

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 15, 2005

11:11 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 14, the Senate met pursuant to  
adjournment. The Journal of Monday, June 13,  
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.

1 Messages from the Governor.

2 Reports of standing committees.

3 The Secretary will read.

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

7 As members of the Board of Trustees  
8 of the City University of New York, Wellington  
9 Z. Chen, of Little Neck, and Kathleen M.  
10 Pesile, of Staten Island.

11 As members of the Board of Trustees  
12 of the State University of New York, Randy  
13 Daniels, of New York City, and Harvey F.  
14 Wachsman, M.D., of Upper Brookville.

15 As a member of the  
16 Rochester-Genesee Regional Transportation  
17 Authority, Thomas R. Argust, of Rochester.

18 As a member of the Board of  
19 Trustees of the New York State Higher  
20 Education Services Corporation, Philip M.  
21 Williams, of New Hartford.

22 As a trustee of the State  
23 University Construction Fund, Eugene K.  
24 Tyksinski, of Altamont.

25 As a member of the State Council on

1 the Arts, Daryl Roth, of New York City.

2 As a member of the Mental Health  
3 Services Council, Thomas E. Holt, of  
4 Jamestown.

5 As a member of the State Fire  
6 Prevention and Building Code Council, Gary B.  
7 Higbee, of New York City.

8 As a member of the Board of  
9 Visitors of the Queens Children's Psychiatric  
10 Center, Murray J. Ostrin, of Douglaston.

11 And as a member of the Board of  
12 Visitors of the Rockland Children's  
13 Psychiatric Center, Theresa O'Rourke, of  
14 Tappan.

15 THE PRESIDENT: Senator Johnson.

16 SENATOR JOHNSON: Move the  
17 nominations.

18 THE PRESIDENT: All in favor of  
19 the nominations as listed by the Secretary  
20 please signify by saying aye.

21 (Response of "Aye.")

22 THE PRESIDENT: Opposed, nay.

23 (No response.)

24 THE PRESIDENT: The nominees are  
25 all hereby confirmed.

1 Senator Morahan.

2 SENATOR MORAHAN: Thank you,  
3 Madam President.

4 I know it's against the rules to  
5 introduce people in the gallery, so I can't do  
6 that today. But if I could, I would point out  
7 that we have the George Grant Elementary  
8 School from the great 38th Senatorial District  
9 here with us in the gallery. And I would  
10 welcome them if I could, but I can't, so I  
11 will just say welcome.

12 Thank you very much.

13 THE PRESIDENT: Thank you,  
14 Senator.

15 Senator Skelos.

16 SENATOR SKELOS: Madam President,  
17 if we could adopt the Resolution Calendar,  
18 with the exception of Resolution 2503.

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

22 (Response of "Aye.")

23 THE PRESIDENT: Opposed, nay.

24 (No response.)

25 THE PRESIDENT: The Resolution

1 Calendar is so adopted.

2 Senator Skelos.

3 SENATOR SKELOS: Madam President,  
4 at the desk is Resolution 2503, by Senator  
5 Brown. If we could have it read in its  
6 entirety and move for its immediate adoption.

7 THE PRESIDENT: Motions and  
8 resolutions.

9 The Secretary will read.

10 THE SECRETARY: By Senator Brown,  
11 Legislative Resolution Number 2503, mourning  
12 the untimely death of Lieutenant Colonel  
13 Terrence K. Crowe, of Grand Island, New York,  
14 and paying tribute to his courageous actions  
15 as a member of the United States Army.

16 "WHEREAS, The courage and bravery  
17 of our military personnel since the United  
18 States Armed Forces commenced Operation Iraqi  
19 Freedom will ensure our continued role as a  
20 nation which embodies the ideals of democracy  
21 and as a defender of liberty for people  
22 throughout the world; and

23 "WHEREAS, Members of the Armed  
24 Services from the State of New York, who have  
25 served so valiantly and honorably since

1           Operation Iraqi Freedom, deserve a special  
2           salute from this Legislative Body; and

3                         "WHEREAS, With deep regret, this  
4           Legislative Body mourns the untimely death of  
5           Lieutenant Colonel Terrence K. Crowe, of Grand  
6           Island, New York, and pays tribute to his  
7           courageous actions as a member of the United  
8           States Army; and

9                         "WHEREAS, An Army Reserve officer  
10          from Grand Island who taught at Canisius  
11          College, Terrence Crowe is the latest Western  
12          New York soldier to make the ultimate  
13          sacrifice in Iraq; and

14                        "WHEREAS, Terrence Crowe, 44, a  
15          member of the 98th Division, perished on  
16          Tuesday, June 7, 2005, during an offensive in  
17          the city of Tal Afar, near the Syrian border.  
18          He was part of the Military Transition Team,  
19          which mentors and assists new Iraqi security  
20          forces; and

21                        "WHEREAS, before being deployed to  
22          Iraq in October of 2004, Terrence Crowe was an  
23          assistant professor of military science with  
24          the Reserve Officers Training Corps, or ROTC,  
25          at Canisius College. His career in the active

1 Army, the National Guard, and the Reserve  
2 spanned 17 years; and

3 "WHEREAS, Terrence Crowe graduated  
4 from Niagara University, where he earned his  
5 Army commission as a second lieutenant. He  
6 was on active duty from 1982 to 1992, serving  
7 with the 2nd Armored Division in Germany and  
8 Fort Hood, Texas; and

9 "WHEREAS, Niagara University has  
10 organized a scholarship fund in honor of  
11 Terrence Crowe. He is survived by his  
12 children, Jeremiah and Clara; his parents,  
13 George and Mary Ann; and numerous family  
14 members; and

15 "WHEREAS, Residents of this great  
16 state must never forget the courage with which  
17 these men and women served their country, and  
18 must recognize that no greater debt is owed  
19 than that owed to those who gave their lives  
20 for their beloved nation and to those who  
21 continue to be missing in action; and

22 "WHEREAS, The freedoms and security  
23 we cherish as Americans come at a very high  
24 price for those serving in the military in  
25 times of conflict. It is fitting and proper

1           that we who are the beneficiaries of those who  
2           risk their lives, leaving their families  
3           behind, express our appreciation and eternal  
4           gratitude for their sacrifices and courageous  
5           acts; now, therefore, be it

6                         "RESOLVED, That this Legislative  
7           Body pause in its deliberations to mourn the  
8           untimely death of Lieutenant Colonel Terrence  
9           K. Crowe of Grand Island, New York, and to pay  
10          tribute to his courageous actions as a member  
11          of the United States Army; and be it further

12                         "RESOLVED, That a copy of this  
13          resolution, suitably engrossed, be transmitted  
14          to the family of Lieutenant Colonel Terrence  
15          K. Crowe."

16                         THE PRESIDENT:         Senator Brown.

17                         SENATOR BROWN:         Thank you, Madam  
18          President.

19                         I wanted to just take a moment to  
20          thank my colleagues for affording me the  
21          opportunity to recognize the memory of  
22          Lieutenant Colonel Terrence K. Crowe.

23          Certainly it is the custom of this house to  
24          recognize those courageous men and women who  
25          have served our country in war and who have

1           untimely lost their lives in such service to  
2           our country.

3                       Lieutenant Colonel Terrence K.  
4           Crowe was a resident of Grand Island -- that  
5           is in the 60th Senate district -- and our  
6           community is mourning over his loss. And I  
7           thank all of my colleagues for recognizing  
8           Colonel Crowe.

9                       I want to just extend my sympathies  
10          to the family of Lieutenant Colonel Crowe. He  
11          lives behind two children, Jeremiah and Clara  
12          Louise Crowe, and he was the son of George and  
13          Mary Ann Crowe.

14                      I ask that as we adjourn today we  
15          do so in the memory of Lieutenant Colonel  
16          Terrence Crowe, and certainly in remembrance  
17          and in recognition to his courageous service  
18          to our country.

19                      Thank you.

20                      THE PRESIDENT:       On the  
21          resolution, all in favor please signify by  
22          saying aye.

23                      (Response of "Aye.")

24                      THE PRESIDENT:       Opposed, nay.

25                      (No response.)

1 THE PRESIDENT: The resolution is  
2 adopted.

3 Senator Skelos.

4 SENATOR SKELOS: Madam President,  
5 I believe there are substitutions to be made  
6 at the desk.

7 THE PRESIDENT: There are,  
8 Senator.

9 The Secretary will read.

10 THE SECRETARY: On page 4,  
11 Senator Marcellino moves to discharge, from  
12 the Committee on Rules, Assembly Bill Number  
13 3494A and substitute it for the identical  
14 Senate Bill Number 769A, Third Reading  
15 Calendar 49.

16 On page 10, Senator Fuschillo moves  
17 to discharge, from the Committee on Rules,  
18 Assembly Bill Number 4254A and substitute it  
19 for the identical Senate Bill Number 3492A,  
20 Third Reading Calendar 319.

21 On page 37, Senator Robach moves to  
22 discharge, from the Committee on Rules,  
23 Assembly Bill Number 3454A and substitute it  
24 for the identical Senate Bill Number 1893A,  
25 Third Reading Calendar 994.

1                   On page 58, Senator Nozzolio moves  
2                   to discharge, from the Committee on Rules,  
3                   Assembly Bill Number 1438A and substitute it  
4                   for the identical Senate Bill Number 1076A,  
5                   Third Reading Calendar 1456.

6                   On page 58, Senator Johnson moves  
7                   to discharge, from the Committee on Rules,  
8                   Assembly Bill Number 7535 and substitute it  
9                   for the identical Senate Bill Number 2464,  
10                  Third Reading Calendar 1457.

11                  On page 58, Senator Volker moves to  
12                  discharge, from the Committee on Civil Service  
13                  and Pensions, Assembly Bill Number 3969 and  
14                  substitute it for the identical Senate Bill  
15                  Number 2494, Third Reading Calendar 1459.

16                  On page 58, Senator Spano moves to  
17                  discharge, from the Committee on Crime  
18                  Victims, Crime and Correction, Assembly Bill  
19                  Number 6717 and substitute it for the  
20                  identical Senate Bill Number 3660, Third  
21                  Reading Calendar 1462.

22                  On page 58, Senator Johnson moves  
23                  to discharge, from the Committee on Rules,  
24                  Assembly Bill Number 6790 and substitute it  
25                  for the identical Senate Bill Number 4000,

1 Third Reading Calendar 1463.

2 On page 59, Senator Valesky moves  
3 to discharge, from the Committee on Rules,  
4 Assembly Bill Number 8186 and substitute it  
5 for the identical Senate Bill Number 5341,  
6 Third Reading Calendar 1465.

7 On page 59, Senator LaValle moves  
8 to discharge, from the Committee on Rules,  
9 Assembly Bill Number 6460B and substitute it  
10 for the identical Senate Bill Number 4148A,  
11 Third Reading Calendar 1466.

12 And on page 58, Senator Valesky  
13 moves to discharge, from the Committee on  
14 Rules, Assembly Bill Number 7108 and  
15 substitute it for the identical Senate Bill  
16 Number 4065, Third Reading Calendar 1472.

17 THE PRESIDENT: Substitutions  
18 ordered.

19 Reports of select committees.

20 Communications and reports from  
21 state officers.

22 Motions and resolutions.

23 Senator Farley.

24 SENATOR FARLEY: Thank you, Madam  
25 President.

1                   On behalf of Senator Skelos, I  
2 offer amendments to the following Third  
3 Reading Calendar bills:

4                   Page 14, Calendar 411, Senate Print  
5 495;

6                   On behalf of Senator Balboni, on  
7 page 27, Calendar 783, Senate Print 4289;

8                   On behalf of Senator Padavan, on  
9 page 30, Calendar Number 844, Senate Print  
10 3169;

11                   On behalf of Senator Johnson, on  
12 page 57, Calendar 1450, Senate Print 5517;

13                   And on behalf of Senator Volker, on  
14 page 32, Calendar 898, Senate Print 4343A.

15                   I ask that these bills be amended  
16 and that they retain their place.

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

20                   Senator Skelos.

21                   SENATOR SKELOS:     Madam President,  
22 if we could go to the noncontroversial  
23 calendar.

24                   THE PRESIDENT:     The Secretary  
25 will read.

1                   THE SECRETARY:     Calendar Number  
2     47, by Senator Bruno, Senate Print 1370,  
3     Concurrent Resolution of the Senate and  
4     Assembly proposing amendments to the  
5     constitution.

6                   THE PRESIDENT:     On the concurrent  
7     resolution, the Secretary will call the roll.

8                   (The Secretary called the roll.)

9                   THE SECRETARY:     Ayes, 49.

10                  THE PRESIDENT:     The resolution is  
11     adopted.

12                  The roll call is withdrawn.

13                  The Secretary will put the  
14     resolution before the house.

15                  THE SECRETARY:     Calendar Number  
16     47, by Senator Bruno, Senate Print 1370,  
17     Concurrent Resolution of the Senate and  
18     Assembly proposing amendments to the  
19     constitution.

20                  THE PRESIDENT:     On the concurrent  
21     resolution, the Secretary will call the roll.

22                  (The Secretary called the roll.)

23                  THE SECRETARY:     Those recorded in  
24     the negative on Calendar Number 47 are  
25     Senators Duane, Hassell-Thompson, Montgomery,

1 Savino and Schneiderman.

2 Ayes, 44. Nays, 5.

3 THE PRESIDENT: The resolution is  
4 adopted.

5 THE SECRETARY: Calendar Number  
6 249, by Senator Little, Senate Print 2778A, an  
7 act to amend the Indian Law and the Criminal  
8 Procedure Law.

9 THE PRESIDENT: Read the last  
10 section.

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

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

15 THE SECRETARY: Ayes, 48. Nays,  
16 1. Senator Stachowski recorded in the  
17 negative.

18 THE PRESIDENT: The bill is  
19 passed.

20 THE SECRETARY: Calendar Number  
21 330, by Member of the Assembly Englebright,  
22 Assembly Print Number 5209, an act to amend  
23 the Public Health Law and the Correction Law.

24 THE PRESIDENT: Read the last  
25 section.

1 THE SECRETARY: Section 6. This  
2 act shall take effect on the 30th day.

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

5 THE SECRETARY: Ayes, 49.

6 THE PRESIDENT: The bill is  
7 passed.

8 THE SECRETARY: Calendar Number  
9 335, by Senator Volker, Senate Print 1531, an  
10 act to amend the Penal Law.

11 THE PRESIDENT: Read the last  
12 section.

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

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

18 THE SECRETARY: Ayes, 47. Nays,  
19 2. Senators Duane and Montgomery recorded in  
20 the negative.

21 THE PRESIDENT: The bill is  
22 passed.

23 THE SECRETARY: Calendar Number  
24 410, by Member of the Assembly Englebright,  
25 Assembly Print Number 2664, an act to amend

1 the Correction Law.

2 THE PRESIDENT: Read the last  
3 section.

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

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

8 THE SECRETARY: Ayes, 49.

9 THE PRESIDENT: The bill is  
10 passed.

11 THE SECRETARY: Calendar Number  
12 412, by Senator Skelos, Senate Print 496A, an  
13 act to amend the Correction Law.

14 THE PRESIDENT: Read the last  
15 section.

16 THE SECRETARY: Section 4. This  
17 act shall take effect on the 180th day.

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

20 THE SECRETARY: Ayes, 47. Nays,  
21 2. Senators Duane and Montgomery recorded in  
22 the negative.

23 THE PRESIDENT: The bill is  
24 passed.

25 THE SECRETARY: In relation to

1 Calendar Number 412: Ayes, 48. Nays, 1.  
2 Senator Montgomery recorded in the negative.

3 THE PRESIDENT: The bill is  
4 passed.

5 THE SECRETARY: Calendar Number  
6 414, by Senator Alesi, Senate Print 970, an  
7 act to amend the Correction Law.

8 THE PRESIDENT: Read the last  
9 section.

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

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

14 THE SECRETARY: Ayes, 47. Nays,  
15 2. Senators Hassell-Thompson and Montgomery  
16 recorded in the negative.

17 THE PRESIDENT: The bill is  
18 passed.

19 THE SECRETARY: Calendar Number  
20 450, by Senator Larkin, Senate Print 1398B, an  
21 act to amend the Vehicle and Traffic Law.

22 THE WITNESS: Read the last  
23 section.

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

1 November.

2 THE PRESIDENT: Call the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 48. Nays,

5 1. Senator Duane recorded in the negative.

6 THE PRESIDENT: The bill is

7 passed.

8 THE SECRETARY: Calendar Number

9 538, by Senator Maziarz, Senate Print 4074, an

10 act to amend the Workers' Compensation Law.

11 THE PRESIDENT: Read the last

12 section.

13 THE SECRETARY: Section 6. This

14 act shall take effect immediately.

15 THE PRESIDENT: Call the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 50.

18 THE PRESIDENT: The bill is

19 passed.

20 THE SECRETARY: Calendar Number

21 559, by Senator Marchi, Senate Print 4009, an

22 act to amend the Retirement and Social

23 Security Law and the Administrative Code of

24 the City of New York.

25 THE PRESIDENT: There is a

1 home-rule message at the desk.

2 Read the last section.

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

5 THE PRESIDENT: Call the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 50.

8 THE PRESIDENT: The bill is  
9 passed.

10 THE SECRETARY: Calendar Number  
11 612, by Senator Fuschillo, Senate Print 2223A,  
12 an act to amend the General Business Law.

13 THE PRESIDENT: Read the last  
14 section.

15 THE SECRETARY: Section 2. This  
16 act shall take effect July 1, 2006.

17 THE PRESIDENT: Call the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 50.

20 THE PRESIDENT: The bill is  
21 passed.

22 THE SECRETARY: Calendar Number  
23 652, by Senator Skelos, Senate Print 483, an  
24 act to amend the Correction Law.

25 THE PRESIDENT: Read the last

1 section.

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

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

6 THE SECRETARY: Ayes, 48. Nays,  
7 1. Senator Montgomery recorded in the  
8 negative.

9 THE PRESIDENT: The bill is  
10 passed.

11 THE SECRETARY: Excuse me. Ayes,  
12 49. Nays, 1. Senator Montgomery recorded in  
13 the negative.

14 THE PRESIDENT: The bill is still  
15 passed.

16 THE SECRETARY: Calendar Number  
17 654, by Member of the Assembly Koon, Assembly  
18 Print Number 3156, an act to amend the  
19 Correction Law.

20 THE PRESIDENT: Read the last  
21 section.

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

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

1 THE SECRETARY: Those recorded in  
2 the negative on Calendar Number 654 are  
3 Senators Andrews, Duane, Hassell-Thompson,  
4 Montgomery, Paterson, Serrano and A. Smith.

5 Ayes, 43. Nays, 7.

6 THE PRESIDENT: The bill is  
7 passed.

8 THE SECRETARY: Calendar Number  
9 655, by Senator --

10 In relation to Calendar Number 654,  
11 also Senator Diaz recorded in the negative.

12 Ayes, 42. Nays, 8.

13 THE PRESIDENT: The bill is  
14 passed.

15 Please be sure, each member, to  
16 raise your hand clearly to indicate your vote  
17 in the negative if you so choose.

18 THE SECRETARY: Calendar Number  
19 655, by Senator Nozzolio, Senate Print 1323A,  
20 an act to amend the Correction Law.

21 THE PRESIDENT: Read the last  
22 section.

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

25 THE PRESIDENT: Call the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 49. Nays,

3 1. Senator Montgomery recorded in the  
4 negative.

5 THE PRESIDENT: The bill is  
6 passed.

7 THE SECRETARY: Calendar Number  
8 657, by Senator Alesi, Senate Print 4025, an  
9 act to amend the Correction Law.

10 THE PRESIDENT: Read the last  
11 section.

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

15 THE PRESIDENT: Call the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 48. Nays,  
18 2. Senators Duane and Montgomery recorded in  
19 the negative.

20 THE PRESIDENT: The bill is  
21 passed.

22 THE SECRETARY: Calendar Number  
23 722, by Senator Flanagan, Senate Print 2839,  
24 an act to amend the Penal Law and the  
25 Correction Law.

1 THE PRESIDENT: Read the last  
2 section.

3 THE SECRETARY: Section 3. This  
4 act shall take effect on the 90th day.

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

7 THE SECRETARY: Ayes, 50.

8 THE PRESIDENT: The bill is  
9 passed.

10 THE SECRETARY: Calendar Number  
11 724, by Senator Volker, Senate Print 3230, an  
12 act to amend the Penal Law and the Correction  
13 Law.

14 THE PRESIDENT: Read the last  
15 section.

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

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

20 THE SECRETARY: Ayes, 50.

21 THE PRESIDENT: The bill is  
22 passed.

23 THE SECRETARY: Calendar Number  
24 883, by Senator LaValle, Senate Print 913, an  
25 act to amend the Penal Law and the Correction

1 Law.

2 THE PRESIDENT: Read the last  
3 section.

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

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

9 THE SECRETARY: Ayes, 50.

10 THE PRESIDENT: The bill is  
11 passed.

12 THE SECRETARY: Calendar Number  
13 903, by Senator DeFrancisco, Senate Print  
14 4837, an act to amend the Civil Practice Law  
15 and Rules.

16 THE PRESIDENT: Read the last  
17 section.

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

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

22 THE SECRETARY: Ayes, 50.

23 THE PRESIDENT: The bill is  
24 passed.

25 THE SECRETARY: Calendar Number

1 911, by Senator Fuschillo, Senate Print 4040,  
2 an act to amend the Retirement and Social  
3 Security Law.

4 THE PRESIDENT: Read the last  
5 section.

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

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

10 THE SECRETARY: Ayes, 50.

11 THE PRESIDENT: The bill is  
12 passed.

13 THE SECRETARY: Calendar Number  
14 1040, by Senator Nozzolio, Senate Print 505,  
15 an act to amend the General Municipal Law.

16 THE PRESIDENT: Read the last  
17 section.

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

20 THE PRESIDENT: Call the roll.  
21 There is a home-rule message at the  
22 desk.

23 Read the last section.

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

1 THE PRESIDENT: Call the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 51. Nays,

4 1. Senator Duane recorded in the negative.

5 THE PRESIDENT: The bill is

6 passed.

7 THE SECRETARY: Calendar Number

8 1046, by Senator Little, Senate Print 5288, an

9 act to amend the Environmental Conservation

10 Law and the County Law.

11 THE PRESIDENT: There is a local

12 fiscal impact note at the desk.

13 Read the last section.

14 THE SECRETARY: Section 3. This

15 act shall take effect immediately.

16 THE PRESIDENT: Call the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 53.

19 THE PRESIDENT: The bill is

20 passed.

21 THE SECRETARY: Calendar Number

22 1059, by Senator Libous, Senate Print 3890, an

23 act to amend the Vehicle and Traffic Law.

24 THE PRESIDENT: Read the last

25 section.

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

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

5 THE SECRETARY: Ayes, 53.

6 THE PRESIDENT: The bill is  
7 passed.

8 THE SECRETARY: Calendar Number  
9 1193, by Senator Marchi, Senate Print 2235, an  
10 act to amend the Public Authorities Law.

11 THE PRESIDENT: Read the last  
12 section.

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

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

17 THE SECRETARY: Those recorded in  
18 the negative on Calendar Number 1193 are  
19 Senators Duane and L. Krueger.

20 Ayes, 51. Nays, 2.

21 THE PRESIDENT: The bill is  
22 passed.

23 THE SECRETARY: Calendar Number  
24 1199, by Senator Golden, Senate Print 5148B,  
25 an act to amend the Vehicle and Traffic Law.

1 THE PRESIDENT: Read the last  
2 section.

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

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

7 THE SECRETARY: Those recorded in  
8 the negative on Calendar Number 1199 are  
9 Senators Montgomery, Onorato and M. Smith.  
10 Also Senator Andrews.

11 Ayes, 49. Nays, 4.

12 THE PRESIDENT: The bill is  
13 passed.

14 Again, I'm going to ask the members  
15 to clearly indicate your vote in a prompt  
16 manner. Thank you.

17 THE SECRETARY: Calendar Number  
18 1223, by Member of the Assembly Zebrowski,  
19 Assembly Print Number 8052, an act to amend  
20 the Retirement and Social Security Law.

21 THE PRESIDENT: Read the last  
22 section.

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

25 THE PRESIDENT: Call the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 53.

3 THE PRESIDENT: The bill is  
4 passed.

5 THE SECRETARY: Calendar Number  
6 1239, by Senator Nozzolio, Senate Print 1750,  
7 an act to amend the Election Law.

8 THE PRESIDENT: Read the last  
9 section.

10 THE SECRETARY: Section --

11 SENATOR MONTGOMERY: Lay it  
12 aside.

13 THE PRESIDENT: The bill is laid  
14 aside.

15 THE SECRETARY: Calendar Number  
16 1244, by Senator Skelos, Senate Print 481, an  
17 act to amend the Correction Law.

18 THE PRESIDENT: Read the last  
19 section.

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

22 THE PRESIDENT: Call the roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 52. Nays,  
25 1. Senator Montgomery recorded in the

1 negative.

2 THE PRESIDENT: The bill is  
3 passed.

4 THE SECRETARY: Calendar Number  
5 1245, by Senator Alesi, Senate Print 967, an  
6 act to amend the Correction Law.

7 THE PRESIDENT: Read the last  
8 section.

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

11 THE PRESIDENT: Call the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Those recorded in  
14 the negative on Calendar Number 1245 are  
15 Senators Duane, L. Krueger and Montgomery.

16 Ayes, 50. Nays, 3.

17 THE PRESIDENT: The bill is  
18 passed.

19 THE SECRETARY: Calendar Number  
20 1246, by Senator Skelos, Senate Print 1168A,  
21 an act to amend the Correction Law.

22 THE PRESIDENT: Read the last  
23 section.

24 THE SECRETARY: Section 7. This  
25 act shall take effect immediately.

1 THE PRESIDENT: Call the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 52. Nays,

4 1. Senator Duane -- excuse me.

5 Ayes, 51. Nays, 2. Senators Duane  
6 and Montgomery recorded in the negative.

7 THE PRESIDENT: The bill is  
8 passed.

9 THE SECRETARY: Calendar Number  
10 1248, by Senator LaValle, Senate Print 1552,  
11 an act to amend the Correction Law.

12 THE PRESIDENT: Read the last  
13 section.

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

16 THE PRESIDENT: Call the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 53.

19 THE PRESIDENT: The bill is  
20 passed.

21 THE SECRETARY: Calendar Number  
22 1251, by Senator Larkin, Senate Print 2345A,  
23 an act to amend the Correction Law and others.

24 THE PRESIDENT: Read the last  
25 section.

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

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

5 THE PRESIDENT: Senator  
6 Montgomery, to explain your vote.

7 SENATOR MONTGOMERY: Yes, Madam  
8 President, I'm certainly going to vote against  
9 this. I just want to explain my vote.

10 This really goes way, way beyond  
11 what I think is reasonable, in that we are  
12 including 13-year-olds, 13- and 14-year-olds,  
13 whose records are -- theoretically should be  
14 sealed. There is an issue here of privacy  
15 with these young people, and yet we're  
16 requiring them to be in a registry for the  
17 rest of their lives.

18 So I really think that this is  
19 something that we should oppose, because as a  
20 policy it really violates the reasonableness  
21 of the judicial system which attempts to  
22 protect the rights of young people as it  
23 relates to having their records sealed.

24 I vote no.

25 THE PRESIDENT: You will be so

1 recorded as voting in the negative, Senator.

2 The Secretary will announce the  
3 results.

4 THE SECRETARY: Those recorded in  
5 the negative on Calendar Number 1251 are  
6 Senators Andrews, Duane, L. Krueger and  
7 Montgomery.

8 Ayes, 49. Nays, 4.

9 THE PRESIDENT: The bill is  
10 passed.

11 THE SECRETARY: Calendar Number  
12 1254, by Senator Skelos, Senate Print 3506A,  
13 an act to amend the Correction Law and others.

14 THE PRESIDENT: Read the last  
15 section.

16 THE SECRETARY: Section 33. This  
17 act shall take effect immediately.

18 THE PRESIDENT: Call the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 52. Nays,  
21 1. Senator Montgomery recorded in the  
22 negative.

23 THE PRESIDENT: The bill is  
24 passed.

25 THE SECRETARY: Calendar Number

1 1255, by Senator Nozzolio, Senate Print 4024,  
2 an act to amend the Correction Law.

3 THE PRESIDENT: Read the last  
4 section.

5 THE SECRETARY: Section 2. This  
6 act shall take effect on the first of  
7 September.

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

10 THE SECRETARY: Ayes, 51. Nays,  
11 2. Senators Duane and Montgomery recorded in  
12 the negative.

13 THE PRESIDENT: The bill is  
14 passed.

15 THE SECRETARY: Calendar Number  
16 1258, by Senator Rath, Senate Print 4936A, an  
17 act to amend the Correction Law.

18 THE PRESIDENT: Read the last  
19 section.

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

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

25 THE SECRETARY: Ayes, 52. Nays,

1           1. Senator Montgomery recorded in the  
2           negative.

3                       THE PRESIDENT:       The bill is  
4           passed.

5                       THE SECRETARY:       Calendar Number  
6           1259, by Senator Rath, Senate Print 4937, an  
7           act to amend the Correction Law.

8                       THE PRESIDENT:       Read the last  
9           section.

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

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

15                      THE SECRETARY:       Ayes, 53.

16                      THE PRESIDENT:       The bill is  
17           passed.

18                      THE SECRETARY:       Calendar Number  
19           1261, by Senator Skelos, Senate Print 5244A,  
20           an act to amend the Correction Law.

21                      THE PRESIDENT:       Read the last  
22           section.

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

25                      THE PRESIDENT:       Call the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 51. Nays,  
3 2. Senators Duane and Montgomery recorded in  
4 the negative.

5 THE PRESIDENT: The bill is  
6 passed.

7 THE SECRETARY: Calendar Number  
8 1265, by Senator Alesi, Senate Print 5000, an  
9 act to amend the Social Services Law.

10 THE PRESIDENT: Read the last  
11 section.

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

15 THE PRESIDENT: Call the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 51. Nays,  
18 2. Senators Duane and Montgomery recorded in  
19 the negative.

20 THE PRESIDENT: The bill is  
21 passed.

22 THE SECRETARY: Calendar Number  
23 1293, by Senator Little, Senate Print 5326A,  
24 an act to amend the Local Finance Law.

25 THE PRESIDENT: Read the last

1 section.

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

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

6 THE SECRETARY: Ayes, 53.

7 THE PRESIDENT: The bill is  
8 passed.

9 THE SECRETARY: Calendar Number  
10 1296, by Senator Little, Senate Print 5329A,  
11 an act to amend the Local Finance Law.

12 THE PRESIDENT: Read the last  
13 section.

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

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

18 THE SECRETARY: Ayes, 53.

19 THE PRESIDENT: The bill is  
20 passed.

21 THE SECRETARY: Calendar Number  
22 1297, by Senator Little, Senate Print 5397, an  
23 act to authorize the City of Glens Falls.

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

1 Read the last section.

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

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

6 THE SECRETARY: Ayes, 53.

7 THE PRESIDENT: The bill is  
8 passed.

9 THE SECRETARY: Calendar Number  
10 1307, by Senator Farley, Senate Print 4047, an  
11 act to amend the Banking Law.

12 THE PRESIDENT: Read the last  
13 section.

14 THE SECRETARY: Section 5. This  
15 act shall take effect immediately.

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

18 THE SECRETARY: Ayes, 53.

19 THE PRESIDENT: The bill is  
20 passed.

21 THE SECRETARY: Calendar Number  
22 1308, by Senator Farley, Senate Print 4050, an  
23 act to amend the Banking Law.

24 THE PRESIDENT: Read the last  
25 section.

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

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

5                   THE SECRETARY:     Ayes, 53.

6                   THE PRESIDENT:     The bill is  
7     passed.

8                   THE SECRETARY:     Calendar Number  
9     1309, by Senator Farley, Senate Print 4386, an  
10    act to amend the Banking Law.

11                   THE PRESIDENT:     Read the last  
12    section.

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

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

17                   THE SECRETARY:     Ayes, 53.

18                   THE PRESIDENT:     The bill is  
19    passed.

20                   THE SECRETARY:     Calendar Number  
21    1319, by Senator Spano, Senate Print 5207, an  
22    act to amend the Education Law and others.

23                   THE PRESIDENT:     Read the last  
24    section.

25                   THE SECRETARY:     Section 17.  This

1 act shall take effect immediately.

2 THE PRESIDENT: Call the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 53.

5 THE PRESIDENT: The bill is  
6 passed.

7 THE SECRETARY: Calendar Number  
8 1324, by Senator Marchi, Senate Print 5417, an  
9 act to amend Chapter 697 of the Laws of 2004.

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

12 Read the last section.

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

15 THE PRESIDENT: Call the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 53.

18 THE PRESIDENT: The bill is  
19 passed.

20 THE SECRETARY: Calendar Number  
21 1345, by Senator Flanagan, Senate Print 2806,  
22 an act to amend the Correction Law.

23 THE PRESIDENT: Read the last  
24 section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the 90th day.

2 THE PRESIDENT: Call the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 51. Nays,

5 2. Senators Duane and Montgomery recorded in  
6 the negative.

7 THE PRESIDENT: The bill is  
8 passed.

9 THE SECRETARY: Calendar Number  
10 1379, by Senator Skelos, Senate Print 5404, an  
11 act to amend the Correction Law.

12 THE PRESIDENT: Read the last  
13 section.

14 THE SECRETARY: Section 5. This  
15 act shall take effect on the first of January.

16 THE PRESIDENT: Call the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 53.

19 THE PRESIDENT: The bill is  
20 passed.

21 THE SECRETARY: Calendar Number  
22 1424, by Senator Wright, Senate Print 5413B,  
23 an act to amend the Highway Law.

24 THE PRESIDENT: Read the last  
25 section.

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

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

5                   THE SECRETARY:     Ayes, 53.

6                   THE PRESIDENT:     The bill is  
7     passed.

8                   THE SECRETARY:     Calendar Number  
9     1442, by Senator Nozzolio, Senate Print 5197,  
10    an act to amend the Executive Law and others.

11                  THE PRESIDENT:     Read the last  
12    section.

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

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

17                  THE SECRETARY:     Those recorded in  
18    the negative on Calendar Number 1442 are  
19    Senators Andrews, Hassell-Thompson and  
20    Montgomery.

21                                    Ayes, 50.  Nays, 3.

22                  THE PRESIDENT:     The bill is  
23    passed.

24                  THE SECRETARY:     Calendar Number  
25    1447, by Senator Young, Senate Print 5509, an

1 act to amend the Education Law.

2 THE PRESIDENT: Read the last  
3 section.

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

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

8 THE SECRETARY: Ayes, 52. Nays,  
9 1. Senator Montgomery recorded in the  
10 negative.

11 THE PRESIDENT: The bill is  
12 passed.

13 THE SECRETARY: Calendar Number  
14 1448, by Senator Golden, Senate Print 5512, an  
15 act to amend the Public Officers Law.

16 THE PRESIDENT: Read the last  
17 section.

18 SENATOR MONTGOMERY: Lay it  
19 aside.

20 THE PRESIDENT: The bill is laid  
21 aside.

22 THE SECRETARY: Calendar Number  
23 1453, by Senator Volker, Senate Print 5575, an  
24 act to amend the Criminal Procedure Law.

25 THE PRESIDENT: Read the last

1 section.

2 THE SECRETARY: Section 6. This  
3 act shall take effect on the 120th day.

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

6 THE SECRETARY: Ayes, 53.

7 THE PRESIDENT: The bill is  
8 passed.

9 THE SECRETARY: Calendar Number  
10 1455, by Senator Padavan, Senate Print 1044,  
11 an act to amend the Vehicle and Traffic Law.

12 THE PRESIDENT: Read the last  
13 section.

14 THE SECRETARY: Section 3. This  
15 act shall take effect on the 90th day.

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

18 THE PRESIDENT: The Secretary  
19 will announce the results.

20 THE SECRETARY: Those recorded in  
21 the negative on Calendar Number 1455 are  
22 Senators Bonacic, Duane, Farley, Leibell,  
23 Libous, Little, Maltese, Maziarz, Meier,  
24 Morahan, Seward, A. Smith, Spano, Winner and  
25 Wright.

1                   Ayes, 38. Nays, 15.

2                   THE PRESIDENT:     The bill is  
3                   passed.

4                   THE SECRETARY:     Calendar Number  
5                   1456, substituted earlier today by Member of  
6                   the Assembly John, Assembly Print Number  
7                   1438A, an act to amend Chapter 219 of the Laws  
8                   of 2002.

9                   THE PRESIDENT:     Read the last  
10                  section.

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

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

15                  THE SECRETARY:     Ayes, 53.

16                  THE PRESIDENT:     The bill is  
17                  passed.

18                  THE SECRETARY:     Calendar Number  
19                  1457, substituted earlier today by Member of  
20                  the Assembly Gantt, Assembly Print Number  
21                  7535, an act to amend the Vehicle and Traffic  
22                  Law.

23                  THE PRESIDENT:     Read the last  
24                  section.

25                  THE SECRETARY:     Section 2. This

1 act shall take effect immediately.

2 THE PRESIDENT: Call the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 52. Nays,

5 1. Senator Duane recorded in the negative.

6 THE PRESIDENT: The bill is

7 passed.

8 THE SECRETARY: Calendar Number

9 1458, by Senator Winner, Senate Print 2483, an

10 act to amend the Tax Law.

11 THE PRESIDENT: Read the last

12 section.

13 THE SECRETARY: Section 4. This

14 act shall take effect on the 180th day.

15 THE PRESIDENT: Call the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 53.

18 THE PRESIDENT: The bill is

19 passed.

20 THE SECRETARY: Calendar Number

21 1459, substituted earlier today by Member of

22 the Assembly Tokasz, Assembly Print Number

23 3969, an act to amend the Civil Service Law.

24 THE PRESIDENT: Read the last

25 section.

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

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

5 THE SECRETARY: Ayes, 53.

6 THE PRESIDENT: The bill is  
7 passed.

8 THE SECRETARY: Calendar Number  
9 1460, by Senator Spano, Senate Print 2893B, an  
10 act to amend the State Finance Law.

11 THE PRESIDENT: Read the last  
12 section.

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

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

17 THE SECRETARY: Ayes, 53.

18 THE PRESIDENT: The bill is  
19 passed.

20 THE SECRETARY: Calendar Number  
21 1461, by Senator Farley, Senate Print 3654A,  
22 an act to authorize the transfer of property.

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

25 Read the last section.

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

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

5 THE SECRETARY: Ayes, 53.

6 THE PRESIDENT: The bill is  
7 passed.

8 THE SECRETARY: Calendar Number  
9 1462, substituted earlier today by Member of  
10 the Assembly Paulin, Assembly Print Number  
11 6717, an act to amend the Executive Law.

12 THE PRESIDENT: Read the last  
13 section.

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

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

18 THE SECRETARY: Ayes, 53.

19 THE PRESIDENT: The bill is  
20 passed.

21 ACTING PRESIDENT LITTLE: Senator  
22 Skelos.

23 SENATOR SKELOS: Madam President,  
24 if we could move to reconsider the vote by  
25 which Calendar Number 1460 passed, and lay it

1       aside.

2                   ACTING PRESIDENT LITTLE:       The  
3       Secretary will read.

4                   THE SECRETARY:       Calendar Number  
5       1460, by Senator Spano, Senate Print 2893B, an  
6       act to amend the State Finance Law.

7                   SENATOR SCHNEIDERMAN:       Lay it  
8       aside.

9                   SENATOR SKELOS:       Madam President,  
10       if we could withdraw the roll call and lay it  
11       aside.

12                   ACTING PRESIDENT LITTLE:       The  
13       Secretary will call the roll on  
14       reconsideration of the bill.

15                   (The Secretary called the roll.)

16                   THE SECRETARY:       Ayes, 53.

17                   ACTING PRESIDENT LITTLE:       The  
18       bill is laid aside.

19                   The Secretary will read.

20                   THE SECRETARY:       Calendar Number  
21       1463, substituted earlier today by Member of  
22       the Assembly Sweeney, Assembly Print Number  
23       6790, an act to amend the Correction Law.

24                   ACTING PRESIDENT LITTLE:       Read  
25       the last section.

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

3 ACTING PRESIDENT LITTLE: Call  
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 53.

7 ACTING PRESIDENT LITTLE: The  
8 bill is passed.

9 THE SECRETARY: Calendar Number  
10 1464, by Senator Wright, Senate Print 4034, an  
11 act to amend the Public Authorities Law.

12 ACTING PRESIDENT LITTLE: Read  
13 the last section.

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

16 ACTING PRESIDENT LITTLE: Call  
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 53.

20 ACTING PRESIDENT LITTLE: The  
21 bill is passed.

22 THE SECRETARY: Calendar Number  
23 1465, substituted earlier today by the  
24 Assembly Committee on Rules, Assembly Print  
25 Number 8186 --

1                   SENATOR MEIER:     Lay the bill  
2     aside.

3                   ACTING PRESIDENT LITTLE:     The  
4     bill is laid aside.

5                   THE SECRETARY:     Calendar Number  
6     1466, substituted earlier today by Member of  
7     the Assembly DiNapoli, Assembly Print Number  
8     6460B, an act to amend the Environmental  
9     Conservation Law.

10                  ACTING PRESIDENT LITTLE:     Read  
11     the last section.

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

14                  ACTING PRESIDENT LITTLE:     Call  
15     the roll.

16                         (The Secretary called the roll.)

17                  THE SECRETARY:     Ayes, 53.

18                  ACTING PRESIDENT LITTLE:     The  
19     bill is passed.

20                  THE SECRETARY:     Calendar Number  
21     1467, by Senator Hannon, Senate Print 4239, an  
22     act to amend the Public Health Law.

23                  ACTING PRESIDENT LITTLE:     Read  
24     the last section.

25                  THE SECRETARY:     Section 3. This

1 act shall take effect immediately.

2 ACTING PRESIDENT LITTLE: Call  
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 53.

6 ACTING PRESIDENT LITTLE: The  
7 bill is passed.

8 THE SECRETARY: Calendar Number  
9 1468, by Senator Flanagan, Senate Print 4924A,  
10 an act in relation to granting.

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

13 Read the last section.

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

16 ACTING PRESIDENT LITTLE: Call  
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 53.

20 ACTING PRESIDENT LITTLE: The  
21 bill is passed.

22 THE SECRETARY: Calendar Number  
23 1469, by Senator Padavan, Senate Print 4968,  
24 an act to amend the Retirement and Social  
25 Security Law.

1                   ACTING PRESIDENT LITTLE:     Read  
2     the last section.

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

5                   ACTING PRESIDENT LITTLE:     Call  
6     the roll.

7                   (The Secretary called the roll.)

8                   THE SECRETARY:        Ayes, 53.

9                   ACTING PRESIDENT LITTLE:     The  
10    bill is passed.

11                  THE SECRETARY:        Calendar Number  
12    1470, by the Senate Committee on Rules, Senate  
13    Print Number 5258, an act to amend the Tax  
14    Law.

15                  ACTING PRESIDENT LITTLE:     Read  
16    the last section.

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

19                  ACTING PRESIDENT LITTLE:     Call  
20    the roll.

21                  (The Secretary called the roll.)

22                  THE SECRETARY:        Ayes, 53.

23                  ACTING PRESIDENT LITTLE:     The  
24    bill is passed.

25                  THE SECRETARY:        Calendar Number

1 1471, by Senator Wright, Senate Print 5282, an  
2 act to amend the Civil Practice Law and Rules  
3 and others.

4 ACTING PRESIDENT LITTLE: Read  
5 the last section.

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

8 ACTING PRESIDENT LITTLE: Call  
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 53.

12 ACTING PRESIDENT LITTLE: The  
13 bill is passed.

14 THE SECRETARY: Calendar Number  
15 1472, substituted earlier today by Member of  
16 the Assembly Magee --

17 SENATOR MEIER: Lay the bill  
18 aside.

19 ACTING PRESIDENT LITTLE: The  
20 bill is laid aside.

21 THE SECRETARY: Calendar Number  
22 1473, by the Senate Committee on Rules, Senate  
23 Print Number 5388, an act to amend the Tax Law  
24 and Chapter 535 of the Laws of 1987.

25 ACTING PRESIDENT LITTLE: Read

1 the last section.

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

4 ACTING PRESIDENT LITTLE: Call  
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 53.

8 ACTING PRESIDENT LITTLE: The  
9 bill is passed.

10 THE SECRETARY: Calendar Number  
11 1474, by Senator Marchi, Senate Print 5497 --

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

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

16 THE SECRETARY: Calendar Number  
17 1475, by Senator Maziarz, Senate Print 5503,  
18 an act to amend the Parks, Recreation and  
19 Historic Preservation Law and others.

20 ACTING PRESIDENT LITTLE: Read  
21 the last section.

22 THE SECRETARY: Section 19. This  
23 act shall take effect immediately.

24 ACTING PRESIDENT LITTLE: Call  
25 the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 53.

3 ACTING PRESIDENT LITTLE: The  
4 bill is passed.

5 THE SECRETARY: Calendar Number  
6 1476, by Senator Young, Senate Print 5506, an  
7 act to amend the Tax Law.

8 ACTING PRESIDENT LITTLE: Read  
9 the last section.

10 THE SECRETARY: Section 3. This  
11 act shall take effect on the first of January.

12 ACTING PRESIDENT LITTLE: Call  
13 the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 53.

16 ACTING PRESIDENT LITTLE: The  
17 bill is passed.

18 THE SECRETARY: Calendar Number  
19 1477, by the Senate Committee on Rules, Senate  
20 Print Number 5519, an act to amend the Tax  
21 Law.

22 ACTING PRESIDENT LITTLE: Read  
23 the last section.

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

1                   ACTING PRESIDENT LITTLE:     Call  
2     the roll.

3                   (The Secretary called the roll.)

4                   THE SECRETARY:     Ayes, 53.

5                   ACTING PRESIDENT LITTLE:     The  
6     bill is passed.

7                   THE SECRETARY:     Calendar Number  
8     1478, by Senator Meier, Senate Print 5526, an  
9     act to legalize, validate, ratify and confirm.

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

12                  Read the last section.

13                  THE SECRETARY:     Section 5. This  
14     act shall take effect immediately.

15                  ACTING PRESIDENT LITTLE:     Call  
16     the roll.

17                  (The Secretary called the roll.)

18                  THE SECRETARY:     Ayes, 53.

19                  ACTING PRESIDENT LITTLE:     The  
20     bill is passed.

21                  THE SECRETARY:     Calendar Number  
22     1479, by Senator Young, Senate Print 5535, an  
23     act to amend the Agriculture and Markets Law.

24                  ACTING PRESIDENT LITTLE:     Read  
25     the last section.

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

3 ACTING PRESIDENT LITTLE: Call  
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 53.

7 ACTING PRESIDENT LITTLE: The  
8 bill is passed.

9 THE SECRETARY: Calendar Number  
10 1480, by Senator Young, Senate Print 5536, an  
11 act to amend the Agriculture and Markets Law.

12 ACTING PRESIDENT LITTLE: Read  
13 the last section.

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

16 ACTING PRESIDENT LITTLE: Call  
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 53.

20 ACTING PRESIDENT LITTLE: The  
21 bill is passed.

22 THE SECRETARY: Calendar Number  
23 1483, by the Senate Committee on Rules, Senate  
24 Print Number 5562, an act to amend the Tax  
25 Law.

1                   ACTING PRESIDENT LITTLE:     Read  
2     the last section.

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

5                   ACTING PRESIDENT LITTLE:     Call  
6     the roll.

7                   (The Secretary called the roll.)

8                   THE SECRETARY:        Ayes, 53.

9                   ACTING PRESIDENT LITTLE:     The  
10    bill is passed.

11                  THE SECRETARY:        Calendar Number  
12    1484, by Senator Bonacic, Senate Print 5592,  
13    an act to amend the Flood Assessment Relief  
14    Act of 2005.

15                  ACTING PRESIDENT LITTLE:     Read  
16    the last section.

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

19                  ACTING PRESIDENT LITTLE:     Call  
20    the roll.

21                  (The Secretary called the roll.)

22                  THE SECRETARY:        Ayes, 53.

23                  ACTING PRESIDENT LITTLE:     The  
24    bill is passed.

25                  THE SECRETARY:        Calendar Number

1 1485, by the Senate Committee on Rules --

2 SENATOR LIZ KRUEGER: Lay it  
3 aside.

4 ACTING PRESIDENT LITTLE: The  
5 bill is laid aside.

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

8 SENATOR SKELOS: Thank you, Madam  
9 President.

10 If we could go to the controversial  
11 reading at this time.

12 ACTING PRESIDENT LITTLE: The  
13 Secretary will ring the bell.

14 The Secretary will read.

15 THE SECRETARY: Calendar Number  
16 1239, by Senator Nozzolio, Senate Print 1750,  
17 an act to amend the Election Law.

18 SENATOR MONTGOMERY: Explanation.

19 SENATOR SKELOS: Lay it aside  
20 temporarily.

21 ACTING PRESIDENT LITTLE: The  
22 bill is laid aside temporarily.

23 THE SECRETARY: Calendar Number  
24 1448, by Senator Golden, Senate Print 5512, an  
25 act to amend the Public Officers Law.

1 SENATOR MONTGOMERY: Explanation.

2 SENATOR SKELOS: Lay it aside  
3 temporarily.

4 ACTING PRESIDENT LITTLE: The  
5 bill is laid aside temporarily.

6 THE SECRETARY: Calendar Number  
7 1460, by Senator Spano, Senate Print 2893B, an  
8 act to amend the State Finance Law.

9 SENATOR MONTGOMERY: Explanation.

10 ACTING PRESIDENT LITTLE: Thank  
11 you.

12 Senator Spano, for an explanation.

13 SENATOR SPANO: Madam President,  
14 this bill puts a uniform process into law that  
15 would require public contracts to include a  
16 clause that authorizes contractors to recover  
17 damages for delay.

18 It basically takes the standards  
19 that are in place now for OGS, for Department  
20 of Transportation, for DOT, as well as MTA,  
21 and puts them in place for -- all across the  
22 state.

23 ACTING PRESIDENT LITTLE: Thank  
24 you.

25 Senator Schneiderman.

1                   SENATOR SCHNEIDERMAN:     Thank you,  
2     Madam President.  If the sponsor would yield  
3     for a question.

4                   ACTING PRESIDENT LITTLE:     Thank  
5     you.

6                   Senator Spano, will you yield for a  
7     question?

8                   SENATOR SPANO:         Yes.

9                   ACTING PRESIDENT LITTLE:     Thank  
10    you.

11                  SENATOR SCHNEIDERMAN:     Is this  
12    bill identical to -- or is there any  
13    difference, if the sponsor could share with  
14    us, between this bill and the bill that was  
15    vetoed in 1998 by the Governor?

16                  SENATOR SPANO:         Yes.  We attempt  
17    to address the issues that were raised by the  
18    Governor in his veto message.  We do that by  
19    clarifying the liability for damages and talk  
20    about the actions and the omissions of the  
21    public agency that are incurred.

22                  What I mean by that, you know,  
23    there was a court decision that basically put  
24    the burden of proof on the contractors to  
25    prove bad faith on the part of the agency.

1                   What we're attempting to do here is  
2                   level the playing field so if there are  
3                   agencies that are delaying contracts  
4                   unnecessarily, costing contractors money, that  
5                   they would be able to or be authorized to  
6                   recover those damages.

7                   So we're attempting to address the  
8                   Governor's concerns with this bill as well.

9                   SENATOR SCHNEIDERMAN:     Through  
10                  you, Madam President, if the sponsor would  
11                  continue to yield.

12                 SENATOR SPANO:        Yes.

13                 ACTING PRESIDENT LITTLE:     Thank  
14                  you.

15                 The sponsor continues to yield.

16                 SENATOR SCHNEIDERMAN:     Who is  
17                  going to pay those damages? Does this provide  
18                  for any sort of insurance, or are the local  
19                  taxpayers going to be on the hook for whatever  
20                  damages are provided for?

21                 SENATOR SPANO:        I would submit to  
22                  you now that the local taxpayers are on the  
23                  hook for substantially more money than they  
24                  had have to pay with the enactment of this  
25                  legislation, because it's the local taxpayers

1       who have to sustain the burden of contracts  
2       that are going on sometimes for months and  
3       sometimes for years and have to look at the  
4       delays in contracts, whether it be a road  
5       construction or a bridge contract, where all  
6       of a sudden, through excavation, they find  
7       additional problems out there.

8               The agency slows down the process  
9       sometimes on purpose, it's alleged. And as a  
10       result, these contractors have no alternative  
11       but to either go out of business or shoulder  
12       the entire responsibility.

13               Ultimately, the responsibility will  
14       fall on the part of the taxpayers for the  
15       existing burden of damages for delay. This  
16       bill would require -- would allow for the  
17       recovering of those damages, and of course  
18       those would be paid by the local governments  
19       and taxpayers, but I would submit to you at a  
20       much lesser cost.

21               SENATOR SCHNEIDERMAN:       Through  
22       you, Madam President, if the sponsor would  
23       continue to yield.

24               SENATOR SPANO:       Yes.

25               ACTING PRESIDENT LITTLE:       Thank

1           you. The sponsor continues to yield.

2                       SENATOR SCHNEIDERMAN:       The  
3           provision that I gather is an effort to  
4           address the issues raised in the Governor's  
5           veto message is the final provision in the  
6           bill, which states that there is liability if  
7           the cost to the municipality, the cause of  
8           delay was "acts or omissions of its public  
9           owner, its agents, employees or others."

10                      And then later on it also adds "or  
11           attributable to any differing site conditions  
12           or significant or qualitative changes in the  
13           character of the work."

14                      So if, because circumstances  
15           changed, either financially for the local  
16           government, politically, or just because of an  
17           act of God, there were differing site  
18           conditions or significant or qualitative  
19           changes in the character of the work, as  
20           drafted here, that local government would be  
21           on the hook; is that not correct?

22                      SENATOR SPANO:       Differing site  
23           conditions mean not a political condition.  
24           Differing site conditions would be once they  
25           open a street and they uncover a large deal of

1 stone that needs to be moved that's going to  
2 cost a lot more money, requiring the  
3 contractor to go back and say this will -- we  
4 will need additional costs to make this  
5 happen, then the municipal government would  
6 have to move expeditiously to give them an  
7 answer and not wait six or eight months where  
8 they keep people working, they keep equipment  
9 out on the streets at the job site and also  
10 cause an inconvenience to the taxpayers.

11 So these are damages that are  
12 unknown at the time of the letting of the  
13 contract.

14 SENATOR SCHNEIDERMAN: But there  
15 is no definition of the time in this bill, is  
16 there? Doesn't it just refer to an  
17 unreasonable period of time for a delay,  
18 without any definition?

19 SENATOR SPANO: What we try to do  
20 is put in place definitions in the bill that  
21 speak to the cause of delay. And also we  
22 define delay, the differing site conditions,  
23 the significant or qualitative change. Each  
24 of those are parts of the bill that we try to  
25 tighten it as much as we can to provide an

1 assurance for the contractors that they'll be  
2 paid for the job that they're doing.

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

5 On the bill.

6 ACTING PRESIDENT LITTLE: Thank  
7 you. Senator Schneiderman, on the bill.

8 SENATOR SCHNEIDERMAN: I think  
9 that I appreciate and it is absolutely clear  
10 that the intent of this legislation is to  
11 protect contractors. And no one has any doubt  
12 that under certain circumstances and at  
13 certain times contractors suffer because of  
14 delays for which they're not really  
15 responsible in public contracts.

16 However, as this bill is drafted,  
17 it provides that contractors can seek damages  
18 for delay, requires local governments to pay  
19 for damages for delay, if the performance of  
20 all or any part of the work is delayed for an  
21 unreasonable period of time under the  
22 circumstances, which is totally open-ended and  
23 undefined, and then provides a long list of  
24 causes of delay by the public owner, including  
25 this somewhat bizarre, to me, provision that

1 if there is a differing site condition -- as  
2 the sponsor said, if you're digging up a  
3 street and you uncover, you know, rocks -- or  
4 say you uncover an archeological treasure  
5 trove of Revolutionary War memorabilia buried  
6 there -- this is a situation in which the  
7 contractor would have the right to go seek  
8 damages because of the delay.

9 This is not a delay that really  
10 should -- for which a local government should  
11 be held accountable.

12 So it seems as though this has been  
13 written in a way that just goes two or three  
14 steps too far in favor of the contractors and  
15 would impose a significant burden on local  
16 governments.

17 I think that, you know, one of the  
18 things that we talk about here a lot is the  
19 degree to which we push costs down onto local  
20 governments from Albany, the degree to which  
21 we have unfunded mandates and we create  
22 burdens on local governments and yet don't  
23 provide the money to deal with them. And  
24 local governments all around the state are  
25 facing problems, having to raise taxes and

1 facing, in some cases, very severe financial  
2 straits.

3 This bill, in my view, would  
4 probably add to that. I think that the  
5 problem it seeks to address of contractors  
6 sometimes really, frankly, being abused in  
7 this process is something that is worth  
8 addressing. As this bill is drafted now, I  
9 think that it goes way too far.

10 And the Governor's words in vetoing  
11 the bill I think gave us a clue as to where we  
12 should go with the drafting of this  
13 legislation that, in my view, we haven't  
14 really pursued, we haven't really followed.  
15 The Governor -- and, you know, when I'm  
16 quoting the Governor favorably, that's a rare  
17 day, but I find here that he was absolutely on  
18 point.

19 To a certainly degree, he said,  
20 delays are inherent in many major construction  
21 projects. You know, to the extent that they  
22 are within the contemplation of the  
23 contracting parties or are reasonable, they  
24 should not be basis for recovery from public  
25 entities.

1                   Now, the problem here is there's no  
2 definition as to what is reasonable. And in  
3 fact, this additional provision seems to  
4 indicate that any change in site conditions,  
5 whether or not it's the responsibility of the  
6 public owner, would provide the basis for  
7 delay.

8                   "The fiscal implications of this  
9 cannot be estimated." That was, again, a part  
10 of the veto message. And I would urge my  
11 colleagues that let's take a close look at the  
12 impact this would have on local governments.  
13 I believe that, as presently drafted, this  
14 could be tremendously disruptive.

15                   A long list of local governments  
16 and entities opposed this statute the last  
17 time around. I think as they become aware of  
18 these provisions, they will join in opposing  
19 it. I think this falls in the category of  
20 bills that need a little more work before  
21 we're ready to pass them.

22                   I do recognize the seriousness of  
23 the issue that the sponsor is attempting to  
24 deal with. This is not, in my view, the best  
25 way to deal with it.

1 Thank you, Madam President.

2 ACTING PRESIDENT LITTLE: Thank  
3 you.

4 Senator Hassell-Thompson.

5 SENATOR HASSELL-THOMPSON: Thank  
6 you, Madam President.

7 This is one of the rare times when  
8 I'm going to be in disagreement -- on the  
9 bill -- I'm going to be in disagreement with  
10 my colleague Senator Schneiderman.

11 One of the things that tends to  
12 happen is that within construction -- and of  
13 course the question is how would I know.  
14 Well, for seven years I spent as the executive  
15 director of the Westchester Minority  
16 Contractors Association. And part of my  
17 responsibility was to negotiate contracts with  
18 the County of Westchester and the State of  
19 New York.

20 And one of my concerns then, and  
21 continues to be, is that people in state  
22 government and in local municipalities don't  
23 have a realization of what reasonable time is.  
24 Let's take, for example, the burial grounds  
25 that have just been uncovered. The contractor

1       who is in the process of doing that work is  
2       now going to be stuck until a political  
3       decision is made about what is going to happen  
4       to the remains that are found.

5                If we're doing -- when we talk  
6       about construction sites, we talk about not  
7       necessarily a mystery. Part of what  
8       architects are supposed to do, the  
9       pre-preparation is supposed to identify any  
10      problems that might be identified within a  
11      project. However, many times, like the burial  
12      grounds that have been uncovered, this is not  
13      something that is anticipated.

14               There is what is considered a  
15      reasonable amount of time in which government  
16      should make a determination about what is  
17      going to happen. But the contractor is on the  
18      hook every day while they wait. Also the  
19      subcontractor, who, in most cases, is the one  
20      who really takes the brunt of this.

21               Because we have passed legislation  
22      over the years in order to make it possible  
23      for the subcontractor to be paid within a  
24      reasonable amount of time, well, it's maybe  
25      45 or 60 days before the sub is paid after the

1 prime is paid. But if the prime is not paid  
2 for six months while somebody makes a  
3 political decision, then that means six months  
4 plus 60 days before the sub is paid.

5 Now, we -- many of us like to think  
6 of contractors as being those bad bogeymen who  
7 make a lot of money and are corrupt and  
8 whatever. And in every industry, that exists.  
9 It doesn't matter what you do what, whether  
10 it's in medicine or whether it's in  
11 construction, there are always going to be  
12 unscrupulous people. But there are also a  
13 plethora of people in the business who use it  
14 to feed their families and who support their  
15 communities.

16 And many of those are contractors  
17 that I have represented in the past and still  
18 continue to advocate in many areas for. And I  
19 understand that the plight of those  
20 contractors are always dependent upon when  
21 contracts are awarded and how long before  
22 their first check begins to roll out.

23 And when payments are delayed  
24 unreasonably -- and unreasonably is anything  
25 more than 60 days without an explanation --

1 and when sites, when people are on sites, they  
2 are still being charged for these projects  
3 whether or not any work is being done.

4 So that unreasonable is not -- is  
5 not necessarily something that in many of  
6 these construction projects that you can put a  
7 time limit on. You can't say 20 days, you  
8 can't say 30 days. But reasonable has a lot  
9 to do with the size of the project, the sites  
10 involved, and the kinds of things that caused  
11 the delay.

12 One of the concerns that I continue  
13 to have is that our state agencies are not as  
14 proactive as they need to be about how fast  
15 paper moves. And all of us have had  
16 experiences where contractors or somebody has  
17 come to us and said contracts are stalled.  
18 And it doesn't have to be a construction  
19 contract, it can be a contract of any type.  
20 And many times they're stalled because it's  
21 sitting on somebody's desk, and a phone call  
22 suddenly moves that piece of paper through the  
23 system. And it isn't always -- it shouldn't  
24 be necessary for that to happen, but too often  
25 it does.

1 I speak not because I'm in support  
2 of contractors per se. I am -- I am -- but I  
3 am speaking from an experience about  
4 unreasonable, unsupportable delays that occur,  
5 not only in the awarding of contracts but in  
6 the payment of contract times. And many times  
7 the delays are not -- they're not malicious,  
8 but they have a devastating impact on people  
9 who depend upon these construction contracts  
10 for their living.

11 Thank you, Madam President.

12 ACTING PRESIDENT LITTLE: Thank  
13 you, Senator Hassell-Thompson.

14 Is there any other Senator who  
15 wishes to be heard on the bill?

16 The debate is closed.

17 The Secretary will ring the bell.

18 Read the last section.

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

21 ACTING PRESIDENT LITTLE: Call  
22 the roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT LITTLE: Senator  
25 DeFrancisco, to explain his vote.

1                   SENATOR DeFRANCISCO:     Yes, I'm  
2     voting yes on this bill.

3                   I think this is an excellent bill.  
4     I've had many experiences where contractors,  
5     some big, some small, that were really almost  
6     put out of business because of delays that  
7     were not compensatable for.

8                   If you have to get a job geared up  
9     and have your people ready to do the work and  
10    have your materials ready on the site and  
11    you're delayed, through no fault of your own,  
12    and you have no remedy, that's just wrong.

13                  And I think this is a great bill,  
14    and I wholeheartedly support it, and I hope we  
15    have a unanimous vote on it.

16                  ACTING PRESIDENT LITTLE:     Thank  
17    you.

18                  Senator DeFrancisco will be  
19    recorded in the affirmative.

20                  Senator Schneiderman, to explain  
21    his vote.

22                  SENATOR SCHNEIDERMAN:     Thank you,  
23    Madam President.

24                  I somewhat agree with Senator  
25    DeFrancisco. I think that the difficulties

1           that I raised in our discussion of this I  
2           think are things that are going to come up  
3           that stand between us and actually turning  
4           this from a bill into a law.

5                        It is absolutely clear, and all of  
6           us know this from personal experience, that  
7           there are contractors who are being abused by  
8           the current process. It is also true, in my  
9           view, that we're not going to get an agreement  
10          from the Assembly and the Governor on a bill  
11          that is as open-ended as this that imposes  
12          such an unquestioning obligation on local  
13          governments to make good even under  
14          circumstances over which they have no control.

15                       So I am supportive of this  
16          legislation, with a view -- and in talking to  
17          the sponsor -- that we're going to move it  
18          forward to the stage of negotiations with the  
19          Assembly and the Governor. I hope we will be  
20          willing to make compromises to actually pass a  
21          law in this area. And I will vote yes in the  
22          understanding that we're moving to the stage  
23          of attempting to revise this legislation.

24                       But I urge all of my colleagues  
25          that there is no possibility that a bill that

1 imposes such open-ended burdens on local  
2 government is going to become law this year or  
3 anytime soon.

4 So I support the effort. I object  
5 to some of the provisions. And the objections  
6 that I have raised are the barriers to making  
7 this bill into a law and actually solving the  
8 problems for these contractors instead of  
9 giving them lip service and passing a  
10 one-house bill that goes nowhere. I hope  
11 that's not the case.

12 I will vote for this bill to move  
13 it to the next stage of negotiations. I hope  
14 we have an opportunity within the next week to  
15 vote on a final bill that will in fact become  
16 law.

17 Thank you, Madam President.

18 ACTING PRESIDENT LITTLE: Thank  
19 you.

20 Senator Schneiderman will be  
21 recorded in the affirmative.

22 Could we have it quieter while the  
23 Senators are speaking on the bill, please, or  
24 explaining their votes.

25 Senator Klein, to explain his vote.

1                   SENATOR KLEIN:       Thank you, Madam  
2           President.

3                   I rise in support of this  
4           legislation. I think the situation that  
5           exists now in New York State puts most  
6           contractors in a very, very difficult  
7           situation. While they really have to rely on  
8           government work -- in many cases, state  
9           work -- they're not getting paid.

10                   I too have many examples taking  
11           place in my district where we have state  
12           contracts constantly being delayed. They're  
13           not getting paid, through no fault of their  
14           own, because in many cases, unfortunately,  
15           government entities that are bidding these  
16           jobs just don't have the expertise. And  
17           sometimes, through no fault of their own, the  
18           project keeps getting delayed and delayed and  
19           delayed.

20                   I don't think we're reinventing the  
21           wheel today. Because several government  
22           agencies, like the State Department of  
23           Transportation, among others, are already  
24           doing this, because they realize the  
25           tremendous burden we're putting on contractors

1 when they do state work.

2 So I urge a yes vote in favor of  
3 this very important legislation.

4 ACTING PRESIDENT LITTLE: Senator  
5 Klein will be recorded in the affirmative.

6 Senator Diaz, to explain his vote.

7 SENATOR DIAZ: Thank you, Madam  
8 President.

9 I'm taking this opportunity to  
10 support this bill and to congratulate Senator  
11 Spano. It's very rare, very rare we do things  
12 here that at the end will be beneficial to  
13 minority -- to us minorities.

14 Senator Thompson, when she was  
15 speaking, she talked about the impact that  
16 happens to the subcontractors. And you know  
17 what? Very often the majority of the  
18 subcontractors, who are the ones that are  
19 really affected when the contractor doesn't  
20 get paid, the majority of those subcontractors  
21 are black and Hispanic, minorities. And they  
22 are the ones that are really affected when  
23 people don't get paid.

24 And I congratulate you, Senator  
25 Spano, because you are thinking now of people

1 through this bill. So this is a good bill.

2 And I support you, and I support the bill.

3 Thank you.

4 ACTING PRESIDENT LITTLE: Thank  
5 you.

6 Senator Diaz will be recorded in  
7 the affirmative.

8 The Secretary will announce the  
9 results.

10 THE SECRETARY: Ayes, 56.

11 Those Senators absent from voting  
12 on Calendar Number 1460: Senators Connor,  
13 Dilan, Nozzolio, Sampson and Stavisky.

14 ACTING PRESIDENT LITTLE: The  
15 bill is passed.

16 The Secretary will read.

17 THE SECRETARY: Calendar Number  
18 1465, substituted earlier today by the  
19 Assembly Committee on Rules, Assembly Print  
20 Number 8186, an act to amend the Tax Law.

21 SENATOR MEIER: Explanation.

22 ACTING PRESIDENT LITTLE: Thank  
23 you.

24 Senator Valesky, for an  
25 explanation.

1                   SENATOR VALESKY:     Thank you,  
2     Madam President.

3                   This bill, which was introduced at  
4     this request of the Madison County Board of  
5     Supervisors, would extend for a period of two  
6     years the additional 1 percent sales tax that  
7     was enacted through Chapter 21 of the Laws of  
8     2004.

9                   ACTING PRESIDENT LITTLE:     Thank  
10    you.

11                  Senator Meier.

12                  SENATOR MEIER:     Madam President,  
13    would Senator Valesky yield for some  
14    questions.

15                  SENATOR VALESKY:     Of course.

16                  ACTING PRESIDENT LITTLE:     Senator  
17    Valesky, do you yield?

18                  SENATOR VALESKY:     Of course.

19                  ACTING PRESIDENT LITTLE:     Thank  
20    you.

21                  The Senator yields.

22                  SENATOR MEIER:     Madam President,  
23    did the County of Madison in some way, by  
24    resolution or otherwise, request this  
25    legislation?

1                   ACTING PRESIDENT LITTLE:     Senator  
2     Valesky?

3                   SENATOR VALESKY:     Yes, Madam  
4     President, they did.

5                   SENATOR MEIER:     Madam President,  
6     I'm wondering if the Senator could inform us  
7     when this additional tax expires.

8                   ACTING PRESIDENT LITTLE:     Thank  
9     you.

10                  Senator?

11                  SENATOR VALESKY:     Certainly. The  
12     tax would have expired on November 30th of  
13     2005 later this year. If this bill were to  
14     pass and become law, the expiration would be  
15     November 30, 2007.

16                  SENATOR MEIER:     Madam President,  
17     will the Senator continue to yield.

18                  ACTING PRESIDENT LITTLE:     Senator  
19     Valesky, do you continue to yield?

20                  SENATOR VALESKY:     Certainly.

21                  ACTING PRESIDENT LITTLE:     The  
22     Senator yields.

23                  SENATOR MEIER:     Madam President,  
24     I'd like to ask the Senator if he knows how  
25     much additional revenue is raised by the

1 additional 1 percent.

2 ACTING PRESIDENT LITTLE: Thank  
3 you.

4 Senator?

5 SENATOR VALESKY: We are seeking  
6 to have that information momentarily. I do  
7 not know the answer to that question at this  
8 time.

9 SENATOR MEIER: Well, Madam  
10 President, will the Senator continue to yield.

11 ACTING PRESIDENT LITTLE: Senator  
12 Valesky, do you continue to yield?

13 SENATOR VALESKY: Yes, I will.

14 ACTING PRESIDENT LITTLE: The  
15 Senator yields.

16 SENATOR MEIER: I thank the  
17 Senator, Madam President.

18 Madam President, regardless of the  
19 amount of the revenue, which is unknown to us  
20 right now, does the Senator know if the County  
21 of Madison has included that revenue in its  
22 2005 fiscal year budget?

23 ACTING PRESIDENT LITTLE: Senator  
24 Valesky.

25 SENATOR VALESKY: Yes, Madam

1 President, my understanding is that they have  
2 in fact included the revenue from this bill in  
3 their 2005 budget.

4 SENATOR MEIER: Will the Senator  
5 continue to yield.

6 ACTING PRESIDENT LITTLE: Do you  
7 yield, Senator?

8 SENATOR VALESKY: Yes, I will.

9 ACTING PRESIDENT LITTLE: The  
10 Senator yields.

11 SENATOR MEIER: Senator, would it  
12 be case, then, that if we were to refuse to  
13 grant the request of the Madison County Board  
14 of Supervisors we would in effect create a  
15 deficit within their presently enacted budget?  
16 Is that correct?

17 SENATOR VALESKY: That is  
18 correct.

19 SENATOR MEIER: Madam President,  
20 will the Senator continue to yield.

21 ACTING PRESIDENT LITTLE: Senator  
22 Valesky, do you continue to yield?

23 SENATOR VALESKY: Yes, I will.

24 ACTING PRESIDENT LITTLE: Thank  
25 you.

1                   The Senator yields.

2                   SENATOR MEIER:     Senator, are you  
3 asking the house, then, to pass this bill?  
4 Are you asking all of us to vote for this  
5 bill?

6                   SENATOR VALESKY:     Yes, I am. I  
7 am, in accordance with the local home-rule  
8 request that I have received from Madison  
9 County, I am asking this body today to approve  
10 this request.

11                   SENATOR MEIER:     Madam President,  
12 will the Senator continue to yield.

13                   ACTING PRESIDENT LITTLE:     Thank  
14 you.

15                   Senator Valesky, do you continue to  
16 yield?

17                   SENATOR VALESKY:     Yes.

18                   ACTING PRESIDENT LITTLE:     The  
19 Senator yields.

20                   SENATOR MEIER:     I thank the  
21 Senator.

22                   So if I understand correctly,  
23 Senator Valesky is asking us to support this  
24 legislation, to honor the home-rule request,  
25 and to prevent the Madison County budget from

1 going into deficit. Is that correct?

2 SENATOR VALESKY: That is  
3 correct.

4 SENATOR MEIER: Madam President,  
5 will the Senator continue to yield.

6 ACTING PRESIDENT LITTLE: Senator  
7 Valesky, do you continue to yield?

8 SENATOR VALESKY: Yes, I will.

9 ACTING PRESIDENT LITTLE: The  
10 Senator yields.

11 SENATOR MEIER: Madam President,  
12 may I inquire if the Senator intends to vote  
13 for his own bill.

14 ACTING PRESIDENT LITTLE: Senator  
15 Valesky.

16 SENATOR VALESKY: You may  
17 inquire, and, yes, I will be voting for this  
18 bill.

19 SENATOR MEIER: Madam President,  
20 will the Senator continue to yield.

21 ACTING PRESIDENT LITTLE:  
22 Senator, do you yield?

23 SENATOR VALESKY: Yes.

24 ACTING PRESIDENT LITTLE: The  
25 Senator yields.

1                   SENATOR MEIER:     I thank my  
2     colleague.

3                   I'm reminded of a discussion along  
4     these lines that was held in these chambers  
5     back in February where I proposed a request  
6     that I didn't particularly like, but it was  
7     requested by the elected county legislature of  
8     the County of Oneida, to impose an additional  
9     sales tax.

10                  And I made the commentary during  
11     the course of the debate that Senator Valesky  
12     and I had at that time, Madam President, that  
13     I might have handled it differently were I the  
14     county executive, but that the County of  
15     Oneida had budgeted the funds in their enacted  
16     budget and had no place to turn, and that we  
17     were honoring a home-rule request.

18                  And I would like to ask the Senator  
19     if he could explain to us why this is  
20     different. I would note the Senator voted  
21     against that piece of legislation.

22                  ACTING PRESIDENT LITTLE:     Senator  
23     Valesky.

24                  SENATOR VALESKY:     Yes, thank you,  
25     Senator. I also recall that debate.

1                   This bill and that bill, while  
2                   similar in the fact that they were home-rule  
3                   requests from the respective counties, were  
4                   significantly different in the fact that this  
5                   bill that is before us today, as has been the  
6                   case with a number of other home-rule requests  
7                   in counties across the state, would simply  
8                   extend the authorization to collect the  
9                   additional 1 percent sales tax.

10                   The bill to which Senator Meier  
11                   refers would have actually increased, by an  
12                   additional 1.5 percent, the sales tax in the  
13                   County of Oneida.

14                   SENATOR MEIER:       Madam President,  
15                   will the Senator continue to yield.

16                   ACTING PRESIDENT LITTLE:       Thank  
17                   you.

18                   Senator Valesky, do you continue to  
19                   yield?

20                   SENATOR VALESKY:       Of course.

21                   ACTING PRESIDENT LITTLE:       The  
22                   Senator yields.

23                   SENATOR MEIER:       Well, Senator, am  
24                   I to understand that what you objected to was  
25                   that it was a tax increase? Is that your

1 objection?

2 SENATOR VALESKY: At that time,  
3 yes.

4 SENATOR MEIER: Madam President,  
5 will the Senator continue to yield.

6 ACTING PRESIDENT LITTLE: Senator  
7 Valesky, will you continue to yield?

8 SENATOR VALESKY: Yes.

9 ACTING PRESIDENT LITTLE: He  
10 continues to yield.

11 SENATOR MEIER: Senator, let me  
12 do something that we sometimes do in my other  
13 profession and ask you to assume a  
14 hypothetical, if you'd be willing to do so.

15 And what would you do were the  
16 County of Madison to ask you to raise their  
17 sales tax an additional 1 point?

18 ACTING PRESIDENT LITTLE: Thank  
19 you, Senator.

20 Senator Valesky.

21 SENATOR VALESKY: I don't know  
22 the answer to that question, Senator Meier.

23 I would indicate, however, that  
24 through actions that were taken by this house  
25 earlier this year, in what I believe to be the

1 first step toward a significant reform of our  
2 Medicaid system, which has caused a number of  
3 counties across the state to consider  
4 extending additional sales taxes and, in some  
5 cases, increasing sales taxes, I would hope  
6 that in the County of Madison, in the County  
7 of Oneida, and in other counties around the  
8 state, that as we move forward over these next  
9 couple of years, that we will no longer -- or  
10 the counties will no longer see the need to  
11 continue and/or increase local sales taxes.

12 SENATOR MEIER: I thank the  
13 Senator.

14 Thank you, Madam President.

15 ACTING PRESIDENT LITTLE: Thank  
16 you, Senator.

17 Is there any other Senator that  
18 wishes to speak about the bill?

19 The debate is closed.

20 The Secretary will ring the bell.

21 Read the last section.

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

24 ACTING PRESIDENT LITTLE: Call  
25 the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: In relation to  
3 Calendar Number 1465: Ayes, 56. Nays 0.

4 Those Senators absent from voting:  
5 Connor, Dilan, Nozzolio, Sampson and Stavisky.

6 ACTING PRESIDENT LITTLE: The  
7 bill is passed.

8 The Secretary will read.

9 THE SECRETARY: Calendar Number  
10 1472, substituted earlier today by Member of  
11 the Assembly Magee, Assembly Print Number  
12 7108, an act to amend the Tax Law.

13 SENATOR MEIER: Explanation.

14 ACTING PRESIDENT LITTLE: Thank  
15 you.

16 Senator Valesky, for an  
17 explanation.

18 SENATOR VALESKY: Thank you,  
19 Madam President.

20 The bill before us today, also at  
21 the request of the Madison County Board of  
22 Supervisors, would provide for a 4 percent  
23 hotel occupancy tax in the County of Madison.  
24 The revenue would be used to increase the  
25 tourism promotion efforts of the County of

1 Madison.

2 Madison County is fortunate to have  
3 a number of sites that are contributing to the  
4 economy of Madison County through tourism  
5 dollars. The organization known as Madison  
6 County, Inc., and the Madison County  
7 government itself, has indicated that the  
8 additional revenue that would be provided  
9 should this authority be approved would allow  
10 them to greatly expand their tourism promotion  
11 efforts in Madison County.

12 ACTING PRESIDENT LITTLE: Thank  
13 you.

14 Senator Meier.

15 SENATOR MEIER: Thank you, Madam  
16 President. Madam President, would Senator  
17 Valesky yield for some questions.

18 ACTING PRESIDENT LITTLE: Senator  
19 Valesky, will you yield?

20 SENATOR VALESKY: Of course.  
21 Yes.

22 ACTING PRESIDENT LITTLE: The  
23 Senator yields.

24 SENATOR MEIER: Thank you, Madam  
25 President. And I thank my colleague.

1 I'm wondering if Senator Valesky  
2 could tell us if the Madison County Board of  
3 Supervisors has requested this legislation.

4 SENATOR VALESKY: Yes, they have.

5 SENATOR MEIER: Madam President,  
6 will the Senator continue to yield.

7 ACTING PRESIDENT LITTLE: Senator  
8 Valesky?

9 SENATOR VALESKY: Yes.

10 ACTING PRESIDENT LITTLE: The  
11 Senator yields.

12 SENATOR MEIER: Madam President,  
13 does Senator Valesky know what additional  
14 amount of revenue this bill would bring about?

15 ACTING PRESIDENT LITTLE: Senator  
16 Valesky.

17 SENATOR VALESKY: I do, Madam  
18 President.

19 It is estimated that an increase of  
20 about \$53,000 will accrue to the County of  
21 Madison, again, dedicated to promoting tourism  
22 in the County of Madison, with \$5,300 retained  
23 by the county for administration purposes of  
24 the hotel and motel occupancy tax.

25 I'm sorry, let me back up for just

1 one second, Senator, if I could.

2 \$53,000 is the total amount of  
3 revenue that is estimated to be generated;  
4 \$47,400 for promoting tourism, and the  
5 remaining administrative costs.

6 SENATOR MEIER: Madam President,  
7 will the Senator continue to yield.

8 ACTING PRESIDENT LITTLE: Senator  
9 Valesky, do you continue to yield?

10 SENATOR VALESKY: Yes, I will.

11 ACTING PRESIDENT LITTLE: The  
12 Senator yields.

13 SENATOR MEIER: Madam President,  
14 I wonder if Senator Valesky knows what the  
15 current percentage is of the so-called bed tax  
16 in Madison County.

17 SENATOR VALESKY: The current  
18 percentage is 3 percent.

19 SENATOR MEIER: Madam President,  
20 will the Senator continue to yield.

21 ACTING PRESIDENT LITTLE: Senator  
22 Valesky, do you continue to yield?

23 SENATOR VALESKY: Yes.

24 ACTING PRESIDENT LITTLE: The  
25 Senator yields.

1                   SENATOR MEIER:       Madam President,  
2       doesn't this bill take the tax to 4 percent?

3                   SENATOR VALESKY:       Yes, it does.  
4       It authorizes the County of Madison to take it  
5       to 4 percent.

6                   SENATOR MEIER:       Madam President,  
7       will the Senator continue to yield.

8                   ACTING PRESIDENT LITTLE:       Senator  
9       Valesky, do you continue to yield?

10                  SENATOR VALESKY:       Yes, of course.

11                  ACTING PRESIDENT LITTLE:       The  
12       Senator yields.

13                  SENATOR MEIER:       Madam President,  
14       where I live they call that a tax increase.  
15       I'm wondering if Senator Valesky would agree  
16       that's a tax increase.

17                  SENATOR VALESKY:       Well, Madam  
18       President, there is no question that, through  
19       the request of the County of Madison, that  
20       they believe that this additional 1 percent  
21       tax in the hotel occupancy tax will raise the  
22       kind of revenue that will allow the county to  
23       better promote and therefore bring in dollars  
24       from other parts of the state, other parts of  
25       the nation, to assist in their tourism

1 promotion efforts.

2 I would add that in the drafting of  
3 this bill we were able to reduce the tax, or I  
4 should say -- let me back up for a minute.

5 Current law states that any  
6 resident, a permanent resident of any of the  
7 establishments in Madison County, they would  
8 have to be a permanent resident for more than  
9 90 days. This would change that to 30 days,  
10 bringing it more in line with many of the  
11 other occupancy taxes that are collected by  
12 counties around the state.

13 SENATOR MEIER: Madam President,  
14 I won't even ask why someone who lives in the  
15 same county would rent a motel room. But then  
16 that's just me wondering.

17 Will the Senator continue to yield.

18 ACTING PRESIDENT LITTLE: Senator  
19 Valesky, will you continue --

20 SENATOR VALESKY: Yes, of course.

21 ACTING PRESIDENT LITTLE: The  
22 Senator yields.

23 SENATOR MEIER: So, Senator, are  
24 you asking us to pass this bill today?

25 SENATOR VALESKY: Yes, I am.

1                   SENATOR MEIER:     Madam President,  
2     will the Senator continue to yield.

3                   ACTING PRESIDENT LITTLE:     Senator  
4     Valesky, do you continue to yield?

5                   SENATOR VALESKY:     Yes, of course.

6                   ACTING PRESIDENT LITTLE:     The  
7     Senator yields.

8                   SENATOR MEIER:     And does the  
9     Senator intend to vote for his bill?

10                  ACTING PRESIDENT LITTLE:     Senator  
11     Valesky.

12                  SENATOR VALESKY:     Yes, I do.

13                  SENATOR MEIER:     Madam President,  
14     will the Senator continue to yield.

15                  SENATOR VALESKY:     Yes, I will.

16                  ACTING PRESIDENT LITTLE:     The  
17     Senator yields.

18                  SENATOR MEIER:     Madam President,  
19     a bit earlier this year the Senate voted on  
20     Senate Bill 989, which was Calendar 494, by  
21     our colleague Senator Volker, which was an act  
22     authorizing the County of Wyoming to impose a  
23     hotel and motel tax. And my friend and  
24     colleague Senator Valesky was the only no  
25     vote.

1 I wonder if the Senator could  
2 distinguish his position on Senator Volker's  
3 bill, which was introduced at the request of  
4 the Wyoming County legislature, and the matter  
5 presently before the house.

6 ACTING PRESIDENT LITTLE: Senator  
7 Valesky.

8 SENATOR VALESKY: Madam  
9 President, I don't recall the specific bill to  
10 which Senator Meier refers.

11 I can, in regard to this bill,  
12 offer the thought that while I would prefer  
13 that the county had not taken this approach in  
14 regard to this particular hotel tax, the  
15 combination of the facts that it was a  
16 home-rule request of the County of Madison,  
17 and the economic analysis that was provided to  
18 my office early in the session before  
19 introducing this bill, made it very clear to  
20 me that the economic benefit to the County of  
21 Madison, through the approval of this  
22 particular bill, would outweigh any  
23 unfortunate increase in this particular hotel  
24 tax.

25 SENATOR MEIER: Madam President,

1 will the Senator continue to yield.

2 SENATOR SABINI: Point of order,  
3 Madam President.

4 ACTING PRESIDENT LITTLE: Senator  
5 Sabini.

6 SENATOR SABINI: Since we're  
7 questioning the motivation of the sponsor's  
8 vote on other bills, I'm wondering about the  
9 germaneness of this.

10 Motivation in the commission of a  
11 crime is an important thing, but this is on  
12 other votes. I don't see, when we have a  
13 calendar this long, why we're doing this  
14 colloquy on motivation on votes we had cast  
15 months ago.

16 And I'd like a ruling on it.

17 ACTING PRESIDENT LITTLE: The  
18 point is not well taken, Senator Sabini.

19 Senator Meier.

20 SENATOR MEIER: Thank you, Madam  
21 President. Will the Senator continue to  
22 yield?

23 SENATOR VALESKY: Yes, I will.

24 ACTING PRESIDENT LITTLE: Senator  
25 Valesky continues to yield.

1                   SENATOR MEIER:       I'm wondering if  
2                   the Senator recalls, in fact, wasn't that  
3                   Senator Volker's explanation for his bill,  
4                   that he didn't particularly like it but it had  
5                   been requested by the Wyoming County  
6                   legislature?

7                   ACTING PRESIDENT LITTLE:       Senator  
8                   Valesky.

9                   SENATOR VALESKY:       Senator, with  
10                  all due respect, I don't recall Senator  
11                  Volker's comments on that bill.

12                  We of course have passed a number  
13                  of bills this session. I can only speak to  
14                  the bill that is in front of us today, the  
15                  reasons why I have decided to sponsor the bill  
16                  here in the Senate at the request of the  
17                  County of Madison.

18                  ACTING PRESIDENT LITTLE:       Senator  
19                  Meier.

20                  SENATOR MEIER:       Will the Senator  
21                  continue to yield.

22                  ACTING PRESIDENT LITTLE:       Senator  
23                  Valesky, do you continue to yield?

24                  SENATOR VALESKY:       Yes, I will.

25                  ACTING PRESIDENT LITTLE:       The

1 Senator yields.

2 SENATOR MEIER: So to cut to the  
3 quick, we're being asked to honor what amounts  
4 to a home-rule request; is that correct?

5 SENATOR VALESKY: That is  
6 correct.

7 SENATOR MEIER: I thank the  
8 Senator for his patience.

9 I thank you, Madam President.

10 ACTING PRESIDENT LITTLE: Thank  
11 you.

12 Is there any other Senator wishing  
13 to be heard?

14 Senator Skelos.

15 SENATOR SKELOS: Madam President,  
16 would Senator Valesky yield for a question.

17 ACTING PRESIDENT LITTLE: Thank  
18 you.

19 Senator Valesky, do you yield?

20 SENATOR VALESKY: Of course.

21 ACTING PRESIDENT LITTLE: The  
22 Senator yields.

23 SENATOR SKELOS: I know from time  
24 to time when we're passing legislation on our  
25 side of the aisle, the question has been asked

1 have there been any statewide hearings, public  
2 forums, anything like that.

3 And I know Senator Krueger is a  
4 strong supporter of this, that you would get  
5 economic impact statements on how it may  
6 affect the county of Madison, neighboring  
7 counties, my county, the city of New York, the  
8 state of New York, whether this would have any  
9 negative impact and, if so, what hearings or  
10 public forums were held by yourself within  
11 that area.

12 SENATOR VALESKY: Madam  
13 President, Senator, there have not been any  
14 statewide public hearings on this measure.

15 I can tell you, however, that the  
16 Madison County Board of Supervisors has held  
17 two public hearings in Madison County to  
18 generate input from that county itself.

19 SENATOR SKELOS: If the Senator  
20 would continue to yield.

21 ACTING PRESIDENT LITTLE: Do you  
22 continue to yield, Senator Valesky?

23 SENATOR VALESKY: Yes, I will.

24 ACTING PRESIDENT LITTLE: The  
25 Senator yields.

1                   SENATOR SKELOS:     Forums held by  
2     you, or were they hearings held by the Senate,  
3     or were they just a forum held by Madison  
4     County?

5                   SENATOR VALESKY:     They were  
6     public hearings as held and conducted by the  
7     Madison County Board of Supervisors.

8                   SENATOR SKELOS:     So there were no  
9     hearings that you held in a public forum or  
10    anything like that to determine the economic  
11    impact that could have on neighboring counties  
12    or any impact at all in the state of New York?

13                  SENATOR VALESKY:     That's correct.

14                  SENATOR SKELOS:     Thank you.

15                  ACTING PRESIDENT LITTLE:     Thank  
16    you.

17                  Is there any other Senator wishing  
18    to be heard?

19                  The debate is closed.

20                  The Secretary will ring the bell.

21                  There is a local fiscal impact note  
22    at the desk.

23                  Read the last section.

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

1                   ACTING PRESIDENT LITTLE:     Call  
2     the roll.

3                   (The Secretary called the roll.)

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

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

8                   I will be voting for this bill  
9     today. But I think that the debate on this  
10    bill raised some fascinating issues. One,  
11    recognition by this house of the importance of  
12    home-rule messages.

13                  So I hope we'll all remember that  
14    whoever is requesting a home-rule message,  
15    they should be treated equally in this  
16    chamber, as too often the City of New York's  
17    home-rule requests don't appear to get as much  
18    attention as this bill today.

19                  Second, just for the record, I  
20    would argue that we should, as one of my  
21    colleagues said, have hearings on tax bills.  
22    We should have hearings on our tax structure.  
23    We should have hearings on the regressive  
24    nature of sales taxes affecting all of our  
25    constituents. We should have statewide

1 discussions about what's good tax policy and  
2 what's not.

3           Unfortunately, under the rules of  
4 this house, Senate Democrats can't hold  
5 hearings. We tried to ensure that we could  
6 with our rules reforms in February, but they  
7 were not passed. So unfortunately, we cannot  
8 take it upon ourselves to have formal hearings  
9 of the Senate on tax policy or any other  
10 policies. And I hope my colleagues will join  
11 me in rethinking that position.

12           Thank you, Madam President. I'll  
13 be voting yes.

14           ACTING PRESIDENT LITTLE:     Senator  
15 Krueger will be voting in the affirmative.

16           Senator Skelos.

17           SENATOR SKELOS:     Madam President,  
18 to explain my vote.

19           I'm going to support this increase  
20 in taxes that Senator Valesky is going to give  
21 authorization to the County of Madison. I  
22 would point out, though, public forums could  
23 have been held at any time, at his desire, to  
24 develop an economic strategy as to whether  
25 this was good for Madison County and that area

1 of the state.

2 So any member could have a public  
3 forum, as Senator Valesky obviously chose not  
4 to do.

5 ACTING PRESIDENT LITTLE: Senator  
6 Skelos in the affirmative.

7 Senator DeFrancisco, to explain his  
8 vote.

9 SENATOR DeFRANCISCO: Yes. I'd  
10 like to agree wholeheartedly with Senator  
11 Krueger on the first point that she made, and  
12 that is all senators should be treated equally  
13 as far as home-rule messages.

14 The point, I think, of the debate  
15 was that yesterday there were three bills, one  
16 of which was mine, to increase fees for birth  
17 certificates. There's another two counties  
18 that had it. When the Senator doesn't honor  
19 what we have to do because our localities want  
20 it, it's a little bit contradictory to say  
21 it's okay if it's his county. He voted no  
22 three times yesterday.

23 Other senators from Steuben County,  
24 Wyoming County, and Schenectady County  
25 reluctantly voted, because of the home-rule,

1           they needed this mortgage recording tax  
2           increases. And Senator Valesky voted no on  
3           all of those as well. And not only  
4           Montgomery, Steuben, and Wyoming, but also  
5           Schenectady.

6                        So I guess my point is you're  
7           absolutely right, Senator Krueger. If we get  
8           a home-rule measure, everyone should be  
9           treated the same. But it's a bit  
10          contradictory to vote no for everybody else  
11          but only vote yes on the tax increases that  
12          his county demands of him.

13                       ACTING PRESIDENT LITTLE:       Thank  
14          you.

15                       Senator DeFrancisco will be  
16          recorded in the affirmative.

17                       Senator Schneiderman, to explain  
18          his vote.

19                       SENATOR SCHNEIDERMAN:       Thank you,  
20          Madam President, very briefly.

21                       I just would like to note, since we  
22          all seem to be very supportive of public  
23          hearings and forums, that under the rules of  
24          the Senate now there's a big difference  
25          between forums and hearings.

1                   We would love to hold hearings.

2           But if you hold a forum instead of a hearing,  
3           you don't get on the public calendar, you  
4           don't get any resources for the hearing. In  
5           fact, we're denied conference rooms, hearing  
6           rooms, and office space.

7                   So I hope that we don't confuse the  
8           fact that the two are the same.

9                   And I would also urge my colleagues  
10          that, you know, I respect home-rule messages,  
11          but just because a bill has a home-rule  
12          message doesn't mean it's right. I appreciate  
13          the sensitivity of my colleagues that there  
14          are a lot of bills that come here that maybe  
15          we have to hold our nose because we've got a  
16          local government that's got a problem, and  
17          maybe we even disagree with the way they're  
18          resolving it but respect the integrity of it.

19                   But I would urge that we have two  
20          people here who engaged in this debate who I  
21          think are equal to anyone in the sincerity of  
22          their concern about the fiscal condition of  
23          local governments in New York State caused by  
24          unfunded mandates, caused by other problems,  
25          some of which are created here. Senator Meier

1 and Senator Valesky are clearly legitimately  
2 concerned with the issue.

3 And I hope we will expand the  
4 debate on that. This has been an interesting  
5 debate to raise the issue, and I hope that it  
6 will continue in a broader forum with the  
7 sincere effort to resolve it. I note that  
8 some -- one of the participants in that debate  
9 was lobbying for a Medicaid reform package  
10 just yesterday. That's one aspect of it.

11 But let's broaden the issue,  
12 because the local governments clearly are  
13 suffering. And I think there is more that we  
14 can all do if we treat each other with mutual  
15 respect and try to collaborate.

16 Thank you, Madam President. I'm  
17 voting yes.

18 ACTING PRESIDENT LITTLE: Senator  
19 Schneiderman will be recorded in the  
20 affirmative.

21 Senator Diaz, to explain his vote.

22 SENATOR DIAZ: Thank you, Madam  
23 President.

24 I'm just hearing the word "public  
25 forum." And I remember that some time ago the

1 City of New York decided to change the senior  
2 citizen meal from hot meal to frozen meal.  
3 And I thought that was something very wrong to  
4 do to senior citizens, and I decided that I  
5 would like to have a forum, a public forum to  
6 talk about those things.

7 And I asked for help. And I wanted  
8 to do that in 250 Broadway. And I was denied.  
9 I was denied the resources, and I was denied  
10 the room, the Senate room.

11 And I had to go to my son in the  
12 other chamber, the Assembly, and ask my son to  
13 join me and for him to request the Assembly  
14 room so I could have my forum to defend the  
15 senior citizens and to protest the changing of  
16 hot meal to frozen meal to senior center and  
17 to the senior citizens.

18 I would love to have the Senate  
19 support. I would have loved to have the  
20 Senate room in 250 chamber to do that. I  
21 cannot do it.

22 So, you know, when we talk about  
23 public forums, we love to have public forums.  
24 I love senior citizens. I love to talk about  
25 what the abuse of the senior citizens are

1 subject to by the Department of the Aging in  
2 the City of New York and other things. I love  
3 to do that. But I cannot do it, because I  
4 don't have the support.

5 And maybe one day, one day before I  
6 die I will have that support from this Senate  
7 chamber, from this Senate body so we could do  
8 that. And maybe one day the chairman of the  
9 Senior Citizen Aging Committee will join me in  
10 doing these things and defending the seniors  
11 and protest senior citizens that's -- frozen  
12 meals that was done to senior citizens. And  
13 that was an abuse, and nobody protested.

14 But I just voted yes on this bill.

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

17 The Secretary will announce the  
18 results.

19 THE SECRETARY: In relation to  
20 Calendar Number 1472: Ayes, 57.

21 Those Senators absent from voting:  
22 Dilan, Nozzolio, Sampson and Stavisky.

23 ACTING PRESIDENT LITTLE: The  
24 bill is passed.

25 The Secretary will read.

1 THE SECRETARY: Calendar Number  
2 1448, by Senator Golden, Senate Print 5512, an  
3 act to amend the Public Officers Law.

4 SENATOR SCHNEIDERMAN:  
5 Explanation.

6 ACTING PRESIDENT LITTLE: Senator  
7 Golden, for an explanation.

8 SENATOR GOLDEN: Yes, S5512  
9 includes persons employed by the fire  
10 dispatchers within the members of the  
11 uniformed forces and our paid fire department  
12 who are exempted from certain residency  
13 requirements.

14 Legislation enacted by the City  
15 Council some two years ago brought the fire  
16 alarm dispatchers and their supervisors into  
17 the uniformed forces of the fire department.

18 And those in the fire department  
19 currently, and firefighters, fire officers,  
20 fire marshals, marine division personnel and  
21 the emergency medical service personnel, are  
22 not required to live within the confines of  
23 New York City. These members of the  
24 department are permitted to reside in several  
25 counties that are spelled out in the Public

1 Officers Law, paragraph 9, Section 3 of the  
2 Public Officers Law.

3 And this would codify a uniform  
4 practice for the New York City Fire  
5 Department.

6 ACTING PRESIDENT LITTLE: Thank  
7 you.

8 Senator Schneiderman.

9 SENATOR SCHNEIDERMAN: Thank you,  
10 Madam President. I'd like to thank the  
11 sponsor for his explanation.

12 On the bill.

13 ACTING PRESIDENT LITTLE: Thank  
14 you.

15 Senator Schneiderman, on the bill.

16 SENATOR SCHNEIDERMAN: This is a  
17 bill that we have seen before. And again,  
18 given the debate we were just having, is an  
19 interesting counterpoint here.

20 This is a bill that not only does  
21 it not have a home-rule message, but the local  
22 government that is affected has issued a memo  
23 in opposition, which I guess they actually  
24 haven't even changed the memo in opposition,  
25 since they've advised us that it is an oldie

1 but goodie but still accurate.

2 The reason for the opposition is  
3 that the City of New York has no problem  
4 recruiting fire department dispatchers. There  
5 are people who are residents of the city who  
6 are lined up to get these jobs. So if  
7 anything, we should be making it easier for  
8 them and not expanding the exceptions to the  
9 rule that require people who work for the City  
10 of New York to live in the city.

11 There's no crying need, there's no  
12 reason to undermine the efforts of the city to  
13 do this. And I would urge that people who are  
14 fire department employees, police department  
15 employees who have knowledge of or experience  
16 with security issues, it provides a benefit to  
17 the City of New York to have them in the city  
18 of New York. Because even when they're off  
19 duty, it's good to have them in our shops, on  
20 our streets. If there's an emergency, these  
21 are people who show leadership. We frequently  
22 have cases where off-duty police officers help  
23 out. If they don't live in the city, they're  
24 not helping out.

25 So this is something that, again, I

1 would urge my colleagues to vote no on. The  
2 city is opposed to it. There is no need for  
3 it. And I respectfully suggest that this is  
4 not the right approach to dealing with  
5 whatever issues arise from the desires of some  
6 individuals to relocate further and further  
7 away from the city. Maybe they can obtain  
8 positions in other locales.

9 But in New York City we have a lot  
10 of people who want these jobs who are willing  
11 to live in the city and be there 24/7, with  
12 all their skills and all their knowledge,  
13 should emergencies occur.

14 Thank you, Madam President.

15 ACTING PRESIDENT LITTLE: Is  
16 there any other Senator --

17 Senator Montgomery.

18 SENATOR MONTGOMERY: Yes, thank  
19 you, Madam President.

20 I just would like to reiterate some  
21 of the -- a couple of the points that I made  
22 last year when the bill came before us. And  
23 as a matter of fact, this has been vetoed, it  
24 seems, by the Governor. And so it's back  
25 again.

1 I maintain the same position, and  
2 that is that many of us in this body, as well  
3 as in the Assembly across the hall, are  
4 opposed to the elimination of residency  
5 requirements for uniformed officers. In fact,  
6 we would like to see that there is  
7 specifically a residency requirement that is  
8 attributable to all uniformed positions in the  
9 City of New York, as is the case for many  
10 counties outside of the City of New York.

11 Last year, and I believe again this  
12 year, the Mayor's office has indicated that  
13 there is in fact not a problem with  
14 recruitment. So we don't really have to do  
15 this in order to resolve a problem related to  
16 recruitment efforts.

17 And, two, this really is related,  
18 as I see it, to the problem with unemployment  
19 in New York City. The more jobs we have that  
20 are of New York City, for residents of  
21 New York City, to be filled by residents of  
22 New York City, the better our statistics on  
23 unemployment would be, could be, and should  
24 be.

25 So I'm opposing this legislation.

1           And I note that a number of us opposed the  
2           bill last year. And I'm certain that even  
3           more of the -- especially the New York City  
4           members will oppose this, because it is, one,  
5           not necessary; two, is in opposition to what  
6           many of us feel to be -- ought to be a policy  
7           for New York City uniformed employees; and,  
8           three, is certainly opposed by the Mayor and  
9           the administration of the City of New York.

10                           Thank you.

11                           ACTING PRESIDENT LITTLE:       Thank  
12           you, Senator Montgomery.

13                           Senator Savino.

14                           SENATOR SAVINO:       Thank you, Madam  
15           President.

16                           Again I rise and I have to speak  
17           against some of my colleagues on my side of  
18           the aisle. And it always pains me when I have  
19           to do that. But I think I have to be  
20           consistent.

21                           Last week when we debated the issue  
22           about extending or eliminating residency  
23           requirements for sanitation workers, we went  
24           on for about a good 45 minutes about this  
25           issue. And it's actually the same thing, but

1           there's a slight difference in this one.

2                         This particular bill corrects an  
3           inequity that now currently is extended to the  
4           fire alarm dispatchers. In 2001, the City  
5           Council of the City of New York granted  
6           uniformed status to that particular group of  
7           workers. Let's be clear. It's 182 people.  
8           It's not thousands of people, it's 182 people.

9                         But they were granted uniformed  
10          status by the City Council of New York, over  
11          Mayor Giuliani's objection. He and his  
12          successor are suing over that, they're  
13          litigating it. But in the interim, they do  
14          currently have uniformed status. And as such,  
15          they should be treated like the rest of the  
16          uniformed members of the City of New York's  
17          fire department and/or police department or  
18          any other who do not have this residency  
19          requirement.

20                        Again, we can talk about the fact  
21          that the fire alarm dispatchers, like the vast  
22          majority of municipal employees of the City of  
23          New York, can no longer afford to buy a home  
24          in the city that they work for, in any of the  
25          neighborhoods that they work for. That is a

1 reality. And as such, we should allow them to  
2 go to communities where they can purchase a  
3 home.

4 Again, it's about home ownership.  
5 It's about fairness. And it's about being  
6 consistent with the rest of the members of the  
7 fire department. So I urge my colleagues to  
8 support this.

9 Now, we -- some of us may think  
10 that uniformed members of New York City should  
11 reside in the City of New York, there should  
12 be a residency requirement. But that's not  
13 the current law. So we should not hold this  
14 group of workers to a different standard than  
15 we hold the rest of the uniformed members of  
16 New York City.

17 ACTING PRESIDENT LITTLE: Thank  
18 you, Senator Savino.

19 Is there any other Senator wishing  
20 to be heard?

21 The debate is closed.

22 The Secretary will ring the bell.

23 Read the last section.

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

1                   ACTING PRESIDENT LITTLE:     Call  
2     the roll.

3                   (The Secretary called the roll.)

4                   ACTING PRESIDENT LITTLE:     The  
5     Secretary will announce the results.

6                   THE SECRETARY:       Those recorded in  
7     the negative on Calendar Number 1448 are  
8     Senators Andrews, Brown, Diaz, Dilan,  
9     Hassell-Thompson, Klein, Montgomery, Onorato,  
10    Parker, Paterson, Schneiderman, Serrano and  
11    A. Smith.

12                  Those Senators absent from voting:  
13    Gonzalez, Nozzolio, Sampson and Stavisky.

14                  Ayes, 44.   Nays, 13.

15                  ACTING PRESIDENT LITTLE:     The  
16    bill is passed.

17                  Senator Skelos.

18                  SENATOR SKELOS:       Madam President,  
19    would you please lay aside Calendar Number  
20    1239 for the day.

21                  ACTING PRESIDENT LITTLE:  
22    Calendar Number 1239 is laid aside for the  
23    day.

24                  SENATOR SKELOS:       Madam President,  
25    there will be an immediate meeting of the

1 Rules Committee in the Majority Conference  
2 Room.

3 And the Senate will stand at ease  
4 pending the report of the Rules Committee.

5 ACTING PRESIDENT LITTLE: There  
6 will be an immediate meeting of the Rules  
7 Committee in the Majority Conference Room.

8 The Senate stands at ease.

9 (Whereupon, the Senate stood at  
10 ease at 1:27 p.m.)

11 (Whereupon, the Senate reconvened  
12 at 1:50 p.m.)

13 ACTING PRESIDENT LITTLE: Senator  
14 Skelos.

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

20 ACTING PRESIDENT LITTLE: The  
21 report of the Rules Committee.

22 The Secretary will read.

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

1 Senate Print 568A, by Senator  
2 Young, an act to amend the Alcoholic Beverage  
3 Control Law;  
4 720, by Senator Little, an act to  
5 amend the Tax Law;  
6 1574A, by Senator Rath, an act to  
7 amend the Social Services Law;  
8 1690A, by Senator Farley, an act in  
9 relation to effecting;  
10 1832, by Senator Saland, an act to  
11 amend the Tax Law;  
12 2306, by Senator Little, an act to  
13 amend the General Business Law;  
14 2559, by Senator Hannon, an act to  
15 amend the Public Health Law;  
16 2758A, by Senator Spano, an act to  
17 amend the Retirement and Social Security Law;  
18 2985A, by Senator Volker, an act to  
19 amend the Executive Law;  
20 3409, by Senator Young, an act in  
21 relation to authorizing;  
22 3528, by Senator Johnson, an act to  
23 amend Chapter 672 of the Laws of 1993;  
24 3663, by Senator Young, an act to  
25 amend the State Finance Law;

1                   3701, by Senator Robach, an act to  
2 authorize;

3                   3913, by Senator Larkin, an act to  
4 amend the Retirement and Social Security Law;

5                   3919, by Senator Robach, an act to  
6 amend the Retirement and Social Security Law;

7                   4017, by Senator Larkin, an act to  
8 amend the Tax Law;

9                   4067, by Senator Padavan, an act to  
10 amend the Retirement and Social Security Law;

11                   4142, by Senator Morahan, an act to  
12 amend the Mental Hygiene Law;

13                   4195, by Senator Farley, an act to  
14 amend the Banking Law;

15                   4198, by Senator Farley, an act to  
16 amend the Banking Law;

17                   4244A, by Senator Hannon, an act to  
18 amend the Public Health Law;

19                   4268, by Senator Wright, an act to  
20 amend the Executive Law;

21                   4368, by Senator Wright, an act to  
22 amend the Criminal Procedure Law;

23                   4455, by Senator Golden, an act to  
24 amend the Retirement and Social Security Law;

25                   4530A, by Senator Golden, an act to

1 amend the Retirement and Social Security Law;  
2 4822, by Senator Robach, an act to  
3 amend the Civil Service Law;  
4 4835, by Senator Winner, an act to  
5 amend the Environmental Conservation Law;  
6 5231A, by Senator Flanagan, an act  
7 to amend the Correction Law;  
8 5347, by Senator Marcellino, an act  
9 to amend the Town Law;  
10 5378, by the Senate Committee on  
11 Rules, an act to amend the Tax Law;  
12 5381A, by Senator Meier, an act to  
13 amend the Tax Law;  
14 5433A, by Senator Skelos, an act to  
15 amend the Parks, Recreation and Historic  
16 Preservation Law;  
17 5442A, by Senator Meier, an act to  
18 amend the Social Services Law;  
19 5464, by the Senate Committee on  
20 Rules, an act to amend the Labor Law;  
21 5469, by the Senate Committee on  
22 Rules, an act to make;  
23 5473, by Senator Meier, an act to  
24 amend the Executive Law;  
25 5508A, by Senator Young, an act to

1 amend the Agriculture and Markets Law;

2 5522A, by Senator Nozzolio, an act

3 to amend the Agriculture and Markets Law;

4 5564, by Senator Maziarz, an act to

5 amend the Environmental Conservation Law;

6 5574, by Senator DeFrancisco, an

7 act to amend the Court of Claims Act;

8 5584, by Senator Volker, an act to

9 amend the Civil Practice Law and Rules;

10 5610, by Senator Hassell-Thompson,

11 an act to amend Chapter 183 of the Laws of

12 2002;

13 And Senate Print 5611, by Senator

14 Winner, an act to amend the Public Officers

15 Law.

16 All bills ordered direct to third

17 reading.

18 ACTING PRESIDENT LITTLE: Senator

19 Skelos.

20 SENATOR SKELOS: Move to accept

21 the report of the Rules Committee.

22 ACTING PRESIDENT LITTLE: All in

23 favor of accepting the report of the Rules

24 Committee signify by saying aye.

25 (Response of "Aye.")

1                   ACTING PRESIDENT LITTLE:

2           Opposed, nay.

3                   (No response.)

4                   ACTING PRESIDENT LITTLE:        The  
5           Rules report is accepted.

6                   Senator Skelos, we have some  
7           motions.

8                   SENATOR SKELOS:        Yes, if we could  
9           go to motions and resolutions.

10                  ACTING PRESIDENT LITTLE:        Thank  
11           you.

12                  Senator Farley, for a motion.

13                  SENATOR FARLEY:        Thank you,  
14           Senator Skelos.

15                  And, Madam President, on behalf of  
16           Senator Alesi, I wish to call up his bill,  
17           Print Number 1075, recalled from the Assembly,  
18           which is now at the desk.

19                  ACTING PRESIDENT LITTLE:        The  
20           Secretary will read.

21                  THE SECRETARY:        Calendar Number  
22           1010, by Senator Alesi, Senate Print 1075, an  
23           act to amend the General Business Law.

24                  SENATOR FARLEY:        Madam President,  
25           I now move to reconsider the vote by which

1       this bill passed.

2                   ACTING PRESIDENT LITTLE:       The  
3       Secretary will call the roll on  
4       reconsideration.

5                   (The Secretary called the roll.)

6                   THE SECRETARY:       Ayes, 59.

7                   SENATOR FARLEY:       Madam President,  
8       I now offer the following amendments.

9                   ACTING PRESIDENT LITTLE:       The  
10       amendments are received.

11                   SENATOR FARLEY:       Madam President,  
12       on behalf of Senator Winner, on page 41, I  
13       offer the following amendments to Calendar  
14       Number 1087, Senate Print 3641, and I ask that  
15       that bill retain its place on the Third  
16       Reading Calendar.

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

21                   SENATOR FARLEY:       Madam President,  
22       on behalf of Senator Meier, on page 30, I  
23       offer the following amendments to Calendar  
24       846, Senate Print 4060, and I ask that that  
25       bill retain its place.

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

5                   SENATOR FARLEY:        Madam President,  
6                   on behalf of Senator Seward, on page 22, I  
7                   offer the following amendments to Calendar  
8                   Number 680, Senate Print 3087, and I ask that  
9                   that bill retain its place on the Third  
10                  Reading Calendar.

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

15                  Senator Skelos.

16                  SENATOR SKELOS:        Madam President,  
17                  would you please call up Calendar Number 1485.

18                  ACTING PRESIDENT LITTLE:     The  
19                  Secretary will read.

20                  THE SECRETARY:        Calendar Number  
21                  1485, by the Senate Committee on Rules, Senate  
22                  Print Number 5623, an act to amend the Social  
23                  Services Law.

24                  SENATOR SCHNEIDERMAN:  
25                  Explanation.

1                   ACTING PRESIDENT LITTLE:     Senator  
2     Young for an explanation, please.

3                   SENATOR YOUNG:       Basically what  
4     this bill would do is it would prohibit  
5     abortions that are funded by Medicaid in  
6     New York State except for cases of rape,  
7     incest or to save the life of the mother.

8                   ACTING PRESIDENT LITTLE:     Thank  
9     you, Senator Young.

10                  Senator Schneiderman.

11                  SENATOR SCHNEIDERMAN:     Thank you.  
12     Thank the sponsor for the explanation.

13                  On the bill.

14                  ACTING PRESIDENT LITTLE:     Senator  
15     Schneiderman, on the bill.

16                  SENATOR SCHNEIDERMAN:     This is a  
17     piece of legislation that we've seen many  
18     times. Welcome a new sponsor to the debate.  
19     And it's something that a lot of us have a  
20     concern with that has been expressed in many  
21     past years' debates.

22                  And I'm not going to -- I'm going  
23     to attempt not to reiterate the remarks made  
24     very eloquently by Senator Montgomery, Senator  
25     Oppenheimer and others who have addressed this

1 issue. But I would urge my colleagues that  
2 support this legislation that this is not  
3 really a bill about abortion rights. This is  
4 a bill about a health care system in the  
5 United States that is increasingly becoming  
6 separate but unequal.

7 We have a constitutional right in  
8 this country, women have a constitutional  
9 right to control of their bodies, they have a  
10 constitutional right to have an abortion. So  
11 that's not what's at issue with this bill.

12 What's at issue here is that we as  
13 a country are rapidly becoming a -- really,  
14 sort of a retrograde industrial democracy  
15 where, 30 years ago, we had the smallest gap  
16 between rich and poor of any of the industrial  
17 democracies. We now have the greatest gap  
18 between rich and poor. New York State, of all  
19 the 50 states, has the greatest gap of all the  
20 states between rich and poor.

21 The reasons for this are in  
22 dispute, but it is undisputed that we are  
23 moving in the direction, in this state and in  
24 this country, towards having a separate but  
25 unequal school system, which should not be

1 tolerable to anyone here, that some poor  
2 people in this country are denied the right to  
3 full participation in this democracy because  
4 we have failing schools.

5 And we are moving, and I think this  
6 bill would move us further, in the direction  
7 of having a separate but unequal health care  
8 system. Because, again, this does not relate  
9 to the legality of abortion. It's legal. You  
10 may agree or disagree with that; that's a  
11 discussion for another day.

12 The question is, if you are poor,  
13 should you be denied access to fundamental  
14 health care services? And it's an issue that  
15 really goes beyond the question of abortion  
16 services.

17 There are -- there's a crisis in  
18 New York State, and there have been hearings  
19 on this back -- actually, we held hearings --  
20 this was back before the rules were changed,  
21 when we were allowed to hold hearings -- on  
22 the crisis of the uninsured. It is a crisis  
23 that exists to this day. We all acknowledge  
24 that there are problems in the Medicaid  
25 system, that there are problems in maintaining

1 financing for our health care system.

2 But think about what the statement  
3 of this bill is. Put aside the issue of  
4 abortion rights -- because, again, I suggest  
5 that this doesn't have anything to do with the  
6 legality or illegality of abortion. This is a  
7 statement that poor women should not get  
8 health care. This is a statement that we have  
9 a two-tier system and that's okay with us.  
10 That the wealthy can get whatever they want by  
11 way of health care, but that if you're poor,  
12 you cannot.

13 It's a problem in many, many areas.  
14 It's an increasing problem as more and more  
15 employers put more of a burden on employees to  
16 pay the cost of health care coverage. More  
17 and more employers are forced to restrict  
18 access to health care for employees because  
19 our country is out of sync with every other  
20 industrial democracy.

21 General Motors pays a tax, every  
22 car they have to pay \$1,700 more than  
23 Mercedes, because they provide health care  
24 coverage for their employees. Of course they  
25 should do that. But we shouldn't be punishing

1 employers.

2 We shouldn't have a system like  
3 this that creates this two-tier, separate but  
4 unequal health care system. It does  
5 disproportionately affect people of color.  
6 But it is a fundamental issue, in my view, of  
7 human justice and human dignity.

8 We should not be passing a bill  
9 that says to the people of New York State, to  
10 the women of New York State: If you're rich,  
11 you can do whatever you want, but we're going  
12 to penalize people because they happen to be  
13 poor. If you are someone who served in the  
14 military defending this country and you come  
15 back and you're on hard times, we're going to  
16 penalize you. You're not going to be able to  
17 exercise your constitutional right.

18 This, whether you are pro-choice or  
19 not, is the wrong statement for us to be  
20 making in this house. And I would  
21 respectfully suggest that we vote no and that  
22 we stop the perennial debate on this issue.  
23 This is not the right way for us to proceed.

24 I know even some of my colleagues  
25 who have serious moral problems with abortion

1 have expressed to me privately the concern  
2 that this really is not the right way to deal  
3 with it. This is an unfair, punitive --

4 ACTING PRESIDENT LITTLE: Senator  
5 Young, why do you rise?

6 SENATOR YOUNG: I'm sorry, I just  
7 wanted to speak on the bill. I'll wait until  
8 my colleague is done.

9 ACTING PRESIDENT LITTLE: I'm  
10 sorry, Senator. Excuse me, Senator  
11 Schneiderman.

12 SENATOR SCHNEIDERMAN: That's  
13 okay. I appreciate the rookie energy.

14 So I do, I do really urge my  
15 colleagues that we stop this sort of one-house  
16 charade where we bring the bill up, the bill  
17 goes down, we bring the bill up, it goes down.  
18 Let's look at it in the broader context of  
19 health care services.

20 Anytime we're sending a message to  
21 people that we're going to move further and  
22 further away from a system where health care  
23 is accessible to all -- and that makes us a  
24 stronger, healthier, better state, better able  
25 to compete in the global economy -- towards a

1 system where poor people can't get health  
2 care, where the working poor can't get health  
3 care, that's the wrong move to make.

4 I'm going to vote no. Obviously I  
5 do support a woman's right to choose and her  
6 right to control her own body. But I honestly  
7 do not believe that's what at issue with this  
8 bill. This is an issue about class. This is  
9 at an issue about poverty. This is an issue,  
10 because unfortunately of the way poverty is  
11 distributed in this state, about race and  
12 about ethnicity.

13 This is not the right direction for  
14 us to move in as a state, and I urge everyone  
15 to vote no.

16 ACTING PRESIDENT LITTLE: Thank  
17 you, Senator.

18 Senator Spano.

19 SENATOR SPANO: Thank you, Madam  
20 President.

21 Once in a while I actually agree  
22 with Senator Schneiderman, and I stand to echo  
23 his comments today.

24 While there's probably very few  
25 issues that evoke more emotion among members

1 of this house, the other house, and the  
2 electorate than the issue of choice and  
3 abortion, it is true that there are many, many  
4 people who have very strong opinions on that  
5 issue, and we respect everyone's right to have  
6 their own opinions with regard to a woman's  
7 right to reproductive freedom.

8 But it seems to me that this bill  
9 is one that, with all due respect to Senator  
10 Young and those who feel strongly about this,  
11 it is a one-house bill, it is a statement.  
12 And we recognize one's right to make a  
13 statement and pass this bill, as it is our  
14 right to stand up and to speak in opposition  
15 to putting any type of further restrictions on  
16 a woman's right to reproductive freedom and  
17 certainly making those restrictions even more  
18 profound to poor people in our community.

19 It does not send the right message.  
20 It does not send the right message out to our  
21 communities across New York State to deny  
22 access to any type of health care to a person  
23 because of their socioeconomic group. And I  
24 certainly will be very strong in my opposition  
25 to this bill and ask that our members vote

1           against it.

2                           Thank you, Madam President.

3                           ACTING PRESIDENT LITTLE:       Thank  
4           you, Senator Spano.

5                           Senator Padavan.

6                           SENATOR PADAVAN:       Thank you,  
7           Madam President.

8                           Let me disagree with both of the  
9           prior two speakers.

10                          Certainly when the Supreme Court  
11           ruled on the issue of abortion it did not say  
12           that government, whether it be federal or  
13           state government, should pay for an elective  
14           procedure. And that's what this bill is all  
15           about. We're not dealing with a woman who is  
16           in crisis in health or her life is endangered,  
17           we're dealing with someone who is making a  
18           choice.

19                          Now, the Congress of the United  
20           States ruled, by virtue of their enactment --  
21           and Medicaid, prior to 1965, did not exist.  
22           But they decided, in their wisdom, that the  
23           federal government, unlike all of the other  
24           categories of Medicaid, would not provide that  
25           50 percent -- normally up or down, mostly

1 up -- toward the cost of Medicaid. They  
2 excluded it.

3 And by the way, I want to remind  
4 you that it was a Democratically controlled  
5 Congress that did that.

6 So they said, in effect, the  
7 taxpayers of the United States should not be  
8 paying for this procedure. Other states,  
9 certain states such as New York decided that  
10 they would assume the entire cost.

11 And that's what this issue is  
12 about, year after year after year. Was  
13 Congress right? Were they right when they  
14 said taxpayers should not be required to pay  
15 for an elective procedure of this sort? Or  
16 were those states who did it, like New York  
17 years ago, deciding to pick up the entire  
18 cost, were they right? I think Congress was  
19 right.

20 And you keep referring to the  
21 rights of women to have an abortion. That is  
22 in constitutional law, by virtue of a Supreme  
23 Court decision. And we can't quarrel with  
24 that. But certainly those people in the state  
25 of New York who feel as I do, and many of our

1 colleagues, have the right to say whether or  
2 not abortion is legal, whether or not it is  
3 permitted by our Constitution, we are not  
4 required to pay for it, and we do not want to  
5 pay for it, whatever our reasoning may be.

6 And that's what this bill is all  
7 about, and let's not lose sight of that fact.

8 ACTING PRESIDENT LITTLE: Thank  
9 you, Senator Padavan.

10 Senator Krueger.

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

13 Usually people don't like to talk  
14 about the debate around abortion as a cost  
15 factor. But I appreciate my colleague Senator  
16 Padavan saying that's what this bill is about.  
17 It's about whether or not the State of  
18 New York should pay for something that we all  
19 agree is constitutionally the right of every  
20 woman in this country.

21 I disagree with his analysis about  
22 the obligations under state law and under the  
23 state constitution. New York State's Court of  
24 Appeals has held that the state constitution  
25 provides greater protections than the federal

1 Constitution as regards the right of bodily  
2 autonomy.

3 In the case *Rivers v. Katz*, the  
4 fundamental right of reproductive choice  
5 inherent in the state constitution's due  
6 process clause has been interpreted to be at  
7 least as extensive as the federal right. In  
8 *Hope v. Perales*, a scheme denying Medicaid  
9 coverage for abortion would violate this  
10 right. In addition, in Article 17 of the  
11 state constitution it imposes a special  
12 responsibility on the state to provide aid,  
13 care and support of the needy.

14 The Court of Appeals has also made  
15 it clear that the Legislature may not classify  
16 a group as needy but then exclude them from  
17 coverage based on criteria having nothing to  
18 do with need: *Aliessa v. Novello*, 96 N.Y.2d  
19 426, and then in *Tucker v. Toia*.

20 This bill that we have before us  
21 today would create an exclusion solely based  
22 on a woman's choice to terminate her  
23 pregnancy, and would thus be unconstitutional.  
24 But that's not the only reason to object to  
25 this bill.

1                   This bill does discriminate against  
2                   poor women and, in fact, poor men and their  
3                   families, because it would deny these families  
4                   equal rights under the law of this country and  
5                   this state to make their own decisions about  
6                   their reproductive planning.

7                   This bill in effect, if it became  
8                   law, would say, by default, that in New York  
9                   State Medicaid would cover the cost of a  
10                  pregnancy, would cover the ongoing costs for a  
11                  child born, would cover the costs moving  
12                  forward into the future, but would not cover  
13                  the decision by a woman to end her pregnancy,  
14                  therefore negating any future expenses to the  
15                  Medicaid program.

16                  With a ban on Medicaid funding for  
17                  abortion, this state would also be turning its  
18                  back on women who need abortion due to health  
19                  issues that may not risk the life of the  
20                  mother but nonetheless could lead to long-term  
21                  and permanent damage to the woman, including  
22                  issues related to cancer, diabetes, heart  
23                  conditions or other threats to health of a  
24                  woman who would not be able to afford to end  
25                  her pregnancy should she choose to do so.

1                   There is research from throughout  
2                   the country -- because, unfortunately, we have  
3                   states who have chosen not to allow Medicaid  
4                   to fund abortion, so we have research  
5                   throughout the country about the damage that  
6                   has been done. The fact that these women end  
7                   up having to have abortions much later in  
8                   their pregnancy, which is both far more costly  
9                   and of much greater risk to the mother.

10                   We have research that shows, even  
11                   in states that have proposed legislation --  
12                   excuse me, passed legislation that says in  
13                   cases of rape or the life risk to the mother,  
14                   that in fact Medicaid is not there for women  
15                   in those conditions. And in fact, the data  
16                   shows that the states that say that they  
17                   continue Medicaid funding for abortion in  
18                   cases of the life of the mother or rape, in  
19                   fact, don't cover costs of abortion.

20                   That the process is so complex that  
21                   women never get access to Medicaid funding for  
22                   abortion. That there's almost a zero rate of  
23                   payment in any given year for Medicaid-funded  
24                   abortions in states that even have those  
25                   exceptions to the rules that are proposed in

1           this law.

2                         What we do know is that desperate  
3           woman who don't have access to health care and  
4           need to find themselves an abortion do things  
5           that most of us would argue are untenable and  
6           are immoral and should not be mandated by the  
7           State of New York. They don't pay their rent.  
8           They don't take care of food for themselves or  
9           their other children. They end up in risky  
10          situations. They may violate the law. There  
11          are reports of women turning to prostitution  
12          to raise the funds they need to get health  
13          care for themselves when Medicaid refuses them  
14          this right.

15                        Clearly, this law discriminates  
16          against those women who are the poorest and  
17          have the fewest options.

18                        The results of the states that have  
19          gone down the road that is proposed by this  
20          bill are not the findings we want to discuss  
21          in New York State in the future. We don't  
22          want women turning to illegal abortions. We  
23          don't want women finding themselves having to  
24          have abortions much later in the process. We  
25          don't want our citizens having to break the

1 law to get fundamental health care that they  
2 are entitled to under the law of this state  
3 and of this country.

4 We debate this, what, every other  
5 year? We like to make it an argument about  
6 whether or not a woman has the right to make  
7 reproductive choices for herself. But in fact  
8 with this bill, with expanding it to saying  
9 that Medicaid funding should not be available  
10 to poor women, we expand it to a much larger  
11 debate about whether the State of New York  
12 believes that there should be equitable  
13 treatment of all citizens with our health care  
14 system.

15 The example was used already by my  
16 colleague that this is elective. And I have  
17 to say, and I think I speak for most women in  
18 this country, that I take offense at the  
19 argument that we're discussing funding for  
20 abortion procedures as if we were discussing  
21 funding for a cosmetic procedure or a nose  
22 job.

23 These are very tough decisions that  
24 people find themselves in. These are often  
25 desperate young women who have found

1 themselves pregnant. These are often  
2 desperate women with many children who know  
3 that they can't possibly afford to take care  
4 of or feed or be responsible for more  
5 children. These are often women who are ill  
6 and are at risk of continued, more severe  
7 illness if they follow through with these  
8 pregnancies. These are sometimes women who  
9 are the victim of sexual assault and rape and  
10 incest.

11 And for the State of New York to  
12 callously argue that this is an elective issue  
13 and we shouldn't have to pay for it, I would  
14 argue, in response -- although, again, I don't  
15 like to discuss costs when I discuss  
16 reproductive health -- that the costs are far  
17 greater to the women, to their families, to  
18 their other children and to us as a state and  
19 a society if we deny them the right to equal  
20 treatment under our health care programs such  
21 as Medicaid.

22 This bill is a one-house bill. It  
23 will not become law. We will continue this  
24 debate today, but in fact I hope that all of  
25 my colleagues will think hard about what the

1           realities are for women who find themselves in  
2           the situation where they are pregnant and  
3           cannot, in good faith, continue with their  
4           pregnancies, and yet we're going to cut off or  
5           dramatically limit their options to access to  
6           health care.

7                         I suppose I will also point out the  
8           irony that we in this state still refuse to  
9           pass a law to allow women to get timely access  
10          to emergency contraception or pass S3661,  
11          which would assure that women could get  
12          emergency contraception through their  
13          pharmacists in emergency situations.

14                        I suppose I also think it's ironic  
15          that we continue to fund drugs such as Viagra,  
16          but we're arguing over whether a woman should  
17          have the right to use Medicaid to pay for an  
18          abortion if she needs one.

19                        I'll be voting no. I hope all of  
20          my colleagues will.

21                        Thank you, Madam President.

22                        ACTING PRESIDENT LITTLE:     Thank  
23          you.

24                        Senator Farley.

25                        SENATOR FARLEY:         Yes, Madam

1 President, I rise in support of this bill.

2 This is a piece of legislation that  
3 has passed in this house for over 30 years  
4 that I've been here, and each year it seems to  
5 gain more support. There's 35 votes for it  
6 here today. Senator Saland is not with us but  
7 would be voting for it.

8 There are members on this side that  
9 are pro-choice that vote for this legislation.  
10 Why? Because, even as Senator Hillary Clinton  
11 recently said, abortion should be rare. There  
12 isn't anybody, I would presume, in this room  
13 that thinks abortion is a good thing. It's a  
14 mistake. It's a very personal and a very  
15 private situation.

16 And there's many of us, including  
17 all the women in my family, and everybody that  
18 I know in my family, that feels that this  
19 something that should be paid for out of  
20 personal and private funds.

21 The federal government has said  
22 that they will pay for abortion, the Supreme  
23 Court of the United States, for life  
24 endangerment, rape, incest and so forth. And  
25 that's the extent of it. Thirty-some-odd

1 states, close to 40 states have addressed this  
2 and follow this federal rule. We're coming  
3 into conformity with what the federal  
4 government says that we have to do.

5 You say this is a one-house bill.  
6 You're right. They won't even let it come to  
7 the floor in the other house. You can't even  
8 speak on it. I respect what you have to say,  
9 those of you that favor this, that favor  
10 abortion rights. I respect what you have to  
11 say. But you can say it in this house.  
12 Assemblyman Butler and so many people that  
13 served in that house in the majority for a  
14 number of years weren't even allowed to speak  
15 on this subject. They wouldn't bring it up.  
16 Senator Robach could attest to that, because  
17 he was there.

18 This is a bill that is reasonable.  
19 It is one, as I said, that has passed in this  
20 house for years. It is one that addresses  
21 what the federal government says we have to  
22 address in the area of abortion.

23 There's many of us that feel  
24 abortion is abhorrent, but that's beside the  
25 point. The point of it is, it shouldn't be

1 used as contraception. And that's exactly  
2 what many people are using it for, and using  
3 the state's taxpayers' money to do that.

4 I think that this is a good piece  
5 of legislation. I applaud Senator Young, the  
6 first woman to bring this bill forward in this  
7 house, for doing it, and I congratulate her  
8 for that. And I urge its passage.

9 ACTING PRESIDENT LITTLE: Thank  
10 you, Senator Farley.

11 Senator Diaz.

12 SENATOR DIAZ: Thank you, Madam  
13 President.

14 The first time that I came across  
15 this bill was when I just got elected to the  
16 Senate and I only was five months in my job,  
17 when I was -- when I came from a Democratic  
18 conference where my leader -- remember, that  
19 was that was three years ago -- my leader told  
20 us there, "Vote your conscience."

21 So when I came to the floor, I came  
22 across this bill. And that day -- I have a  
23 couple of my speeches that day. And I started  
24 that day by saying that I am a new Senator,  
25 only five months here, and that I have a

1           Minority Leader who told us "Vote your  
2           conscience."

3                         And I said that I was also a  
4           Democrat from the City of New York, I live in  
5           the city where every Democratic elected  
6           official from the city has to be in favor of  
7           this. And everybody is in favor of this from  
8           the City of New York.

9                         And I also said that I am the  
10          president of the New York Hispanic Clergy  
11          Organization, an organization that represents  
12          150 Hispanic pastors in the City of New York.  
13          I also remember that I said that I'm a pastor  
14          of a church in the South Bronx and that all my  
15          members, my fellow minister members, they all  
16          are pastors of poor people, poor women.

17                        But, ladies and gentlemen, I heard  
18          the other day the new president of the  
19          Democratic Party, Howard Dean, he said that  
20          the Republican Party is a party of white  
21          Christian people. And I'm black, I'm  
22          Hispanic, with kinky hair and broken English,  
23          and I'm a Democrat. And I'm not a Republican,  
24          I'm not white.

25                        Today I heard one of my leaders,

1 Senator Schneiderman, say that this is  
2 charade, a charade. This bill, to bring this  
3 bill, is a charade? I heard another one of my  
4 colleagues say that we are discriminating  
5 against women.

6 Ladies and gentlemen, we are not  
7 discriminating against poor women. We are  
8 discriminating against working poor people.

9 When I'm campaigning, I stand in  
10 the subway station in the Bronx, the South  
11 Bronx -- Castle Hill, Parkchester, 149th  
12 Street. All black and Hispanic poor people  
13 getting up at 6 o'clock, 5 o'clock in the  
14 morning to go to work.

15 If you ask those people, you ask  
16 those people, poor people, Will you allow us  
17 to take out of your sweat, out of your money,  
18 out of your tax, will you allow us, that you  
19 get up in the morning, go to work and take  
20 your money to pay for someone else's choice of  
21 having a good time? Will you allow -- those  
22 poor people in the South Bronx, when you shake  
23 their hands during campaigning time, they will  
24 tell you: No, I don't want my money to be  
25 used for that.

1                   So we are discriminating against  
2                   the working poor people of the city and the  
3                   state of New York when we try to pay to send  
4                   them to work, go, get up in the morning,  
5                   5 o'clock in the morning, 4 o'clock in the  
6                   morning, go have two and three jobs. And  
7                   then, and then, then they use your money to  
8                   pay for someone else's abortion.

9                   Abortion is a choice. And a  
10                  choice, a man and a woman, when they go to  
11                  together and they lay together, they know what  
12                  could happen. They know that if they lay  
13                  together and have sexual relations, she might  
14                  get pregnant. They know. But they go ahead  
15                  and do it. And then we want the working  
16                  people to pay for that abortion. Go out and  
17                  work and pay for them.

18                 We have to protect the working  
19                 people. Everything is expensive. The price  
20                 of milk is going up. The price of chewing gum  
21                 is going up. The price of the subway is going  
22                 up. The price of everything -- gasoline,  
23                 everything -- is going up. And poor people  
24                 have to get up, they work two, three jobs,  
25                 sometimes, to make ends meet. And now we want

1           them also to pay for a person and a man that  
2           go, have a good time, get pregnant -- Oh, I  
3           got pregnant, pay for my -- because I'm poor.

4                        And we use the poor to do -- we  
5           use -- you know, we cover ourselves behind the  
6           poor to cover other things. It's immoral. It  
7           is immoral to abuse the working people and to  
8           take their salary, their money, to pay for  
9           abortion.

10                      It's a choice you make. It's a  
11           choice that you make. I'm a man. I'm  
12           married. And I know that if I fall in love or  
13           I go out with a woman and I lay down with that  
14           woman, she might get protect. If she does get  
15           pregnant, then I'm going to come back to the  
16           people that works and tell them pay for my  
17           abortion.

18                      I -- I -- I'm a pastor of a church  
19           in the South Bronx, I'm going to repeat myself  
20           again, and I come from a district that is  
21           liberal, a liberal district. And I don't hide  
22           myself to say what I'm saying. And the people  
23           that vote for me know what I am standing for  
24           and what I'm all about.

25                      This is not, this is not about poor

1 people. This is about a person, a man and a  
2 woman that make a choice. You made that  
3 choice, you live with it. Be responsible.  
4 That's the choice you made. You make that  
5 choice, either, you've got to live with it all  
6 your life. And every decision you make, you  
7 are responsible for that decision. Don't ask  
8 me to pay, through my work, through my sweat,  
9 for your choice. That is your choice. You go  
10 pay for it. You go work. You go pay for it.

11 And don't tell me that poor people,  
12 poor people don't know what they're doing. My  
13 members of my church, they know what they're  
14 doing. My community, they know what they're  
15 doing. You go out and you have a good time,  
16 you pay for it.

17 This is a good bill.  
18 Congratulations, Senator Young.

19 ACTING PRESIDENT LITTLE: Thank  
20 you, Senator.

21 Senator Connor.

22 SENATOR CONNOR: Thank you, Madam  
23 President.

24 As Senator Farley pointed out, this  
25 bill in one fashion or another has come before

1 this Senate almost every year, certainly for  
2 the last 27 years I've been here.

3 But I do have a correction, Madam  
4 President. It hasn't always passed in this  
5 house. It passed in the form of an amendment  
6 when the late Senator Donovan sponsored it,  
7 '78, '79, put the whole budget into chaos.  
8 Madam President, can you imagine what chaos we  
9 were in? We didn't have a budget, and it was  
10 April 1st. And by April 3rd, the proponents  
11 of the amendment backed off, because the state  
12 was perceived to be in great crisis because  
13 the budget was three days late.

14 And Senator Donovan's amendment,  
15 with the assistance of some of his colleagues  
16 in the Majority who indicated that they would  
17 withdraw their support for it as an amendment,  
18 it was withdrawn so we could have a budget.  
19 But we were really, really -- Madam President,  
20 we were really upset because it was April 3rd  
21 when we passed that budget.

22 That's how this emerged as a  
23 separate bill. It became necessary that it be  
24 done separately, not as an amendment to the  
25 budget, in order not to hold up the budget.

1           And lo and behold, it came out as a separate  
2           bill for a couple of years and passed this  
3           house only, of course.

4                         And in 1983, it came out to the  
5           floor here, sponsored by Senator Donovan at  
6           the time, and he was rather stunned after the  
7           roll call to find out that it had failed.  
8           Whoever was doing the vote counting hadn't  
9           noticed a seat in Brooklyn changed hands and  
10          became a pro-choice Democrat. A couple of  
11          other seats, due to retirements in the  
12          majority side, had changed, and pro-choice  
13          Republicans were in those seats. And the bill  
14          didn't command enough votes. So it hasn't  
15          always passed this house.

16                        And it's never passed this house by  
17          a whole lot of extra votes. Which only  
18          demonstrates or reflects, I should say,  
19          perhaps how divided the country can become  
20          over this issue. Or has become. Although  
21          polls show that the majority of Americans are  
22          pro-choice. Obviously, as a political issue,  
23          it's been very divisive.

24                        I've been somewhat encouraged  
25          recently by calls from national elected

1 officials that we all try and seek a new  
2 paradigm in the debate over abortion. Because  
3 while this bill has come out year after year  
4 after year for 27 or 28 years, it certainly  
5 hasn't resolved anything. Certainly, other  
6 than making a statement, it hasn't made  
7 members on either side of the vote feel better  
8 about accomplishing anything. And yet we  
9 don't see the creative legislative  
10 programmatic initiatives to make abortion  
11 rare.

12 And everybody, I think, agrees  
13 they'd like to see abortion rare. It should  
14 be safe but rare. If anything in the  
15 discussion has changed in these last three  
16 decades, it is that most members who support  
17 this bill do today, Madam President,  
18 acknowledge that as a matter of constitutional  
19 law women do have a right to choose an  
20 abortion.

21 In the early years of the debate --  
22 and it was only rhetorical, of course, because  
23 we're not the Supreme Court -- many members on  
24 this floor would get up and denounce the  
25 Supreme Court decision and virtually talk, I

1       guess, in the language of nullification, I  
2       guess would be the old way that -- of a  
3       federal right.

4                       So we all acknowledge abortion is  
5       legal, it's a constitutional right. So why  
6       this bill?

7                       Now, I made, decades ago, the  
8       argument that this was economically  
9       discriminatory. And the response from the  
10      other side of the argument was: Not my money,  
11      the taxpayers' money; I have a right, Congress  
12      has said it, the Supreme Court has agreed, we  
13      as a Legislature have a right to say you can't  
14      use my state tax dollars -- or we have a right  
15      to say you don't use state tax dollars to pay  
16      for an abortion. As Senator Padavan said, we  
17      don't have to pay for it.

18                      Well, Madam President, I, about  
19      10 years ago, 12 years ago, in this debate  
20      threw out something on the floor, and I don't  
21      think it's changed. And I haven't heard it  
22      mentioned today. State tax dollars afford  
23      every one of us and our staffs, who have  
24      health insurance coverage paid for, in part,  
25      by the State of New York -- and other state

1 employees, the many tens of thousands of state  
2 employees, state tax dollars pay for, partly,  
3 for their health insurance, and abortion is  
4 covered, is covered by those health insurance  
5 plans.

6 I mentioned that probably a dozen  
7 years ago in this debate, maybe longer, and  
8 saw people running out for the books to check.  
9 Is that true? Is that true? Yes, it was  
10 true.

11 Only one person of conscience -- I  
12 should say, Madam President, the person of  
13 conscience in this chamber -- responded with  
14 legislation. That's Senator Marchi. I think  
15 we all know who I'm talking about when I talk  
16 about the person of conscience in this  
17 chamber. Not to exclude others, but he is  
18 certainly our paradigm for that.

19 He did put in legislation, out of  
20 his heartfelt convictions, that would have  
21 ended the economic discrimination. His bill  
22 would have denied state funding for Medicaid  
23 as well as for insurance coverage for state  
24 employees. Madam President, that bill didn't  
25 go anywhere. That didn't go anywhere.

1           The fact is, there's a note of  
2           hypocrisy here, and there is an element of  
3           discrimination to say women who have Medicaid  
4           coverage, we don't want them to get coverage  
5           for abortions because it's state tax dollars,  
6           when, at the same time, when at the same time  
7           we spend state -- not mandated, not even  
8           arguably, as Senator Krueger read cases and  
9           argued, quite perhaps correctly, that state  
10          constitutional law would make it necessary or  
11          would forbid us cutting off Medicaid coverage.

12           But no one, no one can seriously  
13          argue that the State of New York, this Senate,  
14          this Legislature is under any legal  
15          constraint, requirement or mandate to pay for  
16          medical coverage, medical insurance coverage  
17          for abortions. Yet we do it. We've always  
18          done it. No one's ever seriously made an  
19          issue of it or tried to stop it, with the  
20          exception of Senator Marchi's bill.

21           And members stand up here and say,  
22          Not my tax dollars to that poor woman who is  
23          in the tragic circumstances that she feels she  
24          must choose an abortion. No one stands up  
25          here and says, Not my staff, not my family,

1 not my insurance coverage.

2 So, Madam President, if it looks  
3 like it's a little hypocritical, it's because  
4 it's a lot hypocritical.

5 Thank you.

6 ACTING PRESIDENT LITTLE: Thank  
7 you, Senator Connor.

8 Senator Parker.

9 SENATOR PARKER: Yes, Madam  
10 President. On the bill.

11 ACTING PRESIDENT LITTLE: Senator  
12 Parker, on the bill.

13 SENATOR PARKER: I rise to oppose  
14 this bill today. I think that this bill is  
15 significantly flawed.

16 And I'm not really questioning the  
17 motives or intentions of the sponsor or  
18 anybody who's planning on voting for it today,  
19 but we should be really clear that this is an  
20 attempt to back-door Roe versus Wade. This is  
21 a back door. What you're trying to simply say  
22 is create again a slippery slope that says  
23 first we deny poor women and then that gives  
24 us, you know, some sort of policy basis to  
25 give deny all women the right to choose for

1 themselves the circumstances under which they  
2 live.

3 This is not our decision to make.  
4 The decision has already been made by the  
5 federal courts. It's already part of the law  
6 of the land. And, you know, being that the  
7 theme for this week is germaneness, I don't  
8 understand how this bill even gets to the  
9 floor, because it's really not germane.  
10 Because I don't understand how we can deny  
11 people, through economic circumstances, their  
12 ability to make a choice for themselves.

13 I ask people to vote no on this  
14 bill, one, because it particularly affects  
15 poor women, women who are in really dire  
16 circumstances, who are making a tough  
17 decision. And on top of that, what this body  
18 is now attempting to do is to create an  
19 additional burden on them by, you know,  
20 creating financial hardship on top of a hard  
21 personal decision that they are forced to  
22 make.

23 I don't know. Maybe, you know, I  
24 think that maybe what this is is some kind of  
25 elaborate economic development ploy. Maybe

1 people think, okay, if these poor women are  
2 forced to -- if they're unable to pay, you  
3 know, for this procedure, that they will be  
4 forced to have children they can't afford or  
5 sometimes can't, you know, take care of, in  
6 bad circumstances. These children are put  
7 then in situations where they grow up more  
8 likely to come in contact with the law, the  
9 judicial system and law enforcement, and thus  
10 will become, you know, residents in our state  
11 jails adding, swelling the rolls of those in  
12 our state prisons and helping the upstate  
13 economy.

14 And if so -- you know, that's the  
15 only thing I can think of that might possibly  
16 make sense of why we we're discussing this  
17 today, Madam President. And if so, let's  
18 discuss some other avenues. I'm happy to help  
19 the upstate economy in other ways. But this  
20 is a poor way to try to do something like  
21 that.

22 We really need to be, you know,  
23 providing more access for people to health  
24 care, not less. Particularly poor people, and  
25 particularly poor women, who have the least

1 access and really have the most difficulty as  
2 it relates to health disparities in our state.

3 And so I ask my colleagues to join  
4 me in voting no on this bill and in making  
5 sure that we protect not just a woman's right  
6 to choose, and uphold the law of the United  
7 States, but that we also make sure we provide  
8 health care for those of us in most need of  
9 those services.

10 Thank you, Madam President.

11 ACTING PRESIDENT LITTLE: Thank  
12 you.

13 Senator Sabini.

14 SENATOR SABINI: Thank you, Madam  
15 President. On the bill.

16 ACTING PRESIDENT LITTLE: Senator  
17 Sabini, on the bill.

18 SENATOR SABINI: Madam President,  
19 the number of abortions in this state has gone  
20 down in the last few years, and I believe  
21 that's because people are weighing the choice  
22 much more heavily and perhaps practicing more  
23 responsibility.

24 An earlier speaker quoted our  
25 junior senator as saying abortion should be

1 rare, and I think we all agree with that. I  
2 think we also should agree that access to  
3 abortion should be fair. And if we cut off  
4 the ability of people who can't afford it to  
5 obtain access to an abortion, that's not fair.

6 I heard an earlier speaker talk  
7 about the electiveness of an abortion. Well,  
8 it depends on the -- it's in the eye of the  
9 beholder. There are some religions that view  
10 any surgery as being elective.

11 I don't believe that a woman,  
12 regardless of her economic status in this  
13 state, chooses to have a surgical procedure,  
14 to have an abortion for purposes of easy  
15 contraception. If you believe that, you're in  
16 another part of town than where I'm from.

17 I think women view this choice as a  
18 serious one, one with great responsibility.  
19 And in terms of responsibility, if we cut off  
20 the access that people who are eligible for  
21 Medicaid have to abortion, then if you follow  
22 that theory, then only the rich will have the  
23 ability to have abortions as a means of  
24 contraception. So that's not particularly  
25 fair or good policy either.

1                   I don't believe any constituent of  
2                   mine makes those decisions to have an abortion  
3                   capriciously or as an elective surgery or as a  
4                   boutique thing to do at a doctor's office,  
5                   but, rather, as a responsible decision for  
6                   their own health, for the well-being of the  
7                   possibility of a child who may be brought into  
8                   the world under bad circumstances or unfair  
9                   circumstances or circumstances that parent  
10                  never envisioned at the time of conception.

11                  I don't believe women do that  
12                  capriciously. And I think to say that they do  
13                  is really insulting to them. I don't ever  
14                  want to be in a position of telling a woman  
15                  from my district who may not be from means, or  
16                  may have just arrived on our shores, that she  
17                  is forced to have a child she doesn't want to  
18                  have, when others just six miles away in  
19                  Manhattan have that choice available to them  
20                  by virtue of their income.

21                  So I'll be voting no today, Madam  
22                  President, and in the hopes that we would  
23                  construct our debate in a sense of fairness  
24                  and in a sense that women who make this choice  
25                  don't do it in a capricious manner but take it

1 just as seriously as we do. And if they  
2 choose to have that abortion in a situation  
3 where they can't afford to pay for it, that we  
4 do not deny them that access to health care  
5 that others in New York State may have.

6 I'll be voting no.

7 ACTING PRESIDENT LITTLE: Thank  
8 you, Senator.

9 Senator Maltese.

10 SENATOR MALTESE: Madam  
11 President, of one thing I'm certain, and in a  
12 way I echo my Senate colleagues, that there's  
13 very little new that will be heard on the  
14 floor of the Senate today after so many years.

15 One new element, as Senator Farley  
16 had pointed out, is that the distinguished  
17 senator making the initial arguments for  
18 the -- in favor of this bill is our new member  
19 of this Senate, and a woman member of the  
20 Senate.

21 I think that does add a different  
22 element countering some of the criticism made  
23 of some of us in the Senate Majority in the  
24 past, although many women in the past have  
25 voted for this legislation and been opposed to

1 other abortion, pro-abortion legislation.

2 I commend to my colleagues a group,  
3 Maternity and Early Childhood Group. It's a  
4 group that assists women in making an informed  
5 choice regarding alternatives to abortion.  
6 But it goes much further than that. It goes  
7 into the fact that if a woman chooses to have  
8 that child, this group, which is assisted by  
9 Senate and Assembly grants and gubernatorial  
10 grants, assists the woman to have that child  
11 and to bring up that child.

12 The arguments pro and con have been  
13 heard today, but I think it deserves  
14 reiteration that those that would choose to  
15 have an abortion I do not believe should, in a  
16 way, infringe on the constitutional rights and  
17 the moral and religious rights of those of us  
18 who do not believe in abortion and who feel  
19 that the abortion terminates the life of an  
20 unborn child.

21 And I think that those that would  
22 say that the poor would not have access to  
23 abortion I think are certainly not cognizant  
24 of the huge resources of so many of these  
25 Planned Parenthood and NARAL groups that they

1 spend on advertising and other venues in the  
2 media that could so easily be put to paying  
3 for these abortions -- so that the taxpayer,  
4 especially the taxpayer who does not agree  
5 with abortions, should not have it in a way on  
6 their conscience that their tax dollars  
7 assisted in those selfsame abortions.

8 So I think we unfortunately live in  
9 a time that abortion is -- despite the best  
10 efforts and the feelings of Senator Sabini and  
11 others, where abortion too often is resorted  
12 to as an alternative and in some cases a  
13 desirable alternative to contraception.

14 We in our society view the killing  
15 in the tens of thousands and, unfortunately,  
16 in the hundreds of thousands over the years of  
17 children who would otherwise not only be born  
18 but lend a great deal to society, and all of  
19 that is lost to -- because of abortion and  
20 because of ease, easy access to abortion.

21 Madam President, I plan to vote yes  
22 on this bill, as I have done so many times in  
23 the past. And I am hopeful that in the future  
24 this bill will pass in both houses, so that  
25 the funding that now goes to terminate

1 pregnancies perhaps can be put to better use  
2 in the birth and upbringing of children.

3 ACTING PRESIDENT LITTLE: Thank  
4 you, Senator Maltese.

5 Senator Hassell-Thompson.

6 SENATOR HASSELL-THOMPSON: Thank  
7 you, Madam President.

8 Most of my colleagues who have  
9 stood up today have talked about what this  
10 bill is or is not, and so that I would like to  
11 insert my definition as to what I think this  
12 bill is. And I think that this bill is an  
13 access bill, an equal-access bill.

14 One of the things that concerns me  
15 somewhat is that we begin to mix some of our  
16 personal and our moral beliefs into what we  
17 believe is our obligation here. I believe  
18 that my obligation is to provide equal access  
19 for my constituents to make choice. That's  
20 what they elected me to do. Nobody decided  
21 that I was their -- was the person responsible  
22 for their moral behavior.

23 Having said that, as we all know,  
24 there are only six days left in the session.  
25 And a remarkable thing happened here today. I

1 heard my friends and colleagues on the other  
2 side of the aisle invoking the need for  
3 committee hearings on legislation.

4 The need for committee hearings has  
5 already been raised, mostly on this side. But  
6 I would doubt that anyone in this house can  
7 think of an issue that is more deserving of a  
8 public hearing or more deserving of a working  
9 committee system than this one, where we have  
10 real input, we need real input from real  
11 people about this issue and one that affects  
12 the lives of so many women throughout the  
13 state.

14 I call on the Majority to take the  
15 time now, before this session ends, to  
16 recognize that we need a working committee  
17 system. We need a vote on the 11 resolutions  
18 pending before the Rules Committee. We need  
19 direct citizen participation and involvement.  
20 And we need hearings on this bill now before  
21 we act.

22 There are only six days left for us  
23 to truly reform our Senate in New York State.

24 ACTING PRESIDENT LITTLE: Thank  
25 you, Senator.

1                   Senator Oppenheimer.

2                   SENATOR OPPENHEIMER:     Thank you,  
3                   Madam President.

4                   You know, I recognize the different  
5                   philosophies and the different backgrounds  
6                   that we all bring to this chamber. And I  
7                   respect our differences. And I think we work  
8                   together relatively well, considering our  
9                   differences and our philosophic backgrounds.

10                  This is one issue, though, that I  
11                  think does sharply divide us. I was thinking,  
12                  in response to one of the speakers that did  
13                  not want his tax dollars going to this  
14                  purpose, I don't particularly want my tax  
15                  dollars going to fight wars. I'm someone that  
16                  believes that almost everything in this world  
17                  can be solved peacefully if you work hard  
18                  enough at it. But a lot of my federal tax  
19                  dollars, and we all pay plenty, go to the war  
20                  machinery and to fighting wars. And that's  
21                  being said as the daughter of a colonel in the  
22                  Army.

23                  So we don't have choices. We --  
24                  you know, they say, what do you have to do in  
25                  life? You have to die and you have to pay

1 taxes. And taxes aren't always going to the  
2 things that you want it to go to. That was  
3 one response.

4 Another, someone said that they  
5 thought that abortion was being used as an  
6 alternative to contraception. Ask any woman  
7 that has had an abortion if she is using it  
8 for contraception. It's much easier, as my  
9 daughters do, to swallow a pill. That does  
10 the trick. And nobody seeks to have an  
11 abortion. Nobody would want an abortion.  
12 It's something, if you get yourself in a real  
13 bind and you find that it's impossible for you  
14 to care for a child, you then have to do what  
15 you have to do.

16 I don't think there's a single  
17 person in this world that would say they want  
18 an abortion. Abortion is horrible. But  
19 sometimes -- I mean, think if it were a child  
20 of yours, a daughter, let's say, and she comes  
21 to you and she's in great pain because this  
22 has happened and she's pregnant. And she's  
23 young and she wants to go to college and she  
24 wants to finish the plans that she's made.  
25 And, I mean, how would you respond? I think

1       you have to think of it personally to see that  
2       this is not a large, universal issue but  
3       something that can be very personal to each  
4       one of us that has a family.

5                 Fortunately, my girls have not put  
6       me in that spot. But I think, were they to  
7       seek my help, I would surely try and offer it  
8       to them.

9                 So I only wanted to say a few other  
10       things. I do feel that, irrespective of  
11       wealth, women who are poor should have the  
12       same safe environment and skilled doctors that  
13       other, wealthier people can have.

14                In 1970, New York State did a very  
15       bold thing, because we believed at that time  
16       that poor women were suffering  
17       disproportionately in very high maternal and  
18       infant deaths. And there were many of these  
19       deaths due to illegal abortions and high-risk,  
20       very closely spaced pregnancies.

21                Which is one reason a lot of women,  
22       I should inject here, seek abortions. We are  
23       told we should not have children more than --  
24       you know, at least 12 months apart. I was  
25       lucky my first two came in 12 months apart.

1 But if it's closer than that, you really have  
2 a need where you are not supposed to have the  
3 child. It is not healthy for the woman.

4 But New York has protected  
5 reproductive freedom for its poorest women  
6 ever since that time, 1970. And we've done it  
7 through the state Medicaid funding for  
8 abortion, since the federal funding, as we  
9 know, can't go for that purpose.

10 So we hear today a great deal about  
11 early detection and early intervention in our  
12 health care, because we all recognize that  
13 early identification is going to mean less  
14 costly procedures, less complicated  
15 procedures, and certainly better health for  
16 the patient.

17 And the fact is that many women are  
18 delaying their abortions because they cannot  
19 pay for them. And abortion after the first  
20 trimester of pregnancy is much more  
21 complicated and, as I said, much more  
22 expensive, and there are fewer and fewer  
23 providers to do it now.

24 I was looking at some costs, and  
25 the costs really escalate in the -- now, this

1 goes back a few years, about eight years. But  
2 at that time, in 12 weeks the cost for an  
3 abortion was about \$300. Four weeks later, it  
4 was doubled. And four weeks later after that,  
5 it was tripled. So costwise, it certainly  
6 does get vastly more expensive.

7 And women who are having trouble to  
8 find the money to pay for the abortion, it  
9 takes more time and it gets more costly and it  
10 gets more serious as time goes on.

11 And I personally think that this  
12 house should be really proud of the historic  
13 work it did many years ago, and it has done,  
14 to ensure that the health of all women, the  
15 health is protected. And I think it would be  
16 very sad and I think it would be shameful to  
17 turn back the clock and to turn our backs on  
18 these poor women.

19 And I also think -- I'll have to  
20 check this, but I think it would be violating  
21 our responsibilities under Article 17 of our  
22 state constitution, which says that we should  
23 provide aid, care and support of the needy.

24 So I know there's not that much new  
25 happening on this issue. This chamber goes

1 over and over this in the 21 years I've been  
2 here. But it's not going to happen in the  
3 other house, and so I rest assured that poor  
4 women will have this as an option.

5 So I'll be voting no, and I hope my  
6 colleagues will also.

7 ACTING PRESIDENT LITTLE: Thank  
8 you, Senator.

9 Senator Meier.

10 SENATOR MEIER: Thank you, Madam  
11 President.

12 A short time ago Senator Connor  
13 mentioned Senator James Donovan, who was the  
14 leading champion in this body for many years  
15 for the pro-life cause. I was Senator  
16 Donovan's counsel for two years. He was my  
17 mentor, he was my friend. And I am no James  
18 Donovan. But I feel compelled to raise some  
19 points today that I think he would raise were  
20 he here.

21 And one of them is kind of  
22 troubling, but this is one that Senator  
23 Donovan used to raise. And Senator Donovan  
24 would bring this legislation to the floor even  
25 after the Supreme Court decided Roe v. Wade

1           because, as he used to remind this body, in  
2           1857 the United States Supreme Court decided a  
3           case called the Dred Scott case. And that  
4           case said that a slave was not a man or a  
5           woman, but property.

6                         And following that, the Supreme  
7           Court ruled unconstitutional the Missouri  
8           Compromise, because if a slave is property,  
9           then you can move it from state to state like  
10          any other piece of property.

11                        And Senator Donovan would bring  
12          this legislation to the floor, even though  
13          some might have said it was an exercise in  
14          futility, because he thought it important to  
15          continue the discussion about just what are we  
16          talking about when we talk about abortion.

17                        And one of the useful things about  
18          this discussion is that people seem to agree,  
19          even those who would regard themselves as  
20          being in the pro-choice camp, that you hear  
21          this business that abortion should be rare, we  
22          should do everything we can to reduce the  
23          number of abortions.

24                        And I find the argument that  
25          abortion should be rare but readily available

1 to be both troubling and really intellectually  
2 arresting in many ways. Why rare, if  
3 untroubling? Why widely available, if there's  
4 something about this that ought to be  
5 troubling?

6 And what I suggest to you, and the  
7 reason that this discussion today is  
8 important, as many discussions are in the  
9 deliberative body, whether we get it resolved  
10 today or not, is because there's an important  
11 idea at stake here. I would suggest to you  
12 that it's troubling because there is at least  
13 at stake in the mind of everyone here,  
14 regardless of where you stand on this, the  
15 nagging realization that we're not dealing  
16 with the removal of a diseased organ, we're  
17 not dealing -- you know, it's been alleged  
18 that those on the side of this bill that I  
19 would advocate treat this lightly, like an  
20 elective procedure. Quite to the contrary.  
21 It's troubling and it ought to be rare, if  
22 occurring at all, because of what we are  
23 dealing with.

24 Abortion ends the life of a living  
25 being of the species homo sapiens, otherwise

1 known, in plain English, as a human being.  
2 That is not theology. That is not something  
3 that the church that I attend teaches me.  
4 That is, my friends and colleagues, science.

5           And that's why it is indeed so  
6 troubling. And that's why this discussion  
7 continues to be important. Because in  
8 reality, in reality, what the abortion debate  
9 is about, as it continues, it's not just about  
10 who ought to pay or at what stage it's  
11 permissible. You have to acknowledge that you  
12 are talking about ending a human life. And  
13 we're niggling and haggling and debating about  
14 at what stage is it permissible and who ought  
15 to pay.

16           This debate is important because it  
17 is important that we go back to the  
18 fundamentals of this. I'm not going to  
19 belabor this. There are others who have far  
20 more eloquently discussed this than I. But  
21 let me tell you something else that came to  
22 mind today.

23           In the 18th century, an English  
24 writer named Jonathan Swift wrote an essay  
25 that sent shock waves across Great Britain and

1 across the European continent. It was called  
2 "A Modest Proposal."

3 And what brings to mind Jonathan  
4 Swift's modest proposal is the suggestion that  
5 somehow we're dealing with economics, the  
6 suggestion that somehow removing Medicaid  
7 funding of abortions violates the  
8 constitutional provision in this state -- by  
9 the way, a constitutional provision authored  
10 by a Republican, Teddy Roosevelt, that  
11 provides that it's a -- I'm sorry, Fiorello  
12 LaGuardia -- that provides that the state  
13 shall provide for the aid and care of the  
14 poor. The state shall provide for the aid and  
15 care of the poor.

16 And it's been suggested today that  
17 providing abortions under Medicaid provides  
18 for the aid and care of the poor.

19 Jonathan's Swift's modest proposal  
20 in his essay was posed in the face of a famine  
21 that was going on in Ireland and the grinding,  
22 abject poverty that people lived under in that  
23 country. And Swift's modest proposal was that  
24 the Irish alleviate their grinding poverty and  
25 ease their hunger by eating their children.

1 It was satire, of course. It was satire, of  
2 course.

3 But I would suggest to you that  
4 what I've heard here today, that providing  
5 abortions is aid and care for the poor, that  
6 is a modest proposal, certainly. And it is  
7 one that I find offensive, surely. Surely we  
8 can shape a vision for the poor of this state  
9 that is more ennobling, that is more positive,  
10 that opens more opportunities and that is more  
11 welcoming than providing them public funds to  
12 abort their unborn children.

13 Madam President, when this comes to  
14 vote, I'll vote aye.

15 ACTING PRESIDENT LITTLE: Thank  
16 you, Senator Meier.

17 Senator Montgomery.

18 SENATOR MONTGOMERY: Yes, thank  
19 you, Madam President.

20 I believe that most of my arguments  
21 have already been made. I certainly agree  
22 with my colleagues that this is a very, very  
23 difficult decision.

24 I certainly can accept the argument  
25 that Senator Meier makes about how really very

1       serious this is. It is very personal, very  
2       private, very much a part of a medical  
3       decision that women have to make for many,  
4       many different reasons, very often. And  
5       throughout the country.

6                It is the law of the land. So  
7       we're not arguing whether or not we have the  
8       right to, but whether or not we believe that  
9       we should have the right to. And certainly  
10      there is a lot of room for debate, continuing.  
11      As we do, unfortunately, around that issue.

12              But right now the question is  
13      whether or not I have the right to make that  
14      decision because I don't have -- I'm not  
15      eligible for Medicaid funding, but my sister  
16      that lives down the hall from me may need to  
17      make that decision. Does she have the right  
18      to make that decision? And I think that is  
19      really ultimately what we're talking about  
20      today.

21              I am afraid, however, that if we  
22      deny my sister down the hall from being able  
23      to make that decision, it won't be very long  
24      before you will be here debating whether or  
25      not I can make that decision. Because we are

1 sisters, you know. And if it's not right for  
2 my sister, then surely you're going to make  
3 the same argument at some point for me. And  
4 you'll figure out a rationale for that, as  
5 I've heard many very interesting rationales  
6 for supporting this legislation.

7 I want to point out to my  
8 colleagues that while we debate the  
9 availability of this particular reproductive  
10 health procedure, whether or not it's  
11 available to women, we are not debating how do  
12 we avoid unintended pregnancies, if that's  
13 what you're talking about. Some people say  
14 this is a means of contraception, that  
15 people -- women just decide to use this as a  
16 contraceptive measure.

17 But where is the bill that would  
18 allow emergency contraception to be  
19 distributed by the pharmacy? It says  
20 emergency -- I have a statement here that says  
21 emergency contraception reduces the risk of  
22 pregnancy by up to 89 percent if taken within  
23 72 hours. The sooner a woman can access and  
24 take emergency contraception, the better it  
25 works.

1                   So we have options. But that's not  
2                   what we are debating today, is it? It's how  
3                   are we going to make certain women unable to  
4                   afford one way and one decision as it relates  
5                   to her reproductive health and care.

6                   So I have to question the sincerity  
7                   of this argument, because you're not telling  
8                   me that you are going to do as much as you can  
9                   for women which will allow them more options  
10                  than what we say abortion does.

11                  The other thing that we're not  
12                  debating and we're not funding, and some of us  
13                  don't want to support that either, that is  
14                  school-based health clinics. Do you know that  
15                  if there were school-based health clinics in  
16                  many -- in the middle schools, especially,  
17                  when young people begin to talk about becoming  
18                  sexually active -- you know, I've heard so  
19                  much about sex today. We have talked about  
20                  sex all day long.

21                  But we're not talking about how do  
22                  we teach young people about their bodies, how  
23                  do we provide for them where they are, in  
24                  their schools, by health professionals, a team  
25                  of health and mental health professionals:

1 How do you protect your body, how do you  
2 engage in being able to avoid having premature  
3 sex activity, and how do you respect your body  
4 and other people's bodies? And on and on.  
5 How do you use contraception as a means of  
6 avoiding pregnancy so that you don't have to  
7 deal with abortions?

8           And begin the process at an early  
9 enough stage and age with sex education,  
10 health care, mental health services, where  
11 they are in their schools. It would be so  
12 much cheaper, more efficient. It would serve  
13 the needs of young people, help them avoid  
14 becoming prematurely pregnant as well as  
15 contracting other life-threatening diseases.

16           Where are we with that? Why aren't  
17 we talking about doing that?

18           So I must say this is very sad,  
19 because we're talking about taking away the  
20 right of a certain group of women to have a  
21 decision that they may need in order to save  
22 their lives, while at the same time we are not  
23 talking at all about how do we support women  
24 in being able to absolutely avoid unwanted  
25 pregnancies, in particular, along with many

1 other things that go along with sex. How are  
2 we going to support those women, how are we  
3 going to make sure that every woman in the  
4 State of New York has access to reproductive  
5 health care, all of what reproductive health  
6 care means to a woman?

7 And are we going continue to  
8 support, support men and their need for Viagra  
9 while we are -- while we deny women access to  
10 reproductive health? I want to talk about  
11 that.

12 So this is really a very sad moment  
13 for me. And, Madam President, I know that I  
14 will be voting no on this legislation, and I  
15 hope that my enlightened male and female  
16 colleagues will vote no on this. This is the  
17 wrong thing to do.

18 The women in the State of New York  
19 have not asked you to do this. They have not  
20 asked us to do this. Please leave us alone  
21 with our health care decisions, our  
22 reproductive health care that we need. Let us  
23 make that decision with our physicians. And  
24 just stay out of my bedroom and the bedrooms  
25 of the women in this state.

1 Thank you very much.

2 ACTING PRESIDENT LITTLE: Thank

3 you.

4 Senator Savino.

5 SENATOR SAVINO: Thank you, Madam

6 President.

7 And it's very hard to follow  
8 Senator Montgomery on that. But I must say,  
9 if you would all stay out of the bedrooms of  
10 the women in this state, we wouldn't have the  
11 need for this debate. But unfortunately,  
12 that's not the case.

13 This has actually been a very  
14 enlightening debate, because many of you have  
15 been here for many years when this bill has  
16 come up. And as it's been pointed out time  
17 and time again, it is a one-house bill that  
18 has never been debated in the other house.  
19 But what it proves here today, to me, is that  
20 reasonable people can disagree on an issue and  
21 still learn from one another.

22 But let's be clear about what this  
23 really is. This is an equal-access issue, it  
24 is a class and economic issue, it is a  
25 health-care issue. That's what this

1 represents to women. We don't seek to  
2 restrict payment for elective procedures for  
3 anything else in the Medicaid problem, with  
4 the exception of probably plastic surgery,  
5 which most insurers restrict.

6 I've heard many of the people here  
7 today say that: We don't want to pay for  
8 abortions, we don't want our taxpayers'  
9 dollars to go towards paying for a women's  
10 right to make reproductive choices. And the  
11 question I have is, who is the "we" that we're  
12 referring to? Because the vast majority of  
13 Americans actually support a woman's right to  
14 make reproductive choices for herself, the  
15 vast majority of Americans.

16 Senator Diaz said that if you  
17 stopped the working poor who got up in the  
18 morning and went to work at 5 o'clock in the  
19 morning every day and stopped them at the  
20 subway and you asked them if they wanted to  
21 pay for this, would they want their taxpayer  
22 dollars to pay for this, they would say no.

23 And my response to him is, if you  
24 asked those same working people if they wanted  
25 their taxpayer dollars to pay for his salary,

1           they would probably say no to that too.  If  
2           you wanted their taxpayer dollars to pay for  
3           anything, they would say no to that.

4                        So we don't make public policy  
5           based upon knee-jerk reactions from people at  
6           a subway stop.  They elect us to make those  
7           public policy decisions.

8                        And the interesting thing about  
9           those working poor people is the vast majority  
10          of them who don't qualify for health insurance  
11          for their employers or don't receive it from  
12          their employers are on Family Health Plus,  
13          which is a fancy name for Medicaid in New York  
14          State.  And if you were to ask them the same  
15          question, if it applied to them, their answer  
16          would probably be no.

17                       I've heard some other things here  
18          today which, quite frankly, I find disturbing,  
19          which are somewhat stereotypical of people's  
20          view of women -- that we're immoral, that  
21          we're irresponsible, and that we would choose  
22          to have abortions as a method of birth  
23          control.  And quite frankly, that's insulting  
24          to women, because it's just not the case.

25                        Poor women and rich women and

1 middle-class women struggle with reproductive  
2 issues all the time. And the decision to have  
3 an abortion is not an easy one for any woman.  
4 And to think that she would just simply go out  
5 and do it because she's irresponsible and it's  
6 just more convenient is -- it belittles the  
7 process.

8 I agree with everyone here who said  
9 that abortion should be rare. And it should  
10 be. In a perfect world, it wouldn't have to  
11 happen. Every woman would be in a committed  
12 relationship, and she would be economically  
13 capable of having as many children as she  
14 wants. But that's just not the reality.  
15 Every woman would be healthy enough to have as  
16 many children as she wants. But that  
17 sometimes is not the reality. And every woman  
18 would have the support of her partner so that  
19 she could have as much children as she wants.  
20 But that's not the reality.

21 So we need to recognize that this  
22 is an equal-access issue for women, regardless  
23 of whether we approve of their choice or we  
24 don't. It is the law of the land that women  
25 have the right to make that choice. And we

1           should not restrict it based upon our own  
2           philosophy or ideology.

3                     ACTING PRESIDENT LITTLE:        Thank  
4           you, Senator.

5                     Senator Golden.

6                     SENATOR GOLDEN:        Thank you, Madam  
7           President.

8                     It's been said and it's continually  
9           said how this is the greatest nation in the  
10          world, and it is.  And we have a great  
11          biography and we have a great history.  But  
12          unfortunately, we are the capital of the world  
13          when it comes to abortions.  And  
14          unfortunately, when you look at some of the  
15          statistics that are out there, it's pretty  
16          sad, especially for the State of New York.  We  
17          have over 120,000 abortions a year.  Over  
18          42 million abortions since 1973.

19                    I don't know, I was voted from my  
20          community to come represent them here in the  
21          State Senate.  And the numbers in my community  
22          are overwhelming against funding taxpayer  
23          dollars for this procedure.  And I'm going to  
24          listen to the people in my community and vote  
25          with this bill.

1                   These numbers are just astounding.  
2           We as a body, we as a state have to do more.  
3           I know there's a lot of talk going on here  
4           today, and I've heard the one-house bill go  
5           back and forth, back and forth. Well, God  
6           willing, hopefully someday in the future it  
7           will become a two-house bill.

8                   Do you know, for every 1,000 births  
9           here in the State of New York there are 500  
10          abortions. But guess what? We're number two.  
11          We're like Avis, trying harder. The District  
12          of Columbia has 706, in 2001, out of the  
13          Kaiser report. The numbers have gone down  
14          somewhat, but not a whole lot.

15                   Here in this state we've gone down  
16          about 5,000 abortions. Hopefully we can see  
17          that number go down 60, 70, 80 percent.  
18          Hopefully, that this is the greatest nation in  
19          the world, and this being the greatest state  
20          in that nation, that we can come together and  
21          find a way of bringing that number down.

22                   Thank you.

23                   ACTING PRESIDENT LITTLE:       Thank  
24          you, Senator Golden.

25                   Before I call upon Senator

1 Schneiderman and Senator Young to close the  
2 debate for their respective conferences, is  
3 there any other Senator wishing to be heard?

4 Seeing none, Senator Schneiderman,  
5 to close for the Minority.

6 SENATOR SCHNEIDERMAN: Thank you,  
7 Madam President.

8 This is -- I believe it's safe to  
9 say, while we do break down to a great degree  
10 on party lines, this is not an issue that I  
11 view as a partisan issue. And I think that  
12 we've had a far-ranging debate on a variety of  
13 subjects here. And I would suggest, in  
14 closing, that there are really two critical  
15 points.

16 One is that we can disagree about  
17 the issue of whether or not a woman should  
18 have a right to choose. I feel very strongly  
19 that, whether it's science or religion -- and  
20 I don't think Senator Meier meant any  
21 disrespect to people making decisions based on  
22 religion -- the question isn't evaluating  
23 whether or not to have an abortion. Many of  
24 us believe that evaluation of the science,  
25 evaluation of the religion should be left to a

1 woman.

2                   It's not a matter of what the  
3 decision is. To most of us, it's a matter of  
4 who decides, and treating women with the  
5 respect to allow them to make that decision  
6 for themselves and not imposing our views or  
7 the views of the predominantly male engines of  
8 government on the women of the State of  
9 New York.

10                   I think that that is something that  
11 people of good conscience can disagree about.  
12 I think people who have strong positions where  
13 they have religious concerns -- anti-choice,  
14 anti-death penalty, if you're going to be  
15 consistent and following the teachings of your  
16 religion -- that's something I may disagree  
17 with, but I can respect.

18                   I do, however, respectfully submit  
19 to my colleagues that if you feel you have to  
20 make a statement on this issue because it's a  
21 strongly felt issue -- sometimes you have to  
22 make a statement on whatever bill comes before  
23 you, whether it's you want to make a statement  
24 by voting against a local tax bill. Sometimes  
25 you're just trying to make a statement.

1                   But that this piece of legislation,  
2           I would urge my colleagues who disagree with  
3           me on the issue of abortion rights, is the  
4           worst possible place to make this argument.  
5           Because this is clearly an issue about  
6           allowing the wealthy to have rights, that  
7           they're allowed to exercise in this state  
8           their constitutional rights while you deny  
9           them to the poor.

10                   This is not a bill that changes the  
11           legality of abortion. It's a bill that simply  
12           would deny health care to women based on their  
13           income. And that, I would suggest, even  
14           whatever your views are on the issue, is not  
15           the best way to make the argument. It's not  
16           the place we should be drawing the line.

17                   I don't think anyone here  
18           disagrees -- and Senator Meier again mentioned  
19           this -- that of course abortion is troubling.  
20           Of course we want them to be, in the words of  
21           President Clinton, "safe, legal and rare."

22                   But I would suggest, my colleagues,  
23           that the way to do that is for this house to  
24           stop blocking the true sex education bill that  
25           has passed the Assembly that is dying here.

1 This is -- the way to accomplish that is for  
2 this house to stop killing the emergency  
3 contraception access bill that would prevent  
4 thousands of abortions. And, to those of you  
5 who are concerned about tax expenditures, the  
6 Comptroller of the State of New York has  
7 demonstrated that this would save hundreds of  
8 millions of dollars. That's dying in this  
9 house.

10 So if we're really troubled by  
11 abortions, there are ways to make them more  
12 rare. But let's be honest about it. This  
13 bill is not one of them. This bill I don't  
14 think evokes the Dred Scott decision that was  
15 cited earlier. This bill evokes Plessy v.  
16 Ferguson, separate but unequal, the shameful  
17 decision in which the U.S. Supreme Court said  
18 black people can be denied access to white  
19 facilities of all kinds. And they can be as  
20 unattractive, as rundown, as underfunded as  
21 you want, and that's okay. Separate but  
22 unequal was okay under that decision.

23 This is a Plessy v. Ferguson bill.  
24 This would create a two-tier health care  
25 system where poor women would be denied access

1 to something that women of means would have.

2 And it is something, again, that is  
3 tremendously personal. And I don't think we  
4 should send the message that some women in  
5 this state have constitutional rights, some  
6 women's consciences are respected by the  
7 government of the State of New York, but women  
8 who don't have enough money aren't going to  
9 have access to those rights, their consciences  
10 don't count. That's the message of this bill.

11 I would prefer that we debate the  
12 issue of abortion rights -- which is  
13 absolutely a troubling, a fundamental, a big  
14 issue for all of us; there's no one I know who  
15 takes this easily or lightly -- in the context  
16 of another bill that was not a bill about  
17 economic discrimination. Let's debate that  
18 issue in its own context.

19 But I would urge all of you, any of  
20 you who are concerned about the number of  
21 abortions in this state, as long as this house  
22 stands in the way of sex education and access  
23 of women to emergency contraception, you  
24 really don't have standing to make that  
25 argument, in my view. Let's do the job, let's

1 pass the bills that are sitting on our  
2 doorstep from the Assembly before we start  
3 complaining about that issue.

4 I'm going to be voting no, Madam  
5 President. I appreciate the legitimate  
6 concerns on both sides of the aisle of my  
7 colleagues on this fundamental -- on the  
8 fundamental issue of abortion rights. But I  
9 strongly disagree with the effort to make a  
10 statement about the position of many of my  
11 opponents on this issue through denying poor  
12 women access to these health-care services.

13 Thank you very much.

14 ACTING PRESIDENT LITTLE: Thank  
15 you, Senator Schneiderman.

16 Senator Young, to close the debate.

17 SENATOR YOUNG: Thank you, Madam  
18 President. On the bill.

19 ACTING PRESIDENT LITTLE: Senator  
20 Young, on the bill.

21 SENATOR YOUNG: You know, I've  
22 listened very intently to this debate today  
23 because, quite honestly, this is the first  
24 time that I've heard this.

25 I did serve in the Assembly for

1 more than six years. And Senator Farley is  
2 right, we voted repeatedly, many of us in the  
3 Assembly, to try to get this issue out on the  
4 floor. And, sadly, we were unable to do so.  
5 So it's important that we have this discussion  
6 today.

7           It's been interesting to me to hear  
8 many of my colleagues characterize  
9 Medicaid-funded abortions as health care. I  
10 would assert to you that abortion is not  
11 health care. Medicaid, by definition, is  
12 intended to cure illness and disability. Most  
13 abortions are performed for social reasons,  
14 not medical reasons. In fact, nearly half of  
15 the abortions that are performed in New York  
16 State are paid for by Medicaid. And many  
17 taxpayers are opposed, morally, to abortion  
18 and object that their tax monies are being  
19 used for this purpose.

20           Some of my colleagues said that  
21 abortion is horrible. I agree. It's a  
22 violent, invasive procedure. And for the  
23 mother, there is an unacceptable risk for  
24 complications. The minimum reported immediate  
25 complications are about 10 percent. Delayed

1 or long-term health complications affecting  
2 future pregnancies and reproductive health  
3 range from 17 to 50 percent.

4 And you know what? The actually  
5 complication rate is actually much higher,  
6 because most complications go unreported.  
7 Clinics, where 90 percent of the abortions are  
8 performed in this state, are not required to  
9 report complications, and they rarely do.

10 Most abortions funded by New York  
11 State are done in free-standing abortion  
12 clinics where the physician has taken no  
13 medical history, has done no physical, and has  
14 had no consultation at all with the patient,  
15 who is a complete stranger.

16 Now, I've heard some of my  
17 colleagues say here today that abortion in  
18 this state is not used as a form of birth  
19 control. I'd like to share with you a story.  
20 One of my friends is a nurse, and she has  
21 spent her career working in a metropolitan  
22 hospital. And for a while she worked in the  
23 recovery room of this hospital. And she told  
24 me about one particular patient who stood out.

25 This woman was a poor woman. She

1 was a prostitute, she was a known prostitute  
2 with an arrest record. And she repeatedly  
3 came into the hospital for abortions. She  
4 would get pregnant, wait until she started to  
5 show after the fourth or fifth month, get an  
6 abortion, and go back out, and in a few months  
7 would be in again to have another abortion.

8 My friend left that recovery room  
9 to go another part of the hospital, and when  
10 they left the recovery room, that woman had  
11 been in for her ninth Medicaid-funded  
12 abortion.

13 That is not health care. And in  
14 fact, that shows the failure of the system.  
15 Many people say that this system is here to  
16 protect women's health. I say in many cases  
17 this victimizes poor women's health in this  
18 state.

19 So I am glad to hear this debate.  
20 I am glad to hear that we're discussing this.  
21 But abortion is a personal and private  
22 decision that is an elective procedure that  
23 should not be funded by our tax dollars.

24 So I speak in favor of this bill.  
25 This is an important bill. And I urge my

1 colleagues to vote yes on this bill.

2 ACTING PRESIDENT LITTLE: Thank  
3 you, Senator Young.

4 The debate is closed.

5 The Secretary will ring the bell.

6 SENATOR SCHNEIDERMAN: Madam  
7 President, we request a slow roll call.

8 ACTING PRESIDENT LITTLE: Since  
9 five members are standing, there will be a  
10 slow roll call on this bill.

11 Read the last section.

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

14 ACTING PRESIDENT LITTLE: The  
15 Secretary will call the roll.

16 THE SECRETARY: Senator Alesi.

17 SENATOR ALESI: Aye.

18 THE SECRETARY: Senator Andrews.

19 SENATOR ANDREWS: No.

20 THE SECRETARY: Senator Balboni.

21 SENATOR BALBONI: Yes.

22 THE SECRETARY: Senator Bonacic.

23 SENATOR BONACIC: No.

24 THE SECRETARY: Senator Breslin.

25 SENATOR BRESLIN: No.

1 THE SECRETARY: Senator Brown.

2 SENATOR BROWN: No.

3 THE SECRETARY: Senator Bruno.

4 (Senator Bruno was indicated as  
5 voting in the affirmative.)

6 THE SECRETARY: Senator Connor.

7 ACTING PRESIDENT LITTLE: Senator  
8 Connor, to explain his vote.

9 SENATOR CONNOR: Thank you, Madam  
10 President.

11 I listened to this entire debate.  
12 And I listened to the sponsor close and say  
13 the fundamental principle was that many people  
14 believe, because of their convictions, that  
15 taxpayer money should not be used to fund  
16 abortion services, which according to the  
17 sponsor are elective.

18 No one explained to me who holds  
19 that position why it is okay, in their mind,  
20 then, that taxpayer money is being used to  
21 fund abortion services for public employees of  
22 the State of New York, including members of  
23 the Legislature and the Legislature's staff.

24 The absence of that reconciliation  
25 is a perfect example, Madam President, of why

1 I vote no.

2 ACTING PRESIDENT LITTLE: Thank  
3 you.

4 Senator Connor in the negative.

5 THE SECRETARY: Senator  
6 DeFrancisco.

7 SENATOR DeFRANCISCO: Yes.

8 THE SECRETARY: Senator Diaz.

9 ACTING PRESIDENT LITTLE: Senator  
10 Diaz, to explain his vote.

11 SENATOR DIAZ: Thank you, Madam  
12 President.

13 Some time ago I used a terminology  
14 here trying to -- against abortion. And I  
15 compared the -- the thing that happened in  
16 Germany against abortion. And that was wrong,  
17 the comparison was wrong.

18 And Senator Stachowski was good  
19 enough to call me aside and tell me, You  
20 shouldn't, I think it's wrong. And he  
21 explained to me. And I accepted his  
22 explanation that it was wrong and I would no  
23 longer use those kind of comparisons.

24 My other colleague, my deputy  
25 conference -- deputy leader, he went public to

1 the press. He didn't call me, he went to the  
2 press and he blasted me to the Daily News.

3 And there's two different  
4 comparisons there, how things could be  
5 handled.

6 Today I heard one of my colleagues  
7 saying that -- comparing the using of taxes to  
8 pay for an abortion as equally by using taxes  
9 to pay for war to defend the freedom of the  
10 country, and for education.

11 So, you know, those are two  
12 different issues. Two different things. And  
13 today we are not dealing about abortion. This  
14 is not about abortion. This is about who's  
15 going to pay for it. This is what it is.  
16 It's not about abortion or about a woman's  
17 right. It's about who's paying for it.

18 The working people, the people that  
19 get up in the morning, at 5 o'clock in the  
20 morning, and have two or three jobs to pay for  
21 abortion? Who's paying for it? I refuse to  
22 make the working people of New York State to  
23 pay for abortions.

24 I'm voting yes.

25 ACTING PRESIDENT LITTLE: Senator

1 Diaz will be recorded in the affirmative.

2 THE SECRETARY: Senator Dilan.

3 SENATOR DILAN: No.

4 THE SECRETARY: Senator Duane.

5 ACTING PRESIDENT LITTLE: Senator  
6 Duane, to explain his vote.

7 SENATOR DUANE: Thank you, Madam  
8 President.

9 Just my philosophy, my strong  
10 belief on this issue is that family planning  
11 and reproductive services, including abortion,  
12 are health care. And health care should be a  
13 right for everyone in our state. And as such,  
14 it should be covered by Medicaid dollars.

15 So because abortion is part of  
16 health care and health care is a right, I'm  
17 voting no, Madam President.

18 ACTING PRESIDENT LITTLE: Thank  
19 you.

20 Senator Duane will be recorded in  
21 the negative.

22 THE SECRETARY: Senator Farley.

23 ACTING PRESIDENT LITTLE: Senator  
24 Farley, to explain his vote.

25 SENATOR FARLEY: Thank you, Madam

1 President.

2 I just want to say that -- commend  
3 Senator Young for the articulate way she  
4 defended this bill as a woman.

5 And also to say that we would have  
6 35 votes here today except two members that  
7 would be voting yes are not here.

8 But I applaud the fact that we are  
9 able to discuss this issue in this chamber and  
10 to vote on it. It's something, again, that  
11 has been here, it's a tradition in this house.  
12 We have passed it year after year. Senator  
13 Connor was right that we used to have to do an  
14 amendment, which none of us liked. But this  
15 bill has passed almost every year that I've  
16 been here.

17 And I'm going to vote aye.

18 ACTING PRESIDENT LITTLE: Senator  
19 Farley will be recorded in the affirmative.

20 THE SECRETARY: Senator Flanagan.

21 SENATOR FLANAGAN: Yes.

22 THE SECRETARY: Senator

23 Fuschillo.

24 SENATOR FUSCHILLO: Aye.

25 THE SECRETARY: Senator Golden.

1                   SENATOR GOLDEN:     Aye.  
2                   THE SECRETARY:     Senator Gonzalez.  
3                   (No response.)  
4                   THE SECRETARY:     Senator Hannon.  
5                   SENATOR HANNON:     Yes.  
6                   THE SECRETARY:     Senator  
7                   Hassell-Thompson.  
8                   SENATOR HASSELL-THOMPSON:     No.  
9                   THE SECRETARY:     Senator Johnson.  
10                  SENATOR JOHNSON:     Aye.  
11                  THE SECRETARY:     Senator Klein.  
12                  SENATOR KLEIN:     No.  
13                  THE SECRETARY:     Senator L.  
14                  Krueger.  
15                  ACTING PRESIDENT LITTLE:     Senator  
16                  Krueger, to explain her vote.  
17                  SENATOR LIZ KRUEGER:     Thank you.  
18                  By singling out abortion as an  
19                  exclusion from Medicaid coverage, our  
20                  government would establish a two-tiered system  
21                  of health care in which poor women do not have  
22                  the same freedom in making decisions about  
23                  their lives and their reproductive health as  
24                  women with income or with private insurance.  
25                  It is fundamentally unjust. It is

1 discriminatory. It is in violation of the  
2 constitution of the State of New York. I'll  
3 be voting no.

4 ACTING PRESIDENT LITTLE: Senator  
5 Krueger will be voting in the negative.

6 THE SECRETARY: Senator C.  
7 Kruger.

8 SENATOR C. KRUGER: No.

9 THE SECRETARY: Senator Larkin.

10 SENATOR LARKIN: Yes.

11 THE SECRETARY: Senator LaValle.

12 SENATOR LaVALLE: Aye.

13 THE SECRETARY: Senator Leibell.

14 SENATOR LEIBELL: Aye.

15 THE SECRETARY: Senator Libous.

16 SENATOR LIBOUS: Yes.

17 THE SECRETARY: Senator Little.

18 SENATOR LITTLE: Yes.

19 THE SECRETARY: Senator Maltese.

20 SENATOR MALTESE: Aye.

21 THE SECRETARY: Senator

22 Marcellino.

23 SENATOR MARCELLINO: Yes.

24 THE SECRETARY: Senator Marchi.

25 SENATOR MARCHI: Aye.

1 THE SECRETARY: Senator Maziarz.  
2 SENATOR MAZIARZ: Aye.  
3 THE SECRETARY: Senator Meier.  
4 SENATOR MEIER: Yes.  
5 THE SECRETARY: Senator  
6 Montgomery.  
7 SENATOR MONTGOMERY: No.  
8 THE SECRETARY: Senator Morahan.  
9 SENATOR MORAHAN: Yes.  
10 THE SECRETARY: Senator Nozzolio.  
11 (No response.)  
12 THE SECRETARY: Senator Onorato.  
13 SENATOR ONORATO: Yes.  
14 THE SECRETARY: Senator  
15 Oppenheimer.  
16 (No response.)  
17 THE SECRETARY: Senator Padavan.  
18 SENATOR PADAVAN: Yes.  
19 THE SECRETARY: Senator Parker.  
20 SENATOR PARKER: No.  
21 THE SECRETARY: Senator Paterson.  
22 (Senator Paterson was indicated as  
23 voting in the negative.)  
24 THE SECRETARY: Senator Rath.  
25 SENATOR RATH: Yes.

1 THE SECRETARY: Senator Robach.  
2 SENATOR ROBACH: Yes.  
3 THE SECRETARY: Senator Sabini.  
4 SENATOR SABINI: No.  
5 THE SECRETARY: Senator Saland,  
6 excused.  
7 Senator Sampson.  
8 SENATOR SAMPSON: No.  
9 THE SECRETARY: Senator Savino.  
10 SENATOR SAVINO: No.  
11 THE SECRETARY: Senator  
12 Schneiderman.  
13 SENATOR SCHNEIDERMAN: No.  
14 THE SECRETARY: Senator Serrano.  
15 SENATOR SERRANO: No.  
16 THE SECRETARY: Senator Seward.  
17 SENATOR SEWARD: No.  
18 THE SECRETARY: Senator Skelos.  
19 SENATOR SKELOS: Aye.  
20 THE SECRETARY: Senator A. Smith.  
21 ACTING PRESIDENT LITTLE: Senator  
22 Smith, to explain her vote.  
23 SENATOR ADA SMITH: Thank you,  
24 Madam President.  
25 I believe that health care is the

1 right of everyone. And this is clearly a  
2 health care issue. I also acknowledge that  
3 every woman in this room, although most of us  
4 are of an age where an abortion would not be  
5 necessary, has a right to have an abortion at  
6 taxpayers' expense, because they are paying  
7 into our health insurance.

8 It's totally unfair that we should  
9 be given that privilege, even though we don't  
10 need it, and women who very much need it are  
11 denied that right. Therefore, I clearly and  
12 resoundingly vote no.

13 ACTING PRESIDENT LITTLE: Senator  
14 A. Smith will be recorded in the negative.

15 THE SECRETARY: Senator M. Smith.

16 SENATOR MALCOLM SMITH: No.

17 THE SECRETARY: Senator Spano.

18 SENATOR SPANO: No.

19 THE SECRETARY: Senator

20 Stachowski.

21 SENATOR STACHOWSKI: Yes.

22 THE SECRETARY: Senator Stavisky.

23 SENATOR STAVISKY: Madam

24 President, to briefly --

25 ACTING PRESIDENT LITTLE: Senator

1 Stavisky, to explain her vote.

2 SENATOR STAVISKY: Thank you.

3 Madam President, I've heard people  
4 say here that it's about who pays for it, who  
5 pays for a medical procedure. And what's the  
6 next procedure that we're going to attack?

7 Madam President, I vote no.

8 ACTING PRESIDENT LITTLE: Senator  
9 Stavisky will be recorded in the negative.

10 THE SECRETARY: Senator Trunzo.

11 SENATOR TRUNZO: Yes.

12 THE SECRETARY: Senator Valesky.

13 SENATOR VALESKY: No.

14 THE SECRETARY: Senator Volker.

15 SENATOR VOLKER: Yes.

16 THE SECRETARY: Senator Winner.

17 SENATOR WINNER: No.

18 THE SECRETARY: Senator Wright.

19 SENATOR WRIGHT: Aye.

20 THE SECRETARY: Senator Young.

21 SENATOR YOUNG: Yes.

22 ACTING PRESIDENT LITTLE: The  
23 Secretary will read the absentees.

24 THE SECRETARY: Senator Gonzalez.

25 (No response.)

1 THE SECRETARY: Senator Nozzolio.

2 (No response.)

3 THE SECRETARY: Senator

4 Oppenheimer.

5 SENATOR OPPENHEIMER: I vote no.

6 THE SECRETARY: Ayes, 32. Nays,

7 27.

8 Absent from voting: Senators

9 Gonzalez and Nozzolio.

10 ACTING PRESIDENT LITTLE: The

11 bill is passed.

12 Senator Skelos.

13 SENATOR SKELOS: Madam President,

14 if we could go to the supplemental active list

15 and take up Calendar Number 1257, by Senator

16 Bonacic.

17 ACTING PRESIDENT LITTLE: Thank

18 you.

19 The Secretary will read.

20 THE SECRETARY: Calendar Number

21 1257, by Senator Bonacic, Senate Print 4656A,

22 an act to amend the Correction Law.

23 SENATOR SCHNEIDERMAN:

24 Explanation.

25 Lay it aside.

1                   ACTING PRESIDENT LITTLE:     We are  
2                   on the noncontroversial reading, and the bill  
3                   will be laid aside.

4                   The Secretary will read.

5                   THE SECRETARY:     Calendar Number  
6                   1488, by Senator Little, Senate Print 720, an  
7                   act to amend the Tax Law.

8                   SENATOR SKELOS:     Madam President.

9                   ACTING PRESIDENT LITTLE:     Senator  
10                  Skelos.

11                  SENATOR SKELOS:     We are on the  
12                  noncontroversial reading of the supplemental  
13                  active list, and we are beginning with Senator  
14                  Bonacic's bill, Calendar Number 1257.

15                  ACTING PRESIDENT LITTLE:     That  
16                  bill has been laid aside.

17                  SENATOR SKELOS:     I believe  
18                  Senator Schneiderman asked for an explanation.

19                  SENATOR SCHNEIDERMAN:     Oh, I'm  
20                  sorry, I meant lay it aside.

21                  SENATOR SKELOS:     You meant lay it  
22                  aside.

23                  Well, then, the bill is laid aside.

24                  ACTING PRESIDENT LITTLE:     The  
25                  bill is laid aside.

1 THE SECRETARY: Calendar Number  
2 1488, by Senator Little, Senate Print 720, an  
3 act to amend the Tax Law.

4 ACTING PRESIDENT LITTLE: There  
5 is a local fiscal impact note at the desk.  
6 Read the last section.

7 THE SECRETARY: Section 2. This  
8 act shall take effect June 1, 2005.

9 ACTING PRESIDENT LITTLE: Call  
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 60.

13 ACTING PRESIDENT LITTLE: The  
14 bill is passed.

15 THE SECRETARY: Calendar Number  
16 1489, by Senator Rath, Senate Print 1574A, an  
17 act to amend the Social Services Law.

18 ACTING PRESIDENT LITTLE: Read  
19 the last section.

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

22 ACTING PRESIDENT LITTLE: Call  
23 the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 59. Nays,

1 1. Senator Duane recorded in the negative.

2 ACTING PRESIDENT LITTLE: The  
3 bill is passed.

4 THE SECRETARY: In relation to  
5 Calendar Number 1491, Senator Saland moves to  
6 discharge, from the Committee on Rules,  
7 Assembly Bill Number 4539 and substitute it  
8 for the identical Senate Bill Number 1832,  
9 Third Reading Calendar 1491.

10 ACTING PRESIDENT LITTLE:  
11 Substitution ordered.

12 The Secretary will read.

13 THE SECRETARY: Calendar Number  
14 1491, by Member of the Assembly Miller,  
15 Assembly Print Number 4539, an act to amend  
16 the Tax Law.

17 ACTING PRESIDENT LITTLE: Read  
18 the last section.

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

21 ACTING PRESIDENT LITTLE: Call  
22 the roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 60.

25 ACTING PRESIDENT LITTLE: The

1 bill is passed.

2 THE SECRETARY: Calendar Number  
3 1492, by Senator Little, Senate Print 2306, an  
4 act to amend the General Business Law.

5 ACTING PRESIDENT LITTLE: Read  
6 the last section.

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

9 ACTING PRESIDENT LITTLE: Call  
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 60.

13 ACTING PRESIDENT LITTLE: The  
14 bill is passed.

15 THE SECRETARY: Calendar Number  
16 1493, by Senator Hannon, Senate Print 2559, an  
17 act to amend the Public Health Law.

18 ACTING PRESIDENT LITTLE: Read  
19 the last section.

20 THE SECRETARY: Section 5. This  
21 act shall take effect immediately.

22 ACTING PRESIDENT LITTLE: Call  
23 the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 60.

1                   ACTING PRESIDENT LITTLE:     The  
2     bill is passed.

3                   THE SECRETARY:        Calendar Number  
4     1494, by Senator Spano, Senate Print 2758A, an  
5     act to amend the Retirement and Social  
6     Security Law.

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

9                   Read the last section.

10                  THE SECRETARY:        Section 5. This  
11     act shall take effect immediately.

12                  ACTING PRESIDENT LITTLE:     Call  
13     the roll.

14                  (The Secretary called the roll.)

15                  THE SECRETARY:        Ayes, 60.

16                  ACTING PRESIDENT LITTLE:     The  
17     bill is passed.

18                  THE SECRETARY:        In relation to  
19     Calendar Number 1495, Senator Volker moves to  
20     discharge, from the Committee on Rules,  
21     Assembly Bill Number 6595B and substitute it  
22     for the identical Senate Bill Number 2985A,  
23     Third Reading Calendar 1495.

24                  ACTING PRESIDENT LITTLE:  
25     Substitution ordered.

1                   The Secretary will read.

2                   THE SECRETARY:     Calendar Number  
3                   1495, by Member of the Assembly Jacobs,  
4                   Assembly Print Number 6595B, an act to amend  
5                   the Executive Law.

6                   ACTING PRESIDENT LITTLE:     Read  
7                   the last section.

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

10                  ACTING PRESIDENT LITTLE:     Call  
11                  the roll.

12                  (The Secretary called the roll.)

13                  THE SECRETARY:     Ayes, 60.

14                  ACTING PRESIDENT LITTLE:     The  
15                  bill is passed.

16                  THE SECRETARY:     In relation to  
17                  Calendar Number 1496, Senator Young moves to  
18                  discharge, from the Committee on Rules,  
19                  Assembly Bill Number 4223A and substitute it  
20                  for the identical Senate Bill Number 3409,  
21                  Third Reading Calendar 1496.

22                  ACTING PRESIDENT LITTLE:  
23                  Substitution ordered.

24                  The Secretary will read.

25                  THE SECRETARY:     Calendar Number

1 1496, by Member of the Assembly Parment,  
2 Assembly Print Number 4223A, an act in  
3 relation to authorizing.

4 ACTING PRESIDENT LITTLE: Read  
5 the last section.

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

8 ACTING PRESIDENT LITTLE: Call  
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 60.

12 ACTING PRESIDENT LITTLE: The  
13 bill is passed.

14 THE SECRETARY: Calendar Number  
15 1497, by Senator Johnson, Senate Print 3528,  
16 an act to amend Chapter 672 of the Laws of  
17 1993.

18 ACTING PRESIDENT LITTLE: Read  
19 the last section.

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

22 ACTING PRESIDENT LITTLE: Call  
23 the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 60.

1                   ACTING PRESIDENT LITTLE:     The  
2 bill is passed.

3                   THE SECRETARY:        Calendar Number  
4 1498, by Senator Young, Senate Print 3663, an  
5 act to amend the State Finance Law.

6                   ACTING PRESIDENT LITTLE:     Read  
7 the last section.

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

10                  ACTING PRESIDENT LITTLE:     Call  
11 the roll.

12                                   (The Secretary called the roll.)

13                  THE SECRETARY:        Ayes, 60.

14                  ACTING PRESIDENT LITTLE:     The  
15 bill is passed.

16                  THE SECRETARY:        Calendar Number  
17 1499, by Senator Robach, Senate Print 3701, an  
18 act to authorize.

19                  ACTING PRESIDENT LITTLE:     Read  
20 the last section.

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

23                  ACTING PRESIDENT LITTLE:     Call  
24 the roll.

25                                   (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 60.

2 ACTING PRESIDENT LITTLE: The  
3 bill is passed.

4 THE SECRETARY: Calendar Number  
5 1500, by Senator Larkin, Senate Print 3913, an  
6 act to amend the Retirement and Social  
7 Security Law.

8 ACTING PRESIDENT LITTLE: Read  
9 the last section.

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

12 ACTING PRESIDENT LITTLE: Call  
13 the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 60.

16 ACTING PRESIDENT LITTLE: The  
17 bill is passed.

18 THE SECRETARY: Calendar Number  
19 1501, by Senator Robach, Senate Print 3919, an  
20 act to amend the Retirement and Social  
21 Security Law.

22 ACTING PRESIDENT LITTLE: Read  
23 the last section.

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

1                   ACTING PRESIDENT LITTLE:     Call  
2     the roll.

3                   (The Secretary called the roll.)

4                   THE SECRETARY:     Ayes, 60.

5                   ACTING PRESIDENT LITTLE:     The  
6     bill is passed.

7                   THE SECRETARY:     Calendar Number  
8     1502, by Senator Larkin, Senate Print 4017, an  
9     act to amend the Tax Law.

10                  ACTING PRESIDENT LITTLE:     Read  
11     the last section.

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

14                  ACTING PRESIDENT LITTLE:     Call  
15     the roll.

16                  (The Secretary called the roll.)

17                  THE SECRETARY:     Ayes, 59. Nays,  
18     1. Senator Duane recorded in the negative.

19                  ACTING PRESIDENT LITTLE:     The  
20     bill is passed.

21                  THE SECRETARY:     In relation to  
22     Calendar Number 1503, Senator Padavan moves to  
23     discharge, from the Committee on Rules,  
24     Assembly Bill Number 7021 and substitute it  
25     for the identical Senate Bill Number 4067,

1 Third Reading Calendar 1503.

2 SENATOR DUANE: Lay it aside,  
3 please.

4 ACTING PRESIDENT LITTLE:  
5 Substitution ordered.

6 The Secretary will read.

7 THE SECRETARY: Calendar Number  
8 1503 --

9 ACTING PRESIDENT LITTLE: The  
10 bill is laid aside.

11 THE SECRETARY: In relation to  
12 Calendar Number 1504, Senator Morahan moves to  
13 discharge, from the Committee on Mental Health  
14 and Developmental Disabilities, Assembly Bill  
15 Number 1248 and substitute it for the  
16 identical Senate Bill Number 4142, Third  
17 Reading Calendar 1504.

18 ACTING PRESIDENT LITTLE:  
19 Substitution ordered.

20 The Secretary will read.

21 THE SECRETARY: Calendar Number  
22 1504, by Member of the Assembly Dinowitz,  
23 Assembly Print Number 1248, an act to amend  
24 the Mental Hygiene Law.

25 ACTING PRESIDENT LITTLE: Read

1 the last section.

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

4 ACTING PRESIDENT LITTLE: Call  
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 60.

8 ACTING PRESIDENT LITTLE: The  
9 bill is passed.

10 THE SECRETARY: Calendar Number  
11 1505, by Senator Farley, Senate Print 4195, an  
12 act to amend the Banking Law.

13 ACTING PRESIDENT LITTLE: Read  
14 the last section.

15 THE SECRETARY: Section 7. This  
16 act shall take effect immediately.

17 ACTING PRESIDENT LITTLE: Call  
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 60.

21 ACTING PRESIDENT LITTLE: The  
22 bill is passed.

23 THE SECRETARY: Calendar Number  
24 1506, by Senator Farley, Senate Print 4198, an  
25 act to amend the Banking Law.

1                   ACTING PRESIDENT LITTLE:     Read  
2     the last section.

3                   THE SECRETARY:        Section 16. This  
4     act shall take effect on the 30th day.

5                   ACTING PRESIDENT LITTLE:     Call  
6     the roll.

7                   (The Secretary called the roll.)

8                   THE SECRETARY:        Ayes, 60.

9                   ACTING PRESIDENT LITTLE:     The  
10    bill is passed.

11                  THE SECRETARY:        Calendar Number  
12    1507, by Senator Hannon, Senate Print 4244A,  
13    an act to amend the Public Health Law.

14                  ACTING PRESIDENT LITTLE:     Read  
15    the last section.

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

18                  ACTING PRESIDENT LITTLE:     Call  
19    the roll.

20                  (The Secretary called the roll.)

21                  THE SECRETARY:        Ayes, 60.

22                  ACTING PRESIDENT LITTLE:     The  
23    bill is passed.

24                  THE SECRETARY:        Calendar Number  
25    1508, by Senator Wright, Senate Print 4268, an

1 act to amend the Executive Law.

2 ACTING PRESIDENT LITTLE: Read  
3 the last section.

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

6 ACTING PRESIDENT LITTLE: Call  
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 59. Nays,  
10 1. Senator Duane recorded in the negative.

11 ACTING PRESIDENT LITTLE: The  
12 bill is passed.

13 THE SECRETARY: Calendar Number  
14 1509, by Senator Wright, Senate Print 4368, an  
15 act to amend the Criminal Procedure Law.

16 ACTING PRESIDENT LITTLE: Read  
17 the last section.

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

20 ACTING PRESIDENT LITTLE: Call  
21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Those recorded in  
24 the negative on Calendar Number 1509 are  
25 Senators Duane, Hassell-Thompson, and

1 L. Krueger.

2 Ayes, 57. Nays, 3.

3 ACTING PRESIDENT LITTLE: The  
4 bill is passed.

5 THE SECRETARY: Calendar Number  
6 1510, by Senator Golden, Senate Print 4455, an  
7 act to amend the Retirement and Social  
8 Security Law and the Administrative Code of  
9 the City of New York.

10 ACTING PRESIDENT LITTLE: Read  
11 the last section.

12 THE SECRETARY: Section 5. This  
13 act shall take effect immediately.

14 ACTING PRESIDENT LITTLE: Call  
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 60.

18 ACTING PRESIDENT LITTLE: The  
19 bill is passed.

20 THE SECRETARY: Calendar Number  
21 1511, by Senator Golden, Senate Print 4530A,  
22 an act to amend the Retirement and Social  
23 Security Law and the Administrative Code of  
24 the City of New York.

25 ACTING PRESIDENT LITTLE: There

1 is a home-rule message at the desk.

2 Read the last section.

3 THE SECRETARY: Section 7. This  
4 act shall take effect immediately.

5 ACTING PRESIDENT LITTLE: Call  
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 60.

9 ACTING PRESIDENT LITTLE: The  
10 bill is passed.

11 THE SECRETARY: Calendar Number  
12 1512, by Senator Robach, Senate Print 4822, an  
13 act to amend the Civil Service Law.

14 ACTING PRESIDENT LITTLE: Read  
15 the last section.

16 THE SECRETARY: Section 5. This  
17 act shall take effect immediately.

18 ACTING PRESIDENT LITTLE: Call  
19 the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 60.

22 ACTING PRESIDENT LITTLE: The  
23 bill is passed.

24 THE SECRETARY: Calendar Number  
25 1513, by Senator Winner, Senate Print 4835, an

1 act to amend the --

2 SENATOR WINNER: Lay it aside for  
3 the day, please.

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

6 THE SECRETARY: Calendar Number  
7 1514, by Senator Flanagan, Senate Print 5231A,  
8 an act to amend the Correction Law.

9 ACTING PRESIDENT LITTLE: Read  
10 the last section.

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

13 ACTING PRESIDENT LITTLE: Call  
14 the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 60.

17 ACTING PRESIDENT LITTLE: The  
18 bill is passed.

19 THE SECRETARY: In relation to  
20 Calendar Number 1515, Senator Marcellino moves  
21 to discharge, from the Committee on Rules,  
22 Assembly Bill Number 7892 and substitute it  
23 for the identical Senate Bill Number 5347,  
24 Third Reading Calendar 1515.

25 ACTING PRESIDENT LITTLE:

1 Substitution ordered.

2 The Secretary will read.

3 THE SECRETARY: Calendar Number  
4 1515, by Member of the Assembly DiNapoli,  
5 Assembly Print Number 7892, an act to amend  
6 the Town Law.

7 ACTING PRESIDENT LITTLE: Read  
8 the last section.

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

11 ACTING PRESIDENT LITTLE: Call  
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 60.

15 ACTING PRESIDENT LITTLE: The  
16 bill is passed.

17 THE SECRETARY: Calendar Number  
18 1516, by the Senate Committee on Rules, Senate  
19 Print Number 5378, an act to amend the Tax  
20 Law.

21 ACTING PRESIDENT LITTLE: Read  
22 the last section.

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

25 ACTING PRESIDENT LITTLE: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 60.

4 ACTING PRESIDENT LITTLE: The  
5 bill is passed.

6 THE SECRETARY: In relation to  
7 Calendar Number 1518, Senator Skelos moves to  
8 discharge, from the Committee on Rules,  
9 Assembly Bill Number 7422A and substitute it  
10 for the identical Senate Bill Number 5433A,  
11 Third Reading Calendar 1518.

12 ACTING PRESIDENT LITTLE:  
13 Substitution ordered.

14 The Secretary will read.

15 THE SECRETARY: Calendar Number  
16 1518, by Member of the Assembly Weisenberg,  
17 Assembly Print Number 7422A, an act to amend  
18 the Parks, Recreation and Historic  
19 Preservation Law.

20 ACTING PRESIDENT LITTLE: Read  
21 the last section.

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

24 ACTING PRESIDENT LITTLE: Call  
25 the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 60.

3 ACTING PRESIDENT LITTLE: The  
4 bill is passed.

5 THE SECRETARY: Calendar Number  
6 1520, by the Senate Committee on Rules, Senate  
7 Print Number 5464, an act to amend the Labor  
8 Law.

9 ACTING PRESIDENT LITTLE: Read  
10 the last section.

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

13 ACTING PRESIDENT LITTLE: Call  
14 the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 60.

17 ACTING PRESIDENT LITTLE: The  
18 bill is passed.

19 THE SECRETARY: Calendar Number  
20 1521, by the Senate Committee on Rules, Senate  
21 Print Number 5469, an act to make the widow  
22 and children of a former uniformed employee.

23 ACTING PRESIDENT LITTLE: Read  
24 the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT LITTLE: Call  
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 60.

6 ACTING PRESIDENT LITTLE: The  
7 bill is passed.

8 THE SECRETARY: Calendar Number  
9 1522, by Senator Meier, Senate Print 5473, an  
10 act to amend the Executive Law.

11 ACTING PRESIDENT LITTLE: Read  
12 the last section.

13 THE SECRETARY: Section 2. This  
14 act shall take effect January 1, 2006.

15 ACTING PRESIDENT LITTLE: Call  
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 60.

19 ACTING PRESIDENT LITTLE: The  
20 bill is passed.

21 THE SECRETARY: In relation to  
22 Calendar Number 1523, Senator Young moves to  
23 discharge, from the Committee on Rules,  
24 Assembly Bill Number 6873A and substitute it  
25 for the identical Senate Bill Number 5508A,

1 Third Reading Calendar 1523.

2 ACTING PRESIDENT LITTLE:

3 Substitution ordered.

4 The Secretary will read.

5 THE SECRETARY: Calendar Number

6 1523, by Member of the Assembly Magee,

7 Assembly Print Number 6873A, an act to amend

8 the Agriculture and Markets Law.

9 ACTING PRESIDENT LITTLE: Senator

10 Sabini.

11 SENATOR SABINI: Madam President,

12 to explain my vote.

13 ACTING PRESIDENT LITTLE: Can you

14 hold till we do the roll call.

15 Read the last section.

16 THE SECRETARY: Section 9. This

17 act shall take effect on the 180th day.

18 ACTING PRESIDENT LITTLE: Call

19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT LITTLE: Senator

22 Sabini, to explain his vote.

23 SENATOR SABINI: Thank you, Madam

24 President. I was called out of turn, and I

25 apologize.

1 I just want to say I'm going to  
2 vote for the bill, but I urge the sponsors to  
3 look at my bill, S5454. In the sponsor's  
4 memorandum, it talks about having a greater  
5 level of efficiency for dog licensing. And in  
6 this state, people who purchase a dog are not  
7 notified by the purchaser, are not required to  
8 be notified by the purchaser of the local  
9 license requirements, where to get a license.

10 And I believe my bill, which is now  
11 in Rules and has passed Consumer Affairs,  
12 would make this bill even more effective. And  
13 I vote aye, but I implore the sponsor to look  
14 at my bill and add it to the repertoire.

15 Thank you.

16 ACTING PRESIDENT LITTLE: Senator  
17 Sabini will be recorded in the affirmative.

18 The Secretary will announce the  
19 results.

20 THE SECRETARY: Ayes, 60.

21 ACTING PRESIDENT LITTLE: The  
22 bill is passed.

23 THE SECRETARY: In relation to  
24 Calendar Number 1525, Senator Maziarz moves to  
25 discharge, from the Committee on Rules,

1 Assembly Bill Number 8484 and substitute it  
2 for the identical Senate Bill Number 5564,  
3 Third Reading Calendar 1525.

4 ACTING PRESIDENT LITTLE: The  
5 substitution is ordered.

6 The Secretary will read.

7 THE SECRETARY: Calendar Number  
8 1525, by Member of the Assembly DelMonte,  
9 Assembly Print Number 8484, an act to amend  
10 the Environmental Conservation Law.

11 ACTING PRESIDENT LITTLE: Read  
12 the last section.

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

15 ACTING PRESIDENT LITTLE: Call  
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 60.

19 ACTING PRESIDENT LITTLE: The  
20 bill is passed.

21 THE SECRETARY: In relation to  
22 Calendar Number 1526, Senator DeFrancisco  
23 moves to discharge, from the Committee on  
24 Rules, Assembly Bill Number 8174 and  
25 substitute it for the identical Senate Bill

1 Number 5574, Third Reading Calendar 1526.

2 ACTING PRESIDENT LITTLE: The  
3 substitution is ordered.

4 The Secretary will read.

5 THE SECRETARY: Calendar Number  
6 1526, by Member of the Assembly Karben,  
7 Assembly Print Number 8174, an act to amend  
8 the Court of Claims Act.

9 ACTING PRESIDENT LITTLE: Read  
10 the last section.

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

13 ACTING PRESIDENT LITTLE: Call  
14 the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 60.

17 ACTING PRESIDENT LITTLE: The  
18 bill is passed.

19 THE SECRETARY: Calendar Number  
20 1527, by Senator Volker, Senate Print 5584, an  
21 act to amend the Civil Practice Law and Rules  
22 and the Real Property Actions and Proceedings  
23 Law.

24 ACTING PRESIDENT LITTLE: Read  
25 the last section.

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

3 ACTING PRESIDENT LITTLE: Call  
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Those recorded in  
7 the negative on Calendar Number 1527 are  
8 Senators Duane and L. Krueger.

9 Ayes, 58. Nays, 2.

10 ACTING PRESIDENT LITTLE: The  
11 bill is passed.

12 Senator Skelos, that completes the  
13 noncontroversial reading of the supplemental  
14 calendar.

15 SENATOR SKELOS: Thank you, Madam  
16 President.

17 If we could go to the controversial  
18 reading of the supplemental active list.

19 ACTING PRESIDENT LITTLE: Thank  
20 you.

21 The Secretary will ring the bell.

22 The Secretary will read.

23 THE SECRETARY: Calendar Number  
24 1257, by Senator Bonacic, Senate Print 4656A,  
25 an act to amend the Correction Law.

1 SENATOR SCHNEIDERMAN:

2 Explanation.

3 SENATOR MONTGOMERY: Explanation.

4 ACTING PRESIDENT LITTLE: Senator  
5 Bonacic, for an explanation.

6 SENATOR BONACIC: Thank you,  
7 Madam President.

8 This legislation amends the  
9 Correction Law in relation to requiring the  
10 electronic monitoring of Level 3 sex  
11 offenders. These Level 3 sex offenders are  
12 the most dangerous, they're most likely to  
13 commit a crime of rape, assault, murder  
14 against children and women.

15 This legislation was part of the  
16 omnibus bill by Senator Skelos with Megan's  
17 Law last week. I talked to the portion of the  
18 bill that dealt with GPS monitoring; now it is  
19 a stand-alone bill.

20 We have, I believe, 34 sponsors in  
21 a bipartisan way in the Senate. There were  
22 two no votes on the omnibus Megan's bill, of  
23 which this was a component.

24 ACTING PRESIDENT LITTLE: Senator  
25 Montgomery.

1                   SENATOR MONTGOMERY:     Madam  
2     President, would the sponsor yield for a  
3     question on this legislation.

4                   ACTING PRESIDENT LITTLE:     Senator  
5     Bonacic, do you yield?

6                   SENATOR BONACIC:     Absolutely.

7                   ACTING PRESIDENT LITTLE:     Thank  
8     you.

9                   The Senator yields.

10                  SENATOR MONTGOMERY:     Senator  
11     Bonacic, your legislation, does it -- is this  
12     monitoring for life? This is a lifetime  
13     monitoring bill?

14                  SENATOR BONACIC:     As long as  
15     there's a Level 3 sex offender category, then  
16     there could be electronic monitoring for life.

17                  SENATOR MONTGOMERY:     Madam  
18     President, through you, if Senator Bonacic  
19     would answer another question.

20                  ACTING PRESIDENT LITTLE:     Senator  
21     Bonacic, do you yield?

22                  SENATOR BONACIC:     Yes.

23                  ACTING PRESIDENT LITTLE:     The  
24     Senator yields.

25                  SENATOR MONTGOMERY:     Thank you.

1                   So, Senator Bonacic, who pays for  
2                   this electronic monitoring? Is this part of  
3                   the Criminal Justice DOCS budget, or is there  
4                   some fee that's charged to the person?

5                   SENATOR BONACIC:       At the present  
6                   time, we have approximately a little over  
7                   5,200 Level 3 sex offenders that have been  
8                   designated as such in the State of New York,  
9                   of which 4,400 are in the communities in the  
10                  State of New York. The rest are still in  
11                  jail.

12                  It is estimated that passive  
13                  electronic monitoring is \$5 per person.  
14                  Active electronic monitoring is \$10 per  
15                  person. Total cost is approximately  
16                  \$10 million per year that would have to be  
17                  paid by the budget, out of our budget, the  
18                  taxpayers, to be offset based on a needs  
19                  standard. If that Level 3 sex offender could  
20                  pay, was working, we would have him pay for  
21                  his own monitoring as an offset.

22                  SENATOR MONTGOMERY:    Through you,  
23                  Madam President, if Senator Bonacic would  
24                  continue to yield.

25                  ACTING PRESIDENT LITTLE:    Thank

1           you.

2                         Senator Bonacic, do you continue to  
3           yield?

4                         SENATOR BONACIC:        Yes.

5                         ACTING PRESIDENT LITTLE:        The  
6           Senator yields.

7                         SENATOR MONTGOMERY:        Thank you.

8                         Senator Bonacic, your proposal to  
9           spend the \$10 million, approximating, that it  
10          might cost us to do this, do we have any idea  
11          of how the extent of recidivism, if you will,  
12          that --

13                        SENATOR BONACIC:        You mean how  
14          successful it will be?

15                        SENATOR MONTGOMERY:        Not how  
16          successful it will be.  But how many people  
17          commit additional offenses, of the Level 3s?  
18          I mean, this must be a huge problem that we're  
19          going to spend \$10 million, I would imagine.

20                        SENATOR BONACIC:        Well, let me  
21          make sure I understand your question.

22                        In the state of Florida since 1998,  
23          they have put in GPS monitoring of Level 3 sex  
24          offenders.  The recidivism rate dropped by  
25          30 percent, of that category.

1                   Now, you're asking me of the 4,400  
2                   that we have designated now, if we go to GPS  
3                   monitoring, how many of those people are not  
4                   apt to commit a crime again?

5                   SENATOR MONTGOMERY:     No.  My  
6                   question is, what is the basis of us making a  
7                   decision to spend the \$10 million?

8                   SENATOR BONACIC:     Why we're  
9                   making an investment of \$10 million?

10                  SENATOR MONTGOMERY:     Is this a  
11                  crisis issue at this point in time, based on  
12                  the statistics that you have of how many  
13                  repeat offenses of people in this category?

14                  SENATOR BONACIC:     The purpose of  
15                  investing \$10 million is to protect children  
16                  and community from acts of violence of  
17                  assault, rape or murder from this day forward  
18                  into the future.  That's the purpose of making  
19                  the investment.

20                  SENATOR MONTGOMERY:     I see.  
21                  Okay.

22                  And one last question regarding  
23                  Senator Bonacic's legislation, Madam  
24                  President, through you.

25                  ACTING PRESIDENT LITTLE:     Senator

1 Bonacic, do you yield?

2 SENATOR BONACIC: Yes.

3 ACTING PRESIDENT LITTLE: The  
4 Senator yields.

5 SENATOR MONTGOMERY: Thank you.

6 So now if a person does not wear  
7 the monitor or for some reason takes it off,  
8 this becomes a felony, a D felony? In other  
9 words, the person is required to wear the  
10 monitor, somehow takes it off and is found to  
11 be in violation of wearing the monitor, that  
12 person gets charged with an additional charge  
13 of a D felony?

14 SENATOR BONACIC: The Criminal  
15 Justice Department has prescribed rules and  
16 regulations of when it would be appropriate to  
17 take the electronic monitoring off.

18 If you're in your home and you're  
19 within 150 feet of the transmitter, it's  
20 appropriate. But if you intentionally break  
21 the connection between the ankle bracelet and  
22 the transmitter, the first offense would be a  
23 misdemeanor.

24 If you go into what we call  
25 exclusionary zones, hot zones -- which are

1 schools, daycare centers, places where there  
2 are vulnerable children -- that will be a  
3 violation.

4 And what happens is when that  
5 happens, a signal goes off to what we call a  
6 collecting agency. And within 60 to 90  
7 seconds, they notify the Division of Criminal  
8 Justice. Either a state parole officer will  
9 go out, in those cases where those counties  
10 don't have a county parole officer, or the  
11 call could go to a county parole officer, who  
12 would then make a judgment to go out and try  
13 to find that Level 3 sexual predator.

14 More than one intentional violation  
15 is a D felony.

16 SENATOR MONTGOMERY: I see. All  
17 right, thank you.

18 Just briefly on the legislation.

19 ACTING PRESIDENT LITTLE: Senator  
20 Montgomery, on the bill.

21 SENATOR MONTGOMERY: I want to  
22 thank Senator Bonacic. I think that I have  
23 the idea.

24 And it sounds like at least for  
25 Level 3s, which we all agree that's a very

1           serious level of criminality -- and I would  
2           associate it to some extent with mental  
3           illness, to tell you the honest truth, the  
4           criminally mentally ill, if you will.

5                        I think, however, there are some  
6           experts, if you will, professionals who are  
7           involved in this field, in this area, who --  
8           with whom we have not had any dialogue and  
9           discussion vis-a-vis some public hearings,  
10          some hearings where we can at least discuss  
11          what are the potentials, what are the  
12          ramifications, what should we be doing as a  
13          legislature along these lines.

14                      Clearly, there probably are some  
15          instances where lifetime -- requiring  
16          electronic monitoring for a period of a  
17          lifetime might be necessary.  Maybe there are  
18          other situations that may not require it.

19                      Maybe there are other ways of  
20          monitoring other than having an electronic  
21          system.  And maybe we don't have to spend  
22          \$10 million on -- just specifically on the  
23          electronic monitoring, and I would imagine  
24          that's only the beginning.

25                      So I really think that it is

1 important for us to have much more information  
2 on just what is needed for these Level 3  
3 offenders. I know we've talked a lot about it  
4 today. It's -- and everybody wants to do  
5 something about it. At least everybody wants  
6 to be on record having said something about  
7 these sex people. But we do need more  
8 information, I think, because we're talking  
9 about, essentially, quite a major expense for  
10 the state.

11 So, Madam President, I'm going to  
12 support this legislation. But I do think that  
13 it is a very bad thing for us to continue down  
14 this road where we're going to be expending  
15 very large sums of money and we really don't  
16 know what we're talking about at this point in  
17 time. So we may be spending good money after  
18 bad people for no good reason, necessarily, or  
19 not to get the outcome that we want.

20 So I'll be voting yes. Thank you.

21 ACTING PRESIDENT LITTLE: Thank  
22 you, Senator Montgomery.

23 Senator Onorato.

24 SENATOR ONORATO: Madam  
25 President, will the sponsor yield for a

1 question?

2 ACTING PRESIDENT LITTLE: Senator  
3 Bonacic, do you yield?

4 SENATOR BONACIC: Yes.

5 ACTING PRESIDENT LITTLE: The  
6 Senator yields.

7 SENATOR ONORATO: Senator  
8 Bonacic, I certainly intend to support this  
9 bill, as I have in the past.

10 I just have one concern. You  
11 mentioned the fact that the individual wearing  
12 the monitor is allowed to remove it while he's  
13 at home.

14 SENATOR BONACIC: Yes.

15 SENATOR ONORATO: What safeguards  
16 do we have if he takes the monitor off at home  
17 and goes out the door without the monitor,  
18 back into the neighborhood?

19 SENATOR BONACIC: Well, when you  
20 say what safeguards do we have, we don't --  
21 you mean if he walks out, he's -- you're  
22 asking the same question if he takes it off  
23 during the day.

24 In other words, there will be a  
25 pattern, for the sake of discussion, of when

1           they go home. Let's say they leave normally  
2           at 9:00 in the morning. I'm just trying to  
3           give you a common-sense explanation. If there  
4           is no communication or no signal from that  
5           house, say, within 24 hours or 30 hours, that  
6           probation officer could then -- a red light  
7           would go off, and maybe he'd start making a  
8           phone call or he would start maybe making a  
9           visit to that home to see if he's there.

10                         That's the only answer I could give  
11           you. There's no perfect guarantee of  
12           anything. This GPS is not a substitute for  
13           tougher criminal penalties. It's not a  
14           substitute for civil confinement. It's not a  
15           substitute for more parole officers. It's the  
16           latest technology to help parole officers  
17           monitor, as best they can, Level 3 sex  
18           offenders.

19                         SENATOR ONORATO:        Thank you.

20                         ACTING PRESIDENT LITTLE:    Senator  
21           Duane.

22                         SENATOR DUANE:        Thank you, Madam  
23           President. If the sponsor would yield.

24                         ACTING PRESIDENT LITTLE:    Thank  
25           you.

1 Senator Bonacic --

2 SENATOR BONACIC: Yes, I do.

3 ACTING PRESIDENT LITTLE: Senator  
4 Bonacic yields.

5 SENATOR DUANE: I am aware that  
6 there have been hearings around the state on  
7 Megan's Law under the leadership of the  
8 chairman, Senator Nozzolio. But I'm wondering  
9 if this specific piece of legislation was the  
10 subject of any of those hearings or included  
11 in those hearings.

12 SENATOR BONACIC: As I understand  
13 it, the GPS Level 3 electric -- electronic  
14 monitoring was part of the omnibus bill and  
15 part of the public hearings.

16 SENATOR DUANE: And through you,  
17 Madam President, if the sponsor would continue  
18 to yield.

19 ACTING PRESIDENT LITTLE: Thank  
20 you.

21 Senator Bonacic, do you continue to  
22 yield?

23 SENATOR BONACIC: Yes, I do.

24 ACTING PRESIDENT LITTLE: The  
25 Senator yields.

1                   SENATOR DUANE:     Is there an  
2     Assembly sponsor of this specific piece of  
3     legislation at this time?

4                   SENATOR BONACIC:     The answer is  
5     yes.    Assemblyman David Koon and I have  
6     similar bills, of which there are 28 majority  
7     Assembly sponsors in that house.    The same  
8     David Koon who lost a 19-year-old daughter who  
9     was molested and murdered.

10                  SENATOR DUANE:     Through you,  
11     Madam President, if the sponsor would continue  
12     to yield.

13                  ACTING PRESIDENT LITTLE:     Thank  
14     you.

15                  Senator Bonacic, do you continue to  
16     yield?

17                  SENATOR BONACIC:     Yes.

18                  ACTING PRESIDENT LITTLE:     The  
19     Senator yields.

20                  SENATOR DUANE:     Thank you, Madam  
21     President.

22                  And I am aware of that tragedy  
23     within Assembly Member Koon's family, and he  
24     had my greatest sympathy for it.

25                  I noted, however, that the sponsor

1           said that the bills were similar. And I just  
2           want to clarify, does that mean that they're  
3           not same-as or exactly the same at this time?

4                         SENATOR BONACIC:        Yes.

5           Assemblyman Koon took our first bill on GPS  
6           and adopted it identically.

7                         We've tried to make our bill more  
8           specific with the Division of Criminal Justice  
9           Services, and on a very specific procedure --  
10          on passive GPS, active GPS, and contracting it  
11          out to low-bid companies that are involved in  
12          this business.

13                        At this time, Assemblyman Koon and  
14          I are working on the detailed language. And  
15          so our amended version is not exactly the same  
16          as the first version, which he embraced a  
17          hundred percent. But that's technical  
18          language that we are working out, and we  
19          expect to have the same-as bill with  
20          Assemblyman Koon by tomorrow.

21                        SENATOR DUANE:        And through you,  
22          Madam President, if the sponsor would continue  
23          to yield.

24                        ACTING PRESIDENT LITTLE:        Senator  
25          Bonacic, do you continue to yield?

1                   SENATOR BONACIC:     Excuse me,  
2     Senator.  I'm told by my counsel as of two  
3     hours ago we now have reached agreement with  
4     Assemblyman Koon on the language.

5                   So the answer is we now have a  
6     same-as bill.

7                   ACTING PRESIDENT LITTLE:     Thank  
8     you.

9                   And do you continue to yield?

10                  SENATOR BONACIC:     I do.

11                  ACTING PRESIDENT LITTLE:     Thank  
12     you.

13                  The Senator yields.

14                  SENATOR DUANE:     Through you,  
15     Madam President, I was just wondering if the  
16     sponsor just had anything else to say on that  
17     matter.

18                  SENATOR BONACIC:     I'm sorry,  
19     Senator, I didn't hear the last question.

20                  SENATOR DUANE:     I just felt as if  
21     you were going to make one final comment on  
22     it, and I was going to wait to see -- I might  
23     not have a question if that was the case.

24                  SENATOR BONACIC:     I'm ready for  
25     your next question, if you have one.

1                   SENATOR DUANE:     Well, what I'm  
2     trying to get at, through you, Madam  
3     President, is whether or not there will be --  
4     and I know that the sponsor doesn't have a  
5     crystal ball about this, but I'm wondering if  
6     we might see yet another version of this  
7     legislation in this house or if he thinks this  
8     is the end and this is the final bill.

9                   ACTING PRESIDENT LITTLE:     Senator  
10    Bonacic?

11                  SENATOR BONACIC:     Yes, as far as  
12    the Senate is concerned, at this time the bill  
13    on GPS with Assemblyman Koon is the bill we  
14    want to see go forward.

15                  In the other house, the Speaker  
16    speaks of a bill carried by another Assembly  
17    member that talks about GPS that would only  
18    have Level 3 GPS monitoring of those people  
19    who have committed a crime against children  
20    16 years or younger and leaves vulnerable no  
21    GPS monitoring of a woman 17 years old and  
22    older.

23                  I don't know, you know.    Which bill  
24    will go forward. I -- furthermore, I spoke to  
25    the minority leader, Assemblyman Nesbitt, and

1 I believe his entire conference supports the  
2 Koon bill.

3 So we believe that there is the  
4 necessary votes in the Assembly to pass that  
5 bill if Sheldon Silver allows it to come to  
6 the floor.

7 SENATOR DUANE: Thank you, Madam  
8 President. I just have one final question, if  
9 the sponsor would continue to yield for it.

10 ACTING PRESIDENT LITTLE: Thank  
11 you.

12 Senator Bonacic, do you continue to  
13 yield?

14 SENATOR BONACIC: I do.

15 ACTING PRESIDENT LITTLE: The  
16 Senator yields.

17 SENATOR DUANE: And I have to  
18 acknowledge I think I used to know the answer  
19 to this question, but now I'm unsure whether I  
20 know the question.

21 Is there a mechanism by which a  
22 Level 3 offender can have their level reduced  
23 to Level 2? Or is it, under present law, that  
24 a Level 3 offender always keeps that Level 3  
25 status?

1                   SENATOR BONACIC:     Senator, under  
2                   Megan's Law now, there is a petition to change  
3                   your level.

4                   Under our bill, there also is a  
5                   petition process for a Level 3 sex offender to  
6                   have his day in court. At least once a year,  
7                   that they can bring that petition to ask a  
8                   judge to reduce their level from 3 to a lower  
9                   level.

10                  SENATOR DUANE:     Thank you, Madam  
11                  President. Thank you.

12                  ACTING PRESIDENT LITTLE:     Is  
13                  there any other Senator who wishes to be  
14                  heard?

15                  The debate is closed.

16                  The Secretary will ring the bell.

17                  Read the last section.

18                  THE SECRETARY:     Section 3. This  
19                  act shall take effect on the 120th day.

20                  ACTING PRESIDENT LITTLE:     Call  
21                  the roll.

22                  (The Secretary called the roll.)

23                  ACTING PRESIDENT LITTLE:     Senator  
24                  Bonacic, to explain his vote.

25                  SENATOR BONACIC:     I wanted to

1 give a further explanation to Senator  
2 Onorato's question about when a Level 3 sexual  
3 predator was at home.

4 The ankle bracelet has to stay on  
5 at all times. It's the transmitter that he  
6 can take off. And if he goes 150 feet away  
7 from that transmitter, then an alarm would go  
8 off.

9 So anywhere in his house or  
10 150 feet from that transmitter, if he leaves  
11 the house and walks beyond 150 feet of it,  
12 they will know immediately, and he will have  
13 been in violation.

14 Thank you, Madam President.

15 ACTING PRESIDENT LITTLE: And,  
16 Senator Bonacic, how do you vote?

17 SENATOR BONACIC: I vote in the  
18 affirmative.

19 ACTING PRESIDENT LITTLE: Senator  
20 Bonacic will be recorded in the affirmative.

21 The Secretary will announce the  
22 results.

23 THE SECRETARY: In relation to  
24 Calendar Number 1257: Ayes, 58.

25 Those Senators absent from voting:

1 Senators Gonzalez, Nozzolio and Parker.

2 ACTING PRESIDENT LITTLE: The  
3 bill is passed.

4 THE SECRETARY: Calendar Number  
5 1503, by Member of the Assembly Abbate,  
6 Assembly Print Number 7021, an act to amend  
7 the Retirement and Social Security Law.

8 ACTING PRESIDENT LITTLE: Senator  
9 Duane.

10 SENATOR DUANE: Thank you, Madam  
11 President. I'm wondering if the sponsor would  
12 yield for a question.

13 ACTING PRESIDENT LITTLE: Senator  
14 Padavan, will you yield for a question?

15 SENATOR PADAVAN: Yes.

16 ACTING PRESIDENT LITTLE: The  
17 Senator yields.

18 SENATOR DUANE: Thank you, Madam  
19 President. I'm going to have the courage to  
20 be confused as I ask these questions.

21 I was reviewing the Governor's veto  
22 message of this bill, as well as a bill that  
23 Senator Velella had brought to the floor in  
24 2003 similar to the one that came before this  
25 body in 2004. And in 2003, I notice that the

1 Governor didn't raise an issue, but in 2004  
2 the Governor did raise an issue which is of  
3 concern, and I'm wondering if the sponsor  
4 could clarify.

5 The Governor was concerned that the  
6 bill appeared to grant hepatitis, HIV and  
7 tuberculosis presumption to Tier 4 peace  
8 officers. And I was hoping that the sponsor  
9 could address the Governor's concerns that he  
10 raised in his veto message.

11 SENATOR PADAVAN: Yes, I can.

12 And in response to the Governor's  
13 concern, we changed the section of law that  
14 we're amending where we're adding these  
15 particular categories of individuals. So this  
16 presumption that you just articulated would no  
17 longer exist.

18 SENATOR DUANE: Through you,  
19 Madam President, if the sponsor would continue  
20 to yield.

21 ACTING PRESIDENT LITTLE: Thank  
22 you.

23 Senator Padavan, do you continue to  
24 yield?

25 SENATOR PADAVAN: Yes.

1                   ACTING PRESIDENT LITTLE:     Senator  
2     Padavan yields.

3                   SENATOR DUANE:         If the sponsor  
4     would just indulge me and just tell me where  
5     it is in the legislation, in the language of  
6     the --

7                   SENATOR PADAVAN:       It's not in the  
8     language, it's in the section of law. We're  
9     amending Section 605(D), which is different  
10    than that in the prior legislation that was  
11    vetoed.

12                   And in this section there is a  
13    specific methodology, if you will, used when,  
14    as an example, today a paramedic or a  
15    firefighter or a police officer or a  
16    correction officer applies for a disability  
17    based on an injury that he or she experienced  
18    on the job.

19                   So that section of law is now  
20    applicable, would be applicable to these other  
21    categories, such as individuals who are people  
22    who give out traffic tickets or work as  
23    security guards at our City University or at  
24    our schools, where they too might be injured  
25    in a similar fashion in the conduct of their

1 employment, and then be able to apply for  
2 disability insurance -- disability coverage,  
3 rather.

4 SENATOR DUANE: Through you,  
5 Madam President, if the sponsor would continue  
6 to yield.

7 ACTING PRESIDENT LITTLE: Thank  
8 you.

9 Senator Padavan, do you continue to  
10 yield?

11 SENATOR PADAVAN: Yes.

12 ACTING PRESIDENT LITTLE: The  
13 Senator yields.

14 SENATOR DUANE: Just for  
15 clarification, we're talking about Section --  
16 oh, I see, we're talking about Section 608,  
17 not 605. Is that correct?

18 SENATOR PADAVAN: This bill  
19 amends Section 605(D), accidental disability  
20 retirement.

21 SENATOR DUANE: Then through you,  
22 Madam President, if the sponsor would continue  
23 to yield.

24 SENATOR PADAVAN: Yes.

25 ACTING PRESIDENT LITTLE: The

1 sponsor yields.

2 SENATOR DUANE: When I look at  
3 Section 605 of the Retirement and Social  
4 Security Law, under Section D, as I read it, I  
5 could be wrong, but it just -- it says that --  
6 this part of the law speaks to that a person  
7 has to, at the time that they retire, that  
8 they are -- it's for the reason that they are  
9 too ill or too physically unable to work, and  
10 doesn't particularly address the issue of how  
11 it is that they became disabled.

12 In other words, it's just at the  
13 moment when they say, I can no longer work, at  
14 the moment that the agency says this person is  
15 in longer able to work, that's all this  
16 section of the Retirement and Social Security  
17 Law is looking at.

18 And so what I'm concerned about is  
19 that the presumption that the physical health  
20 problem is presumed to have happened on the  
21 job. There is no way that you could go back  
22 and prove that an incident happened that would  
23 cause that employee to be disabled.

24 SENATOR PADAVAN: Is that a  
25 question, Senator? Well, let me respond then.

1                   In the body of the bill it says  
2                   very specifically, listing the individuals  
3                   that I mentioned earlier, "who becomes  
4                   physically or mentally incapacitated for the  
5                   performance of duties as the natural and  
6                   proximate result of an accident sustained in  
7                   the performance of his or her duties, not  
8                   caused by his or her willful negligence,  
9                   sustained in such service," and on and on it  
10                  goes.

11                  It has been to be an accident, an  
12                  incident during the time of employment that  
13                  the individual didn't wilfully cause, and as a  
14                  direct result of employment. That's the  
15                  specific language in this section we are  
16                  amending.

17                  So this is not a presumption that  
18                  after the fact, they're working for 20 years  
19                  and now they're going to retire and they say,  
20                  Hey, by the way, I've got a disability and I  
21                  want to enhance my pension. This has to be  
22                  reported, documented and dealt with at the  
23                  time it occurs.

24                                 ACTING PRESIDENT LITTLE:         Senator  
25                                 Duane.

1                   SENATOR DUANE:     And through you,  
2     Madam President, if the sponsor would continue  
3     to yield.

4                   ACTING PRESIDENT LITTLE:     Senator  
5     Padavan, do you continue to yield?

6                   SENATOR PADAVAN:     Yes.

7                   ACTING PRESIDENT LITTLE:     The  
8     Senator yields.

9                   SENATOR DUANE:     I'm still trying  
10    to find where it is that the employee makes  
11    the report that an incident happened on the  
12    job.

13                   And so I was hoping that the  
14    sponsor could tell me where that specific  
15    reporting requirement is, because I don't see  
16    it in the --

17                   SENATOR PADAVAN:     Well, Senator,  
18    if the bill says -- if the law we're trying to  
19    adopt here, the bill we're trying to adopt  
20    here becomes law, the bill says it has to be  
21    an accident that occurred while you were in  
22    the course of your duties.

23                   Now, the only way that could ever  
24    be used is if it was reported. You just can't  
25    say, 10 years, 20 years later, by the way,

1           when I was giving that guy a traffic ticket  
2           for parking illegally, he hit me over the head  
3           and now I've got some kind of mental  
4           disability.

5                        The first question is who, what,  
6           when, and where. That has to be reported, a  
7           matter of record. Otherwise, you're not going  
8           to get anywhere with your application.

9                        SENATOR DUANE:       And through you,  
10          Madam President, and I don't -- I ask this  
11          with the utmost respect, where would I, as a  
12          citizen, find that report?

13                       ACTING PRESIDENT LITTLE:       Senator  
14          Padavan, could you answer the question?

15                       SENATOR PADAVAN:       What's that? I  
16          didn't quite understand you.

17                       SENATOR DUANE:       Where would I, as  
18          a citizen, or anyone here --

19                       ACTING PRESIDENT LITTLE:       The  
20          speakers can't hear.

21                       SENATOR PADAVAN:       I think I  
22          understand the question.

23                       SENATOR DUANE:       -- find that  
24          report?

25                       SENATOR PADAVAN:       A disability

1 pension is not something that's given out  
2 willy-nilly. Local government has to pay for  
3 this. There's a cost associated with it.  
4 There's an investigation, an inquiry, a  
5 process, irrespective of this legislation, in  
6 any case where a disability pension is being  
7 applied for.

8 And here we're very specific that  
9 it has to be a disability, again, I say,  
10 caused in the performance of your duties and  
11 not one that you precipitated.

12 So that has to be a matter of  
13 record in order to claim disability under the  
14 provision of this bill.

15 SENATOR DUANE: Through you,  
16 Madam President, if the sponsor would yield.

17 ACTING PRESIDENT LITTLE: Thank  
18 you.

19 Senator Padavan, will you continue  
20 to yield?

21 SENATOR PADAVAN: One more.

22 ACTING PRESIDENT LITTLE: The  
23 Senator will yield for one more question.

24 SENATOR PADAVAN: One more.

25 SENATOR DUANE: Where do I find

1 the record?

2 SENATOR PADAVAN: The Office of  
3 Disability Retirement has these files, and  
4 that's where the records are kept. That's  
5 where you would find them. Where else would  
6 they be?

7 SENATOR DUANE: On the bill,  
8 Madam President.

9 ACTING PRESIDENT LITTLE: Thank  
10 you.

11 Senator Duane, on the bill.

12 SENATOR DUANE: The primary  
13 concern I have about the bill is that it  
14 appears that if a person is not planning on  
15 retiring at the moment that something happens  
16 to them, then they would not make a report of  
17 whatever incident that is that ultimately  
18 might lead them to retire sooner than they  
19 would want to, but that the person would not  
20 think to report that to this retirement board.

21 And that they would only be able to  
22 make at that report at the time that they're  
23 retiring. And to say something happened a  
24 month ago, you know, a year ago, five years  
25 ago -- and yet at the point that they're

1 retiring because they're too ill to continue  
2 to work, there isn't a requirement that a  
3 report be made at the time that the incident  
4 happened.

5           And in the past I had had concerns  
6 about presumptions particularly around the  
7 issue of exposure to HIV and AIDS. And that a  
8 person could say, because they had to retire  
9 because they had AIDS, that somewhere in the  
10 past or sometime in the past, because of some  
11 incident that was not reported anywhere, that  
12 there was no record of the incident happening,  
13 it would still be presumed that something must  
14 have happened to cause them to be infected  
15 with HIV and then ultimately to come down with  
16 full-blown AIDS.

17           And I want to make as clear as  
18 possible that I would never, ever do anything  
19 that would negatively impact the ability of a  
20 person who is disabled because of AIDS -- or  
21 for anything, for that matter -- to not be  
22 able to retire with a pension of some high  
23 level of what their salary would be or of what  
24 their pension would be. I would want them to  
25 get that. I would want them to get full

1 benefits.

2 What I'm concerned about still is  
3 the presumption, as the Governor talked about  
4 in his veto, that it could be presumed that  
5 the person contracted, for instance, HIV on  
6 the job and yet there would be no report of an  
7 incident having happened.

8 And I'm further concerned that we  
9 not allow the message to go out there that you  
10 could contract HIV in any kind of casual way.  
11 And I've spoken on the floor about the very  
12 specific ways which HIV could be contracted,  
13 and they are the only ways that HIV can be  
14 contracted -- sharing needles, unprotected  
15 sex, breast-feeding, or a blood transfusion.

16 But because there is no way to say  
17 that, for instance, you know, someone was  
18 stuck with a needle, you know, when they were  
19 inspecting a cab or whatever it might be, or a  
20 security officer that was going through  
21 someone's briefcase or pocketbook or something  
22 like that, it seems to me that you would want  
23 to make sure that that person had to make a  
24 report that that happened to their supervisor,  
25 to their union, to someplace.

1                   And, you know, I authored, when I  
2                   was in the city, a bill which mandated that  
3                   people who were disabled by AIDS got a certain  
4                   level of benefits and they were able to  
5                   receive those benefits in a prescribed length  
6                   of time. And so of course I would want people  
7                   with AIDS who were unable to work to get the  
8                   full level of benefits to which they're  
9                   entitled -- in fact, enhanced benefits -- and  
10                  in a timely manner.

11                  So I want to make sure that  
12                  hard-working people who are injured on the job  
13                  get as close to their full salary as they  
14                  possibly can because of what happened to them  
15                  on their job. But I'm conflicted because I  
16                  still think -- and even though, you know, in  
17                  the past I've voted against bills which had  
18                  language which I found much more  
19                  objectionable, this bill is more or less  
20                  silent on the language that I found  
21                  objectionable, and yet the Governor in his  
22                  veto message raised the same issue which I've  
23                  been concerned about all along.

24                  And so what I'd like to do, and  
25                  what I actually did with former Senator

1 Velella when he was here, is to try to work  
2 with the sponsor of this legislation and other  
3 similar legislation to try to find language  
4 which actually would have a reporting  
5 requirement in it to ensure that a bad public  
6 health message that you could get HIV by just  
7 casual contact is not in any way on the record  
8 anywhere in the State of New York, and at the  
9 same time make sure that workers get the  
10 protection that they're entitled to when they  
11 are injured on the job.

12 So I'm going to vote no on this.  
13 I'm assuming the Governor will veto this bill  
14 again. If that does happen, I would like to  
15 continue to work with sponsors of this  
16 legislation and similar legislation to craft  
17 language which has a reporting requirement in  
18 it.

19 Thank you, Madam President. I'll  
20 be voting no.

21 ACTING PRESIDENT LITTLE: Thank  
22 you, Senator Duane.

23 Senator Connor.

24 SENATOR CONNOR: Thank you, Madam  
25 President.

1 I've followed this debate as  
2 carefully as I could. And as I read it -- and  
3 I know the concern in the past which I shared  
4 with Senator Duane was that some sort of  
5 presumption was in there. But I think the  
6 dispute here is over what's not in the bill  
7 but what is already in the law.

8 To get a disability pension or a  
9 line-of-duty injury or job-related disability,  
10 the claimant has to prove their case. Now,  
11 not beyond a reasonable doubt, but there are  
12 review boards, you have to demonstrate that  
13 your disability was job-related.

14 And I would object to saying that  
15 there's a magic report that would have had to  
16 have been filed way back when, only because,  
17 you know, a report could get lost. It also  
18 becomes like a lawyer's trick: Aha, you  
19 didn't file the report within 30 days,  
20 therefore forget about it, even though you  
21 have six other pieces of evidence.

22 For example -- and all workers know  
23 this. On my first job at 17, I remember they  
24 give you the rules. And one of the rules  
25 is -- they had a sign in the locker room, this

1 was a factory, "Report All Injuries." Report  
2 all injuries. Workers are told that, report  
3 all on-the-job injuries the same day.

4 People who work for a living know  
5 that they get hurt on the job, they're  
6 supposed to report it. Not just because later  
7 on they may be disabled, but because of  
8 workers' compensation issues, insurance claim  
9 issues, medical treatment and who pays for it.  
10 Workers report injuries on the job.

11 So that if you didn't report it to  
12 the employer, there are other ways to prove  
13 that you incurred an injury on the job five  
14 years ago. If you sought medical treatment,  
15 there will be medical records, there will be a  
16 doctor's evaluation, there will be your  
17 account five years ago, what you told the  
18 doctor. You know, gee, I was -- you know, my  
19 job was cleaning out the cab and I didn't see  
20 it, there was a hypodermic needle, I got  
21 stabbed. I'm worried; do I have something?

22 People aren't going to be casual  
23 about those kinds of injuries. You know, I  
24 got cut, I was in an accident, other people  
25 were injured, blood was all over the place.

1                   It's going to get reported in one  
2                   way or another. It may not be reported -- or  
3                   there may not be a record at the time they  
4                   apply for the disability pension, a record in  
5                   the employer's employee personnel file, for  
6                   whatever reason, on the right form. But there  
7                   may be other ways that the worker can  
8                   demonstrate that they did actually incur a job  
9                   related thing. As I pointed out, there may be  
10                  a police report because it was an accident  
11                  outside the workplace but driving the  
12                  employer's vehicle. Who knows? There's a lot  
13                  of ways.

14                  But generally the employee will  
15                  have to demonstrate some occurrence that then  
16                  medical reports can relate to the later  
17                  disability.

18                  So I am no longer as concerned as I  
19                  was before. I don't see any presumption in  
20                  this. I see that it's a straightforward -- if  
21                  you can show, when you're retiring, that  
22                  you're disabled because of HIV, AIDS and you  
23                  have proof that something that happened to you  
24                  work-related caused that, then you get the  
25                  pension.

1                   Otherwise, there's no presumption  
2                   that just because you have HIV that it had to  
3                   do with your job. As Senator Duane has  
4                   reminded us in past year's debates, as well as  
5                   today, that that kind of presumption is  
6                   frankly -- there's no basis for it in  
7                   scientific or medical evidence, it's just a  
8                   fright thing. You know, casual contact of  
9                   whatever sort with persons who are HIV isn't  
10                  going to cause any kind of worker or public  
11                  servant to have HIV.

12                  So I am voting this year in favor  
13                  of this bill because I think the sponsor has  
14                  removed that section and has dealt with the  
15                  issue in an appropriate way.

16                  ACTING PRESIDENT LITTLE:        Thank  
17                  you, Senator Connor.

18                  Is there any other Senator wishing  
19                  to be heard?

20                  The debate is closed.

21                  The Secretary will ring the bell.

22                  Read the last section.

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

25                  ACTING PRESIDENT LITTLE:        Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT LITTLE: The  
4 Secretary will announce the results.

5 THE SECRETARY: Those recorded in  
6 the negative on Calendar Number 1503: Senator  
7 Duane.

8 Those Senators absent from voting:  
9 Gonzalez and L. Krueger.

10 Ayes, 58. Nays, 1.

11 ACTING PRESIDENT LITTLE: The  
12 bill is passed.

13 Senator Alesi, that completes the  
14 controversial reading of the supplemental  
15 calendar.

16 SENATOR ALESI: Thank you, Madam  
17 President.

18 Would you be kind enough to  
19 recognize Senator Nozzolio at this time.

20 ACTING PRESIDENT LITTLE: Senator  
21 Nozzolio.

22 SENATOR NOZZOLIO: Thank you,  
23 Senator Alesi. Thank you, Madam President.

24 I wish the record to reflect my  
25 affirmative support for Calendar Number 1257

1 and Calendar Number 1485.

2 ACTING PRESIDENT LITTLE: The  
3 record will so reflect, Senator Nozzolio.  
4 Senator Alesi.

5 SENATOR ALESI: Madam President,  
6 there will be an immediate meeting of the  
7 Rules Committee, and after the Rules Committee  
8 report is accepted, there will be a Majority  
9 conference.

10 Madam President, may we at this  
11 time return to motions and resolutions.

12 ACTING PRESIDENT LITTLE: Motions  
13 and resolutions.

14 Senator Robach.

15 SENATOR ROBACH: Yes, Madam  
16 President, amendments are offered to the  
17 following Third Reading Calendar bills:

18 Senator Marcellino, page 23,  
19 Calendar 706, Senate Print Number 4471;

20 Senator Morahan, page 28, Calendar  
21 801, Senate Print 4775;

22 Senator Flanagan, page 43, Calendar  
23 1131, Senate Print Number 5109;

24 And Senator Wright, page 56,  
25 Calendar 1428, Senate Print 5532.

1                   Madam President, I now move that  
2                   these bills retain their place on the order of  
3                   third reading.

4                   ACTING PRESIDENT LITTLE:       The  
5                   amendments are received, and the bills will  
6                   retain their place on third reading.

7                   Senator Farley.

8                   SENATOR FARLEY:       Thank you, Madam  
9                   President.

10                  I wish to call up my bill, Print  
11                  Number 4388, which was recalled from the  
12                  Assembly, which is now at the desk.

13                  ACTING PRESIDENT LITTLE:       The  
14                  Secretary will read.

15                  THE SECRETARY:       Calendar Number  
16                  837, by Senator Farley, Senate Print 4388, an  
17                  act to amend Chapter 223 of the Laws of 1996.

18                  SENATOR FARLEY:       I now move to  
19                  reconsider the vote by which this bill passed.

20                  ACTING PRESIDENT LITTLE:       The  
21                  Secretary will call the roll on  
22                  reconsideration of the vote.

23                  (The Secretary called the roll.)

24                  THE SECRETARY:       Ayes, 61.

25                  SENATOR FARLEY:       I now offer the

1 following amendments.

2 ACTING PRESIDENT LITTLE: The  
3 amendments are received.

4 SENATOR FARLEY: Madam President,  
5 on behalf of Senator Hannon, I wish to call up  
6 Calendar Number 876, Assembly Print 8105.

7 ACTING PRESIDENT LITTLE: The  
8 Secretary will read.

9 THE SECRETARY: Calendar Number  
10 876, by Member of the Assembly Eddington,  
11 Assembly Print Number 8105, an act to amend  
12 the Public Health Law.

13 SENATOR FARLEY: I now move to  
14 reconsider the vote by which this Assembly  
15 bill was substituted for Senator Hannon's  
16 bill, Senate Print 4331, on 6/1/05.

17 ACTING PRESIDENT LITTLE: The  
18 Secretary will call the roll on  
19 reconsideration of the vote.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 61.

22 SENATOR FARLEY: I now move that  
23 Assembly Bill 8105 be committed to the  
24 Committee on Rules, and Senator Hannon's  
25 Senate bill be restored to the order of Third

1 Reading Calendar.

2 ACTING PRESIDENT LITTLE: So  
3 ordered.

4 SENATOR FARLEY: And I now offer  
5 the following amendments to Senator Hannon's  
6 bill.

7 ACTING PRESIDENT LITTLE: The  
8 amendments are received.

9 SENATOR SEWARD: Madam President.

10 ACTING PRESIDENT LITTLE: Senator  
11 Seward.

12 SENATOR SEWARD: Yes, I wish to  
13 call up Senator Volker's bill, Print Number  
14 1219, recalled from the Assembly, which is now  
15 at the desk.

16 ACTING PRESIDENT LITTLE: The  
17 Secretary will read.

18 THE SECRETARY: Calendar Number  
19 731, by Senator Volker, Senate Print 1219, an  
20 act to amend the Vehicle and Traffic Law.

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

24 ACTING PRESIDENT LITTLE: Call  
25 the roll on reconsideration of the vote.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 61.

3 ACTING PRESIDENT LITTLE: Senator  
4 Seward.

5 SENATOR SEWARD: Madam President,  
6 I now offer the following amendments to this  
7 bill.

8 ACTING PRESIDENT LITTLE: The  
9 amendments are received.

10 Senator Alesi.

11 SENATOR ALESI: Thank you, Madam  
12 President. May we stand at ease pending the  
13 report from the Rules Committee.

14 ACTING PRESIDENT LITTLE: The  
15 Senate stands at ease.

16 (Whereupon, the Senate stood at  
17 ease at 5:05 p.m.)

18 (Whereupon, the Senate reconvened  
19 at 5:15 p.m.)

20 ACTING PRESIDENT LITTLE: Senator  
21 Alesi.

22 SENATOR ALESI: Thank you, Madam  
23 President. May we return to the reports of  
24 standing committees.

25 ACTING PRESIDENT LITTLE: Reports

1 of standing committees.

2 SENATOR ALESI: Yes, I believe  
3 there's a report from the Rules Committee at  
4 the desk.

5 ACTING PRESIDENT LITTLE: The  
6 Secretary will read.

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

10 Senate Print 618A, by Senator  
11 Bonacic, an act to amend the Executive Law;

12 787, by Senator Fuschillo, an act  
13 to amend the Tax Law;

14 2460, by Senator Trunzo, an act to  
15 amend the Civil Service Law;

16 2496, by Senator Libous, an act to  
17 amend the Tax Law;

18 3044A, by Senator Johnson, an act  
19 to amend the Real Property Tax Law;

20 3122, by Senator Breslin, an act to  
21 amend the Tax Law;

22 4677A, by Senator Farley, an act to  
23 amend the Banking Law;

24 5116, by Senator Spano, an act to  
25 amend the Environmental Conservation Law;

1                   5173, by Senator Maziarz, an act to  
2 amend Chapter 218 of the Laws of 2004;  
3                   5180, by the Senate Committee on  
4 Rules, an act authorizing;  
5                   5270, by Senator Johnson, an act to  
6 amend the Civil Practice Law and Rules;  
7                   5272, by the Senate Committee on  
8 Rules, an act to amend the Tax Law;  
9                   5376A, by Senator Larkin, an act to  
10 amend the Civil Service Law;  
11                   5385, by Senator Winner, an act to  
12 amend the Tax Law;  
13                   5393, by Senator Meier, an act to  
14 amend the Family Court Act;  
15                   5435, by Senator Saland, an act to  
16 amend the Education Law;  
17                   5496, by Senator Robach, an act  
18 relating to transportation;  
19                   5501, by Senator Flanagan, an act  
20 to amend Chapter 69 of the Laws of 1992;  
21                   5513, by the Senate Committee on  
22 Rules, an act to amend the Education Law;  
23                   5527, by the Senate Committee on  
24 Rules, an act to amend the Education Law;  
25                   5546, by Senator Spano, an act to

1 amend the Tax Law;  
2 5559, by Senator Morahan, an act to  
3 amend the Mental Hygiene Law;  
4 5593, by Senator Young, an act in  
5 relation;  
6 5594, by Senator Balboni, an act to  
7 amend the Public Authorities Law;  
8 5601, by Senator Young, an act to  
9 amend the Highway Law;  
10 5605, by Senator Balboni, an act to  
11 amend the Penal Law;  
12 5609, by Senator Volker, an act to  
13 amend the Penal Law;  
14 5615, by Senator Larkin, an act to  
15 amend the Racing, Pari-Mutuel Wagering and  
16 Breeding Law;  
17 5616, by Senator Larkin, an act to  
18 amend the Domestic Relations Law;  
19 5622, by Senator Volker, an act to  
20 amend the Penal Law;  
21 5627, by Senator Flanagan, an act  
22 to amend the State Administrative Procedure  
23 Act;  
24 5634, by Senator Marcellino, an act  
25 to amend the Vehicle and Traffic Law;

1                   5639, by Senator Maziarz, an act to  
2 amend the Parks, Recreation and Historic  
3 Preservation Law;

4                   5641, by Senator Balboni, an act to  
5 amend the General Municipal Law;

6                   5647, by Senator Johnson, an act to  
7 amend the Environmental Conservation Law;

8                   5651, by Senator Little, an act to  
9 amend the General Municipal Law;

10                  5653, by Senator Trunzo, an act to  
11 amend the Criminal Procedure Law;

12                  5659, by Senator Skelos, an act to  
13 amend the Education Law;

14                  5669, by Senator Bruno, an act to  
15 amend the Real Property Tax Law;

16                  And Senate Print 5672, by the  
17 Senate Committee on Rules, an act to amend the  
18 Administrative Code of the City of New York.

19                  All bills ordered direct to third  
20 reading.

21                  ACTING PRESIDENT LITTLE:     Senator  
22 Alesi.

23                  SENATOR ALESI:     Thank you, Madam  
24 President. I move to accept the report of the  
25 Rules Committee.

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

4                   (Response of "Aye.")

5                   ACTING PRESIDENT LITTLE:  
6     Opposed, nay.

7                   (No response.)

8                   ACTING PRESIDENT LITTLE:     The  
9     Rules report is accepted.  
10                   Senator Alesi.

11                   SENATOR ALESI:     Madam President,  
12     is there any further business before the  
13     Senate?

14                   ACTING PRESIDENT LITTLE:     No,  
15     there is not, Senator.

16                   SENATOR ALESI:     There being no  
17     further business to come before the Senate, I  
18     move we adjourn until Thursday, June 16th, at  
19     11:00 a.m.

20                   ACTING PRESIDENT LITTLE:     On  
21     motion, the Senate stands adjourned until  
22     Thursday, June 16th, at 11:00 a.m.

23                   (Whereupon, at 5:19 p.m., the  
24     Senate adjourned.)

25