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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 7, 2005

3:12 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

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P R O C E E D I N G S

THE PRESIDENT: The Senate will  
please come to order.

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

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

THE PRESIDENT: With us this  
afternoon to give the invocation is Reverend  
Bill Lambert, pastor of Folsomdale Baptist  
Church in Cowlesville.

REVEREND LAMBERT: Let's ask  
God's blessing.

When one rules over men in  
righteousness, when he rules in the fear of  
God, he is like the light of morning at  
sunrise on a cloudless morning, like the  
brightness after rain that brings the grass  
from the earth.

Lord God, we thank You that we can  
today commit these deliberations to You. We  
confess that our own efforts fall far short of  
even addressing all the challenges that we  
face. And so we desperately need and seek

1 wisdom from Your hand.

2 We ask that You might work  
3 sovereignly, that You might do whatever is  
4 needed in and among our leaders this week so  
5 they might recognize what You desire from  
6 them.

7 Please embed within each one the  
8 moral compass that refuses to be swayed by the  
9 storms of controversy that are around us. May  
10 they stand on the solid, absolute foundation  
11 of Your word, which powerfully transcends the  
12 fleeting and the fashionable definitions that  
13 our ever-changing culture gives to morality  
14 today.

15 We ask that You might grant each  
16 leader strength and courage and fearlessness  
17 to take unpopular stands and yet also to know  
18 when to compromise. Endow them with Your  
19 spirit of humility.

20 This week, as they face the  
21 difficult and perhaps even unexpected, bless  
22 their efforts at resolution that honors You.  
23 Grant them a sense of Your presence as they  
24 seek Your guidance in all things. May they be  
25 increasingly transformed into powerful servant

1 leaders who willingly sacrifice for our great  
2 state at these critical times.

3 O Lord, how we need Your blessing.  
4 We pray in Jesus' name. Amen.

5 THE PRESIDENT: Reading of the  
6 Journal.

7 THE SECRETARY: In Senate,  
8 Monday, June 6, the Senate met pursuant to  
9 adjournment. The Journal of Sunday, June 5,  
10 was read and approved. On motion, Senate  
11 adjourned.

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

15 Presentation of petitions.  
16 Messages from the Assembly.  
17 Messages from the Governor.  
18 Reports of standing committees.  
19 The Secretary will read.

20 THE SECRETARY: Senator Johnson,  
21 from the Committee on Finance, reports the  
22 following nominations.

23 As a member of the Metropolitan  
24 Transportation Authority, Mitchell H. Pally,  
25 of Stony Brook.

1 THE PRESIDENT: Senator Johnson.

2 SENATOR JOHNSON: Move the  
3 nomination.

4 THE PRESIDENT: Senator Flanagan.

5 SENATOR FLANAGAN: Thank you,  
6 Madam President. Briefly on the nomination,  
7 if I may.

8 Mitch Pally is from Stony Brook,  
9 obviously Suffolk County. He's seated up in  
10 the gallery there. And I would respectfully  
11 suggest that I would offer some comments  
12 relative to Mr. Pally on behalf of my  
13 colleagues from Long Island, because I think  
14 they would share in my sentiments.

15 I have a two-page bio here for  
16 Mr. Pally. It's quite extensive. He has --  
17 the more I read it, I'm getting tired just  
18 reading it based on all the things that he's  
19 done throughout his public career.

20 Mitch is a good guy. He's someone  
21 that's worked very hard for the people of Long  
22 Island. He's been appointed by the Governor  
23 for many panels, he's been appointed by the  
24 Senate Majority Leader for a wide variety of  
25 positions as well. But he's been a staunch

1 advocate for Long Island throughout his public  
2 and private life.

3 And everybody should know that he  
4 got his start primarily here in the New York  
5 State Senate, working with former Senator  
6 Norman Levy on all kinds of innovative  
7 legislation -- I think the child seat belt  
8 law, the restraint law and all kinds of  
9 different issues that help the people of this  
10 state.

11 He is a terrific person in the  
12 community on Long Island. He will be working  
13 on MTA issues. He's going to be a great  
14 advocate for us.

15 But I would leave you with this.  
16 The most important thing, we all look to good  
17 people in our areas. Mitch is a great family  
18 man, and he's got four kids. He and his wife  
19 have lived in Stony Brook for a long time.  
20 He's been active in the soccer clubs and is  
21 someone who is a great asset to our community.

22 So, Mitch, to you, congratulations.  
23 We look forward to working with you. And  
24 we're all pleased that you're going to be  
25 joining the team.

1 THE PRESIDENT: Senator Balboni.

2 SENATOR BALBONI: I too would  
3 like to rise on behalf of this nomination.

4 I actually felt like I've grown up  
5 with Mitch. He was counsel to Senator Norman  
6 Levy for many years. He knew so much about  
7 transportation. He was the person who first  
8 explained to me what the capital program was,  
9 as a young counsel. And he always was able to  
10 maintain a sense of the public good.

11 I think that it's great when you  
12 have people who have an institutional  
13 knowledge, an experience base, but also an  
14 expertise in a highly technical area that they  
15 can bring to bear on this type of issue.

16 And as we all know, particularly  
17 for downstate, but throughout the entire  
18 metropolitan region, we have huge issues when  
19 it comes to the operating systems, the  
20 investment and what we're going to expect out  
21 of our transportation system in the coming  
22 decade. And I think Mitch is going to be an  
23 excellent advocate for those new programs.

24 I wholly support the nomination,  
25 Madam President. Thank you.

1 THE PRESIDENT: Senator LaValle.

2 SENATOR LaVALLE: Madam

3 President, I rise also to support this  
4 nomination.

5 As previous speakers have  
6 indicated, Mitch Pally was counsel to the  
7 Transportation Committee and helped write many  
8 of the laws. I think he will find it very  
9 interesting how now, from the board's  
10 perspective, he will have to deal as a matter  
11 of policy with some of the very laws that he  
12 had helped write.

13 The Governor has made an excellent  
14 nomination here. Mitch will be a very strong  
15 voice for suburban interests as well as the  
16 interest in general. He has really been a  
17 wonderful spokesperson for Long Island,  
18 through the LIA, in helping bring technology  
19 companies to Long Island, really has  
20 understood how higher education interacts with  
21 technology, and generally has had a good sense  
22 of what good planning is all about.

23 And so he will make a wonderful  
24 representative on the MTA. Congratulations,  
25 Mitch.

1                   THE PRESIDENT:     Senator  
2     Marcellino.

3                   SENATOR MARCELLINO:     Thank you,  
4     Madam President.   I also rise to second this  
5     nomination.

6                   I do believe that Mitch Pally will  
7     bring to the office directness and an  
8     openness.   You don't have any doubts where  
9     Mitch stands on any issue.   You might not  
10    always agree with him, and he might not always  
11    agree with you, but there is always an honest,  
12    well-thought-out conversation from him, and  
13    his arguments are always on point.

14                  So I think the Governor has made a  
15    good appointment.   And I look forward to his  
16    position, and I look forward to working with  
17    him for many years to come.

18                  Congratulations.

19                  THE PRESIDENT:     Thank you.  
20    Senator.

21                  Senator Fuschillo.

22                  SENATOR FUSCHILLO:     Thank you,  
23    Madam President.   I too rise and proudly  
24    support this nomination.

25                  And I must say he brings an wealth

1 of experience to the MTA board, having worked  
2 with Senator Levy for many years on the  
3 Transportation Committee.

4 But most importantly, he brings a  
5 sensitivity to the board that is necessary in  
6 dealing with the East Side access and so many  
7 other issues that must be dealt with for the  
8 commuters in the metropolitan area.

9 But he brings a sensitivity to the  
10 commuters. And he knows, most importantly,  
11 that we cannot keep raising their rates on a  
12 monthly basis. And that's what I like out of  
13 Mitch Pally that came out of his mouth today.

14 So, Mitch, congratulations. And I  
15 proudly second the nomination.

16 THE PRESIDENT: The question now  
17 is on the nomination of Mitchell H. Pally to  
18 be a member of the Metropolitan Transportation  
19 Authority to serve a term.

20 All in favor please signify by  
21 saying aye.

22 (Response of "Aye.")

23 THE PRESIDENT: Opposed, nay.

24 (No response.)

25 THE PRESIDENT: The nominee is

1 confirmed.

2                   Congratulations and best wishes for  
3 continued excellence.

4                   (Appause.)

5                   THE PRESIDENT:       The Secretary  
6 will continue to read.

7                   THE SECRETARY:       As a member of  
8 the Metropolitan Transportation Authority,  
9 Carl V. Wortendyke, of Upper Nyack.

10                  THE PRESIDENT:       Senator Johnson.

11                  SENATOR JOHNSON:       Move the  
12 nomination.

13                  THE PRESIDENT:       Senator Morahan.

14                  SENATOR MORAHAN:       Thank you,  
15 Madam President.

16                         I rise as the only Senator from  
17 Rockland County, unlike my colleagues from  
18 Long Island, who can give nine speeches  
19 because there's nine Senators. But I want to  
20 talk about Carl Wortendyke, who is also going  
21 to be confirmed here this afternoon to the MTA  
22 board.

23                         Carl is a very industrious,  
24 hardworking major force, if you will, in  
25 Rockland County, in our industry and in our

1 business circles. Carl has a vital interest  
2 in the transportation needs of this state, and  
3 I am proud to second his nomination.

4 I know he's going to do an  
5 excellent job. He will be very responsive to  
6 his constituents. We have an awful lot  
7 happening in the mid-Hudson area -- the  
8 Tappan Zee Bridge, the infrastructure of the  
9 Thruway, and all of those commuter needs that  
10 the MTA serves as they service our commuters  
11 going to New York City and in the region.

12 So it's with great pride that I get  
13 up to say: Carl, welcome, to the MTA. You're  
14 going to be a fine member, a hardworking  
15 member.

16 He was formerly with the New York  
17 State Parks Department as a commissioner in  
18 the Capital District. And notwithstanding  
19 that's a bit of a throw from Rockland County,  
20 he never missed one obligation or one meeting,  
21 and he took his duties very serious in that  
22 position.

23 I'm firmly convinced that he will  
24 be -- you know, maybe, Carl, you'll get a  
25 perfect attendance T-shirt. I don't know.

1 But I think you will be just as attentive to  
2 this job, which is a major step up. And I  
3 think the Governor ought to be congratulated  
4 as well for having the wisdom to select you  
5 and nominate you for this position.

6 So I happily second that  
7 nomination, Madam President.

8 THE PRESIDENT: The question is  
9 on the nomination of Carl V. Wortendyke to  
10 serve a term as a member of the Metropolitan  
11 Transportation Authority. All in favor please  
12 signify by saying aye.

13 (Response of "Aye.")

14 THE PRESIDENT: Opposed, nay.

15 (No response.)

16 THE PRESIDENT: The nominee is  
17 hereby confirmed.

18 Congratulations and best wishes for  
19 continued success.

20 (Applause.)

21 THE PRESIDENT: The Secretary  
22 will continue to read.

23 THE SECRETARY: As a member of  
24 the New York State Olympic Regional  
25 Development Authority, Serge Lussi, of Lake

1 Placid.

2 As a member of the Correction  
3 Medical Review Board, Scott S. Coyne, M.D., of  
4 Huntington.

5 And as members of the Small  
6 Business Advisory Board, Richard M. Bovine, of  
7 East Meadow, and John C. Mitchell, of  
8 Hamilton.

9 THE PRESIDENT: Senator Johnson.

10 SENATOR JOHNSON: Move the  
11 nominations.

12 THE PRESIDENT: The question is  
13 on the nominations as read by the Secretary  
14 and as moved by Senator Johnson. All in favor  
15 please signify by saying aye.

16 (Response of "Aye.")

17 THE PRESIDENT: Opposed, nay.

18 (No response.)

19 THE PRESIDENT: The nominees are  
20 all hereby confirmed.

21 Senator Balboni.

22 SENATOR BALBONI: Please continue  
23 in regular order, Madam President. Thank you.

24 THE PRESIDENT: Reports of select  
25 committees.

1                   Communications and reports from  
2                   state officers.

3                   Motions and resolutions.

4                   Senator Farley.

5                   SENATOR FARLEY:       Thank you, Madam  
6                   President.

7                   On behalf of Senator Seward, my  
8                   colleague right here, I wish to recommit and  
9                   strike the enacting clause of 4416A.

10                  THE PRESIDENT:       So ordered.

11                  SENATOR FARLEY:       And have it be  
12                  recommitted.

13                  THE PRESIDENT:       So ordered,  
14                  Senator.

15                  SENATOR FARLEY:       On behalf of  
16                  various Senators, amendments are offered to  
17                  these following Third Reading Calendar bills:

18                         Senator LaValle, page 13, Calendar  
19                         361, Senate Print 1549;

20                         Senator Fuschillo, on page 18,  
21                         Calendar 543, Senate Print 2602A;

22                         Senator Skelos, on page 61,  
23                         Calendar Number 1262, Senate Print 5249A;

24                         Senator Balboni, on page 67,  
25                         Calendar 1331, Senate Print 186;

1                   On behalf of Senator Marcellino, on  
2                   page 5, Calendar Number 64, Senate Print  
3                   1485A;

4                   On behalf of Senator DeFrancisco,  
5                   on page 20, Calendar 592, Senate Print 48A;

6                   And on behalf of Senator Saland, on  
7                   page 38, Calendar Number 928, Senate Print  
8                   4602.

9                   Madam President, I move that these  
10                  bills retain their place on the Third Reading  
11                  Calendar.

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

15                  Senator Balboni.

16                  SENATOR BALBONI:       Madam  
17                  President, are there any substitutions at the  
18                  desk?

19                  THE PRESIDENT:        Yes, there are,  
20                  Senator.

21                  SENATOR BALBONI:        Please proceed.

22                  THE PRESIDENT:        The Secretary  
23                  will read.

24                  THE SECRETARY:        On page 9,  
25                  Senator Spano moves to discharge, from the

1 Committee on Rules, Assembly Bill Number 7334  
2 and substitute it for the identical Senate  
3 Bill Number 3130, Third Reading Calendar 286.

4 On page 16, Senator Spano moves to  
5 discharge, from the Committee on Rules,  
6 Assembly Bill Number 6823 and substitute it  
7 for the identical Senate Bill Number 2718,  
8 Third Reading Calendar 506.

9 On page 18, Senator Maziarz moves  
10 to discharge, from the Committee on Rules,  
11 Assembly Bill Number 7185 and substitute it  
12 for the identical Senate Bill Number 3893,  
13 Third Reading Calendar 536.

14 On page 21, Senator Fuschillo moves  
15 to discharge, from the Committee on Rules,  
16 Assembly Bill Number 6886A and substitute it  
17 for the identical Senate Bill Number 4109,  
18 Third Reading Calendar 614.

19 On page 26, Senator Leibell moves  
20 to discharge, from the Committee on Rules,  
21 Assembly Bill Number 6723A and substitute it  
22 for the identical Senate Bill Number 3626A,  
23 Third Reading Calendar 726.

24 On page 34, Senator Hannon moves to  
25 discharge, from the Committee on Rules,

1 Assembly Bill Number 8176 and substitute it  
2 for the identical Senate Bill Number 3341A,  
3 Third Reading Calendar 875.

4 On page 35, Senator Winner moves to  
5 discharge, from the Committee on Rules,  
6 Assembly Bill Number 8118 and substitute it  
7 for the identical Senate Bill Number 4557,  
8 Third Reading Calendar 879.

9 On page 39, Senator Little moves to  
10 discharge, from the Committee on Rules,  
11 Assembly Bill Number 8409 and substitute it  
12 for the identical Senate Bill Number 5255,  
13 Third Reading Calendar 966.

14 On page 45, Senator Larkin moves to  
15 discharge, from the Committee on Rules,  
16 Assembly Bill Number 2645 and substitute it  
17 for the identical Senate Bill Number 1610,  
18 Third Reading Calendar 1049.

19 On page 48, Senator Little moves to  
20 discharge, from the Committee on Rules,  
21 Assembly Bill Number 7872 and substitute it  
22 for the identical Senate Bill Number 5256,  
23 Third Reading Calendar 1117.

24 On page 48, Senator Little moves to  
25 discharge, from the Committee on Rules,

1 Assembly Bill Number 7870 and substitute it  
2 for the identical Senate Bill Number 5293,  
3 Third Reading Calendar 1120.

4 On page 51, Senator Marcellino  
5 moves to discharge, from the Committee on  
6 Rules, Assembly Bill Number 7078 and  
7 substitute it for the identical Senate Bill  
8 Number 3996, Third Reading Calendar 1162.

9 On page 53, Senator Spano moves to  
10 discharge, from the Committee on Rules,  
11 Assembly Bill Number 8367 and substitute it  
12 for the identical Senate Bill Number 5213A,  
13 Third Reading Calendar 1191.

14 On page 54, Senator Volker moves to  
15 discharge, from the Committee on Rules,  
16 Assembly Bill Number 8115A and substitute it  
17 for the identical Senate Bill Number 5320A,  
18 Third Reading Calendar 1201.

19 On page 55, Senator LaValle moves  
20 to discharge, from the Committee on Rules,  
21 Assembly Bill Number 4240 and substitute it  
22 for the identical Senate Bill Number 2467,  
23 Third Reading Calendar 1210.

24 On page 56, Senator Robach moves to  
25 discharge, from the Committee on Rules,

1 Assembly Bill Number 5430 and substitute it  
2 for the identical Senate Bill Number 3043,  
3 Third Reading Calendar 1215.

4 On page 59, Senator Flanagan moves  
5 to discharge, from the Committee on Rules,  
6 Assembly Bill Number 1873 and substitute it  
7 for the identical Senate Bill Number 4290,  
8 Third Reading Calendar 1243.

9 On page 68, Senator Oppenheimer  
10 moves to discharge, from the Committee on  
11 Rules, Assembly Bill Number 7211 and  
12 substitute it for the identical Senate Bill  
13 Number 4315, Third Reading Calendar 1366.

14 On page 69, Senator Skelos moves to  
15 discharge, from the Committee on Crime  
16 Victims, Crime and Correction, Assembly Bill  
17 Number 4466 and substitute it for the  
18 identical Senate Bill Number 4811, Third  
19 Reading Calendar 1369.

20 On page 70, Senator Maltese moves  
21 to discharge, from the Committee on Rules,  
22 Assembly Bill Number 8543 and substitute it  
23 for the identical Senate Bill Number 5389,  
24 Third Reading Calendar 1378.

25 And on page 70, Senator Skelos

1 moves to discharge, from the Committee on  
2 Rules, Assembly Bill Number 8312 and  
3 substitute it for the identical Senate Bill  
4 Number 5470, Third Reading Calendar 1380.

5 THE PRESIDENT: Substitutions  
6 ordered.

7 Senator Balboni.

8 SENATOR BALBONI: Madam  
9 President, can we please adopt the Resolution  
10 Calendar, with the exception of Resolution  
11 Number 2347, please.

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

15 (Response of "Aye.")

16 THE PRESIDENT: Opposed, nay.

17 (No response.)

18 THE PRESIDENT: The Resolution  
19 Calendar is so adopted.

20 Senator Balboni.

21 SENATOR BALBONI: There's a  
22 resolution at the desk, 2347, by Senator  
23 Leibell. May we please have the title read  
24 and move for its immediate adoption.

25 THE PRESIDENT: The Secretary

1 will read.

2 THE SECRETARY: By Senator  
3 Leibell, Legislative Resolution Number 2347,  
4 commemorating the 50th Anniversary of the  
5 Polio Vaccine.

6 THE PRESIDENT: All in favor of  
7 the resolution please signify by saying aye.

8 (Response of "Aye.")

9 THE PRESIDENT: Opposed, nay.

10 (No response.)

11 THE PRESIDENT: The resolution is  
12 adopted.

13 Senator Balboni.

14 SENATOR BALBONI: Senator Leibell  
15 would like to open up this resolution for  
16 cosponsorship. If someone does not wish to be  
17 a cosponsor, they should notify the desk.

18 THE PRESIDENT: Any member who  
19 does not wish to cosponsor the last  
20 resolution, please notify the desk.

21 Senator Balboni.

22 SENATOR BALBONI: Yes, Madam  
23 President. May we now have the reading of the  
24 noncontroversial calendar.

25 THE PRESIDENT: The Secretary

1 will read.

2 THE SECRETARY: Calendar Number  
3 682, by Senator Seward, Senate Print 4061B, an  
4 act to amend the Insurance Law.

5 THE PRESIDENT: Read the last  
6 section.

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

9 THE PRESIDENT: Call the roll.  
10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 53.

12 THE PRESIDENT: The bill is  
13 passed.

14 THE SECRETARY: Calendar Number  
15 1052, by Senator Balboni, Senate Print 939, an  
16 act to amend the General Business Law and the  
17 Penal Law.

18 THE PRESIDENT: Read the last  
19 section.

20 THE SECRETARY: Section 9. This  
21 act shall take effect on the first of  
22 November.

23 THE PRESIDENT: Call the roll.  
24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 53.

1                   THE PRESIDENT:     The bill is  
2     passed.

3                   THE SECRETARY:     Calendar Number  
4     1069, by Member of the Assembly Morelle,  
5     Assembly Print Number 3796, an act to amend  
6     the Highway Law.

7                   THE PRESIDENT:     Read the last  
8     section.

9                   THE SECRETARY:     Section 2. This  
10    act shall take effect on the same date as  
11    Chapter 460 of the Laws of 2004.

12                  THE PRESIDENT:     Call the roll.  
13                   (The Secretary called the roll.)

14                  THE SECRETARY:     Ayes, 52. Nays,  
15    1. Senator Duane recorded in the negative.

16                  THE PRESIDENT:     The bill is  
17    passed.

18                  THE SECRETARY:     Calendar Number  
19    1070, by Senator DeFrancisco, Senate Print  
20    5054, an act to amend the Navigation Law.

21                  THE PRESIDENT:     Read the last  
22    section.

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

25                  THE PRESIDENT:     Call the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 54.

3 THE PRESIDENT: The bill is  
4 passed.

5 THE SECRETARY: Calendar Number  
6 1151, by Member of the Assembly Cahill,  
7 Assembly Print Number 4851, an act to amend  
8 the General Municipal Law.

9 THE PRESIDENT: Read the last  
10 section.

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

13 THE PRESIDENT: Call the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 53. Nays,  
16 1. Senator Duane recorded in the negative.

17 THE PRESIDENT: The bill is  
18 passed.

19 THE SECRETARY: Calendar Number  
20 1155, by Senator Andrews, Senate Print 3386,  
21 an act to amend the Racing, Pari-Mutuel  
22 Wagering and Breeding Law.

23 THE PRESIDENT: Read the last  
24 section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the 120th day.

2 THE PRESIDENT: Call the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 54.

5 THE PRESIDENT: The bill is  
6 passed.

7 THE SECRETARY: Calendar Number  
8 1158, by Senator Larkin, Senate Print 5391, an  
9 act to amend the Racing, Pari-Mutuel Wagering  
10 and Breeding Law.

11 THE PRESIDENT: Read the last  
12 section.

13 THE SECRETARY: Section 3. This  
14 act shall take effect on the 180th day.

15 THE PRESIDENT: Call the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Those recorded in  
18 the negative on Calendar Number 1158 are  
19 Senators Duane, LaValle and Padavan.

20 Ayes, 51. Nays, 3.

21 THE PRESIDENT: The bill is  
22 passed.

23 THE SECRETARY: Calendar Number  
24 1191, substituted earlier today by Member of  
25 the Assembly Silver, Assembly Print Number

1 8367, an act to amend the Executive Law.

2 THE PRESIDENT: Read the last  
3 section.

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

6 THE PRESIDENT: Call the roll.  
7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 54.

9 THE PRESIDENT: The bill is  
10 passed.

11 THE SECRETARY: Calendar Number  
12 1194, by Senator Maziarz, Senate Print 2281,  
13 an act to amend the Vehicle and Traffic Law.

14 THE PRESIDENT: Read the last  
15 section.

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

18 THE PRESIDENT: Call the roll.  
19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 54.

21 THE PRESIDENT: The bill is  
22 passed.

23 THE SECRETARY: Calendar Number  
24 1195, by Senator Robach, Senate Print 3410A,  
25 an act to amend the Vehicle and Traffic Law.

1 THE PRESIDENT: Read the last  
2 section.

3 THE SECRETARY: Section 8. This  
4 act shall take effect on the first of  
5 November.

6 THE PRESIDENT: Call the roll.  
7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 53. Nays,  
9 1. Senator Duane recorded in the negative.

10 THE PRESIDENT: The bill is  
11 passed.

12 THE SECRETARY: Calendar Number  
13 1199, by Senator Golden, Senate Print 5148A,  
14 an act to amend the Vehicle and Traffic Law.

15 THE PRESIDENT: Read the last  
16 section.

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

19 THE PRESIDENT: Call the roll.  
20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 55.

22 THE PRESIDENT: The bill is  
23 passed.

24 THE SECRETARY: Calendar Number  
25 1200, by Senator Volker, Senate Print 5319, an

1 act to amend the Highway Law.

2 THE PRESIDENT: Read the last  
3 section.

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

6 THE PRESIDENT: Call the roll.  
7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 55.

9 THE PRESIDENT: The bill is  
10 passed.

11 THE SECRETARY: Calendar Number  
12 1201, substituted earlier today by Member of  
13 the Assembly Schroeder, Assembly Print Number  
14 8115A, an act to amend the Highway Law.

15 THE PRESIDENT: Read the last  
16 section.

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

19 THE PRESIDENT: Call the roll.  
20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 55.

22 THE PRESIDENT: The bill is  
23 passed.

24 THE SECRETARY: Calendar Number  
25 1203, by Senator Padavan, Senate Print 5360,

1 an act to amend the Vehicle and Traffic Law.

2 THE PRESIDENT: Read the last  
3 section.

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

6 THE PRESIDENT: Call the roll.  
7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 54. Nays,  
9 2. Senators Duane and Montgomery recorded in  
10 the negative.

11 THE PRESIDENT: The bill is  
12 passed.

13 THE SECRETARY: Calendar Number  
14 1206, by Member of the Assembly Destito,  
15 Assembly Print Number 7517, an act to amend  
16 the Patriot Plan.

17 THE PRESIDENT: Read the last  
18 section.

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

21 THE PRESIDENT: Call the roll.  
22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 57.

24 THE PRESIDENT: The bill is  
25 passed.

1                   THE SECRETARY:     Calendar Number  
2     1207, by Member of the Assembly Towns,  
3     Assembly Print Number 7959, an act to amend  
4     Chapter 288 of the Laws of 2004.

5                   THE PRESIDENT:     Read the last  
6     section.

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

9                   THE PRESIDENT:     Call the roll.  
10     (The Secretary called the roll.)

11                   THE SECRETARY:     Ayes, 57.

12                   THE PRESIDENT:     The bill is  
13     passed.

14                   THE SECRETARY:     Calendar Number  
15     1211, by Senator Maltese, Senate Print 2866,  
16     an act to amend the Administrative Code of the  
17     City of New York.

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

20                   Read the last section.

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

23                   THE PRESIDENT:     Call the roll.  
24     (The Secretary called the roll.)

25                   THE SECRETARY:     Ayes, 57.

1 THE PRESIDENT: The bill is  
2 passed.

3 THE SECRETARY: Calendar Number  
4 1212, by Senator Robach, Senate Print 2870, an  
5 act to amend the Retirement and Social  
6 Security Law, in relation to additional  
7 pension benefits.

8 THE PRESIDENT: Read the last  
9 section.

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

12 THE PRESIDENT: Call the roll.  
13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 57.

15 THE PRESIDENT: The bill is  
16 passed.

17 THE SECRETARY: Calendar Number  
18 1213, by Senator Robach, Senate Print 2875A,  
19 an act to amend the Education Law.

20 THE PRESIDENT: Read the last  
21 section.

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

24 THE PRESIDENT: Call the roll.  
25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 57.

2 THE PRESIDENT: The bill is  
3 passed.

4 THE SECRETARY: Calendar Number  
5 1220, by Senator Little, Senate Print 3843, an  
6 act to authorize the Village of Tupper Lake.

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

9 Read the last section.

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

12 THE PRESIDENT: Call the roll.  
13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 57.

15 THE PRESIDENT: The bill is  
16 passed.

17 THE SECRETARY: Calendar Number  
18 1221, by Senator Robach, Senate Print 4293, an  
19 act to amend the Retirement and Social  
20 Security Law.

21 THE PRESIDENT: Read the last  
22 section.

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

25 THE PRESIDENT: Call the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 58.

3 THE PRESIDENT: The bill is  
4 passed.

5 THE SECRETARY: Calendar Number  
6 1243, substituted earlier today by Member of  
7 the Assembly Wright, Assembly Print Number  
8 1873, an act to amend Chapter 92 of the Laws  
9 of 2001.

10 THE PRESIDENT: Read the last  
11 section.

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

14 THE PRESIDENT: Call the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 58.

17 THE PRESIDENT: The bill is  
18 passed.

19 THE SECRETARY: Calendar Number  
20 1250, by Senator Meier, Senate Print 2317, an  
21 act to amend the Executive Law and the Social  
22 Services Law.

23 THE PRESIDENT: Read the last  
24 section.

25 THE SECRETARY: Section 5. This

1 act shall take effect on the first of January.

2 THE PRESIDENT: Call the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 58.

5 THE PRESIDENT: The bill is

6 passed.

7 THE SECRETARY: Calendar Number  
8 1290, by Senator Meier, Senate Print 5274, an  
9 act authorizing the City of Utica.

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

12 Read the last section.

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

15 THE PRESIDENT: Call the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 58.

18 THE PRESIDENT: The bill is

19 passed.

20 THE SECRETARY: Calendar Number  
21 1299, by Senator DeFrancisco, Senate Print  
22 5380, an act to amend the Real Property Tax  
23 Law.

24 THE PRESIDENT: Read the last  
25 section.

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

3                   THE PRESIDENT:     Call the roll.  
4                   (The Secretary called the roll.)

5                   THE SECRETARY:     Ayes, 58.

6                   THE PRESIDENT:     The bill is  
7     passed.

8                   THE SECRETARY:     Calendar Number  
9     1323, by Senator Marcellino, Senate Print  
10    5353A, an act to authorize  
11    Greenlawn-Centerport Historical Association.

12                   THE PRESIDENT:     Read the last  
13    section.

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

16                   THE PRESIDENT:     Call the roll.  
17                   (The Secretary called the roll.)

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

20                   THE PRESIDENT:     The bill is  
21    passed.

22                   THE SECRETARY:     Calendar Number  
23    1355, by Senator Trunzo, Senate Print 129, an  
24    act to amend the Real Property Tax Law.

25                   THE PRESIDENT:     Read the last

1 section.

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

4 THE PRESIDENT: Call the roll.  
5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 58.

7 THE PRESIDENT: The bill is  
8 passed.

9 THE SECRETARY: Calendar Number  
10 1357, by Senator Larkin, Senate Print 439, an  
11 act to amend the Vehicle and Traffic Law.

12 THE PRESIDENT: Read the last  
13 section.

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

16 THE PRESIDENT: Call the roll.  
17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 58.

19 THE PRESIDENT: The bill is  
20 passed.

21 THE SECRETARY: Calendar Number  
22 1358, by Senator Hannon, Senate Print 753, an  
23 act to amend the Vehicle and Traffic Law.

24 THE PRESIDENT: Read the last  
25 section.

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

3                   THE PRESIDENT:     Call the roll.  
4                   (The Secretary called the roll.)

5                   THE SECRETARY:     Ayes, 58.

6                   THE PRESIDENT:     The bill is  
7     passed.

8                   THE SECRETARY:     Calendar Number  
9     1359, by Senator Winner, Senate Print 1241A,  
10    an act to authorize the Department of Taxation  
11    and Finance.

12                   THE PRESIDENT:     There is a local  
13    fiscal impact note at the desk.

14                   Read the last section.

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

17                   THE PRESIDENT:     Call the roll.  
18                   (The Secretary called the roll.)

19                   THE SECRETARY:     Ayes, 58.

20                   THE PRESIDENT:     The bill is  
21    passed.

22                   THE SECRETARY:     Calendar Number  
23    1360, by Senator Flanagan, Senate Print 2842,  
24    an act to amend the Vehicle and Traffic Law.

25                   SENATOR ONORATO:     Lay it aside.

1                   THE PRESIDENT:     The bill is laid  
2     aside.

3                   THE SECRETARY:     Calendar Number  
4     1361, by Senator Golden, Senate Print 3437A,  
5     an act to amend the Retirement and Social  
6     Security Law.

7                   THE PRESIDENT:     Read the last  
8     section.

9                   THE SECRETARY:     Section 11. This  
10    act shall take effect immediately.

11                  THE PRESIDENT:     Call the roll.

12                  (The Secretary called the roll.)

13                  THE SECRETARY:     Ayes, 58.

14                  THE PRESIDENT:     The bill is  
15    passed.

16                  THE SECRETARY:     Calendar Number  
17    1362, by Senator Maziarz, Senate Print 3691,  
18    an act to amend the Real Property Tax Law.

19                  THE PRESIDENT:     Read the last  
20    section.

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

23                  THE PRESIDENT:     Call the roll.

24                  (The Secretary called the roll.)

25                  THE SECRETARY:     Ayes, 58.

1                   THE PRESIDENT:     The bill is  
2     passed.

3                   THE SECRETARY:     Calendar Number  
4     1363, by Senator Saland, Senate Print 4042, an  
5     act to authorize the New Hackensack Fire  
6     District.

7                   THE PRESIDENT:     Read the last  
8     section.

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

11                   THE PRESIDENT:     Call the roll.  
12                   (The Secretary called the roll.)

13                   THE SECRETARY:     Ayes, 58.

14                   THE PRESIDENT:     The bill is  
15    passed.

16                   THE SECRETARY:     Calendar Number  
17    1364, by Senator Morahan, Senate Print 4103,  
18    an act to amend the Environmental Conservation  
19    Law.

20                   THE PRESIDENT:     Read the last  
21    section.

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

24                   THE PRESIDENT:     Call the roll.  
25                   (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 58.

2 THE PRESIDENT: The bill is  
3 passed.

4 THE SECRETARY: Calendar Number  
5 1365, by Senator Wright, Senate Print 4306, an  
6 act to amend the Education Law.

7 THE PRESIDENT: Read the last  
8 section.

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

11 THE PRESIDENT: Call the roll.  
12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 58.

14 THE PRESIDENT: The bill is  
15 passed.

16 THE SECRETARY: Calendar Number  
17 1366, substituted earlier today by Member of  
18 the Assembly Paulin, Assembly Print Number  
19 7211, an act to authorize the assessor of the  
20 City of New Rochelle.

21 THE PRESIDENT: Read the last  
22 section.

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

25 THE PRESIDENT: Call the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 57. Nays,

3 1. Senator Bonacic recorded in the negative.

4 THE PRESIDENT: The bill is  
5 passed.

6 THE SECRETARY: Calendar Number  
7 1367, by Senator Bruno, Senate Print 4655, an  
8 act authorizing George E. Slagen III to  
9 transfer credits.

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

12 Read the last section.

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

15 THE PRESIDENT: Call the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 58.

18 THE PRESIDENT: The bill is  
19 passed.

20 THE SECRETARY: Calendar Number  
21 1371, by Senator Wright, Senate Print 4960A,  
22 an act to amend the Alcoholic Beverage Control  
23 Law.

24 THE PRESIDENT: Read the last  
25 section.

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

3                   THE PRESIDENT:     Call the roll.  
4                   (The Secretary called the roll.)

5                   THE SECRETARY:     Ayes, 58.

6                   THE PRESIDENT:     The bill is  
7     passed.

8                   THE SECRETARY:     Calendar Number  
9     1372, by Senator Alesi, Senate Print --

10                  SENATOR SKELOS:     Lay it aside for  
11     the day, please.

12                  THE PRESIDENT:     The bill is laid  
13     aside for the day.

14                  THE SECRETARY:     Calendar Number  
15     1373, by the Senate Committee on Rules, Senate  
16     Print Number 5179, an act to amend Chapter 272  
17     of the Laws of 1991.

18                  THE PRESIDENT:     Read the last  
19     section.

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

22                  THE PRESIDENT:     Call the roll.  
23                  (The Secretary called the roll.)

24                  THE SECRETARY:     Ayes, 58.

25                  THE PRESIDENT:     The bill is

1 passed.

2 THE SECRETARY: Calendar Number  
3 1374, by Senator Volker, Senate Print 5260, an  
4 act to amend the Parks, Recreation and  
5 Historic Preservation Law.

6 THE PRESIDENT: Read the last  
7 section.

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

10 THE PRESIDENT: Call the roll.  
11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 58.

13 THE PRESIDENT: The bill is  
14 passed.

15 THE SECRETARY: Calendar Number  
16 1375, by Senator Meier, Senate Print 5296, an  
17 act authorizing the Village of Camden.

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

20 Read the last section.

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

23 THE PRESIDENT: Call the roll.  
24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 58.

1                   THE PRESIDENT:     The bill is  
2     passed.

3                   THE SECRETARY:     Calendar Number  
4     1378, substituted earlier today by Member of  
5     the Assembly McLaughlin, Assembly Print Number  
6     8543, an act to amend a chapter of the Laws of  
7     2005.

8                   THE PRESIDENT:     Read the last  
9     section.

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

12                  THE PRESIDENT:     Call the roll.  
13     (The Secretary called the roll.)

14                  THE SECRETARY:     Ayes, 58.

15                  THE PRESIDENT:     The bill is  
16     passed.

17                  THE SECRETARY:     Calendar Number  
18     1380, substituted earlier today by Member of  
19     the Assembly Magnarelli, Assembly Print Number  
20     8312, an act to amend the Executive Law.

21                  THE PRESIDENT:     Read the last  
22     section.

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

25                  THE PRESIDENT:     Call the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 58.

3 THE PRESIDENT: The bill is  
4 passed.

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

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

10 THE PRESIDENT: The Secretary  
11 will ring the bell, and the members should  
12 return to their seats.

13 The Secretary will read.

14 THE SECRETARY: Calendar Number  
15 1360, by Senator Flanagan, Senate Print 2842,  
16 an act to amend the Executive Law and the  
17 Criminal Procedure Law.

18 SENATOR ONORATO: Explanation.

19 THE PRESIDENT: Senator Flanagan,  
20 an explanation has been requested.

21 SENATOR FLANAGAN: Thank you,  
22 Madam President.

23 Madam President, this bill is an  
24 outgrowth of issues affecting the counties and  
25 based on an opinion issued by the Attorney

1 General having to do with counties and their  
2 ability to administer and create fees.

3 This would allow for a general  
4 administrative fee, a drug testing fee, and an  
5 electronic monitoring fee to help them  
6 mitigate some of their costs involving  
7 probation and people who are on probation.

8 THE PRESIDENT: Senator  
9 Montgomery.

10 SENATOR MONTGOMERY: Yes, Madam  
11 President, if Senator Flanagan would yield.

12 THE PRESIDENT: Senator Flanagan,  
13 will you yield for a question?

14 SENATOR FLANAGAN: Yes, I will.

15 THE PRESIDENT: You may proceed  
16 with a question.

17 SENATOR MONTGOMERY: Senator  
18 Flanagan, I note that your memo indicates that  
19 if a person is an indigenous -- if a person  
20 can't afford to pay -- indigent, excuse me.  
21 Thank you -- that what happens if a person is  
22 unable to pay this fee, these fees?

23 SENATOR FLANAGAN: The person is  
24 relieved of that responsibility. If they can  
25 demonstrate there's a hardship provision so

1 that they can't afford to pay, they're not  
2 required to pay.

3 SENATOR MONTGOMERY: Is there a  
4 sliding scale at all, or do -- are these fees  
5 set at a certain amount and you pay no matter  
6 what your ability to pay?

7 SENATOR FLANAGAN: I believe it's  
8 a sliding scale. On the administrative fee,  
9 it's up to \$30 a month. On the drug-testing  
10 fee, it actually costs up to \$8 a test, but no  
11 more than \$600 per year per probationer. And  
12 the electronic monitoring fee is up to \$8 a  
13 day, but no more than \$900 per probationer.

14 SENATOR MONTGOMERY: Through you,  
15 Madam President, if Senator Flanagan would  
16 continue to yield.

17 THE PRESIDENT: Senator Flanagan,  
18 do you continue to yield?

19 SENATOR FLANAGAN: Yes.

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

22 SENATOR MONTGOMERY: In the event  
23 someone is on probation, Senator Flanagan, and  
24 they for whatever reason do not pay, what  
25 happens to that person?

1                   SENATOR FLANAGAN:     Senator  
2     Montgomery, I have to double-check. I don't  
3     want to misspeak. I'm not a hundred percent  
4     sure.

5                   SENATOR MONTGOMERY:     All right.  
6     Madam President, through you.

7                   We -- there is a bill, Senator  
8     Flanagan, I believe we're going to be  
9     considering that bill, it's the Sexual  
10    Predatory Reform Act, and that would require a  
11    certain level of a sex offender to wear an  
12    ankle bracelet for the rest of their life.

13                   So assuming we have legislation  
14    like that -- and I have met people who are  
15    required to wear an ankle bracelet, not  
16    because they've done anything, but because  
17    they have some -- for some reason they've been  
18    required to wear an ankle bracelet. In that  
19    case, does that mean that that person pays  
20    that fee for the rest of their life,  
21    essentially?

22                   SENATOR FLANAGAN:     As I had said  
23    previously, it's up to \$8 per day, but there's  
24    a cap of \$900 per probationer.

25                   SENATOR MONTGOMERY:     Per year.

1                   SENATOR FLANAGAN:     Let me go back  
2                   to your other question.

3                   The ability to recover that fee  
4                   would be similar to how a county can do it  
5                   now, a normal recovery action to collect those  
6                   fees.

7                   Let me just add very quickly that  
8                   this bill is very strongly supported by the  
9                   New York State Association of Counties, the  
10                  CSEA, we have correspondence from the  
11                  Westchester County Executive's office and the  
12                  Attorney General.

13                  SENATOR MONTGOMERY:     All right.  
14                  Thank you, Madam President.   Just briefly on  
15                  the bill.

16                  THE PRESIDENT:         You may proceed  
17                  on the bill, Senator.

18                  SENATOR MONTGOMERY:     Yes, I voted  
19                  against this before, and I'm inclined to  
20                  continue my objection.

21                  I just think that when we're  
22                  talking probation, many of the probationers  
23                  that I'm aware of, especially, are young  
24                  people, first-time offenders and what have  
25                  you, and that's the reason why the district

1 attorney often uses probation rather than  
2 incarceration.

3 So essentially we are looking at  
4 the least able to afford, least likely group  
5 that's going to be able to afford, out of all  
6 of the people involved in the criminal justice  
7 system, especially those. And this then  
8 places an additional burden onto that young  
9 person and/or their family.

10 So I really think that we should  
11 consider another option for raising those  
12 fees. Perhaps there are other ways that we  
13 can come up with to assist the counties in the  
14 cost of these services, rather than taxing  
15 these -- the people that we would hope that  
16 we're giving a second chance to rehabilitate  
17 themselves through probation.

18 So I'm going to continue to object  
19 to this legislation, Madam President. Thank  
20 you.

21 THE PRESIDENT: Senator Valesky.

22 SENATOR VALESKY: Thank you,  
23 Madam President. On the bill.

24 THE PRESIDENT: You may proceed  
25 on the bill, Senator.

1                   SENATOR VALESKY:     I rise in  
2                   support of this bill and commend Senator  
3                   Flanagan for bringing it to the floor.

4                   I notice, in looking at the voting  
5                   record last year, that a number of my  
6                   colleagues voted in opposition to this bill.  
7                   And with all due respect to the comments of  
8                   Senator Montgomery, I think it may be helpful  
9                   for other members to know the kind of  
10                  pressures that local governments around the  
11                  state are facing and how this bill can help in  
12                  some small way to alleviate those pressures.

13                  The Attorney General's office, as  
14                  many of my colleagues may know, became  
15                  involved in this issue a couple of years ago,  
16                  in the year 2003, at the request of the Essex  
17                  County officials. Several counties across the  
18                  state had already passed local laws, I believe  
19                  about 15 counties had passed local laws that  
20                  imposed a wide variety of fees that the  
21                  Attorney General found was impossible to do  
22                  without state legislation allowing counties to  
23                  do that.

24                  So many counties have been acting  
25                  in good faith to ensure that a portion of

1           probation costs be paid not by the taxpayers  
2           but by those probationers who have the  
3           financial wherewithal to make such payments.

4                        I believe this is good public  
5           policy. This is a good bill. We ought to be  
6           passing this bill. I encourage the Assembly  
7           to take the same action and for my colleagues  
8           to support this bill today.

9                        Thank you, Madam President.

10                      THE PRESIDENT:        Senator Onorato.

11                      SENATOR ONORATO:        Yes, Madam  
12           President. Will the sponsor yield to a  
13           question.

14                      THE PRESIDENT:        Senator Flanagan,  
15           do you yield for a question?

16                      SENATOR FLANAGAN:        Yes.

17                      THE PRESIDENT:        You may proceed.

18                      SENATOR ONORATO:        Senator  
19           Flanagan, is there any other category of  
20           employees throughout the state that are  
21           mandated to take random drug tests who are  
22           required to pay for it?

23                      SENATOR FLANAGAN:        I don't know.

24                      SENATOR ONORATO:        Or are we  
25           singling out only the probationary people with

1 your bill?

2 SENATOR FLANAGAN: Senator  
3 Onorato, I honestly don't know if there are  
4 other people that are subject to that kind of  
5 fee.

6 I'm focusing on this. This is a  
7 bill that's supported by the Attorney General.  
8 And counties have moved to take these actions.  
9 We're trying to basically help them out and  
10 work with them.

11 But you perhaps would know better  
12 than I.

13 SENATOR ONORATO: Well, I agree  
14 with the principles of the bill.

15 But again, if we want to start  
16 raising fees, let's make it statewide for  
17 anybody who's mandated to require drug testing  
18 to pay for their own drug testing. Let's not  
19 just single out one portion of the population  
20 for it.

21 You want to make money, this is a  
22 money-making bill, let's do it for everybody.

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

25 Senator Krueger.

1                   SENATOR LIZ KRUEGER:     Thank you,  
2     Madam President.

3                   Would the sponsor please yield to a  
4     question?

5                   THE PRESIDENT:        Senator Flanagan,  
6     will you yield for a question?

7                   SENATOR FLANAGAN:     Yes.

8                   THE PRESIDENT:     You may proceed,  
9     Senator Krueger.

10                  SENATOR LIZ KRUEGER:    Senator, I  
11     understand this bill is specific to people on  
12     probation.  What's the difference -- or why  
13     does this not apply to people who come out of  
14     prison on parole as well?

15                  SENATOR FLANAGAN:     We chose to  
16     limit it to those who are on probation.  If  
17     someone else is so inclined to introduce a  
18     bill for those on parole, they should feel  
19     free to do so.  It's limited to people who are  
20     on probation.

21                  SENATOR LIZ KRUEGER:    Thank you.  
22     Madam President, on the bill.

23                  THE PRESIDENT:        You may proceed  
24     on the bill.

25                  SENATOR LIZ KRUEGER:    Thank you.

1 I think we're all on probation in  
2 this Legislature. And it's important to be  
3 held accountable, as Senator Flanagan is  
4 attempting to assist counties to hold people  
5 accountable.

6 We have ten days left in this  
7 session, and we have a series of bills that  
8 we've committed to the public that we would do  
9 before the end of session. And yet with ten  
10 days left, it's not clear to me that we are  
11 going to follow through.

12 We should be addressing legislative  
13 reform or explaining to our constituents at  
14 home why we flunked our probation. We should  
15 be dealing with lobbying reform, particularly  
16 procurement lobbying reform, particularly in  
17 light of HAVA and the question of voting  
18 machines moving to the counties and lobbying  
19 moving to the counties --

20 SENATOR FLANAGAN: Madam  
21 President.

22 THE PRESIDENT: Senator Flanagan.

23 SENATOR FLANAGAN: Point of  
24 order.

25 I believe the comments that are

1 being made are not germane to this bill or to  
2 this legislation at all.

3 THE PRESIDENT: Senator Krueger,  
4 I'm going to remind you to keep your comments  
5 germane, please.

6 SENATOR LIZ KRUEGER: Thank you,  
7 Madam President.

8 I think it's germane because it's  
9 germane to the role that we play in the  
10 Legislature of moving legislation.

11 You're attempting to move this  
12 legislation. You're applying it to specific  
13 individuals who we've placed on probation,  
14 questioning whether as early offenders they  
15 should continue to have their freedom or  
16 perhaps end up in jail.

17 Hopefully none of us face that  
18 level of response to our failure to meet our  
19 obligations.

20 But I would argue that this  
21 Legislature's failure to meet fundamental  
22 reforms that many of us on both sides of this  
23 aisle have committed to is in fact a parallel  
24 probationary question. But I respect the  
25 point. Again, ten days left. We have time to

1 do important legislation, and I believe we  
2 should do it.

3 Thank you, Madam President.

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

6 Then the debate is closed.

7 The Secretary will ring the bell.

8 Read the last section.

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

11 THE PRESIDENT: Call the roll.

12 (The Secretary called the roll.)

13 THE PRESIDENT: Senator Diaz, to  
14 explain your vote.

15 SENATOR DIAZ: Thank you, Madam  
16 President.

17 Ladies and gentlemen, today, in one  
18 hour, we have gone through 45 bills. Only one  
19 was laid aside. I'm congratulating my  
20 colleagues that today no one seems to have the  
21 energy to speak on anything.

22 Maybe, maybe it was the West Side  
23 Stadium defeat, to some of us, that made us  
24 keep quiet today. Or maybe it was the West  
25 Side Stadium victory, for other people, that

1 made us keep quiet today.

2 One way or another, Madam  
3 President, this is a precedent. In the time  
4 that I have been here, it's a precedent,  
5 45 bills in one hour. Praise the Lord.

6 I'm voting no.

7 THE PRESIDENT: You will be so  
8 recorded as voting in the negative, Senator.

9 Senator Breslin, to explain your  
10 vote.

11 SENATOR BRESLIN: Thank you,  
12 Madam President.

13 Last year on this bill I voted no.  
14 I didn't think there was sufficient  
15 information available that it wouldn't punish  
16 people who need not be punished.

17 But I've listened to the thoughtful  
18 remarks of Senator Valesky. My brother  
19 Michael, the county executive of Albany, did  
20 place a call to me. And I really do see the  
21 light, and I accept the fact that there is a  
22 sufficient means test contained within the  
23 bill that it's not punitive in nature, and  
24 accordingly change my vote to a yes.

25 THE PRESIDENT: You will be so

1 recorded as voting in the affirmative, Senator  
2 Breslin.

3 Senator Connor, to explain your  
4 vote.

5 SENATOR CONNOR: Thank you, Madam  
6 President.

7 Not to be an echo, but last year I  
8 voted no on this. I frankly thought it was  
9 punitive, or the intent was punitive.

10 Based on the debate today and the  
11 explanations, I realize that there's a fiscal  
12 need, there's a budgetary need, and therefore  
13 I'm voting yes this year.

14 THE PRESIDENT: You will be so  
15 recorded as voting in the affirmative.

16 The Secretary will announce the  
17 results.

18 THE SECRETARY: Those recorded in  
19 the negative on Calendar Number 1360 are  
20 Senators Diaz, Dilan, Duane, L. Krueger,  
21 Montgomery, Parker, Paterson, Sabini, Serrano,  
22 A. Smith and M. Smith.

23 Those Senators absent from voting:  
24 Senator Saland.

25 Ayes, 47. Nays, 11.

1 THE PRESIDENT: There is a local  
2 fiscal impact note at the desk on this bill.

3 And the bill is passed.

4 THE SECRETARY: In relation to  
5 Calendar Number 1360, in the negative, also  
6 Senator Schneiderman.

7 Ayes, 46. Nays, 12.

8 THE PRESIDENT: The bill is still  
9 passed.

10 Senator Skelos.

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

15 And upon completion of the  
16 committee meeting, we'll just report the bills  
17 to the floor and then adjourn.

18 So if we could stand at ease.

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

22 Senator Robach.

23 SENATOR ROBACH: Yes, Madam  
24 President. On page 30, I offer the following  
25 amendments to Calendar 809, Senate Print

1           Number 3110, and ask that said bill retain its  
2           place on Third Reading Calendar, on behalf of  
3           Senator Farley.

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

7                   SENATOR ROBACH:     And also, Madam  
8           President, on page number 14, I offer the  
9           following amendments to Calendar Number 417,  
10          Senate Print Number 2975, and ask that the  
11          said bill retain its place on Third Reading  
12          Calendar, on behalf of Senator Spano.

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

16                   Senator Skelos.

17                   SENATOR SKELOS:     If we can just  
18          stand at ease, then.

19                   THE PRESIDENT:     The Senate stands  
20          at ease.

21                           (Whereupon, the Senate stood at  
22          ease at 4:10 p.m.)

23                           (Whereupon, the Senate reconvened  
24          at 4:22 p.m.)

25                   THE PRESIDENT:     Senator Skelos.

1                   SENATOR SKELOS:     Madam President,  
2     if we could return to reports of standing  
3     committees, I believe there's a report of the  
4     Rules Committee at the desk.  Everybody is  
5     waiting for it to be read.

6                   THE PRESIDENT:     Reports of  
7     standing committees.

8                   The Secretary will read.

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

12                          Senate Print 138, by Senator  
13    Trunzo, an act to amend the Public Authorities  
14    Law;

15                          448, by Senator Larkin, an act to  
16    amend the Surrogate's Court Procedure Act;

17                          1043, by Senator Padavan, an act to  
18    amend the Vehicle and Traffic Law;

19                          1515, by Senator Rath, an act to  
20    amend the Vehicle and Traffic Law;

21                          2086, by Senator Stachowski, an act  
22    authorizing the Village of Hamburg;

23                          2385, by Senator Morahan, an act to  
24    amend the Executive Law;

25                          2557, by Senator Hannon, an act to

1 amend the Village Law;  
2 3271, by Senator Winner, an act to  
3 amend the Tax Law;  
4 3332, by Senator Seward, an act  
5 authorizing;  
6 3619, by Senator Flanagan, an act  
7 entitling Harold G. Hartner;  
8 3625, by Senator Leibell, an act to  
9 amend the General Municipal Law;  
10 3709, by Senator Flanagan, an act  
11 to amend the Vehicle and Traffic Law;  
12 3932, by Senator Maziarz, an act to  
13 amend the Environmental Conservation Law;  
14 4563, by Senator Trunzo, an act to  
15 amend Chapter 666 of the Laws of 1990;  
16 4708, by Senator Skelos, an act to  
17 amend the Vehicle and Traffic Law;  
18 4757, by Senator Saland, an act to  
19 amend the Executive Law;  
20 4855A, by Senator DeFrancisco, an  
21 act to amend the Civil Practice Law and Rules;  
22 4959, by Senator Wright, an act to  
23 amend the Vehicle and Traffic Law;  
24 4993, by Senator Alesi, an act to  
25 amend the Vehicle and Traffic Law;

1                   5171, by Senator Robach, an act to  
2 amend the Penal Law;

3                   5392, by Senator Meier, an act to  
4 amend the Social Services Law;

5                   5395, by Senator Johnson, an act to  
6 amend the Tax Law;

7                   And Senate Print 5505A, by Senator  
8 Flanagan, an act to amend the Election Law.

9                   All bills ordered direct to third  
10 reading.

11                   THE PRESIDENT:       Senator Skelos.

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

14                   THE PRESIDENT:       All in favor of  
15 accepting the report of the Rules Committee  
16 please signify by saying aye.

17                   (Response of "Aye.")

18                   THE PRESIDENT:       Opposed, nay.

19                   (No response.)

20                   THE PRESIDENT:       The report is  
21 accepted.

22                   Senator Skelos.

23                   SENATOR SKELOS:       Is there any  
24 further business at the desk?

25                   THE PRESIDENT:       No, there isn't,

1 Senator.

2 SENATOR SKELOS: Thank you.

3 There being no further business to  
4 come before the Senate, I move we stand  
5 adjourned until Wednesday, June 8th, at  
6 11:00 a.m.

7 THE PRESIDENT: On motion, the  
8 Senate now stands adjourned until Wednesday,  
9 June 8th, 11:00 a.m.

10 (Whereupon, at 4:25 p.m., the  
11 Senate adjourned.)

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