NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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March 29, 2005

3:26 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

THE PRESIDENT: With us this afternoon is a familiar face, the Reverend Peter G. Young, pastor of Blessed Sacrament Church in Bolton Landing, New York.

REVEREND YOUNG: Let us pray.

The God that we all have been created by has given us the command to love one another. We're also called to take care of the needy. And in our desire to make us share in this love, God calls us to aid in gentle kindness to all of those that are weak, sick or unfortunate.

In God's love of us, we're called to help the least among us and show mercy to them. May we always be that kind of legislator.

We ask You this now and forever.

Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, March 28, the Senate met pursuant to adjournment. The Journal of Sunday, March 27, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing companies.

The Secretary will read.

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

Senate Print 550E, Senate Budget Bill, an act making appropriations for the support of government;

551B, Senate Budget Bill, an act making appropriations for the support of government;

553E, Senate Budget Bill, an act making appropriations for the support of government;

554E, Senate Budget Bill, an act making appropriations for the support of government;

555E, Senate Budget Bill, an act making appropriations for the support of government;

3666, by the Senate Committee on Rules, an act to amend Chapter 152 of the Laws of 2001;

3667, by the Senate Committee on Rules, an act to amend the Labor Law;

3668, by the Senate Committee on Rules, an act to amend the Public Health Law;

3669, by the Senate Committee on Rules, an act to amend Chapter 728 of the Laws of 1982;

Senate Print 3670, by the Senate Committee on Rules, an act to amend the Transportation Law;

And Senate Print 3671, by the Senate Committee on Rules, an act to amend the Tax Law.

All bills ordered direct to third reading.

THE PRESIDENT: Without objection, all bills ordered direct to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Marcellino, Madam President, on page 18 I offer the following amendments to Calendar Number 315, Senate Print 1286, and I ask that that bill retain its place on the Third Reading Calendar.

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

Senator Bruno.

SENATOR BRUNO: Madam President, are there any substitutions at the desk?

THE PRESIDENT: Yes, there are, Senator.

SENATOR BRUNO: Can we make those substitutions at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 5, Senator Padavan moves to discharge, from the Committee on Local Government, Assembly Bill Number 5866A and substitute it for the identical Senate Bill Number 2955A, Second Report Calendar 386.

THE PRESIDENT: Substitution ordered.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time adopt the Resolution Calendar, with the exception of Resolution Number 1068.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The calendar is so adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time have Resolution 1068, by the very distinguished Senator Farley, having read the title only and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Farley, Legislative Resolution Number 1068, memorializing Governor George E. Pataki to proclaim April 10 through 16, 2005, as Library Week in the State of New York.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

This is a very significant resolution which we do every year. And incidentally, it's jointly sponsored by the distinguished Senator from Rensselaer County and Saratoga County, Senator Bruno.

And I would like to open up that resolution to all members of the Legislature,

if you would be interested.

SENATOR BRUNO: Thank you very much, Senator.

SENATOR FARLEY: And if not interested, please notify the desk. Everybody will be on unless they object.

THE PRESIDENT: Any member who did not wish to be a sponsor, please notify the desk.

All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up Calendar Number 269.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 269, Senator Johnson moves to discharge, from the Committee on Finance,

Assembly Bill Number 550C and substitute it for the identical Senate Bill Number 550E, Third Reading Calendar 269.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 269, Assembly Budget Bill, Assembly Print Number 550C, an act making appropriations for the support of government, PUBLIC PROTECTION AND GENERAL GOVERNMENT BUDGET.

SENATOR PATERSON: Explanation.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, since an explanation has been requested, we are going to have to ring the bill and ask the members that are not in the chamber to come into the chamber, because this will be under the controversial reading of the calendar.

THE PRESIDENT: The Secretary will ring the bell.

SENATOR BRUNO: And can we stand at ease -- for seconds -- for members to get to the chamber.

Thank you.

THE PRESIDENT: You're welcome, Senator Bruno.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease momentarily.)

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Thank you, Madam President and colleagues.

This bill that is presently on the floor starts us in the budget process. And we are doing something here this afternoon that is historical as it relates to being able to get a budget done on time for the first time in 21 years.

And that is to the credit -- and that is after the Court of Appeals decision that created some real contentious problems in the process.

And there's enough credit in getting this bill to the floor, which deals with government, local government and public protection. Anyone that has been involved, from all of my colleagues here in the chamber, the Speaker and all the members in the Assembly, the Governor, in all of the public

meetings -- never, in the years that I have been in office, have I participated in such an open and deliberative process. For months. Never once was there a private, behind-closed-doors so-called meeting, three-men-in-a-room kind of thing.

So this is really a credit to everyone that we are here together, starting this process, which we hope to conclude by Thursday, March 31st, in daylight. In daylight.

(Laughter; applause.)

SENATOR BRUNO: Thank you. Thank you.

Really almost -- well, every member, 212 legislators have been involved in some way directly in this process.

And Senator Paterson, as part of the general conference committee, with our colleagues in the Assembly, with the Speaker, and with the leader there, Minority Leader Nesbitt, participated in every open discussion with the general conference committee.

And it's because of the exchanges, the participation, the negotiation, the

deliberation, done in a cooperative way that got us to a compromise. And you get a budget done in this state by compromising, and in no other way.

Is there anything in this bill or in what we're going to do tomorrow and Thursday that every one of 212 legislators would like to see done? Absolutely not. But is this a budget that serves the needs of the people? Will it hold the constitutional test? Absolutely yes. Will the Comptroller be able to certify this budget as a balanced budget? Absolutely yes.

And for those that want to talk about some of what was laid aside, which were issues that we could not incorporate in this $105 billion package that we're starting today, we will take up tomorrow, the next day, and as we go on with the rest of session.

So this is the beginning of offering to the people of this state and providing for the people of this state what is required to meet their needs in education, higher ed, health, the infrastructure of this state that moves people throughout this state

and across this great country of ours.

So I'm indebted to my colleagues here in the chamber, to Senator Paterson, Speaker Silver, Governor George Pataki, for helping us to get to where we are, which is the beginning of a budget process that will be balanced, legal, on time, passed by -- with your indulgence, and the other house -- March 31st.

Thank you, Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President.

I think it's been so long that we've passed a budget in this state on time, meeting the constitutional deadline at March 31st, that we've actually forgotten or never knew what those budgets were like. And looking back on them, as we look back on so many experiences in our lives and in history, I think we remember those processes as being a lot more effective than they actually were.

Given the opportunity to actually sit in this chamber a few times when I was a teenager, I assure you that those periods of

time, while they may be remembered and regaled well by those who were there, still engendered a great deal of controversy and disagreement right within this chamber. And those budgets were barely acceptable to the majority of those who voted on it, as they split feeling that it didn't do enough or did too much.

So the budgets that passed on March 31st, when they would often stop the clock in this chamber until 4 or 5 o'clock in the morning -- it would read 11:59, so they could technically be in compliance with the budget deadline, even though the world had moved six hours while they were working on it -- still, what we have accomplished in this very short period of time, and to compare it to an August 11th budget of last year, is really quite mind-boggling.

This is a budget of which I can probably think of a couple of hundred things that I have issues with, and I'm sure so could those of my colleagues sitting in this chamber on either side of the aisle, and particularly to Leader Bruno.

But that is what we are trying to

inject back into government, that though we disagree, we still observe and we still have respect for the deadlines and the prescriptions that bring us to public office. We demand this of our children in school, we demand this in business, and we need to demand this in the Legislature of the State of New York.

So to Governor Pataki and Speaker Silver and Leader Nesbitt, I would certainly want to thank them for their participation. But I particularly would like to thank the leader of this house, Senator Bruno, who, when he came to be the leader, demanded that we start sessions on time and organized this entire chamber in a way that it had not been before. I kind of get the feeling that he has always been advocating for this.

And the additional public interest that I hope we have tried to generate in that direction also has contributed to what appears to be the opportunity to pass these bills and to be within compliance of our constitutional mandate by Thursday night at midnight. And that's the real midnight, not the one that

reads on the Senate clock.

So in that spirit, I think that we will continue to disagree. There will be issues that we have to administer after the budget. There are biting and principled values that are going to compel some of our colleagues to question what we've actually done.

And yet at the same time, even if it is symbolic, the fact that we are beginning to demonstrate that we are aware of the outside world beyond this Capitol, and how people are feeling about our discharge of our duties, urges me that we are taking a step in the right direction by beginning to pass budget bills today.

So I want to thank all of my colleagues that participated in the process. There were 110 members on the conference committees and another 102 members that were contributing by being further aware than at any point before. And it's been my pleasure to be a part of it and to serve with all of you.

And so, Senator Bruno, I can't

think of anything I disagree with right now, but if you give me a few minutes, I will.

Thank you.

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

Then the debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up Calendar Number 394.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 394, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 6840 and substitute it

for the identical Senate Bill Number 3666, Third Reading Calendar 394.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 394, by the Assembly Committee on Rules, Assembly Print Number 6840, an act to amend Chapter 152 of the Laws of 2001.

SENATOR SCHNEIDERMAN: Explanation.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: This is the Article VII language that implements the appropriation of the bills that we passed.

And I believe Senator Balboni wants to be heard on this, and there may be others.

Thank you, Madam President.

THE PRESIDENT: Senator Balboni.

SENATOR BALBONI: Yes, thank you, Madam President.

This is the public protection bill that represents several achievements, not only from the perspective of New York State but, frankly, from the perspective of the nation as

a whole, particularly as it relates to homeland security.

Included in this appropriation is a $367 million pass-through from the federal government. The significance of that is that many of my colleagues, particularly from the City of New York, have recognized that homeland security dollars have not been spent based upon threat but, rather, have been spent based upon pork. That's a shame.

This bill, this appropriation signals a change in that ideology. As a result of Congress's action in the last budget cycle, we now have the urban area security initiatives -- specifically, the City of New York and the City of Buffalo -- receiving a greater share, predicated upon their threat profile. This is a significant step, not only for the State of New York and the brave first-responders in our communities, but also from the national perspective in terms of making us safer.

The bill also does two other things. It continues the hope and the faith that this state can do something that no other

state has been able to achieve in this nation, and that is the development of the first of its kind statewide wireless network system, where first-responders can talk to one another in a way that is clear, that is reliable, and that is timely.

This public protection bill affords $7 million, which is a continuing stream as that project, the largest technology acquisition in the state's history, continues to roll out.

And, lastly, this public protection budget continues something that was begun by Senator Vincent Leibell, who saw the need to provide greater protection for nuclear power plants, particularly Indian Point. Now, in working with Senator Mike Nozzolio, they have gotten the Division of Military and Naval Affairs to appropriate, over several years, over a million dollars for patrol boats to go and provide really necessary security to augment what is out there with the Coast Guard now.

These are great little steps. They reflect our continuing belief that security is

something that must be taken seriously and consistently and constantly.

And I think that, first of all, Senator Volker, your leadership on the conference subcommittee was terrific. But also, you know, Joe Lentol, Assemblyman Joe Lentol. These guys wanted to close, and that was terrific for this. And I think New York is safer as a result of this bill.

Thank you very much, Madam President.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Very briefly. I did not have any questions on homeland security, I just want to make that clear.

The process as has been described by Senators Bruno and Paterson as we're passing the first two bills today, I want to emphasize something on behalf of the people who have been working and watching in sometimes amazement and sometimes puzzlement at the process. And I do want to say something in particularly related to the legal

issue that was alluded to by my colleague on the other side of the aisle.

This is something that I think it's very important for everyone here to take into account. In addition to the political will that Senator Bruno and Senator Paterson spoke about, and the fact that finally, after many, many years, we've gotten the political guts to go ahead and actually work on a compromise budget, this budget took extraordinary artistry in drafting. And I don't want that to go by unsaid.

I've had discussions and arguments, as lawyers have arguments, about the relative merits of the Court of Appeals decision in Silver v. Pataki. But I have to say, as a matter of particular respect to the lawyers who worked on this legislation in this house and in the Assembly, we would not be moving this today, we would not be able to overcome the obstructions that are so easy to find on the road to an on-time budget, if it wasn't for some remarkable work.

And as we look at the bills and look at the additions and the artistry of the

additions and the artistry of what they're calling the set-asides, this is quite an accomplishment. And I think it actually does -- and we've been arguing about this for most of the last year -- this does show a way for us to resolve some of these issues.

And I think that it is possible there will be further court action on it. But I do want to say a special word about that. This is something that is a good piece of lawyering as well as some extraordinary politics to get this done.

I join with Senator Paterson; there are things about the two bills we're passing today that I would do differently. I would authorize more funding for the comptroller to have auditors to audit every school district in the state as fast as possible. That's something that should not be delayed for lack of funding.

But on an overall basis, considering how many compromises have been made -- and I recognize how many compromises, frankly, have been made by conservatives towards views that are more similar to mine --

I have to say that I am quite happy to vote in support of this legislation today, and I'm happy that we have a chance to do it in daylight in the month of March.

Thank you.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Madam President, very quickly. I just want to echo what's been said.

And as somebody who's been here for all the conference committees -- of course Assemblyman Lentol and I, who came to the Assembly together more years ago than maybe I would like to remember -- and we are the last two left in the Legislature, I want to point out, last two in the Legislature who are from the largest freshman class in the history of the New York State Assembly, 1972. We've always worked very well together. And in fact, the members of the conference committee on both sides really did an excellent job.

But I want to say something that's kind of interesting. As we were going through the conference reports -- and of course those of us that were there know that we had

gathered in certain issues as time went on because we were moving so quickly -- there were several issues that kind of floated from one conference committee to another, including the boat, which we said the boat was originally -- the boats, Vin Leibell's boats and Mike Nozzolio's boats. And we finally said: Send us the boats, we'll make sure they float.

Now, those are the boats, by the way -- obviously, we're being a little jocular, but in homeland security it's -- one of the things we've learned is that you've got to really look at the details. And one of the details is protecting our nuclear power plants and a lot of the other areas of our state. And we made sure that that was done in this bill in the conference committee.

The final thing I want to say is that one very interesting thing happened, and my colleagues who weren't there can understand. We got into a discussion about the legal services assistance account and about the district attorneys' tuition reimbursement program. And we were talking

about how the money was gathering and it hadn't been disbursed. So we were suggesting we should draw up an agreement.

And then my counsel whispered in my ear, said, well, we already did have an agreement. Well, where is it? Well, the Assembly never got to sign it.

So we all sat there and we said to each other, why doesn't the Assembly sign it? So the Assembly legislators turned back to the staff and said, Why haven't we signed it? And they said, We don't know.

So anyways, the bottom line is the two-way memorandum of understanding for the distribution of the funds has now been signed. Which people didn't realize for some reason hadn't been signed. But when we got in the conference committee and we all started talking -- and by the way, it's over $11 million that will be divided between the two areas. And, frankly, it kind of sat there because nobody quite realized that it hadn't been signed.

I only point that out because it was an interesting situation for me, because

it showed how sometimes in a process like we are in here, just getting together and trying to make some decisions, in gathering together you find out something very simple can be done. And that happened.

And I only point that out because it was, in my humble opinion, one of the sort of the victories, because we might have gone on for two months worrying about whether we should have another signing, and we realized it was already there.

So I want to thank everybody involved from my perspective. And of course in my humble opinion, this house -- without this house, we would not be about to pass a budget on time, there's no question.

Joe Bruno, more than any other leader I've ever been with -- and I've been with a number of leaders -- has driven this process to make sure it's done. And my heartiest congratulations to Joe. And of course also to David, because David's always been a good friend and, frankly, a good leader in attempting to make this process run.

And so it's a good day for us. And

I think it's a good day for the people of the State of New York even more so, because you have to understand that homeland security, which is part of this, and criminal justice, is so important.

There's only two -- really two basic budgets that have escalated with personnel over the last few years. One of them's the State Police, as well it should be, because we need these people for safety. And the other one is homeland security. And if anything was taught to us about 9/11, we've got to be ready to be protected.

By the way, I just want to say one more thing. In this budget too is a provision that keeps the senior people in this complex, the senior troopers. I think it's -- what is it, 16? I can't remember what it is. Because it's my opinion that their combined seniority is something we desperately need to be protected, in this building, the LOB and the buildings here to be protected.

And I think we accomplished that in our conference committee and made that decision ourselves, to keep them here. So I

think everybody should be very proud of that.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, on the bill.

Madam President and my colleagues, I rise to support this measure and to add thanks to the efforts of Senator Volker and Senator Balboni, Senator Leibell, Senator DeFrancisco, those of us who worked very hard to pro-offer very important criminal justice reforms and to support our efforts to establish and to continue our efforts, to continue an effort to see zero tolerance for violence in New York State.

One of the additions that I'd like to mention that we took a step in the right direction on, and that's expanding Megan's Law. Senator Skelos pushed for Megan's Law a number of years ago. We're further along in our efforts to refine Megan's Law.

And that this measure before us today will ensure an updating of information about those who have been convicted of sexual-predator offenses, and that we will see additional information posted on the web about

such offenders as a result of the legislation we're enacting this afternoon.

That we have taken great strides in protecting crime victims, establishing zero tolerance for violence in New York State, trying to make it more difficult for those who have been convicted of offenses against young children to prey on children again. And that, by and large, I believe that is a very good step taken by this Legislature.

Madam President, we have much more work to do. That we need to find alternative uses for a number of correctional facilities that we have in our state, and that we on this side of the aisle are going to be working continuously this next year to provide those alternatives.

It's a good bill, we support it, we want it to be adopted this afternoon.

THE PRESIDENT: Senator Marchi.

SENATOR MARCHI: Madam President, I want to add my words of encomium to you, Madam President. You have presided with dignity and fairness, and that serves the purpose of each and every member of this body.

But I remember in 1959 we voted the last budget providing for less than a billion dollars. And many things happened between now and then. We've expanded our objectives very widely. There are very few efforts that are made in all of the states. We were the first ones to reward and to help and to propel the artistic in this state, and for many years we were doing more than all the other states combined.

There is so much that has been happening here. And that's why I'd like to remind my colleagues on both sides, all of you make a contribution. All of you can say: I had a hand in what we did.

Senator Bruno and the Majority have the main responsibility under this system. But I remember when Joe Zaretzki -- it only happened in one term, but it did happen. And he lived up with great distinction and in the same spirit that animates the members of this body.

So that when you participate in something like this, it's something that we have honored on both sides of the aisle. And

all of you, you have not wasted your efforts, whether you are for or against an item. Because you've all expressed yourself with dignity, with honesty, with commitment. And that is what 20 million New Yorkers urgently want when they get that finished product.

So I just -- you know, I'm back here, I -- people say, Well, you're still going. Yes, because I enjoy it. I enjoy the spirit that is engendered here, all of us cooperating together.

I see them from the far reaches, don't I, Marty?

So that regardless of where you are sitting or where you are from, you have all made a rich and enduring contribution to the welfare of this state. And you do it so civilly, so elegantly.

I don't -- I've bounced around, and I've been in many of the other states, and I don't see any other state that is even remotely resembling the State of New York. We recognize a wide area, whether it's in studies, higher ed, all of the different aspects of learning, the artistic aspects.

All of these are so important.

So you all make a contribution by your very presence here. And there should be, along with a good spirit of give and take, a feeling of respect and affection that should bind us into one body, which we are when we submit our final product. It may not always meet with anybody's complete -- but if they did, if all of us agreed on every item that was in the budget, none of us would have been doing our duty.

So I don't know how much longer I'll be coming back here, but I've enjoyed every moment that I've been able to get back here and to see people who are animated by the same principles and the same honesty and conviction. And I don't think they're just faking it or anything. I believe that, when push comes to shove, they do the very best they can.

And it's a spirit that I -- just to see -- I'm not going to be saying very much before I got up or after I sit down. But I can tell you, I've enjoyed it. And you've enriched my life, all of you. There isn't a

single member here that I can't say did not, and that you disappointed me. You have made my -- my cup is running over, and I am very, very grateful to each and every one of you.

(Extended standing ovation.)

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

Then the debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could now go to the noncontroversial reading of today's active list.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 114, by Senator DeFrancisco, Senate Print 217,

an act to amend the Vehicle and Traffic Law, in relation to child restraint seating systems.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect March 27, 2005.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 208, by Senator Skelos, Senate Print 487, an act to amend the Penal Law, in relation to establishing the Class E felony.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 217, by Senator Volker, Senate Print 1537, an act to amend the Penal Law, in relation to consecutive terms of imprisonment.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Volker, to explain your vote.

SENATOR VOLKER: Yeah, Madam President, I just want to say that this bill actually was a bill that was initially introduced by Senator Joe Galiber, who was a member of this chamber for many years. And he introduced it as a result of the Happyland -- what was the name of that? -- the fire in New York City in which 80-some people were

killed. And I just want to make that clear, this bill has been around for some time.

We are trying to make a compromise with the Assembly on it. And given the fact that this year we will probably have some time to do some negotiating on criminal justice and other things, other than the budget, we hope maybe we can resolve this.

But this bill, by the way, is not a mandatory bill. It's just a -- it is a potential for consecutive sentences, and it would give the judge the ability to do it. There's no mandate in this bill.

I vote aye.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 217 are Senators Montgomery and A. Smith.

Ayes, 59. Nays, 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 223, by Senator Fuschillo, Senate Print 786, an act to amend the Education Law, in relation to notice.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Parker recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Excuse me. In relation to Calendar Number 223, also Senator Little recorded in the negative.

Ayes, 59. Nays, 2.

THE PRESIDENT: The bill is still passed.

THE SECRETARY: Calendar Number 236, by Senator LaValle, Senate Print 279, an act to amend the Tax Law, in relation to providing an exemption.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 6. This act shall take effect on the first day of a sales tax quarterly period.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 255, by Senator Meier, Senate Print 2490, an act to amend Chapter 706 of the Laws of 1996.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 260, by Senator Nozzolio, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 262, by Senator Meier, Senate Print 2324, an act to amend the Town Law, in relation to increasing the amount.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 285, by Senator Maziarz, Senate Print 3109, an act to amend the Labor Law, in relation to the State Apprenticeship and Training Council.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 309, by Senator Maziarz, Senate Print 1137, an act authorizing how certain casino revenue monies from the Seneca Niagara Casino shall be disbursed.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Padavan recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 370, by Senator Little, Senate Print 1616, an act to reopen the optional 20-year retirement plan.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Madam President, if we could please have the bell rung --

THE PRESIDENT: The Secretary will ring the bell.

SENATOR SKELOS: -- to indicate to the members that we are going to the controversial reading of the calendar.

THE PRESIDENT: We ask all the members to return to their seats. We'll begin the controversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 260, by Senator Nozzolio, Senate Print 1974, an act to amend the Real Property Tax Law.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR NOZZOLIO: Yes, Madam President. Who requested the explanation?

THE PRESIDENT: Senator Krueger.

SENATOR NOZZOLIO: This measure provides a more -- a fairer system of -- thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR NOZZOLIO: This legislation provides a fairer system of determining the assessments, for real property taxation purposes, of wetlands and a mechanism to appeal such assessments.

Currently, in large tracts of land, farmers in particular are the custodians of wetlands. However, those wetlands are added to the value of the property when in fact they may render the property useless for any agricultural-type purposes.

That the land may be designated as a wetland, but the owner of that land suffers a financial loss of market value because the wetland may or may not be recognized appropriately by the local assessor.

This is a process, a proposal that places an opportunity for the owner of the property to adequately pro-offer evidence that would allow an assessor or an assessment board of appeals to review appropriate wetlands for taxation considerations.

THE PRESIDENT: Senator Krueger.

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

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

SENATOR NOZZOLIO: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

So this would only apply to property that's currently designated wetlands by the state DEC? How would the definition of wetlands be applied?

SENATOR NOZZOLIO: A question by Senator Krueger is often -- gets to the crux of the issue.

That there are some wetlands that

are designated. Some are designated on federal maps, may not be designated on state maps. Some DEC maps have wetlands which are not designated on the appropriate Corps of Engineer federal maps. Some may not have maps -- be recognized at all, but be part of wetlands which are under the custodianship of the property owner.

So having the identifiable wetland is still an inaccurate science in this state, and that some may be on it, some maybe not. The problem is that whether you're on the map or not, you still have the custodianship of the wetland as defined by the law, you still have, oftentimes, the inability to utilize that land, and it may affect its market value.

This law allows the assessor -- requires the assessor and the assessment process to take that all into consideration.

SENATOR LIZ KRUEGER: Thank you.

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

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

SENATOR NOZZOLIO: Yes, Madam

President.

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

SENATOR LIZ KRUEGER: Thank you.

Your answer was very helpful, because I think it -- you're right, my question and your answer addressed some of the concerns here that I have with this bill, that we don't have a definition for actually designating smaller wetlands, although there has been a push by environmental groups to get a law passed that would address that.

But in follow-up to that question, you talked about farmland in your example. But am I correct to assume that this bill would be applicable regardless of the use of the land, it would not be unique to farmland?

SENATOR NOZZOLIO: Madam President, the Senator's perception appears accurate, in my view.

SENATOR LIZ KRUEGER: Thank you.

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

THE PRESIDENT: Senator Nozzolio, will you yield for an additional question?

SENATOR NOZZOLIO: Yes, Madam President.

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

SENATOR LIZ KRUEGER: Thank you.

The bill memo says that there's no cost, which raises a question for me. One, would I be correct in assuming there is a cost to localities for training assessors and establishing a new protocol for defining territory as wetlands?

And, two, does this bill specifically, then, offer a lower property tax rate for people who, quote, unquote, document that in fact part of their property is wetlands?

SENATOR NOZZOLIO: Madam President, the answer to the first question is yes. But assessors need to be trained anyway in a variety of different disciplines, so we don't look at this as any additional cost.

But yes, assessors will have to be trained. And this should be part of their training, to recognize the wetlands as they are placed. And that's part of the problem,

is because currently assessors are not trained in this area.

Secondly, the question was so long ago I forgot the question. Would Madam President ask Senator Krueger to repeat the second question.

SENATOR LIZ KRUEGER: Certainly, I'd be happy to repeat the second part of the question.

If this bill defines certain property as wetlands for property tax assessment, does this bill also then lower the property tax on those lands that are assessed under this new definition of a wetland assessment?

SENATOR NOZZOLIO: Yes, Madam President. It's assumed that if in fact the wetland serves to devalue the property, that that devaluation would be considered.

By the same token, I suppose that the assessor could say that somehow the wetland added to the value of the property per se. The assessor could take that into consideration.

SENATOR LIZ KRUEGER: Thank you.

Madam President, on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciated the sponsor's explanation on this bill.

I think it leaves me with a dilemma, because on the one hand I think it would move us closer to a mechanism in New York State where we were actually mapping wetlands, which I think is important and is important for us in follow-up on bills that in fact have been introduced in this house by Senator Marcellino involving clarification of what are wetlands and what are the rules and regulations around them, specifically his bill S2081.

So this bill might move us towards that goal of actually being able to document and map in the State of New York all of these wetlands that we ought to be protecting.

But at the same time, this bill seems to me to be a new unfunded mandate on localities in two ways. One, they would have to, without guidelines from the State of

New York, determine how they were defining wetlands and how they were going to evaluate what was and wasn't wetland in their area through their tax assessment material, but also would then be allowing for a lower property tax value on that land by definition of it being wetland.

I know that actually Senator Bonacic has been quite a champion with the concerns of counties having their lands taken off their tax rolls and what that means to them. And this is perhaps one more area where we in the State Legislature would be dictating to localities that they had to lower their property tax revenue base by taking land off of the tax rolls.

So it raises the question to me of should we be moving forward with an unfunded mandate without discussions with the localities.

I think that ultimately it's a good thing to address the issues of wetlands, the uniqueness and the importance of them to our environment, and to recognize that they are on land all over the State of New York. And so

eventually I could see myself in the position of being prepared to support this bill, because it does try to recognize the differences in this land.

But I think absent our moving forward with the Clean Water Protection and Flood Prevention Act that I mentioned before that Senator Marcellino has sponsored in this house, and without further discussion with the localities about their position on or their estimates on how much they could be losing in property tax revenue, that we would be rushing by passing this bill today.

I see also in your memo a reference to at some point deciding whether the State of New York should in fact replace the lost property tax money to localities. And that's an issue that also comes up before this house in various times and places, the fact that there are districts that have disproportionately large numbers of parks where they can't draw down property tax and should the State of New York do something about that -- the City of New York has disproportionately large amounts of land that

are held by public authorities or government agencies that can't be taxed -- and the loss of revenue from that.

That these are complex issues, and I respect your attempt to go down one road here. But I think, for today, I feel that we ought not to pass this bill without further discussion with the localities, with the environmental groups, and perhaps with Senator Marcellino's committee in relationship to the bill that has been introduced relating to the mapping and regulation of wetlands.

So I appreciate your comments, and I appreciate your effort to try to address this issue. But I don't think this is the right way for us to go legislatively today, so I'll be voting no.

Thank you very much, Madam President.

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

Then the debate is closed.

The Secretary will ring the bell.

Senator LaValle.

SENATOR LaVALLE: Madam

President, to explain my vote.

THE PRESIDENT: We're not on a roll call yet, Senator. I'll call on you in a moment.

SENATOR LaVALLE: Okay.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator LaValle, to explain your vote.

SENATOR LaVALLE: Thank you, Madam President.

I feel very conflicted on my vote on this bill, and listened to the debate and Senator Nozzolio answering questions. And it certainly is well-intentioned legislation.

When I think of the 1st Senatorial District and the boundaries on the north and south being water and the east being water, with wetlands all up and down the coastline -- I often know when we deal with wetland issues, there's a lot of marketplace dynamics. And I

don't know how this legislation will change the marketplace dynamics to either decrease assessments, increase marketability and put greater development pressure.

And so I'm going to take advice my parents gave me years ago: When in doubt, vote no. I vote in the negative.

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

THE SECRETARY: Those recorded in the negative on Calendar Number 260 are Senators Hassell-Thompson, L. Krueger, LaValle, and Leibell.

Ayes, 57. Nays, 4.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Thank you, Madam President.

Is there any housekeeping at the desk?

THE PRESIDENT: No, there isn't, Senator Skelos.

SENATOR SKELOS: Would you please recognize Senator Hassell-Thompson.

THE PRESIDENT: Senator Hassell-Thompson.

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

Madam President, I have a motion at the desk, and I would like to have it called up at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senate Print 2246, by Senator Hassell-Thompson, Concurrent Resolution of the Senate and Assembly proposing an amendment to Article 3 of the Constitution.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. This bill would --

THE PRESIDENT: If the members would please take their conversations out of the chamber later.

Go ahead, Senator.

SENATOR HASSELL-THOMPSON: Thank

you. I could have shouted, but I prefer not to.

This bill would amend the State Constitution by adding a provision that requires that any budget bill to be put in print and available to the members at least three calendar days prior to its final passage.

Current law requires that bills be printed and available to members for at least three days in order to ensure that legislators have the opportunity to read and consider a bill adequately before voting on its final passage. However, current law also allows the Governor to short-circuit this time period with messages of necessity.

This bill would amend the Constitution by prohibiting the Legislature from acting on any bill pursuant to a message of necessity. This pertains to budget bills.

Let me begin by saying that I am pleased -- and I mean this very seriously. I said today in conference that for the first time in the five years that I've been here, that I've truly felt that I was a part of the

legislative process as it pertains to the budget, and that I saw us moving in the right direction.

But while this conference committee is not perfect, we don't yet get an A -- if we gave an A now, then we wouldn't feel that we would have to improve it. So there are still some things that we need to do so that the outcomes that we reach are more satisfactory to both sides. But this is certainly a step in the right direction.

How can we improve the conference committee in the future? We can by increasing the minority party representation on budget subcommittees. We can make sure that all issues we are called on to resolve are addressed in public and not by staff behind closed doors.

And I'm also pleased, at least at this moment, the Legislature is planning to pass budget bills that have been in print for at least three days. Unless budget bills are available to members before we take them up for a vote, it's impossible -- not almost, but impossible for legislators to accurately

review and completely digest them.

This amendment will enable legislators to be better informed and to make more intelligent decisions. I support the Legislature's efforts to enforce for the first time an on-time budget since 18 -- oh, whew. Since 1984, sorry about that -- since 1984. But we cannot lose sight of our real goal, and that is to enact a budget that meets the ends of all of our constituents.

This bill is another step in the right direction, and I hope you will join me in supporting this amendment to the Constitution to ensure that members have an adequate opportunity to do their jobs and to do them well.

Thank you.

THE PRESIDENT: All those Senators in favor of the petition out of committee please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Brown, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger,

C. Kruger, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

THE PRESIDENT: The petition is not agreed to.

Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

A reminder to the members of the Majority that there will be a conference tomorrow at 10:30 a.m. in the Majority Conference Room.

THE PRESIDENT: There will be a conference for the Majority tomorrow morning at 10:30 a.m. in the Majority Conference Room.

SENATOR SKELOS: And there being no further business to come before the Senate, I move we stand adjourned until Wednesday, March 30th, at 11:30 a.m.

THE PRESIDENT: On motion, the Senate now stands adjourned until tomorrow, Wednesday, March 30th, 11:30 a.m.

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