NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

July 20, 2004

3:47 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

THE PRESIDENT: With us this afternoon is Rabbi Elliot I. Lachman -- that's correct, the son of the Senator, I daresay, although he probably didn't want me to acknowledge that. He's from Ner Israel Rabbinical College in Pikesville, Maryland.

RABBI LACHMAN: May the Almighty grant the members of this esteemed body the wisdom and knowledge to understand the true needs and interests of the citizens of this great State of New York and the resolve to act in accordance with these needs and interests and in accordance with the dictates of justice and morality.

May He furthermore grant them the discernment necessary to distinguish between actions which advance these needs and

interests and actions that set them back; between actions that are in consonance with and promote the ideals of morality, justice, compassion, and charity and actions that are destructive of these ideals; between actions which promote the good of the citizenry as a whole and actions that promote the good of only an individual or a group at the expense of the good of the citizenry as a whole.

May He grant them the fortitude and courage to act on the basis of their conscience and convictions, and may He inform their consciences and convictions to more closely approximate His infinite goodness in whose image we are all created.

Thank you.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, July 19, the Senate met pursuant to adjournment. The Journal of Sunday, July 18, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without objection, the Journal stands approved as

read.

Senator Skelos.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator LaValle, I move to amend Senate Bill Number 6255B by striking out the amendments made on 6/18 and restoring it to its original previous print, 6255A.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Robach, I wish to call up Senate Print Number 6246, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1041, by Senator Robach, Senate Print 6246, an act to amend the Town Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

SENATOR FUSCHILLO: Commit the bill to Rules.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Morahan, I

wish to call up Senate Print Number 6824A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1352, by Senator Morahan, Senate Print 6824A, an act to authorize the Town of Stony Point.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

SENATOR FUSCHILLO: Commit the bill to Rules.

THE PRESIDENT: So ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar in its entirety.

THE PRESIDENT: All in favor of adopting the Resolution Calendar in its entirety please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could stand at ease at this time.

THE PRESIDENT: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:51 p.m.)

(Whereupon, the Senate reconvened at 4:00 p.m.)

ACTING PRESIDENT BONACIC: Senator Skelos.

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

And then if we could return to reports of standing committees, there's a report of the Finance Committee at the desk.

ACTING PRESIDENT BONACIC: Immediate meeting of the Rules Committee in

the Senate Conference Room.

We will return to reports of standing committees.

The Secretary will read.

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

As a member of the State Liquor Authority, Lawrence J. Gedda, of Lynbrook.

As a member of the State Board of Parole, Thomas Patrick Grant, of Rensselaer.

As a member of the Rochester-Genesee Regional Transportation Authority, Michael Jankowski, of Palmyra.

As a member of the State Board for Historic Preservation, Arete Swartz Warren, of New York City.

As a member of the Empire State Plaza Art Commission, Arete Swartz Warren, of New York City.

ACTING PRESIDENT BONACIC: Tom -- excuse me, Tom.

I know we're all excited to be back; we have a lot to talk about. But could I please ask that we keep the chambers quiet.

If you have conferences, take them out of the chambers. Thank you very much.

Tom.

THE SECRETARY: As a member of the Fire Fighting and Code Enforcement Personnel Standards and Education Commission, Kevin Seamus Malley, of the Bronx.

As commissioner of the State Insurance Fund, Charles Scott Bowen, of Binghamton.

And as a member of the Board of Visitors of the Agricultural and Industrial School at Industry, Charles Burton Grimm, of Scottsville.

ACTING PRESIDENT BONACIC: Senator Johnson.

SENATOR JOHNSON: Move the nominations.

ACTING PRESIDENT BONACIC: The question is on the nominations as read by the Secretary. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BONACIC: All opposed, nay.

(No response.)

ACTING PRESIDENT BONACIC: The nominees are hereby confirmed.

Senator Alesi.

SENATOR ALESI: Mr. President, may we stand at ease for just a few moments.

ACTING PRESIDENT BONACIC: The chamber will stand at ease for a few moments.

(Whereupon, the Senate stood at ease at 4:04 p.m.)

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

ACTING PRESIDENT BONACIC: Senator Bruno.

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

I believe that I have a privileged resolution at the desk, and it is Number 5864. I would ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 5864, mourning

the death of Mario Scarselletta, Jr., and paying tribute to his numerous contributions to the labor community.

"WHEREAS, It is the custom of this Legislative Body to publicly mourn the death of prominent citizens of New York State who distinguished themselves in service to the cause of working men and women of this great Empire State; and

"WHEREAS, Mario Scarselletta, Jr., of Queensbury, New York, died on Friday, July 2, 2004, at the age of 72; and

"WHEREAS, Born in Glens Falls to Mario and Isabel Scarselletta, Mario Jr. was a lifelong area resident and respected labor leader; and

"WHEREAS, Mario Scarselletta, Jr., attended Abraham Wing Elementary School and Glens Falls High School; and

"WHEREAS, from 1949 to 1953, Mario Scarselletta, Jr., served his country as a member of the United States Army. He served in the Heavy Mortar division during the Korean War. He was awarded several medals for his service, including the Good Conduct Medal, a

Korean Service Medal with three Bronze Stars, an Army of Occupation Medal with Japan Clasp, the Combat Infantryman Badge 1st Award, and the Purple Heart Medal; and

"WHEREAS, Mario Scarselletta, Jr., began his career in the paper industry in 1953 when he worked on a rewinder machine at Finch, Pruyn and Company in Glens Falls; and

"WHEREAS, He became president of the Pulp, Sulphite and Paper Mill Workers Union Local 18, a position he held for 10 years. He attended labor-relations courses at Cornell University's School of Industrial and Labor Relations and at Rutgers University; and

"WHEREAS, Mario Scarselletta, Jr., went on to become an International Representative for the United Paperworkers International Union (UPIU) in 1963, and was elected regional vice president for UPIU Region II in 1991. He served as vice president until his retirement in 2000; and

"WHEREAS, During his tenure with the union, Mario Scarselletta, Jr., had many accomplishments. He organized workers into

unions at several local paper mills, served on the New York State AFL-CIO Board of Directors, was vice president of the New York Consumer Assembly, served as chairman of the UPIU Pension Fund, was a member of the Statewide Labor Advisory Committee at Cornell University, served on the United Way Board of Directors, was appointed to the New York State Hazard Abatement Board and the Governor's Advisory Board for Forest Products, was active on the planning committee for the Capital District Labor Parade, and was founding member of the Cooper's Cave Credit Union; and

"WHEREAS, Most importantly, Mario Scarselletta, Jr., was a steadfast advocate for workers' rights and labor-management collaboration; and

"WHEREAS, Mario Scarselletta, Jr., distinguished himself in his profession by his sincere dedication and substantial contribution to the welfare of his community; and

"WHEREAS, Mario Scarselletta, Jr., was a charter member of the Korean War Veterans Association, the American Legion Post

133, Veterans of Foreign Wars Post 2476, and the Glens Falls Elks Club Lodge 81; and

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

"WHEREAS, The sincere condolences of this Legislative Body are offered in great respect and loving honor to Mario Scarselletta, Jr.'s treasured family: his devoted wife of 40 years, Marie; four children, Anthony (Lisa), Susan (Richard), Diana (Richard), and Mario (Felicia); nine grandchildren, Tony, Lindsay, Erica, Thomas, Eli, Luke, Leo, Rocco, and Liam; a brother, Joseph; and three sisters, Helen, Isabelle and Sister Theresa; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to pay grateful tribute to the life and accomplishments of Mario Scarselletta, Jr., recognizing the significance of his exemplary record of public service; and be it further

"RESOLVED, That a copy of this

resolution, suitably engrossed, be transmitted to the family of Mario Scarselletta, Jr."

ACTING PRESIDENT BONACIC: Senator Bruno.

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

I'm not going to go on at length, because you just heard a chronicle, in that resolution, of a very great man. A great man and a really close friend of mine.

We grew up in Glens Falls, grew up together. He always kidded about me being older than he -- and he's right, I was, a couple of years. Sold papers together from the time we were 9, 10, and 11.

Mario had a very large family from the East End, but Mario's whole life was one of, as an adult, giving back to his community. Went to work at the Finch, Pruyn paper mill, started at the lowest level, went up through the ranks, became an executive in the International Paperworkers, as they were known at that time, representing really the Northeast for them.

He was a tough negotiator, but a

guy with the biggest heart as related to sharing and giving.

You heard, went to Korea -- three Bronze Stars. It was written up in a book where his name was specifically mentioned for the action. A Good Conduct Medal, Purple Heart, wounded over there.

But, you know, his pride and joy were his four children and nine grandchildren. Four children, two boys, two girls; nine grandchildren. Beautiful children. And Mario was so proud that two of them ended up with Ph.D.s. And that was all from his being a role model.

He helped me in my first campaign -- I think this was before Senator Little was born -- when I was first running. And he is now -- has been, and his family are, constituents, in the town of Queensbury, of Senator Little's.

His wife, Marie, has been a partner of his for 40 years. And it's a huge loss in that community, huge loss to me, huge loss to all the people that he worked to help in the labor movement and generally in the community

at large.

And I appreciate all of you in terms of your responsiveness to this resolution. Thank you.

ACTING PRESIDENT BONACIC: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

It's an honor for me to be able to speak this afternoon in memory of Mario Scarselletta. I join him and Senator Bruno in having been born in Glens Falls and raised on the now famous East End of Glens Falls, since we were all East Enders.

But Mario Scarselletta did a tremendous job for the people of my district who worked in paper mills. And certainly International Paper and Finch, Pruyn were some of the biggest employers in the area. And his advocacy on behalf of those people who worked in the paper mills is truly above and beyond what anyone else has ever done in the area. He was a true negotiator. He was one who set goals, who stood by his beliefs, and yet he always achieved results.

My experience with Mario, other than knowing him through the community and all of his community works, was his helpfulness to me when I first became a member of the Assembly and was first faced with a strike at a paper company within my district. And seeing Mario at church Sunday morning, 7:30 mass, we would discuss the issue after church, he would give me some good advice, I talked to him on the telephone. He truly was a person who was interested in the community, interested in the welfare of the workplace and very, very helpful to me.

And we truly extend our sympathy to the family. Their loss is great, but his legacy is even greater.

Thank you.

ACTING PRESIDENT BONACIC: Thank you, Senator Little.

Anyone else wish to speak on the resolution?

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

(Response of "Aye.")

ACTING PRESIDENT BONACIC:

Opposed, nay.

(No response.)

ACTING PRESIDENT BONACIC: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, I have another resolution at the desk, 5865. I would ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 5865, honoring Saratoga Springs native Dottie Pepper upon the occasion of her retirement after an illustrious career with the Ladies Professional Golf Association.

ACTING PRESIDENT BONACIC: Senator Bruno.

SENATOR BRUNO: Mr. President, you know, on this floor we honor a lot of people. And we today recognize and honor the accomplishments of Dottie Pepper.

Dottie is from Saratoga Springs, in my district. Dottie announced this year her

retirement from the Ladies Professional Golf Association tour.

Now, making the tour and staying on tour is world-class, and there are very few professionals that can stay there. Dottie Pepper won the state amateur, I believe in '81. Now, just think about she has won 17 LPGA championships, golf tournaments. Seventeen.

She is truly legendary on the pro circuit. But not just for her accomplishments out there in swinging a golf club and winning, but for her inspiration, for her commitment, for her dedication, for her way with people and the way she relates. She is a role model for everyone.

And for those that are out there hacking around the golf course, like I do, how much can we respect someone like Dottie Pepper? She is just above and beyond what words can describe.

Now, Dottie, while she has announced that she's retiring from active competition, she is going to be back up here. And she has mentioned that she's going to

bring a pro LPGA tournament to upstate New York somewhere, and we're going to work with Dottie and help her in whatever her mission is.

Because you can be sure she's going to be relating to people, relating to young people, continuing to be an inspiration, a role model to everyone that's out there who has watched her outstanding, great career.

So we wish Dottie the very best in everything, in her getting off the circuit and going on into another active part of her life.

Thank you, Mr. President.

ACTING PRESIDENT BONACIC: Anyone else wish to be heard?

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

(Response of "Aye.")

ACTING PRESIDENT BONACIC: Opposed, nay.

(No response.)

ACTING PRESIDENT BONACIC: The resolution is adopted.

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: Reports of standing committees.

The Secretary will read.

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

Senate Print 2992C, by Senator Marchi, an act to amend the Judiciary Law;

4158, by Senator Balboni, an act to authorize;

4162B, by Senator Balboni, an act to amend the Vehicle and Traffic Law;

4348B, by Senator Spano, an act to amend the Town Law;

5663, by Senator Flanagan, an act to amend Chapter 594 of the Laws of 1996;

6033B, by Senator Spano, an act to amend the Real Property Tax Law;

6133, by Senator Montgomery, an act authorizing the City of New York;

7578, by Senator Connor, an act to

authorize the City of New York;

7649, by Senator Rath, an act to amend the Town Law;

7670, by Senator Trunzo, an act to amend the Real Property Tax Law;

7671, by Senator Padavan, an act to amend the Public Authorities Law;

7672, by Senator Leibell, an act authorizing;

7673, by Senator Skelos, an act to amend the Penal Law;

7674, by Senator Farley, an act to amend a chapter of the Laws of 2004;

7677, by Senator Robach, an act to amend the General Municipal Law;

And Assembly Print 7938A, restored, by the Assembly Committee on Rules, an act to amend the Public Health Law.

All bills ordered direct to third reading.

ACTING PRESIDENT BONACIC: Senator Skelos.

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

ACTING PRESIDENT BONACIC: All in favor of accepting the report of the Rules Committee 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 take up the calendar at this time, noncontroversial.

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: Calendar Number 1099, by the Assembly Committee on Rules, Assembly Print Number 7938A, an act to amend the Public Health Law.

ACTING PRESIDENT BONACIC: Read the last section.

THE SECRETARY: Section 2. 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.

THE SECRETARY: In relation to Calendar Number 1871, Senator Marchi moves to discharge, from the Committee on Rules, Assembly Bill Number 7244C and substitute it for the identical Senate Bill Number 2992C, Third Reading Calendar 1871.

ACTING PRESIDENT BONACIC: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1871, by Member of the Assembly John, Assembly Print Number 7244C, an act to amend the Judiciary Law.

ACTING PRESIDENT BONACIC: Read the last section.

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

ACTING PRESIDENT BONACIC: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays,

1. Senator Duane recorded in the negative.

ACTING PRESIDENT BONACIC: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1872, Senator Balboni moves to discharge, from the Committee on Rules, Assembly Bill Number 7410 and substitute it for the identical Senate Bill Number 4158, Third Reading Calendar 1872.

ACTING PRESIDENT BONACIC: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1872, by Member of the Assembly DiNapoli, Assembly Print Number 7410, an act to authorize the Temple Isaiah of Great Neck.

ACTING PRESIDENT BONACIC: Read the last section.

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

ACTING PRESIDENT BONACIC: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT BONACIC: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1873, Senator Balboni moves to discharge, from the Committee on Rules, Assembly Bill Number 321C and substitute it for the identical Senate Bill Number 4162B, Third Reading Calendar 1873.

ACTING PRESIDENT BONACIC: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1873, by Member of the Assembly Morelle, Assembly Print Number 321C, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT BONACIC: Read the last section.

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

ACTING PRESIDENT BONACIC: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT BONACIC: The bill is passed.

THE SECRETARY: Calendar Number 1874, by Senator Spano, Senate Print 4348B, an act to amend the Town Law, in relation to the election.

ACTING PRESIDENT BONACIC: Read the last section.

THE SECRETARY: Section 2. 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.

THE SECRETARY: Calendar Number 1875, by Senator Flanagan, Senate Print 5663, an act to amend Chapter 594 of the Laws of 1996, relating to preservation, protection and management.

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT BONACIC: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1876, Senator Spano moves to discharge, from the Committee on Rules,

Assembly Bill Number 9418B and substitute it for the identical Senate Bill Number 6033B, Third Reading Calendar 1876.

ACTING PRESIDENT BONACIC: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1876, by Member of the Assembly Brodsky, Assembly Print Number 9418B, an act to amend the Real Property Tax Law.

ACTING PRESIDENT BONACIC: 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 BONACIC: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT BONACIC: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1877, Senator Montgomery moves to discharge, from the Committee on Rules,

Assembly Bill Number 9723 and substitute it for the identical Senate Bill Number 6133, Third Reading Calendar 1877.

ACTING PRESIDENT BONACIC: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1877, by Member of the Assembly Robinson, Assembly Print Number 9723, an act authorizing the City of New York to reconvey its interest.

ACTING PRESIDENT BONACIC: 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 BONACIC: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT BONACIC: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1878, Senator Connor moves to discharge, from the Committee on Rules, Assembly Bill Number 11662 and substitute it

for the identical Senate Bill Number 7578, Third Reading Calendar 1878.

ACTING PRESIDENT BONACIC: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1878, by the Assembly Committee on Rules, Assembly Print Number 11662, an act to authorize the City of New York to discontinue the use as parkland.

ACTING PRESIDENT BONACIC: 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 BONACIC: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT BONACIC: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1879, Senator Rath moves to discharge, from the Committee on Rules, Assembly Bill Number 11570 and substitute it

for the identical Senate Bill Number 7649, Third Reading Calendar 1879.

ACTING PRESIDENT BONACIC: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1879, by the Assembly Committee on Rules, Assembly Print Number 11570, an act to amend the Town Law.

ACTING PRESIDENT BONACIC: Read the last section.

THE SECRETARY: Section 2. 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.

THE SECRETARY: Calendar Number 1880, by Senator Trunzo, Senate Print 7670, an act to amend the Real Property Tax Law, in relation to limitation.

ACTING PRESIDENT BONACIC: Read the last section.

THE SECRETARY: Section 2. 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.

THE SECRETARY: In relation to Calendar Number 1881, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 4709A and substitute it for the identical Senate Bill Number 7671, Third Reading Calendar 1881.

ACTING PRESIDENT BONACIC: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1881, by Member of the Assembly Brennan, Assembly Print Number 4709A, an act to amend the Public Authorities Law.

ACTING PRESIDENT BONACIC: Read the last section.

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

ACTING PRESIDENT BONACIC: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT BONACIC: The bill is passed.

THE SECRETARY: Calendar Number 1882, by Senator Leibell, Senate Print 7672, an act authorizing the Pawling Central School District.

ACTING PRESIDENT BONACIC: Read the last section.

THE SECRETARY: Section 2. 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.

THE SECRETARY: Calendar Number 1883, by Senator Farley, Senate Print 7674, an act to amend a chapter of the Laws of 2004, relating to an audit of receipts.

ACTING PRESIDENT BONACIC: Read

the last section.

THE SECRETARY: Section 3. 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.

THE SECRETARY: Calendar Number 1884, by Senator Skelos, Senate Print 7673, an act to amend the Penal Law, in relation to causing the false report.

ACTING PRESIDENT BONACIC: Read the last section.

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

ACTING PRESIDENT BONACIC: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT BONACIC: The bill is passed.

THE SECRETARY: Calendar Number

1885, by Senator Robach, Senate Print 7677, an act to amend the General Municipal Law and others, in relation to retirement contribution.

ACTING PRESIDENT BONACIC: Read the last section.

THE SECRETARY: Section 12. 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 Skelos, that completes the noncontroversial reading of the Rules report.

SENATOR SKELOS: Thank you, Mr. President. I believe there's one bill left. So if we could take up Calendar Number 1875, by Senator Flanagan, at this time.

ACTING PRESIDENT BONACIC: The Secretary will read.

THE SECRETARY: Calendar Number 1875, by Senator Flanagan, Senate Print 5663, an act to amend Chapter 594 of the Laws of

1996.

SENATOR LIZ KRUEGER:

Explanation.

ACTING PRESIDENT BONACIC:

Senator Flanagan, an explanation has been requested.

SENATOR FLANAGAN: Thank you, Mr. President.

Briefly, this bill would extend for four years the leases on certain cottages that exist within the town of Brookhaven. At a place known as West Meadow Beach, there's approximately 93 cottages.

And this would provide for additional revenue to the town. And there is a -- while it is not required, we do have a home rule message from the town board of the Town of Brookhaven that was passed last week.

ACTING PRESIDENT BONACIC: Thank you, Senator Flanagan.

Senator Krueger.

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

ACTING PRESIDENT BONACIC: Will

the sponsor yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT BONACIC: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

Is this a two-house bill or a one-house bill?

SENATOR FLANAGAN: Right now it's a one-house bill.

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

ACTING PRESIDENT BONACIC: Senator Flanagan, will you continue to yield?

SENATOR FLANAGAN: Yes.

SENATOR LIZ KRUEGER: Thank you. Thank you, Mr. President.

So my understanding of the history is that these properties were supposed to be turned back over to the town so that the town could use this as a park, as had been agreed upon previously by the town, and that in fact this even was an agreement driven by a court decision.

Could you clarify why we're being asked to change this now, after an agreement was reached, after a court decision was made, and after the timeline has come to an end?

SENATOR FLANAGAN: A couple of different things.

First of all, I would respectfully suggest that we change laws all the time. This would be no different in that basic and fundamental respect.

The second thing is I have worked with the town, I have also worked with people within the town of Brookhaven, people who are cottage renters right now, and they have all advocated for an extension on this.

And I would suggest, too, that this provides a stream of revenue to the Town of Brookhaven that would help further the acquisition of open space.

SENATOR LIZ KRUEGER: Mr. President.

ACTING PRESIDENT BONACIC: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. If, through you, the sponsor would continue to

yield.

ACTING PRESIDENT BONACIC: Senator Flanagan, do you continue to yield?

SENATOR FLANAGAN: Yes.

SENATOR LIZ KRUEGER: Thank you.

My reading of some materials from this district show that actually it's fairly controversial, not total agreement with your proposal here today.

And since you mention the desire to raise money for acquisition of public lands, as I read this, the current law doesn't allow a transfer or a conveyance of a cottage when it becomes empty, but rather there should be some kind of open lottery, but that in most cases this has not taken place.

But there are subtenants for many of these cottages who are paying as much as $40,000 for the summer season, when the annual rent to the town for the lease payments is only $7,000.

One of the issues that's been raised in some of the newspaper stories I was reading is that a small number of people who are involved in the cottages are actually

collecting a significant portion of the income from these subleases, rather than that money actually going to the town, which technically should have the rights to this property to be turning it back into a park.

Don't we see a conflict between the interests of a small number of people who seem to be making some money on this deal and continuing to try to hold onto cottages where there was a previous agreement that it should go back into being parkland for the district?

SENATOR FLANAGAN: Well, a couple of different things.

First of all, I know facts. I don't know the speculation that you're referring to. I know what the rent is, I know what the town gets now. I know what this bill says, I know what the town would get if this bill became law.

The prospect or the idea that there might be subtenants, I'm not aware of any of them. There are 93 cottages. I couldn't tell you right now who's in them, who's not in them. I do know that it's a stream of revenue that exists for the town right now. I do

believe that it is considered parkland. And I also do believe that the town already has title to the property.

SENATOR LIZ KRUEGER: Mr. President.

ACTING PRESIDENT BONACIC: Senator Krueger.

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

ACTING PRESIDENT BONACIC: Senator Flanagan, do you continue to yield?

SENATOR FLANAGAN: Yes.

SENATOR LIZ KRUEGER: Thank you.

The notes I have, Senator, say it's $7,000 per year to the town on 93 cottages. That would be about $630,000 in income. But the reports are that at least a third of these cottages have been transferred or conveyed to new subtenants, even though there has only been one lottery for one vacant cottage on record.

So it does appear that there's a significant number of transfers of these cottages, even though only one has been

recorded.

But I guess I'm a little confused. Are these cottages now, under the law as you understand it, publicly owned and in a public park?

SENATOR FLANAGAN: Yes.

SENATOR LIZ KRUEGER: They are publicly owned in a public park.

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

ACTING PRESIDENT BONACIC: Senator Flanagan, do you continue to yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT BONACIC: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

So if they are, as you said, public cottages in a designated public park, why are we now, in the middle of summer, with a one-house bill, trying to change the rules of the game as they exist and as they're understood to exist in that community?

SENATOR FLANAGAN: Well, Senator Krueger, I believe I've -- I'll answer one more time, but I'm going to leave it at that.

This provides additional revenue for the town. The money can be used for the preservation of open space within the town of Brookhaven. The town of Brookhaven has provided a home-rule message in support of this bill.

I would respectfully suggest to you that this is a local bill, confined to the town of Brookhaven. And if any of the issues that you raise -- which I consider to be speculative, because I don't have any facts before me to indicate what you're saying is accurate. I believe that the town has the authority to act now to address any concerns that they may have. They haven't even raised any concerns with me.

I have reached out to and have tried to work with Assemblyman Englebright to potentially extend this, with no other idea than the cottages seem to be a good idea, people do enjoy them, there's a massive public beach right adjoining this parkland.

I don't really see any downside to this legislation.

SENATOR LIZ KRUEGER: Thank you,

Mr. President. On the bill.

ACTING PRESIDENT BONACIC: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate Senator Flanagan's answers to the questions. And I find myself with a dilemma. Because on the one hand, it seems to me that this state passed a law that it was recognized that this would go back to being public land for the community of about 450,000 residents, that a deal was struck, that agreements were made, and now that the timeline is over, a relatively small number of cottage, technically, renters seem to be able to be changing the deal. And it's not clear to me that's in the best interests of the public or the Town of Brookhaven.

On the other hand, I'm hearing that the Town of Brookhaven has sent a home-rule message and they have asked us to do this. And I'm a big supporter of the concept that local issues should be decided at the local level.

And it's one of my frustrations, in fact, that when my city, the City of New York,

sends home-rule message messages up here and asks for changes that will affect the City of New York and not affect the rest of the state, that we are often not allowed to bring those bills to the floor.

For example, I don't know why we still haven't done Urstadt repeal, allowing the City of New York to determine its own housing policies rather than the State Legislature making that determination.

I don't know why we're not reevaluating proposals for Mitchell-Lama development buyouts. The City Council, the Mayor have each had proposals to change the law to protect tens of thousands of low-income and middle-income renters who are at risk of losing their homes because we aren't prepared to change the rules on Mitchell-Lama housing decades after we created good programs, not imagining we would find ourselves 30, 40 years later, in a worse housing crisis, needing to hold onto that kind of housing.

So this dilemma for me is this doesn't feel right to me, and yet I want to respect the locality's desire to, as Senator

Flanagan said, change the rules as they go forward. And my frustration is my desire to respect Brookhaven's wishes with my frustration that the City of New York's wishes are often not followed in line by this house and this town.

So I will vote for the bill, although I have serious concerns and reservations about it. But I hope that my colleagues will think through this analysis and the importance of recognizing local control and home-rule messages when other bills come before us, either in special session or in whatever we're doing on Thursday, extraordinary session, that's in the best interests of the City of New York and has a home-rule message.

Thank you. I'll vote yes, Mr. President.

ACTING PRESIDENT BONACIC: Thank you, Senator Krueger.

Anybody else wish to be heard?

Read the last section.

THE SECRETARY: Section 2. 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 Skelos, that completes the controversial reading of the Rules report.

SENATOR SKELOS: Mr. President, if we could turn to motions and resolutions, I believe there's a resolution at the desk by Senator LaValle. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT BONACIC: Motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senator LaValle, Legislative Resolution Number 5910, urging the New York State Congressional delegation to reconsider the potential closure or realignment of the New York Air National Guard 106th Rescue Wing, from Gabreski Airport in Westhampton Beach, New York.

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

signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BONACIC: Opposed, nay.

(No response.)

ACTING PRESIDENT BONACIC: The resolution is adopted.

Senator Skelos.

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

ACTING PRESIDENT BONACIC: There is none, Senator Skelos.

SENATOR SKELOS: There being no further business to come before the Senate, I move we stand adjourned until Wednesday, the 21st of July, at 12:00 noon.

ACTING PRESIDENT BONACIC: On motion, the Senate stands adjourned until Wednesday, July 21st, at high noon.

(Whereupon, at 4:45 p.m., the Senate adjourned.)