NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

December 7, 2004

1:33 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order.

I ask the members to find their places, staff to find their places, and ask everybody to rise and join with me in saying the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT KUHL: 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 KUHL: Reading of the Journal.

THE SECRETARY: In Senate, Monday, December 6, the Senate met pursuant to adjournment. The Journal of Sunday, December 5, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT KUHL: Hearing no 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 Skelos.

SENATOR SKELOS: Mr. President, I have a resolution at the desk, 6309. Could we have the title read and move for its immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: By Senator Skelos, Legislative Resolution Number 6309, mourning the untimely death of First Lieutenant Ronald Winchester, of Rockville Centre, New York, and paying tribute to his courageous actions as a member of the United States Marines.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Skelos.

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

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Finance Committee, immediate meeting of the Finance Committee in the Majority Conference Room, Room 332.

Senator Skelos.

SENATOR SKELOS: Can we just stand at ease pending the -- you have another resolution, a privileged resolution?

ACTING PRESIDENT KUHL: There is another privileged resolution at the desk.

SENATOR SKELOS: Okay, we'll read.

ACTING PRESIDENT KUHL: The Secretary will read the title.

THE SECRETARY: By Senator Fuschillo, Legislative Resolution Number 6310,

congratulating Mr. and Mrs. Irving Bernstein upon the occasion of their 50th Wedding Anniversary.

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

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: And we'll stand at ease pending the report of the Finance Committee.

ACTING PRESIDENT KUHL: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 1:36 p.m.)

(Whereupon, the Senate reconvened at 1:45 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we

could return to reports of standing committees, there's a report of the Finance Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT KUHL: We will return to the order of reports of standing committees.

The Secretary will read the report of the Finance Committee.

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

As a member of the New York State Bridge Authority, Walter A. Paradies, of New Paltz.

As members of the Rochester-Genesee Regional Transportation Authority, Leslie M. Goldstein, of Rochester, and Mark D. Keeler, of Albion.

As a member of the State Public Transportation Safety Board, David Berke, of New York City.

As a member of the Lake George Park Commission, Thomas Conerty, of Bolton Landing.

As a member of the Stewart Airport Commission, Louis Heimbach, of Warwick.

As a member of the Medical Advisory Committee, Buddhi M. Shrestha, of Rochester.

And as members of the State Hospital Review and Planning Council, Joan S. Conboy, of Fort Plain, and Anthony J. Lechich, M.D., of New York City.

ACTING PRESIDENT KUHL: Senator Johnson.

SENATOR JOHNSON: Move the nominations.

ACTING PRESIDENT KUHL: Is there any member who wishes to speak on the nominations?

Hearing none, the question is on the nominations. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: All those opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The nominees are unanimously confirmed.

Senator Skelos.

SENATOR SKELOS: Mr. President, there

will be an immediate conference of the Majority in the Majority Conference Room.

SENATOR GONZALEZ: Mr. President, there will be immediate meeting of the Minority conference in Room 314.

ACTING PRESIDENT KUHL: There will be immediate meetings of the conferences, the Majority conference in the Majority Conference Room and the Minority conference in the Minority Conference Room.

And the Senate will stand at ease.

(Whereupon, the Senate stood at ease at 1:47 p.m.)

(Whereupon, the Senate reconvened at 3:41 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order.

Senator Skelos.

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

ACTING PRESIDENT KUHL: Immediate meeting of the Rules Committee in the Majority Conference Room, Room 332. Immediate meeting of the Rules Committee in

the Majority Conference Room.

SENATOR SKELOS: And if we could stand at ease.

ACTING PRESIDENT KUHL: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:42 p.m.)

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

ACTING PRESIDENT KUHL: The Senate will come to order.

I ask the members to take their places, staff to take their places. The sooner we do, the sooner we can proceed.

Senator Skelos.

SENATOR SKELOS: Mr. President, may I just say you look very congressional up there.

(Laughter.)

SENATOR SKELOS: 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 KUHL: We will return

to the order of reports of standing committees.

There is a report from the Rules Committee at the desk. I ask the Secretary to read.

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

Senate Print 7797, by the Senate Committee on Rules, an act relating to providing accidental and special accidental death benefits;

7798, by the Senate Committee on Rules, an act to amend the Tax Law;

And Senate Print 7801, by the Senate Committee on Rules, an act to amend the Public Health Law.

All bills ordered direct to third reading.

ACTING PRESIDENT KUHL: Without objection, all bills are ordered directly to third reading.

Senator Skelos.

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

ACTING PRESIDENT KUHL: The motion is to accept the report of the Rules Committee. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Those opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT KUHL: The ayes have it. The bills are ordered directly to third reading.

The report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up the three Rules bills, noncontroversial.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1965, by the Senate Committee on Rules, Senate Print Number 7797, an act relating to providing accidental and special accidental death benefits.

ACTING PRESIDENT KUHL: Senator Maltese, to explain his vote.

SENATOR MALTESE: Mr. President, today

we are taking action on a bill at the request of Mayor Bloomberg. In fact, the City Council of New York City, at 1:00 p.m. this afternoon, passed this bill to ensure that this legislation would see its way to this chamber today.

The bill provides special accidental death benefits to a New York City firefighter killed in Iraq. You may recognize him --

ACTING PRESIDENT KUHL: Senator Maltese, let me just get the vote on the bill, okay, first.

There is a home rule message at the desk.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Maltese, to explain his vote.

SENATOR MALTESE: Mr. President, you may recognize this particular hero from the

national attention he received when he assisted a fellow firefighter to put up an American flag at Ground Zero while he was holding the ladder for the firefighter. That torn flag exemplified the heroism of all those who perished and those who assisted them.

And we are taking this step to honor this great American. His name was Christian P. Engeldrum. He died in Iraq last week. He was serving as a sergeant with the National Guard when his convoy came under attack protecting the bridge from insurgents fleeing Fallujah.

He was also a uniformed member of the Fire Department, and he worked on the firehouse in Coop City and was part of Ladder 61. He nicknamed the men he worked with as the "Coop Crew." He joined the Fire Department in 1999 after serving in the city with the New York Police Department.

He was, in addition, an active member of the United States Army from 1986 to 1991 and served in Operation Desert Storm. He remained an Army Reservist after receiving

medals for his heroic action in Desert Storm, and jumped at the opportunity to go back to war, this time in Iraq, to serve his country.

This man was a hero. He embodied the American spirit. And his life serves to remind us of the tremendous cost of protecting our freedoms. He was a courageous firefighter, a soldier, and a family man. He leaves behind a wife, Sharon, and two sons, Sean, 18, and Royce, 16.

Mr. President, this man exemplifies everything that we in America cherish and hold dear. He embodies the American spirit of heroism. He served not only as a firefighter, a policeman, and in the Army -- a triple hero. He deserves this measure to be enacted in his honor and for his family and loved ones.

ACTING PRESIDENT KUHL: The chair recognizes Senator Hassell-Thompson to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

To Senator Maltese and to all assembled, as the Senator who represents the Coop City area in the Bronx, I would vote and speak for anyone who has served. But I must speak for the Ladder Company 61, who has lost a very dedicated and committed firefighter.

I thank you for this on behalf of the people of the Bronx. And I, with you, am very proud to serve today.

ACTING PRESIDENT KUHL: The Secretary will announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

The Secretary will continue to call the noncontroversial calendar.

THE SECRETARY: Calendar Number 1968, by the Senate Committee on Rules, Senate Print Number 7798, an act to amend the Tax Law.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1969, by the Senate Committee on Rules, Senate Print Number 7801, an act to amend Public Health Law.

ACTING PRESIDENT KUHL: Senator Skelos.

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

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1969. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT KUHL: The motion is accepted.

The bill is before the house.

The Secretary will read the last

section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

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

And we'll stand at ease.

ACTING PRESIDENT KUHL: Immediate meeting of the Senate Finance Committee, immediate meeting of the Senate Finance Committee in the Majority Conference Room.

(Whereupon, the Senate stood at ease at 4:07 p.m.)

ACTING PRESIDENT KUHL: The chair recognizes Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

For the record, if I may, I wish to make a statement that on yesterday's

Calendar Number 1886, Assembly Bill 11760A, if I had been able to be here, I would have voted in the negative.

Thank you.

ACTING PRESIDENT KUHL: The record will so reflect, Senator Little.

(Whereupon, the Senate reconvened at 4:26 p.m.)

ACTING PRESIDENT KUHL: The Senate will please come to order.

I ask the members to take their places, staff to take their places.

Senator Skelos.

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

ACTING PRESIDENT KUHL: We will return to the order of reports of standing committees.

There is a report of the Finance Committee at the desk. The Secretary will read.

THE SECRETARY: Senator Johnson, from

the Committee on Finance, reports the following bill direct to third reading:

Senate Print 7803, by the Senate Committee on Rules, an act to amend Chapter 35 of the Laws of 1979 relating to appropriating funds.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk? Move to accept.

ACTING PRESIDENT KUHL: The Secretary will read the title of the bill.

THE SECRETARY: Calendar Number 1971, by the Senate Committee on Rules, Senate Print Number 7803, an act to amend Chapter 35 of the Laws of 1979.

ACTING PRESIDENT KUHL: There is a message of necessity at the desk, Senator Skelos, on Calendar 1970.

The motion is to accept the message of necessity. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT KUHL: Senator Golden, an explanation of Calendar Number 1970 has been requested by the Acting Minority Leader, Senator Schneiderman.

SENATOR GOLDEN: The Jacob Javits expansion is a 1.3 million square foot exhibition space that will allow for the creation of an 86,000 square foot ballroom and the construction of a 1500-room hotel at the corner of 42th Street and 11th.

It will create 10,000 permanent jobs, 15,000 construction jobs, and about $70 million in tax revenue for the City of New York, to be paid for by -- the project would cost about $1.2 billion, paid for by $350 million from UDC, which would be recouped by refinancing the Javits' present financing, $350 million from the City of New

York, undetermined how that's going to be done yet, $500 million from a hotel tax of $1.50 per night on hotel occupancies.

And an additional $350 million for economic development for outside the city is also included with that, and that would be paid for by ESDC money, on a memorandum of understanding from the Assembly, the Senate, and the Governor.

ACTING PRESIDENT KUHL: Senator Schneiderman, why do you rise?

SENATOR SCHNEIDERMAN: Thank you, Mr. President. If the sponsor would yield for a couple of brief questions.

ACTING PRESIDENT KUHL: Senator Golden, do you yield to a question from Senator Schneiderman?

SENATOR GOLDEN: Yes, sir.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SCHNEIDERMAN: Thank you.

Through you, Mr. President, is there any -- other than the New York City hotel room tax, is there any specific dedicated tax or other source of revenue that is

identified in this legislation?

SENATOR GOLDEN: No, Mr. President.

SENATOR SCHNEIDERMAN: And when does --

ACTING PRESIDENT KUHL: Senator Schneiderman, are you asking Senator Golden to continue to yield?

SENATOR SCHNEIDERMAN: Yes, Mr. President. Through you, if the sponsor would continue to yield.

ACTING PRESIDENT KUHL: Senator Golden, do you continue to yield to another question?

SENATOR GOLDEN: I do, sir.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SCHNEIDERMAN: Thank you.

Am I correct in my reading of the bill that the New York City hotel room tax would be dedicated and the collection of that tax and dedication to pay for this legislation would start on April 1, 2005, without regard to when any project actually got underway? Is that correct?

SENATOR GOLDEN: That's correct, sir. Yes, Mr. President.

SENATOR SCHNEIDERMAN: Thank you.

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

ACTING PRESIDENT KUHL: Senator Golden, do you yield to another question from Senator Schneiderman?

SENATOR GOLDEN: I do, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SCHNEIDERMAN: And is there any direction of any kind as to how the other $350 million that is not for the Javits Center, but for other projects, is to be spent?

SENATOR GOLDEN: That's going to go -- economic development -- could you repeat the question, please, Mr. President?

SENATOR SCHNEIDERMAN: Through you, Mr. President. You've stated that it's a $700 million bill, $350 million would be going towards Javits expansion, and there's another 350 million.

The question is what specifications are there in the bill, what direction, what limitations on --

SENATOR GOLDEN: $350 million coming from the City of New York is part of that $700 million; $350 million from UDC. That makes up to $700 million.

There's an additional $350 million that we've got for economic development for outside the City of New York, and that would be done by a memorandum of understanding between the Senate, the Assembly, and the Governor.

SENATOR SCHNEIDERMAN: Through you, Mr. President, just to clarify.

ACTING PRESIDENT KUHL: Senator Golden, do you yield to another question from Senator Schneiderman?

SENATOR GOLDEN: I do so, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SCHNEIDERMAN: So until that memorandum of understanding is executed, there is no direction in the legislation telling us where this other $350 million would be spent yet?

SENATOR GOLDEN: No spending, yes, sir.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. Thank the sponsor for his explanation.

ACTING PRESIDENT KUHL: Senator Krueger, why do you rise?

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

ACTING PRESIDENT KUHL: Senator Golden, do you yield to a question from Senator Krueger?

SENATOR GOLDEN: I do, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

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

So as I look at this bill, we've got the $350 million for the Javits through a combination of bonds and refinancing. But my understanding is under new federal law, when we refinance bonds for 30 years to help cover some of the expense on the Javits package, that there will actually be money up front, cash up front. My understanding is it could be as much as $250 million

additional cash up front from the refinancing of the existing bonds.

What would that money be used for, and what are the rules in this bill of how that additional $250 million might be used?

SENATOR GOLDEN: That's part of the $350 million from the UDC. We're recouping that money from that refinancing.

SENATOR LIZ KRUEGER: So it's -- so 250 plus another --

ACTING PRESIDENT KUHL: Senator Krueger --

SENATOR LIZ KRUEGER: I'm sorry, Mr. President. If, through you --

ACTING PRESIDENT KUHL: Excuse me. Are you asking Senator Golden to yield to another question?

SENATOR LIZ KRUEGER: Thank you so much, Mr. President. Yes.

ACTING PRESIDENT KUHL: Senator Golden, do you yield to another question from Senator Krueger?

SENATOR GOLDEN: I do, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LIZ KRUEGER: Thank you very much. Excuse me.

So if I understand your answer, it would be $250 million from the refinancing plus another $100 million in additional bonds to total that 350?

SENATOR GOLDEN: No. Mr. President, it would be $350 million in total from the UDC money.

We're recouping that $350 million in UDC money by the refinancing of the debt, the present debt that's at the Jacob Javits Center today. That would give us that 250 million plus. The outlay -- outlaying that money some years later would give us the return of almost completely $350 million.

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

ACTING PRESIDENT KUHL: Senator Golden, do you yield to another question from Senator Krueger?

SENATOR GOLDEN: I do, Mr. President.

ACTING PRESIDENT KUHL: The Senator

yields.

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

And so again, to follow up on my colleague's question, if we then move down the bill to page 30, Section 29, there's an additional $350 million that is not part of refinancing or the package you and I just discussed, and that additional $350 million would come out of the state treasury General Fund, to be used for some purpose separate than anything involving the Javits Center, and that would not be UDC bond money?

SENATOR GOLDEN: That's correct.

SENATOR LIZ KRUEGER: Thank you.

So -- thank you, Mr. President, if I could continue to ask the sponsor to yield.

ACTING PRESIDENT KUHL: Senator Golden, do you yield to another question from Senator Krueger?

SENATOR GOLDEN: I do, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

So if we add up the dollars from this

bill before us, we include the new taxes through the hotel tax, we include the refinancing and monies through UDC for Javits, and we include the separate $350 million from the General Fund for unstated purpose at some point in the future through an MOU for some, quote, unquote, economic development activities not in a city with a million or more people, can you tell me what this all adds up to as the total cost for this bill for the Javits Center?

SENATOR GOLDEN: The Javits Center cost is $1.2 billion. Plus $350 million for economic development outside the City of New York.

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

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the bill?

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Yes, Mr. President, I -- would the sponsor answer -- yield for a question?

ACTING PRESIDENT KUHL: Senator Golden,

do you yield for a question from Senator Montgomery?

SENATOR GOLDEN: I do.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: My apologies, Senator Golden, if you have already answered this. But I note in the information that I have that the convention center hotel will be financed with separate hotel bonds, decreased by hotel revenues and receipts. Does that mean, then, that there are additional -- there's additional bonding that must happen in relationship to the convention center as a whole vis-a-vis the hotel that will be part of it?

SENATOR GOLDEN: It is being bonded and being what I stated to you in the hotel tax, that's repaying the debt or the financing. It's all going to be bonded, yes.

SENATOR MONTGOMERY: If you would continue to yield, Senator Golden.

ACTING PRESIDENT KUHL: Senator Golden, do you yield to another question from Senator Montgomery?

SENATOR GOLDEN: I do, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR MONTGOMERY: So, Senator Golden, another question that I have is that this $1.50 per night hotel tax, does that mean, then, that the hotels in our borough will have to pay or help to pay for this $500 million for the purpose of the convention center in Manhattan?

SENATOR GOLDEN: Yes, it will. And the reason, obviously, for that is because the Javits Center will benefit all the City of New York, all its five boroughs, by increased business. That will be increased hotel rooms, that will be increased dollars, increased revenues for the City and State of New York.

SENATOR MONTGOMERY: All right. Thank you, Senator Golden.

SENATOR GOLDEN: Thank you, Senator.

SENATOR MONTGOMERY: Mr. President, briefly on the bill.

ACTING PRESIDENT KUHL: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes. I -- there are several poison-pill aspects to this legislation that I wish to point out, one of them being that we have attached to this legislation, which is specifically for the development of the Javits Center, or expansion of the Javits Center, including a hotel that will be part of it, and so on and so on -- we have attached onto here another $350 million in economic development projects to take place outside of New York City.

So in a sense, this -- the Javits Center expansion is being hijacked by the $350 million economic development projects outside of New York City.

I am definitely in favor of economic development dollars going for upstate, outside of New York City. But certainly there's no projects attached to this money. So who makes the decision? The same three men that everybody is already looking at as part of our broken system, the Governor and the Speaker and the Majority Leader.

My apologies to the Majority Leader,

but this is the truth. It's right here in the bill.

So there's no parameters. We don't know where the money is going, how it's going to be used, for what purposes. And definitely, definitively we do have needs for economic development, upstate as well as in New York City. But that's not what this bill is doing.

And it's not setting any parameters. There's no indication that the 350 million is going to go for real, sustained economic development that is needed in upstate. So this is a blank check to a certain three people. And we all know who they are. I won't call any more names.

In addition, Mr. President, this legislation allows the city charter to be usurped. In fact, it states specifically that the legislation does not subject the expansion to the New York City ULURP process, so that it allows for the decisions around the convention center development to be made without the input of local-government elected officials. And I

think that is wrong. It is a mistake not to have an official role that they will be able to play.

I do, however, want to say a couple of positive things that I think are really good about this legislation. One of them is that it does provide for all contracts -- and it's in the legislation, so that is very good -- for all contracts for construction to consider a commitment by the contractors to include minority- and women-owned businesses, pursuant to Article 15-A of the Executive Law.

Every single piece of legislation that allocate allocates tax dollars in this state should have that provision. So I certainly compliment the author of this legislation, the sponsor and the sponsors, on including that specifically in the bill. I do hope that that provision will be one that is very closely monitored and strictly adhered to.

I think it is also a good thing that we require compliance with the Wicks Law, because one of the issues that we need to be aware of is the fact that we need to spread

the wealth in terms of construction of large projects and to make sure that there is a wider possibility for participation.

Certainly I think it's a good thing to have project labor agreements. But in the absence of those, at least we should have the Wicks Law, so that there is a better chance that small minority- and women-owned businesses can participate.

Overall, I'm going to vote for this bill. I think that it's -- obviously, my colleagues from Manhattan have spoken. They feel that this is a good bill, it will help the economy of New York City.

I think there are some real issues associated with how we are putting together a package of bonding and funding that to some extent will have to be paid for by our children for generations out. And whether or not they will in fact benefit from that law, from this legislation, there is a question. But that's how we do things in New York, unfortunately.

So, Mr. President, with those reservations, and with the issues that I've

raised, I will be voting yes on this legislation. Thank you.

ACTING PRESIDENT KUHL: Senator Smith, why do you rise?

SENATOR ADA SMITH: I rise, Mr. President, to agree with my colleague Senator Montgomery. I too will be voting for this legislation, with reservations.

It has been brought to our attention that this is the plan that was developed by the Mayor of the City of New York. And I happen to represent a portion of Queens that is bounded by Kennedy Airport, and we have a great deal of hotels at that location. And each of them will be paying the tax.

And the Mayor and I have had a disagreement because he placed a homeless shelter right beside these hotels, almost causing many of the other hotels to go out of business. Right now, if he had of listened to me, we would have another hotel to help pay the taxes instead of having businesses teetering on the brink of bankruptcy. And I hope that he will reconsider his previous decision to place a

homeless shelter in a thriving location.

Economic development is certainly the most important element to communities such as mine in Southeast Queens. And hopefully the 15-A will redound to my community, and that those people who are currently unemployed or underemployed will have the opportunity to have meaningful employment. This is important not only to Manhattan, but to the other boroughs.

And therefore I will certainly be voting in the affirmative.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Can we ask for an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee, immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

Senator Brown, why do you rise?

SENATOR BROWN: Thank you, Mr. Chairman. I rise to speak on the bill.

You know, the $350 million in this legislation that is dedicated to statewide

economic development is something that I'm certainly very interested in. And certainly as a representative of the City of Buffalo, which is experiencing extreme economic difficulty -- a city with a control board, a city with high unemployment -- economic development is something that we critically need.

I am disappointed that this legislation does not outline what the specific projects are that we would be able to see in our communities --

ACTING PRESIDENT KUHL: Senator Brown, excuse me for the interruption.

It just seems to me that there's a lot of members on both sides of the aisle that aren't paying too much attention to the debate. And certainly what you're saying deserves more attention than they appear to be giving to you.

So can we have a little quiet in the chamber, please. If you have to have a conversation with a staff member or another member, please take it out of the room.

Thank you very much.

SENATOR BROWN: Thank you, Mr. Chairman.

So that is one of the issues that gives me some pause with this legislation. You know, when we look at an amount as significant as $350 million and we are in a position of voting without knowing clearly what those projects will be, I think it is cause for concern.

I am certainly hopeful that some of this $350 million that is being voted on today will be dedicated to economic development in the City of Buffalo, and I wish we were in a position where we were able to vote knowing what these projects are going to be and being able to make clear-cut decisions on projects on a vote based on having that knowledge.

Thank you.

ACTING PRESIDENT KUHL: Senator Stavisky, why do you rise?

SENATOR STAVISKY: Mr. President, very briefly on the bill.

ACTING PRESIDENT KUHL: Senator Stavisky, on the bill.

SENATOR STAVISKY: I want to echo what Senator Montgomery said concerning the Wicks Law. This is a very -- I think a very good and important section of the legislation. Wicks is something that's very important to the people in my district, and I'm delighted that there is a provision which will require compliance with Wicks.

And I'm delighted to support the bill. I think that the economic development that's going to be engendered is extremely important, and particularly upstate as well as in the city of New York. So I will be voting yes.

ACTING PRESIDENT KUHL: Senator Krueger, why do you rise?

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

ACTING PRESIDENT KUHL: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

Well, I'm faced with one of those dilemmas I often am faced with in this chamber, because I'm on record as supporting the need for expanding the Javits Convention

Center. I do think that it would be a good thing for the economy of the city of New York and, in fact, then for the state of New York. But the devil is in the details.

And so despite the fact that on November 18th Senator Bruno put out a press release in a press conference talking about the need to reform many important things here in the Senate, I see this bill today as an epitome of those problems that we have yet to resolve.

We're doing a bill that when you add up the numbers is $1.55 billion of state monies and bond monies and approval for the City of New York to put their budget money in. So $1.55 billion for the Javits Center expansion. Is that good math? Does that make sense? I'm not sure with such short notice, without even a three-day timeline to review those questions and to evaluate the numbers.

I'm also very concerned that, in the absence of public authority reform that both sides of this house say we want to do, that we are expanding the powers of the public

authority and furthering arrangements through MOUs without anyone having a chance to review any of it, the Legislature or the public. And that's a dangerous warning sign to me.

We're also not even questioning $1.55 billion being spent or authorized to be spent by the State of New York, by public authorities, and by the City of New York at a point in history where the Governor tells us we're facing a $6 billion deficit -- as he plans, I believe, to announce a fee weeks from now, in January -- where we know for a fact that we're in crisis for our operating and capital expenses both for the MTA and for the school systems of our whole state, despite the fact that the CFE instructions are only specific to the New York City schools.

So I wonder aloud why we would be making the decision in such short notice, without any discussion, without any of that time to evaluate $1.55 billion against the framework of potentially having billions of dollars that we need to spend and can't

explain how we're going to get for schools and public transportation and debt.

And is this stadium, which I say I'm on record in supporting, more important than our decisions within the budget context to decide whether we should be spending money on building schools and providing teachers and expanding our subway systems and paying for the operating costs?

I don't think it is reasonable for us to make those decisions in a vacuum today -- again, with a message of necessity. And I think that those are reasonable and real questions that we should be taking back and asking ourselves and other experts.

Again, $1.55 billion message of necessity bill, brand-new bill, three, four, even five versions between last night and today. The price tag kept going up. The details kept getting a little foggier.

So despite the fact that I do think that, for the right price and the right situation, expansion of Javits is important, and while I do argue that for the right price and the right situation economic

development money for upstate New York or places outside of New York City also would be justifiable and worth the discussion and worth the decision-making by both houses of the Legislature about what is a good or a not-so-good use of government money and bonding authority, I don't see any of that happening here today.

I see a take-it-or-leave-it bill, $1.55 billion, no answers or unsatisfactory answers to the question, message of necessity, no reviews of the public authority reform roles, no reviews of the question of how much debt is it okay for the State of New York to continue to allow off-budget authorities to build up, with the state ultimately and, in this case, the city ultimately liable for the costs. No real discussion with our communities. How could you have the discussion? This bill is a few minutes old at best.

This is how we've done business in Albany in the past. This is how I believe the voters of the state have been urging us to change how we do business. I think that

this bill is the wrong bill on the wrong day. And I believe we should go back and reevaluate and get the answers for ourselves and our constituents.

So again, I would like to be able to vote for a Javits bill, but I won't be voting for this one.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Is there any other member wishing to speak on the bill?

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. Briefly on the bill.

ACTING PRESIDENT KUHL: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I have to echo a lot of the comments of my colleagues. I feel very strongly that New York City needs a true convention center. And everyone knows that we lose business and it's a problem. I have concerns about some of the proposals that are on the table.

Whether or not you favor the current stadium plan or some other expansion plan, however, I think it is critical that we take

a step forward. I am very troubled by some of the issues my colleagues have raised here, particularly with regard to the process and with regard to the lack of clarity as to how funds are to be spent.

But there's one issue that really hasn't been addressed that I want to underline. This bill continues a pattern of systematic discrimination against the taxpayers of the City of New York by the State Legislature -- by the state government; let's not leave out the Governor -- in that the only identified tax to finance all of those projects is a New York City hotel room tax.

Now, I would urge my colleagues that we have a lot of programs and projects, construction projects and expansion projects that we would like to undertake in New York City. We have a crisis, as you know, in our transit system, in the financing of our transit system. We want to build a rail freight tunnel. We want to build a Second Avenue subway. We want to build schools. And the New York State Court of

Appeals I think is going to force us to fund the construction of schools in New York City.

And yet in piece after piece of legislation that we pass, the city and the taxpayers end up footing the bill, making it almost impossible for the city to finance its own programs and its own projects and to develop in the way that the voters and taxpayers of the city want to develop our great metropolis.

I would urge all of you that you're about to kill the goose that lays the golden eggs. New York City is an economic engine for this state. We subsidize -- the taxpayers in my district and the rest of New York City, we send to Albany between $7 billion and $11 billion a year more than we get back in funds and services.

How does that happen? That happens because of bill after bill like this where you identify a source of funding from the city and the rest of it is just sucked up by the state taxpayers, bonds floated that are paid for by all the taxpayers of the state,

including those in the city.

We need Javits expansion. We need a Second Avenue subway. We need a rail freight tunnel. But I would urge my colleagues that if we continue this pattern, we're going to have a major problem. And we are coming into a political season in New York City where perhaps some people who are desiring to be elected to higher office, or reelected, are going to be talking about this more. This will be an issue this coming year.

We cannot have a situation in which we have 53 percent of the statewide unemployment in New York City but we get 7 percent of the funds from the Jobs Now program, where we only get 12 percent of the statewide tourism grants.

Of the 72 Empire Zones in the state, our signature economic development program, only 10 are in New York City. And since the city's economy had the worst hit, took the worst hit it will ever take on September 11th, 10 zones have been created, none in the City of New York.

So I would urge my colleagues, we have to improve our process, as Senator Krueger has so eloquently stated. But we also have to improve the treatment of our state's greatest city. We are going to have fiscal problems for years to come in this state. The problems cannot be solved in school funding, in transit funding or in economic development, as in the Javits program, by placing an unfair burden on the backs of the taxpayers of our city.

I am going to support this bill with a view to trying to correct some of these flaws and with an understanding that we are going to be having substantial further negotiations before this project actually is underway. But I would like to remind everyone here that as we head into the new year, if we don't address the imbalance and we don't start treating the city taxpayers fairly, we're going to have problems that are going to start to hurt our state's economy in ways that will affect every municipality and every jurisdiction.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Bruno, to close debate.

SENATOR BRUNO: Thank you very much, Mr. President. And thank you to my colleagues.

Where we are with this bill -- and, Senator Golden, thank you for your leadership, and the other city members and all the others that have been involved -- Speaker of the Assembly, the Governor, the Mayor's office -- to get us where we are today.

And I was listening with great interest to some of the observations and comments. And I'm not going to go on at any length, but I just want to add this to the discussion.

Our life relates around economic development and jobs. When you develop the economy and you expand the economy, you create jobs, you create, hopefully, profits, you allow people to earn and pay taxes, and you fund education, health care, mental health, all the infrastructure that we're talking about.

And that's what this is all about, this Javits expansion, almost doubling the size. And I read in the papers that this enhancement is going to create additional revenue of somewhere along the lines of a million and a half a day. I think that's a half a billion dollars a year. Now, that was in the paper. And if it was in the paper, it must be true.

(Laughter.)

SENATOR BRUNO: So I believe that, and I accept that.

So why -- we're going to create revenue. We're going to create tourism. I gather that this takes this facility from the 16th, 17th largest to about the third or fourth in the country. And that allows us then to entertain and do the kinds of things to create the revenue. Not to mention the construction jobs, all of the construction jobs, the permanent jobs and the rest of the development that is potentially there for that West Side.

And you can debate what's best, and we'll debate that as to what's best. But

the bottom line is you are doing a great thing by getting this piece done, creating jobs, creating additional revenue and funding education and health care and the infrastructure and all of the good things that are important in the lives of people.

So I want to thank those of you that have been so instrumental in getting us here and thank you for your support.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negative vote and announce the results.

Senator Golden, to explain his vote.

SENATOR GOLDEN: To explain my vote, Mr. President.

I just want to clarify very quickly why I'm voting for this. And I think the leader did it very well and very eloquently. And it was about jobs, and it is about jobs.

And this particular $1.3 million expansion of that exposition space, that 86,000 square foot ballroom, that 1500-room hotel at 42nd and 11th -- we're looking at creating 25,000 jobs for just that one project, 15,000 construction jobs, 10,000 permanent jobs. And that's just one project that's going to be going on in the City of New York.

And then you take that with the other $350 million that will go upstate to the additional jobs that will be created outside the City of New York -- and that's what we're supposed to be doing, is putting the people to work in the city and the state of New York.

And this project does that. And this is at the request of the Mayor of the City of New York. And we're happy to see the day come forward that we're having this bill passed here on the floor so that we can see these jobs.

And, yes, Leader, they are, $1.5 million is lost each day that we don't have an expansion to that center. And

that's exactly what the paper said, and that's correct. That's $1.5 million per day.

So I'm hoping to see the Second Avenue line, to see downtown Manhattan being rebuilt. I hope to see all these projects, putting tens of thousands of people to work, retaining all of that employee taxes, retaining all of that money coming into the City and the State of New York so that we can have a prosperous city and state in the future.

So I thank this body for voting for this bill and voting for the future of this great city.

Thank you, Mr. President. I vote yes.

ACTING PRESIDENT KUHL: Senator Golden will be recorded in the affirmative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: I vote yes.

But since all we've been talking about is New York City, I just want to make it clear to my constituents that this is not a new Jets stadium. Because there's been an

awful lot of confusion about that issue. That's number one.

Number two is that it's also important, the other component, that this is not only about New York City, this is about the rest of the state as well, because there's a corresponding $350 million for the same creation of jobs elsewhere throughout the state.

And for that reason, I vote aye.

ACTING PRESIDENT KUHL: Senator DeFrancisco will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 58. Nays, 1. Senator L. Krueger recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time return to the reports of standing committees.

And I believe that there is a report from the Rules Committee at the desk. I would ask that it be read at this time.

ACTING PRESIDENT KUHL: We will return to the order of reports of standing committees.

There is a report from the Rules Committee at the desk. I'll ask the Secretary to read.

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

Senate Print 7802, by the Senate Committee on Rules, an act to amend the Correction Law, the Criminal Procedure Law, the Penal Law, and the Executive Law.

ACTING PRESIDENT KUHL: Senator Bruno, motion to accept the report of the Rules Committee?

SENATOR BRUNO: So moved.

ACTING PRESIDENT KUHL: All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The report is accepted. The bill is ordered directly to third reading.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up the bill. And is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: The Secretary will read the title of Calendar Number 1970.

THE SECRETARY: Calendar Number 1970, by the Senate Committee on Rules, Senate Print Number 7802, an act to amend the Correction Law and others.

ACTING PRESIDENT KUHL: Senator Bruno, there is a message of necessity at the desk.

SENATOR BRUNO: I move that we accept the message.

ACTING PRESIDENT KUHL: The motion is to accept the message of necessity on Calendar Number 1970, which is at the desk. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT KUHL: The message is accepted.

The bill is before the house.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT KUHL: Senator Volker, an explanation of Calendar Number 1970 has been asked for by the Acting Minority Leader, Senator Schneiderman.

SENATOR VOLKER: Mr. President, this is legislation that we've only been working on for maybe six or eight years recently.

I will say this, that it is the absolute end, for those who are out there, of anything left of the old Rockefeller Drug Laws.

You know, years ago -- I was here 32 years ago, actually 31 years ago when we did drug law reform, at that time Rockefeller Drug Law. Plus it was the second-felony offender, which was really a lot more important in many ways than the Rockefeller Drug Law.

And Nelson took a great deal of umbrage to me because I opposed him on a number of things. He even pushed me against a wall once. Said some very unkind things. I won't get into the whole details. And it's why I'm here in the Senate, because I lost my Assembly seat in part because of it.

So, you know, I have a little history of drug laws going back a long time. The funny thing is people have accused me of being the big defender, when in reality a fellow named Dominick Di Carlo and myself were -- and Perry Duryea were responsible for a major change in the so-called Rockefeller Drug Laws. The original Rockefeller Drug Laws were much, much more draconian, I can tell you.

At any rate, what this bill does is to do a further drug law reform. On the so-called Rockefeller Drug Law side, we once again deal with the A-I and A-II felonies, drug law felonies. And essentially, that's what's left of the old Rockefeller Drug Laws. We allow resentencing, we allow -- in this case, we even allow an appeal for a person who is in jail under an A-I or an A-II if they should be turned down -- and some have already been turned down, by the way, because we have actually had merit time, and we are expanding it here.

We changed the law moving forward for A-I and A-IIs. Essentially, we get rid

of -- we have had, for instance, 15 years to life and a maximum of 25 to life. We get rid of that, and we set up a scheme that is all determinate. For a first-time A-I offender with no violence, we provide an 8 years to 20 years determinate sentence. So a judge, for instance, has to sentence to 8 to a maximum of 20.

A violent offender, however, who has a VFO, which is a violent felony offender, obviously, and who gets tangled up in A-I would be subject to a 15-to-25 penalty. But of course that penalty would be determinate. The judge would decide what that penalty would be. There would be no life term.

We set up a series of changes in post-release supervision relating to discretionary parole, which judges are able to deal with. We do not allow -- and I will say this, I probably shouldn't say it, but we will not allow the jail-break provision that was proposed by some people in the Assembly on B felons.

The problem was if we allow New York City judges the discretion to send people to

so-called diversion without any encumbrance on them, they'll do what they have always done, and that is a lot of them will disappear.

We don't do that. We allow diversion, but only within sentencing structures and only in a specific sentencing structure.

One of the main provisions, by the way, that the Assembly -- and by the way, this is all stuff that was discussed in conference committees. And the gentleman in front of me here, the Minority Leader, was a very important part of that. David Paterson was a very valuable part of that conference committee.

And actually what we have here is based pretty well on that conference committee, except that the areas where we had some disputes either with the Assembly or with the Governor -- because one of the things that you have to understand, I said it at the time, was the conference committee couldn't spend money. And we had a problem at that time because there was a number of diversion programs and things that we were

talking about which would cost a lot of money. And the Assembly and the Senate were sitting there without the Governor, and we could make some decision and recommendations, but we couldn't recommend money.

What we've done here is basically take the agreement we made, make a few changes in the sentencing structure, and put it together and come to an agreement. We have excluded things like the Willard program. And the reason we've done that, there's some dispute about that. The second-chance program, the pilot CADAT, guns and drugs and kingpins.

But having said all that, we have here set up a system for A-I and A-II felons. We have raised the possession, the weights, which was something the Assembly wanted very badly. We have raised the weights for an A-I felon, for instance, from two ounces to four ounces. In other words, at four ounces they can then -- would be subject to the A-I and -- I'm sorry, four ounces to eight ounces. It's A-II would be two ounces

to four ounces, now we're getting it. The possession. We do not deal with sale. We only deal with possession.

There is a merit time provision in here, a much more extensive merit time provision. And we extend the use of CASAT and the eligibility time for judicial CASAT.

This is a bill that will impact on a number of people who are convicted for drug offenses and will have the ability to do considerable diversion and will deal with all those people actually left who are part of the Rockefeller Drug Laws, which is about 400 or 500 people, actually.

Let me just say, to finish, our system, our prison system, one of the most successful in the country, is now down to about 62,500 inmates from 74,700, I believe it was, some years ago. No criminal justice system in the country has a falling crime rate and a falling prisoner rate the way we have in this state. You must give some credit to the Governor and to this Legislature. And no one seems to want to pay attention to it.

We've done a good job. What this bill does is an agreement for drug diversion and for sentencing changes that I think will be in the best interests of the people of this state and the best interests, frankly, particularly, of those who claim that we should do more and better prison diversion for drugs.

ACTING PRESIDENT KUHL: Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, I hadn't risen yet. But --

ACTING PRESIDENT KUHL: Senator Paterson, I've always known you as a rising star, so . . .

SENATOR PATERSON: Oh, thank you, Mr. President. And I read in the newspaper that you're a rising star. And congratulations.

ACTING PRESIDENT KUHL: Thank you, sir.

SENATOR PATERSON: There is -- drugs are a vile and vicious malady. They turn family members against each other, they destroy communities.

I remember in the movie "The Godfather" when George C. Scott, playing Don Corleone,

admonishes the other leaders in the syndicate not to start dispensing and importing drugs, and they said to him basically that this was something they were going to do in the minority neighborhoods, the Hispanic community in California, the Hispanic community in Florida, the African-American community in New York.

And that's what was the case for a long period of time, that drugs were a product and a problem of the inner city. The issue of drug abuse was never discussed in a presidential debate until 1984.

And yet we have found that you cannot contain human misery. It leaps ghetto walls. In New York City we've now found that there are in many respects just as many problems with drugs in Forest Hills and Grove's Point as there have ever been in the South Bronx and Central Harlem. It has crept to the highest levels of our society. They have drug problems on Wall Street.

However, it is as much a medical and psychological problem as it is a criminal problem. The attempts to portray every

low-level drug offender as individuals who are also violent is really not true. I know this from statistics from the Department of Criminal Justice Services that listed the figure at about 16 percent.

And then I would add my own personal history. There were people who I grew up with, people I knew, people I still know. There was a generation of a much different attitude, a much different time, and not the violence accompanied drug dealing that occurred later on. Many of these individuals are still incarcerated and still become incarcerated. The average age of people who are arrested is 32 years of age. They are, in a sense, lifelong problems with drugs.

At a time when we need to focus on the aspects of criminality that we still have not addressed -- murders, rapes, thefts, robberies and other forms of assault -- it was our opinion -- and "our" means Republicans and Democrats, people from upstate and downstate -- that after laws were passed some years ago that they were in

need of some transformation, that we were incarcerating rather than providing any rehabilitation. In the famous case the State versus Sirro [ph.] it held that our state prisons don't really rehabilitate at all, that they simply detain.

And so it has been a long fight on which today we can finally claim a victory. And though we can claim a victory, I am aware that our service in this area is incomplete. We need to provide greater judicial diversion. We need to provide enhanced treatments, particularly treatment outside the facilities, prisons. And also we need to provide some form of probation, as 32 other states do.

When this conference conducted some research last year, we found that 32 states had levels of probation for drug offenses, 12 others had probation with conditions. Only six had mandatory minimum sentences, and of the six, New York had 30 percent higher punishment time than anyone else, making New York the toughest state on drugs in the country.

We held public hearings and had district attorneys from places like Texas come here and tell us about the amount of effort that they had waged and the reform of their drug laws that have been achieved in Texas. So it is my opinion that we still have a way to go.

But for this effort, many people have worked very hard, they've worked for a long time. Senator Volker talked about the six to eight years in this most previous effort, one that I know Senator Volker hopes has ended.

And as good friends as we are, Senator, I would really miss having all those meetings with you. And so January 5th I'm coming back, I'm going to make an appointment with you, and we're going to keep talking about ways that I feel we need to diminish the drug sentences in this state and increase opportunity for those who either made a mistake or made a choice in their lives that was indeed against the law but is not tantamount to the terrible unlawfulness of other crimes that accrue far

less sentences.

And it is really our whole societal view which is in many ways skewed about the issue of substance abuse that I think commands us and compels us to take action.

So this is a victory, it is a temporary victory. I don't think anyone who is an advocate really thinks that this is the panacea to the problem with drugs and prisons in this state. But it is something that is the result of efforts of a number of people -- my colleagues who served on the Rockefeller Drug Reform Conference Committee. And it was an issue that I thought was so important that, as a leader of one of the four conferences, I appointed myself to serve on that task force.

It is affecting so many people in our society. Everybody knows someone who's had some either unfortunate situation related to drugs or is in some respects one that uses drugs -- maybe casually, but it is a condition, along with alcohol, that has contributed to the destruction in many respects of our family units and our

community culture.

I hope that all of us will be as rigorous as we have been in our negotiations for this legislation and will go on to provide some of the remedies that we are suggesting.

So I thank you, Mr. President, for this time; Senator Volker, for his efforts; Senator Bruno, for allowing this bill to be on the floor; and my colleagues Senators Tom Duane and Velmanette Montgomery, who served on our individual task force that accumulated all of the information that enabled us to release a report in March of this year that we hope helped us get to the point that we are now, much aware that we have still some ways to go.

Thank you.

ACTING PRESIDENT KUHL: The chair recognizes Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

I would like to congratulate Senator Volker for his yeoman's service in this very significant piece of legislation.

And this marks a milestone for another very important reason, because for those of us who serve in this chamber it has been quite remarkable in recent years to receive visits from our former colleagues who had served here and sponsored legislation now known as the Rockefeller Drug Laws, and with the wisdom of their years and the perspective of their time out of the chamber, chose to come back and very bravely ask for a review of this legislation.

And I would like to personally thank one such former Senator, a good friend to many of us, Senator Doug Barclay -- now Ambassador Doug Barclay, ambassador to El Salvador -- one of those people who shared the perspective that he was here when these laws were enacted, they seemed like the right thing to do at the time.

This was a frightened country. It was a time when people were terrified and they were worried that any contact with drugs was of course a downhill spiral that would leave to violence and degradation of human life and horrors unforeseen.

Very rarely in those days when the laws were first enacted was there an awareness that we now take for granted, that in fact drug use should be considered in many instances another illness and a matter that should be treated in many cases outside the criminal justice system before it becomes a matter of criminal justice concern.

Diversion into drug treatment must continue to be the first priority for those nonviolent offenders, the first-time users. And this state has indeed come a long way in that direction, and this is an important piece of continuity to further that end.

But there's another category of people who I think should be recognized when we're talking about the changes in the Rockefeller Drug Laws, and those are the women who were doing what they thought they were supposed to do for the men they loved or were doing something for the men they loved because they were terrified, sometimes victims of domestic violence, also a subject not well understood in those years when these laws were passed.

And many of those women, acting out of some form of coercion or misguided devotion, were the ones who wound up taking the rap for someone else. And to see those women languish in jail and face a life of great unfairness because the laws were so inequitable has been an injustice that we will now be able to correct.

So I'm especially pleased today to see that this matter has now finally come to the floor for a vote. I thank our Majority Leader for allowing it to happen here in these final days when I have an opportunity to vote in support of this measure.

And I know that there will be more steps in the right direction to help weed out those serious predicate offenders, who deserve long sentences for all the right reasons, from the people who have made a mistake or who have acted out of some personal fear and done something wrong and for that they should have some kind of a corrective action but not incarceration.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

Is this it? This is it? After all this time, this is what comes to the floor? It would be an unbelievable stretch to call this Rockefeller drug reform. Maybe, maybe, maybe, maybe sentencing reform. Rockefeller drug reform? No. That's not what this is.

Everybody's going to go, Oh, congratulations, we did this big reform -- and now we can forget about it for years. When are we going to pick this up again? It's going to be years.

Yeah, some A-I category offenders, they'll have a chance to have their sentences looked at. Looked at. But anyone with A-IIs or Bs, nothing. You tell those families that their kids aren't getting out of jail. You tell those kids that their fathers aren't getting out of jails. Nothing in here for them, nothing.

The ones that are stuck in jail, they get nothing out of this. Nothing. Oh, oh, maybe, maybe they get an additional one-sixth off their sentences. But do they

get to go before a judge and have their sentences looked at again? No. That's not in here.

What about new people? Nothing. Nothing. I don't know what bill my colleague on the other side of the aisle was looking at. There's nothing about diversion in here. Bs don't get a chance for probation. Off to jail with them. What kind of reform is that?

Treatment. I'm sorry, where's the money for the treatment? I mean, Willard isn't even being expanded. People can go earlier to nonexistent drug treatment programs? What is that? It's a fool's search.

If we were serious about treatment, we would treat this as a public health issue. Not just a criminal justice issue, but public health. Oh, the drug war, it's really worked great. So many less people addicted to drugs. What planet are you living on? This drug war makes no sense. And this bill does nothing to fix it. There is no more treatment in here. There's no

diversion. There isn't even an expansion of DTAP. It's not in here.

I can't believe after all this time this is what ends up on our desks. Everybody stays in jail. New, newly convicted people, no -- no chance to go into treatment. Off to jail. We should be ashamed of ourselves. Rockefeller drug reform? Hah. I don't think so.

ACTING PRESIDENT KUHL: Senator DeFrancisco.

SENATOR DeFRANCISCO: I stand and am very pleased to support this piece of legislation. About six years ago, I put in -- or five years ago I put in the first Rockefeller Drug Law reform for my conference. And it has been a long haul.

And unfortunately, there are different opinions on every issue, but probably none more diverse than the opinions on this particular issue. There are some obviously who are not satisfied about how far it went.

However, those people that are in jail that have been sitting in jail on an A-I felony, for example, and had no chance of

getting resentenced and continue to sit in jail while this conference and this Legislature does nothing because we can't get everything one side wants, that I think is the real tragedy.

This bill does double the amount of drugs that are required to fit in the various offenses. It does provide some relief for those in jail. It does provide some modification, which in my mind is a heck of a lot better than where we stand right now.

And I think that, you know, we heard the same arguments that Senator Duane has made during our open conference committees, and we heard some as emotio -- as strong on the other side of the issue. And we could have sat forever not coming up with any reform or any improvement. And I think that would have been the wrong way to do it.

So I'm happy that we do have this bill. It may not go far enough for some. It probably went a lot too far, much too far for others. But I think the open conference committee process by which we bridge many of

our differences is a process that we should continue in much greater degree. And hopefully we can get progress -- maybe not perfection, because there's no legislative body that does -- in many other issues as we've done in this bill.

And I'm happy to vote for this bill. And I urge all others, even though they might not have gotten everything they wanted, to vote aye.

ACTING PRESIDENT KUHL: Senator Sabini.

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

ACTING PRESIDENT KUHL: Senator Sabini, on the bill.

SENATOR SABINI: I don't think there's any doubt that this is coming before us today as part of a political calculus. Everything we do in government is subject to that judgment.

And certainly we saw a district attorney's race in the county in which we meet affected by this. And there is clearly some -- finally some outcry in most of the general public that these laws are too

draconian and affected too many people.

So I think that by our doing it, we shouldn't kid ourselves into thinking that we're doing something here that was noble. It's overdue.

And I think it's important that we recognize that Senator Duane's right on the matter of public health. You know, we're dealing with the end product here, the sentenced part. But we need to re-look at and underline the fact that we need to keep people off drugs and people who are on drugs, get them off drugs as a public health strategy.

Our state aid to localities on treatment is at the same dollar level it was 10 years ago, and yet costs have gone up, the problem hasn't gone away. Drug addiction is a disease, a disease that needs to be treated. And this is sort of a start at reforming the sentencing laws. And I think in -- I agree with Senator Paterson it should just be a start.

But we also really need to take the issue seriously in a way larger than we

have, and deal with the prevention end and the treatment end so that we won't, in the future, be talking about tens of thousands of people who are in the corrections system that have been caught up by what many feel are unfair laws.

I want to also point out that the first -- besides the people in this chamber who have worked hard on this issue, in the other chamber my constituent and my friend, Assemblyman Aubry, has made this a very lonely crusade early on. And his name appears on this bill. I know he doesn't do that lightly, because he feels very strongly about this issue.

And he deserves a whole lot of credit for keeping this issue alive and keeping the embers of interest in this issue alive when others were hoping it would go away and that we'd stop talking about. So I wanted to note for the record my admiration for his courage and persistence on this issue, and I intend to vote in the affirmative.

Thank you.

ACTING PRESIDENT KUHL: Senator Sampson

had requested to speak, but I don't see him in the chamber at the moment.

Senator Krueger is next on the list.

Senator Krueger, why do you rise?

SENATOR LIZ KRUEGER: Thank you, Mr. President. I rise to speak on the bill.

ACTING PRESIDENT KUHL: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: I appreciate so much Senator Duane's passion and articulateness about the flaws in this bill. And he is absolutely right, this is not reform of the Rockefeller Drug Laws and this is not the end of the story.

And I'll also point out, yet again, we're doing this as a message of necessity bill, not the way I think we should do business in the State of New York. But I might argue, given the history Senator Volker laid out of how frequently we have circled and yet not moved forward on this issue, that perhaps this is an emergency, justifiably a message of necessity bill, because we seem to be at a place where at least these two houses, both sides of the

aisle, are willing to make some beginning steps and progress by passing this bill today.

I certainly hope that the message of necessity from the Governor in relationship to this bill signals that he actually wants to pass this bill and that we don't find ourselves where he's sent the message and then vetoes, as he did on the minimum wage, where apparently he felt the emergency need to veto a bill. Because if we make the progress that I hope we do today, it is only a beginning. But even that will go to no end if we don't get this bill signed into law.

I also just want to reiterate what all of my colleagues on this side of the aisle said today. Since there is no money for drug treatment and there are no alternative-to-incarceration programs being funded out of this bill, I say to us we have to come back immediately in January to address this, not have discussions for another six or eight years, Senator Volker.

Because hopefully the State of New York

learned from the problems that we created when we deinstitutionalized the mentally ill and did not reinvest that money in community-based mental health services and created a generation of chaos for ourselves and for mentally ill people. We cannot repeat that mistake when it comes to ensuring that another public health crisis, drug addiction, is not addressed fairly and equitably in the context of sentencing reform.

So I will vote for this bill, as much as I truly value the statements made by my colleague Senator Duane that none of us should go home and say we finished our work here today. But I urge that we pass this bill, and I urge that Governor Pataki immediately sign this bill and so in January we can come back to the table and move forward again.

Thank you, Mr. President.

SENATOR DIAZ: Let's vote.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I realize that a lot of legislators over the past years have worked very hard on this. And I have also, in my years here, always appreciated the necessity for compromise and the fact that in any legislation you rarely get every -- any side of any issue rarely gets everything that they want.

That said, it's clear to me that the pressure for Rockefeller drug reform has been building and building and building these past years. And many, many various groups have taken up advocacy for reform of the Rockefeller Drug Laws. And I understand someone earlier mentioned about a win; you know, claim your wins.

I don't look at it that way. I don't look at it as a contest like we won, you lost; those who are on the other side lost a little bit in this, so let's take it.

Before some of these advocates were in the field, I was in favor of a comprehensive reform of the whole Rockefeller Drug Laws. Not just the sentencing provisions -- yes, they are very important -- but at every

level. Guaranteed diversion programs, funded diversion programs. The possibility, as 34 or 35 other states allow, of probation at that B level. That's reform.

And as Senator Duane said, this may be some kind of sentencing reform or sentencing restructuring or sentencing restructuring downward, but it's not Rockefeller drug reform. And the fact is I thought we'd learned a whole lot these past years. You know, Senator Volker was here and he -- I wasn't here; I just remember reading about it as a citizen in the newspaper. Governor Rockefeller's first proposal I believe was the death penalty at the A level, the death penalty for drugs. And the great compromise, the great softening that went on then is, oh, we came up with things like 15 years to life. We -- I wasn't here, but the Legislature did.

It was a time, as someone said, of great fear. It was a time of ever-growing crime statistics. Not just drug crimes, violent crimes. You know, the strong belief that most robberies, muggings, et cetera,

et cetera were motivated -- and they probably were at the time -- by addicted persons needing to get money to feed their habit.

There were other countervailing approaches. I remember when I first came here, Senator Joe Galiber, an esteemed late member of this body, who advocated for legalization of drugs on the British model, on the theory that you eliminate a lot of the need for the kind of prohibition-driven need for money and prices and so on, and you treat it as a health problem and you attempt to either maintain people and, through various treatment modalities, cure them.

But, you know, the thing that's always disturbed me about these Rockefeller Drug Laws -- you know, and I've read the cases where judges with tears in their eyes would say: This is outrageous, but I have to send this young woman to prison for 15 years to life, or this young man. Invariably, the people who got sentenced, it seemed to me, were young or members of minority groups or, at the very least, poor.

And in my experience, I've known doctors and lawyers and businesspeople who developed really heavy drug problems. And a very dear friend of mine, unbeknownst to his friends and all, developed a very heavy drug problem and died of an overdose. He was quite a professional.

But those people never seem to get caught up in this send-them-off-to-jail thing. They just didn't get busted. Maybe because they had money and, I don't know, places to use or possess. Or they didn't look like the kind of people the cops were going to frisk or search their car or anything. They never had the encounters with the law, albeit they ruined their lives and their families' lives and very often cost them lives because of their addiction.

So drugs are a horrible thing. But this need to take a political win out of it -- I view the political pressures that have built up for Rockefeller reform as a good thing. And that pressure should be still on until we get real reform. And for the various reasons people articulated --

Senator Duane said it well -- this isn't enough.

And I think for political colleagues, legislative colleagues, and for advocates to say, Let's take this as sort of a win or it's a win and go from there, we can admonish, Mr. President, our colleagues all we want about "and when we come back here in January, let's take up this issue again after this is passed and signed, and we should do it right away in January." It's not going to happen. There's not a soul here who's familiar with the workings of this Legislature who think we're going to touch Rockefeller Drug Law again for many years.

And all that pressure, all that pressure that's built, and the reason why we got this attempt, this attempt -- this is not an attempt to reform the Rockefeller Drug Laws. This is an attempt to let the air out of the tires, the pressure that's been building for Rockefeller Drug Laws. And once this passes and the Governor signs it, you will hear that "sssss" of the air

coming out of that tire that's built up with all the advocates and the editorials and the public awareness. The air will just go out of it. And it will be a long, long time before we get anything that's a rational, comprehensive reform of the Rockefeller Drug Laws.

I didn't support reforming the Rockefeller Drug Laws to score a political win, to be able to put in my newsletter "We did a bill at last, great victory." I did it to get a real Rockefeller drug reform, and this isn't it.

So, Mr. President, I'm going to vote no.

ACTING PRESIDENT KUHL: Senator Sampson, on the bill.

SENATOR SAMPSON: On the bill.

I rise to ditto what Senator Connor said, and also Senator Duane. I don't look at this as a win. But, you know, the old cliche is that sometimes you have to crawl before you can walk. We are taking a first step to put New York State in the mainstream, and we have to take that into

consideration.

You know, and as everyone said, this is not a win. We just won a small skirmish. There's still a battle, and there's still the war. And we have to understand that even if the advocates don't keep up the momentum and the fight, as colleagues, we need to keep up the fight and keep up the momentum. Because it takes a period of time for change to occur, and it did take a considerable amount of time.

But the writing is on the wall. We understand that the electorate now is no longer satisfied with the status quo. It's all about changes and everybody wants to be reformers now. And we have to understand, if we want to come back in 2006 and thereafter, we have to understand that we need to take care of this issue.

But once again, this is not a win, and I don't think we all consider it to be a win. But it's just a first step in moving New York State to the mainstream.

Thank you. I vote aye on the bill.

ACTING PRESIDENT KUHL: Senator

Schneiderman, to close for the Minority.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I think that it's very important for everyone here to recognize that there are sentencing laws and there is a lot of confusion about what's a Rockefeller drug law and what's not a Rockefeller drug law, however you describe it.

We're talking about reforming the laws, and this is a very, very small step. It will benefit thousands of New Yorkers. They will have their sentences reduced. People will be in prison for drug possession for shorter periods of time. But it does also leave tens of thousands behind.

But more important than the sentencing grid, and this is what some of my colleagues I believe have alluded to, is the fact that we have to change the Rockefeller drug approach. And let's be honest about this. There's got to be a fundamental change that goes beyond tinkering with the sentencing grid, and that has to be to say: It doesn't make any sense to put people in prison for

drug possession.

And a lot of you were here when the District Attorneys Association came up and gave its presentation. It does not reduce crime to put people in prison for drug possession. It does not reduce drug use to put people in prison for drug possession. These long sentences haven't worked.

I remember, you know, the presentation by some of the district attorneys, who I understand they don't want to give up their power, the power that they get through this determinate system of incredibly long sentences. But their arguments do not hold water. They say crime has gone down since we've had the Rockefeller Drug Laws. Well, crime has gone down in all these other states that don't have Rockefeller Drug Laws.

So let's look at this as Senator Duane and others have said. This is a public health matter. And prior to the adoption of the Rockefeller drug approach in New York State, it was treated as a public health matter.

So this bill is a very small step forward. I think that we do have to recognize the fact that there are thousands of people whose lives will be better because of it -- people who will get out of prison, people who will continue to go to prison, many thousands of people, and the families of those offenders who will benefit. So it is a benefit. It doesn't have any negative enhancements or any of other things that have poisoned previous bills.

But it does not change the fundamental approach. And I would urge all of you that the advocates have pledged that they're willing to come back. I know that our counterparts in the Assembly, Assemblyman Aubry and others, have pledged that they're willing to come back. And we have to recognize that tinkering around the edges is not going to solve this problem.

We're not talking about something that really should even be in the realm of sentencing reform. We're talking about something that should be in the realm of the reality of treatment of people with drugs.

And this is not everybody with drugs, let's also recognize that. I mean, 93 percent of the offenders doing time under these laws are black and Hispanic. And if there's anyone here who believes that 93 percent of the drug use in this state occurs only by black and Hispanic people, then I would suggest that you really need to go back to school before you come back and serve in this body. That is a statement that these drugs have an impact in communities based on race, not based on drug use.

These laws have an impact based on your ability to afford a good lawyer, not based on drug use. They don't reduce crime. They don't reduce drug use.

This is a very small step forward. If we stop here, we aren't doing our job and I don't think we really can be proud of our record on this issue. But I am going to vote yes, because it is a small step that will benefit thousands of New Yorkers. It is a step towards some reform.

And I hope when we come back in January

we'll change our focus and stop talking about sentencing reform and start talking about changing the Rockefeller approach. There is no evidence of any kind that it reduces crime or drug use.

Let's get real. Let's do what Senator Paterson did when he surveyed all the 50 states and came back with a report showing that all these other states that are supposedly tougher on crime -- Texas, Alabama, Arkansas -- have far shorter sentences for drug possession and they're not suffering a crime wave as a result.

This is a very small step. But we need to change our approach. We need to change the approach of this state. I'm going to support this legislation, but with the commitment and understanding of our conference and our conference leader and of our colleagues on the outside, people who have come from as far away as Argentina to help in this fight, people who have come here over and over again and given their time, people who are ex-offenders who have rededicated themselves to this cause, that

we will not let this go. Let's come back and get back to work on changing this approach.

I will vote yes, and I urge everyone to do so. But I urge that more important than how you vote on this bill is the reaffirmation of our commitment to change these laws once and for all, starting in January.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The chair recognizes Senator Bruno, to close for the Majority.

SENATOR BRUNO: Thank you, Mr. President.

Again, we have legislation before us that has taken years, years and years and years, to get where we are today. And again, you know, when you listen -- and some feel that this doesn't go far enough. You're right. You're right. There's no debate. There's a lot more that can be done. The rehab programs, the alternatives to incarceration, you're absolutely right.

We have all concluded and agree, thanks

to the leadership of Senator Volker, of people who worked through the night, the Governor, the Assembly, many of you, my colleagues, to get where we are.

Now, we have passed, just so you know, something like 12 bills since 1977 to change the dramatics and the trauma of the Rockefeller Drug Laws. Now, it wasn't enough. But we did a lot of things and we're doing a lot of things today to enhance and to help people who, yes, they need help.

They don't need to go up, like Elaine Bartlett, who served 16 years of, I think, 25 to life. And I, with many of you, appealed to the Governor for her, and for three others, that pardon. She wrote a book, maybe you read it, Life on the Outside, a rather tragic and unhappy ending. Well, we want to change life for people like her. She's going on with her life -- 16 years.

And I have met, like you have met, children of people who are incarcerated, 9-year-olds, 10-year-olds, kind of pleading for help. Well, we're helping. We're

helping. And we are doing something here that changes people's lives. And don't minimize it. Please, don't minimize it. We've had a lot of years to get here.

And what I'm saying to all of you is something you already know. There is more to be done. And we're going to get there, and we're going to do it. Because the bottom line really is to help people, help people. Those that are mentally afflicted, chemically afflicted, just their environment.

All of us have our life experiences. And there's someone that's working not too far from here that went up, with three little children, and that woman is now working not too far from where we are, on a nonviolent drug offense. Now, you talk about injustice, to put a mother of three children away for a nonviolent drug offense when she was helpless in her community and exposed and caught. That's wrong. That's tragic. Ruins people's lives.

So we in this chamber, with the Governor and with the Assembly, are going to

make a huge difference in people's lives. So let's be proud that we're going to help thousands and thousands of people -- yeah, thousands -- presently, in the future, and some that are incarcerated now. Let's be proud of that.

And let's resolve that we're going to go on and continue to talk on how we can create alternatives for nonviolent drug offenders and for other offenders.

There are young people going to jail for first-time offenses who have accidents, who do things, who are misguided in their youth, like many of you in this chamber. Like I was when I was 14 and 15 and 16. And I thank the good Lord, frankly, that I didn't end up like some of my friends who went to reform school. One guy died in jail, that I grew up with. You have neighbors, you have friends.

Now, had there been alternatives for some of these people, they could go on and lead a constructive, productive life, instead of putting them in jail for a year, for two years, for three years. For what?

To teach them what?

So some of my colleagues think that as I get older that I'm getting more liberal. It's not being liberal.

(Laughter.)

SENATOR SCHNEIDERMAN: Come on, come out. Come out.

SENATOR BRUNO: That is not being liberal. We're talking about humanity. We're talking about people.

And yeah, I have learned, as I've gotten older, that there is a way to deal in life, and the most critical thing that we can all focus on that we're doing here today, and that we do tomorrow and the next day, is to think about those people that get in trouble and how we can help them get out of trouble, straighten out their lives, be productive and constructive citizens. That's what we have to work on. And that's what we want to work on, and that's what we're going to continue to work on.

So let's be proud of what we're doing here. And, Mr. President, I'm proud to be supportive and proud of my colleagues and

our relationship with the Governor and the Assembly and that we can get to where we are with this vote.

Thank you.

ACTING PRESIDENT KUHL: The debate is closed.

Senator Bruno, there is an Assembly bill at the desk. We have a substitution, if we'd like to take that at this time.

SENATOR BRUNO: Please do so.

ACTING PRESIDENT KUHL: I'll ask the Secretary to read.

THE SECRETARY: Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11895 and substitute it for the identical Senate Bill Number 7802, Third Reading Calendar 1970.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Volker, to explain his vote.

SENATOR VOLKER: Yeah, I'd like to do this very quickly, if I could. I'll do my best. And I'm not going to respond to some of the discussion.

But I do want to thank Senator Bruno. And it's interesting, because he mentioned Elaine Bartlett. And I'm going to tell a story that I probably -- because one of the people I want to thank in part is a fellow by the name of Charles Grodin, for what's happening here.

What happened is I was on a program with Mr. Grodin, who, as some of you may know, who's a TV person. And we got to be friends, and he told me about some people that were in jail under drug laws. And I guess they were Rockefeller Drug Laws. I mean -- by the way, this finishes Rockefeller Drug Laws altogether. As Eric says, there's other laws, but there's no more Rockefeller Drug Laws. The B felonies are not -- but I don't want to get into that.

But anyways, of the four people that were recommended to us -- and Joe Bruno went to bat, to the Governor and myself. And all four of those people, if I remember right, were pardoned. And we looked at a whole bunch of people, and there were certain criteria.

And the reason I mention that is that he is getting a little more liberal as he's gotten older. Now, I'm not.

(Laughter.)

SENATOR VOLKER: But we all are, a little bit. But I think we realize and look at criminal justice, I think, a little differently.

But I also want to thank the members of the conference committee, Senators Golden, DeFrancisco, Nozzolio, and of course Senator Paterson. I also want to thank two staff people who have been with this forever. One is Joe Messina, who's done a super job, spent all night, by the way, working on this. I knew we had what we thought was an agreement last night.

But, you know, I must tell you

something. Senator Bruno is the reason this is here, because he has sort of baby-sat this issue between the Governor and the Assembly. It's just been -- it has been very difficult. I don't want to -- but I read these stories about the Senate balking, and I have to laugh, because we've done everything we could.

I would like to just finish up by saying one more thing. I call this a never-ending story. In fact, you know, criminal justice is a never-ending story. And, Senator Connor, I would only say this to you. And I suppose, you know, I shouldn't be saying this, because some DAs and stuff -- this is not over. Senator Paterson and I are going to talk in January. We are already planning to deal with those other issues that we put to the side.

There's a couple of reasons, by the way, more than just the issue of doing drug reform. Because we have these minimum-security prisons sitting out there that we think are perfect for drug programs, the diversion programs. We're already using

a lot, you know, in prison.

And by the way, Father Peter Young and myself worked very hard to get alcohol and drug programs working in prison, and eight of our prisons have super alcohol programs, which we never had before. I don't take credit myself; it's Father Young who did that, who I think is a saint.

But I want to point out, we've done a lot in our prisons. And New York has moved faster to get rid of nonviolent offenders, as far as I know, than any state in the union. We now have --

ACTING PRESIDENT KUHL: Senator Volker.

SENATOR VOLKER: -- 62,500 inmates --

ACTING PRESIDENT KUHL: Senator Volker.

SENATOR VOLKER: California has over 160,000. I just want to tell you that.

ACTING PRESIDENT KUHL: Senator Volker.

SENATOR VOLKER: But we have done, I think, a good job. We're going to continue.

I vote aye.

ACTING PRESIDENT KUHL: Senator Volker will be recorded in the affirmative.

Senator Montgomery, to explain her

vote.

SENATOR MONTGOMERY: Yes, Mr. President, to explain my vote.

Obviously there's a level of disappointment, and it's certainly expressed in the debate by my colleague Tom Duane.

But I'm going to also vote no. And the reason that I'm voting no is because the central issue in relationship to reform of these laws in our state is judicial discretion, and it is blatantly absent from this legislation.

So without judicial discretion, notwithstanding all of the wonderful things that have been said and that we're talking about here -- it's going to help the women, it's going to help this one and that one -- it is not going to help them except where they have a reduced determinate sentence if they are a first-time nonviolent offender. Everybody else gets the same that they already have.

So that's a problem. And I think that until we do that, we are not really reforming. We have a sentence

restructuring, to some extent, and for that I am happy.

Also, for people in my district, I have walked inside the prisons. And every time I go in there and sit down with a group of inmates, it is very clear that they are there primarily because they were drug-addicted, initially, and because of that drug addiction became involved in criminal activity. They need treatment. They will come out, they come back to districts like I represent. A number of them are already back. And without the support of a strong treatment program, they cannot successfully reintegrate. That is not in this legislation.

So I'm voting no because this -- I can just see the headlines right now, "New York State Does Rockefeller Reform Legislation," and that will be it for the next 25 years. I'm sorry to say --

ACTING PRESIDENT KUHL: Senator Montgomery, how do you vote?

SENATOR MONTGOMERY: I'm voting no, because I don't think that we have done what

we promised that we would do in terms of Rockefeller reform for this state. I'm voting no.

ACTING PRESIDENT KUHL: Senator Montgomery will be recorded in the negative.

Senator Parker, to explain his vote.

SENATOR PARKER: Mr. President, first I'd like to acknowledge all of the work that has been done on this and really thank the leaders of both houses for all their effort on this issue.

However, this bill, I'm voting no, because this bill is change with no real difference. We have not stood up against white supremacy, we have not stood up against the prison industrial complex that we have here in the state of New York, and we have not made any significant changes to the lives of the people who really need help, including some of the people that Senator Bruno mentioned in his illustrations.

I'm glad that there are so many people who are still interested in reforming. I'm glad that Senator Bruno indicated that this

is not enough and that we need to do more. But I'm voting no today because this bill does not include probation, it still does not create enough discretion for DAs or for judges. There's still no treatment in communities, nor is there enough -- or actually no money for transition for prisoners back into our communities.

And we really have to deal with the issue of people in the B felony category. And unless we do that, we have not done Rockefeller Drug Law reform.

Please do not go back to our communities and start saying that we've done it, because we haven't. This has been, you know, some reform of something, maybe sentencing. But this is not Rockefeller Drug Law reform.

And I'm really hoping to have an opportunity to work with you on doing that in the future, but I vote no on this bill today.

ACTING PRESIDENT KUHL: Senator Parker will be recorded in the negative.

Senator Smith, to explain her vote.

SENATOR ADA SMITH: Thank you, Mr. President.

I've seen the bill, I've read it closely, and this is not Rockefeller Drug Law reform. It is a modicum of sentencing reform. And any bill that does not include some funding for treatment is clearly not adequate.

However, the advocates that have worked on this believe that this is a beginning. I question their desire to have this bill pass, but at their request I am voting in the affirmative. And I sincerely hope that in January, when we come back, that we will join together and go do the job that needs to be done to truly reform the Rockefeller Drug Laws.

ACTING PRESIDENT KUHL: Senator Smith will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1970 are Senators Connor, Duane, Montgomery, and Parker. Also Senators Andrews and

Hassell-Thompson. Ayes, 53. Nays, 6.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Paterson, did you wish to -- excuse me.

Senator Bruno.

SENATOR BRUNO: Is there anything else at the desk, Mr. President, that has to be done?

ACTING PRESIDENT KUHL: There is no housekeeping at the desk.

SENATOR BRUNO: There is nothing else to be done. I refuse to use the word "housekeeping," okay? There is nothing else at the desk.

I would suggest at this time that you recognize our esteemed colleague and leader Senator Paterson.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

I'd like to wish Senator Bruno and all of you a very happy holiday season. We have members who are leaving, and I think Senator

Bruno is the one who should properly recognize them.

I would like to point out that one member that checked in earlier and left is Senator Lachman. And we will miss Senator Lachman. I will particularly miss Senator Lachman's graphic descriptions of his frequent ailments that he likes to share with us all the time.

(Laughter.)

SENATOR PATERSON: And he's still going to continue to work in higher education and in government with us, and so we'll see Senator Lachman back here on occasion.

I wish all of you a happy holiday in spite of the fact that no one in this chamber, not my colleagues nor staff, could be kind enough to get up and tell me that it was Marlon Brando, not George C. Scott, who played "The Godfather," which won the Academy Award in 1972. George C. Scott, as Patton, won the award in 1973.

And that's also the first mistake I've made in this chamber in 19 years, and I want the other leader to know that I can admit to

it.

(Laughter.)

SENATOR PATERSON: And finally, to you, Mr. President, honestly, I was elected to serve in this chamber in 1985, but I first came to this chamber when I used to sit on the page's stools and watch my father in 1965. So I have watched Senate proceedings off and on for nearly 40 years. And no one has ever been a better parliamentarian or temporary president serving in that capacity than yourself. You have been absolutely outstanding.

(Applause; standing ovation.)

ACTING PRESIDENT KUHL: Can we have some order in the chamber, please.

(Laughter.)

SENATOR PATERSON: I still have that B.B. King CD I promised you ten years ago when our offices were next to each other, and I will give it to you before you leave.

Congratulations on your election to the House of Representatives, Senator Kuhl.

And you really did a terrific job. I notice that every time there was a difficult

debate, they would always put Senator Kuhl in that chair. And now that you're leaving, I can't wait for a controversial issue, because I thought that you knew the rules better than anyone, and now I think the Majority is in a lot of trouble.

(Laughter.)

SENATOR PATERSON: So I really, seriously, want to wish all of you a happy holiday and thank the Majority for your professionalism in working with us in this session, 2003 and 2004.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President.

Thank you, Senator Paterson. And can I suggest that you enjoy the holidays and stop working so hard.

(Laughter.)

SENATOR BRUNO: And I say that in all good nature, thinking about your goodwill and your health.

And I want to really just wish all of you -- because the chances are good that we may not be back here this year. There's no

certainty in our lives, and I just, you know, want to share that thought with you, and that there is always the possibility that your responsibilities and your obligations in elective office necessitate your coming back. And I know that you're all good-natured about that, and willing as well as able. So I thank you for that.

And I really want to thank you for your camaraderie, for the goodwill this past year, most of the time -- especially while we're in session -- and for the good works that we have been doing.

And to Senator Kuhl -- and thank you, Senator Paterson, for that acknowledgment.

And, Randy, to your colleagues here who really just hold you in the highest regard and the highest esteem, you're elevated up there and you're going to be ascending to a larger constituency that you will represent as capably and as ably as you have your Senate district, and we're all proud that you go into a larger constituency and being responsible and responsive. It's been a pleasure having you here as a colleague.

And I hope that we don't see you back here presiding this year. And I say that good-naturedly, Randy.

And to Senator Hoffmann, on this side of the aisle, and Senator Mendez, this may be their last official session, if we end the year, and I want to wish them the very best as they go on, as the other colleagues, like Senator Lachman, who just go on in a different phase of their lives. And life does go on. And in whatever ways, there is another life out there. And we just wish you all the very best in enjoying your life in whatever it is that you're doing.

I want to wish you all just the very best in this holiday season. Hanukkah, I believe, starts tonight, for those that worship in these next eight days, and the Christmas season. And the Christmas season is upon us.

So hopefully we can take just a lot of just good feelings out of this chamber with us as we go forward, and just go forward with the respect and the camaraderie that truly exists in a chamber like this where we

have the ability to affect people's lives in so many constructive and positive ways. So thank you.

And, Mr. 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, and intervening days to be legislative days.

And God bless you all. Thank you.

(Applause.)

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned, subject the call of the Majority Leader, intervening days to be legislative days.

(Whereupon, at 6:16 p.m., the Senate adjourned.)