state more regressive.

And I urge all of my colleagues that some approach different than that which we've been taking here since I've been in the Senate is required. When I first got here, every budget that would come out on the floor would be an expansion of government and locking in huge, backloaded tax cuts that primarily benefited the wealthiest New Yorkers. We cannot continue to do that.

And if we do, these are the consequences the people of Onondaga County are going to suffer, the people of the City of New York are suffering: property tax increases, even -- net property tax increases, even with this minor rebate that they apparently are trying to somewhat mitigate the problems, and increased sales taxes.

So this is the consequence of our

own failures in Albany. And I realize that there is substantial pressure building out in other parts of the state about this issue. This bill in and of itself, again, we have to do. We have no choice. The local government has a gun to its head, as it were.

But we are the people with the power to take the guns away from their heads. And I hope that as this session drags on and as we move forward to whatever special session we reconvene for, the Medicaid reform Senator DeFrancisco spoke of will be on the table.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I think the issue here is the fact that we have not reformed Medicaid and we've allowed it to spiral to an uncontrollable rate of increase.

And during the debate on our Medicaid bill, which was based on hearings that were held by this house, there were many, many choices of how we can reform it. And in a bipartisan way, this house did in fact pass a bill, a realistic bill -- some called it an

historic bill during the debate on this bill.

But on the other hand is you can't pass a bill into a law unless both houses do it. And Senator Meier eloquently spoke on the floor when we were talking about the Medicaid bill that the Assembly just put a bill in that goes into effect, I believe, in the year -- the real effect of it goes in the year 2014. 2014. What would the cost of doing Medicaid be if we don't have reform for another ten years?

So I hesitate in supporting this bill, even though it's requested by our county executive and our mayor. And the reason I hesitate is there is a better way to do it. And the better way to do it is to get a real bill, a real reform bill, passed by the Assembly so it can be negotiated and we can stop this spiraling cost of a system that's out of control.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1788, by the Senate Committee on Rules, Senate Print Number 7619, an act to amend the General Municipal --

SENATOR SPANO: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

Senator Spano.

SENATOR SPANO: Can we take up Calendar 1713, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1713.

THE SECRETARY: Calendar Number 1713, by Senator Flanagan, Senate Print 7628 --

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT MEIER: Senator Flanagan, Senator Hassell-Thompson has

requested an explanation.

SENATOR FLANAGAN: Thank you, Mr. President.

This is the Senate's version of the lobbying bill. And there are a number of different provisions in the bill which I'll explain as succinctly and briefly as possible.

There are changes starting with raising the threshold on reporting from $2,000 to $5,000. We give extra discretion to the commission in terms of how they deal with penalties.

A brief explanation as to why that is. Sometimes you can have a situation where someone unknowingly can be subject to a fine of upwards of $2,500, and their compensation maybe even less than that, substantially less than that. So by the time they get notified, they're in a no-win situation.

This allows the commission to take a look, use common sense, hopefully all the time, but certainly in this instance to see if the penalty provisions should apply in a different way.

We also provide certain latitude

for first-time people who have failed to file. There's a 15-day cure provision. It's not for somebody who routinely appears or who has been subject to the commission before. It's sort of a first-time break for someone who may just not be aware of the appropriate guidelines and standards that are in place.

The composition of the commission has changed; we go from six members to eight members. We also create an advisory council on procurement lobbying, define municipal state and procurement lobbying.

And we took out a couple of things from our discussion of last year that I think are important to note. There were some objections to a judicial commission that we had placed in this legislation. That's out. There were some objections to the language going from "knowing" and "intentional" to "willful," changing some of the verbiage. That's also out.

So there are some changes that have been adopted from last year.

And that's it, Mr. President.

ACTING PRESIDENT MEIER: Read the

last section.

I'm sorry, hold on. Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you.

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

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

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I appreciate the explanation from the sponsor. And in fact, there are some good things in this bill, and it's a significant improvement over last year. I'm very glad to say that up front. But it still leaves me a number of questions to ask.

Would this bill include lobbying of the Governor or issues that relate to his passing of Executive orders?

SENATOR FLANAGAN: No.

SENATOR LIZ KRUEGER: No, okay. Thank you.

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

ACTING PRESIDENT MEIER: Senator Flanagan, do you continue to yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

As was talked about in your memo to your bill, the critical issue is particularly contracting out of monies by the state for purchase of things, contracts of state money. And a significant percentage of the monies that the state spends are not actually through on-budget agencies but through procurement contracts from public authorities, IDAs and public corporations.

Does this bill include procurement through those off-budget agencies?

SENATOR FLANAGAN: Yes, we reference "state agency." And if you look in the Legislative Law under the definition of "state agency," it includes IDAs, public authorities, public benefit corporations.

I think everything that you would

have a concern about or anyone would have a concern about is defined in that section of the law.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Flanagan, do you yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Glad to see that.

Does this bill include coverage of procurement that would involve casinos or gaming activities in the State of New York, particularly since your bill does address land use and land transfer as well as the actual sale or purchase or contracting of items?

SENATOR FLANAGAN: No.

SENATOR LIZ KRUEGER: So it would not affect casinos or gaming. Thank you.

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

ACTING PRESIDENT MEIER: Senator

Flanagan, do you yield?

SENATOR FLANAGAN: Yes, sir.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

In the language of your bill it excludes from the definition of officers or employees of actual or prospective vendors "contractors or subcontractors who communicate with state or local contracting officers in the regular course of procurement activities."

My concern is that the same people who serve as lobbyists for said companies might also have an equivalent co-job description to be the same person or entity communicating with the contracting officers.

How do we deal with the fact that if you say you're communicating as a regular course of procurement activities, that you also may be the lobbyist or working for the same firm? How do you separate out those two in your bill?

SENATOR FLANAGAN: Well, first of all, I would say the language references officers and employees. I don't think a

lobbyist is an employee of a company. I would say they're in the realm of an independent contractor, at best.

And if you're asking in terms of legislative intent, I would make it very clear that we don't think -- there would be a distinction in that case.

SENATOR LIZ KRUEGER: Okay. Thank you.

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

ACTING PRESIDENT MEIER: Senator Flanagan, do you yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Then, about three paragraphs down in the same bill, in the same section, it talks about excluding from this definition their "technical and professional advisors who are charged with the performance of functions relating to contracts."

Let's pose the same question. How would we separate out those technical and

professional advisors from people who again might be the same people or work for the same firms although they're lobbyists? Because in that case it's not an employee of the contractor, it's a professional or a technical advisor to the agency contracting with the state.

SENATOR FLANAGAN: Correct.

SENATOR LIZ KRUEGER: I'm sorry, Mr. President, if, through you, the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Flanagan, do you yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

So in your bill, if I was serving as the technical or professional advisor to a company contracting with the state, but I also might be the lobbyist for that company or an affiliate in the same group of lobbyists, that would be recognized as an excluded category in your bill?

SENATOR FLANAGAN: I want to make

a basic, fundamental point. If you're lobbying, you're lobbying on behalf of a company, we want you covered.

I don't think there's any attempt to exclude someone who is actively lobbying, someone who files with the Lobbying Commission, someone who's actively engaged in work on behalf of a particular company.

SENATOR LIZ KRUEGER: Thank you.

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

ACTING PRESIDENT MEIER: Senator Flanagan, do you yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

It excludes from the definition of people who would have to report as lobbyists in this bill those who have no ability or authority to influence the awarding of contracts.

How do you know who has the ability to influence the awarding of a contract in the action of a definition therein?

SENATOR FLANAGAN: Well, two things in particular. This language is modeled after the -- I think it's the New York City Administrative Code. So it's virtually identical, if not identical, to language that affects the City of New York right now.

I'm not sure -- I would think it would be pretty clear in terms of an agency as to who is responsible for the awarding of contracts.

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

ACTING PRESIDENT MEIER: Senator Flanagan, do you yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: I don't think the debate is within the who has the authority to award contracts. The debate I have is with the question of who has the ability to influence the awarding of contracts.

So if I might, as an example --

well, it's a touchy one in this house -- Senator Velella was -- recently pled guilty on a number of examples where he was influencing the contracts given by state agencies to various firms.

Technically, those contracts were not going through the legislative process, and one might argue that no one in the Legislature had a clear, official role in influencing the decisions of those agencies to award those contracts. And yet, as the story unfolded, that is exactly what happened, that someone who would not perhaps clearly be in a position to influence the awarding of contracts did influence the awarding of contracts.

And while, in fact, in the end analysis that was found to be illegal activity because of the payments transferred, it raises the red flag for me of how we define who actually can be influencing the awarding of a contract.

And it concerns me that we don't have a more explicit definition or that we allow that to be exempt from the definition of procurement lobbying in your bill.

SENATOR FLANAGAN: Well, I would offer a couple of observations.

Number one, again, I would repeat that this is consistent with provisions that exist in the City of New York. And to the best of my knowledge, they seem to be working.

Number two, what we're aiming at here is procurement lobbying. We have a very clear definition right in the beginning of the bill that talks about what we want to cover.

And I don't think your standards are any different from my standards or any other member of this house. We all want to make sure that there are rules of fair play, disclosure. And in the unlikely instance or in the unusual instance where someone does abrogate the rules, they should be held accountable.

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

ACTING PRESIDENT MEIER: Senator Flanagan, do you yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR LIZ KRUEGER: I do agree, I think we have the same goals here. I just think I have concerns about the language in the bill.

Last year when we had this debate on your earlier bill, I asked you whether your bill would cover the type of situation where Senator Al D'Amato was paid $500,000 for a phone call to the MTA in relationship to a land acquisition or a land transfer.

Is it your understanding that in this bill, that type of lobbying activity would be covered as procurement lobbying and that that would have to be reported now?

SENATOR FLANAGAN: Absolutely.

SENATOR LIZ KRUEGER: Thank you, Senator.

Briefly on the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Liz Krueger, on the bill.

SENATOR LIZ KRUEGER: I apologize, I had one additional question, if the sponsor would kindly yield.

ACTING PRESIDENT MEIER: Senator

Flanagan, do you continue to yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT MEIER: The sponsor very patiently yields.

SENATOR LIZ KRUEGER: Thank you.

Thank you, Senator.

The Assembly has already passed their A9062, the lobbying bill that was passed last year and has been passed again this year. Is it your understanding that they might be taking up a same-as bill with your S7628 this session?

SENATOR FLANAGAN: Hopes springs eternal, Senator Krueger. I would love to be able to prevail upon Assemblyman Grannis to see the wisdom and the merits of this piece of legislation.

So, in all sincerity, I've had discussions with him over the course of the last couple of days. My fervent hope, I think along with many other people in this chamber, is that we can effectuate some type of compromise.

I think the people of this state would be well served by passing this bill as

is and having a chapter. But if there are those who feel differently and something needs to be negotiated to effectuate a compromise, I think we stand ready to do that.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, on the bill.

I have to say I'm encouraged that we have this bill. It's been significantly changed from last year.

I have concerns, as I've raised. I think there are still several unanswered questions in the bill and in some of the new changes in the bill, including I wish we had more clarification of who's defined as being in a position of influence, who may or may not be playing a specific role in relationship to the contracts with the agencies, given what their titles may or may not be in their corporations.

I'm concerned that we still find ourselves in a situation where we might not clearly be able to understand who is intervening in a procurement decision and whether or not that's considered appropriate with or without reporting to the Lobbying

Commission.

I agree with Senator Flanagan on expanding the 15-day cure and to recognize that some people will just get it wrong, at least initially, and we want to give them an opportunity to clarify the situation.

But I'm also concerned that unless we have a bill in both houses that is the same bill, we're not moving forward, we're just talking about lobbying reform. And as I had called on us to have a conference committee between the two houses on lobbying reform months and months ago, I'm disappointed that on officially the last day of the session we have not had a conference committee between the two houses. We still have two different bills.

Last year we believed up until the very last minute of the very last night of session that we had a three-way agreement on the bill that the Assembly continues to carry and pass.

And so I am still hesitant about whether to support or not support this bill, because of my desire for us to move forward on

lobbying reform and my frustration that I don't think this is the ideal bill.

So I'm going to withhold my decision pending a few other questions from my colleagues.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

I do have some questions, but I'm not going to address them to the sponsor because, in all honesty, I think he's answered as sincerely as he can. I don't think he can answer the questions.

The question is when you have an effort to reform the status quo in this town, there are a lot of people who do not want that reform to go through. And when you have an effort to do something as essential as limiting the power of lobbyists, restricting the access of lobbyists to legislators and to the members of government agencies that make so many decisions about the billions of dollars that are entrusted to our care by the

taxpayers, there are a lot of people who don't want to see such reforms go through.

And based on my understanding of the position of the Assembly now, I'm afraid that what we're doing today is what we did last year. The Assembly has passed a lobbying reform bill. They are not going to pass this bill in its present form. It is the last day of session. By passing a bill different than the Assembly's, we are now killing lobbying reform for another year.

Now, as fate would have it, this year we're in a session that doesn't appear to really be about to end. So Senator Flanagan's hope, which is now only a hope, may yet be fulfilled. But it's only going to be fulfilled if we stop this process of pretending we're for lobbying reform and passing one-house bills.

There are people who have influence in the Assembly who do not want lobbying reform. There are people who have influence in this house who do not want lobbying reform. We all understand that this is about changing the way business is done in Albany, and the

people who are profiting from the way business is done in Albany don't want change.

So, my colleagues, I would urge you -- I'm actually going to vote no, although this bill is substantially improved, is a substantial improvement over what was passed by this house last year. But I'm going to vote no because this is the last day of session. We've had since February, when the Assembly made its bill clear, to work something out. As Senator Krueger said, we could have had a conference committee.

And I'm afraid that with all the other issues that we're going to attempt to resolve when we come back and do a special session, the easiest issue to be left by the side of the road is the one that the most people in this town do not want to see come to the floor, which is lobbying reform.

So unfortunately -- and I commend Senator Flanagan for his hope. You know, if you don't have hope, you can never get anything done. But for this year, my hope of actual lobbying reform and procurement reform and the reforms that are so vitally needed

here is very, very dim.

I think what we're doing today is what we did last year. I'm glad we're doing it in daylight and not in the middle of the night, as we did last year. But we're passing two one-house bills, and we're leaving Albany one more year with no lobbying reform.

So I'm going to vote no. I hope that soon, someday, perhaps a special session this year, we will have the opportunity to vote on a bill that Senator Flanagan and his counterparts in the Assembly have agreed on. But in the absence of that, I cannot in good conscience endorse one more year of bills that pass each other in the night so we can go home saying we passed lobbying reform, the Assembly can go home and say they passed lobbying reform, and the truth of the matter is we know we haven't done it at all.

I'm going to vote no, Mr. President. Thank you.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 14. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1713 are Senators Hassell-Thompson, L. Krueger, Onorato, Sabini, and Schneiderman. Ayes, 52. Nays, 5.

ACTING PRESIDENT MEIER: Senator Flanagan.

SENATOR FLANAGAN: To explain my vote, please.

ACTING PRESIDENT MEIER: Senator Flanagan, to explain his vote.

SENATOR FLANAGAN: Mr. President, just briefly.

I certainly pay close attention to the comments of my colleagues, particularly those of Senator Schneiderman, in relation to this legislation.

I can only tell you what I know personally. I'm not going to speak for others. And I do know this. In the course of my first term here in the Senate, I have always believed that Senator Bruno, in

particular, has been an ardent advocate for some type of reform.

Do I wish we could get it done in April, do I wish we could get it done in January and have a chapter? Absolutely. Do I think we've made substantial progress since last year? I do think we have. I am having ongoing discussions.

And on a personal level, I really would like to see this happen. I would like to see some effective change and reform in the way the state does business. Because it affects all of us, it affects our constituents, it affects our credibility as legislators and as representatives of the people.

So certainly as a member of the Majority in this house, and working with Senator Bruno, I firmly believe that he is fully on board with achieving reform, and I do believe that before year's end we can get that reform chaptered and signed into law.

Thank you.

ACTING PRESIDENT MEIER: Senator Flanagan will be recorded in the affirmative.

The bill is passed.

Senator Spano.

SENATOR SPANO: Can we return to motions and resolutions. I understand there's some housekeeping at the desk.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator DeFrancisco.

SENATOR DeFRANCISCO: On behalf of Senator Padavan, I move to amend Senate Bill 5931B by striking out the amendments made on 6/16 and restoring it to its previous print number, 5931A.

ACTING PRESIDENT MEIER: So ordered.

SENATOR DeFRANCISCO: I wish to call up Senate Print Number 7599, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1782, by Senator Padavan, Senate Print 7599, an act to amend the Vehicle and Traffic Law.

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

Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, I now move to reconsider the vote by which the bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is before the house.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I now move that the Senate bill have its third reading at this time.

ACTING PRESIDENT MEIER: The bill will have its third reading, and the Secretary will record the same vote as when the bill was previously voted upon.

THE SECRETARY: Calendar Number 1782, by Senator Padavan, Senate Print 7599, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Stavisky.

SENATOR STAVISKY: Mr. President, with unanimous consent, I wish to be recorded in the negative on Calendar 1713.

ACTING PRESIDENT MEIER: Without objection, Senator Stavisky will be recorded in the negative on Calendar 1713.

Senator Spano.

SENATOR SPANO: Mr. President, are there any substitutions at the desk?

ACTING PRESIDENT MEIER: Yes, there are, Senator.

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

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 39, Senator Kuhl moves to discharge, from the Committee on Rules, Assembly Bill Number 10323 and substitute it for the identical Senate Bill Number 2504, Third Reading Calendar 1330.

On page 42, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 10496A and substitute it for the identical Senate Bill Number 6674A, Third Reading Calendar 1397.

On page 43, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 11070A and substitute it for the identical Senate Bill Number 2731A Third Reading Calendar 1478.

On page 48, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11075A and substitute it for the identical Senate Bill Number 7530A, Third Reading Calendar 1756.

On page 48, Senator Little moves to discharge, from the Committee on Rules, Assembly Bill Number 11368 and substitute it for the identical Senate Bill Number 7558, Third Reading Calendar 1765.

And on page 48, Senator Little moves to discharge, from the Committee on Rules, Assembly Bill Number 11369 and substitute it for the identical Senate Bill Number 7560, Third Reading Calendar 1767.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Spano.

SENATOR SPANO: Reports of standing committees.

I understand there's a report of the Rules Committee at the desk.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read the report of the Rules Committee.

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

Senate Print 4975B, by Senator Marcellino, an act to amend the Environmental Conservation Law;

5681B, by Senator Golden, an act to amend the Education Law;

6820, by Senator Farley, an act to

amend the Uniform City Court Act;

7327, by Senator LaValle, an act to amend the Tax Law;

7340A, by Senator Alesi, an act relating to the establishment;

7407B, by Senator Morahan, an act authorizing;

7513A, by Senator Spano, an act to amend the Executive Law;

7572, by Senator Parker, an act to authorize;

7575, by Senator Seward, an act to amend the Insurance Law;

7582, by Senator Spano, an act to amend the Public Health Law;

7585, by the Senate Committee on Rules, an act to amend the Public Authorities Law;

And Senate Print 7623, by Senator Mendez, an act to authorize the City of New York.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Move to accept the Rules Committee report.

ACTING PRESIDENT MEIER: All those in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

Senator Spano.

SENATOR SPANO: Mr. President, can we have the noncontroversial reading of Supplemental Calendar 59A.

ACTING PRESIDENT MEIER: First let me recognize Senator Andrews.

SENATOR ANDREWS: Yes, Mr. President. I'd like to request unanimous consent to be recorded in the negative on Calendars 1216 and 1713.

ACTING PRESIDENT MEIER: Without objection Senator Andrews will be recorded in the negative on Calendars 1216 and 1713.

Senator Spano.

SENATOR SPANO: Can we have the noncontroversial reading of Supplemental Calendar 59A.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of Supplemental Calendar 59A.

THE SECRETARY: Calendar Number 1792, by Senator Marcellino, Senate Print 4975B, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1792 are Senators DeFrancisco, Meier, and Nozzolio. Also Senator McGee. Ayes, 53. Nays, 4.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Spano.

SENATOR SPANO: Can we have an

immediate meeting of the Finance Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Finance Committee in the Majority Conference Room.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1793, by Senator Golden, Senate Print 5681B, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1794, by Senator Farley, Senate Print 6820, an act to amend the Uniform City Court Act.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1795, by Senator LaValle, Senate Print 7327, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1796, by Senator Alesi, Senate Print 7340A, an act relating to the establishment.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1797, by Senator Morahan, Senate Print 7407B, an act authorizing the Town of Clarkstown.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1798, by Senator Spano, Senate Print 7513A, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect June 30, 2005.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1800, by Senator Seward, Senate Print 7575, an act to amend the Insurance Law, in relation to the definition.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1801, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 793A and substitute it for the identical Senate Bill Number 7582, Third Reading Calendar 1801.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1801, by Member of the Assembly Pretlow, Assembly Print Number 793A, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 80th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1802, by the Senate Committee on Rules, Senate Print Number 7585, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1803, by Senator Mendez, Senate Print 7623, an act to authorize the City of New York.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Spano, that completes Supplemental Calendar 59A.

Senator Spano.

SENATOR SPANO: Can we return to Calendar 1788, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1788.

THE SECRETARY: Calendar Number 1788, by the Senate Committee on Rules, Senate Print Number 7619, an act to amend the General --

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT MEIER: Senator Skelos, Senator Hassell-Thompson has requested an explanation.

SENATOR SKELOS: Thank you, Mr. President.

This bill will extend the Empire Zone program for one year, to July 31, 2005. During that time, the Legislature will be able to review the entire system to see what

reforms are needed.

The bill will improve accountability, including subjecting the local zone administrative boards to the Public Officers Law, requiring them to adopt bylaws, and require the business certificates to be approved by the full board rather than just one administrator.

It would require businesses to file a one-time report specifying their real property tax credits claim for 2001, 2002, and 2003, and employment numbers, and would apply the employment test for new businesses to electric generating utilities.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

This program, which is modestly reformed by the bill before us, essentially would be extended into -- with most of its provisions still intact. The bill does bury the tax credits. It closes some loopholes. It has some additional requirements for the local boards.

But I respectfully submit that more reform is required. The Empire Zone program is a program that has lost its moorings.

In August 2003, Good Jobs First, a Washington-based public policy organization, issued a report surveying Empire Zone programs and their counterparts all over the country, and was highly critical of New York's zone program for designating zones "in areas with low unemployment rates" and for "losing its ability to provide targeted economic relief to distressed areas."

The problem we've got is that the Empire Zone program is not any longer getting into poor neighborhoods, targeting tax relief to create jobs where they are most needed. We have lost the principles of contiguity. Empire Zones can now be spread out over various areas; they don't even have to be geographically contiguous. They are not in the areas of highest unemployment in the state, and particularly in the City of New York, which has a significantly much higher unemployment rate than the state as a whole.

I would urge my colleagues that for us to extend a program without addressing these issues, we're endorsing a policy by which, out of the 72 zones in the state, there are only 10 in the City of New York. And since September 11th, when the city suffered its worst crisis in history, we have created no new zones in the City of New York, not even in Lower Manhattan.

There is a need to reform this program. The Comptroller of the State of New York in April issued an extensive report providing in exquisite detail reforms to ensure that these programs work, that they actually create jobs and that businesses are not getting credit disproportionate to the jobs they create.

I note that -- and the Comptroller's report documents all of this -- in one zone a real estate holding company reported creating one job that paid $10,000. They made no capital investments, and they received a real property tax credit of $137,000.

In another zone in Central

New York, a real estate development company created one job that paid $26,000, and they received a property tax credit of $250,000 and a tax reduction credit of $13,700.

We have to reform a program like this. This is becoming similar to the Pentagon's purchasing of $400 wrenches.

It's not easy to get things done at this point in the session, I understand, and agreement with the Assembly is difficult at this point. I know that Senator Bruno has stated that we're going to work even when we're not in session to try and resolve a lot of issues before we come back to pass a budget and do other things.

But I would urge my colleagues that this bill falls far short of the reform that is required for the Empire Zone program, that this program should not be renewed without these reforms, and that particularly for any of my colleagues in the City of New York, the abuse of the city by those that administer the Empire Zone program and by the designation process for the program must end.

So I'm going to vote no. I hope

that we're going to come up with something better than this when we come back for whenever the next one of our floating sessions is. But this legislation falls far short of the reforms that are required.

Let's not have a program that is ranked among the worst in the country by a national survey. Let's have a program worthy of the term "Empire." Let's pass a better reform bill.

I'm going to vote no, Mr. President.

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: Mr. President, will the sponsor yield for a question.

SENATOR SKELOS: Yes.

SENATOR McGEE: Thank you.

Senator Skelos, can you tell me -- I know that some of the contact or some of the talk has been that there's a specific number of jobs that have to be created. I think in one print there was a --

SENATOR SKELOS: No, there are no specific amount of jobs that have to be

created.

SENATOR McGEE: Good.

And how about -- I guess I want to know, is there expansion of the zones? In other words, in a rural area we need to be able to have the flexibility to be able to expand, to not necessarily be contiguous, et cetera, et cetera. Is that still in here?

SENATOR SKELOS: This bill holds the program in place.

As you know, Senator McGee, it's been Senator Bruno and the Majority's position that there should be at least on Empire Zone in every county, and that we are -- remember, with the Next Gen task force we talked about more flexibility throughout the state in designating Empire Zones. But this is really just an extension of the program.

SENATOR McGEE: That's good. Thank you very much.

I do agree that there has to be an accountability of Empire Zones, but I do know that Empire Zones in a rural area are extremely important to us. And in an Empire Zone, one size does not necessarily fit all in

every county that we have in the State of New York.

And I would encourage this Legislature to move forward to make sure that every county in the State of New York has an Empire Zone and puts us all on an equal footing. Thank you.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. Briefly on the bill. Thank you, with your permission.

I can't believe that we want to extend this program for another year. It's a public embarrassment to the State of New York.

I've participated in hearings around the questions around the Empire Zones. Senator Schneiderman mentioned just a few of the disturbing findings.

To sum it up, the State of New York may or may not be spending $400 million a year on the Empire Zone program. I say "may be" because what we've learned is under the program as it stands now, the agency overseeing the Empire Zones, the Economic

Development Corporation -- ESDC, Empire State Development Corporation, excuse me, doesn't even keep track of the tax deductions and credits going out because that's handled by a separate state agency, Tax and Finance. And they don't even have a database that compares notes with each other on this program.

We know we're desperate for funds, we talk about it all the time. We propose cuts to other vital services. We don't expand money for critical programs in the State of New York. We can't resolve education funding or health care funding. And yet we're prepared to continue for another year a program that may be in fact wasting up to $400 million of the taxpayers' money by continuing this program.

I have a bill called "Corporate Accountability." It has not been taken up on the floor of the Senate, but even absent Empire Zone specific reforms, it would ensure that any time a company in the State of New York got any kind of tax credit, tax exemption, contract, or deal with the State of New York, it would have to record that

information in a formal specific way, everyone would have to follow the same rules, the data would be collected as part of the budget process. There would be transparency, the public would know who was getting our money or who were getting tax exemptions, we would know and be able to hold accountable those corporations who made deals with the people of the State of New York but then apparently failed to follow through.

It's a simple proposal that could dramatically improve accountability and transparency in job creation, job retention, and economic development models throughout the State of New York, not just Empire Zones.

Even if we couldn't come to agreement on all the various proposals for changes in the Empire Zone program, I would argue we could have moved that bill forward, which would help protect us all in the absence of satisfactory resolution to the Empire Zone program.

While I rarely would argue we're better off letting a program sunset when we can't agree between the two houses, I would

argue that the State of New York would be better off letting this program sunset than continue under this proposal, which does not reform the program.

I'll be voting no.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Volker.

SENATOR VOLKER: Madam President, I hesitate to get into what I truly believe to be political debates. But I think I have to say something, because the Empire Zone issue is a fascinating issue.

It's saved thousands and thousands of jobs. But it's a classic example -- a Democrat Assemblyman from downstate, this is a friend of mine, has been running around the state telling everybody about how terrible this program is, it hasn't saved any money, it hasn't saved any jobs. And he repeats about the fact that many of these companies haven't reached their level of jobs that they promised to approve.

Fails to mention a couple of small problems -- like 9/11, like a recession, the

fact that companies -- and I can cite you a bunch of companies in my district, and we're now looking at them. And they're asking for more money, and they're not being given it because of the fact they haven't reached the number of jobs.

But the reason you never heard this before is because they did before. But then came 9/11, the greatest hit on New York's economy in the history of the country. We are still reeling from it -- we're much better; we're coming back -- and the recession that followed, because the initial recession was nothing compared to what happened after 9/11.

You know that we had $5 billion surplus the day 9/11 occurred? $5 billion. Within six months we were at ground zero, and with another six months we had a $10 billion deficit.

Now, the problem here is I want to challenge anyone to tell me -- several companies in my district are now being challenged about their money. But I have asked several of the unions in my area, and I'm very close to many of the unions, Do you

want us to pull that money back and have them leave the state? Is that what you want? Oh, no, no, no, we don't want to do that.

Well, that's what some of them are saying; if we pull back on our commitments, they'll leave the state. Of course we're telling them, You're not getting any more money, that's for sure. And if you don't come up in the next year or so with some additional jobs -- which most of them are now, because the economy is really coming back.

My region, by the way, is doing much better than most of the regions of the state -- doing better, in many ways, than New York City. And the reason has to do with the stories in the paper saying New York City is producing more jobs than -- well, they have to. They were down way below everybody else. New York City had a 10 percent unemployment rate for a considerable period of time. We've never had that in Western New York during this last three or four years, even though 9/11 hit us also.

I think the problem here is -- and I understand most of these Empire Zones are in

Republican districts upstate. So the politics of it is you say this is a terrible program, it's awful.

Of course, you go back a few years before 9/11, you'll find out the Empire Zones were doing extremely well. But since the recession -- national. It isn't local, it's national companies that are having the problems.

And by the way, it's not taxes and all that stuff. It's -- many of the companies in Western New York, I've gone to them and said: What's the problem? They said: Wages. The problem is that New York's wages are higher than many areas -- certainly in the world -- in the country.

And then they say we've got to reduce workers' comp rates. Is that because workers' comp rates are so outrageous? Well, they are outrageous when the wages are high.

The point I'm trying to make is I understand it's good politics to attack Empire Zones. It's especially good politics when you don't have to deal with it in an individual basis. But the truth is that Empire Zones

have saved thousands of jobs across the state.

And there is an accountability issue since the recession, and we're trying to deal with it. I've got one company in my district that brought on 350 jobs instead of 500, and they've been challenged to give the money back. Of course they say if they give the money back, then they may pull out. And we're saying, well, at least you got to give some of it back.

So there are a lot of incidents going on right now where companies are being looked at in terms of what they wanted to produce or said they were going to produce versus what they have produced.

The problem that my good friend from downstate didn't do, he looked at it from way back. He hasn't paid any attention since then. Because things have changed in many places. The truth is the Empire Zones are now doing better.

And some of these companies we are hoping against hope can produce the numbers that they said. But if they don't, then something has got to be done. And we know

that.

But let me just say the difficulty is you want to bring this state into big trouble? Get rid of the Empire Zone program. Get rid of it. And that will cripple upstate New York.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 15. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1788 are Senators Dilán, Duane, L. Krueger, Onorato, Paterson, Sabini, Schneiderman, A. Smith, and Stavisky. Ayes, 48. Nays, 9.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Seward.

SENATOR SEWARD: Yes, Madam President. I would ask for unanimous consent to be recorded in the negative on 1771 that passed earlier today.

ACTING PRESIDENT McGEE: Without objection.

Senator Dilán.

SENATOR DILAN: Yes, Madam President, I request unanimous consent to vote in the negative on 1713, Senate Print S7628.

ACTING PRESIDENT McGEE: Without objection.

Senator Spano.

SENATOR SPANO: Madam President, can we return to reports of standing committees.

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

ACTING PRESIDENT McGEE: The Secretary will read.

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

As a member of the Metropolitan Transportation Authority, James L. Sedore, Jr., of Fishkill.

As a member of the New York State Bridge Authority, James P. Sproat, of LaGrangeville.

As members of the Rochester-Genesee Regional Transportation Authority, Allen S. Bernstein, of Rochester, and James H. Redmond, of Rochester.

As a member of the Port of Oswego Authority, Steven W. Thomas, of Oswego.

As a member of the Board of Trustees of the City University of New York, Joseph J. Lhota, of Brooklyn.

As members of the Board of Trustees of Cornell University, Jerold R. Ruderman, Esquire, of Scarsdale, and Richard J. Schwartz, of New York City.

As a public member of the State Banking Board, Jeffrey Hwang, of New York City.

As a member and chairperson of the Freshwater Appeals Board, Rhonda K. Amoroso, Esquire, of Garden City.

As a member of the Long Island State Park, Recreation and Historic Preservation Commission, Herbert M. Balin, Esquire, of Bay Shore.

As members of the Mental Health Services Council, Edwin Ginsburg, D.M.D., of

Great Neck, and Richard Nelson Rosenthal, M.D., of New York City.

As members of the State Hospital Review and Planning Council, Richard Nelson Rosenthal, M.D., of New York City, and Ingrid Jimenez, of Flushing.

As a member of the Board of Visitors of the Agricultural and Industrial School At Industry, Karla F. Boyce, of Pittsford.

As a member of the Board of Visitors of the Capital District Psychiatric Center, Richard Jackson, Jr., of Averill Park.

As a member of the Board of Visitors of the Richard H. Hutchings Psychiatric Center, Myrlene M. Jones, of Syracuse.

And as a member of the Board of Visitors of the New York State Home for Veterans and their Dependents at Oxford, Wilma T. Champlin, of Downsville.

ACTING PRESIDENT McGEE: The question is on the confirmation of the names and officers as read by the Secretary. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: Those mentioned by the Secretary are hereby confirmed in their respective offices.

Senator Spano.

SENATOR SPANO: Can we stand at ease, Madam President.

ACTING PRESIDENT McGEE: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 2:25 p.m.)

ACTING PRESIDENT McGEE: Senator Maziarz.

SENATOR MAZIARZ: Yes, Madam President. Would you please recognize Senator Seward.

ACTING PRESIDENT McGEE: Senator Seward.

SENATOR SEWARD: Thank you, Madam President.

I would request unanimous consent to be recorded in the negative on Calendar

Number 1792, that passed earlier today when I was unavoidably out of the chamber.

ACTING PRESIDENT McGEE: Without objection.

SENATOR SEWARD: Thank you.

ACTING PRESIDENT McGEE: Senator Robach.

SENATOR ROBACH: Madam President, would you recognize Senator Malcolm Smith, please.

ACTING PRESIDENT McGEE: Senator Malcolm Smith.

SENATOR MALCOLM SMITH: Thank you, Madam President. I request unanimous consent to be recorded in the negative on Calendar Number 1713, S7628.

ACTING PRESIDENT McGEE: Without objection.

SENATOR MALCOLM SMITH: Thank you.

ACTING PRESIDENT McGEE: Senator Robach.

SENATOR ROBACH: Madam President, for the information of the members, we will be taking up a supplemental active list in about

five minutes.

ACTING PRESIDENT McGEE: The Senate will continue to stand at ease for about five minutes.

Thank you.

(Whereupon, the Senate reconvened at 3:03 p.m.)

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up the supplemental active list at this time, noncontroversial.

ACTING PRESIDENT McGEE: The Secretary will read the supplemental active list, noncontroversial.

THE SECRETARY: Calendar Number 427, by the Assembly Committee on Rules, Assembly Print Number 11167, an act to amend the Eminent Domain Procedure Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 120th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 633, by Senator Kuhl, Senate Print 6073A, an act to amend the Penal Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 660, by Member of the Assembly Gantt, Assembly Print Number 3545, an act to amend the Judiciary Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of January.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 922, by Member of the Assembly Canestrari, Assembly Print Number 7143A, an act to amend the Education Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 979, by Senator Padavan, Senate Print 5931A, an act authorizing the City of New York.

ACTING PRESIDENT McGEE: There is

a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1233, by Member of the Assembly McLaughlin, Assembly Print Number 2645B, an act to amend the Executive Law and others.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 6. This act shall take effect January 1, 2005.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1235, by Senator McGee, Senate Print 7116, an act to amend the State Finance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1239, by Member of the Assembly McEneny, Assembly Print Number 996A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1262, by the Assembly Committee on Rules, Assembly Print Number 10814A, an act to adjust certain state aid payments.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1359, by Senator Fuschillo, Senate Print 7108A, an act to authorize the Neighborhood Assembly of God of Nassau.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, is there a message of necessity at the desk?

ACTING PRESIDENT McGEE: Yes,

there is a message of necessity at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT McGEE: All in favor of accepting the message of necessity please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1397, by Member of the Assembly Manning, Assembly Print Number 10496A, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1478, by the Assembly Committee on Rules, Assembly Print Number 11070A, an act to authorize the Commissioner of General Services.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1566, by the Senate Committee on Rules, Senate Print Number 7466, an act to amend the Administrative Code of the City of New York.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1567, by the Senate Committee on Rules, Senate Print Number 7467, an act to amend the Administrative Code of the City of New York.

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

Read the last section.

THE SECRETARY: Section 5. This act shall take effect July 1, 2004.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1653, by Senator Larkin, Senate Print 7398, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1658, by the Senate Committee on Rules, Senate Print Number 7461, an act authorizing the City of New York.

ACTING PRESIDENT McGEE: There is

a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1765, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11368, an act to amend the Local Finance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1766, by Senator Little, Senate Print 7559, an act to amend the Public Officers Law.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, is there a message of necessity at the desk?

ACTING PRESIDENT McGEE: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT McGEE: All in favor of accepting the message of necessity will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1767, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 11369, an act to amend the Town Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1773, by Senator Nozzolio, Senate Print 7584, an act to reopen Plan 384D of the New York State and Local.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, is there a message at the desk?

ACTING PRESIDENT McGEE: Yes, there is a message.

SENATOR SKELOS: Move to accept the message of necessity.

ACTING PRESIDENT McGEE: All in favor of accepting the message of necessity will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos, that completes the

reading of the supplemental active list.

SENATOR SKELOS: Thank you, Madam President.

There's going to be a Rules Committee meeting at 3:20, and at this time the Senate will stand at ease.

ACTING PRESIDENT McGEE: Rules Committee meeting at 3:20 in the Majority Conference Room.

At this time the Senate will stand at ease.

Oh, I'm sorry. Senator Spano.

SENATOR SPANO: Please recognize Senator Duane.

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

If I may have unanimous consent to be recorded in the negative on Calendar Numbers 1653 and 1766.

ACTING PRESIDENT McGEE: Without objection.

Senator Wright.

SENATOR WRIGHT: Thank you, Madam

President.

I request unanimous consent to be recorded in the negative on Calendar Number 1790, Senate Print Number 7621.

ACTING PRESIDENT McGEE: Without objection.

Senator Spano.

SENATOR SPANO: The Senate will stand at ease.

ACTING PRESIDENT McGEE: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:14 p.m.)

(Whereupon, the Senate reconvened at 3:38 p.m.)

ACTING PRESIDENT BONACIC: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could please call up Senate Print 1746.

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: Calendar Number 1746, by Senator Marcellino, Senate Print 7399B, an act to amend the Environmental Conservation Law and the State Finance Law.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT BONACIC: Senat or Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT BONACIC: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT BONACIC: All in favor of accepting the message of necessity will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BONACIC: Opposed, nay.

(No response.)

ACTING PRESIDENT BONACIC: The message is accepted.

The Secretary will read.

And thank you, Senator Skelos.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT BONACIC: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT BONACIC: The bill is passed.

Senator Marcellino, why do you rise?

SENATOR MARCELLINO: To explain my vote.

ACTING PRESIDENT BONACIC: Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Mr. President, this bill -- mercury is a persistent and toxic pollutant, as we all know, and this bill will help take it out of the mainstream and help take it out of the waste stream. And that's a good thing.

This bill contains specific provisions that would require the DEC to accept labels on mercury-containing products that have been approved by other states with mercury labeling statutes.

This provision extends to those states that have approved alternative labels if the label meets the requirements of this bill. A very important point that I wanted to make sure that we got on the record so that we are clarified on the intent of this particular

piece of legislation.

Thank you, Mr. President.

ACTING PRESIDENT BONACIC: Thank you, Senator Marcellino.

Senator Marcellino in the affirmative.

The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, 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 1309, by Senator Brown, an act to amend the Vehicle and Traffic Law;

1831A, by Senator Maltese, an act to amend the General Municipal Law;

2755B, by Senator Spano, an act to amend the Social Services Law;

2899, by Senator Maltese, an act to amend the Administrative Code of the City of New York;

3208A, by Senator Robach, an act to amend the Civil Service Law;

4980C, by Senator DeFrancisco, an act to amend the Family Court Act;

5361C, by Senator LaValle, an act to amend the Education Law;

5385A, by Senator Spano, an act authorizing;

5757A, by Senator Golden, an act to amend the Agriculture and Markets Law;

5874, by Senator Maltese, an act to amend the Administrative Code of the City of New York;

6324, by Senator Maltese, an act to amend the Workers' Compensation Law;

6450A, by Senator Volker, an act to amend the General Municipal Law;

6479A, by Senator Spano, an act to amend the Executive Law;

6519, by Senator Spano, an act to amend the Criminal Procedure Law;

6700, by Senator Golden, an act to

amend the Private Housing Finance Law;

7053, by Senator Hannon, an act authorizing;

7154, by the Senate Committee on Rules, an act to amend the Civil Service Law;

7184A, by Senator Padavan, an act to amend the Local Finance Law;

7230, by Senator Maziarz, an act to amend the Environmental Conservation Law;

7239, by Senator Mendez, an act to amend the Private Housing Finance Law;

7309, by Senator Nozzolio, an act to amend the Highway Law;

7384, by Senator Spano, an act to provide;

7432, by Senator Golden, an act to authorize;

7457, by Senator Golden, an act to amend the Retirement and Social Security Law;

7517, by Senator Volker, an act to amend Chapter 605 of the Laws of 2000;

7548, by Senator Leibell, an act to amend the Correction Law;

7566, by the Senate Committee on Rules, an act to amend the Village Law;

7594, by the Senate Committee on Rules, an act to amend a chapter of the Laws of 2004;

7615, by the Senate Committee on Rules, an act to amend the State Finance Law;

7626, by Senator Golden, an act in relation to enacting;

7631A, by Senator Golden, an act to amend the Agriculture and Markets Law;

7637A, by Senator Johnson, an act to amend the Environmental Conservation Law;

7639, by Senator Volker, an act to amend the General Obligations Law;

7640, by Senator Little, an act to amend the Town Law;

7641, by Senator Volker, an act to amend the Executive Law;

And Senate Print 7642, by Senator Rath, an act to amend the Family Court Act and others.

All bills ordered direct to third reading.

ACTING PRESIDENT BONACIC: Senator Skelos.

SENATOR SKELOS: Move to accept

the report of the Rules Committee.

ACTING PRESIDENT BONACIC: All in favor of accepting the report of the Rules Committee will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BONACIC: Opposed, nay.

(No response.)

ACTING PRESIDENT BONACIC: The report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could now stand at ease once again.

ACTING PRESIDENT BONACIC: The Senate will stand at ease.

Thank you.

(Whereupon, the Senate stood at ease at 3:45 p.m.)

ACTING PRESIDENT BONACIC: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions and resolutions, I believe there's a resolution at the desk by Senator Larkin.

If we could have the title read and

move for its immediate adoption.

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 5802, honoring Boy Scouts of America Troop 118 of Cornwall, New York, upon the occasion of its 25th anniversary.

ACTING PRESIDENT BONACIC: All in favor of the resolution please say aye.

(Response of "Aye.")

ACTING PRESIDENT BONACIC: Those opposed, nay.

(No response.)

ACTING PRESIDENT BONACIC: The resolution is adopted.

The Senate will continue to stand at ease.

(Whereupon, the Senate reconvened at 4:13 p.m.)

ACTING PRESIDENT McGEE: Senator Robach.

SENATOR ROBACH: Madam President, at this time may we please adopt the Resolution Calendar in its entirety.

ACTING PRESIDENT McGEE: All in favor of adopting the Resolution Calendar will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The Resolution Calendar is adopted.

Senator Robach.

SENATOR ROBACH: Yes, Madam President. May we please have the noncontroversial reading of Calendar 59B.

ACTING PRESIDENT McGEE: Senator Robach, we have one substitution to make, please, and then we will go on with your instructions. Thank you.

The Secretary will read.

THE SECRETARY: On page 5, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 5550 and substitute it for the identical Senate Bill Number 67, Third Reading Calendar 131.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read Senate Supplemental Calendar Number 59B.

THE SECRETARY: Calendar Number 1804, by Senator Brown, Senate Print 1309, an act to amend the Vehicle and Traffic Law.

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

Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2005.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1806, by Senator Spano, Senate Print 2755B, an act to amend the Social Services Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1807, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 3087 and substitute it for the identical Senate Bill Number 2899, Third Reading Calendar 1807.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1807, by Member of the Assembly Seminerio, Assembly Print Number 3087, an act to amend the Administrative Code of the City of New York.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1808, by Senator Robach, Senate Print 3208A, an act to amend the Civil Service Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1809, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 7511A and substitute it for the identical Senate Bill Number 4980C, Third Reading Calendar 1809.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1809, by Member of the Assembly Weinstein, Assembly Print Number 7511A, an act to amend the Family Court Act.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 90th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1810, by Senator LaValle, Senate Print 5361C, an act to amend the Education Law, in relation to the practice of interior design.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 9. This act shall take effect one year after the date on which it shall have become a law.

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1811, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 11235A and substitute it for the identical Senate Bill Number 5385A, Third Reading Calendar 1811.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1811, by the Assembly Committee on Rules, Assembly Print Number 11235A, an act authorizing the County of Westchester.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1812, Senator Golden moves to discharge, from the Committee on Consumer Protection, Assembly Bill Number 9041A and substitute it for the identical Senate Bill Number 5757A, Third Reading Calendar 1812.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1812, by the Assembly Committee on Rules, Assembly Print Number 9041A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1814, by Senator Maltese, Senate Print 6324, an act to amend the Workers' Compensation Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT McGEE: Senator Duane.

SENATOR DUANE: Madam President --

ACTING PRESIDENT McGEE: Do you wish to speak on the bill, Senator Duane?

SENATOR DUANE: Yes, Madam President. Actually, to explain my vote.

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

SENATOR DUANE: Presently police officers, firefighters, EMS workers, correctional officers all have an HIV

presumption, which means that they do not even have to fill out an accident report in order for it to be presumed that, if they are infected with HIV, that they got it on the job.

Much of that happened before I got here. Some of it happened when I got here. All of it is absurd.

Better language was inserted into the bills -- into a bill that would cover the city correction officers, which at least said that if there was an incident, it would have to be reported before it would be assumed that a correction officer became infected with HIV because of something that happened on the job. Which I don't think is ever going to happen, because that's not how HIV is spread. And I've discussed that in this chamber numerous times.

Now, court reporters and court interpreters are going to be included, which again is never, ever going to happen, because no one will ever get infected by HIV in such a casual manner.

However, because there has to be a

report of some kind of incident, I think that that will make it so that it will be shown that no one will get HIV as a result of this kind of incident. So I'm going to vote for the bill, because it does include the improved, at least logical language on how HIV can be transmitted, and which will also prove that HIV will never be transmitted in such a casual way.

So I'm going to vote yes, Madam President, and perhaps we can focus on the real issues of how HIV is transmitted and focus on how to prevent that from happening.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

Oh, I'm sorry, Senator Hassell-Thompson.

THE SECRETARY: In relation to Calendar Number 1814, ayes, 58. Nays, 1. Senator Hassell-Thompson recorded in the negative.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Yes, Madam President, to explain my vote.

There are very few times that Senator Duane and I are not in total agreement on this issue of transmission. And while I agree with him that the probability would never be proved that a court officer or a court interpreter would probably in fact be infected in this manner, again, I think that we continue to send inappropriate messages.

Part of the education about how a disease is transmitted many times is lost in the desire to cover everybody even when the possibilities of their infection are near the levels of impossible.

I will be voting no on this bill. As someone who spent a lot of her life educating people on the appropriate manner of reduced risk and how in fact HIV and AIDS is transmitted, I could not vote -- I could not vote in support of this bill even though there are persons who could be infected as a result of this bill.

But because of the inclusion of court interpreters and court reporters, I think it's inappropriate and it sends an incorrect message to the people of the State of New York. Thank you.

ACTING PRESIDENT McGEE: Thank you.

The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1815, by Senator Volker, Senate Print 6450A, an act to amend the General Municipal Law.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1816, by Senator Spano, Senate Print 6479A, an act to amend the --

SENATOR ROBACH: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 1817, by Senator Spano, Senate Print 6519, an act to amend the Criminal Procedure Law, in relation to designating.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1818, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 11163 and substitute it for the identical Senate Bill Number 6700,

Third Reading Calendar 1818.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1818, by the Assembly Committee on Rules, Assembly Print Number 11163, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1819, by Senator Hannon, Senate Print 7053, an act authorizing the waiver of interest and penalties.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1820, by the Senate Committee on Rules, Senate Print Number 7154, an act to amend the Civil Service Law.

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

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1821, Senator Padavan moves to discharge, from the Committee on Rules,

Assembly Bill Number 11370A and substitute it for the identical Senate Bill Number 7184A, Third Reading Calendar 1821.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1821, by the Assembly Committee on Rules, Assembly Print Number 11370A, an act to amend the Local Finance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1822, by Senator Maziarz, Senate Print 7230, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Senator Oppenheimer, why do you rise?

SENATOR OPPENHEIMER: I just want to speak on the bill and say that I commend Senator Maziarz for this bill, that a hazardous waste landfill has very often been placed in singular places where people have the least opportunity to fight it.

And this is spreading it geographically fairly across the state, and I appreciate that.

Thank you. I'm voting yes.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1823, by Senator Mendez, Senate Print 7239, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT McGEE: Read the

last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1824, by Senator Nozzolio, Senate Print 7309, an act to amend the Highway Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1825, Senator Spano moves to discharge, from the Committee on Rules,

Assembly Bill Number 11364 and substitute it for the identical Senate Bill Number 7384, Third Reading Calendar 1825.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1825, by the Assembly Committee on Rules, Assembly Print Number 11364, an act to provide for the composition.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1825 are Senators Marcellino, Rath and Saland. Ayes, 56. Nays, 3.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number

1826, by Senator Golden, Senate Print 7432, an act to authorize the City of New York.

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

Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1827, by Senator Golden, Senate Print 7457, an act to amend the Retirement and Social Security Law.

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

Read the last section.

THE SECRETARY: Section 16. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1829, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 11599 and substitute it for the identical Senate Bill Number 7548, Third Reading Calendar 1829.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1829, by the Assembly Committee on Rules, Assembly Print Number 11599, an act to amend the Correction Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: In relation to Calendar Number 1831, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11670 and substitute it for the identical Senate Bill Number 7594, Third Reading Calendar 1831.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1831, by the Assembly Committee on Rules, Assembly Print Number 11670, an act to amend a chapter of the Laws of 2004.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2004.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 1832, by the Senate Committee on Rules, Senate Print Number 7615, an act to amend the State Finance Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 39. This act shall take effect immediately.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

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

SENATOR OPPENHEIMER: To explain my vote, please.

I'm very happy to see this bill before us, in that it has only limited exemptions from budget cuts. It is by far the better bill of the two that we were looking at, in that the only exceptions will be public assistance and federal funds. We know that the forward funding of education will put that partially, at least, into the exemptions from budget cuts.

But certainly this is a very good bill, something that we can be proud of, something that we can say very positively has come from this session. We do not have too many major achievements, and I think we can look to this bill as being an important and significant step that we have taken this year.

And I want to thank Senator Johnson and all the people who were on the conference committee with me. It was a very good experience and ended up with a very good bill.

I vote yes.

ACTING PRESIDENT McGEE: Senator Oppenheimer will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1833, by Senator Golden, Senate Print --

SENATOR ROBACH: Lay it aside temporarily, please.

ACTING PRESIDENT McGEE: The bill has been temporarily laid aside.

THE SECRETARY: In relation to Calendar Number 1836, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 11677 and substitute it for the identical Senate Bill Number 7639, Third Reading Calendar 1836.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1836, by the Assembly Committee on Rules, Assembly Print Number 11677, an act to amend the General Obligations Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Saland.

SENATOR SALAND: Madam President,

I would request unanimous consent to be recorded in the negative on Calendar Number 1831, Senate Number 7594.

ACTING PRESIDENT McGEE: Without objection.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. I'd like to request unanimous consent to be recorded in the negative on Calendar 1216, Senate 5148A, and Calendar 1711, Senate 7617.

ACTING PRESIDENT McGEE: Without objection.

SENATOR SCHNEIDERMAN: Thank you.

ACTING PRESIDENT McGEE: Thank you.

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

SENATOR ROBACH: If we can stand at ease momentarily, Madam President.

ACTING PRESIDENT McGEE: The Senate will stand at ease.

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

(Whereupon, the Senate reconvened

at 4:39 p.m.)

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar 1816, by Senator Spano.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1816, by Senator Spano, Senate Print 6479A, an act to amend the Executive Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT McGEE: There will be an immediate conference of the Majority in the Majority Conference Room.

Senator LaValle.

SENATOR LaVALLE: Madam President, may I have unanimous consent to be recorded in the negative on Calendar Number 1825.

ACTING PRESIDENT McGEE: Without objection.

Immediate conference of the Majority in the Majority Conference Room, please.

(Whereupon, the Senate stood at ease at 4:40 p.m.)

(Whereupon, the Senate reconvened at 6:24 p.m.)

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Can you please recognize Senator Stachowski.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I'd like unanimous consent to be

recorded in the negative on Calendars 1825 and 1831, please.

ACTING PRESIDENT MEIER: Without objection, Senator Stachowski will be recorded in the negative on Calendar Numbers 1825 and 1831.

Senator Spano.

SENATOR SPANO: Mr. President, can we return to the original active list and ask the Secretary to call up Calendar 1754.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1754.

THE SECRETARY: Calendar Number 1754, by Senator Rath, Senate Print 7523A, an act to authorizing the President of the State University of New York.

ACTING PRESIDENT MEIER: Senator Spano.

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

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR SPANO: Move to accept the message.

ACTING PRESIDENT MEIER: All in

favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

SENATOR SPANO: Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

Senator Spano.

SENATOR SPANO: Mr. President, can we go to Supplemental Calendar 59B and ask the Secretary to read Calendar Number 1830.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1830.

THE SECRETARY: Calendar Number 1830, by the Senate Committee on Rules, Senate Print Number 7566, an act to amend the Village Law.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Is there a message at the desk, Mr. President?

ACTING PRESIDENT MEIER: Yes, there is.

SENATOR SPANO: Move we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Spano.

SENATOR SPANO: Can we now have Calendar 1834.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1834.

THE SECRETARY: Calendar Number 1834, by Senator Golden, Senate Print 7631A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Is there a message at the desk, Mr. President?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR SPANO: Move that we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

message is accepted.

The bill is before the house.

Read the last section.

Senator Lachman.

SENATOR LACHMAN: Yes, I believe this bill is the so-called kosher laws bill.

ACTING PRESIDENT MEIER: Yes, it is, Senator.

SENATOR LACHMAN: I know that we have already adopted a bill that the State Assembly adopted, and the bill that we adopted in the Senate was only two or three hours ago.

If that is the case, and the two bills that were adopted by the Senate and the Assembly are identical, why are we even voting on this bill?

I don't see Senator Golden in the chamber.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Yes, Mr. President, would Senator Lachman like to ask a question on the bill? Or do you want to speak on the bill?

ACTING PRESIDENT MEIER: Senator

Lachman.

SENATOR LACHMAN: Mr. President, I'd like to have the sponsor here, and I'd like to speak on the bill and ask him a couple of questions.

SENATOR SPANO: We will lay this bill aside temporarily, Mr. President.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

Senator Spano.

SENATOR SPANO: Can we go to 1835, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1835.

THE SECRETARY: Calendar Number 1835, by Senator Johnson, Senate Print 7637A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is.

SENATOR SPANO: I move that we

accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Spano.

SENATOR SPANO: 1837, Mr. President.

ACTING PRESIDENT MEIER: The

Secretary will read Calendar 1837.

THE SECRETARY: Calendar Number 1837, by Senator Little, Senate Print 7640, an act to amend the Town Law and the General Municipal Law.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is.

SENATOR SPANO: Move we accept.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Spano.

SENATOR SPANO: Mr. President, can we return to Calendar 1834, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1834.

I'm sorry. Senator LaValle.

SENATOR LaVALLE: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 1835.

ACTING PRESIDENT MEIER: Without objection, Senator LaValle will be recorded in the negative on Calendar 1835.

The Secretary will read Calendar 1834.

THE SECRETARY: Calendar Number 1834, by Senator Golden, Senate Print 7631A, an act to amend the Agriculture and Markets Law.

SENATOR SPANO: Lay it aside

temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

Senator Spano.

SENATOR SPANO: 1839, please.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1839, by Senator Rath, Senate Print 7642, an act to amend the Family Court Act and others.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is.

SENATOR SPANO: Move that we accept.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT MEIER: Senator Rath, an explanation has been requested by Senator Krueger of Calendar 1839.

SENATOR RATH: Okay, Senator.

Through you, Mr. President, this bill creates a new Article 10A dealing with permanency.

Some of the provisions are that there will be continuing legal authority for Article 10 or voluntary placements. The law guardian assigned to a child would continue to represent the child throughout the time the child is in placement.

Similarly, the respondent parent, if eligible, would be provided an assigned attorney throughout the life of the proceedings.

Both the law guardian and the respondent parent's attorneys would receive copies of all notices and motions. A sworn report will be needed instead of a petition.

And the proposal also would revise case planning and reporting requirements to provide earlier delineation and review of the local district's implementation.

ACTING PRESIDENT MEIER: Senator Krueger.

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

ACTING PRESIDENT MEIER: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

Well, this bill is a dilemma for me, and I think for many people here it should be. Because Part A of the bill, which is a relatively short section of the bill, is in fact a requirement for us to become in agreement with the federal rules on expeditious permanency planning for children who are in foster care placements.

But then the bill adds a Part B, and Part B is where the dilemmas lie. It's my

understanding that this won't be a three-way agreement this year because of the concerns with Part B of the bill.

But to start to go through some of those issues, Part B expands the lists of aggravated circumstances where many of us believe there's already proper coverage in the state in existing law, even in cases where a child has been placed in foster care for a second time, and that the provision of services to the family may be able to avoid having to terminate parental rights.

What this bill is about is in what situations can parental rights be terminated, under what circumstances and on what timeline.

And I think all of us agree that we want to ensure the best interests of children, that we want to ensure that children don't stay in foster care longer than necessary. We want to ensure that those children who can be reunited with their families do so in as expeditious timeline as possible, and those children who can't are actually assured that they can be moved into permanency planning.

And I know that Senator Rath feels

that way, because I am on her committee and I know that she is very committed, as I am, to ensuring that we do the best things we can for the children in our state if they find themselves in the foster-care situation.

But frankly, the Part B section of the bill, which is a large number of pages and is not the agreed-upon sections with all parties, are the sections that are of greater concern.

And what I would hope, in order to resolve this issue, is we might sometime -- I would say before the end of session, although that's a tricky question at a quarter to 7:00 on the 22nd -- but some time when we come back in the summer, that perhaps we can come to agreement on Part A of the bill and revisit the issues in Part B that are of great concern to many people who are in the child welfare universe and don't share the position of Senator Rath that this is the best option we could go forward with.

So I will be voting no on the bill, although I very appreciate the work you've been doing, and wish that we just could deal

with Part A of the bill and move that through. So thank you.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1839 are Senators Duane, L. Krueger, and Schneiderman. Ayes, 57. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Spano.

SENATOR SPANO: Can we go to the supplemental active list and take up the noncontroversial reading of that list.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of the supplemental active list.

THE SECRETARY: Calendar Number 879, by Senator Hoffmann, Senate Print 7150A,

an act authorizing the Village of Dryden.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 905, by the Assembly Committee on Rules, Assembly Print Number 11058A, an act to amend the Town Law and the Public Officers Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 915, by the Senate Committee on Rules --

ACTING PRESIDENT MEIER: Senator Spano, we've been informed there's a substitution coming.

Lay the bill aside temporarily.

Senator Spano, could we return to that one. The substitution just arrived.

Calendar 915. The Secretary will read.

THE SECRETARY: In relation to Calendar Number 915, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11043 and substitute it for the identical Senate Bill Number 7015, Third Reading Calendar 915.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 915, by the Assembly Committee on Rules, Assembly Print Number 11043, an act to amend the General Municipal Law.

ACTING PRESIDENT MEIER: There is

a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1176, by Senator Seward --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1277, by Member of the Assembly McEneny, Assembly Print Number 990C, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1453, by Member of the Assembly Galef, Assembly Print Number 10015A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bonacic, to explain his vote.

SENATOR BONACIC: I'm voting in support of Senator Leibell's bill, but I want to not confuse the issue in the 42nd Senate

District, where we're having severe problems with the DEP, police enforcement for the reservoir.

And my consent on this bill is in no way a blessing to the expansion of DEP's powers into the watershed areas for other law enforcement measures other than to protect the reservoir.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Bonacic will be recorded in the affirmative.

The bill is passed.

THE SECRETARY: Calendar Number 1737, by Senator LaValle, Senate Print 7009C, an act in relation to granting John Vitale membership.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Spano, that completes the noncontroversial reading.

SENATOR SPANO: Stand at ease for a moment.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 6:40 p.m.)

(Whereupon, the Senate reconvened at 6:41 p.m.)

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Mr. President, can we return to motions and resolutions. I understand we have some housekeeping.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator McGee.

SENATOR McGEE: Mr. President, on behalf of Senator Hannon, on page number 35 I offer the following amendments to Calendar Number 1197, Senate Print Number 6656B, and ask that said bill retain its place on Third

Reading Calendar.

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

SENATOR McGEE: Thank you.

Mr. President, on behalf of Senator Balboni, I wish to call up his bill, Print Number 7597, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1780, by Senator Balboni, Senate Print 7597, an act to amend the Real Property Law.

ACTING PRESIDENT MEIER: Senator McGee.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: Senator

McGee.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR McGEE: Mr. President, on behalf of Senator DeFrancisco, I wish to call up his bill, Print Number 7360A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1534, by Senator DeFrancisco, Senate Print 7360A, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Senator McGee.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: Senator McGee.

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

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR McGEE: Thank you.

ACTING PRESIDENT MEIER: Senator Spano, we have one substitution. Can we take that now.

SENATOR SPANO: Yes, we ask that that be read.

ACTING PRESIDENT MEIER: The Secretary will read the substitution.

THE SECRETARY: On page 41, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 10170A and substitute it for the identical Senate Bill Number 6954, Third Reading Calendar 1379.

ACTING PRESIDENT MEIER: Substitution ordered.

Senator Spano.

SENATOR SPANO: Can we return to Senator Golden's bill, Calendar 1834.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1834.

THE SECRETARY: Calendar Number 1834, by Senator Golden, Senate Print 7631A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Lachman, why do you rise?

SENATOR LACHMAN: I rise to ask a question.

Through you, Mr. Chairman, I would like to know if Senator Golden is available for a question on the bill.

ACTING PRESIDENT MEIER: Senator Golden, do you yield for a question?

SENATOR GOLDEN: I do, Mr. President.

SENATOR LACHMAN: Senator Golden, I realize that a kosher bill, which is very important to you and very important to me, was

passed in this chamber about three or four hours ago which is very similar, almost identical to the bill passed in the Assembly. Therefore, we do have a kosher law bill.

Now, what is the necessity in having a second bill, which will only be a one-house bill and will not pass the Assembly?

SENATOR GOLDEN: It was a -- both bills, by both the Governor and by the Speaker of the Assembly, are very, very good bills. There are some differences between those two bills.

We submitted both bills to this Senate floor for passage, and hopefully both of those bills -- and hopefully the Assembly will look at one or two of these bills and work out a negotiated finish with the Governor, Senator Bruno and the Senate conference, and the Assembly Speaker and his conference.

I think there is still room for negotiation, and we put two bills out because there are two good bills.

SENATOR LACHMAN: Will the sponsor continue to yield.

ACTING PRESIDENT MEIER: Senator Golden, do you yield?

SENATOR GOLDEN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LACHMAN: I preface my remarks by saying that this Governor's bill is different than the previous bill submitted by the Governor.

SENATOR GOLDEN: I do, yes.

SENATOR LACHMAN: And it has many positive features that the previous bill does not have.

However, we already have passed legislation in this field.

Now, are you saying that you're hoping that even though we have now a kosher-law bill that was passed by both houses of the chamber, that there will be another compromise to be passed by us?

SENATOR GOLDEN: I am just a simple Senator in a simple conference addressing another simple Senator that is doing a marvelous job of trying to get the people's job done here in this great state.

SENATOR LACHMAN: Okay. Since we are both simpletons --

(Laughter.)

SENATOR LACHMAN: -- and since I did not get an answer to my question, will the Senator continue to yield for another question?

SENATOR GOLDEN: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR LACHMAN: Senator Golden, am I incorrect in assuming that even though you sponsored the previous bill -- which was sponsored, I believe, by the Speaker in the Assembly -- you're sponsoring this bill in the hope of changing the bill that we have already passed and will become law if the Governor signs it?

SENATOR GOLDEN: I don't understand the problem. There's a compromise, hopefully. If not, the Assembly has passed their bill, we have passed our bill that will be sent to the Governor, and hopefully the Governor will sign that bill.

And if the Governor doesn't sign

that bill, there's a bill there that can be discussed by the Governor, the Senate, and the Assembly. I think you know how it works, Senator.

SENATOR LACHMAN: Yes. Will the Senator continue to yield.

ACTING PRESIDENT MEIER: Senator Golden, do you yield?

SENATOR GOLDEN: I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR LACHMAN: I'm aware, as you know, of all the political ramifications and the various organizations and pressures that the Speaker and the Governor have been subject to regarding this bill. I think it's a very important bill. But I'm not sure I would have done it this way.

I'm going to support it. But if we pass a bill which is identical to another bill --

SENATOR GOLDEN: They're not identical, Senator.

SENATOR LACHMAN: No. The previous bills that we passed were similar

bills, they were the same bills. We passed it, your name appeared on it. I believe the Attorney General requested that your name appear on it. And it's good bill.

And now we have, three hours later, another good bill coming to the floor. I will not oppose it.

SENATOR GOLDEN: Thank you, Senator.

SENATOR LACHMAN: But I think -- but I think, at the same time, Senator, that before we present a bill for our support in this chamber, we don't submit a second bill in the hope that the other chamber will change their mind on the first bill and accept a bill closer to the second bill.

SENATOR GOLDEN: I like the Assembly's bill as well, sir. I'm hoping that Assembly bill goes through. I'm hoping that the -- they come to a term and they agree upon a bill.

But I put a bill forward because they're both good government bills. They're not political, they're good government bills. They're required. We need them here in this

great state, and that's why we put them forward.

SENATOR LACHMAN: In conclusion, Mr. President, these are good government bills and they are, in truth, political bills. Because different organizations, as Senator Golden realizes, have lobbied one or the other. And we're trying to have our cake and our cookies together.

I'm not going to oppose the bill, but I'm just opposing the process by which it has come to the surface after a bill has been agreed upon by the same sponsor.

So I will not oppose this bill, but I still don't understand what is going on except a political process which the sponsor denies that is taking place.

Thank you.

SENATOR GOLDEN: Not to keep the conversation going, sir, but the Governor is part of this discussion. He is the executive of the State of New York, and he has the right to bring forward a good government bill.

And I am working with the good Governor and the good Assembly Speaker to have

that good bill for you, sir.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1176, by Senator Seward, Senate Print 5219A, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Spano, that completes the

supplemental active list.

Senator Spano.

SENATOR SPANO: There will be a meeting of the Rules Committee in the Majority Conference Room at 7:00 p.m.

ACTING PRESIDENT MEIER: There will be a meeting of the Rules Committee at 7:00 p.m. in the Majority Conference Room.

Senator Spano.

SENATOR SPANO: The Senate will stand at ease.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 6:55 p.m.)

(Whereupon, the Senate reconvened at 7:03 p.m.)

SENATOR SPANO: Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Spano.

SENATOR SPANO: Can you please recognize Senator Oppenheimer.

ACTING PRESIDENT NOZZOLIO: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you.

I'd like unanimous consent to be recorded in the negative on Calendar 1825.

ACTING PRESIDENT NOZZOLIO: Without objection.

SENATOR OPPENHEIMER: Thank you.

SENATOR SPANO: Can we now return to Calendar Number 1833.

THE SECRETARY: Calendar Number 1833, by Senator Golden, Senate Print 7626, an act in relation to enacting the Coordinated Construction Act for Lower Manhattan.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT NOZZOLIO: Senator Golden, an explanation has been asked for.

SENATOR GOLDEN: Thank you, Acting President.

This is a bill that's been requested by the Mayor of the City of New York for this Senate and the Assembly to pass. It deals with the rebuilding of the areas of downtown Manhattan after the aftermath of 9/11.

All of us remember that terrible, terrible day and what's followed since. That

business in that area was $114 billion. We've lost somewhere in the category of about 60 or $80 billion over the last three years. That is, 15 percent of our revenue for the city and state of New York comes from Lower Manhattan, from the finance industry.

This bill is to expedite the rebuilding of downtown Manhattan by bringing together government, unions, utilities, all those that would be involved in the rebuilding, so that we can cut through difficult bureaucracies and expedite that process.

ACTING PRESIDENT NOZZOLIO: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President. Will the sponsor yield for a question.

ACTING PRESIDENT NOZZOLIO: Senator Golden, will you yield?

SENATOR GOLDEN: I do, sir.

SENATOR CONNOR: Thank you.

Mr. President, could the sponsor explain to us what the provisions of the bill are with respect to the applicability of

Article 15A, ensuring minority/women business enterprise participation in Lower Manhattan projects?

SENATOR GOLDEN: That the -- they shall be part of the process that will help us to rebuild and restart downtown Manhattan.

SENATOR CONNOR: Thank you.

Mr. President, would the sponsor yield for another question.

ACTING PRESIDENT NOZZOLIO: Senator Golden, do you wish to continue to yield?

SENATOR GOLDEN: I do.

ACTING PRESIDENT NOZZOLIO: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President. Would the sponsor explain to us the applicability of this legislation to the proposals to rebuild Route 9A?

SENATOR GOLDEN: No, sir.

SENATOR CONNOR: Mr. President, will the sponsor yield for another question.

ACTING PRESIDENT NOZZOLIO: Senator Golden, do you yield?

SENATOR GOLDEN: I do.

ACTING PRESIDENT NOZZOLIO: Senator Connor.

SENATOR CONNOR: Mr. President, I'll speak on the bill.

ACTING PRESIDENT NOZZOLIO: Senator Connor, on the bill.

SENATOR GOLDEN: Thank you, Senator.

SENATOR CONNOR: Thank you, Senator Golden.

I think Senator Golden was quite candid. I don't think he pretends to know in any degree of detail, compared to my staff and myself, what's going on in Lower Manhattan, what projects are underway in Lower Manhattan and what needs to be done in Lower Manhattan. Because I don't think Senator Golden pretends to represent Lower Manhattan, nor do any of the cosponsors of this bill.

Go back a year, last day of session last year. Senator Golden sponsored a bill dealing with the Brooklyn Bridge. I spent a few minutes explaining to my colleagues how I represented both sides of the Brooklyn Bridge. The answer I got from the sponsor was: Well,

the city gave me the bill.

And I had words with the city's incompetent -- I said incompetent representatives, Mr. President, at the time. And I was assured by these incompetent representatives of Mayor Bloomberg that this would never happen again.

So what do I learn today, but a few hours ago? That a bill that has been percolating around Lower Manhattan for the last year and a half, about which there were discussions at the community boards in my district, at which there were discussions in many, many different community groups -- Wall Street Rising, the Business Association, many, many others -- to deal with certain problems which I will at some length articulate for my colleagues so you are informed about what exactly the problems and projects are.

Lo and behold, the bill gets filed June 19th -- that was last Saturday -- and here it is on the floor. So as I come over here to debate it, a city representative tries to stop me to brief me on it.

Is that a briefing -- would any

member of this body accept a briefing after a bill dealing with only with subjects in your district, no other area -- accept an offer to be briefed after the bill is on the calendar sponsored by a different member? Would any of you accept that?

This is my 27th session here. I've had an unbending rule, I have never, ever questioned any of my colleagues about a bill that they were sponsoring that dealt with conditions or matters solely in their district.

And, Mr. President, sometimes I've been real curious about some of these bills, would have loved to ask a couple of questions. But I dampened my curiosity to give my colleagues the courtesy and appreciation that they know their districts, they know their local governments, they understand the local problem, they were involved in getting the local home rule message and they are fully briefed and cognizant, and I would not presume to question them.

Mr. President, after 27 years I'm thinking of changing this policy and deciding,

whenever I am curious about a member's local bill, to ask a whole lot of questions about it. Now, I know the member will have answers to the five or ten questions. But we do a lot of local bills here, Mr. President.

I'll tell you another thing, Mr. President. These last two sessions I've been the ranking Minority member on the Local Government Committee. I voted yes on every single bill that was ever brought before that committee because there were members sponsoring legislation dealing with matters in their district, matters of interest to their constituents.

Frankly, Mr. President, what an insult to a member. I look at the list of supporters for this legislation. Every one of them is a community group in my district. I look at the list of the major projects. Mr. President for the benefit of Senator Golden, Route 9A is the West Side Highway. And it needs to be rebuilt as it goes by the World Trade Center site.

It was actually pre-9/11 there were plans to widen it and so on. Post-9/11 -- and

to my colleagues who traveled down to the World Trade Center site shortly after 9/11, we were basically -- the rubble we were standing on when we got as close as we could get to Ground Zero, under that was Route 9A. They eventually built a path through there. My son's football team was escorted by bus right through that pass through those ruins every day to go to practice.

Now there's a highway there, but it's a temporary thing. As you know, the overpasses were knocked down. There are temporary overpasses now.

Proposals for 9A have caused great, great controversy in the community. One proposal that some of the state people were proposing had to do with putting it underground, putting a stretch of Route 9A underground right next to the World Trade Center.

And the community groups have been opposed to that, because right across from what we hope will be a great, great rebuilt World Trade Center/Liberty complex is Battery Park City. For my colleagues who aren't from

down there, that's when we stood there and looked back and all those windows were blown out, and that whole area was evacuated.

Well, that's back up and thriving. In fact, Battery Park City is now experiencing new construction going on, which -- there's a real community there. The fear of the underpass is their accessibility across West Street to the rest of Lower Manhattan, as well as a community concern.

The Lower Manhattan Community Board is quite fascinating. They're concerned about how these billions of dollars are going to be spent. Several projects have been proposed, and the community board has taken the view, that's a waste of money to do that with that money. We can do better things.

So it's not a community that just says, Whoa, we have all these billions in post-9/11 money. Some of it's even real. Some of it's a Bush promise, but some of it's actually been real, and we've gotten real money. And the community is concerned with how it's spent.

I myself had occasion to weigh in

in terms of the rebuilding of 9A. And what I did is -- a group called the Coalition to Save West Street wrote to the State Department of Transportation, and they opposed even a short West Street tunnel for Route 9A, which is one of the major projects -- by the way, the rebuilding of Route 9A, and we're talking about just a few miles of roadway, is scheduled to cost $330 million, just that maybe three or four mile stretch. That's one of the projects that's covered by this bill that's before us, these construction rules, which I will later explain in some detail. Quite some detail.

But the Coalition to Save West Street has priced out the cost of a tunnel at between 685 million and 860 million in additional costs. Just to rebuild 9A there is in the ballpark of 330 million. So they are concerned.

A poll -- and this letter is from June of '04 -- no, I'm sorry, this letter is June of '03. A poll was done, Blum & Weprin Associates did a poll of Lower Manhattan residents. It showed that an overwhelming

majority of the residents of Lower Manhattan viewed the short bypass tunnel unfavorably. The tunnel ranked near the bottom of a list of 11 redevelopment projects for Lower Manhattan.

Only 10 percent of respondents chose the West Street tunnel as a top priority for downtown transportation, whereas 30 percent chose direct transit to airports and Long Island, and 39 percent chose improved east-west access for pedestrian and vehicular traffic.

Indeed -- a slight digression, but certainly germane -- last Friday I was at a press conference with Mayor Bloomberg and the Speaker about another bill, which I hope we see later, for a $400 million subway station renovation in South Ferry. Which, by the way, the community opposed.

The Speaker and I, after getting some concessions for amenities and mitigation, undertook to sponsor this legislation and get that moving. And of course the MTA, the MTA must have a better Green Book than Mayor Bloomberg, because the MTA brought the bill to the Senator in whose district the subway

station was. Sounds familiar to all of my colleagues, I'm sure.

The Coalition to Save West Street goes on, by the way, in proposing alternatives, pointing out that they exist to accomplish the objective for this stretch of West Street. Standard traffic control measures are urged to allow pedestrians to cross, changing the timing of traffic lights to allow more time for pedestrians to cross, adding a Park Avenue-type median in the center for people to rest on the way across, and adding additional pedestrian crossings.

So the community clearly, with respect to the 9A state project which is covered by the bill before us, is clearly opposed to doing the underground stretch as a short bypass. And indeed, at a cost of several hundred million dollars additional, I have come out in agreement with the community on this issue.

Lest my colleagues think I'm being unduly parochial, I was appointed by the Governor in early 2002, when he established the Lower Manhattan Development Corporation,

which is -- oh, that's the big -- the big guy in charge. That's where all these billions of dollars flow. That's what -- not just for rebuilding the World Trade Center site, but for the other development projects. Transportation, the transportation hub, all the other projects in Lower Manhattan are under the umbrella of that.

And there is a general advisory committee of elected officials and some others to advise the LMDC board, which has been, by the way, ably chaired by Mr. Whitehead. And now Executive Director Rampe is doing a wonderful job, in my opinion.

I was appointed by the Governor to serve on that general advisory committee. This also meant that my staff and I participated in the professional firms' advisory council meetings on a regular basis. Which I can't say that I went personally; my staff submitted regular reports every month for attending those meetings. The development advisory council, we met somewhat regularly, and I did cover those myself on occasion, but always with staff.

The financial firms' advisory council, and I have reports -- I may later, if I have time, read some of these reports, for the enlightenment of my colleagues. We also -- here's one that was interesting, because you met interesting people at this. And I did go to one of these meetings, as well as sending staff to others: The Restaurants, Retailers and Small Business Advisory Council. It sounds like fun.

In the context of the post-9/11 economy in Lower Manhattan, these were interesting people, but they weren't fun meetings. Many of these people were people who initially were saying they were in danger of going out of business, going belly up. And unfortunately, some of them proved they weren't just talking, they did go under in the post-9/11 economy.

We have now, for example, a draft generic environmental impact statement for the World Trade Center, to which I registered observations in my testimony just this last February 18th. One of the most significant issues post-9/11 was air quality. And I

should point out that the bill before us addresses, addresses some of the concerns -- some of the concerns -- and I'll get into all the concerns in a minute -- that people in Lower Manhattan have had about air quality.

And the way that this bill addresses that is that the bill provides for, you know -- well, I'll go through some of the projects first. Here's some of the big projects, to give you an idea of what's going on there.

I mentioned Route 9A. Hudson River Park, part of the Hudson River Park project goes down there. That's slated for $70 million. And that won't be enough. They're going to need more. There are city projects, $150 million in ferry stations. The Fulton corridor, for $48 million.

The city, the city is budgeting $900 million, $900 million, in street repairs for Lower Manhattan. That's not including the $330 million for Route 9A, which is a state route. All this is just within a few miles' area.

Castle Clinton, $56 million for

Castle Clinton. Ah, what is Castle Clinton, some of you may say. Well, those of you who had European ancestors who arrived in New York City prior to the 1890s, when Ellis Island was started up -- you know, because I hear people say, Oh, my great-grandfather came to New York, went through Ellis Island in 1860 something, 1870. Wrong. Your great-grandfather went to Castle Clinton. That was the initial processing point for immigrants to New York.

And it remains there, looking for conversion, looking for -- it's really got to be rebuilt, so to speak, and looking for a use which we intend to give it in terms of a historical, culturally -- in a historical and culturally appropriate context.

The East River waterfront -- we talked about Hudson River Park. The East River waterfront projects, $750 million. They will be covered by this bill.

Parks, a paltry $25 million. I say paltry because I think we should do more. And if the bill I spoke of -- if the bill I spoke of earlier that was filed Friday afternoon

comes out, you will see that what the Speaker and I did get from the MTA is $15 million more for just that Battery Park where that subway station is.

Libraries, museums, and cultural space, $400 million. The MTA is committed to a $750 million transit center. Those projects total $3.5 billion. We've still got a couple billion more dollars to spend in rebuilding Lower Manhattan.

Now, why was this bill needed? Why did we start? If you go back to the immediate post-9/11 time and for all the wonderful things and holding the city together that was done then, I think we also know in the days after that, it was chaotic. It wasn't quite clear who was in charge of what always.

The city and state, under the direction of the then-mayor and governor, did a wonderful job in coping. But as anything that massive, there were a lot of -- there was a lot of running around by federal officials, for example, who -- FEMA, people who were well-trained to deal with tornadoes in trailer parks in Oklahoma, not too well prepared to

deal with the enormity of the damage that was inflicted on 9/11.

The elected officials, under the leadership of Congressman Nadler, formed a Ground Zero and Elected Officials Task Force. I have a copy of Memo Number 1 on September 15th. We met, at first, every day or two, then certainly, in ensuing months, every month. We raised -- on September 17th, we first raised with FEMA, and the state and the city, concerns about air quality in Lower Manhattan.

As you know, a year later, a year and a half later, basically the EPA admitted they lied. They had no basis, a week or two after that attack, for the statement that the then-administrator made that the air in Lower Manhattan is safe. No basis whatsoever. In fact -- oh, how interesting. I see we'll have a chapter amendment to debate shortly too, on the same bill -- but absolutely no basis whatsoever for that statement. There were people who work for the EPA who basically indicated that someone, someone in the White House told them, Tell everybody it's okay, you

can go back to work in Lower Manhattan.

Of course the federal government wanted Lower Manhattan to go back to work. Impaired as it was, with broken wings and broken legs, it was nonetheless still the goose that laid golden eggs every day, in the financial district of Lower Manhattan. And though the eggs may have been smaller, they were nonetheless made of gold. And the government wanted to keep the eggs in production.

Residents of Lower Manhattan, people who lived within a block or two, went back to their apartments. And if the windows were intact, they found the window ledges and balconies with an inch or two of dust. People whose windows were smashed in found even more horrible things in their apartment.

And if you all read the news then and you saw the TV within those first weeks, you heard the federal government officials saying, We're going to clean up these apartments, we're going to clean up these apartments.

My colleagues, do you know that 14

months later there were still people whose apartment buildings were never cleaned, whose roofs were never cleaned of that toxic dust, whose balconies were not cleaned, carpets were not cleaned?

My son returned, five weeks after 9/11, to school at Stuyvesant High School, with all assurances from the city: Oh, we spent a million dollars cleaning up the school. The school had been used for triage and other things in the immediate aftermath.

The parents' association, as they experienced sick children every day, with headaches, bronchial conditions, commissioned scientific testing in the school and found heightened levels of lead and other carcinogens, unhealthy things, lots of asbestos.

That summer they did another cleanup, after the kids had been back there for a year. And by the way, right next to the school, literally out the back door, was where the city dredged and all of the rubble was taken off on barges. So there was constant flumes, as much as they tried to wet them

down, of unhealthy air.

But the next summer, the school was told: Oh, you know what, yeah, when we were cleaning the school, we never cleaned the chairs in the auditorium, the cushions, we never cleaned the carpeting in the auditorium. Oh, yeah, that's testing for huge amounts of lead, asbestos, and whatever.

This is after the kids, after 14- and 15- and 16- and 17-year-old kids were sent back into that school for the year. That's how the federal government delivered on its promise to clean up.

They didn't clean up half the apartments. Two years later, people were still complaining. I know of a person in a building, tall building with balconies, where no one had used their balcony for literally two years because the federal government never cleaned the balconies and it still had the 9/11 dust.

Mr. President, it's getting a little noisy in here. Thank you.

Now, this bill before us deals with some of the concerns. Because air quality is

an ongoing concern for Lower Manhattan, and we are facing all of these projects that are covered by this bill that I articulated one after another. And they involve digging up roads, laying pipes, digging foundations. They involve trucking and heavy equipment, bringing materials into sites for enormous construction. And they're all going on roughly the same time.

So this bill tries to work out, for the first time in New York City, something that you have in other parts of the state, and that's the ability for joint bidding on road openings. In other words, right now in New York City, the electricity and the telephone company can't be involved in a joint bidding enterprise to open up the road and do what they've got to do all at once.

That's why those of you who are familiar with New York City will observe the craziness of your street being all dug up, and you'll come out and the Con Ed trucks are there, they're doing the electrical stuff, putting whatever they put down -- wires or ducts, whatever. And they close up your

street after a month of two of inconvenience. You still have bumpy, patched roads. But finally the city comes along and makes the road outside of your house really nice, and it's really wonderful.

And two weeks later, you come out and there's a guy out there going da-da-da-da-da-da-da-da-da, digging up the road again, because he's with the phone company. And oh, yeah, they're putting the phone lines through the road. So that wonderful new road just gets all dug up again, not a couple of months after it was just repaired.

We see that all the time in New York City. We cannot allow that to happen in Lower Manhattan with so many of these projects going on and on at the same time. So this bill will allow the City of New York to have a joint bidding process for those kind of projects.

Back to air quality. The other thing this bill will do is it will permit New York City to -- let me find my note here -- to basically adopt a process for mandating

and making affordable the use of low-sulfur fuels. That's in this bill. So that when, hopefully when all of this machinery -- construction equipment, cranes, trucks in and out all over the place -- are used, there will be, by the use of the low-sulfur fuels, a mitigation of damage to air quality.

Which already -- by the way, air quality still remains, obviously, a big problem in Lower Manhattan. And this hopefully will ameliorate that.

Another thing that this bill does, by the way -- and, Mr. President, I do have to congratulate Senator Golden for embracing this bill and this concept. And I do that because his predecessor, one of his predecessors, not exactly in the same district -- but if I may make a partisan reference, the last Republican State Senator from Brooklyn prior to my good friend Senator Golden being elected, then-Senator Bob DiCarlo, once stopped the legislation, stopped the legislation that passed the other house, did it two years in a row, to build a sportsplex for Brooklyn. And indeed, that sportsplex never got built. And

he stopped because he philosophically objected to the inclusion in the bill of a 15A requirement; i.e., a requirement for a set-aside for minority/women business enterprises. That's what his predecessor did.

But Senator Golden obviously is in favor of that kind of set-aside, which I think is a good thing. I think it's a wonderful thing. It's appropriate. And this bill will apply that state law to New York City's projects. Which are not covered per se -- there are executive orders in New York City, but it will apply that state statute mandating set-asides for minority and women business enterprises as they participate in these billions of dollars of construction. This bill now will make that applicable to New York City and Lower Manhattan.

So, Mr. President, for that I congratulate Senator Golden and I congratulate him for his departure from what had been his predecessor's attitude about that. I think that's a good thing, that's a very good thing that's in this bill. Certainly the residents of Lower Manhattan will be happy about that.

So again, my congratulations to Senator Golden -- and his cosponsors. His cosponsors, the other Republican Senators who are cosponsoring this -- I guess Senator Padavan, Senator Mendez. Is Senator Maltese on this bill? Yes, Senator Maltese, Senator Marchi. I congratulate them.

For some of them, it is clearly a turnaround in positions that they've had in the past, and I am delighted that they are cosponsoring this, particularly Senator Maltese. I am delighted that he's cosponsoring this mandating of Article 15A coverage in Lower Manhattan. We do need to set aside those tens of millions of dollars in work for minority and women business enterprises.

So this again -- I never cease to be amazed, as I serve in this chamber, at how people's views can grow and change over time. And as I say, this is my 27th session here. So I'm delighted.

The only thing, frankly, missing in this bill is sponsorship by the Senator who represents the area. And to me, I've never

quite experienced such discourtesy in those 27 sessions. And believe me, my colleagues, when I arrived in the State Senate, my first session as a freshman, 32-year-old freshman in the Minority, I got 19 chapters. And they were not local bills, because that's not how we did them.

I see Senator LaValle looking at me. He helped me with his student loan thing for medical students. He was chair of the committee.

I do have colleagues here who once upon a time, as committee chairs, would work with Minority members who had good ideas, would have their counsels work with them, and would -- and it wasn't all the last night. You passed bills -- you know what, it was good. Kept me out of trouble, kept me busy. Kept me busy legislating, because you could get bills on the calendar all throughout the session, even as a Minority member. They didn't just deal with your local needs.

So I raise this not because I need -- this is a local bill. Gosh, I could have passed it and I could get a pen certificate.

Back from those days, I have all the walls I can fit pen certificates on. I've got a whole wall full of the ones -- my older colleagues will know -- where Hugh Carey and Bob Morgado's signatures disappeared. Because I don't know what kind of ink they used, but over the years, if you go into an older member's office, you see pen certificates on the wall and it's got no governor's signature or no Bob Morgado's, secretary to the governor's signature, because the ink faded.

But I got my share of Mario Cuomos and a few George Pataki-signed ones too. And, frankly, I got several boxes of pen certificates sitting in a closet somewhere because I ran out of room. So I don't need any more pen certificates. I don't need the pride that I passed the bill.

But, Mr. President, what I don't need is the insult that, oh, it's in your district, but other people are going to sponsor it. And I don't blame so much my colleagues -- although it did happen last year, with the same sponsor -- as the Mayor's incompetent Office of Legislative Affairs, who

ought to be smart enough to look at a map --

ACTING PRESIDENT MARCELLINO: Excuse me, Senator. Excuse me, Senator.

Senator Skelos, why do you rise?

SENATOR SKELOS: Mr. President, would you please lay the bill aside temporarily and return to reports of standing committees.

I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT MARCELLINO: The bill will be laid aside temporarily.

We'll return to reports of standing committees. The Secretary will read the report of the Rules Committee.

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

Senate Print 7190, by Senator Andrews, an act authorizing the City of New York;

7296A, by Senator Libous, an act to amend the Insurance Law;

7550, by Senator Marchi, an act to amend the Tax Law;

7612A, by the Senate Committee on Rules, an act to amend the General Municipal Law and others;

7643, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

And Senate Print 7652, by Senator Golden, an act to amend a chapter of the Laws of 2004.

All bills ordered direct to third reading.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

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

ACTING PRESIDENT MARCELLINO: The motion is to accept the report of the Rules Committee. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The Rules Committee report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 568.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 568, by Senator Little, Senate Print 5533B, an act to amend the General Business Law.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT MARCELLINO: Yes, Senator, there is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MARCELLINO: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The message is accepted.

Senator Skelos.

SENATOR SKELOS: Read the last

section, please.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time if we could have the noncontroversial reading of Supplemental Calendar Number 59C.

ACTING PRESIDENT MARCELLINO: The Secretary will read the Supplemental Calendar 59C, noncontroversial.

THE SECRETARY: Calendar Number 1840, by Senator Andrews, Senate Print 7190, an act authorizing the City of New York.

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

Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 1841, by Senator Libous, Senate Print 7296A --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

THE SECRETARY: Calendar Number 1843, by the Senate Committee on Rules, Senate Print Number 7612A, an act to amend the General Municipal Law and others.

ACTING PRESIDENT MARCELLINO: Senator Skelos.

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

ACTING PRESIDENT MARCELLINO: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MARCELLINO: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The message is accepted.

Read the last section.

THE SECRETARY: Section 77. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MARCELLINO: The bill is laid aside.

Senator Skelos, that completes the noncontroversial reading of Supplemental Calendar 59C.

SENATOR SKELOS: Mr. President, will you please take up Calendar Number 1841.

ACTING PRESIDENT MARCELLINO: The Secretary will read Calendar Number 1841.

THE SECRETARY: Calendar Number 1841, by Senator Libous, Senate Print 7296A, an act to amend the Insurance Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Libous, an explanation has been requested.

SENATOR LIBOUS: Thank you, Mr. President.

I rise tonight in the chamber to first mention that I have completed 12 years as chairman of the Mental Health Committee and am pretty proud of what this body has done over those 12 years in the area of mental health.

We continue to fight the stigma for those individuals and do what we've done for people for disabilities, and tonight is no different. We bring before you a long-awaited piece of legislation that has been talked about, bantered around, and one that addresses the issue of mental health parity.

Mental health parity is something that this house has felt very deeply about,

very much concerned, and something that we said that we would address in this session. And, Mr. President, we are going to address it this evening.

We bring before you, my colleagues, a piece of legislation that brings, for the first time in this state, parity for those with mental illness, parity for those with serious biological mental illness, parity for children with mental illness, and an opportunity to give them the long deserved and awaited coverage that they have been looking for.

ACTING PRESIDENT MARCELLINO: Excuse me, Senator Libous.

Ladies and gentlemen, can we have some quiet in the house. If you have a conversation, please take it outside so that we can hear this legislation.

Thank you, Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

One of the priorities of this house and this committee and myself as chairman has been to take care of the issues of mental

illness, particularly with children. And I am very pleased that this bill continues that excellent record, Mr. President, and helps to particularly cover a segment of children that have not been covered in the past and that will be covered once this legislation is into effect.

It will affect children with attention deficit disorders, disruptive behavior disorders, pervasive development disorders. And right now those children are not getting the proper attention or health care that they deserve.

This bill also goes a long way in protecting the rights of small business. This bill has an exemption for small business, because this house has always had a concern, at a time when we value every job in this state, whether that job is created by a major corporation like IBM or GE or that job is created by a small company of one or two people, of the hairdresser that is down the block from us or a neighborhood grocery store or a small manufacturing facility that employee employs 20 or 25 people.

And statistics have proven to us and shown us that as health-care costs go up and mandates continue to be imposed on these particular businesses, that they drop their coverage for everyone.

Mr. President, this bill does provide an exemption to protect small businesses but yet covers a significant amount of people who need and deserve that coverage. It provides an exemption very similar to what the federal legislation does in Washington. The federal legislation has an exemption for employees and businesses of 50 and under, and so does our bill.

We also take on the argument, in protecting business but also providing adequate coverage to those who need it, by putting in a 2 percent premium cap on rate increases. So that too goes far in protecting small business.

But our bill does something unique, something different. It has a clause in it that would require that this body, once it's passed and enacted into law, that there would be a sunset and that sunset would require

reporting, reporting back to this body on real figures and statistics.

Because, Mr. President, one of the things that has amazed me in my efforts, along with the efforts of our committee in trying to put an adequate parity bill on the floor here so that we can protect New Yorkers who need it, is that you can't get accurate statistics from anywhere. No one seems to have the statistics except for the ones that they want to provide to you.

And I would challenge any statistics that may come up this evening, Mr. President, as to their accuracy. Because I have to tell you, until we can get those statistics and we can make them work, this legislation, once enacted, will allow us to come back and review and to provide us with the actual reporting and information that we will need so that we can continue to move forward.

I'm proud to bring this bill before us this evening. It is quite comparable to the bills of other states. And, Mr. President, I would ask for its adoption.

ACTING PRESIDENT MARCELLINO: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I have an amendment at the desk, and I would like to waive reading and ask to be heard on the amendment.

ACTING PRESIDENT MARCELLINO: The reading of the amendment is waived. You are free to speak.

SENATOR DUANE: Thank you.

The amendment that I've placed at the desk would make it so that a mental health parity in this body would track that in the body across the Capitol. And let me first, though I listened to and respect the sponsor's work on this issue, discuss what the flaws are in that legislation.

First, the exclusions. And I'm going to focus mostly on perhaps the most onerous and really the exclusion that just makes no sense at all. And that's the exclusion for coverage for those who have substance abuse or chemical abuse problems.

Why, at a time when we are, for instance, struggling to reform the Rockefeller

Drug Laws, when the science has shown and that there's been so much progress in the treatment of substance abuse, why would we exclude substance abuse treatment from this legislation?

This body unanimously, or I believe it was unanimously, approved a way to treat eating disorders, which is a tremendous mental health problem. And good for us, good for us that we're dealing with that issue.

But how could we not cover substance abuse and chemical abuse? It does not make any sense at all. In fact, if we're looking at cost-effectiveness, I would say that probably the loss-leader in terms of productivity in our workforce stems from the problem of alcohol and drug abuse.

In fact, I would encourage everyone to think about people who they've worked with, and I daresay even think about your family. I believe that probably each and every person in this house has a family member or someone with whom they've worked that has a chemical dependency, an alcohol problem, a substance abuse problem. And think about the damage

it's done to a family, think about the damage that it's done in the workplace.

How can we not cover, how can we not cover help for people with chemical dependency? How can we not try to save families and workplaces that are so negatively impacted by alcohol and substance abuse?

You know, science has come a long way in the treatment of mental health disorders. But there's still a tremendous amount to be done. And I think we also know of cases where I would say especially children have been misdiagnosed. And yet the bill without the amendment would limit the kinds of things that children could be covered for for their mental health issues, and to cover certain behaviors that need to be treated.

The bill before us, without the amendment, exempts small employers, those with 50 employees or under. But I would say that a mentally healthy workforce in New York State across the board is going to make New York State a much more attractive place for employers and for businesses.

Now, one of the things that the

bill without the amendment calls for also is a study of the impact of parity. There is no need for a study. The data is there. The data exists. There is no need to continue to study what not having mental health parity in this state is doing to us as a state.

Now, the amendment would cover the full range of mental illnesses, and it would also cover treatment for substance abuse, chemical abuse, alcoholism. Makes sense. And while the sponsor of the legislation says, well, the federal government carved it out, I would say they are absolutely wrong and it was a horrible, terrible tragedy that they exempted treatment for alcoholism and substance abuse.

And again, please, think about your own families, think about people with whom you've worked, think about people who live in your town, on your block, in your apartment building, in your neighborhood. Are there not people who need chemical and substance abuse treatment? Do you not think that we would be a healthier society, have a healthier workforce, have healthier families if we

included treatment of alcoholism and chemical and substance abuse?

And really, who are we to dictate what should or should not be covered for children under the age of 18? Is that not something better left to professionals? Aren't psychiatrists and psychologists and social workers much more capable of determining what needs to be treated in children under the age of 18 than we are? I think so.

And everyone in the state needs to be treated the same way no matter who they work for, whether they work for a big corporation or a small company. That you need mental health services shouldn't be dictated on whether -- on the size of the organization that you work for. Either you need it or you don't.

And I don't think we need a sunset provision at all. I think we know what we're talking about. I think we have lots of knowledge on this issue, I think we have lots of data, I think that mental health professionals -- indeed, I would say health

professionals across the board have spoken on this. We don't need a sunset. We need just to take action and let people get the treatment they need, let children get the treatment that they need.

I don't think 33 states are wrong. Thirty-three states have programs similar to what my amendment would call for in this legislation.

But, you know, besides all of that, I really think that we should be ashamed of ourselves. Right? The Assembly is going to pass one version, we're going to pass another version. We're playing a game, the Assembly is playing a game, the Governor is playing a game. And still we're not going to be providing the mental health services that people need in this state. Shame on us. Shame on us.

You know, this is a life-and-death issue. It was life and death for Timothy. It's ruined his family. It's ruined countless families across this state because we're not providing the coverage we should for children and adults who need mental health services.

It's wrong. We should be embarrassed, we should be ashamed.

Look at your family. Look at your coworkers. Look at your neighbors. Can you honestly say that we don't need to pass a bill this session? Yes, we do. A real bill with real services that helps real people with real problems.

Let's pass a bill that really helps New Yorkers, that really provides the services that New Yorkers need to stay mentally healthy. Healthy workplaces, healthy families, a healthy community in New York State. Pass the amendment, pass a real bill. Let's get this job done this session. Let's get it done now.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Mr. President, I rise to speak in support of the amendment.

I think Senator Duane has made a strong case for the amendment. Let me emphasize only two things.

The first really is what he was saying at the conclusion, that we need to pass a bill -- and I would suggest that beyond that, we need to pass a law this year. And we know what has passed the Assembly.

If we adjourn tonight -- which we are doing because our leader told us we're doing it -- and we pass the bill that is before us, that Senator Libous has put before us, we're ending the session with nothing. We have two one-house bills. We have taken no action.

This is the last night of session. We don't need a bill; we need a law. The Assembly has passed a good law. Senator Duane has laid out many, many provisions of that law that are preferable to the bill before us tonight and that are embodied in his amendment.

And I would urge all of you -- and I realize sometimes people don't look at the amendment process as seriously as they should. We should adopt this amendment; we should be passing the Assembly's bill.

And I want to mention one

additional provision to those that Senator Duane has enumerated. And this is in subparagraph B of Section 2 of the bill before us that Senator Duane is seeking to amend. And I think that if we don't take this section out, essentially we're passing a law that I assure you will never cover one person in this state.

The subparagraph at issue here states that none of this law, none of this pretense at parity will apply to any employer or any purchaser of a policy if the insurance company issues a certification prepared by an actuary stating that the application of this version of the bill will produce a 2 percent or more premium cost increase.

That means any actuary employed by any insurance company can simply say, Hey, I'm an actuary, I'm employed by this insurance company, and I'm telling you premiums will go up 2 percent. Your $100 premium is now going to be $102. And as soon as that is issued, no coverage.

So unless I'm misreading this -- and we'll have a chance to speak about it

later -- I think that we have a serious problem of an exemption that swallows the law.

But let me come back to the final point that Senator Duane made and the first point that I made. If we pass the bill that has been put before us, we are telling the advocates, we are telling the O'Clairs, who are here, we are leaving this year without addressing this issue.

If you adopt Senator Duane's amendment, we can tell all of them and hold our heads up and be proud of the fact that we have passed a law, we have dealt with this issue.

And Senator Bruno has told us we're leaving in a few hours. He's a man of his word. But let's also keep our word to all the people who fought so hard for mental health parity. Senator Duane's amendment is a far superior version of the bill, and Senator Duane's amendment is the only thing that will result in a law being passed this year that will actually address this problem.

I urge everyone to vote in favor of the amendment.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I rise in support of the amendment. And I will just point out, for those of us on both sides of this chamber who might have forgotten, Senator Duane's amendment is the original Senator Libous Timothy's Law bill that 33 Republican Senators cosponsored with him and 21 Democratic Senators asked, through buck slips, to join as cosponsors with.

So in fact, 54 members of this chamber are already on record as supporting the amendment that Senator Duane has brought before us tonight, the Timothy's Law that would ensure that we leave Albany with an actual agreed-upon bill in both houses.

Again, 54 members have already, on record, committed to the bill that is now the amendment that Senator Duane brings before us. I urge all of us who supported the original Senator Libous bill, or who asked to be cosponsors of that bill but could not be, to

remember that tonight when they vote on this amendment.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Those Senators in agreement with the amendment please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Connor, Diaz, Duane, González, Hassell-Thompson, L. Krueger, Onorato, Oppenheimer, Paterson, Sabini, Sampson, Schneiderman, A. Smith, M. Smith, Stachowski, and Stavisky.

ACTING PRESIDENT MEIER: The amendment is lost.

Read the last section.

Senator Paterson.

SENATOR PATERSON: Mr. President, would Senator Libous yield to a question.

ACTING PRESIDENT MEIER: Senator Libous, do you yield for a question from Senator Paterson?

SENATOR LIBOUS: Mr. President, I'd be honored to yield.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR PATERSON: Senator Libous, if the purchaser which we are talking about, which is presumably the employer, is to submit, from the Association of Actuaries, an understanding that there's a 2 percent increase in the premium, if there is a 2 percent increase in the premium set by the Department of Insurance anyway, as Senator Schneiderman was referring to, wouldn't that categorically eliminate any chances of anybody receiving this type of treatment based on the increase in the premium?

Or are you saying that the 2 percent increase in the premium is being caused by the treatment?

SENATOR LIBOUS: Mr. President, let me address this issue.

The debate that led up to mental health parity over the years has had a number of interesting twists and turns. And the advocates who support parity have said that the increase to insurance would be no more than .08 percent. Many businesses said that the cost, added cost to insurance would be

anywhere from 5 to 7 percent or higher.

It was our belief that that increase was probably somewhere in the middle. And this is where I go back to the statement that I made, Mr. President, earlier, that the information is hard to come by. It just doesn't exist.

I'll give a case in point, if I may, Mr. President and Senator Paterson. Pricewaterhouse did a report for the advocates, and they said the cost was a dollar and some change. The same firm, Pricewaterhouse, did a report for the businesses and did a report that says it would cost $7 and some change. Pricewaterhouse, I guess it depends on who pays them, they come up with a report that the client likes.

Now, in formulating this, Mr. President, I take this very serious. Because, unlike some of the comments that were made on the amendment, this is no game. This is no game at all. This is serious business. And this bill is intended to provide coverage to the mentally ill.

Now, Mr. President and Senator

Paterson, other states -- because we looked at every state. We examined hours upon hours of other mental health parity bills. And unlike the amendment and the bill that is in the Assembly, no other state has a bill like that.

So it came to our conclusion very quickly, that because no other state has a bill like that, then we should pattern our bill quite similar to what other states have as far as their success.

And on this particular issue, it was brought to our attention after extensive study that in the state of Arizona, they have a 1 percent cap. In the state of Arkansas, they have a 1.5 percent cap. Indiana has a 4 percent cap. Mississippi has a 1 percent cap. Nevada -- and I can go on and on and on.

And so the cap has been tested, Mr. President. It has worked and been successful. And it has to be verified by the Department of Insurance. Just like any other agency that comes before -- or any other company that provides insurance coverage comes before the superintendent and the department, it would have to be verified.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Libous would continue to yield.

ACTING PRESIDENT MEIER: Does the sponsor continue to yield?

SENATOR LIBOUS: I would, sir.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: The reason that I'm curious, Senator Libous, and I'm not exactly sure where you come out on this, is that in one of the original drafts of this bill they were actually suggesting that if the group purchaser actually believed that there was a 2 percent increase in the premium, then they would not have to sustain the coverage.

Now, there's more of a finite way to find out. It would be -- the Department of Insurance would be given what the actuaries actually are.

And, more simply, my question is that since the agency that measures substance abuse and other mental health services, the substance abuse/mental health services

administration, has actually said that full coverage, which would include even alcohol, substance abuse and chemical dependence, even with all of them in, that they didn't think that the premiums would rise any more than 1 percent.

So I was wondering why we listed that if the premium exceeded 2 percent, that the group purchaser would not have to provide the coverage. So I assumed the only way we could get to 2 percent is if the Department of Insurance raised the actual premiums on their own, which they have the power to do, meaning that the Department of Insurance could shut down the coverage if it happened to do that.

And I'm not suggesting that it's a game, I'm just saying that it in a sense is a poison pill, that even though the intentions might be there to provide coverage, it would in reality never occur.

And that's what I'm asking you, to what extent does the regulation of rates by the Department of Insurance trigger the denial of that coverage?

SENATOR LIBOUS: Mr. President

and Senator Paterson, I did not ever intend to say that you thought this was a game. I was referring to other comments that were made on the floor before this.

But let me say this. Our intention here is to provide mental health coverage. Our intention is to provide it to as many people as possible. In looking at the exceptions that have taken place by the percentages in other states and other legislation, in most cases, believe it or not, the advocates have been right and that those costs have not exceeded an exorbitant amount, and in some cases not exceeded 1 percent.

And we felt, because if you go back to what I said earlier that there would be a study provision in this bill and there would be a sunset in this bill, that for once and for all we would be able to evaluate costs. Because my intent, Mr. President and Senator Paterson, is that although alcohol and drugs may not be a part of this, that as other states have done, included it down the road.

So I see the 2 percent as a positive thing. I see it as an opportunity to

prove, once and for all, along with the sunset in the study, that those costs are reasonable and that the coverage could be. But we have to have that empirical data. It's very important to have that accurate information.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: I have to excuse myself for a moment. I have to go and talk to the leader about something.

But before I do, I would just like to first apologize, in a way, to Senator Libous. Because I didn't mean to suggest and did not want him to have to answer for the fact that I thought he was accusing me of playing a game. He knows that we both take these issues quite seriously, as we've both been involved in the mental health field.

And this just may be one of the disagreements that we've had. And we have actually worked out our disagreements in the

past. And I hope we can work them out now, because I find this bill extremely troubling. It is devastating to my hopes when I came in this morning that we'd be able to pass some version of Timothy's Law.

I don't think that we could even consider it to be that, because I don't think, tragically, that Timothy would even have been eligible for this particular coverage. There are just too many triggers that would have stopped it.

We have a number of mood disorders that are listed in the bill -- schizophrenia, schizoaffective disorder, major depression, bipolar disease. Now, in terms of schizoaffective disorder, that was something that in a sense came about because of the fact that in terms of the mood disorders, bipolar disease covers only about 43 percent of the cases. So we don't even really know what they are.

Then as one of the disorders they list paranoia. But there are actually two subsections of paranoia. One is paranoia schizophrenia type, which is 295.30 in the

DSM-IV, and the other is paranoia personality type, which is 301.0 in the DSM-IV.

And what confuses me about that is that here, the mood disorder is included but the personality disorder is not included. Which I just cannot rationalize, and I really don't know anyone in the field who actually would.

Then we list as part of it -- we don't include posttraumatic stress syndrome in children, particularly, where it's well-documented that this influences the young mind in such a way as to cause different types of disorders. If we want to argue this case with adults, that's one thing. But with children I think it's pretty much established that early trauma can create extreme brain syndromes or mental disease or disability.

And then we have listed in the bill, one of the coverages is for panic disorder. Well, that's an anxiety disorder, but we don't cover all of them. So it's just very confusing.

And also, the diagnoses are not as strict and coherent to the actual mental

illnesses. They're really -- psychiatrists will tell you they can barely diagnose 50 percent of the cases, that they're actually that difficult. It's hard to put a label on a mental disease or mental disability.

So that being the case, I can't understand this bill from the application of who is going to be eligible and who isn't.

Now, when it comes to children, it says that it's a diagnosis plus conduct. Well, often the conduct of a young person leads to the diagnosis. But anybody in the psychiatric field will tell you that the conduct is often intermittent.

So you can have a diagnosis, the conduct is not accompanying it right away, it's latent, and by the time the conduct shows up, you're actually in a situation where you're at the end of the treatment, where the patient is in serious -- seriously suffers from the possibility that they may have some major trauma or even, God forbid, an action they take against their own lives, whether it be successful or unsuccessful.

So here's another area where this

bill is just woefully incomplete.

Now, when you factor in the fact that there's a sunset provision and a study, it sounds almost as if we don't really believe that people with mental health illness are as eligible as people with physical illness to receive treatment. We're saying that companies that have 50 employees or less may not have to provide the treatment.

We have moved toward Project Healthy New York to have that opportunity for those who have physical ailments, and here we are taking another giant step backward by not providing that to those who have a mental hygiene disorder.

And these are just, you know, a cursory explanation of the myriad problems that I have with this legislation. And it's certainly not for the lack of effort on the sponsor. But this is one time I'm entirely disappointed by this bill. I can't think of too much more anxiety I would feel from this source.

We are not providing to people who have these illnesses -- it's almost as if

we're going back thirty years, where we're sort of questioning whether or not mental illness exists at all, where we're thinking that people who suffer from major depression are just lazy.

These are chronicled. There are four editions of psychiatric manuals that document that this is real, it exists, families suffer from it.

I thought we were at a point at this time where no one had to apologize for -- no one has to apologize if they fall down and hurt themselves and they can't walk anymore. What about someone that suffers some sort of trauma in early childhood and it affects their ability to compute, to reason, to rationalize, to in many ways form a reality that is basically commensurate with what we would call normal behavior?

And I think that in many ways we're almost, through this piece of legislation, blaming the victims, blaming them for the fact that they have these problems, and not providing them treatment in some respects until maybe it's too late. I don't want to

lose another Timothy or anybody else that could have gotten treatment that could have helped them.

This is not to even in any way imply that the legislation itself doesn't manifest sincere caring or concern for the victims. I'm just saying that it is not in any way -- it's almost anachronistic with what modern psychiatric study and statistics actually reveal.

I implore those who have worked on this legislation to take it back somewhere, take another look at it and let us present witnesses, doctors, and the statistics that will bear out the fact that we're going to have to provide this service, number one, to more people, that we're going to have to do it with premiums that are fair and equitable, and that we are going to have to make sure particularly that it is understood that children who suffer from trauma, whether it's physical, sexual or emotional, that they are given the opportunity to receive help while perhaps it can reverse many of their attributes and their conduct and they can

become active citizens in our society.

I'm planning on voting no, Mr. President. And I'm just certainly hoping that since we haven't been able to -- our offices have not been able to finish business tonight, that we'll be back here shortly and perhaps look at another piece of legislation.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Yes, thank you, Mr. President.

You know, I've been listening with great interest, between phone calls with the Governor and Mayor Bloomberg and some of the others that have an interest in what we're doing here tonight and what we're not doing. And this is one of the most serious pieces of legislation.

And I have the greatest respect for Senator Paterson and for some of the others that have been speaking about their feelings about this legislation.

Senator Libous has provided leadership in moving this forward as it gets to the floor.

And I really just want to share with my colleagues, this is not political. This is not grandstanding in any way to do something for everybody in the universe that is a good thing. That's not what this is about. This is about taking a giant step forward to create parity for those who have a mental illness of any type. That's what this is all about. This is for real.

And I'm very cognizant, as you are, and I remind you, as may have been stated, that for every 1 percent of increase in insurance rates in this state, another 30,000 people join the 3 million uninsured with no insurance here in this state. And 2 million of those people end up in the charity pools, because health care is a mandate.

So, do we do a public service if we inadvertently drive the insurance rates up by trying to deal with a universe that's out there that we're not certain of what that means?

So this bill, in a very, very real way, helps maybe 75 percent, 80 percent of the population that's out there. And it gives us

an opportunity to look at what the ramifications are and hopefully, in a very short period of time, move forward to cover whatever else it is that we haven't covered.

So I am hearing what you have to say. And the Assembly has a bill that they passed last year that covered a universe. In the most conservative estimates, that it could very well drive 60,000 people more to the uninsured. That is not a public service in any way.

To the Assembly's credit, they negotiated and they came up with a credit, saying that with small business, that we will give them the credit. And that's been discussed.

Well, the estimates are that that is a budget hit of about $50 million to $125 million. And when you're looking at a $4 to $5 billion deficit, it doesn't work. It also establishes a precedent, potentially, that will be a problem for all of us as we face it.

So we cannot mandate to small businesses additional costs of insurance,

$6,000 or $7,000 a year per individual. Employers with six employees, 10 employees, 20 employees, they can't manage that, many of them, and stay in business.

So what we are trying to do is not be clever, not be cute, not be political, not be argumentative, not be confrontational, but to try and very sincerely help a large population that is waiting for help.

And I see the O'Clair family is here in the chamber. And they have been diligent in helping us recognize the necessity of helping the tens of thousands of people that truly need help. And we're indebted to them for that.

So we want -- and I say this to Senator Paterson, in all respect to those that have different opinions, I'm sharing with you tonight that we are not going to be doing a bill that has a tax credit in it. We're not going to do it. Not in three weeks, not in three months, not next year, we're not going to do it. And I don't say that in a confrontational way. It is not going to happen. And if it landed, by some miracle, on

the Governor's desk, it would be vetoed.

So if you want to be helpful, and if you don't want to just politicize this issue, then I would appeal to you, in all sincerity, to help the people out there who are waiting for us to help them. And that's a large segment of the population.

So, Mr. President and colleagues, what we're trying to do here is real and meaningful. And I sincerely believe that if we get some help in the entire chamber, that the Assembly will have to look at this, they will have to recognize that there's a large population out there looking for us in the Legislature to help them. We want to help them, and we want to help all of the others that are out there get mental parity, because it's way overdue here in this state.

Senator Libous, thanks again for your leadership.

And I really, I appeal to you to take this huge step forward in helping a population that is waiting for us, their elected representatives, to help them.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Thank you, Mr. President.

I think Senator Bruno basically said it all. I was going to bring out several points, and that is there is no perfect bill that is ever going to be generated out of either house.

The fact of the matter is in all legislation we balance the various factors in coming up with something that will work. It would be foolhardy to provide for benefits that will result in more people becoming uninsured. That just would be irresponsible. We'd be helping a few and taking others off of the rolls of all types of insurance.

So whether this bill is perfect or

not, it certainly moves the issue much further than it's ever been before. And it puts many, many more people with health insurance that will cover mental health issues.

And rather than being questioned and being critical about the bill proposed here by Senator Libous, we should congratulate him for bringing this debate this far and for working so hard for so many years on this issue.

And I'm going to vote yes on this bill with hopes that we get a real bill by both houses this year. We have to do that. I vote aye.

ACTING PRESIDENT MEIER: Senator DeFrancisco will be recorded in the affirmative.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

Let me start off by offering my deep sympathy to the O'Clairs, who are with us tonight, for the loss of their son. Timothy was my constituent. And this tragedy that happened in this Capital District is a tragedy

of great proportions.

But let me just say something to everybody in this chamber and those of you in the gallery. I have to pay my respects to Tom Libous, Senator Libous, for the effort that he has put in on this. He is totally committed to helping and to trying to solve this terrible problem.

Timothy O'Clair would have been covered under this bill. I think that is significant. The perfect bill has never been written in this house, probably will never be written in this house, but this is a good start. This is one that will cover a great number of people.

And I think it's something that is truly a tribute to the sponsor here. And I am a sponsor of this bill. Because Senator Libous -- I know of no one that I have ever served with in 28 years has been more committed to his committee and to trying to help people who are disabled. And I can't say enough on how hard he has worked on this.

And it's very, very difficult to come up with a bill that's going to satisfy

everybody, but this does satisfy an awful lot of people in the industry -- in the area, rather. And I certainly congratulate you, Senator Libous, and I'm going to vote aye.

And again, as I leave this, I wish to say to the O'Clairs, who have worked so hard on behalf of the memory of their son, this is a good start and it's one that would have covered Timothy.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Farley will be recorded in the affirmative.

Senator Bonacic, to explain his vote.

SENATOR BONACIC: Thank you, Mr. President.

I think a very significant accomplishment has taken place tonight. And I know probably the parents of Timothy are disappointed. But, but for their efforts, I don't think this first step would have been taken.

I think the thing that strikes me about what we're doing tonight is that we are helping a substantial amount of people who

have mental illness that never would have had coverage before. And we, when we try to tackle health insurance and we talk about rising premiums and balanced approach, until this country makes a decision on national health insurance for all Americans, we are always going to proceed in a patchwork frame, only going piecemeal as to what we can afford.

And I've listened to my colleagues on the other side of the aisle. The things they say in helping others are meritorious. The problem is we are not in a position today in New York to have the fiscal means to balance, to try to keep business alive, not to drive people to the uninsured.

So I vote in the affirmative. I thank Senator Libous and all those that worked on this. I thank Timothy's parents. It's not over yet. And I know in the future it will get better in improving this fight.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Bonacic will be recorded in the affirmative.

Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr.

President.

I really always get saddened when I hear our great state compared to Arkansas and Mississippi. We can do a lot better than that.

You know, we're encouraging New Yorkers to spend money on VLTs. And maybe leadership would call for us to have New York spend a couple of dollars per person on providing mental health coverage.

You know, I'm not apologizing. And I do not anyone to apologize for me. Yeah, it's not a game. This is a sick, shameful typical New York government nightmare failure. There's plenty of blame to go around, all around this Capitol. Not just here, all over the Capitol, plenty of blame to go around.

But the proof is that we're not leaving here with a law tonight. And tomorrow we're going to have to look at our family members and our coworkers and our neighbors -- and, you know, no guarantee of blanket comprehensive coverage for children, no coverage for substance abuse? Forget about it. I'm voting no.

ACTING PRESIDENT MEIER: Senator Duane will be recorded in the negative.

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you, Mr. President.

I rise to support this legislation, to commend Senator Libous for the many, many hours and meetings and trying to meet somewhere in the middle to find a solution, that we would have a bill on this very, very day.

But I wanted to remind everyone of a bill that I carried some years ago on infertility. And we came to the floor several times before we ended with a resolution. I want to just reinforce something that is very important that Senator Bruno talked about. We talked about this in the debate on the infertility bill.

When we're adding a new service and we try to be responsive to the stakeholders, the constituency that is making this request, we do so in which we have to thread a needle. And that needle is to provide important

services but not increase the premiums and thereby drive a greater number of people to be uninsured.

And so we need to move forward. Mental health services are critical. They're very important. And we're going to get there. And it may take a little longer during this year. But we cannot increase the number of uninsured as we try and resolve the issue on the other side, and that is to provide important services.

I vote in the affirmative, Mr. President.

ACTING PRESIDENT MEIER: Senator LaValle will be recorded in the affirmative.

Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Mr. President. I rise to explain my vote. I voted no on this bill.

And I heard Senator Bruno, and I have to challenge some of the statements he made. This won't serve 75 percent of the population out there, and we know that. Because in fact, at least 40 percent of the

workers in this state are exempt already because they're in the type of employment that would not be covered by any insurance decision we made tonight.

And if we exempt people with companies below 50, we're exempting another universe of people who need this insurance.

And of course if we exempt all the non-diagnosed categories in this bill, we exempt large numbers of people who need our help. And the fact that this bill doesn't cover substance abuse or alcoholism exempts another universe of people who need this coverage from this bill.

So I can't -- Senator Libous said we can't know what all the statistics are, and I agree. But we know it doesn't cover 75 percent of the people who need mental health parity insurance in this state.

And he also said no matter how long we wait, we won't see tax credits that are available for mental health parity. And so I have to ask the question, why, if we can't have them for mental health parity, a week ago this house passed new tax credits for small

businesses to the tune of $665 million as part of the tax package, tax reduction proposals of S7471.

And there was no public debate. There were not years of discussion. There were not hearings. There were not advocates coming to Albany with their explicit justifications for why this is so important and why it is not a game.

And then just yesterday, without any discussion, without any hearings, we passed a bill involving health savings accounts that would cost the State of New York $1.6 billion, an additional $1.6 billion.

And one of the statistics thrown out there was in other states that have gone down this road, 30 percent of the people participating didn't have health insurance before, which means 70 percent did.

So if we can spend $1.6 billion with no debate and we can pass tax cuts of $665 million, I would argue we need to explore $125 million in tax credits for this bill.

I will be voting no. Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Krueger will be recorded in the negative.

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I also will be voting no.

And I think that we certainly have everyone's attention here tonight. Senator Bruno requested that. The chairman of the Assembly Committee on Mental Health is here. Assemblyman Tonko, the sponsor of this bill, is here. We have the advocates here, we have the family here.

And I think everyone here understands what's going on in this chamber tonight. We're not coming to agreement on a bill, after many promises and much public discourse about it. We're leaving here this year without addressing this issue.

And I would urge my colleagues that the price that we pay for our failure to cover mental illnesses is much greater than the price that we would pay if we put up a little more money to treat people. And everyone knows this.

The cost to the state, the cost to our workforce, the cost to our families, the cost to our economy from our failure to provide parity is far greater than any amount that we would commit to this.

And I appreciate Senator Bonacic's plea for universal health care. We have a bill that we can't get to the floor here called New York Health that would provide universal health insurance in the State of New York. And for reasons that should be obvious after this debate, it would be cheaper for us to give everyone in New York State an insurance card than it would be to go on with this system with many insurance companies, various coverages and deductibles.

And finally, I have to say, with regard to some of the statements made by my colleagues on the other side of the aisle, it is clear that we're in an area here where there is a lack of clarity, where insurance companies that have a propensity to deny coverage -- because that's what they do, and you have to fight with them sometimes for even very basic treatment -- could take a bill like

this, that has so many vagaries, so many loopholes, so many definitions, so many additional requirements, and reject pretty much every claim.

I would urge you that if we're going to go forward with this, let's take out the most offensive provisions. Let's take out the requirement that even if a child is diagnosed with a mental disorder, you still have to have this conduct in addition to the diagnosis. That's outrageous.

And I would also urge my colleagues, and particularly Senator Libous, who, with reference to the 2 percent provision, made a reference to actuaries submitting things -- an actuary can submit, there's no requirement that the Department of Insurance sign off on it. A certification just has to be prepared by an actuary and submitted.

Well, you referred to Pricewaterhouse as being, you know, available for payment. I have here a report by the actuaries at Pricewaterhouse -- that are exactly the people who could be submitting, on

behalf of an insurance company, a certification -- studying the costs and effects of parity for mental health and substance abuse insurance benefits, and noting that they range from 8.7 percent to 3.9 percent to 3.2 percent to 4.0 percent to 0.4 percent.

This bill is not going to cover anyone. It's not going to cover anyone because of the loopholes and the problems and the conflicts. And it's not going to cover anyone because it's not going to pass the Assembly. We're leaving here without taking action on this issue. Let's not pretend otherwise.

I'm sorry, I'm sorry we have not gotten this done this year. We will do everything we can do to keep the fight up. I'm voting no.

ACTING PRESIDENT MEIER: Senator Schneiderman will be recorded in the negative.

Senator Libous, to explain his vote.

SENATOR LIBOUS: Thank you, Mr. President. I'd like to explain my vote.

Senator Bruno, first of all, I want to thank you for showing your leadership and taking a major, major step here this evening on an issue that needed to be addressed. And because of your passion and your leadership, that issue is being addressed.

And, Mr. President, I respect the passion of my colleagues on the other side of the aisle. This is a very, very emotional issue. This is an issue that makes all of us sometimes question how we lead and how we take our place in public service. And these are issues very similar to -- this is an issue similar to abortion, the death penalty and others.

But I have to take exception in saying this, that I see this as a major step this evening, rather than taking a negative outlook and a negative aspect on a bill that I think there's some confusion on.

And I would ask you, even if you voted against this, to take the bill and read it, to go back and talk to people in the field and understand that what this does is takes a major step in covering those individuals with

serious biological mental illness. And it goes extremely far in taking care of those children.

The amendment that was on the floor this evening is quite fuzzy in some of those areas, and quite open in trying to really clarify and classify certain types of illness.

But I want to leave with this. While I think this bill needs to be passed this evening because it moves us very positively in the right direction, I also would hope that the members of the Assembly that are here, and those that may be listening, would heed what Senator Bruno had said. That while this bill is passing this house, we are open to discussion, we are open to only one thing, and that is to create legislation that will help the mentally ill.

Now, we believe that this is the right way to do it. We believe that this is a balanced approach. We believe that you cannot just open the floodgates at any cost, and jeopardizing those people who will then be uninsured because those companies will drop their insurance coverage. So there's two

edges to this sword. And you have to be very careful in watching it.

And, my colleagues, I would close in saying this. I too want to thank Tom and Donna O'Clair for their passion. No one knows how they feel; only they do. No one knows the frustration that they feel. And no matter what we say on the floor, no matter what we try to do, it cannot heal and cannot take the place of their loss of their most precious son.

I would only hope that they understand that while we may be taking different approaches in how we reach the final goal, that we are as passionate and as committed to make something real happen, and that we feel that this is the best approach, not the other approach that was passed in the other house.

ACTING PRESIDENT MEIER: Senator Libous will be recorded in the affirmative.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

I'm sorry. Senator Connor.

SENATOR CONNOR: To explain my vote, Mr. President.

I haven't put my hand up yet; I haven't voted. I'm kind of torn, because I do believe that very often the perfect is the enemy of the good, as we've heard before. And clearly the bill before us will help some people who otherwise would not be helped if there's no change in the law.

But on the other hand, I don't get to vote my preference. I did that on the amendment. We rarely, on final bills here in this house, on this side of the aisle, get to vote our preferences. We get to see if something's good enough or it advances something.

And while this bill certainly advances the cause, what I see here is an invitation to negotiate. I certainly take the good faith of everyone involved. I know my colleague Senator Libous, on the other side of the aisle my colleagues are serious about trying to do something. But when I hear

someone say "And we're open to talk," that sounds like negotiations. And I don't believe in negotiating against myself.

So I'm voting no.

ACTING PRESIDENT MEIER: Senator Connor will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1841 are Senators Andrews, Breslin, Connor, Dilán, Duane, Hassell-Thompson, L. Krueger, Lachman, Meier, Parker, Paterson, Sabini, Schneiderman, Seward, A. Smith, M. Smith, and Stavisky. Also Senators Diaz and González. Ayes, 41. Nays, 19.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we ask for an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in

the Majority Conference Room.

Senator Bruno.

SENATOR BRUNO: And, Mr. President, can we at this time take up Calendar Number 1844.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1844.

THE SECRETARY: Calendar Number 1844, by Senator Johnson, Senate Print 7643, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

Could members who are exiting try to do so quietly, please.

There is a message at the desk, Senator Bruno.

SENATOR BRUNO: I would move that the message be accepted.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

SENATOR SCHNEIDERMAN: Explanation.

SENATOR JOHNSON: Mr. President.

ACTING PRESIDENT MEIER: Senator Johnson.

SENATOR JOHNSON: There's an economic crisis in this state that's been growing worse year by year, and it has to deal with leased automobiles. Three years ago, 240,000 cars were leased; last year, only 140,000; and it's estimated this year about 50,000.

We are denying consumers the opportunity to lease cars which they want. They cannot afford to buy it, and they are just holding off leasing, buying secondhand cars, whatever they have to do.

The industry is losing out, and the consumers are losing out. And the reason is an anachronistic law which was passed 80 years ago called "vicarious liability." This bill is going to deal with the vicarious liability problem.

You see, when this bill was passed in 1924, there was no such thing as leased automobiles. It was to deal with cars which were owned by wealthy -- relatively wealthy people. There were no requirements for insurance. That situation does not exist today. Today, most people have insurance.

The reason these leases are declining is because lawyers noticed that this law was on the books and decided when they sue a person who has an accident, they also sue the owner of the leased car, resulting in multi-million-dollar lawsuits and really devastating many leasing companies because they could not purchase or could not afford to get insurance, so they're simply withdrawing from the market.

That is an unhealthy economic situation. Nobody benefits from this

situation.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR JOHNSON: No, I'm not done yet. I made a lot of notes, but I wrote them so small --

SENATOR SCHNEIDERMAN: Take your time.

SENATOR JOHNSON: Yeah, we have to wait until the other people get back anyway.

SENATOR SCHNEIDERMAN: Yeah, we've got time.

SENATOR JOHNSON: Anyhow, so the original situation involves owners of cars hiring drivers, essentially, without any insurance or any financial responsibility.

Now, this lawsuit, I say, has resulted in 48 leasing companies leaving this state and creating the problem which I summed up before.

Now, since I put my last bill in last year and the year before, at that time there were three states in the nation which permitted vicarious liability. Since then,

Rhode Island and Connecticut have reformed their laws so the problem doesn't exist anymore.

We have taken the model of those states and created a bill similar to that which certainly should be acceptable since it's been acceptable to all interests and varied interests in both of the other states.

This would provide that the owners, the lessors of the car carry insurance to back up the lessee's insurance, which you know we're all required to carry, leaving a total of almost $700,000 worth of liability insurance protection behind each car.

I think it should be satisfactory to everybody involved. And it's a good bill, it has to be done for the welfare of this state and the industry and the consumers, as I said, and should be adopted at this time.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Mr. President, if the sponsor would yield for a question.

SENATOR JOHNSON: I thought I

answered them all.

Just go ahead. Of course, of course.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR SCHNEIDERMAN: The sponsor referred to his bill of last year. Is the bill before us now different in any respect from the bill that was before this house last year?

SENATOR JOHNSON: It's different in just about every respect, yes. It doesn't do away with vicarious liability, which the other bill intended to do.

SENATOR SCHNEIDERMAN: Sorry, if I could interrupt the dynamic duo here for a moment, I can't hear the responses.

SENATOR JOHNSON: The last bill changed the definition of "owner" and essentially did away with vicarious liability.

This leaves that chapter in there, but it says if the lessor and lessee have sufficient insurance coverage, then the previous chapter, which is still on the books, would not apply. But the protection is there

for the person who is sued and so on.

SENATOR SCHNEIDERMAN: Through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Johnson, do you continue to yield?

SENATOR JOHNSON: Yes.

SENATOR SCHNEIDERMAN: So if I understand you correctly, then, this would require a certain level of insurance, and if that level of insurance were maintained, then the vicarious liability law would be eliminated. But if they don't have that much insurance, then you'd still be able to bring an action for vicarious liability. Is that -- that's --

SENATOR JOHNSON: Yes.

SENATOR SCHNEIDERMAN: Okay. Thank you. Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I would like to thank the sponsor for his explanation, even better than his explanation of this bill last year.

However, I still have to oppose this legislation, for reasons similar to the ones we discussed last year. This would eliminate the rights of injured parties to recover in many, many circumstances.

And the sponsor referred to the history of vicarious liability law, and I'd like to remind everyone here that the reason we have a law of vicarious liability is that in the common law, in the tort law, we have complicated situations where you try to determine -- and I remember these puzzles from law school -- who should bear the cost. You have an owner, you have a party who's actually the -- whose conduct is at issue, you have someone who caused the circumstances that led to the conduct. And under the American system of justice, we have to determine who should fairly bear the burden, who should pay.

And I would like to remind all of you of the salutary purpose of the vicarious liability law of the State of New York as expressed by the Court of Appeals in Mowczan v. Bacon, a 1998 case.

"The thrust of the statute" -- I'm

quoting now -- "is designed to give injured persons access to a financially responsible, insured entity that might provide for a more realistic recovery of damages. The enactments also remove a hardship and imbalance which the common law rule visited upon innocent persons. To wit, owners would not be permitted to evade responsibility by claiming that their vehicles were being used either without authority or not in the course of their business."

Vicarious liability is a fine principle of law. It's a good principle of law. It is something that has been upheld in every court, in every state, in various circumstances. And I would urge all of you that it's getting a bad name it doesn't deserve through the propaganda of the so-called tort reform movement.

The point of vicarious liability is simply to say if you retain ownership of the vehicle, you have a responsibility.

Now, let's look at what we're talking about here. One of the most basic principles of tort law is when you're trying to determine who's at fault, look at who's

making money. If somebody's making money out of the transaction, they're profiting from the enterprise by which someone is injured, that's the first place to look for recovery. That's the first place to look for recovery.

And the problem we've got here, simply, is we have an industry that's losing money and they don't want to give up the benefits of ownership of the car, the automobile leasing industry, but they want to give up the responsibility for ownership.

I would urge the sponsor that the problem of the reduction in leases that has led to this campaign to repeal vicarious liability laws, or limit them, as in this case -- this problem is a national problem. And it is not because of vicarious liability.

A recent study has shown that nationally the number of car leases shrank 50 percent in a two-year period. In the years 2001 and 2002, the number of car leases was reduced by 50 percent. That's in states all across the country, many of them that don't have the vicarious liability provisions which we nobly maintain here in New York.

They shrank because people aren't leasing cars. They have zero percent financing, the number of car leases is going --

ACTING PRESIDENT MEIER: Excuse me for a moment, Senator Schneiderman.

Senator Balboni, why do you rise?

SENATOR BALBONI: Yes, Mr. President, would the gentleman yield for a question, please.

ACTING PRESIDENT MEIER: Senator Schneiderman, do you yield for a question?

SENATOR SCHNEIDERMAN: I will in just one moment, but I'm on this train of thought and I'm afraid that I'll get off at the wrong stop.

But I welcome the opportunity, before the dance is done, to have another round with Senator Balboni.

The point that I'm making is that this is an industry that retains the benefits of ownership but will give up the responsibility. Let me urge you, in considering whether or not to vote for this bill, to consider the following fact -- and

then I would be glad to talk with the distinguished Senator from the Gold Coast.

Depreciation is a principal benefit of ownership. Now, automobile companies that lease get to depreciate a car. They don't want to give up the benefits of ownership or the responsibilities of ownership for that purpose.

And, Senator Balboni and Senator Johnson, the federal tax code, Section 168 of the Internal Revenue Code, provides that 20 percent of the cost of the vehicle can be depreciated in the first year, 32 percent the second year, and 19.2 percent the third year. Applying these percentages to a $20,000 car -- which is low -- the car leasing companies can deduct $4,000 for each of their one-year-old vehicles, $6,400 for a two-year-old vehicle, and another $3,800 for each of the three-year-old vehicles.

So this is a situation in which an industry is losing money. They want to keep the benefits of ownership, but they want us to take away a fine principle of law, vicarious liability, and give up the burdens of

ownership for those purposes.

I don't think there's any reason for us to say, here in the great state of New York, oh, well, other states have done this, so we should do it. If I lend my car to someone, I don't get an exemption. And I'm not making money out of the deal.

This is something that actually singles out the group of people who probably are least deserving, under the basic principles of tort law, of being exempted from vicarious liability actions -- those who profit from the transaction -- and cutting a big loophole to help out an industry that's having problems leasing their cars.

I am going to vote no for this bill unless something occurs in the ensuing minutes, through the dazzling performance of my distinguished colleague on the other side of the aisle, to change my mind.

And in that spirit, I would be happy to yield to a question from Senator Balboni.

SENATOR BALBONI: Mr. President, through you, would the gentleman care to tell

everybody in the chamber how many other states have a vicarious liability exemption as it relates to leased vehicles?

SENATOR SCHNEIDERMAN: Through you, Mr. President, if my distinguished colleague had listened to the brilliant explanation by the sponsor of the bill, he has already addressed that issue. No states.

SENATOR BALBONI: Thank you. Obviously he's not letting me preface the question.

Next question is, out of all those states, can --

ACTING PRESIDENT MEIER: Senator Balboni, are you asking Senator Schneiderman to yield for another question?

SENATOR BALBONI: Mr. President, through you --

ACTING PRESIDENT MEIER: Wait, wait, wait.

SENATOR BALBONI: Mr. President, through you --

SENATOR SCHNEIDERMAN: Hold on, I know you --

ACTING PRESIDENT MEIER: Listen,

guys, as riveting as this little by-play is, let's follow the rules, shall we.

SENATOR BALBONI: Okay.

ACTING PRESIDENT MEIER: Are you asking Senator Schneiderman to yield?

SENATOR BALBONI: Yes.

ACTING PRESIDENT MEIER: Senator Schneiderman, do you yield?

SENATOR SCHNEIDERMAN: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR BALBONI: Mr. President, through you.

Senator Schneiderman, can you tell us in how many other states have there been liability verdicts in which the plaintiff has not been able to recover the full amount of recovery as a result of the vicarious liability law enacted in that state?

SENATOR SCHNEIDERMAN: Through you, Mr. President, I don't know the number of states. I know that there are cases where that has occurred, but I don't have the statistics on a state-by-state basis.

However, I would respectfully

submit that when we're seeking to pass a law that could burden victims, that could result in people who are injured being unable to recover -- which is certainly a possibility that must be acknowledged under this law, under the bill that's presented to us -- the burden really should be on the sponsors to show us situations in which, you know, this crisis, so-called crisis is being created.

I don't know state by state how many times people have not been able to recover. But it's clear that if you're seriously injured, if you're crippled, if you suffer brain damage and the owner of the car -- the owner of the car, the company that depreciates the asset, that benefits in every other respect from ownership -- is not responsible, then you're left with whatever insurance is required by that state, through the state law, of the driver, of the person leasing the car.

And I would submit that we've never seen statistics showing a large number of actions having resulted in huge payments that are alleged, but have never been proven, by

auto leasing companies that result in this crisis.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I would respectfully submit to my colleagues that this bill, appearing as it does on the last night of session, is not going to pass the Assembly, that if there was a serious effort underway to reform the system of vicarious liability in this state for auto leases that we would have seen something earlier in the session.

Now, we all -- I think we know, it's no secret, that negotiations have been going on, that representatives of the plaintiffs' bar have been in discussions with the industry, are trying to come up with some sort of a compromise so that we can resolve this issue.

This bill, with all due regard to the distinguished sponsor, is a one-house bill being dropped in the last night of session so we can send some sort of message to the

industry or whoever is urging and pushing upon us that we reform this fundamental area of tort law, in order to benefit an industry that likes the benefits of ownership but doesn't want the burdens.

If we're serious about this, let's get back to work next year with those negotiations. I'm happy to do whatever I can do to aid them. I do think a compromise is possible in this area. I do think the trial lawyers have shown good faith in attempting to negotiate. But I am absolutely confident that this last-night one-house bill is not going anywhere, it shouldn't go anywhere, and I'm going to vote no.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: Mr. President, if the sponsor would yield for a question.

ACTING PRESIDENT MEIER: Senator Johnson, do you yield for a question?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR STAVISKY: Through you, Mr. President, can the sponsor tell us approximately how many cars are leased in New York State each year?

SENATOR JOHNSON: Well, the last figure is about 50,000. A couple of years ago, it was about a quarter of a million.

SENATOR STAVISKY: I'm sorry, 50,000?

SENATOR JOHNSON: Fifty thousand, looks like, this year, and two years ago it was about a quarter of a million. That means five times as many.

SENATOR STAVISKY: And how many cases of vicarious liability have been initiated based upon those car leases?

SENATOR JOHNSON: I don't think anyone has any statistics on that.

I can say that too many lawsuits with too much money has made it impossible for leasing companies to secure insurance, in many cases, or even stay in business because of the cost. Because they're not competitive anymore.

Leasing is a very economic way to get a vehicle for yourself, but not in present circumstances, due to the vicarious liability law.

SENATOR STAVISKY: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Stavisky, on the bill.

SENATOR STAVISKY: Yeah, I don't want to belabor the points that Senator Schneiderman made. But the numbers that I have, and admittedly they're a year old, a year and a half old, my statistics show that there were 886,000 new car leases in New York State, and approximately 215 vicarious liability lawsuits for the largest of -- the eight largest leasing companies.

I was seeking to verify those statistics from you, from the sponsor of the legislation.

However, this is a problem, and it's a problem that's been with us for a long time. It's obvious that auto leasing has been less profitable. But it seems to me it's been less profitable because of the economy,

although perhaps the economy is rebounding, as well as the rebates that are being offered by the new car dealers.

Vicarious liability has been part of the legal system for many, many years. And this is an issue I think that ought to be negotiated. This is a subject that I believe has been negotiated between the leasing companies and the trial lawyers, and I would hope that we can come to a resolution.

However, based upon the consumers, since they're the ones who will suffer in the case of a lawsuit, the victims of negligence, I'm urging my colleagues to vote no on this until such time as we have resolved the issue.

ACTING PRESIDENT MEIER: Senator Sampson.

SENATOR SAMPSON: Would the sponsor yield for a question.

ACTING PRESIDENT MEIER: Senator Johnson, do you yield?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SAMPSON: Through you, Mr. President, how many claims have actually been paid out as a result of the vicarious liability claims?

SENATOR JOHNSON: Senator, I don't have those figures.

All I can tell you is, as Senator Schneiderman said, the insurance companies are making money on depreciating their cars, and they're making money on leasing cars in other states, except our state, and they're in business to make money.

All I can tell you is if they were not losing money, if they were not under economic pressure, they could not competitively lease because of the situation, they would be leasing a lot more cars. That's all I can tell you.

So the problem is really -- well, your question was exactly what?

SENATOR SAMPSON: Through you, Mr. President --

SENATOR JOHNSON: No, I think I'm answering it obtusively. I want to answer it more directly.

SENATOR SAMPSON: My question is actually -- the auto makers claim that they're being sued for hundreds of millions of dollars. My question is, how much actually have they paid out?

SENATOR JOHNSON: Okay. Well, the question is answered by the unavailability of insurance completely and the unavailability of insurance because of the cost. They could not stay in the leasing business and pay all that, so they stopped leasing cars. That's a fact, and you can determine that anywhere.

Almost all our leasing companies have stopped leasing cars in this state because of the problem. So obviously it's too expensive, they can't afford to continue to this way, so they're trying to sell cars with balloon payments and so on at the end because they can't afford to do leasing.

So they're not making a profit at it, and we're taking it an essential service away from the citizens of this state, the availability of a leased car, by not reconciling the situation.

I'd like to ask -- do you have

another question, Senator?

SENATOR SAMPSON: No.

SENATOR JOHNSON: I'd like to ask a question to you, just off the wall and nothing personal about anything.

Now, if someone has an accident with your car, they are covered to the amount of your insurance whatever it might be; right?

Now, if you had a leased car, they would have not only your insurance, but the insurance of the bank or leasing company.

SENATOR SAMPSON: Correct.

SENATOR JOHNSON: So if not everyone can be lucky enough to hit a leased car and have a double pocket of money to dig into, then they're all being disenfranchised in some manner.

So either everybody's got to have a godfather with deep pockets to follow up his insurance company or it isn't fair to have only these companies carry it, having the deep pockets, while other people just go with their normal liability insurance.

So there's really no need for this law. It started 80 years ago when the owners

of the car were -- might have had some assets but the driver had no assets and had no insurance. There was no compulsory insurance. Compulsory insurance started in this state maybe fifty years ago. Before that, there was no compulsory insurance; everybody got along.

But the lawyers have discovered, in their avarice, deep pockets, and so they're going to zero in on leased cars and create an economic crisis for this state. It's got to be dealt with. Their only solution is "find another way to give us the money, because we don't want to stop taking money we're not entitled to." That's about it.

SENATOR SAMPSON: Thank you for your answer, Senator.

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

Debate is closed, then.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Balboni, to explain his vote.

SENATOR BALBONI: To explain my vote.

This principle of law is nothing more than an anachronism. It says that if you give a car to somebody, you are liable. Not through fault, but just through history. It is one of the things that we hang on in this state that simply drives up the cost of insurance without any sensibilities.

And what I would note is that part of the debate we heard about regulations in the tax code and a very well prepared debate with all sorts of information, except the one thing, what are the cases in the 49 other states that have had this law in which the plaintiff has been denied their actions and a recovery.

So I think we're missing the footing of this argument. This should be done away with. We're the last state to do it in the nation, we're suffering because of it. And it really is a consumer issue.

I'm going to vote in favor of this

measure. Thank you.

ACTING PRESIDENT MEIER: Senator Balboni will be recorded in the affirmative.

Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. I appreciate the opportunity.

In this -- I'm requesting permission to abstain.

ACTING PRESIDENT MEIER: Without objection, Senator Hassell-Thompson will be recorded as abstaining from the vote.

SENATOR HASSELL-THOMPSON: Thank you.

THE SECRETARY: Those recorded in the negative on Calendar Number 1844 are Senators Andrews, Bonacic, Breslin, Brown, Dilán, Duane, L. Krueger, Mendez, Onorato, Parker, Paterson, Sabini, Sampson, Schneiderman, and Stavisky. Ayes, 44. Nays, 15.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Balboni.

SENATOR BALBONI: Mr. President, could we please return to reports of standing committees.

I believe that there's a report of the Rules Committee at the desk.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

Senate Print 123C, by Senator Alesi, an act to amend the Banking Law;

292A, by Senator LaValle, an act to amend the Education Law;

1823A, by Senator Meier, an act to amend the Tax Law;

2607, by Senator Padavan, an act to amend the Public Health Law;

2832, by Senator DeFrancisco, an act to amend the Real Property Tax Law;

2926B, by Senator Breslin, an act in relation to allowing;

3734A, by Senator Hoffmann, an act to amend the Public Authorities Law;

3773A, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

4255B, by Senator Nozzolio, an act to amend the Energy Law;

5112B, by Senator Little, an act to amend the Indian Law;

5452C, by Senator Volker, an act to amend Chapter 824 of the Laws of 1933;

7380, by Senator Marchi, an act to amend the Education Law;

7441B, by Senator Golden, an act to amend the Public Authorities Law;

7447, by Senator Padavan, an act to amend Chapter 738 of the Laws of 1988;

7592, by Senator Spano, an act to amend the Labor Law;

7622, by Senator Golden, an act to amend the Tax Law;

7634, by Senator Volker, an act to amend Chapter 605 of the Laws of 2000;

7646, by Senator Golden, an act to amend the Executive Law;

And Senate Print 7647, by Senator Volker, an act to amend the Executive Law.

All bills ordered direct to third

reading.

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: Yes, Mr. President. I would move to accept the report of the Rules Committee.

ACTING PRESIDENT MEIER: All those in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

Senator Balboni.

SENATOR BALBONI: Yes, Mr. President. Could we please return to the motions and resolutions calendar. I believe that there's some housekeeping we must take care of.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator Farley.

SENATOR FARLEY: As for

housekeeping, Mr. President, I offer the following amendments to Calendar 1857, it's Senate Print 7441B. And I ask that that bill retain its place on the Third Reading Calendar, and it's on behalf of Senator Golden.

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

Senator Balboni.

SENATOR BALBONI: Mr. President, could we please have the noncontroversial reading of the supplemental calendar.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of the supplemental active list.

Senator Balboni.

SENATOR BALBONI: Mr. President, could we just stand at ease for just a moment, please, while the calendars are distributed to the members.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at

ease at 9:20 p.m.)

ACTING PRESIDENT MEIER: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President. I'd like unanimous consent to be recorded in the affirmative on Senate Bill 7643, by Senator Johnson.

ACTING PRESIDENT MEIER: Senator, you were already recorded in the negative.

SENATOR BONACIC: Yeah, I understand. Yeah, thank you, Mr. President, I want to go up on the bill.

ACTING PRESIDENT MEIER: Senator Bonacic, the record will reflect that you are recorded in the affirmative on that bill.

(Whereupon, the Senate reconvened at 9:23 p.m.)

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: Yes, could we please have the noncontroversial reading of the supplemental active list.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of the supplemental active list.

THE SECRETARY: Calendar Number 1106, by Member of the Assembly Tonko, Assembly Print Number 10400A, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the first of April.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1196, by the Assembly Committee on Rules, Assembly Print Number 11306A, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1333, by Member of the Assembly Sweeney, Assembly Print Number 2214, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1377, by Member of the Assembly Brennan, Assembly Print Number 9867A, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1534, by Senator DeFrancisco, Senate Print 7360B, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Senator Balboni.

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

ACTING PRESIDENT MEIER: Yes, there is, Senator.

SENATOR BALBONI: I would move to accept the message of necessity.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Balboni, that completes the supplemental active list.

SENATOR BALBONI: Mr. President, could we just take a moment and stand at ease while the bills are distributed on the members' desks.

ACTING PRESIDENT MEIER: I'm sorry, may I recognize Senator Parker first.

Senator Parker.

SENATOR PARKER: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Numbers 1783 and 1788.

ACTING PRESIDENT MEIER: Without

objection, Senator Parker will be recorded in the negative on Calendar Numbers 1783 and 1788.

And the Senate will stand at ease.

(Whereupon, the Senate stood at ease at 9:25 p.m.)

(Whereupon, the Senate reconvened at 9:27 p.m.)

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: Mr. President, could we please have the noncontroversial reading of the calendar, starting with 1858 and proceeding then in regular order.

ACTING PRESIDENT MEIER: You want to start with 1858, Senator? Okay.

With regard to the Supplemental Calendar 59D, then, the Secretary will read Calendar 1858.

THE SECRETARY: In relation to Calendar Number 1858, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 11471 and substitute it for the identical Senate Bill Number 7447, Third Reading Calendar 1858.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1858, by the Assembly Committee on Rules, Assembly Print Number 11471, an act to amend Chapter 738 of the Laws of 1988.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 299, by Senator Volker, Senate Print 5452C, an act to amend Chapter 824 of the laws of 1933.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1846, by Senator Alesi, Senate Print 123C, an act to amend the Banking Law and the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect January 1, 2005.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1847, by Senator LaValle, Senate Print 292A, an act to amend the Education Law.

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1848, by Senator Meier, Senate Print 1823A, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1849, Senator Padavan moves to discharge, from the Committee on Health, Assembly Bill Number 5458 and substitute it for the identical Senate Bill Number 2607, Third Reading Calendar 1849.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1849, by Member of the Assembly Carrozza, Assembly Print Number 5458, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as a chapter of the Laws of 2003.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1850, by Senator DeFrancisco, Senate Print 2832, an act to amend the Real Property Tax Law, in relation to establishing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1851, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 6824B and substitute it for the identical Senate Bill Number 2926B, Third Reading Calendar 1851.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1851, by Member of the Assembly Canestrari, Assembly Print Number 6824B, an act in relation to allowing Nancy Jordan.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1852, by Senator Hoffmann, Senate Print 3734A, an act to amend the Public Authorities Law, in relation to special powers.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1853, Senator Trunzo moves to discharge, from the Committee on Rules, Assembly Bill Number 8377A and substitute it for the identical Senate Bill Number 3773A, Third Reading Calendar 1853.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1853, by the Assembly Committee on Rules, Assembly Print Number 8377A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1854, by Senator Nozzolio --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1855, by Senator Little, Senate Print 5112B, an act to amend the Indian Law and the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1856, by Senator Marchi, Senate Print 7380, an act to amend the Education Law and the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 1859, Senator Spano moves to discharge, from the Committee on Rules, Assembly Print Number 10979A and substitute it for the identical Senate Print Number 7592, Third Reading Calendar 1859.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1859, by the Assembly Committee on Rules, Assembly Print Number 10979A, an act to amend the Labor Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1860, by Senator Golden, Senate Print 7622, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR SABINI: Mr. President.

ACTING PRESIDENT MEIER: Senator Sabini, to explain his vote.

SENATOR SABINI: Thank you, Mr. President.

I want to commend Senator Golden on this bill. There was an earlier version that would have discriminated against the movie studios and production studios located in Queens County. This does not.

And also, I'm happy to see this was separated out from the earlier tax cut bill that was passed in this house. And hopefully this will have a life in the Assembly and help the industry in New York City that needs it very badly. And I vote in the affirmative.

Thank you.

ACTING PRESIDENT MEIER: Announce

the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1861, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 11588A and substitute it for the identical Senate Bill Number 7634, Third Reading Calendar 1861.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1861, by the Assembly Committee on Rules, Assembly Print Number 11588A, an act to amend Chapter 605 of the Laws of 2000.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1863, by Senator Volker, Senate Print --

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Could we get the bill before the house? We've just got to do the message, then we'll lay it aside.

Senator Balboni.

SENATOR BALBONI: Yes, Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR BALBONI: I would move that we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MEIER: The

message is accepted.

The bill is before the house.

The bill is laid aside.

Senator Balboni, that completes the noncontroversial reading of the supplemental calendar.

Senator Balboni.

SENATOR BALBONI: Mr. President, could we revisit those bills that were laid aside at this particular point in time. The controversial reading, in other words.

ACTING PRESIDENT MEIER: The Secretary will conduct the controversial reading of the calendar.

THE SECRETARY: Calendar Number 1847, by Senator LaValle, Senate Print 292A, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1854, by Senator Nozzolio, Senate Print 4255B, an act to amend the Energy Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT MEIER: Are you asking that the roll call be withdrawn?

SENATOR LIZ KRUEGER: Mr. President, I apologize for my delay. Yes, I was asking for the roll call to be withdrawn.

ACTING PRESIDENT MEIER: Without objection, the roll call is withdrawn.

Senator Nozzolio, Senator Liz Krueger has requested an explanation.

SENATOR NOZZOLIO: This measure amends the Energy Law, implementing the Empire

Propane Education and Research Act; establishes, through voluntary fees assessed on companies dealing with the sale of propane, ways to make the distribution, storage, and other actions with the commodity safer.

ACTING PRESIDENT MEIER: Senator Krueger.

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

ACTING PRESIDENT MEIER: Senator Nozzolio, do you yield for a question?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

So this council doesn't exist yet, but this law would create this council, which would then be a private entity or a government entity?

SENATOR NOZZOLIO: Mr. President, through you, this is a private entity.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, if the sponsor would continue to yield.

SENATOR NOZZOLIO: I should indicate, there is not any government subsidy of same.

ACTING PRESIDENT MEIER: Do you yield for another question, Senator?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

But as I understand your bill, government would mandate that percentage payment to this private council through this bill; is that correct?

SENATOR NOZZOLIO: Under the federal Propane Education Research Act, New York State had received about $40,000 from the federal government for consumer awareness, research and development of propane. That --

ACTING PRESIDENT MEIER: (Gaveling.)

Senator Nozzolio.

SENATOR NOZZOLIO: That -- I

forgot the question, Mr. President.

(Laughter.)

ACTING PRESIDENT MEIER: I sort of startled myself.

(Laughter.)

ACTING PRESIDENT MEIER: Sort of woke us all up, I think.

Senator Krueger, you want to restate the question?

SENATOR LIZ KRUEGER: Yes, sir, Mr. President. Through you, I'll be happy to restate the question.

My understanding is while this would be a bill creating a private council, this would be the government authorizing this private council to collect an assessment from people in the industry. Is that correct?

SENATOR NOZZOLIO: That's correct. And the assessment is voluntary.

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

ACTING PRESIDENT MEIER: Senator Nozzolio, do you continue to yield?

SENATOR NOZZOLIO: Yes, Mr.

President.

SENATOR LIZ KRUEGER: Thank you.

Is there an estimate of how much this council would be collecting per year, whether it be at a 100 percent rate of the 1/10 of 1 cent per gallon assessment or a 50 percent rate, since you're saying it's a voluntary assessment?

SENATOR NOZZOLIO: Mr. President, it depends on how many participate.

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

ACTING PRESIDENT MEIER: Senator Nozzolio, do you continue to yield?

SENATOR NOZZOLIO: Reluctantly, Mr. President, yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

The bill also says that nothing in this bill will be construed to preempt or supersede any other programs relating to propane education and research organized and operated under the laws of the State of

New York. So apparently we have other, similar entities.

Why would this be necessary and not duplicative, since apparently, under the law, we have other models for this?

SENATOR NOZZOLIO: I don't know what you just read. I couldn't hear you.

Mr. President, I could not hear the question.

ACTING PRESIDENT MEIER: Let's get some order in the chamber. I'm going to ask people who have conversations to take them outside.

Staff along the sides of the room, if you have a conversation, take it outside.

Members, please, could we keep it down so that we can conduct this debate and get out of here tonight.

SENATOR NOZZOLIO: If I may, Mr. President, let me try to answer what I think the question is by saying that this is a voluntary association. It would be supported by those who engage in the commerce and distribution of this energy source. It is no different than other trade associations as

established.

And what this does is allow the industry to promote itself, through voluntary contributions, and also look to the safety of propane.

I would daresay that this is primarily an upstate fuel that's provided for those areas that do not have natural gas lines; in many respects, rural areas. I doubt in Senator Krueger's district there are many of these types of product sold. However, in upstate it is an increasingly needed energy source.

This allows those who transport and sell this energy source to gather in an association and better deal with their industry issues.

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

ACTING PRESIDENT MEIER: Senator Nozzolio, do you continue to yield?

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR LIZ KRUEGER: Thank you. And I'll try to speak loudly. I apologize if you didn't hear me before.

Your last explanation actually was very helpful. And it will lead me, I guess, to my final question. We have trade associations and associations of businesses who come together and create their own research councils, their own trade associations, their own coalitions of mutual interest in infinite numbers in the State of New York. And they choose to charge dues, and organizations or individual businesses choose to voluntarily become members or not, pay their dues or not.

Why would we use this one issue, of Empire Propane Education and Research, and create a law to create a private entity for private purposes?

SENATOR NOZZOLIO: One important reason, Mr. President, is that NYSERDA is part of this association. This law authorizes the New York State Energy Research and Development Authority to participate as a member of this

Association.

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

I appreciate the sponsor's answers, and I would accept that NYSERDA might play a unique role with this organization. But I am still left, at this late hour on this night, to wonder whether it's a good precedent for the State of New York to somehow institutionalize in statute and law the creation of what is basically a private council for private business purposes.

And while it specifically talks about it's a voluntary contribution or assessment, it has late fees, it has refunds, it has restrictions in pricing, I think that perhaps we're overstepping our role in the Legislature to create legislatively what is basically both a trade association and a research council for an industry. Although I mean no insult to the value of the propane industry or the important role they play.

Thank you, Mr. President. I'll be voting no.

ACTING PRESIDENT MEIER: Senator

Volker.

SENATOR VOLKER: Mr. President, I just want to say, quickly, I want to thank Senator Nozzolio for this bill.

You know, as one of the former chairmen of the Energy Committee, I would just like to inform Senator Krueger that one of the areas we desperately need energy in this state -- and let me remind you that your part of the state has refused power plants and has refused to allow us in upstate New York, who have plenty of power and plenty of fuel, to be able to feel comfortable because the area of downstate New York, and particularly New York City, is so afraid of any new plants or any new energy sources.

One of the areas that your area may in the future need -- because the way things are going, you're not going to have enough power in years to come because your area refuses to deal with the energy crisis -- one of the areas is propane.

Propane is reasonably inexpensive, it has widely transferable uses -- by the way, the average cost of this to a consumer would

be about $10 to $15, depending on the size of the tank. But most of the tanks are small enough so it would be comparatively negligible.

One of the ways in which we can help all the consumers of this state and save energy dollars and develop a better energy policy is through propane. This is not just some ordinary trade organization. This is one of the ways we can help deal with the energy crisis.

And in the North Country, in the western part of the state and in a number of parts of the state, propane has become extremely important.

And as I say, in your area of the state, where energy in the next ten years is going to become extremely scarce unless we can get the environmentalists off our back, and unless some people downstate are willing to deal with our crisis, you may need propane. And I'll tell you right now, because you're going to have a crisis there of epic proportions within the next ten years unless something changes.

So thank you, Senator Nozzolio. I think this is a very good bill. And I think the Assembly is very likely to pass this bill.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR LIZ KRUEGER: Thank you, Mr. President, to explain my vote.

While I earlier said I would vote no, Senator Volker convinced me, and I will be changing my vote to yes.

Thank you.

ACTING PRESIDENT MEIER: Senator Krueger will be recorded in the affirmative.

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Yes, Mr. President. I also am going to be voting yes on this bill, although I do think that there

are a lot of other ways we can provide energy in all parts of our state. And I look forward to working with Senator Volker and Senator Nozzolio and others as we explore them.

The problem -- and we must -- if we're going to address the problem downstate that Senator Volker referred to, we have to address the problem of transmission lines. That is the critical problem. And I'm afraid we're leaving this session without having adequately addressed it.

So I'm voting yes, but this is a very small part of a very large problem, and I hope that all parts of the state will be able to work together on it. I'm sorry that we haven't done more about it this session. But maybe when we return for the July segment of the session, we will.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1863, by Senator Volker, Senate Print 7647, an act to amend the Executive Law.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: I'm going to lay this bill aside, because this bill was a joint agreement between the Governor and the Senate. And we have just, in the last twenty minutes, got a three-way agreement with the Assembly, the Governor and the Senate.

So we're hoping before the night's out, Majority Leader Bruno agreeing, that we'll be able to pass the bill tonight.

ACTING PRESIDENT MEIER: The bill is laid aside.

Senator Balboni, that completes Senate Supplemental 59D.

Senator Balboni.

SENATOR BALBONI: Mr. President, I would ask that we stand at ease for just a moment, please.

ACTING PRESIDENT MEIER: The

Senate will stand at ease.

(Whereupon, the Senate stood at ease at 9:50 p.m.)

ACTING PRESIDENT DeFRANCISCO: Senator Balboni.

SENATOR BALBONI: Yes, Mr. President. I would like to announce a Rules Committee meeting in the Majority Conference Room.

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

Senator Breslin.

SENATOR BRESLIN: Mr. President, I would request unanimous consent to be recorded in the negative on Calendar Number 1858, Bill Number 7447.

ACTING PRESIDENT DeFRANCISCO: Without objection, your vote will be so recorded.

SENATOR BRESLIN: Thank you, Mr. President.

ACTING PRESIDENT DeFRANCISCO: Senator Brown.

SENATOR BROWN: Thank you, Mr. President.

I request unanimous consent to be recorded in the negative on Calendar Number 1858.

ACTING PRESIDENT DeFRANCISCO: Your vote will be so recorded.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I request unanimous consent to be recorded in the negative on Calendar Number 1839.

ACTING PRESIDENT DeFRANCISCO: Your vote will be so recorded.

SENATOR HASSELL-THOMPSON: Thank you.

ACTING PRESIDENT DeFRANCISCO: The Senate will remain at ease.

(Whereupon, the Senate reconvened at 10:06 p.m.)

ACTING PRESIDENT DeFRANCISCO: Senator Balboni.

SENATOR BALBONI: Mr. President, can we please return to the main calendar and

take up Calendar Number 878.

ACTING PRESIDENT DeFRANCISCO: The Secretary will read.

THE SECRETARY: Calendar Number 878, by Senator Hoffmann, Senate Print 7148A, an act authorizing the Town of Cicero.

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

Read the last section.

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

ACTING PRESIDENT DeFRANCISCO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT DeFRANCISCO: The bill is passed.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, I would request unanimous consent to be recorded in the negative on Calendar 1855, Senate Print 5112B.

ACTING PRESIDENT MEIER: Without objection, Senator DeFrancisco will be

recorded in the negative on Calendar 1855.

SENATOR DeFRANCISCO: Thank you.

SENATOR BALBONI: Mr. President.

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: Yes, I would ask that we take up Calendar Number 1043, which is on the main calendar. It was a bill that we had previously considered and we need to re-pass.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1043.

THE SECRETARY: Calendar Number 1043, by Senator Kuhl, Senate Print 6329A, an act to amend the Town Law and the Public Officers Law.

ACTING PRESIDENT MEIER: Senator Balboni.

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

ACTING PRESIDENT MEIER: There is.

SENATOR BALBONI: I would move to accept the message of necessity.

ACTING PRESIDENT MEIER: All

those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT MEIER: The message is accepted.

The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

ACTING PRESIDENT KUHL: The Senate will come to order.

Senator Balboni.

SENATOR BALBONI: Mr. President -- and you look mighty fine up there, I might add -- could we please return to the reports of standing committees.

I believe there's a Rules report at the desk.

ACTING PRESIDENT KUHL: We'll return to the order of reports of standing committees.

There is a Rules report at the desk. We'll ask the Secretary to read.

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

Senate Print 2365A, by Senator Padavan, an act to amend the Administrative Code of the City of New York;

5593C, by Senator Breslin, an act to amend the Public Authorities Law;

7656, by the Senate Committee on Rules, an act to amend the Public Authorities Law;

7657, by Senator Saland, an act authorizing the City of Poughkeepsie;

And Senate Print 7659, by Senator Volker, an act to amend the Executive Law and the Criminal Procedure Law.

All bills ordered direct to third reading.

ACTING PRESIDENT KUHL: Senator Balboni.

SENATOR BALBONI: I move to accept the report of Rules Committee, please.

ACTING PRESIDENT KUHL: The motion is to accept the report of the Rules Committee. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The Rules report is accepted.

The bills are ordered directly to third reading.

Senator Balboni.

SENATOR BALBONI: Could we please take up that calendar.

ACTING PRESIDENT KUHL: The Secretary will have the noncontroversial reading of the calendar. That's Supplemental Calendar 59E.

THE SECRETARY: In relation to Calendar Number 1864, Senator Padavan moves to

discharge, from the Committee on Rules, Assembly Bill Number 5175A and substitute it for the identical Senate Bill Number 2365A, Third Reading Calendar 1864.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1864, by Member of the Assembly Abbate, Assembly Print Number 5175A, an act to amend the Administrative Code of the City of New York.

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: In relation to Calendar Number 1865, Senator Breslin moves to discharge, from the Committee on Corporations, Authorities and Commissions, Assembly Bill Number 9025C and substitute it for the identical Senate Bill Number 5593C, Third Reading Calendar 1865.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

THE SECRETARY: Calendar Number 1865, by the Assembly Committee on Rules, Assembly Print Number 9025C, an act to amend the Public Authorities Law.

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

Senator Breslin, why do you rise?

SENATOR BRESLIN: On the bill, Mr. President.

ACTING PRESIDENT KUHL: Senator Breslin, on the bill.

SENATOR BRESLIN: This legislation creates a new authority for downtown Albany which will be the beginnings

of a convention center, a retail complex, a transportation center, commercial stores. And it's the culmination of several years of work.

And I commend the Governor for his participation, Assemblymen McEneny and Canestrari, Mayor Jennings, who's done a wonderful job shepherding this through, County Executive Mike Breslin, and Senator Bruno and his staff, who did an exemplary job in fine-tuning this legislation to make it come to fruition tonight.

Thank you, Mr. President. I vote in the affirmative.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1868, by Senator Volker, Senate Print 7659, an act to amend the Executive Law and the Criminal Procedure Law.

ACTING PRESIDENT KUHL: Senator Balboni.

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

ACTING PRESIDENT KUHL: There is.

SENATOR BALBONI: I would move to accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1868. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Balboni.

SENATOR BALBONI: Can we please return to the motions and resolutions calendar for some housekeeping.

ACTING PRESIDENT KUHL: We will return to the order of motions and resolutions.

The chair recognizes Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Golden, Mr. President, I wish to call up his bill, Print Number 7622, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1860, by Senator Golden, Senate Print 7622, an

act to amend the Tax Law.

SENATOR LIBOUS: Mr. President, I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is restored to the order of third reading.

Senator Libous.

SENATOR LIBOUS: Mr. President, let's see. On behalf of Senator Spano, Mr. President, I wish to call up his bill, Print Number 6479A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1816, by Senator Spano, Senate Print 6479A, an act to amend the Executive Law.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Mr. President, I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: Mr. President, I now move to discharge, from the Committee on Rules, Assembly Print Number 11647 and substitute it for this identical bill.

ACTING PRESIDENT KUHL: The bill is substituted.

Senator Libous.

SENATOR LIBOUS: I now move that the substituted Assembly bill have its place on the Third Reading Calendar at this time.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1816, by the Assembly Committee on Rules,

Assembly Print Number 11647, an act to amend the Executive Law.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Saland, why do you rise?

SENATOR SALAND: Just stretching, Mr. President.

ACTING PRESIDENT KUHL: That was a very gracious stretch, thank you.

(Laughter.)

ACTING PRESIDENT KUHL: Senator Balboni.

SENATOR BALBONI: Mr. President, are there any substitutions at the desk?

ACTING PRESIDENT KUHL: There are two, Senator Balboni.

SENATOR BALBONI: Please take

them up, please.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: On page 19, Senator Spano moves to discharge, from the Committee on Labor, Assembly Bill Number 8706 and substitute it for the identical Senate Bill Number 5573, Third Reading Calendar 706.

And on page 42, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 10968A and substitute it for the identical Senate Bill Number 6899A, Third Reading Calendar 1393.

ACTING PRESIDENT KUHL: The substitutions are ordered.

Senator Oppenheimer, why do you rise?

SENATOR OPPENHEIMER: I'd like unanimous consent to be recorded in the negative on Calendar Number 1831.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Oppenheimer will be recorded in the negative on Calendar Number 1831.

Senator Balboni.

SENATOR BALBONI: Yes, Mr. President, can we please turn to Calendar Number 1833.

ACTING PRESIDENT KUHL: The Secretary will read the title of Calendar Number 1833.

THE SECRETARY: Calendar Number 1833, by Senator Golden, Senate Print 7626, an act in relation to enacting the Coordinated Construction Act for Lower Manhattan.

ACTING PRESIDENT KUHL: Senator Connor, as I recall, you had the floor on this bill when it was laid aside temporarily.

So the chair recognizes you to resume debate on Calendar Number 1833.

SENATOR CONNOR: Thank you.

The other thing this bill does is it allows the City of New York to use procedures -- for the benefit of the members who weren't in the chamber, I could start all over again.

(Laughter.)

SENATOR CONNOR: But for those who were here, I'll spare them that and just start up where I left off.

This allows the City of New York, with respect to Lower Manhattan projects, the ones that I articulated before, plus others, the Route 9A, Hudson River Park, Ferry stations, street construction, Castle Clinton -- Castle Clinton is a favorite of mine -- and East River waterfront parks and so on, the $3.5 billion already on the books to go -- it allows the city to use procedures that the city apparently by law is not ordinarily allowed to use, but which the state and state agencies and authorities like the MTA routinely use.

For example, it will allow the city to prequalify bidders who are bidding on portions of work of a million dollars or more, prequalify them, prequalify them based on, one, safety record, which is very, very important, their safety record at doing work.

It will also take into consideration whether these contractors have -- participate in apprenticeship programs, something the state does but the city doesn't do.

And of course, as I said before, it

will allow the city to apply minority and women business enterprise goals.

SENATOR BALBONI: Mr. President, could I just interrupt? I apologize, Senator Connor.

ACTING PRESIDENT KUHL: Senator Connor, please excuse the interruption.

Senator Balboni.

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

I'd like to announce that we have a Rules Committee meeting in the Majority Conference Room.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee, immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

Senator Connor, why don't we just wait for the members to exit.

Senator Connor, thank you very much for allowing the interruption. And now let's proceed to debate.

SENATOR CONNOR: Thank you, Mr. President.

Somehow or other, I think I'm serving a greater purpose here, Mr. President --

(Laughter.)

SENATOR CONNOR: -- in terms of time and whatever.

But it will, as I said, allow the City of New York to establish goals and meet goals for participation by minority- and women-owned business enterprises, something that -- I think it's the courts threw out the city's prior MWBE bidding set-aside practices. So this will allow the city to use it, because they'll use the state's practices.

Then the city will be able to, as I said before, do joint bidding with utilities. It will also be able to -- well, actually will mandate -- and I won't get ahead, but we have on the calendar a chapter amendment also dealing only with Lower Manhattan, sponsored by Senator Golden, which sets forth standards for -- the bill talks about using low-sulfur fuels for diesel engines, including stationary diesel engines, the kind of equipment that would be used in construction.

And the chapter amendment, while it's not before us, I think it's relevant that it sets forth the definitions of ultra-low-sulfur diesel fuel. The bill -- the amendment provides that ultra-low-sulfur diesel fuel means diesel fuel that has a sulphur content of no more than 15 parts per million.

A non-road engine means an internal combustion engine, including its fuel system, that is not used in a motor vehicle or vehicle used solely for competition or that is not subject to standards promulgated under Section 74.11 or Section 75.21 of Title 42 of the United States Code.

Except the term does apply to internal combustion engines used to power generators, compressors, or similar equipment used in any construction program or project. So that that's definitional.

And then we actually have a change that will go on, and it basically says that the agency shall -- the bill is written: The agency shall require contractors and subcontractors to use only ultra-low-sulfur

diesel fuel to power the diesel-powered non-road vehicles with engine horsepower rating of -- it said 60 horsepower, but the chapter amendment will make it 50 horsepower, used on Lower Manhattan redevelopment projects.

The other concerns expressed in the bill -- and let me say a wide variety of groups participated in this. Because really, from shortly after 9/11, it was apparent that a lot was going to be done, a lot was going to be done simultaneously. And the potential for chaos was enormous, as was the potential for greatly inconveniencing -- and more than inconveniencing residents of Lower Manhattan, but in fact endangering their health, the air quality, their safety, with all the heavy equipment going through.

Within two blocks, two or three blocks of the actual what you call Ground Zero, there are six or seven schools, believe it or not, down there in Lower Manhattan. So you have children down there. Unfortunately, they have very, very few places to play outdoors, but they do have to travel back and

forth from school.

And -- I'm sorry, whenever that door opens, the back noise is considerable.

So that safety during all this construction is also important. Which is why, in prequalifying the bidders under this legislation, the safety and work record of the contractors will be important.

Also, in prequalifying the bidders, the record of the prospective bidder with respect to compliance with labor standards, applicable labor standards, and with their whole labor relations record, will be considered.

They will also consider the bidder's compliance with Equal Employment Opportunity requirements, antidiscrimination laws, and of course, as I said before, their record with respect to women- and minority-owned business enterprises participation as subcontractors in their work.

The legislation is much needed and is supported by a wide-ranging group of organizations: The Association for a Better New York, the Association of the Bar, the

AFL-CIO, the Alliance for Downtown New York, the American Planning Association-Metro Chapter, the Asian-American Business Development Center, the Building -- I'm sorry, Mr. President, I can't hear.

ACTING PRESIDENT KUHL: Can we have some order in the house, please.

SENATOR CONNOR: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Hang on just a minute, Senator. Let's quiet it down.

We've got a lot of staff in the back. Let's take the conversations out of the room. Or sit down and take your positions.

Sergeant-at-Arms, please close the door over here in the rear. Sarge?

SENATOR CONNOR: Thank you, Mr. President.

-- the Building and Construction Trades Council, the Building Trade Employers Association, the Caribbean-American Chamber of Commerce and Industry, the Civic Alliance, Community Board 1, Community Board 2, the Jamaica Business Resource Center, the Minority Business Leadership Council, the National

Association of Minority Contractors-New York State Chapter, the National Hispanic Business Group, the New York Building Congress, the New York League of Conservation Voters, the Non-Traditional Employment for Women, 100 Black Men of New York, Partnership for New York City, Professional Women in Construction, the Real Estate Board of New York, the Regional Association of Small Contractors, a wonderful, wonderful organization called Wall Street Rising, and the Women's City Club of New York, all support this bill.

That is testimony to the good features in this bill. It's a tribute to the willingness to address concerns that we've had from Day One about coordinating the construction and ensuring its safety, and it's an example of the city's efforts, the mayor's efforts to include such a wide circle of people in being briefed about this bill and supporting this bill.

Oh, they forgot one: they forgot the State Senator who represents the area and who sits in this body.

But the fact is, Mr. President,

it's good legislation. I just come from a different time in this house, Mr. President. I remember city bills being sent over to me by committee chairs who received them and whose staff looked at them and said: Oh, that's Senator Connor's district, or that's Senator So-and-so's district. And that's the way the Senate conducted its business.

Now, I know earlier tonight, talking so long wasn't real convenient. I know now these lulls between Rules agendas make it so that I serve a useful purpose in talking and talking and talking, and I'm well aware of that.

So I will end this debate at this time. But I just tell you, Mr. President, this just makes me curiouser and curiouser about other members' local bills, and I just may have a lot of questions about bills that are in somebody else's district.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on this bill?

Hearing none, that closes debate.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1833, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 11700 and substitute it for the identical Senate Bill Number 7626, Third Reading Calendar 1833.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1845.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1845.

THE SECRETARY: Calendar Number

1845, by Senator Golden, Senate Print 7652, an act to amend a chapter of the Laws of 2004.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: I would move we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1845. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The motion is accepted.

The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we take up Calendar Number 1866.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1866, by the Senate Committee on Rules, Senate Print 7656, an act to amend the Public Authorities Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: I would move we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1866. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

The Secretary will read the last section.

THE SECRETARY: Section 8. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2004.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, may we return to the reports of standing committees.

I believe there's a report from the Rules Committee. I would ask that it be read

at this time.

ACTING PRESIDENT KUHL: We will return to the order of reports of standing committees.

There is a report of Rules Committee at the desk. The Secretary will read.

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

Senate Print 7413A, by Senator A. Smith, an act to authorize retroactive membership;

And Senate Print 7660, by the Senate Committee on Rules, an act to amend the Public Authorities Law and the Administrative Code of the City of New York.

Both bills ordered direct to third reading.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Move to accept the Rules Committee report.

ACTING PRESIDENT KUHL: The motion is to accept the report of Rules

Committee. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The Rules report is accepted.

The bills are ordered directly to third reading.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1869.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 1869.

THE SECRETARY: Calendar Number 1869, by Senator A. Smith, Senate Print 7413A, an act to authorize retroactive membership.

ACTING PRESIDENT KUHL: Senator Stavisky, do you have a point of information?

SENATOR STAVISKY: We're waiting for copies of the bills. Got it.

ACTING PRESIDENT KUHL: Senator Smith, would you like to explain the bill to

your colleague?

SENATOR ADA SMITH: I did.

(Laughter.)

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

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1870, by the Senate Committee on Rules, Senate Print Number 7660, an act to amend the Public Authorities Law and the Administrative Code of the City of New York.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: I would move that we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1870. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

Senator Schneiderman, why do you rise?

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

ACTING PRESIDENT KUHL: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: This is a bill that I'm sorry we're seeing at this point. It relates to the merger of private bus lines with the MTA.

I'm sorry to see it now because this reflects, unfortunately, as we've seen

too many times this session, a breakdown in negotiations. This is a bill that will not pass the Assembly. It's a one-house bill that I'm opposed to, the TWU is opposed to it.

And I think that there are two things -- only two things I'm going to say, because the hour is late.

One is that this bill puts ultimate power in the hands of the MTA -- an authority that needs to be reined in, not cut loose -- to wait out any union. Ultimately, this will force unions into binding arbitration and enable the MTA to have its way.

And we've seen repeatedly in the last two years that when the MTA is not under any restraint, when the MTA is not reined in, bad things can happen.

The second thing I will say is that the chairman of the MTA has made clear, as early as October 10, 2002, in a press conference, that the merger of the bus lines he views as a way to save money by cutting service. Costs need to be cut, he said. And he stated he would not discuss layoffs, but he did not rule them out either.

All of us who have constituents who use these private bus lines are counting on us to prevent service cuts. This bill opens the door to service cuts. It is a one-house bill, it's not going to pass the Assembly, but I don't think we should be supporting it here either.

I urge everyone to vote no, Mr. President.

ACTING PRESIDENT KUHL: Any other Senator wishing to discuss the bill?

Hearing none, the Secretary will read the last section.

SENATOR ADA SMITH: Excuse me.

ACTING PRESIDENT KUHL: Oh, I'm sorry. Senator Smith, why do you rise?

SENATOR ADA SMITH: I rise to speak on the bill.

ACTING PRESIDENT KUHL: Senator Smith, on the bill.

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

In southeast Queens, in the district that I represent and Senator Malcolm Smith represents, we have more ridership of

the bus lines than in any other part of this city.

With this projected bill, our constituents would be put at a disadvantage if it was a two-house bill. But since it's a one-house bill, I am even more opposed to this, for any of us taking a yes vote.

They have -- the MTA has refused to talk to the members of this body and to give us assurances that bus routes will not be cut, that people will have their pensions, and that there will not be layoffs and that there will not be total craziness in Queens when people go out to try to find a bus and there is none.

Until the MTA can give us some satisfaction, we should not be entertaining a change. And I urge everyone to vote no.

ACTING PRESIDENT KUHL: Senator Stavisky, why do you rise?

SENATOR STAVISKY: On the bill, Mr. President, very briefly.

I concur with everything that Senator Ada L. Smith has said.

Let me also add, one thing we don't need at the MTA is another layer of

bureaucracy. I have testified at the MTA hearings on the fare increase last fall in Queens, and I was horrified when only one member of the MTA board showed up. It showed their lack of concern for the people in Queens County.

I think this is a dreadful, dreadful bill. And I raise one question, if the sponsor would answer one question. Since we are amending the Administrative Code of the City of New York, is there a need for a home rule message? No? Then my question is withdrawn.

I urge everybody to oppose this bill.

ACTING PRESIDENT KUHL: Senator Padavan.

SENATOR PADAVAN: Mr. President, this is a very involved piece of legislation, and obviously the hour is late. But there are a couple of things I think we should draw your attention to.

First, there is a commitment in this legislation -- it's outlined not only in the bill, but also in memoranda and

communications from the Governor and others -- that the existing bus lines that all our riders in Nassau and in Queens currently rely upon will not be altered in any way for at least two years.

In addition, this bill does something that many have been asking for, and that is delays the operating authority of the private operation to December of this year. So that's an additional six months, roughly, where the existing operators would still be in existence.

There is, within this legislation, a framework for resolving any and all issues that relate to the employees, with whom I have met with and I'm sure many of you have met with. All contract agreements currently in effect between the private operators and their employees will be honored.

Even nonunion employees, supervisory employees, will be guaranteed no changes for at least six months, at which time their supervisory positions will be reevaluated. Which I think in a way is understandable.

There are mechanisms in the bill that involve both houses of the Legislature, the Governor, the Mayor, the authority, in terms of mediation on issues that will come up. And I'm sure there will be issues that will come up.

Now, there's two bottom lines here. One, will it improve service to commuters. Now, there are a whole score of private bus lines -- some of them with buses that go back 18 to 20 years in age, that are falling apart -- that need a massive infusion of new equipment. And that equipment has been made; 450 buses, new buses, will be utilized in this new configuration.

So there's no doubt that our constituents on both sides of the city border, in Nassau and in Queens, and in other boroughs, will enjoy an improved level of service. Their routes, the service itself, will be maintained. That's in the bill.

The other primary concern, I'm sure for all of us, is the employees.

Is there anything you want me to -- well, I've got to answer these questions if

I'm going to vote for --

(Laughter.)

SENATOR SCHNEIDERMAN: No, no questions. No questions.

SENATOR PADAVAN: Thank you very much. Thank you very much.

(Applause.)

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 15. This act --

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: We would ask for a party vote in the negative.

ACTING PRESIDENT KUHL: Let me get to that point first.

The Secretary will read the last section.

THE SECRETARY: Section 15. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

Senator Paterson.

SENATOR PATERSON: Ditto.

ACTING PRESIDENT KUHL: Record the Minority -- party vote in the negative.

SENATOR PATERSON: Yes.

SENATOR BRUNO: Party vote in the affirmative.

ACTING PRESIDENT KUHL: Party vote in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 37. Nays, 23. Party vote.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time call up Calendar Number 1857.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1857, by Senator Golden, Senate Print 7441C, an act to amend the Public Authorities Law.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: I would move that we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message on Calendar Number 1857. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1867.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1867, by Senator Saland, Senate Print 7657, an act authorizing the City of Poughkeepsie.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: I would move that we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1867. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT KUHL: The message is accepted.

There is a home-rule message at the desk.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, at this time I would move to recommit any of the remaining bills on the calendar to Rules.

And I would respectfully ask the chair to recognize the leader, Senator Paterson.

ACTING PRESIDENT KUHL: Without objection, the bills are all committed to Rules.

Senator Paterson.

SENATOR PATERSON: Mr. President, would Senator Padavan yield for a question?

No, no, forget it.

(Laughter.)

SENATOR PATERSON: Let me think that -- I knew that wasn't a good idea, Mr. President.

The hour is late. I'm really too tired to laugh, too old to cry, but too dedicated to leave. So I just want everybody in this chamber to know that the members of the Minority will be here intermittently. We are ready to work. We're ready to try to work things out. We're ready to try to bring in a budget. We're ready to try to right the course of this state.

And we say that in sincerity, because we really believe that had we stayed here more than just two or three days a week earlier in the session -- anybody can get a low interest-free loan now. That doesn't work, hasn't worked for ten years. But had we stayed here -- when a jury doesn't reach a decision, they sequester a jury. I suggest in the future we sequester ourselves, and maybe we will reach a more seasonable solution.

And with that, I want to thank

Senator Bruno and Senator Skelos and all the members of the Majority for their cooperation with us this session to this point, and thank Senator Schneiderman, my deputy on the floor, Senator Breslin, our ranker on Finance, and all of those who symbolically they represent, members, and also staff, who worked so hard so that we could give the best effort.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Bruno.

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

We're concluding the regular session of the Senate here on June 22nd, at 11:15. We had, in December, agreed with the Assembly and the Governor that we would conclude this legislative session in a formal way on June 22nd. That was a negotiated date.

And we have been here since January. And we are open to next year, as we're back here, spending five days a week, six days a week, seven days a week, whatever it takes.

But what we have to all recognize

is that in this house, this year, for those that feel that we have been here wasting our time, we passed over 1,500 bills.

Now, in this Legislature in this state, you need a partner. You need a partner. While we did very meaningful things in this chamber, you need the Assembly to partner.

The Assembly Speaker announced in January of this year that we would not do a budget and we would not do meaningful legislation until we did the Campaign for Fiscal Equity proposal to the courts due on July 30th.

Well, the Speaker did fairly well. We haven't got a budget. We're ready to do a budget. The Governor would support a budget that we have prepared to do. But we don't have a partner in the Assembly. So the Speaker is true to his word; he would not negotiate a budget for the people of this state, so we don't have one.

And while we have passed bills here dealing with a number of critically important issues, they have not passed in the Assembly.

Like Medicaid reform, saving the constituency out there, with some of the task force recommendations, up to $2.5 billion over the next five years. Property tax relief, Medicaid reform to localities.

Budget reform. We have a budget reform package, and hopefully that will change the process of late budgets once it's ratified by the majority in this state a year from this November.

Education, we have proposed a $10 billion package in CFE, and we're ready to do what it takes this year for education in this budget.

Economic development, with our Excell program, a billion dollars proposed in tax cuts to stimulate jobs.

And none of that passing there. We have passed countless bills -- create safety, crack down on dangerous drivers, drunk drivers, child sexual predators, murderers. Passed bills to combat auto insurance fraud, reduce the number of uninsured New Yorkers.

Again, I'm not going to go through a whole litany, but it's really unfortunate

that we could not get three-way agreement, two-way agreement on the mental health parity bill that we did here today, Rockefeller Drug Law reform, procurement lobbying reform, Empire Zone reform.

And again, we've worked closely with the Governor, we've met with the Speaker every week, almost, since January; more than once, many times; met today, met yesterday with him, with the Governor. And we are where we are.

We, I think, can be proud of what we've done in this chamber as we formally close. We're going to be back. We're not going on vacation. We are, all of us, going to continue to work very diligently to try and get some of this meaningful legislation done for the people of this state, and we're going to work diligently to get a budget done for the people of this state.

Everyone is going to continue to work after we close the formal part tonight of this session. No one is going on vacation that I know of. I canceled my trip to Italy.

(Laughter.)

SENATOR BRUNO: Which I had never scheduled.

(Laughter.)

SENATOR BRUNO: But I had a good thought about that.

But it is going to be, I have a feeling, a long, hot summer. And I will implore our colleagues here that we communicate with the Assembly -- and to my knowledge, they're working and going to be back tomorrow -- that we've been here since January and we're prepared to be here next week, the following week, July 3rd, July 4th, if we have meaningful, agreed-on legislation.

And to get there, members, chairs, I'm sure you will be participating, trying to close any of these important issues and get a budget done for the people of this state.

So I want to thank you for the support that you give us on your side of the aisle, Senator Paterson, and also for the debate when you don't support us and help to just explore some of the possibilities that exist. Because, as has been stated here, none of what we do is absolutely perfect. And I

think the debate is, many times, extremely helpful. So we thank you for that.

I want to thank the Majority members here for your participation, for your support, for your being here, for your doing all the great things that you do constantly and continually. And again, we're going to continue to do all of these kinds of things.

We have people here who support us, and many of them are in the chamber and many of them are listening, staffwise, and I want to thank all of them.

And we're not going to go on at great length. Senator Skelos, who has been on the floor here as our deputy, and all the leaders that are here in this chamber, and all of the members, I just say thank you. Thank you for your support, thank you for all the good things that you do, thank you for your intentions.

And, Mr. President, I'm not sure when we'll be back here. But I'm fairly certain that we will be back here sometime within this next 20 or 30 days, because we have to get a budget done. And someday I

believe we'll get an agreement with the Assembly if they want to close on a budget.

The CFE is not due to the courts until July 30th. And I share with you that on July 30th, if we have a three-way agreement and we submit that to the courts on July 30th, the courts will not respond back and say that's an improved plan. So for those that are waiting for CFE to get done, they may wait till September or October.

And if people in the Assembly aren't ready to do a budget until then, then that's their prerogative. Not fair to the people of this state. It is not fair to the constituency, not fair to the members that are working here diligently in this house.

So again, as we conclude the formal session here, I am asking the Assembly to be diligent in some of these major pieces of legislation that we have addressed in trying to get them done. And to work on the budget, because it is critically important to all of the constituency in this state. We're ready and we're willing to conclude, but we need a partner.

And so I'm feeling badly that we're here concluding and I am making remarks like this as we conclude. But life is what it is, we're dealing in reality. And again, we're prepared, tomorrow, next week, to be here doing whatever it takes.

So please, don't leave here, anybody -- and I'm talking to the press, who like to report that we're breaking for vacation, and that is just not true. So if you write it, if you report it, it is not true. And rarely have I ever heard or read anything in the press that is not true.

(Laughter.)

SENATOR BRUNO: Mr. President, I thank you.

And we are adjourning, and I move that we adjourn, subject to the call of the Majority Leader, intervening days to be legislative days.

And I wish you all safe passage, God bless you all. Thank you.

(Applause.)

ACTING PRESIDENT KUHL: The Senate stands adjourned, subject to the call

of the Majority Leader, intervening days to be legislative days.

(Whereupon, at 11:26 p.m., the Senate adjourned.)