NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 8, 2005

11:24 a.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, Tuesday, June 7, the Senate met pursuant to adjournment. The Journal of Monday, June 6, 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 Winner, on page number 17 I offer the following amendments to Calendar Number 529, Senate Print Number 3154, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there's a substitution at the desk, if we could make it at this time.

THE PRESIDENT: Excuse me, Senator, I couldn't hear you.

Could we please have order so the members can be heard.

Senator Skelos.

SENATOR SKELOS: I believe there's a substitution at the desk. If we could make it at this time.

THE PRESIDENT: Thank you.

The Secretary will read.

THE SECRETARY: On page 67, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 6722 and substitute it for the identical Senate Bill Number 3625, Third Reading Calendar 1391.

THE PRESIDENT: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

There's a Resolution 2279, by Senator Bonacic, at the desk. This was previously adopted. If we could have it read in its entirety at this time.

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.

"WHEREAS, It is the sense of this Legislative Body to act in accord with its long-standing traditions, to honor the youth of today -- the leaders of tomorrow -- whose characters and achievements exemplify the ideals and values cherished by this great State and Nation; and

"WHEREAS, This Legislative Body is justly proud to recognize and commend the high achievements of these dedicated students in the 42nd Senate District on the occasion of a special celebratory visit to the State Capitol in Albany, New York, on Wednesday, June 8, 2005. At this time the Valedictorians, Salutatorians and Honored Students who have been selected by their school leadership for outstanding community service will receive special recognition from the Senate in the Senate Chamber. Lunch will be served in The Well of the Legislative Office Building, followed by a tour of the State Capitol; and

"WHEREAS, These Valedictorians, Salutatorians and Honored Students represent the best of developed potential inherent in our most precious resource, our youth. Their achievements have brought enduring honor to their families and communities and should be recognized and saluted; and

"WHEREAS, The Valedictorians who are being commended today for their outstanding academic performances and exemplary achievements include: Kimberly McAdams, Cali Riese, Vera Neroni, Bryan Hoyt, Timothy Hallock, Celia Barry, Robert Sneckenberg, Mark Suozzo, Annmarie Argiros, Courtney Cavalieri, Gregory Morrison, Michael Wagner, Emily Dalrymple, Devin Kittle, Jennifer Murray, Christopher Krogslund, Medum Choe, Kathryn Vitelli, Allyson Pickard, John Beck, Jr., Jonathan Rankin, Dana Buchholz, Chryste Springman, Jacqueline Ball, Brian Dionne, Julie Many, Patrick Wenner, Heather Lander, Cecilia Pompeii, Caroline Curley, and Georgette Galley; and

"WHEREAS, The Salutatorians who are being commended today for their outstanding

academic performances and exemplary achievements include: Lara Govendo, Jessica Shea, Jennifer Hewitt, Shane Bussiere, Jessica Cherry, Mariya Gusman, Kelly Hobby, Samantha Austin, David Caramore, Katherine Hyland, Ariel Azoff, David Olson, Jessica Fisk, Adam Lehn, Michelle Pederson, Michael Panko, Antoinette Fuoto, Bryan Bird, Ross Beckman, Mayde Smith, Bradley Pickard, Roseanne Wilcox, Arleigh Kincheloe, Stephanie Patapis, David Anderson, Karyn Tucker, Barbara Vigna, Emily Nebzydoski, Abram Leon, Keirstin Johnsen, and Schuyler VanBuren; and

"WHEREAS, The Honored Students who are being commended today and who have been selected by their school leadership for outstanding school or community service include: Micheal Batiste, Tanya Sellevold, Jennifer Reynolds, Brittany Deno, Kristie Meehan, Victoria Cohen, Benjamin Kolansky, Stephen Gorschack, Justin Lulli, Margaret Wang, Michelle Silver, Laura Hanratty, Suzanna DiBenedetto, Susan Riddick, Laura Ferranti, Tiffany Anderson, Sally Eickmeyer, Alison Sickler, Dustin Sullivan, Aarika Gruber, Renee

Hunt, Norie Grant, Elizabeth Bell, Jaclyn Bunch, Alice Cook, and Meredith Hey; and

"WHEREAS, These Valedictorians, Salutatorians and Honored Students may now stand with pride as they assess their achievements, experience the satisfaction of their labors and the joy of their accomplishments, eager to face the new experiences of a challenging world; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commend 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; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the aforementioned Valedictorians, Salutatorians and Honored Students."

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

First of all, I stand to welcome all of our valedictorians, salutatorians and community service award students in the 42nd Senate District. We have 190 invited guests.

To my colleagues I say to you: This is the best of the best in my Senate district.

I want to thank the Lieutenant Governor, who came to a forum this morning to speak personally to all of our honored guests. The Lieutenant Governor, as you know, is Acting Governor, because Governor Pataki is in Spain.

And I want to thank you, Governor, for taking time out of your schedule to be here and at that forum.

We will be treating our honored guests to lunch today. They will be taking tours. They also were addressed by educators at the college level, telling them something that they might expect when they go from transition from high school to college.

I would just simply say to you that we wish you the best in all your endeavors. As you pursue your college career, I suggest

to you that you should stay in school as long as you can. Maybe your parents don't like to hear that, because tuition bills are getting higher and higher. But higher education translates into a better quality of life.

And I would hope that when you are done with your education and you've achieved and you know the occupation that you want to go into, that you think of coming and working and living in the State of New York, make it stronger and better.

I'm so honored to have you here today.

Thank you very much, Madam President.

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

(Response of "Aye.")

THE PRESIDENT: Senator Skelos, do you wish to speak first?

SENATOR SKELOS: Governor, I believe that was previously adopted.

THE PRESIDENT: All who are still in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: The resolution was previously adopted.

Congratulations and best wishes for continued success.

(Standing ovation.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: There is a Resolution 2373 at the desk, by Senator Breslin. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Breslin, Legislative Resolution Number 2373, honoring Marsha A. Cohen upon the occasion of her designation as the recipient of the APIW Insurance Woman of the Year Award on June 8, 2005.

THE PRESIDENT: On the resolution, everyone in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, please recognize Senator Saland.

THE PRESIDENT: Senator Saland.

SENATOR SALAND: Thank you, Madam President. I would like to place a sponsor's star on Calendar 1272, Senate 5415.

THE PRESIDENT: So ordered, Senator.

SENATOR SKELOS: Madam President, I think it would be appropriate at this time to let the membership know that Senator Saland -- and Senator Spano informed me of this -- became a grandfather yesterday to a baby boy, Isaac.

Congratulations, Senator Saland.

(Applause.)

SENATOR SKELOS: Linda is already preparing for the bar mitzvah and for the wedding.

(Laughter.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Thank you, Madam

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 34, by Senator Maziarz, Senate Print 302A, an act to amend the Highway Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 258, by Senator Nozzolio, Senate Print 1946, an act to amend the General Municipal Law.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 268, by Senator LaValle, Senate Print 2952A, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 316, by Senator LaValle, Senate Print 2963A, an act to amend the General Business Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day after it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 468, by Senator Volker, Senate Print 918A, an act to amend the Environmental Conservation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 2. Senators Duane and Serrano recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 520, by Senator Libous, Senate Print 3611, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 675, by Senator Little, Senate Print 4014A, an act to authorize the Town of Champlain.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 693, by Senator Winner, Senate Print 4814A, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 855, by Senator Seward, Senate Print 2390A, an act to amend the Insurance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Onorato, to explain your vote.

SENATOR ONORATO: Madam President, to explain my vote.

I commend the sponsor for this bill. Many of the ideas he proposes are necessary to help combat auto insurance fraud in this state. I've supported this bill in the past and will again today.

I would also like to point out that while this is a good bill, it could be a bit

better. My colleague Senator Montgomery has been the sponsor of a bill that included most of the proposals contained in Senator Seward's bill. However, it also included measures that would help protect consumers in our state, such as establishing the Office of Consumer Advocate to represent the interests of automobile and health insurance consumers.

Additionally, I do have some concerns with the provision allowing an insurer to delay or deny a claim after the current 30-day deadline for payment has passed. This could put honest consumers with legitimate claims in a difficult financial situation while waiting to receive payment.

I urge Senator Seward to consider language in the Assembly's fraud bill which increases the 30-day limit to 45 days and provides a much tougher standard on insurers for claims they do delay or deny.

I will be voting aye.

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

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I'd like to explain my vote.

I'm going to vote no. This is not a balanced bill. Insurance fraud is not limited to insureds.

In this situation, by continually limiting the amount of time that an individual has to file a claim or expanding the time that insurance companies have an opportunity to contest the claim, is not anti-fraud, it's anti-consumer as far as I can see.

There are provisions, if a bill is being questioned -- there are provisions in existing law, if a medical bill is being questioned, to extend the period of time and request documentation and backup and verification.

So I just think we keep moving and moving in a direction assuming that insured people are the only ones who cause problems in the insurance industry. And for those reasons -- and I think we need a much more balanced approach, because there are situations where insurance companies wrongfully withhold payments for spurious

reasons, where an individual does not have a remedy against these types of activities.

And it's about time that we have a balanced bill that deals with those situations as well as fraud that can occur as a result of a consumer. So I vote no.

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

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. To explain my vote.

I really have to strongly echo and amplify what Senator DeFrancisco just said. We are not going to reform the Insurance Law -- and let's keep in mind that the anti-fraud steps that have been taken administratively in this state have had substantial effects so far already. Rates are going down, due to the good work of the Department of Insurance and the State Attorney General and others. We have had some success administratively.

I do support codification of a measure to further reform the Insurance Law in

this area and to reduce costs through preventing wrongful claimants from tying up the system.

Unfortunately, this measure throws out the baby with the bathwater and would clearly delay payments of legitimate claims to people who are simply trying to get a claim honored by insurance companies who, as we all know, have systems -- many insurance companies are totally honorable; many are not. They have systems where they delay every claim and then it's how hard you push that determines whether or not a legitimate claim is honored.

So I will also be voting in the negative on this bill, in the hopes that we will see a better bill down the road that might have a chance of passing both houses, becoming law, and is truly a balanced bill respecting the fact that consumers may be in the wrong sometimes but so may insurance companies.

Thank you, Madam President.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 855 are Senators DeFrancisco, Duane, L. Krueger, Schneiderman and Stavisky.

Ayes, 51. Nays, 5.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 862, by Senator DeFrancisco, Senate Print 4135A, an act to amend the Judiciary Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 863, by Senator DeFrancisco, Senate Print 4340, an act to amend the Estates, Powers and Trusts Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 942, by Senator Skelos, Senate Print 3982, an act to amend Chapter 821 of the Laws of 1970.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1014, by Senator Saland, Senate Print 3314A, an act to amend the General Business Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day after it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1076, by Senator Volker, Senate Print 2415A --

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

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

THE SECRETARY: Calendar Number 1085, by Senator Marchi, Senate Print 4391, an act to amend the Retirement and Social Security Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1089, by Senator Saland, Senate Print 5352, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1091, by Senator Saland, Senate Print 2890A, an act to amend the Social Services Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1092, by Senator Golden, Senate Print 5033, an act to amend the Social Services Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1116, by Senator Trunzo, Senate Print 5097A, an act to authorize the assessor of the Town of Brookhaven.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1117, by Member of the Assembly McLaughlin, Assembly Bill Number 7872, an act to provide enhanced financial assistance.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1120, by Member of the Assembly McLaughlin Assembly Print Number 7870, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1127, by Senator Leibell, Senate Print 5224, an act to amend the Public Authorities Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1130, by Senator Winner, Senate Print 1781, an act to amend the Navigation Law.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1137, by Senator LaValle, Senate Print 4652, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1159, by Senator Winner, Senate Print 2619, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1160, by Member of the Assembly Magee, Assembly Print Number 6061, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1162, by Member of the Assembly Koon, Assembly Print Number 7078, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1184, by Member of the Assembly Magee, Assembly Print Number 7170, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1202, by Senator Saland, Senate Print 5332, an act to amend the Public Authorities Law.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1210, by Member of the Assembly Thiele, Assembly Print Number 4240, an act authorizing certain members of the New York State and Local Police and Firemen Retirement System.

THE PRESIDENT: Read the last section.

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

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

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1256, by Senator Nozzolio, Senate Print 4266, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1269, by Senator Saland, Senate Print 3680A, an act to amend Chapter 472 of the Laws of 1998.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1275, by Member of the Assembly Aubertine, Assembly Print Number 7114A, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1282, by Senator Little --

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

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

THE SECRETARY: Calendar Number 1284, by Senator Larkin, Senate Print 4018, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1286, by Senator Meier, Senate Print 4540, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1292, by Member of the Assembly Millman, Assembly Print Number 7709, an act to amend the Real Property Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1294, by Senator Little, Senate Print 5327, an act to amend the Local Finance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1295, by Senator Little, Senate Print 5328A, an act to amend Chapter 492 of the Laws of 1993.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1300, by Senator Padavan, Senate Print 5382, an act to amend Chapter 130 of the Laws of

1998.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1312, by Senator Stavisky, Senate Print 1424, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1318, by Senator Johnson, Senate Print 5181, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1320, by Senator Wright, Senate Print Number 5368, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect July 1, 2005.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1321, by Senator LaValle, Senate Print 5422, an act to amend the Education Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator LaValle, to explain your vote.

SENATOR LaVALLE: Thank you, Madam President.

During 2004, the Senate Higher Education Committee had created a subcommittee to deal with the nursing shortage problem. It was a committee made up of members of both majority and minority members of the committee. The chairperson of that committee was Senator Patricia McGee.

Pat McGee took the charge of her duties with so much enthusiasm, set up five or six roundtable discussions around the state and also made sure that the subcommittee members fully participated. And they did.

As a result of her efforts, during this year's budget we included money for nursing faculty scholarships, and the program was called the New York State Nursing Faculty

Scholarship Program. This legislation is dedicating the efforts of Pat McGee and renaming those scholarships the Senator Patricia K. McGee Nursing Scholarship Program.

So by our votes today we are once again commemorating a colleague who had some vision, energy, enthusiasm and did a job well done for the state and dealt programmatically with a problem that we have faced.

I vote in the affirmative.

THE PRESIDENT: You will be so recorded, Senator LaValle, as voting in the affirmative on this bill.

Senator Stavisky, to explain your vote.

SENATOR STAVISKY: To explain my vote, Madam President.

I want to echo what Senator LaValle said. I attended almost all of those hearings. And we've attended hearings, all parts of the state, on a variety of issues. And you sit there on the podium and you listen to the testimony and you read the testimony as it's presented.

These hearings were different.

These were hearings throughout the state, and Pat McGee brought a sense of enthusiasm and at the same time conveyed her concern for the serious situation we have involving the shortage of nurses in our state and in fact throughout the country.

This was not -- these were not typical hearings. She did what any good teacher would do, she involved the participants. There would be 20 or 30 people attending these hearings, and she brought out their concerns and their interests were represented in a remarkable, remarkable way.

And so I want to commend the committee and Senator LaValle for naming the nursing scholarships after Pat McGee so that someday, down the line, our great-grandchildren will say: I had a Pat McGee scholarship to nursing, and she was a member of the Senate -- and through that her legacy will continue.

And I thank you, Madam President.

THE PRESIDENT: You will be recorded, Senator Stavisky, as voting in the affirmative on this bill.

SENATOR STAVISKY: I vote yes.

THE PRESIDENT: And so you will be recorded.

The Secretary will announce the results.

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1322, by Member of the Assembly Magee, Assembly Print Number 7410B, an act to amend the Agriculture and Markets Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1326, by Senator Marcellino, Senate Print 3114A, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 16. This act shall take effect two years after the date on which it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1368, by Senator Skelos, Senate Print 4793B, an act to amend the Correction Law.

THE PRESIDENT: Read the last section.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1381, by Senator Trunzo, Senate Print 138, an act to amend the Public Authorities Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1382, by Senator Larkin, Senate Print 448, an act to amend the Surrogate's Court Procedure Act.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the first day of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1383, by Senator Padavan, Senate Print 1043, an act to amend the Vehicle and Traffic Law.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1384, by Senator Rath, Senate Print 1515, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day after it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1385, by Senator Stachowski, Senate Print 2086, an act authorizing the Village of Hamburg.

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

Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1386, by Senator Morahan, Senate Print 2385, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1387, by Senator Hannon, Senate Print 2557, an act to amend the Village Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1388, by Senator Winner, Senate Print 3271, an act to amend the Tax Law.

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

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day after it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1389, by Senator Seward, Senate Print 3332, an act authorizing Terry M. Clapper to receive retirement.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1390, by Senator Flanagan, Senate Print 3619, an act entitling Harold G. Hartner to have his prior service.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1391, substituted earlier today by --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1392, by Senator Flanagan, Senate Print 3709, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1394, by Senator Trunzo, Senate Print 4563, an act to amend Chapter 666 of the Laws of 1990.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect September 1, 2005.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1395, by Senator Skelos --

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

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

THE SECRETARY: Calendar Number 1396, by Senator Saland, Senate Print 4757, an act to amend the Executive Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as Section 68 of Chapter 264 of the Laws of 2003.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1398, by Senator Wright, Senate Print 4959, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day after it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1399, by Senator Alesi, Senate Print 4993, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day after it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1400, by Senator Robach, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1401, by Senator Meier, Senate Print 5392, an act to amend the Social Services Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day after it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

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 now.

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

The Secretary will read.

THE SECRETARY: Calendar Number 1202, by Senator Saland, Senate Print 5332, an act to amend the Public Authorities Law.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR SALAND: Thank you, Madam President.

Madam President, this is a bill which I guess for our purposes I should give a little bit of background on.

In the early 1980s particularly, there was an enormous hue and cry from certain of the northern counties in the MTA area, the Metro North area particularly, that were smaller counties and felt that to a considerable extent they were revenue hostages to this larger system. Those counties were Rockland and Orange County and Putnam and Dutchess County.

And in fact, there was a movement afoot at that point to try and see if it would be possible to even get out of the Metropolitan Transportation Authority. And I must tell you that in that time period, in fact, a bill passed in the Assembly that would have permitted that to happen.

As a result of all this activity, what occurred was a system which provided a vote to the members of those four counties, and they became known as the so-called quarter-pounders. Each of them had a quarter-vote. Again, Rockland and Orange and Putnam and Dutchess each had one-quarter vote.

However, they could only exercise their respective one-quarter vote if in fact they voted unanimously. And were somebody absent, that crippled their ability to act. And if only one member were present, they in fact didn't have a vote at all.

What this bill does is it says that instead of that unanimity, instead of that required all people being in attendance, those four counties would still have that same one vote, the four quarters equalling one whole.

But in fact, now what will happen -- and this parallels language that's in the bylaws and has been approved by the MTA board -- if only one member is present, that one member may cast one vote as the collective vote for all four of the counties.

If two or more members are present, if the vote is a divided vote, there shall be no vote. If three -- if two members agree unanimously, it's obviously a full vote. If three or four members are present and there is a majority vote, in fact the majority vote prevails.

Again, this legislation has met with the approval of the MTA board and merely in effect modifies, to the benefit of those four counties, their ability to sustain a collective vote.

Thank you.

THE PRESIDENT: Senator Krueger.

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

THE PRESIDENT: Senator Saland, do you yield?

SENATOR SALAND: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

I appreciate your detailed explanation for what appeared to be a complicated situation.

My one question is, is there any other public authority board where there are shares of a vote split between various board members and this would be a precedent?

SENATOR SALAND: I will not profess to be an expert. I would tell you I do not believe so.

I think this represented, again, a compromise that was intended to avoid the desire to pull out, and this was the way it was crafted at the time. And at the time it was acceptable, but it's proved problematical.

SENATOR LIZ KRUEGER: Okay, thank you.

Thank you, Madam President. Briefly on the bill.

THE PRESIDENT: You may proceed

on the bill, Senator.

SENATOR LIZ KRUEGER: Thank you. I appreciate Senator Saland's explanation.

I will vote for this bill. I just want to highlight that I think we should be cautious of precedents, when we're talking about public authorities and their boards, about setting up a situation where board members can either in some way choose to merge their votes in voting blocs rather than actually coming to meetings and hearing the discussions and the debates, and also that we don't want to do anything that encourages people who have been given important positions on public authority boards to not attend all the meetings that they can.

And to be honest, the MTA -- not necessarily the members we're talking about here today from upstate New York, but there have been concerns that when there are public hearings around MTA issues in the City of New York, that we find it hard to find any MTA members willing to actually come to the hearings and listen to the public.

But having raised my concerns, I

realize that this is a hopefully unique situation and the one that will address fairly the problems of four counties sharing one vote on the MTA board.

So I will support the bill. Thank you, Madam President.

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

Then the debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 2. Senators Duane and Spano recorded in the negative.

Those Senators absent from voting: Senators Connor, Gonzalez, Robach and Seward.

THE PRESIDENT: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number

1368, by Senator Skelos, Senate Print 4793B, an act to amend the Correction Law.

SENATOR MONTGOMERY: Explanation.

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

SENATOR SKELOS: Thank you very much.

Senator Montgomery, this legislation is the Megan's Law Reform Act. And as you know, I sponsored Megan's Law 10 years ago. And on the tenth-year anniversary, we are looking to this omnibus bill to reform and improve Megan's Law.

And this legislation does it in 25 different ways. I'm not going to go through every one of the 25 ways, but they're all substantial and significant.

And really what Megan's Law is about is empowering parents, empowering the community with information which, incidentally, is public information. Those who are convicted of a crime, all of that information is public information. And it brings it together in an orderly fashion so that people within the community can find out

what sexual offenders, what sexual predators are living perhaps as neighbors.

Even before the death of young Megan, this chamber passed a registry. And unfortunately it took her death and the death of other young children to get the Assembly to pass the legislation. Which passed with, I believe, one dissenting vote 10, 11 years ago.

Maureen Kanka, Megan's mom, who really led the nationwide effort to have Megan's Law enacted, and particularly by the federal government, would be here today, but this month her daughter would be celebrating her graduation from high school. And Maureen Kanka would say to this chamber and would say to the Assembly that if they had known there were three convicted pedophiles living across the street from them, if there was a GPS tracking system then that these pedophiles were wearing, her daughter would be receiving flowers at her graduation.

And I think that's very, very important to note, because it's been through the efforts of people like Maureen Kanka; Mark Klaas, whose daughter Polly Klaas was abducted

from their home, brutally raped and murdered; Mark Lunsford -- and I know that yesterday Senator Golden and Senator Nozzolio, who have been leaders in this area, spent time with him. Same thing: convicted pedophile across the street, did not know it, wearing a GPS device would have saved his daughter's life.

Police, probation officials all indicate that there's a necessity to reform and enhance Megan's Law.

There's also been changes in technology, as I mentioned earlier, over the past 10 years. That's why within this legislation we're looking to have mandatory community notification, all sex offenders put on the Internet, the website of the Division of Criminal Justice Services. Right now only Level 3 offenders can be placed on the Internet.

Senator Bonacic, GPS tracking devices; that should go on all Level 3 offenders.

Email notification, critically important. If you register your email address with the division, as soon as one of these

individuals move within your community, you would be notified by email. Nothing wrong with that.

So this is really, in my opinion, the most aggressive and far-reaching expansion of the sex offender registry anywhere in this nation, and certainly since we passed Megan's Law.

We've seen a rash of sexual assaults that have dominated our state and national headlines. And that's why we need mandatory community notification, and Senator Nozzolio has led the charge on that. GPS tracking. Lifetime registration. Thirty-two hundred sex offenders will be coming off the registry within the next year unless we enact lifetime registration.

And just recently, in today's papers, in Rochester a convicted sex offender, Level 3, David Gardner, was arrested for raping a second -- a number of children, young people under the age of 18. Level 3.

Under sentencing of Level 3, under the original Megan's Law, he could petition the court to be released from registration

requirements. Under the reforms that we're discussing, he could never be released from that requirement. He would be required to wear a GPS tracking device. And I don't think this would have happened if the law had been reformed with these changes earlier.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President. I stand in support of this legislation.

I'd like to commend Senator Skelos for not only introducing this legislation but the original legislation 10 years ago, and he's been a consistent proponent of strengthening our laws against sex offenders to protect children and the women in this state.

I'd like to talk specifically about a component of this legislation, global positioning systems. And if you're not familiar with that, let me just tell you what it is. It's been implemented in the state of Florida since 1998. It's a bracelet that you put on the ankle of a Level 3 sexual predator. There is a transmitter that they wear on their

belt, and this transmitter can be programmed for exclusionary zones or hot spots. It could be a daycare center, it could be a school.

And if that predator goes in these exclusionary zones, there will be a signal given to a command center. And within 60 to 90 seconds, a probation officer from that county will be notified that the violation has occurred.

Now, what is a Level 3 offender? They are the worst of the worst. We have 4,400 Level 3 sexual predators roaming our communities. And you know where most of them are? They're in Manhattan, they're in Brooklyn, they're in the Bronx, they're in Suffolk. And in the city area, there's 14 Level 3 predators per square mile.

Now, GPS monitoring is not a substitute for longer criminal jail sentences for these predators. It's not a substitute for civil confinement. It's not a substitute for probation officers. It is a tool where we can monitor 24/7 where they go. And they're most likely to commit a crime of rape, assault and murder against children or women. That's

Level 3. They're the most dangerous that we have.

So we have spoken to this at a press conference, and the absurdity of it. If Martha Stewart can have electronic monitoring if she comes home late at night, how can we not have electronic monitoring of Level 3 offenders who prey on our children and our women in this state, all over our communities?

There are about 21,000 sexual predators of Level 1 and Level 2. But GPS, we're talking only about Level 3.

You've heard and you've read about Mr. Lunsford, who lost his daughter, Jessica, because he did not know a Level 3 was living a few doors from his daughter's house. Had he had known, she might be alive today.

David Koon, in the Assembly, is carrying this bill by itself, the same David Koon that lost his daughter to a sexual predator, who was murdered.

There is bipartisan support in the Assembly, there is bipartisan support in this house. And we will pass this bill in this house. I need the help of all my colleagues

to tell Sheldon Silver let the bill out of committee, because there is bipartisan support in that house. This is not an upstate/downstate bill. This is not a Republican/Democratic bill. This is a public safety bill.

It is now in the state of Florida, since 1998, when this has been implemented, the recidivism rate has dropped 30 percent. We have some form of electric monitoring in homes in 42 counties. We have some form of electric monitoring in 33 states. But we're talking about GPS, which is much more active in monitoring.

Had that been here in the State of New York, the victims that Senator Skelos talked about would still be alive. So I know we have support on both sides of the aisle on this issue. And I thank you for that.

Thank you, Madam President.

THE PRESIDENT: Senator Golden.

SENATOR GOLDEN: Thank you, Madam President.

I too rise in support of this bill, and I would hope that we would have unity on

this bill here in this house.

What Senator Bonacic has failed to point out is that, you know, in Jessica Lunsford's situation, had he been wearing that bracelet, that girl would be alive today. The detectives were talking to the defendant's sister in the bedroom, sitting on the bed, and he had this girl in the closet in the bedroom while detectives were talking to his sister. And they took this girl, and he buried her alive, an 8-year-old girl.

I was a police officer in 1973, and I think everybody here remembers the Etan Patz case. It was a case that tormented many a police officer, trying to find out who took Etan Patz. Well, that detective that had that case, he committed suicide.

There are so many families that have been touched by this, it's just unbelievable. By the time you take one of these deviants off the street, before he's arrested or she's arrested, they've committed 140 crimes on children and, in a lifetime, 360 crimes.

We cannot allow these people to

stay on the street. We cannot allow them to state stay on the street unless they can be monitored and properly taken into custody when they commit a crime.

The 61 Precinct in Brooklyn, they had the same thing going on. And they couldn't figure out where these molestations were coming from. A boy comes forward, a 12-year-old boy, and he points out the house. The captain goes into the house, talks to this 40-year-old man that's living with his parents, coaxes him out of the house, brings him into the precinct, and upon further investigation they arrest him for a number of molestations.

He left New Jersey, never told New Jersey he was leaving; he came to Brooklyn and he never told Brooklyn he was coming. How many kids did he tear apart, how many families' lives have been torn apart in Brooklyn, in Queens, in Manhattan, where the majority of these people live and reside?

We owe it to the families. Every other day in this country, right here, a child is kidnapped or assaulted or killed. I'm

sorry, kidnapped or killed. Every other day here in this country. There are 550,000 known sexual deviants in registries across this country. How many scores of unknown?

This is something I hope that this body comes together with and agrees upon and that we go across to the Assembly and get this bill passed, for the sakes of those children and the sake of the families across this city and state.

Thank you, Senator Skelos, for this bill. Thank you, Senator Bonacic. And thank you, Mike Nozzolio, Senator Nozzolio, who we had hearings yesterday, in the city of New York, with Mark Lunsford from Florida. There wasn't a dry eye in that place. There's no reason that that man had to lose his daughter.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Golden.

Senator Nozzolio.

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

Madam President, my colleagues, I

rise to support this measure as a cosponsor and to thank Senator Bruno and Senator Skelos for their leadership in establishing Megan's Law 10 years ago and helping us utilize the tenth anniversary of Megan's Law as a platform to look at the entire issue of how we can protect our children in a much better way and make them more safe in New York State.

As chairman of the Crime Victims, Crime and Corrections Committee of this house, I was privileged to conduct hearings across this state on this very important issue. Again, looking at the tenth anniversary of Megan's Law, to see how the law is being utilized, to see what types of procedures are in place to protect children, to see what provisions need to be added for additional protections of children and to ensure that loopholes that may exist in the law are closed.

We heard from many different individuals and organizations, advocates for Megan's Law, those who support more community vigilance to protect children. We heard from law enforcement officials. We heard from

those involved in prosecuting crimes, those involved in parole and probation. We looked at the technological ways that we could enhance the community notification process as well as utilizing the best technology available to protect our children.

We heard from prosecutors, one of whom gave the testimony that the loopholes in Megan's Law in New York State, as they exist today, serve up our children on a silver matter for sex predators and that we as a Legislature need to close those loopholes immediately, ensure that our children are not being further victimized.

We looked at the notification process and found that even within a BOCES district, school districts vary in the way they communicate notification to the public, the school board, the faculty, and the administration and the student body and the parents of students. We have a patchwork of notification across this state that we are trying to rectify in part with this legislation.

We also saw that there was a need

to enhance and strengthen the penalty provisions of the Megan's Law which we have enacted ten years ago.

One of the measures we are fighting for today and hope to enact is establishment of a lifetime registration process. Prosecutors told the committee in their hearings that we see violations continually of those who are failing to register under the Megan's Law process, and that those who fail to register for the first time only receive a misdemeanor slap on the wrist.

And that it's difficult to see, that even though prosecutors may fight hard to prosecute that crime, in effect we need to give them a greater tool of a felony to make prosecution more effective.

Not a day goes by, and it was certainly the case during the course of the hearings that not a day goes by that we don't hear of another heinous crime occurring in our state. Just today a convicted sex predator in the Rochester area was arrested on sex crime charges. In Livingston County an individual was -- which is right outside of Rochester --

was apprehended for victims under the age of 18, and that he had been convicted of a rape in 1993 for having sex with a minor. He also had a violation of registering as a sex offender.

To make a lifetime registration process in place is really what we need. There are approximately 3,000 sex predators, those convicted of 1 or 2 level sex crimes, that are coming off the registry this year. And that's something that this body and this Legislature need to fight hard to ensure that does not happen.

We were asked a question about the Assembly, the Assembly's failure, dismal failure to accept these laws and help us close the loophole. To my question, the question raised in a news conference this morning, my response to the reporter afterward was this, that we're not here to bargain with the Assembly over the safety of children, that we're not here to pin one legislative measure against another, to establish a quid pro quo system. These measures stand on their own. They are meritorious.

All the rhetoric we've heard about reform from the Assembly and from many advocates -- frankly, this is real reform. It's reform that we have engaged in through a legislative process of hearings, notifying, testimony. A really classic example of what the legislative process in its best case is all about.

I wish to conclude by saying that we heard from many witnesses who gave us extremely valuable testimony. I thank all my colleagues, Senator Skelos in particular. But Senator Fuschillo, Senator Marcellino, Senator Golden all participated in hearings outside this district. Senator Libous and many others participated in hearings here in Albany.

We heard from individuals. But there were two individuals that stood out in those hearings, and they spoke -- they spoke because they represented people who couldn't speak for themselves. Maureen Kanka was the reason we established Megan's Law in the first place. Her daughter Megan was brutally murdered.

We heard testimony from Mark

Lunsford, thanks to Senator Golden, who asked Mr. Lunsford to come from Florida to New York to explain his circumstances. In the 23 years I've been in the State Legislature, I've never heard more compelling testimony from anyone than I heard from Mr. Lunsford yesterday, how his daughter was stolen from her own bedroom and brutally assaulted and murdered because he did not have notice.

Now, Mr. Lunsford is from Florida. Because of his tragedy, Florida modernized their laws and put the penalty provisions and closed the loopholes in their state. But Mr. Lunsford is speaking for his daughter, Jessica. Maureen Kanka is speaking for her daughter, Megan. Those loopholes exist in our laws today, and that we need to close them to ensure that there won't be Jessicas, there won't be Megans in the future.

Madam President, I call for everyone to support this legislation. And I ask the word to go from this chamber, with a resounding vote in support, to the chamber down on the other side of this building, in the New York State Assembly, and tell those in

the Assembly that real reform means protecting children. And that's what this measure is all about.

ACTING PRESIDENT LITTLE: Thank you, Senator Nozzolio.

Senator Valesky.

SENATOR VALESKY: Thank you, Madam President. Briefly on the bill, in support of this bill.

I listened intently to the speakers here today. And to Senator Skelos and his explanation of why Mrs. Kanka could not be here today with us, I had two thoughts. One, how difficult it must be for Megan Kanka's mother this month, the month that she would have graduated. How difficult life must be for her on holidays, on birthdays and at other occasions where her daughter is no longer with her.

And the other thought I had is one that I would imagine those of us in this chamber who are parents, as I am, had. I am the proud parent of three young children, three young boys, ages 10, 8, and 5. And I could not help but think about them when we

talk about this bill.

It is very important that this bill be passed today, be signed into law this year. As Senator Skelos indicated, 3,200 convicted sex offenders will come off the list, the registry, as the ten-year window expires.

And as I have participated in voting in my relatively short career to this point in this house, I have voted for a number of bills that will not be considered by the other house. One-house bills, as we refer to them. It seems to me that this bill is far too important to be passed only by the New York State Senate.

And I join with my colleagues on the other side of the aisle and encourage each and every one of us to do what we can in convincing our colleagues in the State Assembly to not allow this legislative session to conclude without some form of reform of the Sex Offender Registration Act.

It is far too important for us to leave town without passing a bill in both houses, a bill that the Governor will sign into law. There is nothing more important

than the health and safety of our children.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Valesky.

Senator LaValle.

SENATOR LaVALLE: Thank you, Madam President.

I was not going to speak on this bill but felt very, very touched by comments that were made -- Senator Skelos, Senator Golden, Senator Nozzolio, Senator Valesky.

You know, in this chamber and throughout the state we make speeches about the most precious thing in our future is our children. And far too often we turn on the television or read in the paper how individuals have been -- children have been abused, one, and, two, kidnapped and killed. And the stories are all so very sad.

I have raised children at a different time. And they remind me very often that in that time they had the privilege of being able to roam in the village of Port Jefferson and play and have a good time with their friends. And we as parents had not very

much thought that anything would happen to them. We felt pretty secure that they could go out and play and return. Maybe some bumps and bruises, but that was it.

Today, I listen to my children about what happens with my grandchildren. Play dates. What is this thing, play dates? Well, they tell me that play dates come into being because it provides a secure, good environment for children. Safe. That's where we are today.

And it's a shame that children are being brought up at a time with terrorism hanging over their heads and in their communities they cannot really play without the threat of someone abusing them. In spite of all the things that we do as parents or all the things that our education system does to inculcate the kinds of things that they need to be aware of in fending off someone who might lure them into a vehicle or off the street. We talk about, today, in today's world, young people being taken out of their bedrooms in their own house.

Senator Skelos, I compliment you,

because you have made this passage of Megan's Law and you have stayed the course and made changes and amendments to make sure that we're doing all that we can.

Notification is certainly a minimum step that we need to take. And I cannot believe that anyone would even contemplate that this minimum step should not be advanced in a unanimous way to send a message across this great state and across the country.

But there are other measures that really need to be done, because this is an epidemic. And individuals who commit these crimes on our young people and women in many cases have reported that they cannot help themselves. They cannot help themselves. And so we must deal with other measures.

Senator Bonacic talked about a very important measure. There are others, Senator Volker's civil commitment and other pieces of legislation that really deal with keeping our communities and our children secure.

And so I hope that we will send a strong message and pass this worthwhile legislation. And again, Senator Skelos, a

great job.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator LaValle.

Senator Volker.

SENATOR VOLKER: Madam President, I -- this is an issue, sex deviancy is something that is part of the reason that I'm here in the Legislature. And I think a lot of the people think that I do come from a political family. No question. But I became a police officer in the '60s and graduated from law school actually while I was a police officer. And I think some of my colleagues who have been here for a while know that I do have a tendency to talk about some of my experiences when I was a police officer.

One of the most important experiences was that a state trooper and myself led, I believe it was between 1969 and 1971, the largest rape investigation in the history of upstate New York. And I have been asked on a number of occasions since then, in fact, to provide my reports that we did. I did most of the reports; since I was a lawyer,

the department thought it would be good, everybody thought it would be good for me to do the reports.

It was very frightening. It was frightening, certainly, from the standpoint of the women victims. We believe that this one man, who we finally caught, raped as many as a hundred women. And the reason we believe that is because for every one person that we knew about, we always felt there was at least three or four. We knew about 30 to 40.

And I won't get into the details, but there's a reason why it's so important in this case. Because even though that was obviously the rape of -- well, for the most part -- except, I think, for one -- the rape of women who were of age, there's a connection in sex deviancy.

And as part of that investigation, we arrested 29 people, 29 people for various sex crimes, including child sex deviancy. It wasn't maybe quite as prevalent then, although we saw the advance of it and we saw it coming.

One of the reasons I came here was that we could not convict people before a jury

of first-degree rape because of the corroboration piece in the statute at the time. When I came here, the first time I did was to collaborate with some of the older members to try to help work the rape statute so that it was workable and that we could convict people who were what I would call savages.

In fact, the fellow I'm talking about eventually ended up murdering two people and ended up getting the death penalty. And someone said to me, How could he get the death penalty? There wasn't a death penalty. There was for him, because one of the people he murdered happened to be a Mafia chieftain's son. So they took care of him. And, you know, sad to say that it was just violence. On the other hand, it was justice in many ways.

At any rate, the reason I mention this too is there was an incident that occurred in Monroe County, in fact over two counties, involving the murder of, I believe, 12 women. And what had occurred is this -- they finally were able to catch this guy.

Unfortunately, part of the problem was that there was bad communication between the state police and the Monroe County sheriff's department at the time.

But the reason I mention this is the head of the parole department is a good friend of mine. He still has nightmares. And the reason he has nightmares is he interviewed the guy who killed these people. But the reason he didn't believe that he had anything to do with it was that the gentleman -- he wasn't a gentleman -- the guy involved was a child sex offender. He would have been, I guess, probably a Level 3. Now, this was -- remember, this was years ago. This was before Megan's Law.

And people didn't think -- at the time, the thought was, well, if you're a child sex offender, you're not -- you know, wouldn't be involved with adults or anything else. That is not necessarily true at all.

Interestingly enough, it dawned on me had there been bracelets and had there been Megan's Law, those 12 women might not have been killed. Because he would have been

subjected to the imprint of the Megan's Law, or should have reported, and there's no question that he would have been a prime suspect. And if he had a bracelet on, obviously he would have been tracked.

Now, that was years ago. My point, I think, is, though, that this is not quite what some of us think and that somehow you can categorize these people. You can't do it. These are people that are sick, they're ill. They're people, however, that you only treat so much.

I have to be honest with you. One of the reasons that Senator Skelos, the sponsor of Megan's Law -- I had some reservations about it when we first did it. And the reason I did is, I guess, as an old law enforcement officer I was concerned of how it would be developed, whether the courts would even let us do it. But I realized, as we progressed, that Senator Skelos was absolutely right.

And the reason is that this epidemic is so bad. And we have sort of pierced through the judges one after another

who've tried hold it up and stop it here and there. No one likes this stuff, obviously. Nobody wants to do all this.

But, my colleagues, you're not dealing with an issue here that you can deal with on an ordinary, even-keel, niceties basis. These are predators. These are people many of whom don't want to do what they're doing, fortunately.

And Senator -- Senator Skelos, Senator Bonacic, obviously Senator Bruno, this house -- and, you know, I think the Assembly is kind of caught in, to a certain extent, a time warp. They have to understand, this is a different time. These are different issues. These -- we must protect the most vulnerable. Because if we don't, we're failing as an institution.

And no one can say that this institution has not done its best to make sure that we don't fail not only our youngsters but all the vulnerable people in our state.

ACTING PRESIDENT LITTLE: Thank you, Senator Volker.

Senator Robach.

SENATOR ROBACH: Yes, Madam President. Let me just take a moment. I think this is such an important issue.

And, you know, we took a great first step when we passed this initially, not only to protect kids but to be responsive to the public, who was outraged over the lack of information on something as important as this.

But I just wanted to interject, as we continue to move forward, I am someone that prior to office worked in the criminal justice system. And even I was shocked very recently, maybe less than a month ago, our CBS affiliate in Rochester, Channel 10, did a news expose showing the overlay of where these highest-risk offenders were in our community, the city of Rochester, a place I have the honor and privilege of representing and like very much.

And even I was shocked, when they showed this overlay, to see people that were next to, literally, a daycare center in the first floor of an apartment complex, schools, recreation centers.

And while currently parole can say

they have to be a thousand feet away, that's at their whim and will if they want to do that.

Us continuing to have mandatory notification and information out there is not only the right thing to do as legislators, but I also think as a parent. Going back to that overlay, I was shocked to see that.

There is no question law enforcement does a fine job, parole does a fine job, our public employees. But they cannot be everywhere. And parents, I think this is almost as well as a public protection bill for kids, this is a continued step for parental rights.

I'm going to put my parent hat on now. I need to know, for no other purpose than protection, where those people are, where my daughter can go sell Girl Scout cookies, whose pool they shouldn't be swimming in.

And I've even had to alter the way I raise my own children because of this growing threat, for lack of a better term. I always raised my kids to be very friendly to people, to be very outgoing and maybe even a

little bit too trusting. Certainly every parent needs to know, whether it's crossing a dangerous street, whether it's some other criminal activity, whatever it is, you need to know where that is.

And even with the great measures that we passed a decade ago, right in my city I was shocked to find out the number of people living in our community in the proximity they are to our children. It is imperative that we give parents, people in authority, everyone -- post-conviction -- the right to know where these people are.

And I can't remember which one of my colleagues said it, but it's also true. We can debate what's gone on prior to conviction or how many times they've abused young people prior to getting caught. But we also know that the recidivism rate, unfortunately -- and I wish I had the pill, the cure to make sure they didn't have that issue, they didn't have that problem. But we don't have that yet. The only thing we can do now is try to make it more difficult for them to be in that situation and also arm our parents to protect

our kids.

So I hope that not only will people vote for this bill, but I am hopeful that my colleagues in the other house will take this up and will even continue to look at more measures of applying better technology and things available today to even further protect our children.

And I too want to applaud Senator Skelos for not sitting back after the first measure but continuing to bring this issue up as, unfortunately, we continue to have issues with this in our community all across the state. And I think we need to do more to do as thorough a job and use every tool we can to protect our kids.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Robach.

Senator Young.

SENATOR YOUNG: Thank you, Madam President.

I want to commend my colleagues for their leadership on this issue. And Senator Skelos and Senator Nozzolio referenced a news

article that was in the Rochester Democrat and Chronicle today about a repeat offender. And I just wanted to read that brief article because I think it drives the point home as to how important this legislation is.

The headline is: "Convicted Sex Offender Charged Again."

"A convicted sex offender in the Rochester area has been arrested on new sex crime charges. Investigators in Livingston County have charged 36-year-old David Gardner of Mount Morris with rape in the second and third degrees. Sheriff John York says several victims under age 18 were identified.

"Gardner had been convicted of rape back in 1993 for having sex with a minor. A judge says his background includes one arrest for failing to register as a sex offender.

"He's being held in the Livingston County jail without bail."

Here's a repeat offender who lives in my district who has victimized children in my district, in my community. But unfortunately, this type of case is repeated over and over again in New York State and in

this country.

We have an obligation as legislators to protect our communities, to do the right things so that we won't have this victimization.

Just yesterday I was reading in the newspaper there's a terrible case where a man raped a 4-month-old baby. Think about that. Just think about that. This type of story goes on and on.

We need to end the victimization. We need to protect the innocent. We need to do everybody everything in our power, because there wreaks havoc on the victims and their families. We need to end the carnage.

I want to thank my colleagues for supporting this legislation, putting this legislation forward. And I urge everyone in this house not only to vote today to protect innocent lives but also talk to our colleagues in the Assembly so that they do the right thing too.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Young.

Senator Savino.

SENATOR SAVINO: Thank you, Madam President.

I too want to rise and thank Senator Skelos for bringing this legislation forward.

You know, everyone in this chamber comes to the chamber with their own experiences and what kind of shaped them and how they got here. Senator Golden and Senator Volker were police officers. And as I mentioned before, I spent several years in the New York City child welfare system as a child protective worker.

And I have to tell you, some of the worst moments of my life have been escorting young children to be examined in the emergency room after they've been raped. Or taking them to the district attorney's office where they had to be evaluated and determined whether or not they would be credible witnesses on the witness stand.

In working with some of those kids, you know, you got to see some of the predators if we were lucky enough to get them arrested.

And I used to think that when I saw them, I would see a monster, I would see someone who was so hideous that you would recognize them immediately. And the frightening thing is, they don't look like monsters. They look just like we do.

There is no way for young people, children particularly, to recognize sexual predators. They don't see them coming. They look like us. They can be quite charming. They can get jobs in daycare centers. They get access to children, and then they victimize them. And we have to find a way to stop that.

We can talk another day about why it is that sexual predators, particularly of young children, are let out of jail after such short sentences. I don't understand that. That's something I think we need to examine in this chamber as well. But until the day comes when we know we can lock them up and throw away the key, we have to figure out a way to protect children and women and senior women and young boys and everyone else who could be the victim of sexual predators. Because they

look too much like the rest of us.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Savino.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I rise to take a slightly different position from my colleagues.

What I've heard -- and I certainly join every single one of my colleagues in having total disdain for sexual predators, as I believe they're called, especially people in the Level 3 category. And that's what I believe that I've been hearing this afternoon.

This afternoon everyone seems to be talking about the Level 3s, and I totally agree. I don't really have any -- I don't have any problem with anything that we can do about the Level 3s. Those are obviously the most difficult cases, the most heinous cases, and people we don't want to know about.

But I do have some concern that we have cast this net very, very wide. I hope that my colleagues who are speaking in favor of this legislation understand that we're

casting a net to include the Level 1 category -- and the Level 2s. I'm not as clear about the Level 2s, but certainly Level 1s. Which is, I believe, the largest category.

And we haven't really thought through, I don't believe, what we could do with those people in that category other than putting them into a registry for the rest of their lives. My sense is that a lot of these are young people. I notice the legislation speaks of when you move from one college to another or when you go to college. So obviously we are talking about college-age people. We anticipate that those will be in the top category.

I wish that we had school-based health clinics with health professionals in the high schools and the middle schools to talk about sex education and sex activity and what to do with your body and how to respect other people's bodies and so forth and so on. We don't have that.

And I wish that we could find these people before they commit any act. I wish

that there was a way that we were even better able to identify them, those who are using the Internets. Many of them are husbands who get on the Internet for the first time, I understand, and start to go overboard in whatever they do.

I tell my son, you know, because I view this from my parent hat as well, and I have told my son no matter how beautiful a young lady is, no matter how few clothes she wears, do not touch her. Because you could spend the rest of your life in prison because of that.

So it's a very, very serious issue for me. I absolutely think that we certainly want to protect our children. But on the other side of this issue are young men and women who really have very little information that they can use to guide their activities. And God forbid if they get into a situation where they become involved in sexual activity, sex activity, that they either don't intend to or don't understand or someone decides, This is not what I want. That other person automatically becomes a sex predator and can

be charged as a Level 1 person and will be in a registry for the rest of their lives.

So I would like for my colleagues to really think through this from both sides of the issue. And, you know, we can't control our environment. I understand that. But to jump to include every single body that may possibly be charged under this law is really a mistake.

Because we have done this over and over again with our drug laws, every law that we do, we try to cast the net as wide as possible to capture everybody in it. And ultimately it becomes as hurtful to many people in our society as it does helpful to the victims that we want to protect.

So, Madam President, notwithstanding all of the testimony that we've heard this morning as to how important this is, how great it is, I want to remind my colleagues we do have laws on the books. So it's not that we're not going to be monitoring and making sure that we take care of these sexual predators. But I do believe we need to give a little bit more time.

I note that the Assembly is going to do some hearings on this legislation -- on this issue. This is a very serious issue for us in our state. And so I would hope that between now and when the Assembly does their hearings and when we conclude with legislation, that it makes sense, that it protects all aspects of our society, especially young people, who are the most vulnerable groups. Even though I understand some older men are becoming sexual predators. I don't know when they did or didn't. But certainly young people, I think, could get caught in this net if we cast it way too wide.

So I'm going to be voting no.

ACTING PRESIDENT LITTLE: Thank you, Senator Montgomery.

Senator Flanagan.

SENATOR FLANAGAN: Thank you, Madam President. Just briefly on the bill.

I know a lot of people have lauded the efforts of Senator Skelos. I want to add my voice to that. And I'm very happy to be a member of the Senate in passing legislation like this.

I want to make one point in particular. There's a group been very influential and very involved, particularly with Senator Skelos's office, called Parents for Megan's Law. And the executive director of that is a woman named Laura Ahearn, who happens to be a constituent of mine.

And many of you have probably met Laura. But she is passionate, she's a great advocate, she's aggressive, assertive, she can drive you crazy. But she really, really believes in what she does. And we've worked with her not only on legislation but on getting funding for programs aimed at protecting children.

And following up on part of what Senator Savino said, they have -- in their office they have a mock courtroom just so they can help kids get used to what that atmosphere is like. They have building blocks and they have all kinds of things to make them be prepared for what's going to be an extraordinarily difficult task. And it gave me a better appreciation for some of the basic importance of this issue.

You know, it's hard enough for us as adults to get involved in serious and weighty issues. It's ten times more difficult, at least, for children.

So their efforts and, in particular, Senator Skelos's efforts are terrific. I'm hoping that the Assembly sees the wisdom of what we're doing and that we can have some chapters before the end of the session.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Flanagan.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

Megan's Law was one of the most significant pieces of legislation that was ever passed in this house and became law. And I think the only reason it happened in the other house was they were embarrassed somewhat by the family and by the pressure that was put on by the sponsor and a few others.

But let me just say in the 29 years I've been here, I have never seen a more

hot-button issue that is out there. People are absolutely demanding that we address this issue. It has become something that is torturing every single parent and family in this state.

And, you know, this bill that we're doing here today addresses 25 things that can be done. I don't think it's a time for hearings. We've had hearings on this. And I think if something can be done by those of you on the other side of the aisle, it's to speak to your colleagues in the other house and address how important this is.

I think what Senator Savino said was so moving, that these predators that are out there you can't recognize them. Our children can't recognize them. They're very subtle in the ways that they approach, these predators. You know, you call them predators, and you expect to find somebody that looks like an ugly Dracula. But they're not. They have to be identified. People have to be warned.

The horror stories that I just heard from my colleagues, Senator Golden and

so forth, they're terribly moving. And the statistics are absolutely unbelievable. The recidivism. The fact that hundreds of these crimes are committed before they're even caught, so many times. And unfortunately, so many children. That even your own children have been approached and never say anything about this issue because they're embarrassed.

But if we can't act on this issue, we can't do very much. And I applaud the support that my colleagues are giving this legislation. And I think it's definitely time that we act and that we send a message not only to our constituents, but to the other house, and make this a law this year.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Farley.

Senator Stachowski.

SENATOR STACHOWSKI: Madam President, I too rise. I wasn't going to say anything on this. But due to some of the other comments, I thought I should say a few things.

I think the bill is a good bill. I

think it's about time. I think there's nothing that people want protection against more than these sexual predators.

I don't know how many other people have anything to do with certain schools, but in the Catholic school system -- and this I think is nationwide, but I know in Erie County we all have to take a course on sexual predators. And you get continual updates.

But in the three hours that you take this initial course, you watch some videos that are pretty rough to watch, because they have these -- they have some convicted predators speaking. And the interesting thing is what rang through on all of them was would they do it again, and the answer inevitably was yes.

And the other thing was some of them were -- like the one in particular, how he got involved, he was a father with a couple of kids. And he would have his kids have their friends overnight. And that's who he was selecting and abusing.

And so it's -- it is something that is invisible to the naked eye. And the whole

point of the course is to try to have people that work with kids try to find ways to keep these -- or detect people that might be these kind of people.

Because what they do is they work themselves into the community. They work themselves into your family. They work themselves -- a lot of times they might even be relatives. But they get everybody's confidence. And they try to involve themselves, like they work at playgrounds, they work at skating rinks. They try to get those kind of positions.

And so that to think you've got to have hearings to figure out this is a major problem, to me, just baffles me. I'm sorry. I just don't see that. And yes, I vote more or less on law and order. But in this particular case, I've even taken courses on this. And to hesitate on instituting bracelets for Level 3 offenders, I don't have the least bit of hesitation.

Would I feel bad that somebody then would have to wear that? No. Because they -- they merited wearing that. It's kind of

something that they won, you know, in an odd sense of the use of the term.

But I think the bill's time is now. I think the public wants it. I think every parent wants it. And I think even friends of families with kids want it, because they don't want to see children they know or that they work with ever have to fall under the abuse of one of these predators.

So I also am supporting this bill.

ACTING PRESIDENT LITTLE: Thank you, Senator Stachowski.

Is there any other Senator wishing to be heard?

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Very, very briefly.

This has been an interesting debate about a very important and very difficult subject. I would urge my colleagues here -- and there are issues in this particular bill that I have concerns about. I think Senator Montgomery's calling our attention to the issue of the Level 1s, and the conduct that gets you into Level 1, I think is important.

I think that there are some ways in which this bill dramatically improves the current system: the provision for notice to offenders, the provisions for monitoring Level 3.

But I would urge my colleagues, the one thing I disagree with in the debate was when one of my colleagues over there -- I think it was Senator Nozzolio, and I think it was well-intentioned -- said "We're not here to negotiate with the Assembly over safety."

I hope we are here to negotiate with the Assembly. Because I'd like to see a law rather than just a one-house bill. And I think there are sufficient issues that are still on the table that we may be able to address in cooperation with the Assembly.

And I do sincerely hope we are here to negotiate, because this bill doesn't address one critical area that I think should be a part of any solution, and that's treatment. And that's treatment.

And I gather there were hearings, and I'm always happy when we have hearings before we pass bills. But I gather there

weren't experts on the area of treatment of sexual predators at the hearings.

There is a 43 percent reduction in recidivism for sexual offenders if they receive treatment. We should be funding that too. A lot of my colleagues said we should use every tool available, we should do everything we can. I agree. So let's agree address the issue of treatment. Senator Paterson has proposals to fund treatment, and I think we should be doing that as well.

I hear the concerns that have been raised by many of my colleagues, particularly the references Senator Valesky and others made to when you think about this as a parent it certainly changes your point of view, to the extent you had doubts.

I will be voting in support of this bill, but I urge my colleagues let's try and make it a law, let's negotiate with the Assembly, and let's address the issue of treatment.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Schneiderman.

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 32. This act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Diaz, why do you rise?

SENATOR DIAZ: To explain my vote.

ACTING PRESIDENT LITTLE: Thank you.

Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Madam President.

It is unbelievable and maybe shameful to see the time that we have spent today listening to the other side lecturing us on how to protect the children and how to protect the women and how to protect the senior citizens in the community.

We all, when we are campaigning, we all keep saying, we always say: If you vote for me, I will protect the community, I will protect the children, I will protect the women, I will protect the senior citizens.

I don't know why -- I keep asking myself, why is it that a bill like this has been laid aside? There is nothing to ask. There's nothing to question about a bill like this. This is simple. It's supposed to be simple. Ladies and gentlemen, we all are committed to protect children. We all are committed to protect women. We all are committed to put criminals in jail and to take them out of the street.

So, you know, why is it that we are giving time to the other side to lecture us? It's shameful. One by one on the other side they have taken the time today to lecture us on how to protect children and how shall we be protecting communities, on how shall we be protecting our senior citizens.

It should not happen. It shouldn't happen. It doesn't matter if the bill is a Republican bill, it doesn't matter if the bill

is a Democratic bill. As long as the bill protect our community and keep our children safe and keep our women safe, we shouldn't lay it aside. There's no question about it. Let's do it and let's get over with it.

Yes, I'm voting yes with this bill. Congratulations, Senator Skelos.

ACTING PRESIDENT LITTLE: Senator Diaz will be recorded in the affirmative.

Senator Libous, to explain his vote.

SENATOR LIBOUS: Thank you, Madam President.

I'd like to rise and explain my vote and certainly thank my colleagues, thank Senator Skelos and Senator Nozzolio, Senator Golden, Senator Bonacic, and certainly Senator Bruno for allowing the time that they took to have hearings across the state.

I spent some time, as Senator Nozzolio mentioned, at the Albany hearing. And it was very interesting to get a total and overall perspective from not only victims' parents and certainly law enforcement officials and others.

But we have come a long way in 10 years. And certainly while 10 years ago this body was well-intended on doing the right thing -- and we did -- there have been a number of instances and circumstances that have actually caused a number of local governments in New York State to begin doing their own things. I know that back home in Binghamton and Broome County, the county legislature is passing laws, the City of Binghamton is passing laws.

But today we are passing an umbrella. Twenty-five different improvements, as Senator Skelos mentioned, to a good piece of legislation. And it's going to be equal and the same across the state so that one community doesn't attack this very serious problem in a different way, but it's going to be attacked in a similar way.

Many of you have stood up this afternoon and talked about the reasons why this bill is important. And certainly it just, to me, makes such common sense to pass this legislation.

As we continue to read about, learn

about some of the horrific murders and situations that take place with our young children from these predators, I don't see how anybody could not support this legislation. Certainly you may not agree with everything in it. But the whole concept of the enhancement of Megan's Law is an excellent concept.

I want to address one issue that I think Senator Schneiderman said. And he's somewhere -- I guess he's not here right now. I chaired the Mental Health Committee for 12 years. And while I wouldn't profess to be an expert, I've learned a lot. And we've talked to a number of psychiatrists, we had hearings and discussed different types of mental illnesses.

And when it came to those sexual predators, we would often hear from the psychiatrists that the disease of pedophilia could not be cured, that they will strike again. We were told that time and time again.

And that treatment may be helpful, but it would not stop them from committing another act again. Nothing could stop that. But treatment may calm them down for a period

of time -- and I'm not saying that treatment should not be imposed, because it is being imposed.

You know, there's a facility in my district that is run by the Office of Mental Retardation that is a facility -- it's a center for intense treatment. Senator Little has one in her district.

And those facilities, those facilities have a number of sexual predators in them. But they are not allowed to go out. They have to be under supervision all the time.

And, Madam President, I just want to say that I think this is an excellent piece of legislation, I applaud my colleagues, and I vote aye.

ACTING PRESIDENT LITTLE: Thank you.

Senator Libous will be recorded in the affirmative.

Senator Stavisky, to explain her vote.

SENATOR STAVISKY: To explain my vote. I want to follow up on what Senator

Libous said.

I had a Level 3 offender living in my district. And as I became more and more familiar with Megan's Law and the requirements for reporting, et cetera, we tried to find out what the rate of recidivism was. And the more statistics that were thrown at us, the more inaccurate I think they became.

And I am absolutely convinced, number one, we have an absence of research in this area, and, number two, that the rate of recidivism for Level 3 offenders is extremely high.

And while I think this bill is a little harsh on Level 1 offenders, I think that Level 3 offenders have to be protected by the state -- or I should say the victims of the Level 3 offenders have to be protected by the state. And I vote aye.

ACTING PRESIDENT LITTLE: Thank you.

Senator Stavisky will be recorded in the affirmative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Very briefly. Everything has been said that could possibly be said. I just wanted to respond to Senator Diaz.

I don't think anybody is talking down to you or anyone else, or lecturing you or anyone else about this bill. I think what's being said on the floor today and what has been said over and over again, very passionately by many on both sides of the aisle, is that this is an important bill for the protection of our children.

And I think if there's a message to anyone, I think the message is really being delivered from this chamber to the other chamber of the importance of having a same-as, so that this can become law and protect the most vulnerable in our community.

I vote aye.

ACTING PRESIDENT LITTLE: Thank you.

Senator DeFrancisco will be recorded in the affirmative.

Senator Balboni, to explain his vote.

SENATOR BALBONI: Madam President, when Senator Skelos first began looking at this issue, he was perceived by some, particularly in the Assembly, as being a reactionary, someone who was piling on.

I can remember the discussions in the Assembly at the time, where people said this was a bill that was not appropriate, that the penalty for these crimes was prison and that in and of itself was satisfactory.

And what has happened in this state and across this nation is this issue has evolved. And frankly, in some aspects, it is a horrifying evolution. We're beginning to appreciate that these individuals are not people that can be rehabilitated, as startling as that is.

And so as Senator Skelos now comes back to this issue again and tries to recognize the fact that this plague simply will not go away, he comes back with commonsense extensions of the current law, things that recognize the technology and how it will help track these individuals.

I stand up and continue to support

his efforts and just pray to God that we find some foolproof system to protect our children from the most horrible scourge that we can consider in a, quote, civilized society.

I vote aye.

ACTING PRESIDENT LITTLE: Thank you.

Senator Balboni will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 56. Nays, 2. Senators Duane and Montgomery recorded in the negative.

Those Senators absent from voting on Calendar Number 1368 are Senators Connor and Gonzalez.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1391, substituted earlier today by Member of the Assembly Bradley, Assembly Print Number 6722, an act to amend the General Municipal Law.

SENATOR SCHNEIDERMAN:

Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Leibell, for an explanation.

SENATOR LEIBELL: Thank you, Madam President.

This bill would add a new article 19B to the General Municipal Law to authorize municipalities in New York State to create and establish municipal theme districts within their borders.

A municipal theme district would be a defined geographic area within a municipality designated by such for the purpose of constructing, renovating and/or geographically coordinating a common area for arts, entertainment, education, culture or business.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger.

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

yield.

ACTING PRESIDENT LITTLE: Thank you.

Will the sponsor yield?

SENATOR LEIBELL: Yes.

SENATOR LIZ KRUEGER: Thank you.

I have to say, having read the bill, I'm a little confused about what it actually would do. It creates the ability to create a theme district, and it provides for a seven-person board to oversee the district. And it defines that you have to define a geographic area and have X number of buildings in it.

But what does any of that mean? How does it affect either planning or zoning or local law? What does it actually do besides say there's seven people who will oversee said entities?

SENATOR LIBOUS: To answer your question, Senator, what this will do is to allow --

ACTING PRESIDENT LITTLE: Excuse me, Senator Leibell.

Can we have order, please, so the

speakers can be heard.

SENATOR LEIBELL: -- is to allow a municipality to have the freedom and the flexibility to create within its community, its municipality, these special areas.

And it would not be the same as zoning or planning, but it would allow them the ability to create -- for instance, it may be an area that would be dedicated to the arts. It could be something that would be an antique district, which is common. It would allow for a defined area and would allow for more coordinated planning.

SENATOR LIZ KRUEGER: Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Leibell, do you continue to yield?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT LITTLE: Thank you.

SENATOR LIZ KRUEGER: Thank you.

What in New York State law stops

them from doing this now, if they want to, on a local level?

SENATOR LEIBELL: There's no authority for them to do it.

SENATOR LIZ KRUEGER: Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Leibell, do you continue to yield?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT LITTLE: Thank you.

SENATOR LIZ KRUEGER: Does this bill include any mechanism by which they can exempt entities from taxes?

SENATOR LEIBELL: No.

SENATOR LIZ KRUEGER: No.

Thank you, Madam President. On the bill, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

Thank you, Senator.

I have to say I read the bill carefully, because I tend to be nervous about creating any new types of umbrella entities throughout the state. And I looked and I said, Well, it doesn't appear that there's a cost associated, it doesn't appear that it exempts these entities from any local zoning laws, it doesn't appear that it provides for tax exemptions or credits, which the sponsor has confirmed.

It is very broad, since it includes almost any category a locality might consider -- arts, entertainment, education, culture or business.

And so I was left with the question, which I still have, of why do we need this. What really stops a town from saying, now, We want to work together and coordinate with a theme around the district?

It doesn't even seem to address questions of signage or announcements of said districts, since I would assume that would also fit into local zoning or local land use or even local signage ordinances.

So my concern is not that this bill could do harm. My concern is that I don't see a reason why New York State actually needs to do this, since I don't see anything in here that a town couldn't do regardless of whether we acted.

But I am concerned that it's potentially a precedent for coming back to the Legislature and asking for other things later, asking for the right to do tax exemptions, as IDAs do, for example, since this is specifically allowing business-themed districts as well as cultural, arts and education-themed districts.

And I'm concerned that there might be a proposal to come back for expansion with matching with Empire Zones in some way, which I have real concerns about, despite the changes that we made this year.

So while I can't be sincere in my analysis, I can't say that I find anything specifically wrong with this bill, Senator. The precedent worries me for what might come next in the request. And I don't see how, if we don't pass this law, any town in the State

of New York can't move forward to do exactly this, absent legislation by the state.

So I'll vote no, because I don't think we need this bill.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Farley.

SENATOR FARLEY: Yeah, I rise in support of this bill.

This is, in my judgment, a very significant bill, particularly for smaller upstate cities and communities in the upstate areas, small cities in particular that are having a difficult time in attracting people downtown. They've gone off to the malls and the suburbs and so forth.

And this can be something that can set up a center in downtown Albany, downtown Schenectady -- Schenectady has got one that they're trying to do with Little Italy, that sort of thing -- and to attract people to come downtown again and revitalize what we see are really deteriorating downtown areas.

We've made quite a few efforts in

my hometown, in Schenectady, to revitalize it, and things have been happening here in Albany also. This is just another step towards trying to help some of the smaller cities upstate, and particularly to excite and make some excitement and revitalization in the downtown areas.

I think it's a great piece of legislation, and I urge its support.

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 2. This act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator L. Krueger recorded in the negative.

Those Senators absent from voting

on Calendar 1391 are Senators Connor and Gonzalez.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1400, by Senator Robach, Senate Print 5171, an act to amend the Penal Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Robach, for an explanation.

SENATOR ROBACH: Yes, Madam President. This bill, on the technical side, would make it a Class A misdemeanor to knowingly possess or sell drug paraphernalia for the purpose of using an illegal controlled substance, is the technical explanation.

On the pragmatic application, in the street side, what the intent of this bill is is, working along with Neighborhood Crime Watch groups, community organizations, neighborhood empowerment teams in Rochester, we are really trying to put some of the onus

on the people who also are not only the drug users but sell in their shops, on a daily basis, kits, tubes packaged totally for selling everything from crack and other illegal drugs.

Yet at the same time, in the city of Rochester, the same shop owners are complaining about drug murders and activity outside their shops. Yet I feel very strongly that they are not doing anything to deter the usage or that activity outside their places of business.

This would address the already existing law which says there has to be drug residue, and really try and stop it and take that kind of activity out of those areas as a preventive strike, rather than a post-strike, which only goes to those people who are using the drugs themselves.

That's as brief as I can be.

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

If the sponsor would yield for a few brief questions.

ACTING PRESIDENT LITTLE: Thank you.

Senator Robach, do you yield?

SENATOR ROBACH: Gladly.

ACTING PRESIDENT LITTLE: If we could have it just a bit quieter in here, please.

SENATOR SCHNEIDERMAN: My first question is, this bill states that if you possess steel wool or glass tubing under circumstances -- and I'm reading from the bill -- evincing knowledge that some person intends to use the same unlawfully, then you are guilty of a crime.

Could you please explain to us what that means? That's about as vague as I can imagine. What would be proof of circumstances evincing knowledge that some person intends to use the steel wool someone is in possession of unlawfully?

SENATOR ROBACH: Yeah, I think that how I would best explain it -- and obviously this would be a judgmental decision.

But I would say that prior to the activity, when you see these things called zoom tubes, a number of names, power tubes -- or they actually package, believe it or not -- and I know there's some real application for these things, steel wool and other things, in our legal lives or life outside of drug use. But when they package them together and everybody, I think, in our society, as well as law enforcement, as well as those people who sell it, know what it's used for, that would be my definition of knowingly want to use drugs.

And I would hope that law enforcement and retail people, as well as the courts, would take the same interpretation.

SENATOR SCHNEIDERMAN: Thank you.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Robach, do you continue to yield?

SENATOR ROBACH: Certainly.

ACTING PRESIDENT LITTLE: Thank

you.

SENATOR SCHNEIDERMAN: I'm on the Codes Committee, and I don't recall seeing this bill. Did this bill go through the Codes Committee?

SENATOR ROBACH: I believe it went through Rules.

SENATOR SCHNEIDERMAN: Thank you.

And through you, Madam President. In fact, this went through Rules yesterday, I believe. Is that not correct?

SENATOR ROBACH: Yes.

SENATOR SCHNEIDERMAN: Was there any debate on any of these issues in the Rules Committee?

SENATOR ROBACH: I do not know. I'm not a member of the Rules Committee. But I do not believe so.

SENATOR SCHNEIDERMAN: And through you, Madam President, if the sponsor would continue to yield.

SENATOR ROBACH: That's what we have today for.

ACTING PRESIDENT LITTLE: Do you continue to yield?

SENATOR SCHNEIDERMAN: Were there any public hearings or hearings of any kind related to this issue before this bill went to the Rules Committee yesterday and came to the floor today?

SENATOR ROBACH: Yeah, absolutely. And I would say that the public hearings have been -- and this is not just for Rochester. This is Buffalo, Syracuse, New York City. We have heard from advocates across the state who do pat tack walks [ph], Neighborhood Crime Watch, empower neighborhood teams who want this stopped before it's done.

There's been a number of news stories on this very issue all across the state. It's one of the few issues in bills I have where I've also been contacted by other communities in other news places saying what is the status of this bill, what is going to happen.

So I would say that while we have not had specifically a public hearing on this very issue, we have had them on a number of quality-of-life issues and crime issues across this state. But this is one where this is not

an idea from a legislator, this is an idea that's come from the public where I am merely the conduit of putting this into print. So I think there's been a lot of public dialogue on the bill.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Thank the sponsor.

On the bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I think that I have some questions about the language of this bill and how it would be applied. But my major problem with this bill really has to do with the process by which it reached us on the floor of the Senate.

This is not an issue that -- it's the end of the session, I don't think this bill is going to pass in the Assembly. But I think that this is emblematic of what the public perceives as a dysfunctional process by which a bill cannot go through the substantive committee, cannot have public hearings, can show up in Rules on a Tuesday, come to the

floor on a Wednesday and be -- I note that there's one sponsor on it. I don't think it's been -- it has not been opened to bill sponsorship.

And we really do, as we end this session, have to think back to the beginning of the session when we made commitments to the public that we were going to reform the rules of the Senate. We have a situation on our hands here where we have moved backwards, in my view, while the Assembly, in a limited way -- but at least it has moved forward.

The efforts to reform the rules of the Senate so this circumstance does not arise have -- we're not allowed to bring motions anymore, resolutions to the floor of the Senate to reform the Senate rules. We're required to go into the Rules Committee to do that.

We have submitted 11 different proposals, resolutions submitted by members of this conference to the Rules Committee, starting in February, and we have not received any response. They've never showed up on the calendar --

ACTING PRESIDENT LITTLE: Senator Skelos, why do you rise?

SENATOR SKELOS: Madam President, I'm really not looking to prolong the discussion, but I don't really believe this is totally germane to Senator Robach's legislation.

I don't believe there's a hearing held on every single bill that passes the Legislature. I've seen a number of bills that have passed, Senator Stachowski and others; I don't believe they all held hearings on their bills.

In fact, if you want to discuss the rules change, perhaps you could discuss the rules change -- well, that's not germane, though, so I guess we shouldn't do it right now. But the Rules Committee is intended to review bills.

In the past, you would give us 24-hour notice to make a rules change. Now it goes to the Rules Committee, which can deliberate over the proposed changes. So in fact, you're regressive in the direction you want to go.

So again, Madam President, what I would suggest is that we maintain the discussion on Senator Robach's legislation. And if at some point -- I believe there's an opportunity at the end of session, near the end of session -- after everything is done, if you want to sit here and talk for a while, you're more than welcome to do it.

But perhaps right now we can stick to the legislation.

SENATOR SCHNEIDERMAN: Madam President.

ACTING PRESIDENT LITTLE: Thank you. Senator Skelos, your point is well-taken.

SENATOR SCHNEIDERMAN: Madam President, I wish to address the points Senator Skelos made, since he spoke at length.

I'm speaking about the process by which this bill came to the floor. I have never before heard anyone ruled to be making nongermane comments when they discuss the process by which a bill reaches the floor.

ACTING PRESIDENT LITTLE: Senator Schneiderman, excuse me, but you are out of

order. This is not germane to the bill that is on the floor.

Would you continue to address the bill.

SENATOR SCHNEIDERMAN: Frankly, Madam President, at this point I want to appeal from the ruling of the chair and ask to be heard on that.

ACTING PRESIDENT LITTLE: Should the ruling of the chair be overruled? A yes vote is to overrule the chair. A no vote is to uphold the chair.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Very briefly.

The reason I'm seeking to have the chair overruled -- and I don't believe that the chair is trying to apply the rules incorrectly. But this is -- I believe would be a dramatic departure from Senate procedure if you rule --

ACTING PRESIDENT LITTLE: Senator Schneiderman --

SENATOR SCHNEIDERMAN: -- that we are not allowed to debate the process by which a bill reaches the floor of the Senate.

ACTING PRESIDENT LITTLE: Senator Schneiderman, excuse me. But are you debating the germaneness of the bill or --

SENATOR SCHNEIDERMAN: I am. I'm appealing the ruling of the chair that these comments were not germane.

ACTING PRESIDENT LITTLE: We need to take a vote on overruling the ruling of the chair.

SENATOR PADAVAN: It's not debatable.

SENATOR SCHNEIDERMAN: No, it is debatable. I asked to be heard. And every other time we've appealed a ruling of the chair, we've been heard on it.

ACTING PRESIDENT LITTLE: Are you debating overruling the chair?

SENATOR SCHNEIDERMAN: Yes, Madam President. I'm just speaking -- attempting to speak briefly on our application to have the ruling of the chair overturned.

And the reason is that I think it is critical -- some people in this house have voted and have stated, on the other side of the aisle, that they might agree with the

substance of a bill but they are so offended the process by which it came to the floor, they're going to vote no.

I believe that the process by which bills become law is something that is germane each and every time a bill reaches the floor of the Senate, and that we should be allowed to debate the process by which a bill reaches the floor. That is what I'm attempting to raise.

The fact that this went into the Rules Committee yesterday, didn't go through Codes, is here today, is, I think, bad process.

I would respectfully submit that the 11 resolutions submitted to the Rules Committee are quite germane, because the Rules Committee has refused to take any action or calendar them so we can address this issue of process that allows this bill to come to the floor under these circumstances.

And I would respectfully request that we not have a ruling that can hurt all of us down the line that says that you cannot debate the process by which a bill comes to

the floor as well as the substance of that bill on the floor of the Senate. And I would request that all my colleagues join me in voting to overturn the ruling of the chair.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Shall the ruling of the chair be overruled? All those voting yes to overrule the chair; all these voting no to uphold the chair.

The Secretary will ring the bell.

SENATOR SCHNEIDERMAN: Madam President, can we get a clarification?

Madam President, point of order. What was the vote, and was the ruling of the chair upheld? Where are we now in the debate on this bill?

ACTING PRESIDENT LITTLE: We're taking the roll call now.

SENATOR SCHNEIDERMAN: On the issue of overturning the chair?

ACTING PRESIDENT LITTLE: All those in favor of overruling the chair signify by raising your hand.

(Raising of hands.)

ACTING PRESIDENT LITTLE: The

motion is defeated. The ruling of the chair is upheld.

Senator Schneiderman, do you wish to continue on the bill?

SENATOR SCHNEIDERMAN: Thank you, Madam President.

Just to close, I do believe that there are issues in this bill related to the language, the lack of a clear standard of proof. This is, to my knowledge, unprecedented language, this issue of possessing steel wool under circumstances evincing knowledge that some person intends to use the same unlawfully. And I would respectfully suggest that some more process in the Senate might lead to us a better bill.

I do think it is a shame that the process -- that the rules not been reformed since January. I would respectfully submit to my colleagues that all of the resolutions submitted by people on this side of the aisle to the Rules Committee should be addressed before the end of session.

And I would suggest that even though I appreciate Senator Robach's sincerity

in attempting to resolve a loophole in the law, that the process by which this bill has come to the floor is Exhibit A on the dysfunctionality of the Legislature, and that I will be voting against it with the hope --

ACTING PRESIDENT LITTLE: Senator Schneiderman --

SENATOR SCHNEIDERMAN: -- that we will have a period of time to rewrite --

ACTING PRESIDENT LITTLE: Senator Schneiderman, excuse me, but that has already been ruled nongermane.

So continue on the bill.

SENATOR SCHNEIDERMAN: My hope is, as I was just saying, that we can rewrite the bill and consider it in a more deliberative fashion. I don't think it's going to become law this session. And I am certainly willing to work with Senator Robach on that, because I know his intent in bringing this bill before this body is sincere.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing

to be heard?

Senator Padavan.

SENATOR PADAVAN: Thank you, Madam President.

The issue here of relevance in terms of the wording of the bill was questioned by the previous speaker. By way of clarifying that issue, as a sponsor of the original law that dealt with drug paraphernalia and the outlawing of head shops in the state of New York back in the late '70s, when we did that, the very same language that you see here was used.

The bill was challenged -- and, by the way, it was preceded by a number of public hearings, I might add. The bill was challenged in the courts on a number of legal issues that were raised by the drug paraphernalia industry, the head shop industry in New York State, which at that point in time was quite extensive. It went up to the New York State Court of Appeals, and we prevailed.

And the law is now enforceable statewide, including a component of the

Attorney General's office that has that responsibility. At the time they were very busy enforcing the law. And over the years, because of the virtual elimination of head shops, their work has been diminished.

Now, what Senator Robach is doing here is expanding the law. And it's been changed a couple of times since, to expand it, to clarify it in terms of what types of instruments of dual use, instruments that are used, either chemical or physical, in the consumption of illegal substances. And that's what he's seeking to do here. And I think it's a worthwhile effort.

But the question of intent to use for was clarified by the courts, the highest court in this state decades ago, and therefore is not a valid criticism of this Legislature at this point in time.

ACTING PRESIDENT LITTLE: Thank you, Senator Padavan.

Is there any other Senator wishing to speak?

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 first of November next succeeding the date on which it shall have become a law.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I rise to vote no on this legislation. I think that the concept that is being passed in this bill would in fact imply that many Lowe's, Home Depots, Wal-Marts and small individual hardware stores would suddenly find themselves potentially guilty of being accused of carrying drug paraphernalia. So I think it's bad-precedent law.

But I think what is worse is in fact the gag order that we have used today on the discussion of this bill on the floor of the Senate. So I'm sorry we went down that road. I hope we don't continue to go down

that road. This is supposed to be a democracy where we get --

ACTING PRESIDENT LITTLE: Senator Krueger, how do you vote?

SENATOR LIZ KRUEGER: I'll be voting no.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1400 are Senators Andrews, Diaz, Dilan, Duane, L. Krueger, Montgomery, Parker, Paterson, Savino, Schneiderman, Serrano, and A. Smith. Ayes, 46. Nays, 12.

Those Senators absent from voting are Senators Connor and Gonzalez.

ACTING PRESIDENT LITTLE: The bill is passed.

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

SENATOR SKELOS: Thank you, Madam President.

There will be an immediate meeting of the Rules Committee in the Majority Conference Room, and then the committee report will be read and accepted on the floor. And we will adjourn.

I believe there are some motions on the floor, though, at this time.

ACTING PRESIDENT LITTLE: Thank you.

Senator Seward, for a motion.

SENATOR SEWARD: Yes, Madam President. I wish to call up Senator Balboni's bill, Print Number 2579, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 525, by Senator Balboni, Senate Print 2579, an act to authorize the Village of Floral Park.

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

ACTING PRESIDENT LITTLE: The

Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

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

ACTING PRESIDENT LITTLE: Thank you, Senator Seward. The amendments are received.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT LITTLE: Senator Skelos.

Could we have quiet, please.

SENATOR SKELOS: If we could just stand at ease pending the report of the Rules Committee.

ACTING PRESIDENT LITTLE: The Senate stands at ease.

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

(Whereupon, the Senate reconvened at 2:22 p.m.)

ACTING PRESIDENT LITTLE: Senator Leibell.

SENATOR LEIBELL: If we could

return to reports of standing committees, I believe there's a report of the Rules Committee at the desk.

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 431A, by Senator Trunzo, an act to amend the Executive Law;

1684, by Senator Trunzo, an act to amend the Vehicle and Traffic Law;

1736, by Senator Larkin, an act to authorize the Town of New Windsor;

Senate Print 2234, by Senator Diaz, an act to amend the Agriculture and Markets Law;

Senate Print 2369, by Senator Marcellino, an act to require the New York State and Local Employees Retirement System;

Senate Print 2514, by Senator LaValle, an act to amend the Education Law;

Senate Print 2737, by Senator Golden, an act to amend the Executive Law;

Senate Print 2892A, by Senator Spano, an act to amend the Election Law;

Senate Print 2946, by Senator Larkin, an act to provide for the classification;

Senate Print 3263, by Senator Leibell, an act authorizing Bryan R. Watson;

Senate Print 3320, by Senator Volker, an act in relation to allowing Carol A. Meissner;

Senate Print 4478, by Senator Maziarz, an act to amend the Civil Service Law;

Senate Print 4553, by Senator Padavan, an act to amend the Local Finance Law;

Senate Print 4611, by Senator Hannon, an act to amend the Vehicle and Traffic Law;

4893, by Senator Flanagan, an act to amend the Environmental Conservation Law;

Senate Print 4951A, by Senator Seward, an act in relation to granting David Tobias;

Senate Print 4967, by Senator

Leibell, an act authorizing the Town of Yorktown;

Senate Print 5128, by Senator Flanagan, an act to amend the Executive Law;

5308, by Senator Wright, an act to amend Chapter 519 of the Laws of 1999;

Senate Print 5309, by Senator Leibell, an act to amend the General City Law;

Senate Print 5413A, by Senator Wright, an act to amend the Highway Law;

Senate Print 5468A, by Senator Maziarz, an act to amend the Vehicle and Traffic Law;

Senate Print 5474, by Senator Meier, an act to amend the Criminal Procedure Law;

Senate Print 5502, by Senator Meier, an act to amend the Criminal Procedure Law;

Senate Print 5532, by Senator Wright, an act to amend the Penal Law;

And Senate Print 5548, by Senator Golden, an act to amend Chapter 779 of the Laws of 1986.

All bills ordered direct to third

reading.

ACTING PRESIDENT LITTLE: Senator Leibell.

SENATOR LEIBELL: Madam President, move to accept the report of 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 Leibell.

SENATOR LEIBELL: Madam President, move to adjourn until Thursday, June 9th, at 11:00 a.m.

ACTING PRESIDENT LITTLE: Thank you. On motion, the Senate stands adjourned until Thursday, June 9th, at 11:00 a.m.

(Whereupon, at 2:26 p.m., the Senate adjourned.)