NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 6, 2005

3:13 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: In the absence of clergy, may we bow our heads in a moment of silence, please.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, June 5, the Senate met pursuant to adjournment. The Journal of Saturday, June 4, 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 committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Seward, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Print Number 4639A.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: On behalf of Senator Golden, I move to amend Senate Bill Number 3828B by striking out the amendments made on June 3rd and restoring it to its previous print, 3828A.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Madam President, amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Larkin, page

number 10, Calendar Number 313, Senate Print Number 2352;

By Senator Spano, page number 18, Calendar Number 544, Senate Print Number 3138;

By Senator Spano, page number 48, Calendar Number 1071, Senate Print Number 5120;

By Senator Fuschillo, page number 49, Calendar Number 1086, Senate Print Number 3425A;

By Senator Trunzo, page number 61, Calendar Number 1226, Senate Print Number 5094;

By Senator Golden, page number 61, Calendar Number 1229, Senate Print Number 5150;

By Senator Little, page number 68, Calendar Number 1293 and 1296, Senate Print Numbers 5326 and 5329.

I now move that these bills retain their place on the order of third reading.

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

SENATOR FUSCHILLO: Thank you.

THE PRESIDENT: Senator Skelos.

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

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

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

Madam President, I wish to call up my bill, Print Number 3318, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 433, by Senator Meier, Senate Print 3318, an act in relation to adjusting certain state aid payments.

SENATOR MEIER: Madam President, I now move to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

SENATOR MEIER: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR MEIER: Thank you, Madam President.

I now wish to call up Senator Farley's bill, Senate Print Number 4029, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 943, by Senator Farley, Senate Print 4029, an act to authorize.

SENATOR MEIER: Madam President, I now move to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

SENATOR MEIER: Madam President,

I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR MEIER: Thank you.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Are there any substitutions at the desk, Madam President?

THE PRESIDENT: Yes, there are, Senator.

SENATOR SPANO: I ask that they be read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 43, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 3426 and substitute it for the identical Senate Bill Number 3834, Third Reading Calendar 1001.

On page 45, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 1621A and substitute it for the identical Senate Bill Number 4999, Third Reading Calendar 1017.

On page 71, Senator Volker moves to discharge, from the Committee on

Investigations and Government Operations, Assembly Bill Number 312 and substitute it for the identical Senate Bill Number 80, Third Reading Calendar 1329.

On page 71, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill Number 1685 and substitute it for the identical Senate Bill Number 501, Third Reading Calendar 1333.

On page 72, Senator Winner moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 1079 and substitute it for the identical Senate Bill Number 893, Third Reading Calendar 1340.

On page 72, Senator Maltese moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 6060 and substitute it for the identical Senate Bill Number 2518, Third Reading Calendar 1343.

On page 72, Senator Seward moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 5450 and substitute it for the identical Senate Bill

Number 2525, Third Reading Calendar 1344.

On page 73, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 6284 and substitute it for the identical Senate Bill Number 3200, Third Reading Calendar 1347.

On page 73, Senator Farley moves to discharge, from the Committee on Finance, Assembly Bill Number 7055 and substitute it for the identical Senate Bill Number 4028, Third Reading Calendar 1349.

And on page 73, Senator Meier moves to discharge, from the Committee on Crime Victims, Crime and Correction, Assembly Bill Number 714B and substitute it for the identical Senate Bill Number 5092, Third Reading Calendar 1353.

THE PRESIDENT: Substitutions ordered.

Senator Spano.

SENATOR SPANO: There's a Resolution 2279 at the desk, by Senator Bonacic. I ask that the title be read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bonacic, Legislative Resolution Number 2279, commending the Valedictorians, Salutatorians and Honored Students of the 42nd Senate District, in recognition of their outstanding accomplishments, at a celebration to be held at the State Capitol on June 8, 2005.

THE PRESIDENT: 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 Spano.

SENATOR SPANO: Can we ask the Senate to stand at ease pending the completion of the Rules Committee.

THE PRESIDENT: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:19 p.m.)

(Whereupon, the Senate reconvened at 3:29 p.m.)

ACTING PRESIDENT LITTLE: The

Senate will come to order.

Senator Skelos.

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

ACTING PRESIDENT LITTLE: Reports of standing committees.

The Secretary will read.

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

Senate Print 129, by Senator Trunzo, an act to amend the Real Property Tax Law;

407, by Senator Padavan, an act to amend the Vehicle and Traffic Law;

439, by Senator Larkin, an act to amend the Vehicle and Traffic Law;

753, by Senator Hannon, an act to amend the Vehicle and Traffic Law;

1241A, by Senator Winner, an act to authorize;

2842, by Senator Flanagan, an act

to amend the Executive Law;

3437A, by Senator Golden, an act to amend the Retirement and Social Security Law;

3691, by Senator Maziarz, an act to amend the Real Property Tax Law;

4042, by Senator Saland, an act to authorize;

4103, by Senator Morahan, an act to amend the Environmental Conservation Law;

4306, by Senator Wright, an act to amend the Education Law;

4315, by Senator Oppenheimer, an act to authorize;

4655, by Senator Bruno, an act authorizing;

4793B, by Senator Skelos, an act to amend the Correction Law;

4811, by Senator Skelos, an act to amend the Executive Law;

4836, by Senator DeFrancisco, an act to amend the Civil Practice Law and Rules;

4960A, by Senator Wright, an act to amend the Alcoholic Beverage Control Law;

5024, by Senator Alesi, an act to amend the Vehicle and Traffic Law;

5179, by the Senate Committee on Rules, an act to amend;

5260, by Senator Volker, an act to amend the Parks, Recreation and Historic Preservation Law;

5296, by Senator Meier, an act authorizing;

5355, by Senator Spano, an act to amend the Penal Law;

5375, by the Senate Committee on Rules, an act to amend the Tax Law;

5389, by Senator Maltese, an act to amend a chapter of the laws;

5404, by Senator Skelos, an act to amend the Correction Law;

5470, by Senator Skelos, an act to amend the Executive Law;

And Senate Print 5542, by Senator Spano, an act to amend the Arts and Cultural Affairs Law.

All bills ordered direct to third reading.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Move to accept

the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The report is accepted.

Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

If we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read.

THE SECRETARY: Calendar Number 424, by Senator Farley, Senate Print 1851A, an act to amend the Election Law and the State Finance Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 467, by Senator Larkin, Senate Print 435, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 482, by Member of the Assembly Gantt, Assembly Print Number 7534, an act to amend Chapter 329 of the Laws of 2002.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 615, by Member of the Assembly Pheffer, Assembly Print Number 7710, an act to amend the General Business Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number

677, by Member of the Assembly Lopez, Assembly Print Number 6878A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Dilan.

To explain your vote, Senator?

SENATOR DILAN: Yes, on the bill, to explain my vote.

I just want to thank Senator Marty Golden and Senator Maltese for helping to bring this bill to the floor today.

This bill would impact Greenpoint and Williamsburg of my district, where it would allow developers to take advantage of the 421A tax exemption when they provide for a minimum of 20 percent affordable housing only.

And I also want to thank and congratulate Assemblyman Vito Lopez for

passing the same-as bill in the Assembly.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Dilan will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 56. Nays, 1. Senator DeFrancisco recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 683, by Senator Seward, Senate Print 4321, an act to amend the Insurance law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 690, by Member of the Assembly Magee, Assembly Print Number 6428, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 705, by Member of the Assembly Gunther, Assembly Print Number 6827A, an act to amend Chapter 262 of the Laws of 2002.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 707, by Senator Seward, Senate Print 123, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT LITTLE: Read the last section.

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 779, by Senator Little, Senate Print 4013, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 785, by Senator Seward, Senate Print 4363, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 788, by Senator Leibell, Senate Print 4762A, an act to amend the Public Officers Law.

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 791, by Senator Spano, Senate Print 5206, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 800, by Member of the Assembly Rivera, Assembly Print Number 2972, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number

874, by Member of the Assembly Brodsky, Assembly Print Number 5488, an act to amend the Public Health Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 912, by Senator Robach, Senate Print 4295, an act to amend the Civil Service Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The

bill is passed.

THE SECRETARY: Calendar Number 926, by Member of the Assembly Nesbitt, Assembly Print Number 6435, an act to amend Chapter 672 of the Laws of 1993.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 954, by Member of the Assembly Morelle, Assembly Print Number 1351, an act to amend the General Municipal Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 955, by Senator Little, Senate Print 4911A, an act to amend the Town Law and the Village Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 979, by Senator Skelos, Senate Print 980A, an act to amend the Public Health Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1002, by Senator DeFrancisco, Senate Print 4071A, an act to authorize the Fabius Pompey Central School District.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1007, by Senator Skelos, Senate Print 5342, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Read the last section.

SENATOR MONTGOMERY: Lay it

aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 1010, by Senator Alesi, Senate Print 1075, an act to amend the General Business Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1065, by Senator Savino, Senate Print 4336, an act to amend the Public Authorities Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1082, by Member of the Assembly Lentol, Assembly Print Number 6343, an act to amend the Civil Service Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1084, by Senator Robach, Senate Print 4222, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT LITTLE: Read

the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1122, by Senator Morahan, Senate Print 5339, an act to amend Chapter 744 of the Laws of 1992.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1133, by Senator Wright, Senate Print 5367, an

act to amend Chapter 522 of the Laws of 2000.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1144, by Senator Maziarz, Senate Print 5410, an act to amend the Labor Law, in relation to inclusion.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1152, by Senator Larkin, Senate Print 2351, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Padavan recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1154, by Senator Bonacic, Senate Print 3346, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1154 are Senators L. Krueger, Montgomery and Padavan.

Ayes, 54. Nays, 3.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1156, by Senator Alesi, Senate Print 3585, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1156 are Senators Balboni, L. Krueger, LaValle, Montgomery, Padavan and Saland.

Ayes, 51. Nays, 6.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1157, by Member of the Assembly Magee,

Assembly Print Number 7649, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1174, by Senator Hannon, Senate Print 5323, an act to amend the Surrogate's Court Procedure Act.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1177, by Senator Balboni, Senate Print 3174, an act to amend the General Business Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1171, by Senator DeFrancisco, Senate Print 4342, an act to amend the Estates, Powers and Trusts Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1183, by Senator Flanagan, Senate Print 4987, an act to amend the General Business Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 1187, by Member of the Assembly Jacobs, Assembly Print Number 4248, an act to amend Chapter 631 of the Laws of 1997.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1329, substituted earlier today by Member of the Assembly Burling, Assembly Print Number 312, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Valesky recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1330, by Senator Maziarz, Senate Print 117, an act to amend the Vehicle and Traffic Law and the State Finance Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1331, by Senator Balboni, Senate Print 186, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

SENATOR BALBONI: Lay that bill aside for the day, please.

ACTING PRESIDENT LITTLE: The bill is laid aside for the day.

SENATOR BALBONI: Thank you.

THE SECRETARY: Calendar Number 1332, by Senator Larkin, Senate Print 443, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT LITTLE: Read

the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Serrano recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1333, substituted earlier today by Member of the Assembly Gunther, Assembly Print Number 1685, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 2. Senators Montgomery and L. Krueger

recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1334, by Senator Marcellino, Senate Print 661, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1335, by Senator Hannon, Senate Print 750, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1336, by Senator Fuschillo, Senate Print 783, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Montgomery, to explain your vote.

SENATOR MONTGOMERY: Yes, Madam President, to explain my vote on this.

We have had several instances in my district where teenagers have been arrested or have been accosted by the police in the subway and it's turned out to be a very ugly situation.

And these are young people from a high school that is a specialized high school, so we're not talking about young people who are troublemakers or intending to cause trouble or are intending to evade their legal responsibilities and what have you.

So I'm voting against this because I think that it has a very great probability of falling most heavily on young people, especially young men, when they enter the subway, and particularly those youngsters who participate in athletic activities and leave their schools later than the school hours and may attempt to enter the subway with their student passes, not realizing that they can't use a student pass after a certain hour.

So I've had several incidents in my district, and I think this is a very serious issue, especially for us in New York City. So I'm voting no on this, and I hope my colleagues will join me in voting no.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 56. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1337, by Senator Fuschillo, Senate Print 788, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1338, by Senator Fuschillo, Senate Print 789, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of November.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1339, by Senator Fuschillo, Senate Print 790, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1340, substituted earlier today by the Assembly Committee on Rules, Assembly Print

Number 1079, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1341, by Senator Alesi, Senate Print 974, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first of November.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1342, by Senator Morahan, Senate Print 2384, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Montgomery, to explain your vote.

SENATOR MONTGOMERY: Yes, Madam President. As far as I understand this legislation, it would require five members of the parole board to be present in any situation where someone is before the parole board who's been convicted of a homicide. Currently the law, I believe, requires three members.

There is no way that any person coming before the parole board can require the members of the parole board to be present. And therefore, if there is no other reason that that person would not be eligible for

parole except that there is one of five members absent or two of five members absent, out of their control, they would then be denied based on that technicality.

So I'm voting no and I hope that my colleagues will also vote no on this legislation.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1342 are Senators Diaz, Gonzalez, L. Krueger and Montgomery.

Ayes, 53. Nays, 4.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1343, substituted earlier today by Member of the Assembly Lentol, Assembly Print Number 6060, an act to amend the General Municipal Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1344, substituted earlier today by Member of the Assembly Magee, Assembly Print Number 5450, an act in relation to permitting.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1346, by Senator Wright, Senate Print 2986, an

act to amend the Uniform Justice Court Act.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1347, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 6284, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator LaValle recorded in the negative.

ACTING PRESIDENT LITTLE: The

bill is passed.

THE SECRETARY: Calendar Number 1348, by Senator Skelos, Senate Print 3713, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT LITTLE: Read the last section.

SENATOR LIZ KRUEGER: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 1349, substituted earlier today by Member of the Assembly McEneny, Assembly Print Number 7055, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number

1350, by Senator Little, Senate Print 4069A, an act to amend the Public Officers Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1351, by Senator Leibell, Senate Print 4582, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The

bill is passed.

THE SECRETARY: Calendar Number 1352, by Senator Brown, Senate Print 4776, an act to amend the Economic Development Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1353, substituted earlier today by Member of the Assembly Pheffer, Assembly Print Number 714B, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first of September.

SENATOR SALAND: Lay it aside.

ACTING PRESIDENT LITTLE: The

bill is laid aside.

THE SECRETARY: Calendar Number 1354, by Senator Spano, Senate Print 5542, an act to amend the Arts and Cultural Affairs Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 3. This act shall --

SENATOR LIZ KRUEGER: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

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

SENATOR SKELOS: Thank you, Madam President. If we could go to the controversial reading of the calendar.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will ring the bell.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, I would like the record to show that -- I know there is no consensus changing

of our votes when we make an error or miss a vote, but I would like the record to show that I would have voted no on Calendar 1341. I inadvertently missed my opportunity to vote no on there.

And I also would like to, if I could, I would like the record to show that I would have voted yes -- I inadvertently voted no -- on Calendar 1065, Senator Savino's bill. So I would just like the record to show that.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator. The record will so reflect.

The Secretary will read.

THE SECRETARY: Calendar Number 707, by Senator Seward, Senate Print 123, an act to amend the Criminal Procedure Law.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT LITTLE: Senator Seward, for an explanation.

SENATOR SEWARD: Certainly, Madam President.

This bill is designed to facilitate both the investigation and prosecution of

insurance fraud in New York State by authorizing fraud investigators of the Insurance Department to execute arrest and search warrants.

Under current law -- here's the problem. Under current law the Insurance Fraud Bureau investigators, who are ex-police officers with a great deal of investigation experience, they are unable to act independently in the execution of such warrants. They have to rely on other police agencies to carry out that function for them.

And so it's a situation where they get so far in an investigation -- very often working in conjunction with other local police agencies, but not always. They get so far with their investigation; then, in obtaining the search or an arrest warrant for insurance fraud, they then have to rely on some other police agency to carry out those warrants.

The problem is, just think about it, they -- once this warrant has been issued by the court, the insurance fraud investigators then have to look up a local police agency. Think about the frustration of

a local police chief dealing with a number of other serious crimes, perhaps having a number of officers out on sick or disability, having to break away an officer who's performing other functions to execute a warrant for the Insurance Department.

And very often time is of the essence in apprehending a suspect or obtaining evidence through a search warrant.

So this bill would give the fraud investigators the authority to independently execute search and arrest warrants, thereby facilitating the apprehension of criminals engaging in insurance fraud.

And I might point out, of course, these -- it could either be a search warrant or arrest warrants -- are issued by a court of law. And simply this bill deals with who's going to carry out those warrants.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger.

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

ACTING PRESIDENT LITTLE: Will the sponsor yield?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT LITTLE: Thank you.

SENATOR LIZ KRUEGER: Under existing statute, do insurance fraud investigators already carry guns?

SENATOR SEWARD: They are peace officers under the law. They would continue to be peace officers.

But as I pointed out, they are for the most part former police officers, very often retired. And if they have a, you know, permit to carry a weapon, they continue to do so and to carry out their functions as an insurance fraud investigator.

SENATOR LIZ KRUEGER: Thank you.

Madam President, if the sponsor would continue to yield, please.

ACTING PRESIDENT LITTLE: Thank you.

Will the sponsor continue to yield?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT LITTLE: Thank

you.

SENATOR LIZ KRUEGER: You referenced in your memo and in your explanation that some number of insurance fraud investigators are retired police. Is that a requirement of the job? I mean, is there some requirement that to be an insurance fraud investigator, slash, peace officer you have to have previously been on the police force somewhere?

SENATOR SALAND: Madam President, I'm not aware of any statutory requirement. But that is the policy of the Insurance Superintendent, to only hire those with a certain number of years of investigation experience with a police agency.

SENATOR LIZ KRUEGER: Thank you.

Thank you, Madam President. I'll speak on the bill.

ACTING PRESIDENT LITTLE: Thank you. Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you. I want to thank the sponsor for his explanation.

And here's my dilemma with this

bill and several others, actually, that went through today or are about to be discussed. We now have technically 79 different categories of peace officers in the statutes under "peace officer," Criminal Procedure Law Section 2.10 in the State of New York.

And since several of these statutes actually list multiple categories in different counties, I'd argue we have far more than 79 different categories of peace officers.

And many of them have the right to carry guns. Or in fact, the way the law is written, once they have peace officer status then they may separately go forward to get gun permits.

And now with this bill we're saying we also want to allow state employees or local -- in some cases municipal employees, although in this bill it's state employees -- who are recognized as peace officers who may or may not carry guns and who may or may not previously have been police officers to have the authority to go and get warrants and arrest people.

My concern is that the State of

New York has walked down a road that I'm not sure it ever intended to of establishing precedents. And this is not the first, and I fear it won't be the last, of creating the equivalent of militias within different state and local agencies.

And so I suppose one of my reasons for objecting to this bill, and why I won't vote for it and hope my colleagues will think about it, is we have many state agencies who investigate criminal activity. In this case I think we would agree it's white-collar criminal activity, insurance fraud. And there are many state agencies that are involved in the regulation of our laws or the review of our laws or the review of people's filings under our laws, whether it's for Tax and Finance or the Insurance Commission or the State Education Department, who oversees the licensing of many professions, or our Office of Temporary and Disability Assistance, Mental Health.

It's an endless group of state agencies that have employees who are out there monitoring to make sure our laws are followed,

ensuring that regulations are met, reviewing paper trails and, yes, in many cases perhaps uncovering illegal activities. That's what we want them to do.

My concern is that did we really want them all to eventually be their own police department, with their rights to issue warrants and arrest people and carry guns, and potentially be operating independently of and without coordination with the actual police departments that we think are the people who issue warrants and make arrests and carry guns.

And so when I look at this bill or a bill that was recently passed on the Department of Tax and Finance, or a bill that's coming up on juvenile justice, I have to say, why is New York State going down this road?

I would argue -- and I understand the sponsor's concern. You've gotten this far with an investigation, you think you have found someone who is committing a crime, you want to stop them from going forward and you want to start the wheels of justice moving.

And I understand the argument that we might all have our own complaints about our police are overwhelmed and we can't get their attention fast enough or they have multiple priorities.

But I really can't support the argument that in the absence of perhaps not having enough police, we're creating mini-police forces for people who haven't necessarily had the training to actually police, aren't under the authority of our state police or our local police, and we're calling everyone a police officer, we're letting everybody who becomes a peace officer potentially get a gun. And now we're moving forward and saying, Well, we call them peace officers, we let them have a gun, we might as well let them do warrants and arrests.

And I think that's a very, very dangerous road that we're going down. And the fact that we've got over 79 of these categories already in state law confirms for me that we aren't thinking this through.

Again, I look through the list of the existing peace officers -- and not all of

them have the rights that you're asking for in this bill to issue warrants and make arrests. But I'm still not convinced why park rangers need these powers or why bridge and tunnel officers need these powers or why dog control officers need these powers, or transportation supervisors. It's really -- or people who work in hospitals or colleges.

I certainly hope we never find ourselves in a situation where we're having shootouts in hospitals or at colleges or even in a dispute over an insurance fraud case.

But it seems to me we're in a much better place to have less problems and less risks to our population and to our employees if we're not setting up armed militias, so to speak, of peace officers with many of the authorities of police without being police.

So while I empathize with the sponsor's desire to ensure that when the Department of Insurance moves forward and finds that someone is appearing to be committing insurance fraud that you want to act quickly, you want to act appropriately -- we certainly want to stop them from continuing

to commit fraud or violate other insurance laws -- I have to say I can't support this bill and the precedent it continues to move forward on.

And I hope my colleagues will think about the impact of continuing to create these mini-police forces throughout state agencies and local agencies. I'll vote no.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Krueger.

Senator Volker.

SENATOR VOLKER: Thank you, Madam President.

You may be right in certain cases, but, Senator, on this one you're barking up the wrong tree, as the saying goes.

First of all, this doesn't make anybody peace officers. They're already peace officers. What's happening in -- this is mostly New York City. What's happening is that a number of the people who enforced the Insurance Law and Taxation and Finance were killed in the World Trade Center disaster.

Since then the New York City

police, because of their added duties -- particularly, I'm saying, New York City. Buffalo has a similar problem, but particularly New York -- and there aren't a lot of these people. There aren't a great many.

And by the way, peace officer status does not enable you to carry guns. I want to make that clear. In fact, what's happening is even if you get a license, some of the agencies are not allowing these people to carry guns. Virtually all of the Insurance and Taxation investigators now have law enforcement training.

And by the way, neither Taxation nor Insurance executes warrants or issues warrants. The warrants are issued by somebody else. They just execute them.

The problem they have is -- and as Senator Seward said, they can't get police officers to go with them anymore. So what's happening is they are not able to deal with certain issues, and in some cases they lose people. That is, they lose perpetrators.

And remember, insurance stuff in

New York City is pretty tough stuff. I mean, you got a ton of people, let's face it, from New Jersey. We know that. We have a ton of people who have been doing fraud stuff out of New Jersey, and the result has been some really bad problems for them.

And they just don't have time. They try to cooperate with the local police departments on a regular basis, but their problem is it's hard to get New York City police because they're so busy doing security things and of that nature.

You probably are right that we could argue that there probably are maybe too many peace officers. We create very few peace officers anymore. This has nothing to do with that. This has to do with the execution of warrants issued by judges or in conjunction with the department.

Now, in major cases they can get all kinds of police officers to go with them, but in the fairly minor cases it's hard to do. This is really, though, a result of 9/11, because the whole system since then has changed. Police officers just don't have as

much ability to go with people.

I tell you, another group is the SLA. The SLA has a difficult problem too -- that's the State Liquor Authority -- because it's hard to get police officers to go with them because they're so busy doing other things.

In Buffalo the problem is we've cut down the police department so much they don't -- not only they don't have the time, they don't have the manpower.

So really what you're doing here is, to my way of thinking, you are giving these departments the chance to do things that benefit taxpayers and avoid the problem with having to coexist, in a sense, with police departments.

However, if they're very serious situations, they've got to get the police anyways. Because whether they're ex-police officers or not, and most of them are, they're still going to want people there to help them, because some of these people are very dangerous people.

So the answer, I guess, is though

you may have a point that there may be too many peace officers, that isn't the issue here. The issue is what they can do without having to collaborate with law enforcement people themselves.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. To follow up on the bill.

I appreciated Senator Volker's comments. I would argue -- I did understand these were peace officers, we were expanding their purview.

I would argue perhaps the real question, given your arguments, is that we perhaps need to evaluate whether we need more police officers and how we assign them rather than creating other entities and giving them police powers.

I agree with you completely on the SLA. We have serious problems getting the SLA to respond to innumerable issues in New York City and in my own district.

And finally, for the record, having

grown up in New Jersey, I object to the slight on the people of New Jersey. Thank you.

ACTING PRESIDENT LITTLE: Is there any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 707 are Senators L. Krueger and Montgomery.

Those Senators absent from voting: Breslin, Brown, Duane and Schneiderman.

Ayes, 52. Nays, 2.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 788, by Senator Leibell, Senate Print 4762A,

an act to amend the Public Officers Law.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT LITTLE: An explanation has been requested, Senator Leibell.

SENATOR LEIBELL: Madam President, this bill would amend Section 2A of the Public Officers Law to allow municipal sanitation employees with five or more years of service to reside in a county that is contiguous to a county which is contiguous to the municipality in which they are employed.

It permits, in particular, sanitation workers to enjoy the same residency rights, for instance, as other New York City employees, including other uniformed services.

ACTING PRESIDENT LITTLE: Thank you, Senator Leibell.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. Through you, if Senator Leibell would yield for a question or two.

ACTING PRESIDENT LITTLE: Thank you.

Senator Leibell, do you yield?

SENATOR LEIBELL: Yes.

SENATOR MONTGOMERY: Yes, Senator Leibell, you are exempting those employees who have five or more years of service; is that correct?

SENATOR LEIBELL: That's correct.

SENATOR MONTGOMERY: Would those be the higher-income, as you -- the more years you serve, the more income --

SENATOR LEIBELL: I would assume that's so. Because, yes, of the longevity, they would have had more income.

SENATOR MONTGOMERY: And they would have started out as fulfilling the residency requirement. In other words, when they were first hired they were residents and now they elect to move out?

SENATOR LEIBELL: That's correct, Senator.

SENATOR MONTGOMERY: All right. Do we have an idea -- Madam President, through you, if the Senator would continue to yield.

ACTING PRESIDENT LITTLE: Senator Leibell, will you continue to yield?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT LITTLE: Thank you. Senator Leibell yields.

SENATOR MONTGOMERY: Senator Leibell, how many people are we talking about who fit the category right now, as we speak, and who would be covered by your legislation?

SENATOR LEIBELL: I don't have an estimate on that.

SENATOR MONTGOMERY: All right. And just one last question. Senator Leibell, this obviously is a --

SENATOR OPPENHEIMER: Leibell.

SENATOR MONTGOMERY: That's what I said, Leibell. Didn't I say Leibell?

I'm sorry, let me make myself more clear. Senator Leibell.

(Laughter.)

ACTING PRESIDENT LITTLE: Senator Leibell, do you yield?

SENATOR MONTGOMERY: Are you listening?

SENATOR LEIBELL: Yes.

SENATOR MONTGOMERY: Senator, would this request be because there are so many of these employees who have currently

moved out and are now being designated as --

SENATOR LEIBELL: No, Senator, because they're currently not allowed to.

This is really -- and I have an idea, but I can't establish this in any numbers because it's impossible to do. I have an idea we're talking about a very limited group of people who would wish for this flexibility in their housing. But basically it's to give them parity to what others have.

SENATOR MONTGOMERY: Thank you. Thank you, Senator.

Madam President, on the bill.

ACTING PRESIDENT LITTLE: Thank you. Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes. As you know, there are a number of us in the Legislature who represent New York City who have particular concerns about the fact that the uniformed employees should be residents of the City of New York. And in fact, we would like to see that across the board and uniformly enforced.

What Senator Leibell's bill does is establishes a category of people who would

automatically be eligible to in fact move out of the city.

Now, I am certainly -- I have no problem with people who want to move on up, as they say. They want to move on up to Westchester and up to Orange and up to those counties above New York. But as they move up, I think they should move out of those jobs. We would like to see those go to people who live in the city, who want to remain residents of the city and to remain tax-paying contributors to the vitality and the life of the City of New York.

So I would hope that my colleagues on both sides of the aisle who represent New York City, our constituents deserve the jobs that these people who want to leave the city are looking to hold onto, even though they're no longer -- they no longer want to be residents of New York City.

So I'm going to oppose this legislation. And I hope that my colleagues, especially those of us who represent New York City, will join me in opposing this move.

ACTING PRESIDENT LITTLE: Thank

you, Senator Montgomery.

Senator Savino.

SENATOR SAVINO: Thank you, Madam President.

I rise actually in support of this bill. And it pains me to disagree with my colleague Senator Montgomery, but I'm going to try and shed a little -- a different perspective on what this actually means.

The residency requirement for city employees was negotiated and passed in the 1970s in an effort to prevent middle-class flight from the outer boroughs when the city was in the midst of a fiscal crisis. At the time all city employees were required to become city residents, upon the hiring of new people. Anybody who was already on the city workforce was grandfathered in.

Over the years, the city has routinely waived that residency requirement for different titles, based on recruitment and retention. And while there has never been a difficulty with recruitment and retention with respect to the sanitation workers -- because it is considered one of the best jobs in the

city. Whenever they give an exam, they may have 400 positions and you can get 3,000 people that will show up to take that test.

The bigger problem is not recruiting from outside, it's the fact that New York City employees are not paid a decent wage enough to purchase a home in New York City anymore. So what we have is people who originally were city residents when they took the job, and after five years on the job, even though they may have reached the highest point of the pay scale, they don't earn a sufficient salary to be able to purchase a home in Queens or Brooklyn or even Staten Island anymore.

So what they have done is they've opened up the areas where city employees -- not just sanitation workers, but many of them -- can live. So first it was Nassau and Suffolk County. But my colleagues who live in Nassau and Suffolk will tell you, it's very difficult to buy a house there on a public employee's salary.

Then they opened it to Westchester and Rockland, and that also went, you know, the way -- where they weren't able to purchase

homes.

Now we have New York City employees who are living on the edge of Orange County, in Senator Bonacic's district and Senator Morahan's district, and they're traveling an hour and a half, an hour and 45 minutes to their jobs in New York City.

So when the sanitation workers ask for the ability to move beyond, it's not because they want to take their money from New York City and go somewhere else. The fact is they can't buy a house in the communities that they work in. And in addition --

ACTING PRESIDENT LITTLE: Senator Padavan.

Excuse me, Senator Savino. Senator Padavan?

SENATOR PADAVAN: No, that's all right.

ACTING PRESIDENT LITTLE: I'm sorry, Senator.

SENATOR SAVINO: One other thing that people may not be aware of. New York City employees are required to pay the equivalent portion of city tax if they live

outside the City of New York. So we don't actually lose that income tax from them. It's a section of the State Finance Law, it's Section 1127. So they have to pay the tax.

They're allowed to live outside, and only in certain titles and only in certain places. And if they move without letting the city know and they do not have a waiver of residency requirement, they do not have due process rights with respect to that and they can be terminated immediately without even a hearing.

So I'm going to vote in favor of this, although I recognize the concerns of my colleagues. Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Savino.

Senator Padavan.

SENATOR PADAVAN: Thank you, Madam President. Just to clarify a couple of the points that have been raised so far.

We have a memo in opposition from the City of New York in which they tell us there are 4,200 New York City sanitation employees that currently have five or more

years of service that would meet the threshold of this legislation. So we're not talking about a very limited number, we're talking about a large number.

Now, the issue of economically buying a house and living in New York City that's been raised by Senator Savino seems to fail on two bases.

First, we have many sanitation workers at the entry level in the sanitation department living in New York City, in my district and I'm sure in other New York City districts.

Now, these are the upper echelon, meaning they're making more money. Therefore, the logic of their being able to afford to live in New York City is enhanced. They have more money. So the economic factor kind of falls by the wayside when you look at it in that perspective.

Now, the third issue is this. If we have a snowstorm in the City of New York, we don't want those who are at the supervisory level, particularly, to be up in Putnam County and not be able to get to New York City so

they can plow our streets and supervise those who are responsible to do that. With all due respect to Putnam and elsewhere.

They can already live in Nassau and they can already live in Westchester under current law. That's far enough. If you want to work for the City of New York, then live, if not in the City of New York, within a reasonable distance of the City of New York so you can perform your duties.

ACTING PRESIDENT LITTLE: Thank you, Senator Padavan.

Senator Krueger.

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

ACTING PRESIDENT LITTLE: On the bill.

SENATOR LIZ KRUEGER: I agree with Senator Padavan. Most of us in this room, wherever we live, New York City or outside, know we have stood up to fight for residency requirements for people who work for our local and municipal governments because it's good for the communities and it's a win-win.

There is no shortage of people applying to be sanitation workers or wanting to be sanitation workers, as Senator Savino pointed out in her own statements. This is not a bill where the locality is asking for this. The City of New York Mayor is officially opposed, on record. The City Council has not called for this.

This is a bill that would, over time and through precedent, expand a scenario where jobs that are done with taxpayers' dollars in New York City that ought to be provided to people who live and work in the City of New York, it would violate that principle.

I would agree with Senator Savino there have been historical reasons why New York City made exceptions and changed the rules at the request of the elected officials in New York City over time. But I think one of the things we learned during these years is that those are bad precedents. And we need to understand the importance of grandfathering in people who already took jobs with the deal.

But I would argue that, in future,

sanitation workers who are hired should live in the City of New York. Police officers, fire officers, teachers.

Yes, we have a housing crisis. Over and over again I talk about that fact, and over and over again I highlight that if you want to pass a law that has local impact for the City of New York and is being requested by the City of New York, we'd repeal the Urstadt Law, giving New York City government back the power to make its own decisions over housing, rather than holding New York City housing policy hostage to this Legislature.

So if we're going to make a change that impacts positively on the City of New York and the working people of the City of New York, I would argue not to pass this bill but, rather, to move repeal of the Urstadt Law and allow the City of New York the power to attempt to do something about protecting its limited and shrinking base of affordable housing and expanding a new universe of affordable housing so that the workers of the future for the City of New York can work and

live in the city.

And it's not just a question of the taxes that they pay as part of their employment. As we all know, you spend, particularly as a working person, a disproportionate share of your total revenue in your immediate community. So when the workers of the City of New York or any other part of the state don't live in the communities where they draw their salaries from, most of their disposable income is then not being spent where they're working, with taxpayers' dollars paying them.

So I urge that we all vote no on this bill. Because I think we can identify, no matter where we live in the State of New York, that this is the kind of precedent we would generally not support for our own communities, whether it's the City of New York or anywhere else.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Krueger.

Senator Leibell.

SENATOR LEIBELL: Yes, thank you,

Madam President. Possibly to clarify a few points.

Senator Padavan, because there are a certain number of employees who would be over five years doesn't mean that everyone wants to move. This allows for the possibility that some people who may wish to will be able to.

And I should point out that over the course of years I've carried this type of legislation before. I've carried it in the other house when I served in the Assembly. When we talk about freedoms, I don't know why anybody should be an indentured servant. If they wish to live in another community, they should be able to live in another community.

In fact, people in my very beautiful home county of Putnam who work there for the government live in all sorts of other counties. Some of whom live in the city and do a reverse-commute. Some live in Westchester, some in Putnam.

With respect to those who hold critical jobs, let me assure you that the police and firemen who live in my district and

who work for New York City get to their jobs. 9/11 established that. They were there, and I attended many funerals for them. They were there and they did their jobs.

So I find, frankly, nothing wrong with being able to live where you choose. And it's logical that as people go up -- and the five-year requirement was requested by the Governor in his veto message last year. As people go up and have seniority in a job, younger people, they're going to have larger families, my area or other people's areas -- Long Island may be more affordable than many areas in the city. But to me it seems a reasonable thing, it seems a fair thing -- they're still going to be paying income taxes to New York City -- to allow them the opportunity, as most Americans have, to live where they wish to live.

ACTING PRESIDENT LITTLE: Thank you, Senator Leibell.

Senator Parker.

SENATOR PARKER: Yes, Madam President, on the bill.

ACTING PRESIDENT LITTLE: Thank

you. On the bill.

SENATOR PARKER: I find myself in the unusual circumstances of agreeing with Senator Padavan today and disagreeing with my good friend Senator Savino.

I think this bill is something that is -- it would be, honestly, just bad. And I understand Senator Leibell's concerns, and I have some appreciation for what he's trying to do for workers everywhere.

I don't think that anyone in this state is an indentured servant -- except for probably some members of my staff, but we'll talk about that later.

But I think that one of the problems that we do have is that this creates a slippery slope, as we call it in public policy terms. That today it's the sanitation workers, tomorrow it will be the police department, then the next day the fire department, then the teachers and then other clerical workers. And before we know it, you know, significant numbers of the people who work and draw income out of New York City will not be living there.

And as Senator Liz Krueger indicated, that has an impact not just on taxes that they pay directly but also disposable income that they and their families pour into the communities that they live in. And that becomes a very dangerous indication.

Senator Leibell indicated that there are a number of people all throughout the state, and I think he's right, that live in one county and travel to other places. But let me assure you that the numbers of people who live -- who work inside of New York City and live other places is far greater than those -- or the numbers of people who live outside of New York City but work and draw their income from New York City is far greater than those who live in New York City and reverse-commute out to the suburbs. That's simply just the mathematics. And so when we look at the large number of mathematics, those numbers work against New York City.

The other issue as it relates to workers getting to their jobs, I think that 9/11, you're right, points to a good example. But it is apples and oranges to what Senator

Padavan spoke of, when you talk about sanitation workers having to get to the city in the middle of a snowstorm.

And let me tell you that when we have 2 or 3 feet of snow or more in New York City, there's typically larger numbers of inches of snow in the suburbs. And in those cases it becomes very, very difficult for people to travel. And oftentimes they're not able to even get into the city, let alone get around the city.

And so for those reasons and because both the Mayor and the City Council have not responded to this, we should be all voting no to this legislation. We should allow sanitation workers to live in the city. And if we want to help them -- as we do want to help them -- buy houses, then I implore you to -- you know, not only should we repeal the Urstadt Law, but we should also figure out some other ways to create affordable housing programs for all of the people of the state of New York.

Housing is the biggest issue not being talked about in this legislation, and

not just in relation to New York City but all over the state. I'm sure many of my colleagues, particularly on Long Island, would love to see, you know, home-buyer programs for all sorts of categories of our constituents. And so let's talk about that. I'm eager to work on those issues.

But I think that this is not -- that this creates a slippery slope that will cause the financial ruin of the City of New York.

ACTING PRESIDENT LITTLE: Thank you, Senator Parker.

Senator Oppenheimer.

SENATOR OPPENHEIMER: I don't want to keep belaboring this point. I'm siding with Senator Savino.

This is an equal opportunity problem. It is not a problem just of New York City. I represent 18 communities. All 18 have nonresidency rules for employees. Because we simply -- I mean, let's face reality. We all want to see affordable housing. We all want to see low-income housing being built. And it's not being

built.

And there's a lot of very good reasons for why it isn't being built. Partially it's because the cost of the land, the real estate is so high that it's very hard to bring in a developer who's going to put in housing that he could build a mansion and make more money on that one mansion than on the 20 low-income housing apartments that he put in.

I mean, you have to face reality. I was not happy when I was mayor of Mamaroneck 21 years ago, up to 28 years ago, and my entire police force was up in Putnam, was in Fishkill, was in Rockland. And now they can't even be there because it's just gotten too costly, so they keep moving farther and farther away. And it's an unfortunate situation.

I don't have the answers. I work with a lot of affordable housing groups in Westchester County. It is a tough nut to crack. And as long as we do not have an answer -- and we don't -- we have to permit this legislation. Because people have a right

to live in an area where they might get a little grass and have a little plantings and do a few tomatoes and a few basils. And we really are not in a position to tell them where they may or may not live.

So I am siding with my good friend Senator Savino.

ACTING PRESIDENT LITTLE: Thank you, Senator Oppenheimer.

Senator Diaz.

SENATOR DIAZ: Thank you, Madam President. Would the sponsor yield for a question.

ACTING PRESIDENT LITTLE: Will the sponsor yield for a question, Senator Leibell?

SENATOR LEIBELL: Yes, Senator.

ACTING PRESIDENT LITTLE: The sponsor yields.

SENATOR DIAZ: Senator, I heard you saying two statements. First you said if a person wished to live in another community, he should be allowed to do so. And there is nothing wrong by allowing people to live wherever they want to choose to live. You

made those two statements.

SENATOR LEIBELL: Yes, I believe people should be able to live where they wish to live.

SENATOR DIAZ: Wherever people want to live.

SENATOR LEIBELL: You agree with me.

SENATOR DIAZ: I just want to ask you a question on that. Maybe for me to agree with you all will depend on your answer of what I'm going to ask.

Do you think that statement that you are making should apply to us?

SENATOR LEIBELL: To everything?

SENATOR DIAZ: To us, here.

SENATOR LEIBELL: Well, we live in our districts, if that's your point.

SENATOR DIAZ: No, no, no. You stated, Senator, if a person wish to live wherever they choose, they should be allowed to. If anybody wants to live wherever they want to live, you're saying they should be allowed to do so.

My question to you is, being a

Senator, do you think that statement that you're making should apply also to us here?

SENATOR LEIBELL: Well, we do live where we choose to live.

SENATOR DIAZ: No. No, no, no. The question -- the statement that you made, Senator, that you made, you said that if a person -- a person should be allowed to live wherever they want to live.

SENATOR LEIBELL: Senator, if --

SENATOR DIAZ: My question to you, should that statement -- should that statement apply to us here too?

SENATOR LEIBELL: Senator, if you're trying to tell me you'd like to move out of your district --

(Laughter.)

SENATOR DIAZ: No, I -- who knows?

SENATOR LEIBELL: I know some realtors who could help you.

SENATOR DIAZ: No, no. Through you, Madam President.

ACTING PRESIDENT LITTLE: Yes, Senator Diaz.

SENATOR DIAZ: I'm just -- I'm just referring to the statement. Because you people, you are supporting -- you're supporting --

SENATOR LEIBELL: There certainly are, Senator, if I can respond to you -- and maybe I know where you're going, maybe I don't. But there clearly are limitations. I think the president of the United States should live in this country. I think the governor should live in this state, and I think we should live in our districts.

For the average person, police and fire, which you have now in New York City now who are able to live in other areas, just as my deputy sheriffs in my area can live up in Columbia County -- and many do, north of me, because it's more affordable for them -- I don't think that's unreasonable.

SENATOR DIAZ: Through you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

SENATOR DIAZ: But sanitation workers who draw their salary in my district,

they should live wherever they want to live outside of the area?

SENATOR LEIBELL: I think they should.

SENATOR DIAZ: So firemen, police officers and teachers, they should live wherever they want to live?

SENATOR LEIBELL: Yup.

SENATOR DIAZ: But not us.

SENATOR LEIBELL: I think we should live in our districts.

SENATOR DIAZ: Okay. But not them.

SENATOR LEIBELL: I think we're in a different position.

SENATOR DIAZ: Are we having a double standard here?

SENATOR LEIBELL: No, Senator, we have constitutional offices which impose some different standards and responsibilities.

SENATOR DIAZ: Okay. Through you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Leibell, do you continue to

yield?

SENATOR LEIBELL: I do.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR DIAZ: There was another statement made -- there was another statement made here on this floor. And the statement was this is -- I think it was made by -- by Senator --

SENATOR OPPENHEIMER: Oppenheimer.

SENATOR DIAZ: I think that she made a statement, this is an equal opportunity, she said equal opportunity for a person to live wherever they want to live. By a Senator.

Where is -- where is the equal opportunity for those residents of my district that they don't make the salary, they don't make the money that a sanitation worker makes, or a police officer or a teacher, and they would like to move to a better community, where is the equal opportunity for them?

SENATOR LEIBELL: Well, Senator,

I think -- and it's a broad public policy issue, Senator Oppenheimer addressed it, the crisis we have in our communities of affordable housing. It's not just New York City, it's in our districts. And it sort of creeps up and becomes -- what in Senator Oppenheimer's district, in my district is affordable is not in the next district north of us.

But it is a major public policy issue. The issue as to -- I can't address the average person in my district or your district, the affordability. It's quite possible that there are some people who are very, very wealthy who may live in your district and choose to live there and don't work for the sanitation department and therefore make more money, maybe. I don't know that. I have no way of knowing that.

All I'm saying is in this very limited area, for public service employees, public sector employees, they should -- in this case, sanitation workers -- have the opportunity to move around and have that degree of flexibility. You and I may disagree

on that; apparently we do. But that's my position.

SENATOR DIAZ: On the bill.

ACTING PRESIDENT LITTLE: Yes, Senator Diaz, on the bill.

SENATOR DIAZ: I think that it is very unfair that people comes to the city, to our neighborhood, draws a salary, a police officer -- my daughter is a police officer. My daughter is a sergeant in the police department. And she's married to another sergeant. And they both make good monies. They both, my daughter and her husband, they both make good salaries. They're both sergeants in the New York City Police Department.

But you know what? They come to the city, they do eight hours, whatever, they draw these good salaries, and at night they go to a good place upstate, have their children attend a beautiful school, good education.

Meanwhile, our community, our people cannot afford that. And our children, they have to go to those public schools in the city that have been abandoned by the system.

And it's not fair for people to do that. I think that the only way that we will stabilize our communities is for people who works in our community to stay in our community. As I am forced, we as Senators, as I am forced to live in my community, everyone else should be also forced to live in that community where they work and where they draw a salary. It's not fair to come to the city, take some money out of the city and go back to all your districts to spend the money up there.

I will vote no on this bill.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Is there any other Senator who wishes to be heard?

Senator Montgomery.

SENATOR MONTGOMERY: Madam President, just a reminder. I'm looking at your law, the bill that you have today on our calendar. And we all voted in support of it, of course. And it's -- the Public Officers Law states that a person holding a civil service position --

ACTING PRESIDENT LITTLE: Senator, that's not the bill that's under discussion at the time.

SENATOR MONTGOMERY: I understand. I just want to point out that this is an example of what we're talking about, that the counties all over the state --

ACTING PRESIDENT LITTLE: Senator Montgomery, are you on the bill --

SENATOR MONTGOMERY: Yes, on the bill.

ACTING PRESIDENT LITTLE: -- before us?

SENATOR MONTGOMERY: Counties all over the state have laws that they enforce. And the only way that you cannot reside in those counties if you hold certain positions is that we must pass a law waiving that right.

And so we maintain that New York City and the counties within New York City have the right to have this law that says if you hold certain positions and you are government employees paid by the city, work for the city, that you should reside in the city.

And I maintain that we have that right. We should not be forced to give up that right or to have another legislator who does not represent our area pass legislation that waives our local law.

So I'm opposed to that, for that and many reasons. Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan.

SENATOR PADAVAN: I rise to explain my vote, Madam President.

ACTING PRESIDENT LITTLE: We haven't done roll call yet.

SENATOR PADAVAN: Okay, thank you. I'm just rising in advance.

ACTING PRESIDENT LITTLE: Any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Padavan, to explain his vote.

SENATOR PADAVAN: I rise to explain my vote, Madam President.

First, I would like to applaud our colleague -- a former son of Queens, and Bayside specifically -- for his strong libertarian views. Namely, that you can live anywhere and you should be able to live anywhere, wherever you want to.

Unfortunately, however, there are certain positions that, when you apply for them and you accept them, you have to live by the rules. In the City of New York we feel that sanitation workers should be within a reasonable distance to come to work, particularly on those critical times when they're needed, such as a snowstorm.

Now, while we don't know how many would take advantage of this legislation, there are 4,200 who could. And that's a significant percentage of the total number of sanitation workers in the City of New York. So the potential is excessive.

And so while, generally speaking, I would applaud your point of view, I do have to say, as the City of New York has said in their memo of opposition, that this is a condition of employment that the sanitation worker knows when he took the job is a condition he has to live with. No one forces them to. And once you've accepted that condition, to get a way out via the legislative process is somewhat unfair and inappropriate and, in this case, unwise.

I vote no.

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan will be recorded in the negative.

Senator Leibell, to explain his vote.

SENATOR LEIBELL: My colleagues, this bill provides for living a couple of counties away. In an ideal world, I would not mind if they lived anywhere. But that's not what that bill provides for.

Just shortly before this bill came to the floor, we were all called upon to vote

on Calendar Number 1350 -- Madam President, your bill -- which authorizes assistant DAs in a variety of counties to reside in an adjoining county. I've been advised that that vote passed here unanimously.

I don't know what makes the distinction. Senator, is it a law degree? Is it that you live in the North Country? Senator Diaz is no longer here, but I don't know what makes the difference for his constituents and the people in the city from those other counties. I don't see it. Maybe you will find a distinction, but that's how you voted. Possibly you wish to change your vote. But that's how you voted on that bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Connor, to explain his vote.

SENATOR CONNOR: Thank you, Madam President.

I want to set the record straight on a couple of things. Senator Diaz is here, and was here.

You know, I've listened to this

debate. And generally I like the idea of New York City employees residing in New York City or nearby. That's a good thing. And I hear people talking about the cost of living and being able to afford living. But no one really addresses is what the real issue here is, and the real issue here is a fundamental American value: homeownership. We are a nation of homeowners.

Can a sanitation worker afford to live in New York City? Yes. It's difficult, but you can afford the rent in various neighborhoods of New York City.

Can a sanitation worker afford to buy a home in New York City? Not likely. I have parts of my district that 20 years ago my staff with great trepidation visited because they were considered bad neighborhoods or there were fires there, allegedly people were burning them down to get the insurance money, that today factories are converted and the ownership of an apartment begins at a million-four or a million-two down in old factory buildings along the waterfront.

Homeownership is increasingly a

challenge in New York City. Ask my colleagues here. Neighborhoods you used to read about in the newspaper, for the benefit of the upstaters, as, twenty years ago, crime-ridden, devastated, full of vacant lots, are fast being taken up by developers. Old, rundown houses in what were always, or at least for a long time, unattractive neighborhoods are now selling for $400,000 and $500,000. And you don't get much for that, you get something that needs a couple hundred thousand dollars' worth of work to make it habitable.

So what we haven't addressed is this is really about homeownership. And to counter what Senator Padavan said, yes, in the first few years the rookies who have less money, they have to live in the city. Well, they're less likely to be able to afford homeownership anywhere. It's after five or six years, when you accumulate some savings with your job in the sanitation department -- I wish you could afford a home in Queens or the Bronx or Brooklyn or Staten Island, but it's not likely.

And that's a fundamental principle

this country has adhered to for decades and decades and decades: Americans ought to own their own home if they can. And that's what this bill is about, and that's why I'm siding with Senator Savino on this.

ACTING PRESIDENT LITTLE: Thank you.

Senator Connor will be recorded in the affirmative.

Senator Parker, to explain his vote.

SENATOR PARKER: Madam President, to explain my vote.

I think that it's been an interesting debate today. But I think that Senator Connor is absolutely right, but also -- but wrong about this bill. I think that you're right, it is about homeownership. I indicated that. I think that Senator Krueger indicated that. And we ought to be, again, raising those issues about homeownership.

But this bill is not -- and what we're asked to vote on is this bill. And this bill is not about homeownership. This bill is

about, you know, creating a public policy that would essentially bankrupt the city over time. And it's not something that those of us who represent New York City and represent parts of New York City can sit here and idly vote against.

But to answer Senator Leibell's question about Senate Bill 4069A, the difference between what we're doing with ADAs upstate and what you're doing with what could be literally thousands of workers in New York City is that, you know, in these four or five counties that are mentioned in that bill, how many ADAs are there? How many DAs are there? Probably, altogether, maybe 20, 30? Maybe.

So the answer to your question is the scale and the numbers of people and what that means to those counties, versus what letting thousands of workers take their -- both their tax dollars and their disposable income out of New York City. That is the fundamental difference between Senator Little's bill and what you propose to do here today.

I'm voting no.

ACTING PRESIDENT LITTLE: Thank you.

Senator Parker will be recorded in the negative.

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, to explain my vote very briefly.

Your bill, Madam President, as Senator Leibell pointed out, I believe that you represent those counties. And so you have requested that we support your request.

We have not requested this. Senator Leibell does not represent the New York City counties. So there is a distinct difference there.

And I would say yes, I like the idea of people living wherever they choose to live. However, if -- I can't afford to buy a home in my district either. However, if I want to move and I want to go to Senator Leibell's area to buy a home, because maybe I can afford it, then I have to leave my job. And if I want to stay here, I have to run against him.

So this is a very different issue. If you want to be able to purchase a home in another county outside of the City of New York, you have every right to do so. I support that you should have a right. However, you do not and should not have a right to work for government and, as Senator Diaz has pointed out, to take your earnings and the vote that you have to another part of the state where you are probably going to vote against my interests in the City of New York.

I vote no.

ACTING PRESIDENT LITTLE: Thank you.

Senator Montgomery will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 788 are Senators Brown, Diaz, Dilan, Gonzalez, Klein, L. Krueger, LaValle, Montgomery, Padavan, Parker, Paterson, Serrano, A. Smith and M. Smith.

Those Senators absent from voting:

Breslin, Duane and Schneiderman.

Ayes, 41. Nays, 14.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1007, by Senator Skelos, Senate Print 5342, an act to amend the Executive Law.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT LITTLE: An explanation has been requested, Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

This is the Governor's program bill which would enact comprehensive reforms modernizing the use of DNA in the criminal justice system.

Some of the main points of the bill, it would require anyone convicted of a misdemeanor or a felony to provide a DNA sample for inclusion in the state DNA data bank; tolling the statute of limitations in criminal cases in which the identity of the defendant is established by means of DNA

evidence; requiring as a mandatory condition of probation and conditional discharge that designated offenders provide a DNA sample for inclusion in the state DNA data bank; criminalizing a designated offender's failure to provide a DNA sample; and establishes the Innocence Project, which would help actually exonerate individuals who have been wrongly convicted, and DNA would prove that.

ACTING PRESIDENT LITTLE: Thank you.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. Just one brief question of clarification, Senator.

Would this be -- as you know, we're going to be debating the bill on the sex offender's law this week. And obviously DNA is extremely important in many of those cases. Would any person, no matter what the charge, be eligible to have a DNA test if they -- once they are charged with a --

SENATOR SKELOS: If you're convicted?

SENATOR MONTGOMERY: I was

thinking of being charged with a sex offense.

SENATOR SKELOS: To -- if you're convicted of the crime, you would have to supply the DNA evidence. If -- you're saying about exoneration?

SENATOR MONTGOMERY: Yes.

SENATOR SKELOS: To be exonerated, you would fall in that category.

SENATOR MONTGOMERY: So would that be available to anyone who is at least --

SENATOR SKELOS: Yeah, the whole purpose of the --

SENATOR MONTGOMERY: -- indicted for any sex --

SENATOR SKELOS: The whole purpose of the Innocence Project is to -- there is DNA evidence that would eventually be used to exonerate you. For example, if the wrong person was charged and convicted, then it can be used.

SENATOR MONTGOMERY: All right. Thank you. Thank you for that clarification, Senator Skelos.

I guess my question is -- I'm certainly in favor of this legislation. I

think that it's extremely important in any case where a person is charged with a sex offense that they should be eligible for DNA testing that is done by the prosecutor so that there is clear and specific and convincing and undeniable evidence that this particular person is guilty of this particular sex offense.

But I'm voting for this legislation. Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 10. This act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

Those Senators absent from voting on Calendar Number 1007: Senators Breslin,

Duane and Schneiderman.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1183, by Senator Flanagan, Senate Print 4987, an act to amend the General Business Law.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

An explanation has been requested, Senator Flanagan.

SENATOR FLANAGAN: Thank you, Madam President.

This is a new bill. This is an amendment to the General Business Law, and it moves to prohibit the sale of salvia divinorum, otherwise known as "Diviner's Sage," "Sister Salvia," "Ska Maria Pastora" or simply "salvia."

This bill would prohibit the sale in the state of New York, provide for a civil penalty up to $500. And maybe just a little bit of background, because I'm sure my colleagues are completely interested in this

subject.

This is new, but in all sincerity I think this could be something getting ahead of a problem, trying to get out in front of something that could turn out to be like Ecstasy, have some of the same effects, potentially, as LSD. And with all the debate right now about marijuana, it can have some of the same effects as marijuana.

It is a psychoactive plant within the mint family. It comes from Mexico. Right now it's presently completely unregulated by the federal government. There is an act pending before Congress which has not been chaptered at the federal level sponsored by Congressman Baca from California, and that's being pushed right now.

But there's absolutely no regulation whatsoever. The bottled water that we all see here has more regulation than this substance.

And kind of looking at this, if you were to go searching on this, it has many properties and similarities to marijuana. And I want to mention some of them just so you

know. You can go right on the Internet and pick up information. Here are just a few of the websites that are out there: Mazatec Garden, Dr. Bongs Cannabis Emporium, Just Say Yes to Salvia, Grass City, Marijuana Alternatives, the Shroomery, Trip Zone, Stop the Drug War, the Good Drugs Guide, et cetera.

And it's out there for kids. You can get it in the mail, you can get it in the Internet.

And there are some who say it's safe, but there are plenty of others who say this could potentially be a serious problem. It is listed by the federal government, the DEA, as a chemical of concern. It is probably the strongest hallucinogenic that's out there, and yet it's totally unregulated.

And so this is the first attempt, along with Assemblyman Heastie in the Assembly, to move to ban the sale in the state of New York. It has been banned in a number of foreign counties, including Australia, Belgium, Denmark, Italy, South Korea and Finland, and there are several states across the country who are moving to do the same

thing.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Oppenheimer.

SENATOR OPPENHEIMER: If the sponsor would yield for a question.

ACTING PRESIDENT LITTLE: Thank you.

Senator Flanagan, will you yield?

SENATOR FLANAGAN: Yes.

SENATOR OPPENHEIMER: How does this salvia, is it differentiated from the salvia that we have in -- a very common garden plant. I have it all over my garden. Is it -- you mean I'm growing this stuff?

(Laughter.)

SENATOR OPPENHEIMER: Oh, my God. It's a very bright red --

SENATOR FLANAGAN: I cannot answer that question.

SENATOR OPPENHEIMER: It's a very attractive bright red plant, or it can also be blue. And it's very, very common.

So is it the same plant?

SENATOR FLANAGAN: I don't

believe it to be the same plant.

But let me also make clear, one of the provisions in the bill is if somebody offers this for sale and not knowingly realizes that it is this substance, that is an affirmative defense. You know, you can sort of explain your way out of it. If you had no reason to know or it was not readily discoverable, that is a defense to this law.

SENATOR OPPENHEIMER: Thank you.

SENATOR FLANAGAN: Some people might feel that they can use it for medicinal purposes.

But let me, just by way of description -- and there's plenty of information out there. It's in some respects unique that more hasn't been said about this. But you can have -- it can lead to what's known as dysphoria, which can include trouble sleeping, racing thoughts, grandiosity, mental and/or physical agitation, feeling persecuted for no reason, hearing things, and having trouble making decisions.

I had suggested to my colleague that that perhaps describes the job that we

all hold --

(Laughter.)

SENATOR FLANAGAN: -- but that is not a reason to ban it in and of itself.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you. I want to thank Senator Flanagan for that explanation.

And I certainly -- it sounds like we may have been already smelling it or -- based on our -- some of our conversations in here.

But, Madam President, I think that the danger is and the worry is that we go down the path once again of where we went with marijuana. And it's really consumed billions of dollars in resources without there being a sufficient rationale for doing that.

So I certainly -- while I'm concerned about the danger of this, the potential danger, I'm also concerned about the

danger of us once again going into the direction of spending resources, valuable resources, and ruining hundreds of thousands of lives, people's lives for use of something that we don't even know what we're looking at when we see it yet.

So I'm going to oppose it, but I still -- I appreciate that Senator Flanagan has brought it to us so that at least we know what's coming.

So thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Connor.

SENATOR CONNOR: Yes, Madam President. Will the sponsor yield for a question, please?

ACTING PRESIDENT LITTLE: Thank you.

Senator Flanagan, do you yield?

SENATOR FLANAGAN: Yes.

SENATOR CONNOR: Thank you.

As a preface to my question, some 20 years ago or 25 years ago a church in my district contacted me and I sponsored a bill

for them because they used little bits of peyote in their religious services and they wanted an exception for that.

But -- so my question is this. Are there any known legitimate uses for this? The name sounds rather religious, and its translation is rather religious. Other than people getting high, is there any known legitimate use for this?

SENATOR FLANAGAN: That's a tough question to answer, Senator Connor, because some may feel that's the known use, that people can get some euphoric feeling.

There are -- if you look at some of the literature, there are somewhere between 1 and 6 stages of the salvia level, some very mild. And there are -- there's some evidence that shows the more you use, the more problematic it becomes, the more hallucinogenic and the more introverted a person becomes, with attendant problems going along with that.

I'm not aware of any positive benefit to salvia.

SENATOR CONNOR: Thank you, Madam

President.

ACTING PRESIDENT LITTLE: Thank you.

The debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1183: Senator Montgomery.

Those Senators absent from voting: Breslin, Duane and Schneiderman.

Ayes, 54. Nays, 1.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1348, by Senator Skelos, Senate Print 3713, an act to amend the Criminal Procedure Law.

SENATOR LIZ KRUEGER:

Explanation.

ACTING PRESIDENT LITTLE: An explanation has been requested, Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

This bill would give peace officer status to juvenile counselors employed by the Department of Juvenile Justice of the City of New York who are assigned to transport or to court services.

They would have at least two years' experience, could not carry a gun, would get additional training, and would have peace officer status only when performing their duty.

SENATOR LIZ KRUEGER: If the sponsor would yield for a question, please.

ACTING PRESIDENT LITTLE: Thank you.

Senator Skelos, do you yield?

SENATOR SKELOS: Love to.

SENATOR LIZ KRUEGER: Thank you.

Senator, is this the same bill that

the Governor has vetoed in the past, or is it a different bill?

SENATOR SKELOS: We've changed it. It's similar to a version vetoed last year. The change includes the language providing -- which specifically designates only those certain juvenile counselors who are involved in the actual transport or court services of juveniles. I believe it's 40 individuals.

SENATOR LIZ KRUEGER: Thank you.

Madam President, on the bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

Thank you very much, Senator, for the explanation.

I've talked about my concerns with peace officer status before. And I appreciate that your bill has changed since last year's and that it limits the number of people, juvenile justice officers who would be included in this law.

But I will just read for the record

from the Governor's veto message from last year. And while I recognize this is a changed bill because it would affect a smaller number of employees, I think that the issues are the same. The Governor in his -- and today I have agreed with Senator Padavan, I've agreed with Senator Volker, now I'm agreeing with Governor Pataki. Who knows where this trend is going to get me for the rest of the week.

But in Governor Pataki's veto message he highlighted his concern about the use of physical and deadly force, the use of licensed firearms. Expanding the traditional scope of juvenile counselors' duties is in fact a real concern of the Governor and the City of New York and of mine.

And so I hope that we again do not continue to expand the definition of peace officers. There are already peace officers for other employees of the Department of Juvenile Justice who play that role. There are of course workers in the court system and the police department who are involved with the transportation and oversight of juveniles in our corrections system.

Again, adding one more category of employees who are currently supposed to serve as counselors and supervisors and provide guidance to youth in the juvenile justice system to becoming another category of police officer or peace officer within that system I think is still a mistake, even for the smaller number that Senator Skelos has explained this year's bill limits the number of people involved in this.

So again I'll vote no, and I'll urge my colleagues to vote no.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Is there any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1348 are Senators Dilan, L. Krueger and Montgomery.

Those Senators absent from voting: Breslin, Duane and Schneiderman.

Ayes, 52. Nays, 3.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1353, substituted earlier today by Member of the Assembly Pheffer, Assembly Print Number 714B, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Read the last section.

SENATOR SALAND: Madam President.

ACTING PRESIDENT LITTLE: Senator Saland.

SENATOR SALAND: Thank you, Madam President.

This is obviously a very commendable victims' rights bill, one for which I say to the sponsor a job well done.

I do, however, have a question, and that question deals with the section of the

bill beginning at page 11 -- I'm sorry, beginning at line 11, first page, and running over to page 2, line 6, in which a district attorney is now required to advise a victim or consult with a victim, more appropriately, regarding the disposition of a criminal case prior to its resolution.

Certainly something well warranted. The change in the bill is from "should" to "shall."

And then, in the last sentence, the bill in the existing language takes pains to say that the failure of the district attorney to so obtain the views of the victim or the family of the victim shall not be cause for delaying the proceedings against the defendant, nor shall it affect the validity of the conviction, judgment or order.

My concern was a simple one. What really constitutes a reasonable effort on the part of a district attorney to reach out to a victim? Is it a matter of a phone call? Is it a written notice? And how extensively would that district attorney have to follow up?

And I ask that of the sponsor primarily for purposes of getting something on the record in case that should ever be an issue.

ACTING PRESIDENT LITTLE: Thank you.

Senator Meier, do you yield to a question?

SENATOR MEIER: Certainly, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

SENATOR MEIER: I think the answer -- not I think. For the purposes of establishing a legislative record, it's the intent really of the sponsors here that the district attorney merely have to exercise some sort of good-faith effort under the circumstances to contact the victim.

That might constitute, to give some examples, utilizing the contact information that the victim has given the district attorney, which is always done in these cases. So it might be a letter, it might even be a phone call. It might be the district attorney

developing, in their particular office, some kind of a form that they ask the victim to complete. It would be a good-faith effort under the circumstance.

Now, the reason we wanted to use the word "shall" is to indicate to prosecutors around the state that this is more than a request on the part of the Legislature, we're indicating as a matter of public policy that they ought to and therefore they shall do this.

But Senator Saland, Madam President, correctly pointed out that we've retained the language in the existing law that a failure to consult doesn't constitute grounds for delay in going on with the proceedings, and it certainly doesn't in any way invalidate the outcome of the proceedings.

So the purpose of this is to express the strong direction on the part of the Legislature that the DA would exercise a good-faith attempt to do this, but it in no way provides automatic grounds for an adjournment or invalidates any proceedings.

ACTING PRESIDENT LITTLE: Thank

you.

Is there any other Senator wishing to be heard on the bill?

Debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first of September.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 1353, ayes, 55.

Those Senators absent from voting: Breslin, Duane and Schneiderman.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1354, by Senator Spano, Senate Print 5542, an act to amend the Arts and Cultural Affairs Law.

ACTING PRESIDENT LITTLE: Senator Krueger.

SENATOR LIZ KRUEGER: Yes, I'd like to waive explanation and ask the sponsor a question.

ACTING PRESIDENT LITTLE: Thank you.

Senator Spano, will you yield to a question?

SENATOR SPANO: Yes.

SENATOR LIZ KRUEGER: Thank you.

Senator Spano, with this amendment to the bill that we discussed last week, wherein basically Internet sales, free market for facilities above 6,000, basically anything goes, who collects --

SENATOR SPANO: I'm glad you got that part right.

SENATOR LIZ KRUEGER: Thank you, Senator Spano.

Who collects the sales tax? These are nonlicensed entities under this bill.

SENATOR SPANO: The sales tax would be -- or have to be paid, as all of the sales tax currently has to be paid, through the Internet. Which is a whole separate issue that we're attempting to deal with on Internet

sales.

But the purchaser would be required to submit to the state the sales tax that they would have to pay.

SENATOR LIZ KRUEGER: Thank you.

Madam President, on the bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate the sponsor's explanation.

I had concerns with the bill that was passed in this house last week and voted against it. This amendment adds to my concerns that the truth is we will lose enormous revenue to the State of New York through legitimate sales of tickets to events at locations above 6,000 seats.

Because I would argue that under the current system of collecting money through Internet sales, we won't collect any sales tax. These businesses won't even have to be licensed as resellers of tickets. We know that we'll be going to a system of third-party

purchase and negotiated competitive bids and resale through Internet sites all over the state and the country.

And I would argue that another flaw to this model, which I argued last week was flawed, was that we will now expect to lose a large amount of sales tax in the State of New York. I don't know the estimated loss in sales tax, but I would suspect that a year from now we can check with our Department of Tax and Finance and find out how much revenue we lost because of this legislation.

So, as I voted no on the main bill last week, I vote no on this amendment. Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

UNIDENTIFIED SENATOR: No.

(Laughter.)

ACTING PRESIDENT LITTLE: That settles that.

The debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2005.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1354 are Senators Diaz, Gonzalez, L. Krueger, LaValle, Marcellino, Morahan, Onorato, Oppenheimer, Padavan, Paterson, Serrano, Stavisky and Valesky. Also Senator Dilan.

Those Senators absent from voting on Calendar Number 1354: Breslin, Duane and Schneiderman.

Ayes, 41. Nays, 14.

ACTING PRESIDENT LITTLE: The bill is passed.

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

SENATOR SKELOS: Madam President,

is there any further business to come before the Senate?

ACTING PRESIDENT LITTLE: Yes, Senator, there are motions. Senator Fuschillo has a motion.

SENATOR SKELOS: Please recognize Senator Fuschillo.

ACTING PRESIDENT LITTLE: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Maltese, on page number 59, I offer the following amendments to Calendar Number 1208, Senate Print Number 1955, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR FUSCHILLO: Madam President, on behalf of Senator LaValle, on page number 16, I offer the following amendments to Calendar Number 473, Senate Print Number 3658, and ask that said bill

retain its place on Third Reading Calendar.

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

SENATOR FUSCHILLO: Thank you.

ACTING PRESIDENT LITTLE: Senator Valesky has a motion.

SENATOR VALESKY: Thank you, Madam President. I wish to call up Calendar Number 937, Assembly Print Number 3652.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 937, by Member of the Assembly Magee, Assembly Print 3652, an act to amend the Village Law.

SENATOR VALESKY: I now move to reconsider the vote by which the Assembly bill was substituted for my bill, Senate Print 1738, on May 16th.

And I now move that the Assembly Bill 3652 be committed to the Committee on Rules, and my Senate bill be restored to the order of the Third Reading Calendar.

Madam President, I now offer the

following amendments.

ACTING PRESIDENT LITTLE: Call the roll on reconsideration of the substitution.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT LITTLE: The bill is committed, and the amendments are received.

Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

There being no further business to come before the Senate, I move we stand adjourned until Tuesday, June 7th, at 3:00 p.m.

ACTING PRESIDENT LITTLE: On motion, the Senate stands adjourned until Tuesday, June 7th, at 3:00 p.m.

(Whereupon, at 5:41 p.m., the Senate adjourned.)