NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

August 12, 2004

10:59 a.m.

REGULAR SESSION

SENATOR PATRICIA K. McGEE, Acting 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, Wednesday, August 11, the Senate met pursuant to adjournment. The Journal of Tuesday, August 10, 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.

Motions and resolutions.

Senator Kuhl.

SENATOR KUHL: Yes, Madam President. I understand that there's a privileged resolution by Senator Bruno at the desk. I ask that be title be read and that we move for its immediate adoption.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 6028, honoring Patricia T. Dyer upon the occasion of being elected president of the New York State American Legion Auxiliary for the year 2004-2005.

ACTING PRESIDENT McGEE: All in favor of the resolution will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed,

nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is adopted.

Senator Kuhl.

SENATOR KUHL: Yes, Madam President. Could we announce an immediate Rules Committee meeting in the Majority Conference Room.

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

Senator Kuhl.

SENATOR KUHL: And could the Senate stand at ease awaiting that report.

ACTING PRESIDENT McGEE: We will stand at ease pending the report.

(Whereupon, the Senate stood at ease at 11:02 a.m.)

(Whereupon, the Senate reconvened at 11:15 a.m.)

ACTING PRESIDENT McGEE: Senator Kuhl.

SENATOR KUHL: Yes, can we return to the order of reports of standing

committees.

I understand that there's a report of Rules Committee at the desk. Can we have that read, please.

ACTING PRESIDENT McGEE: The Secretary will read.

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

Senate Print 7718, by Senator Robach, an act to amend the Correction Law;

7736, by Senator Padavan, an act to amend the Tax Law;

3664A, by Senator Oppenheimer, an act to amend the Penal Law;

7731A, by Senator Rath, an act to amend the County Law;

7732, by Senator Rath, an act to amend the Tax Law;

7740, by Senator Robach, an act to amend the Town Law;

7743, by Senator Morahan, an act to amend the Election Law;

7747, by the Senate Committee on Rules, an act to amend the Tax Law;

And Assembly Print 11659, by the Assembly Committee on Rules, an act to amend a chapter of the Laws of 2004.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Kuhl.

SENATOR KUHL: Move we accept the report of the Rules Committee.

ACTING PRESIDENT McGEE: All in favor of accepting the report of the Rules Committee will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The report is accepted.

Senator Kuhl.

SENATOR KUHL: Yes, Madam President. All the members should have a Calendar Number 65 on their desk. Could we now continue and have the noncontroversial reading of Calendar Number 65.

ACTING PRESIDENT McGEE: The

Secretary will read.

THE SECRETARY: Calendar Number 1930, by Senator Robach, Senate Print 7718, an act to amend the Correction Law, in relation to closure of correctional facilities.

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, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1951, Senator Oppenheimer moves to discharge, from the Committee on Rules, Assembly Bill Number 5164A and substitute it for the identical Senate Bill Number 3664A, Third Reading Calendar 1951.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1951, by Member of the Assembly Stringer, Assembly Print Number 5164A, an act to amend the Penal Law, in relation to making the defense of justification gender-neutral.

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, 51.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1960, by the Assembly Committee on Rules, Assembly Print Number 11659, an act to amend a chapter of the Laws of 2004, amending the Public Health Law.

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, 51.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Kuhl, that completes the noncontroversial reading of the Rules report.

SENATOR KUHL: Thank you, Madam President. There are a number of bills that are on high; we're awaiting messages. They will be coming momentarily.

So if we could just stand at ease for a few moments.

ACTING PRESIDENT McGEE: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 11:19 a.m.)

(Whereupon, the Senate reconvened at 11:54 a.m.)

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. Could we return now to the noncontroversial reading of the calendar and

pick up Calendar 1950.

ACTING PRESIDENT McGEE: 1950. The Secretary will read.

THE SECRETARY: Calendar Number 1950, by Senator Padavan, Senate Print 7736, an act to amend the Tax Law and the Administrative Code of the City of New York.

ACTING PRESIDENT McGEE: Senator Morahan.

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

ACTING PRESIDENT McGEE: There is a message of necessity at the desk.

SENATOR MORAHAN: Can I ask that we accept that message.

ACTING PRESIDENT McGEE: The motion is to accept the message of necessity. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The motion is accepted.

The Secretary will 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, 54.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Madam President, can we now take up Calendar 1953, by Senator Rath.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1953, by Senator Rath, Senate Print 7731A, an act to amend the County Law, in relation to wireless communications service surcharges.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: One moment.

Is there a message at the desk, Madam President?

ACTING PRESIDENT McGEE: Yes, there is.

SENATOR MORAHAN: Could we move to accept that message.

ACTING PRESIDENT McGEE: The motion is to accept the message of necessity. All those in favor 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 local fiscal impact note at the desk.

Senator Morahan.

SENATOR MORAHAN: For the record, just so people know, 1953 is the calendar we're going to work on.

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, 54.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Yes, could we now pick up Calendar 1954, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1954, by Senator Rath, Senate Print 7732, an act to amend the Tax Law, in relation to authorizing the County of Genesee.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Is there a message of necessity at the desk?

ACTING PRESIDENT McGEE: There is a message of necessity at the desk.

SENATOR MORAHAN: I move that we accept the message.

ACTING PRESIDENT McGEE: The motion is to accept the message of necessity. All those in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The motion is accepted.

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, 54.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: 1955, Madam President.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1955, by Senator Robach, Senate Print 7740, an act to amend the Town Law and a chapter of the

Laws of 2004 amending the Town Law.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Is there a message of necessity at the desk?

ACTING PRESIDENT McGEE: There is a message of necessity at the desk.

SENATOR MORAHAN: I move that we accept that message.

ACTING PRESIDENT McGEE: The motion is made to accept the message of necessity. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

The Secretary will 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, 54.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan.

SENATOR MORAHAN: Could we now take up Calendar Number 1956, Madam President.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1956, by Senator Morahan, Senate Print 7743, an act to amend the Election Law, in relation to initial voter identification.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Is there a message of necessity at the desk?

ACTING PRESIDENT McGEE: There is a message of necessity at the desk.

SENATOR MORAHAN: I move that we accept the message, Madam President.

ACTING PRESIDENT McGEE: The motion is to accept the message of necessity.

All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT McGEE: The message is accepted.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT McGEE: The bill is laid aside. We're on the noncontroversial reading of the calendar.

SENATOR MORAHAN: Madam President, now go to 1958, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1958, by the Senate Committee on Rules, Senate Print Number 7747, an act to amend the Tax Law and the Agriculture and Markets Law.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Is there a message of necessity at the desk?

ACTING PRESIDENT McGEE: There is

a message of necessity at the desk.

SENATOR MORAHAN: I move that we accept that message.

ACTING PRESIDENT McGEE: The motion is to accept the message of necessity. All those in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT McGEE: The message is accepted.

The Secretary will read.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT McGEE: The bill is laid aside.

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

SENATOR MORAHAN: May we have the controversial reading, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1956, by Senator Morahan, Senate Print 7743,

an act to amend the Election Law.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR MORAHAN: Thank you, Madam President.

This bill is very similar to one that the Senate adopted in February of this year. That bill also required, besides ID, it also had a verification process. That verification process has been separated from this bill, and now it deals just with the HAVA language on IDs.

It directs each Board of Elections to require any person who registers by mail after January 1, 2003, and who has not previously voted in a federal election to present to the appropriate election inspector or clerk or coordinator a current and valid photo ID or a copy of a current utility bill or a bank statement, a government check, or a paycheck or other government document that shows the name and address of the voter.

ACTING PRESIDENT McGEE: Senator

Sabini.

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

ACTING PRESIDENT McGEE: Senator Morahan, will you yield?

SENATOR MORAHAN: Yes.

ACTING PRESIDENT McGEE: The sponsor yields.

SENATOR SABINI: I want to commend the sponsor for his hard work on this issue through tough times and the perseverance that members of the committee have shown and members of the Assembly have shown.

This is a same-as bill as the Assembly. And my concern with the bill is in some of the specifics. Under this bill, would -- since in the first section of the bill it says each Board of Elections in a uniform and nondiscriminatory way shall require -- "each" being the word I'm concerned about. And later on in the bill, under the "Requirements" part, it says "in general."

I'm concerned that Boards of Elections in the state could have different

standards on verification. And since there are many, many, many offices in the State Legislature and in Congress that go -- and we're voting on a U.S. Senate seat this year -- that go beyond county lines, that there might be different verification processes for voters voting in the same election.

Would this bill not create that sort of different system?

SENATOR MORAHAN: I don't think it would create it, but it doesn't prevent it.

SENATOR SABINI: Madam Chair, on the bill.

ACTING PRESIDENT McGEE: Senator Sabini, on the bill.

SENATOR SABINI: I think we're compelled to do something on this issue. The Help America Vote Act has given the State of New York an extension on the machine issue till the next federal cycle, which would be 2006. But we don't have an extension on the verification requirements.

So I think we have to do something. The fact that this is a same-as in the

Assembly means that we probably should pass this.

But I think -- my concern in supporting the bill is that we're creating different standards in different counties and that the same voter in one county voting for a State Senate election or an Assembly election or even a statewide election might be allowed to vote based on what they submitted for verification, and in another county the same kind of voter with the same kind of verification material may not be.

I think that the bill is broad enough, and I congratulate the sponsor for making the bill broad enough. In fact, in some instances it's broader than some of the Democrat conferees wanted to see. But I'm just concerned that what we're creating in fixing this and making things better -- and we're here to make things better -- that we're eliminating a chaos and just making it into a sort of mild misunderstanding rather than chaos.

So in the spirit of moving legislation, I'll support the bill and vote

aye.

Thank you.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Yes, just to speak to the bill.

ACTING PRESIDENT McGEE: Senator Morahan, on the bill.

SENATOR MORAHAN: Okay. The comments by Senator Sabini talking about chaos or a different application, this, Senator, is not a verification bill.

The verification could very well be something that could cause some confusion if one is more arduously following up to get the verification in different ways.

The ID portion, which we're doing today, will not lend to that confusion, Senator. It says a valid photo ID. It says a utility bill. It says specifically what is available. And either it is or it isn't. So I don't expect any confusion because of what we pass today.

When we get to the verification bill, that process, you're correct, we will

have to be very careful that we don't do something. But hopefully, in the meantime, we will have a governance bill for the State Board of Elections.

We have a bill, as you know, being on the committee, prepared to deal with that, if we do that, and make things fair and equitable at the state level. Then I think they would probably promulgate rules and regulations for oversight that we all would be comfortable with.

So I think this is a good bill. It does get us under the wire before the primary day. And that it keeps us in conformity with the language and the spirit of the HAVA action taken by the Congress of these United States.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. If Senator Morahan would yield, just for information. Just one.

ACTING PRESIDENT McGEE: Senator Morahan, will you yield?

SENATOR MORAHAN: One? I'll

yield for one question. Or maybe two or maybe three.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR MONTGOMERY: No, no. The only thing I wanted to ask you, Senator, is this an agreed-upon bill that we're passing?

SENATOR MORAHAN: Three-way.

SENATOR MONTGOMERY: Okay, thank you. That's it.

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, 58.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 1958, by the Senate Committee on Rules, Senate Print Number 7747, an act to amend the Tax Law and the Agriculture and Markets Law.

SENATOR SCHNEIDERMAN:

Explanation.

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

SENATOR LARKIN: Good afternoon.

You know, we've been talking about the VLTs for a number of years now. And just recently the courts made a decision that the commingling of money into the track versus education was not constitutional. That is now up for a challenge.

However, in order to ensure the flow of money that we're going to take in to education and continue to operate the tracks, this is called a pop-up bill. This bill will not take place unless the courts sustain the lower court's decision.

What we've done here is we've separated a proposal to enabling Ag and Markets to monitor the funding, with Lottery, and to ensure that the total entity of funds raised through the machines goes into education.

But one of the biggest problems for Yonkers at this point was the bonding company said: We want to make sure that there's

something in place for us so we don't lose out on it.

So basically, what the alternative to this plan is, is that it just gives the investors the security that there is going to be money there. And the level of certainty is what they said they needed or they would not do the bonding.

This also ensures that the program will continue to roll, and it will help us to put money in education without diverting it.

ACTING PRESIDENT McGEE: Senator Sabini.

SENATOR SABINI: Thank you, Madam President. Since we're getting paid, I feel like I should earn my check.

If the sponsor could yield to a few questions.

ACTING PRESIDENT McGEE: Senator Larkin, will you yield?

SENATOR LARKIN: John, I would be honored.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR SABINI: Thank you, Madam

President, through you.

Is there a same-as bill of this in the Assembly?

SENATOR LARKIN: I understand in the other house they're looking at it.

What we had originally tried to do was to do the two tracks, but there was no way we could come to an agreement on it. But right now we have a track that Mr. Spano knows about.

You have a problem there that we're supposed to put 5,000 machines in there. The machines are ordered, the contract is in place. The only thing is the investor says what happens if I go through with it and the courts say something different, what venue do I have to go to?

This is his bible. And I hope the other house does it. Because, you know, you can't stand in that other house and go around saying we need money for education, we need money for education. Well, here's 10,000 machines that should have been operating two years ago.

We're just trying to put it in

place, John, so that we can ensure that the machines will run, the flow of money will go, and that education will receive the funding that it should have been.

SENATOR SABINI: Madam President, through you, may I ask the sponsor to yield for an additional question.

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

SENATOR LARKIN: Yes, John.

ACTING PRESIDENT McGEE: The Senator continues to yield.

SENATOR SABINI: I share the Senator's concern about the money flowing from VLTs. In fact, my main concern here is that since there is no same-as, that there may not be a Yonkers in the near future.

And I'm particularly concerned that Aqueduct, in Queens County, while the bill doesn't legislatively prevent it from happening, the sponsor knows and I know that there are very complicated negotiations involving the people who operate the tracks and the people who will operate the VLT concession, if you will, and that over a

hundred million dollars, in the case of Aqueduct, is involved in an investment from a company that wants to create 700 jobs at Aqueduct --

SENATOR LARKIN: 131 million, John.

SENATOR SABINI: Okay. Thank you.

-- and that by passing this bill and not having an agreement with the Assembly, that the Aqueduct portion of VLT revenue will not come to fruition and there won't be those 700 jobs in Queens, and that, in effect, by compelling this bill to move, we are actually choking off money for education.

SENATOR LARKIN: I don't see it that way, John.

If we don't take this action, we are cutting something off. Right now, with this action, we're saying to an investor: Go ahead, put your money up for Yonkers.

The problem you're talking about with Aqueduct is a complicated issue because Aqueduct, under the NYRA, has not decided whether they want to do it alone, they want to

go with a vendor to operate the machines, and what entity they want to go with. So why should we be up held by Aqueduct when we can put Yonkers in place and at least get something moving?

You know, we've had two tracks that have filed bankruptcy, up in Senator Meier's area and the one in Western New York. Those machines aren't running. Out of a total of about 18,500 machines -- and you're aware of it, because you asked me before on it -- we have about 3100 machines running. These machines are producing revenue.

When you look at the other states, Rhode Island, 12.5 percent of their state budget comes from the VLTs; West Virginia, 17 percent of -- their VLT money takes care of 17 percent of their state budget.

We are right now saying let's get our act together and get some of this pie done, because the longer we stretch it out, there may not be a Yonkers, there may not be an Aqueduct. I think by going ahead and moving and saying here we are, we're going to do Yonkers, maybe the people at NYRA will

start to recognize the fact that they can talk about what a beautiful track they have and how everybody likes thoroughbreds.

But the people in the City of New York who filed the CFE are looking for funds. This is the funds, no matter how you cut the mustard.

SENATOR SABINI: Madam President, on the bill.

ACTING PRESIDENT McGEE: Senator Sabini, on the bill.

SENATOR SABINI: First of all, let me thank the sponsor for characterizing Aqueduct as a beautiful track. That's the first time I've ever heard that. That was supposed to be a joke, for you racing fans.

I find myself in the unusual position of trying to take the sponsor's logic and go further. I agree with everything he's said, and I want to see more. Let a thousand flowers bloom here. I don't want to see Queens County and Aqueduct not in the mix as was promised. And I want to see the money for education flow.

And if we can come to an agreement

with the Assembly and the Governor to move Aqueduct -- and I believe Aqueduct has their act together a little bit better, and NYRA has their act together on this item a little bit better than perhaps the sponsor thinks; I would view their glass as more than half full -- we would have far more revenue. As big as Yonkers will be, Aqueduct will dwarf Yonkers once it's opened.

But this bill does nothing to help Aqueduct open, in my opinion. In fact, it sets the Aqueduct process back, almost back to the drawing board.

So I find myself agreeing with everything the sponsor said except that I don't think this is the best way to get it done. Especially for the folks in Queens County, so we can see some of that CFE money flowing in through the VLTs.

So for reasons that -- only because I think that half a loaf, in this case, is better than none, and perhaps on the last bill I thought half a loaf was better than none -- on this one I really think we need as much loaf as we can get, because that's what future

budgets seem to be predicated on.

I'm also concerned, for the record, about the way in which we're going to provide for the horsemen and the breeders. And I know that there's a trigger mechanism in this pop-up bill that -- I don't ever recall seeing a pop-up bill before. Maybe I wasn't paying attention. But I'm afraid that at some point another legislature will say, Hey, we're giving money to guys that breed horses and track owners at the expense of the poor, at the expense of entitlements, at the expense of somebody else.

And I don't want to see that happen. I know the court has put us in this situation because of their ruling. But specifically for the reason I think we can do a better bill that gets more revenue for everyone, I would like to see us do at least a two-way agreement with the Assembly and get Aqueduct and Yonkers open for everyone's benefit and, frankly, fulfill the promise to the track owners, to the breeders, to the horsemen and to the vendors who have already invested a lot of money in the idea of these

VLT sites being open, that we're really serious about it, it's not just rhetoric.

And so for that reason, I'm going to be voting no, Madam Chair.

ACTING PRESIDENT McGEE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I concur with -- on the bill.

ACTING PRESIDENT McGEE: Are you on the bill?

SENATOR SCHNEIDERMAN: On the bill.

I concur with much of what Senator Sabini said. I appreciate the difficulty that we are facing and that the sponsor has faced in trying to craft this.

But I think to pass a one-house bill that takes care of some tracks and doesn't, we know, because we've been told by the businesspeople involved, doesn't take care of others -- if you're trying to send a message to the business community, to the investors that you're okay, we got you covered, we have to do that. But to pass a

bill that takes care of some but not others is almost a worse message than none at all.

I would rather wait and negotiate something with the Assembly that is in fact a law. Because I think it is a dangerous message. And if I'm an investor in Aqueduct and I said, Oh, the Senate passed a bill that deals with Yonkers but not us -- that may not be the type of signal we're trying to send, but I'm afraid that is what we would be sending.

So I will be voting in the negative on this bill.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Larkin.

SENATOR LARKIN: You know, I've listened to my colleagues telling me the pitfalls of this piece of legislation, but I'd like to remind all of them that we've met on more than one occasion with the Assembly on this bill, and constantly come up with one question: Where is your language?

You can sit here and you can say, you know, we should be waiting, we should do

this. I remind you once again that we've been waiting since October 2001. We've started the race. Now we're stopped by the courts.

We want to be in place so that at the next court level, for you attorneys who know it, we will be in a position to do something. We're in a position to help the investors to move forward with it. The tracks are willing to do it, they just want some agreement. We've given that agreement.

When you say we should wait for it, I think we should ask you to go down the hall and talk to your counterparts in the Assembly and say: Why haven't you provided any language?

The language that is there is the only language that's been available. I'd love to see 5,000 at Aqueduct, John. You and I have talked about it.

And, Senator Schneiderman, I would like to see Yonkers go. I would like to see the Finger Lakes go.

But when you're standing back here and just saying we ought to wait, we ought to wait, we ought to wait, you know, I think

we're sending the wrong message. We're sending the wrong message to tourism, we're sending the wrong message to the racing industry and to the overall business community.

ACTING PRESIDENT McGEE: Will those voting in the negative on the bill please raise your hands.

Senator Ada Smith, to explain her vote.

SENATOR ADA SMITH: Thank you, Madam President.

They say that all politics is local. And many of my constituents work at Aqueduct, and a lot of them frequent Aqueduct, as it is one block outside of my district. Anything that does not provide for my constituents is something that I cannot, in all good conscience, vote for.

I await the day when I can gladly join all of my colleagues in voting for a benefit that will benefit the people that I'm blessed to represent. Therefore, I vote no.

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

SENATOR SABINI: Thank you, Madam Chair.

Again, I just want to tell the sponsor that perhaps -- and he's right on many of the points he's made, but that the best way to get that done is to have a conference committee with all the interested parties there to witness what goes on, tell us why we're wrong or they're wrong in an open forum, and that's how we could get things done.

Because as things get done in this building, a lot of it is rumor, hearsay, bills that we get in the morning that we didn't know we were getting last night, or different versions. And perhaps if we had a conference committee on this, we could thrash it all out so that we could do all the things we wanted to do with this.

But unfortunately, the way the process works in both houses, we don't have that. So, you know, I can go down to the other end of the hall until I'm blue in the face. But we don't engender open dialogue here.

And that would be, I think, to

everyone's benefit -- ours, the interest groups, the taxpayers, the schoolchildren and everyone in this case -- if we all sat down and try and thrash out our differences and know what we were talking about, instead of this sort of innuendo that flies around the building.

So I agree with Senator Larkin. I just would like to make sure that we get the job done, and perhaps we want to do it in different ways. But I think if we had an open forum, we'd be able to get the job done.

Thank you.

ACTING PRESIDENT McGEE: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1958 are Senators Andrews, Connor, Duane, Hassell-Thompson, L. Krueger, Lachman, Padavan, Paterson, Sabini, Schneiderman, A. Smith, M. Smith, and Stavisky.

Ayes, 46. Nays, 13.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Morahan, that completes the

controversial reading of the Rules report.

SENATOR MORAHAN: Madam President, I know I'm not very tall, but do you think I'm standing?

ACTING PRESIDENT McGEE: No, but I'm telling you that it completes the report. You may stand if you wish to do so. If not, we'll wait on you.

SENATOR MORAHAN: Okay. There will be an immediate meeting of the Rules Committee, Madam President, in the Majority Conference Room.

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

SENATOR MORAHAN: The Senate will stand at ease in the meantime.

ACTING PRESIDENT McGEE: The Senate will stand at ease. Or sit.

(Whereupon, the Senate stood at ease at 12:30 p.m.)

(Whereupon, the Senate reconvened at 12:45 p.m.)

ACTING PRESIDENT McGEE: Senator Marcellino.

SENATOR MARCELLINO: Yes, can we return to the reports of standing committees.

I believe you have a report of the Rules Committee at the desk. Can it be read now.

ACTING PRESIDENT McGEE: The Secretary will read.

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

Senate Print 7688, by Senator Spano, an act to amend the Public Health Law;

7745, by Senator Bruno, an act authorizing the School District of the City of Rensselaer;

And Senate Print 7748, by Senator Maziarz, an act to amend the Public Health Law.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Marcellino.

SENATOR MARCELLINO: Can we move to accept the report of the Rules Committee.

ACTING PRESIDENT McGEE: All in

favor of accepting the report of the Rules Committee will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The report is accepted.

Senator Marcellino.

SENATOR MARCELLINO: If we could hold for just one moment, Madam President.

ACTING PRESIDENT McGEE: Yes, sir.

Senator Marcellino.

SENATOR MARCELLINO: May we have the noncontroversial reading of the Rules report, please.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1952, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 9872A and substitute it for the identical Senate Bill Number 7688, Third Reading Calendar 1952.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1952, by Member of the Assembly Glick, Assembly Print Number 9872A, an act to amend the Public Health 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 1959, by Senator Maziarz, Senate Print 7748, an act to amend the Public Health Law and others.

ACTING PRESIDENT McGEE: Senator Marcellino.

SENATOR MARCELLINO: Madam President, is there a message of necessity at

the desk?

ACTING PRESIDENT McGEE: Yes, there is a message at the desk.

SENATOR MARCELLINO: Move that we accept the message.

ACTING PRESIDENT McGEE: The motion is to accept the message of necessity. All in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR MAZIARZ: Thank you very much, Madam President.

First, I want to thank all those who made it possible to come to this historic compromise.

First I want to thank Senator Bruno for his leadership on the issue. I'd also

like to give a great deal of thanks to the Aging Committee chair, Senator Marty Golden, and his staff for their tireless dedication, and also Senator Hannon and the staff of the Senate Health Committee, and clearly to Governor George Pataki, whose leadership and willingness to compromise helped bring us to this final legislation that we have before us today.

I'd also like to thank the various advocates, those individuals particularly in the orange shirts, who have been here on a daily basis for the last several weeks. The advocates have worked tirelessly to bring assisted living to New York.

And, finally, I want to thank our colleagues in the Assembly who have also spent much time working to bring this issue to a conclusion.

This bill is a culmination of negotiations and years and years of work, going back to my days as chair of the Senate Aging Committee. Public hearings were held on this legislation when it was first introduced. And throughout this time, the advocates have

been deeply involved in the final process.

The assisted-living model allows individuals to remain in a residential, homelike setting while receiving supportive services and health-related care as they need it. The growth in appeal of assisted living has become a national trend because it enables seniors to receive the assistance that they may need while maintaining a lifestyle more commensurate with their own.

The philosophy of assisted living explicitly promotes, and this legislation explicitly promotes, independence, privacy, personal dignity, respect, and choice. Tantamount to this philosophy is a living environment that is designed to accommodate the changing needs and preferences of its residents in order to allow them to remain in the residence as long as their needs can be met and allow them to age in place.

Specifically, this bill first defines assisted living and assisted-living residences. The bill contains the important point of aging in place at enhanced assisted-living facilities. The bill contains

provisions for special-care populations.

Lookalikes, those places that call themselves assisted living, will be regulated under this bill in a way to protect those they serve.

Individualized service plans for all inhabitants of the residences will be required. It's very important, Madam President, that these are individualized service plans.

Furthermore, the bill requires written resident agreements for these inhabitants. Residents and their families will know what to expect, will know what they are paying and what they are paying for.

The bill has full consumer disclosure by containing nine points aimed to assist individuals and their families. Further, the bill contains a 16-point bill of rights, as well as requiring the development of a consumer protection guide for each and every resident and any member of their family that should choose to have one.

And, lastly, the bill contains a permanent, ongoing task force to deal with the

issues pertaining to assisted living.

Madam President, my late mother lived in a senior care facility for the last three years of her life, and it was a great experience going there on a daily basis to see her, but to also interact with the other residents and to see the different levels of care that they needed. Some were much more independent than others.

This legislation will allow for individualized service plans. This may be one of the best ten pieces of legislation that's agreed upon by the two houses and by Governor Pataki this year.

Thank you, Madam President. And I am certain my colleague has no questions after that explanation.

ACTING PRESIDENT McGEE: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'll yield to Senator Golden.

ACTING PRESIDENT McGEE: Senator Golden.

SENATOR GOLDEN: Thank you, Madam Acting President.

I too rise on this bill to thank Senator Maziarz and his staff and Senator Hannon and his staff and all of the members of the conference, in working with the Democrats and the Republicans, working with the Assembly and the Senate, working through many, many hours to come up with a bill that would work for our seniors who are sitting up here in the audience, who stood outside our rooms each and every day, who handed us volumes and volumes of papers, saying, Please support these bills.

And we held out, and the reason we held out is to get a bill that worked for our seniors this year. And I believe that this bill does work for all of the seniors across this great state.

And it points out the lookalikes that are out there that have been up and down our state now will have to conform and will be regulated. And we'll be able to know who they are and what they are and who's on their boards and what they're doing. And that those residents in those assisted-living facilities will get the best care possible by the State of New York.

We are the number-one state across this great country when it comes to aging-related issues. And we have been seeing the tragedies in nursing homes. And we addressed them many, many years ago. And now -- we were a leader amongst the states with our nursing home legislation, and we will be a leader across this great country with our new legislation here in assisted living.

It does do what it's supposed to do, and that's help our seniors. And it gives them the opportunity to have a 12-point residency agreement, which I think is important so that we have complete consumer knowledge of what's going on and how they can get into these facilities, what goes on in these facilities, what the prices of the facilities are. When those prices change, that they have to go through the process again and tell the residents of the assisted-living facility, and those coming in, of price changes.

And it also establishes a 16-point resident's bill of rights, which I think is also important for the future of our seniors

here in this great city and state.

So I applaud all of those that were involved in this long battle to get this assisted-living bill. There is more to be done yet. I think we have to continue to work towards our aging in place and working to continue our services and getting those services directly into our homes. But right now, I think this is a good assisted-living bill that was pounded out by all of the advocates and the Assembly, and I think it works for all of the city and the state residents.

Thank you.

ACTING PRESIDENT McGEE: Senator DeFrancisco.

SENATOR DeFRANCISCO: As a cosponsor of this bill, I'm very pleased that it became an agreed-upon bill and is soon to become law.

You know, there's a lot of facilities that talk about being assisted-living facilities, and some people aren't quite sure what the definition of that is, and it varies from place to place.

But this bill is important because it regulates these facilities to make certain that individuals who take advantage of them will not be taken advantage of. And namely, they will be able to obtain the services that are promised. And that there are certain legal requirements that have to be met so that those promises are kept.

So I think it's a very good piece of legislation. I have a very active group of seniors from Onondaga County, and they're so persuasive that they convinced all the seniors throughout the state to wear Syracuse orange in Albany for the last six months. And I think that was a key factor as to why this bill ultimately passed and it became as good a bill as it currently is.

So congratulations, Senator Maziarz, and also to the chairman of the Aging Committee, Senator Golden, and all those who worked on this piece of legislation.

ACTING PRESIDENT McGEE: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

I would like to compliment the chairman of the Aging Committee, Senator Maziarz, on all of his hard work in bringing this very important matter to the floor today.

I am thrilled that the senior citizens in Madison, Oneida, Onondaga and Cayuga County will now know that they have a bill of rights that will govern assisted-living care. There are so many key provisions in this that deserve to be recognized, but I would just like to highlight a few.

For my residents who have come here over and over again, and for seniors in other parts of the state, I thank you and I want you to know you helped sensitize the members of this Legislature and our staffs, and I think the media, to the importance of this assisted-living bill of rights.

Among the provisions, a written individual plan developed for each resident in an assisted-living residence upon admission; a service plan and a residence representative to cover any kind of legal questions; guarantee that a physician is always to be available for

evaluations; individualized service plan to be developed with medical, nutritional, rehabilitation, functional, cognitive and other needs of the resident.

It clearly spells out, Madam President, the importance on every level of a resident's life why we need to have these guarantees in statute in this particular piece of legislation.

The long-term-care ombudsman who will be provided to any person without fear of reprisal should they have questions about this individualized care is also another very significant milestone.

The right of every resident to manage his or her own financial affairs, to have privacy in treatment, to be guaranteed confidentiality in the treatment, to receive courteous, fair, and respectful care in treatment, and a written statement of the services to be provided in the residence.

To have security for his or her personal possessions if stored by the operator of the assisted care facility, and to receive adequate and appropriate assistance with

activities in daily living.

To be fully informed of a medical condition and proposed treatment unless medically constrained, and -- and I think this is a very significant point -- to have the right to refuse medication or treatment of services after being fully informed.

Madam President, this is an important day in which we have stated that we value, respect, and revere, in fact, the dignity of the senior citizens of this state.

On a personal note, I was so pleased to see so many members of various senior citizens organizations, particularly AARP, who have come in from my part of the state to lobby. Just yesterday I welcomed a whole group of friends who were here in the hallway, and we joked about experiences we've had, past and present, things like the Senior Ball that used to be held in Syracuse, functions in Oneida and Canastota that are important to all of them.

This visit that they pay to the Capitol serves to give them an important insight into their legislative process, but it

gives us a reminder of how the greatest generation, as they have been referred to over and over again, still can be the driving force behind important legislation.

And one other little sidebar to this particular lobbying effort. As they would line up outside the hallway, on the hallway between the Senate chamber and the Majority Conference Room, each time they were there in large numbers on either side, they always presented a bouyant atmosphere.

And one day, coming through that hallway with another one of my Senate colleagues, I remarked to Senator Bonacic that it looked like a stroll line. And spontaneously, we all did the stroll together as we went down on our way to conference. Everybody laughed, and I guess the story has been repeated to subsequent groups who came along.

Don't wait for another issue of this magnitude, my friends. Come back, do another stroll line, lift our spirits with your enthusiasm. And thank you once again, all of my friends in Central New York as well

as around the state in the senior citizen advocacy field, for making this effort such a priority this year. We're proud to have been able to serve you.

ACTING PRESIDENT McGEE: Senator Morahan.

SENATOR MORAHAN: Thank you.

I yield to Senator Schneiderman if he has any questions.

SENATOR SCHNEIDERMAN: I don't have any questions yet, but if you guys keep talking, maybe I will.

(Laughter.)

ACTING PRESIDENT McGEE: Senator Morahan, do you wish to speak on the bill?

SENATOR MORAHAN: I'll yield to Senator Hannon.

ACTING PRESIDENT McGEE: Senator Hannon.

SENATOR HANNON: Thank you, Madam President.

I want to congratulate Senator Maziarz and Senator Golden for the long, intensive work that they have done on this bill.

This is a significant addition to the regulatory scheme for long-term health care in this state. In fact, probably for over two decades there has been a lack of addressing this issue. And what we have today is a comprehensive regulatory framework so that people will get good care, that care will be supervised.

Before that care can even be offered to the general public, there has to be plans submitted and approved to the Department of Health. There has to be disclosure to the people applying to be residents for whatever the type of regular assisted living or enhanced assisted living that will be offered.

What we have done, I believe, thanks to the Aging chairs, is put in place the framework so as the baby boomers become the residents of these homes, the baby boomers become in need of long-term care, we have a comprehensive scheme. We already have in place home health care, we have in place nursing home -- and in a very sporadic way over the years before Governor Pataki became governor, we had enhanced housing, we had

enhanced living, we had a narrow assisted living.

We did not have a comprehensive plan. And in fact, we had what is known as the stand-alones, the lookalikes who were offering sometimes health care and sometimes not.

What we now have done, and it's taken a number of years to come up with a definition of assisted living and to provide a continuity of the degrees of assisted living, we've put in this statute. And I congratulate all those involved.

Thank you.

ACTING PRESIDENT McGEE: Senator Sabini.

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

ACTING PRESIDENT McGEE: Senator Sabini, on the bill.

SENATOR SABINI: I want to congratulate Senator Maziarz, the sponsor, Senator Golden, the chairman, on this legislation. I had a bill on the same topic, but I'm delighted that we're going to move

something that's going to become the law.

I also want to congratulate the folks who advocate on behalf of this, particularly folks from AARP, or, as they've become known, the "Orange Crush." They are truly advocates in the good citizen spirit, because most of them aren't consumers of assisted living right now and yet they're looking out for both those that are in and those perhaps in the future who will be in assisted living.

I am currently living with a situation of assisted living. My mother is an assisted-living facility. And frankly, when she arrived there, her physician told me that her health was deteriorating rapidly. And because of the great care that she's getting at that facility, she has been there now, I guess, about 26 months.

And I think that's important to note, that the bill allows providers to be good providers. That it's not overregulatory, it's basically a framework. There's a personalization of the care. There are shades of assisted living that the bill allows.

In the facility she's in, there's people who are confined to wheelchairs all the way up to one gentlemen who goes to his business that he owns every day to sort of supervise it, he's semiretired, and he keeps his own pet at the assisted-living facility. And he goes back and forth to his place of business to this day.

So the people that are in these facilities really do require different levels of care. But the important thing about this bill is that it's not overburdensome to keep people out of the business. Because one of the things that we have found is that there is a growing need for these kinds of facilities. The federal government, since President Reagan was president, has unfortunately cut back on federal 202 housing, which was sort of a less assisted form of senior housing, so there's more and more need for these facilities. And I believe that this bill will not stifle development of them.

So I think it's a good thing all around, and I am happy to vote in the affirmative and thank the sponsor for his hard

work.

ACTING PRESIDENT McGEE: Senator Stavisky.

SENATOR STAVISKY: Thank you, Madam President. If I can ask Senator Maziarz just one question.

ACTING PRESIDENT McGEE: Senator Maziarz, will you yield?

SENATOR MAZIARZ: Yes, Madam President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR STAVISKY: I recall a hearing you held a number of years ago in Garden City on assisted-living legislation that was, I must tell you, a very, very interesting hearing where I learned a great deal from the testimony of the witnesses who came forward.

How does this legislation differ from the bill that they were discussing -- was it two or three years ago, I believe?

SENATOR MAZIARZ: It doesn't differ all that greatly, Senator. Some of the nine points that are in the -- and the

16 points that are in the bill of rights are a little bit different. They've changed, you know, as -- I think that hearing was almost three years ago now, Senator.

My one and only visit to Nassau County, I might add. My one and only visit to Nassau County was for that hearing. I should be invited back.

(Laughter.)

SENATOR MAZIARZ: But other than some changes in the points -- and I think -- actually, I think all of the issues that were discussed at that hearing are contained within this bill in some manner, shape or manner.

SENATOR STAVISKY: Thank you, Madam President.

Thank you, Senator Maziarz.

SENATOR MAZIARZ: Thank you.

SENATOR STAVISKY: On the bill very briefly.

ACTING PRESIDENT McGEE: Senator Stavisky, on the bill.

SENATOR STAVISKY: Senator Maziarz has to come back to Nassau County and, in fact, Queens County to visit some of the

assisted-living facilities.

As Senator Sabini described his mother and her experience in the assisted-living facility, I have a cousin, first cousins who reside in one in Senator Leibell's district. And they have -- every time I call, they tell me the problems with assisted living. And I'm delighted to see that many of the issues that they have described will be addressed in this legislation.

I commend Senator Maziarz, Senator Golden, and all of the cosponsors for making life just a little bit better for people who are often the most vulnerable in our society.

Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

I have one question for the sponsor if he will yield.

ACTING PRESIDENT McGEE: Senator Maziarz, will you yield?

SENATOR MAZIARZ: Surely, Madam

President.

ACTING PRESIDENT McGEE: The Senator yields.

SENATOR HASSELL-THOMPSON: Thank you. Just a quick question.

Part of this bill requires licensure even for those who are already considered as assisted-living facilities. How much time does the bill allow for those existing to come into compliance?

SENATOR MAZIARZ: I'm sorry, Senator, you asked how much time is required?

SENATOR HASSELL-THOMPSON: If passed, this bill will be enacted in 120 days. How much time do those assisted-living facilities that already exist and call themselves assisted living have to come into compliance?

SENATOR MAZIARZ: I believe, Senator, that the answer -- I'm not exactly sure, but I believe, Senator, that the answer is within 90 days. But I can get you that direct information.

SENATOR HASSELL-THOMPSON: They have 90 days to come into compliance?

SENATOR MAZIARZ: Oh, to come into compliance. I'm sorry, I thought you meant apply for the license.

SENATOR HASSELL-THOMPSON: No, no, no --

SENATOR MAZIARZ: Oh, no, I'm sure they have more time than that to come into compliance.

SENATOR HASSELL-THOMPSON: But you're not sure about the time frame? I couldn't find it in the ten minutes since I've had the bill.

SENATOR MAZIARZ: There are financial incentives contained in the bill for them to do that, though.

SENATOR HASSELL-THOMPSON: Okay, good. That was my next question, Madam President. Okay. Thank you --

SENATOR MAZIARZ: I'm clairvoyant. I anticipated what your next question was going to be.

SENATOR HASSELL-THOMPSON: I'm glad. You usually do. You usually do.

Madam President, just quickly on the bill.

ACTING PRESIDENT McGEE: Senator Hassell-Thompson, I'm so sorry.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. On the bill.

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

SENATOR HASSELL-THOMPSON: Senator Maziarz, to you and to the variety of cosponsors of this bill, I think the only thing that saddens me is that I do not see any names of any Democrats as cosponsors, including myself, as someone who has worked within her own local community over the last several years to ensure that we have the creation of assisted living. And we have been awarded because of the numbers of facilities that we have created on behalf of seniors, including assisted-living units.

It says that when we do things like this, that we have come a long way in the Legislature in terms of how we understand the needs of the elderly. And it is a bill to surely be commended. And all of you who have participated in making this happen should each be commended as well.

Madam President, I will be voting yes, obviously, on this bill. And thank you for your cooperation.

SENATOR MAZIARZ: You're welcome, Senator.

ACTING PRESIDENT McGEE: Senator Golden, to close.

SENATOR GOLDEN: Thank you, Madam Acting President.

I rise to -- one person that, if you ever get through the -- many of the people in the stage here don't understand the frustration it is to passing a bill and how long it takes. And sometimes they just don't get passed. And we've seen the 11th hour last year, and this bill didn't happen. We've seen the 11th hour the year before, and this bill didn't happen. And today, in the 11th hour, this bill did happen.

And when I tell you in the 11th hour, it's that staffs of all of the people that we just spoke of -- Senator Maziarz and the Department of H., the Health Committee, they worked throughout the evening, along with the Assembly. And I want to thank my -- our

counterpart Assemblyman Englebright.

But the one person that was there through all of this frustration in each of these years and seen the aggravation and seen the time that was put into this and to see no real result, and then here today to see a real positive result worked out with all the Assembly and the Governor, the Senate, and real positive change for the entire city and for the state for all of our seniors, 3 million seniors across this great state, ladies and gentlemen, Caron Crummey. She deserves a round of applause from everybody in this for the work that she's been able to do.

Thank you. Thank you.

(Applause.)

SENATOR GOLDEN: Thank you, Madam President.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 120th day.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Onorato.

SENATOR ONORATO: Madam President, I would like unanimous consent to be recorded in the negative on Calendar 1958.

ACTING PRESIDENT McGEE: Without objection.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, can you recognize Senator González.

ACTING PRESIDENT McGEE: Senator González.

SENATOR GONZALEZ: Madam President, there will be an immediate meeting of the Minority Conference in Room 314.

ACTING PRESIDENT McGEE: There will be an immediate meeting of the Minority Conference in Room 314.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, the Senate will stand at ease until 1:45 p.m.

ACTING PRESIDENT McGEE: The

Senate will stand at ease until 1:45 p.m.

(Whereupon, the Senate stood at ease at 1:16 p.m.)

(Whereupon, the Senate reconvened at 2:10 p.m.)

ACTING PRESIDENT McGEE: Senator Marcellino.

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

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

SENATOR MARCELLINO: If we could now take up Calendar Number 1957.

ACTING PRESIDENT McGEE: 1957. The Secretary will read.

Just one moment, Senator. Can we have some quiet here, please.

The Secretary will read.

THE SECRETARY: Calendar Number 1957, by Senator Bruno, Senate Print 7745, an act authorizing the School District of the City of Rensselaer.

ACTING PRESIDENT McGEE: Senator Marcellino.

SENATOR MARCELLINO: Madam President, is there a message at the desk?

ACTING PRESIDENT McGEE: Yes, there is a message at the desk.

SENATOR MARCELLINO: Move to accept the message.

ACTING PRESIDENT McGEE: The motion is to accept the message of necessity. All those in favor of accepting the message will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The message is accepted.

Senator Marcellino.

SENATOR MARCELLINO: Move the bill now.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 13. 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 Marcellino.

SENATOR MARCELLINO: Madam President, can we stand at ease pending the report of the Rules Committee, which should be back momentarily.

ACTING PRESIDENT McGEE: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 2:12 p.m.)

(Whereupon, the Senate reconvened at 2:17 p.m.)

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk. If we could have it read at this time.

ACTING PRESIDENT McGEE: The

Secretary will read.

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

Senate Print 5805, by Senator Stachowski, an act to amend the Local Finance Law;

7750, by the Senate Committee on Rules, an act to amend the Military Law;

And Senate Print 7752, by the Senate Committee on Rules, an act to amend the Public Lands Law.

All bills ordered direct to third reading.

ACTING PRESIDENT McGEE: Senator Skelos.

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

ACTING PRESIDENT McGEE: All in favor of accepting the Rules Committee report signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The report is accepted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Senate Calendar Number 65B, noncontroversial.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1961, by Senator Stachowski, Senate Print 5805, an act to amend the Local Finance Law, in relation to financing.

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: In relation to Calendar Number 1962, Senator Bruno moves to discharge, from the Committee on Rules,

Assembly Bill Number 11817 and substitute it for the identical Senate Bill Number 7750, Third Reading Calendar 1962.

ACTING PRESIDENT McGEE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1962, by the Assembly Committee on Rules, Assembly Print Number 11817, an act to amend the Military Law and the New York State Urban Development Corporation Act.

ACTING PRESIDENT McGEE: Senator Skelos.

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

ACTING PRESIDENT McGEE: There is a message of necessity at the desk.

SENATOR SKELOS: Move to accept the message.

ACTING PRESIDENT McGEE: The motion is to accept the message of necessity at the desk. All those in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed,

nay.

(Response of "Nay.")

ACTING PRESIDENT McGEE: The message is accepted.

The Secretary will 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.

THE SECRETARY: Calendar Number 1963, by the Senate Committee on Rules, Senate Print Number 7752, an act to amend the Public Lands Law, in relation to state aid.

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT McGEE: There is a message of necessity at the desk.

SENATOR SKELOS: Move that we

accept the message.

ACTING PRESIDENT McGEE: The motion is to accept the message of necessity at the desk. All those in favor will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT McGEE: The message is accepted.

There is a local fiscal impact note at the desk.

The Secretary will 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 Bruno.

SENATOR BRUNO: Madam President,

I believe that there are three resolutions at the desk. I would ask that the titles be read and move for their immediate adoption.

ACTING PRESIDENT McGEE: Motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senators Marchi and Maltese, Legislative Resolution Number 6029, mourning the death of Florence R. Master, distinguished citizen and devoted member of her community.

By Senator Maltese, Legislative Resolution Number 6030, congratulating Mr. and Mrs. Roland Cadicamo upon the occasion of their 50th wedding anniversary.

And by Senator Kuhl, Legislative Resolution Number 6031, congratulating Mr. and Mrs. James Burton upon the occasion of their 50th wedding anniversary.

ACTING PRESIDENT McGEE: All in favor of the resolutions will signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT McGEE: Opposed, nay.

(No response.)

ACTING PRESIDENT McGEE: The resolutions are adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time recognize the very distinguished Senator David Paterson.

ACTING PRESIDENT McGEE: Senator Paterson.

(Applause.)

SENATOR PATERSON: Thank you. I wish they felt over here the way they seem to feel over there today.

(Laughter.)

SENATOR PATERSON: I want to thank all of you, be you colleagues of mine or staff members, observers, for assisting us with your effort this year. Even when we've had different points of view as to how to solve our problems, that we've tried to work together.

And I'm well aware that we set a record for the latest budget this year, but we also set some records in terms of effort that's been waged on both sides of the aisle.

And I particularly want to thank Senator Bruno, who is an outstanding leader of this Senate. Who sometimes I wish he wasn't such an outstanding leader, because then I would see more ways to try to be effective. But that doesn't seem to be working.

It reminds me of W.C. Fields, who was a noted atheist. In the last days of his life, he was in a sanitarium, and he was seen reading the Bible. And they asked him why was he reading the Bible, since he'd been an atheist, and he said "Looking for loopholes."

(Laughter.)

SENATOR PATERSON: So I'm looking for loopholes with Senator Bruno's leadership, but I haven't found any. But it's not like I'm not trying. And I get the feeling he's figured that out too.

But that is really the great thing about this institution, that in spite of the fact that we differ in ideology, we differ in approach, and we are competitive with each other biannually for the opportunity to come here and respect the citizens of the State of New York -- but really, that's why we have men

and women overseas right now fighting for the preservation of that opportunity. And the fact that in spite of those hard-fought campaigns, that we come here and we work together as cordially as we can, is what makes me still very proud to be a part of this institution.

2004 is going to be an American moment of decision. This is our quadrennial referendum on leadership and presumably policy. And this time I think we're going to find out after December 11th whether America stands for war or stands for peace, stands for preemption or stands for protection. And hopefully that we won't let chaos abroad in any way allow for neglect of some of the issues at home.

And right here in this state, we'll debate policy. But we'll do it with the understanding that when we come back here next year that hopefully we'll work as hard and as cooperatively as we have in what has been my great flattering moment to lead this conference for the last two years.

So to my deputy Eric Schneiderman,

and our ranker on Finance, Neil Breslin, and all the members of my conference and the staff who help us, I want to thank you. And really I want to thank the staff for the Majority and the members for your cooperation as well.

So I hope everybody has a good rest of the summer, if there is any summer left. And we'll see you next year, or maybe before, but that's at the call of the leader. And right now, that's his call.

(Applause.)

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Thank you, Madam President.

And thank you, Senator Paterson. Thanks for your kind remarks. You're always gracious and really committed, dedicated. And we all on this side of the aisle enjoy our relationship and want to continue it.

And we'll do our best, going into November, to see that that happens.

(Laughter.)

SENATOR BRUNO: But having said that, we are here concluding what some press

people like to refer to as something chaotic and dysfunctional. But you know, we can all leave here proud. We can be proud, proud of how we have related to our constituency and how we relate to the people of this state.

We're concluding a budget. The budget is late. The process is flawed. But we fixed the process in budget reform, and we've done that together. And we did a constitutional resolution that will get before the people. And that becoming law, we will no longer have late budgets as such. So that is big, and that is huge.

We have a budget that is over $100 billion, $101 billion. And in it, you have all been there in support of so many good things on behalf of the people of this state. And I don't want to go on in any expansive way; we've all worked hard for a lot of hours and a lot of weeks.

But education, we set records. We did a CFE plan that approaches $10 billion, and I'm still hopeful that we can resolve, three ways, a plan that we can submit to the courts within the next couple of months.

But whether we do or not, we have related to the needs of our young people. We've restored TAP in this budget for higher education and restored funds for higher education, recognizing that educating our young people is a top priority in this Legislature. And for good reasons: they are our present and they are our future.

We have done a great litany of things. I literally have three pages' worth. And if anybody would like to have me read them, I'd like to. But I don't think that you will all be terribly upset if I kind of skip through them. You know what we've done.

And we have done critical and necessary things on behalf of the constituents here in this state. And we're going to continue to govern. As we leave here, we'll go out and do what it is that we have to do to relate to our constituency. And we are in the middle of August, and we have an event here at the end of August. And November will be, as Senator Paterson indicates, a very remarkable time for the people in this state and in this country.

And we here, as we act, we make history. We make history. We pass the laws. We do all the enabling things, and while we debate. And we debate in a very aggressive, sometimes confrontational way but always, I believe, productive, towards an end, making policy points.

So we appreciate that. And I want to say thank you. I want to say thank you for you on the left side here -- and I mean on my left. And excluding a few of the members here that are on the right --

(Laughter.)

SENATOR BRUNO: -- and say thank you. Thank you. And thanks to my conference, who are stand-up and ready to do the right things.

And, you know, there's always some bittersweet as you're concluding any important event. And Senator Randy Kuhl, who's with us since '86, is going on to greater glory in his life and will not be in a formal session.

In fact, he and Senator Seymour Lachman, who is also going on to do some great things, will not be back with us. And I

compliment them on getting an early start.

(Laughter.)

SENATOR BRUNO: It shortens what I have to say by ten minutes.

But I want to say thank you to my deputy, Senator Skelos, who is on the floor here diligently doing all the work that has to be done. And I thank you very much for that, Dean.

And the other leaders that are here: Senator Spano, who is our deputy; and Senator Libous, who relates to programs; our chair of our conference, Senator LaValle. And so many leaders are with -- Senator Farley. And I look around, and I can mention each and every one of you and say thank you.

And, you know, all of us do our thing because we have support, we have support here in the conference. And Senator Padavan, who has got a great title -- he is vice -- vice to the president. I believe he's vice chair. And I want to thank Senator Padavan too for all the good, hard work that he does.

But I want to thank our staff, our assistants. I know that you on that side, you

can't function as well as you do. And we couldn't function, any of us, without the diligence, the hard work. And literally there are hundreds of people that support us in everything that we do.

And when I think back over these last weeks, with people working literally 24/7, taking two hours at a time break and being back at it, it's overwhelming. So I wanted to say thank you.

To Mary Louise Mallick, our budget director, and Ken Riddett, who handles all of the legislation. And that's a difficult thing to do. He and Mary Louise, with the people that are here who support them in their efforts, and truly day and night.

John McArdle, our director of communications. Marcia White, my press secretary, who keeps trying to make me look good. And, Marcia, you've just got to do better.

(Laughter.)

SENATOR BRUNO: But I do thank you for your efforts. I know it's a tough lift. And really, I can go down -- Pat

Stackrow, my exec assistant. And Amy Leitch, who is outside as the executive assistant, assisted by Maria.

And when you start mentioning names, you leave out people. So for all of the people that I have left out, if when I sit down in a minute I've left them out, I apologize. But I say thank you.

Thank you to all that are here, thank you to all that are listening. Because truly, we could not function without the support that we get. We just couldn't. And I know that, and I know you know that. So thank you. And that's why they get the big bucks, because they work so hard.

And I'm happy that we're able to conclude in a pleasant note, because I think life with our families gets a little more normal in terms of groceries and things that relate to families as of today. So I thank you for the cooperation and all of you that are here in helping us get there.

Now, we're concluding. And when we come back will really depend on life as it goes. And it's pretty hard to anticipate,

because we are all elected to govern. And we're elected not for a day or a week, not for eight hours a day or five days, we're elected 24/7. And if we have to get back here for whatever we have to get back here for, I will appreciate your responses.

Our present plan is not to come back until after November. We'd like to come back sometime before Thanksgiving and do whatever it is that we have to do in terms of organization and planning and any truly cleanup -- housekeeping, Madam President -- that we have to do.

So I want you to all be safe, as we go through our journeys back to our districts, and be diligent. And I would ask the members on this side of the aisle to work harder than members on that side of the aisle.

(Laughter.)

SENATOR BRUNO: And all of us will get rejoined here as the need dictates, and we'll go on to govern and do these things.

And I want to say thank you to Governor Pataki. The Governor is a great leader. He has done all the things that he

thinks are important in terms of leading this state with the courage that it takes to lead a state like New York, which is a very difficult state to lead and to govern.

And my partner over in the Assembly, Speaker Silver, who has a very difficult task, I have to respect him having to manage 103 other members. I can't relate to that. I wish I could, but I can't. It's too many people to have to relate to. I have a lot of fun relating to those that we relate to here.

Now, Billy, you think I'm just going on? And I am, because I'm trying to think of what I forgot to say.

But I'm going to conclude by saying thank you all. And really have a safe passage from now until we get back together. And God bless you all. Thank you.

(Applause.)

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Thank you very much.

We have, Madam President, Tommy

Testo, and his group's up there, and Bill, our Sergeant-at-Arms, is here, and I want to also thank them. Steve Boggess is our Secretary to Senate, for the Senate, and I want to thank them and, again, all of those -- Jack, that's up there, being so diligent -- and thank everybody else that contributes to the process.

And, Madam President, there being no further business to come before the Senate, I would move that we stand adjourned, subject to the call of the Majority Leader, with intervening days to be legislative days.

Thank you.

ACTING PRESIDENT McGEE: On motion, the Senate stands adjourned, subject to the call of the Majority Leader, intervening days being legislative days.

(Whereupon, at 2:37 p.m., the Senate adjourned.)