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

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.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

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

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

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

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

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

As a member of the State Council on

the Arts, Daryl Roth, of New York City.

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

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

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

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

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nominations.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are all hereby confirmed.

Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

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

Thank you very much.

THE PRESIDENT: Thank you, Senator.

Senator Skelos.

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

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution

Calendar is so adopted.

Senator Skelos.

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

THE PRESIDENT: Motions and resolutions.

The Secretary will read.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE PRESIDENT: Senator Brown.

SENATOR BROWN: Thank you, Madam President.

I wanted to just take a moment to thank my colleagues for affording me the opportunity to recognize the memory of Lieutenant Colonel Terrence K. Crowe. Certainly it is the custom of this house to recognize those courageous men and women who have served our country in war and who have

untimely lost their lives in such service to our country.

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

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

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

Thank you.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

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

THE PRESIDENT: There are, Senator.

The Secretary will read.

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

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

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

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

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

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

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

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

Third Reading Calendar 1463.

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

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

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

THE PRESIDENT: Substitutions ordered.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

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

Page 14, Calendar 411, Senate Print 495;

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

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

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

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

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

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

Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The resolution is adopted.

The roll call is withdrawn.

The Secretary will put the resolution before the house.

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

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

(The Secretary called the roll.)

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

Savino and Schneiderman.

Ayes, 44. Nays, 5.

THE PRESIDENT: The resolution is adopted.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

the Correction Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

THE WITNESS: Read the last section.

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

November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 538, by Senator Maziarz, Senate Print 4074, an act to amend the Workers' Compensation Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 559, by Senator Marchi, Senate Print 4009, an act to amend the Retirement and Social Security Law and the Administrative Code of the City of New York.

THE PRESIDENT: There is a

home-rule message at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: The bill is still passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

Ayes, 43. Nays, 7.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 655, by Senator --

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

Ayes, 42. Nays, 8.

THE PRESIDENT: The bill is passed.

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

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

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

Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

There is a home-rule message at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1046, by Senator Little, Senate Print 5288, an act to amend the Environmental Conservation Law and the County Law.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1059, by Senator Libous, Senate Print 3890, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

Ayes, 51. Nays, 2.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

Ayes, 49. Nays, 4.

THE PRESIDENT: The bill is passed.

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

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

THE SECRETARY: Section --

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

negative.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

Ayes, 50. Nays, 3.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays, 1. Senator Duane -- excuse me.

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Montgomery, to explain your vote.

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

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

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

I vote no.

THE PRESIDENT: You will be so

recorded as voting in the negative, Senator.

The Secretary will announce the results.

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

Ayes, 49. Nays, 4.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays,

1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 17. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

Ayes, 50. Nays, 3.

THE PRESIDENT: The bill is passed.

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

act to amend the Education Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

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

Ayes, 38. Nays, 15.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1458, by Senator Winner, Senate Print 2483, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1459, substituted earlier today by Member of the Assembly Tokasz, Assembly Print Number 3969, an act to amend the Civil Service Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

ACTING PRESIDENT LITTLE: Senator Skelos.

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

aside.

ACTING PRESIDENT LITTLE: The Secretary will read.

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

SENATOR SCHNEIDERMAN: Lay it aside.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is laid aside.

The Secretary will read.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

SENATOR MEIER: Lay the bill aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

SENATOR MEIER: Lay the bill aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

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

ACTING PRESIDENT LITTLE: Read

the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

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

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

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number

1485, by the Senate Committee on Rules --

SENATOR LIZ KRUEGER: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

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

SENATOR SKELOS: Thank you, Madam President.

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

ACTING PRESIDENT LITTLE: The Secretary will ring the bell.

The Secretary will read.

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

SENATOR MONTGOMERY: Explanation.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT LITTLE: The bill is laid aside temporarily.

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

SENATOR MONTGOMERY: Explanation.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT LITTLE: The bill is laid aside temporarily.

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

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Spano, for an explanation.

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

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Spano, will you yield for a question?

SENATOR SPANO: Yes.

ACTING PRESIDENT LITTLE: Thank you.

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

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

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

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

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

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

SENATOR SPANO: Yes.

ACTING PRESIDENT LITTLE: Thank you.

The sponsor continues to yield.

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

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

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

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

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

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

SENATOR SPANO: Yes.

ACTING PRESIDENT LITTLE: Thank

you. The sponsor continues to yield.

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

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

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

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

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

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

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

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

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

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

On the bill.

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

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

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

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

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

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

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

facing, in some cases, very severe financial straits.

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

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

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

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

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

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

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

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Madam President.

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

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

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

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

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

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

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

ACTING PRESIDENT LITTLE: Thank you.

Senator DeFrancisco will be recorded in the affirmative.

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

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

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

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

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

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

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

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

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

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman will be recorded in the affirmative.

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

Senator Klein, to explain his vote.

SENATOR KLEIN: Thank you, Madam President.

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

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

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

when they do state work.

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

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

Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Madam President.

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

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

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

through this bill. So this is a good bill. And I support you, and I support the bill.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Diaz will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 56.

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

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

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

SENATOR MEIER: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Valesky, for an explanation.

SENATOR VALESKY: Thank you, Madam President.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Meier.

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

SENATOR VALESKY: Of course.

ACTING PRESIDENT LITTLE: Senator Valesky, do you yield?

SENATOR VALESKY: Of course.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

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

ACTING PRESIDENT LITTLE: Senator Valesky?

SENATOR VALESKY: Yes, Madam President, they did.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator?

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

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

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

SENATOR VALESKY: Certainly.

ACTING PRESIDENT LITTLE: The Senator yields.

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

additional 1 percent.

ACTING PRESIDENT LITTLE: Thank you.

Senator?

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

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

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

SENATOR VALESKY: Yes, I will.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR MEIER: I thank the Senator, Madam President.

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

ACTING PRESIDENT LITTLE: Senator Valesky.

SENATOR VALESKY: Yes, Madam

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

SENATOR MEIER: Will the Senator continue to yield.

ACTING PRESIDENT LITTLE: Do you yield, Senator?

SENATOR VALESKY: Yes, I will.

ACTING PRESIDENT LITTLE: The Senator yields.

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

SENATOR VALESKY: That is correct.

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

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

SENATOR VALESKY: Yes, I will.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

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

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

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Valesky, do you continue to yield?

SENATOR VALESKY: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR MEIER: I thank the Senator.

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

going into deficit. Is that correct?

SENATOR VALESKY: That is correct.

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

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

SENATOR VALESKY: Yes, I will.

ACTING PRESIDENT LITTLE: The Senator yields.

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

ACTING PRESIDENT LITTLE: Senator Valesky.

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

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

ACTING PRESIDENT LITTLE: Senator, do you yield?

SENATOR VALESKY: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR MEIER: I thank my colleague.

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

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

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

ACTING PRESIDENT LITTLE: Senator Valesky.

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

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

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

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Valesky, do you continue to yield?

SENATOR VALESKY: Of course.

ACTING PRESIDENT LITTLE: The Senator yields.

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

objection?

SENATOR VALESKY: At that time, yes.

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

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

SENATOR VALESKY: Yes.

ACTING PRESIDENT LITTLE: He continues to yield.

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

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

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Valesky.

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

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

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

SENATOR MEIER: I thank the Senator.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

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

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

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

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

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

SENATOR MEIER: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Valesky, for an explanation.

SENATOR VALESKY: Thank you, Madam President.

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

Madison.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Meier.

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

ACTING PRESIDENT LITTLE: Senator Valesky, will you yield?

SENATOR VALESKY: Of course. Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

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

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

SENATOR VALESKY: Yes, they have.

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

ACTING PRESIDENT LITTLE: Senator Valesky?

SENATOR VALESKY: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

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

ACTING PRESIDENT LITTLE: Senator Valesky.

SENATOR VALESKY: I do, Madam President.

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

I'm sorry, let me back up for just

one second, Senator, if I could.

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

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

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

SENATOR VALESKY: Yes, I will.

ACTING PRESIDENT LITTLE: The Senator yields.

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

SENATOR VALESKY: The current percentage is 3 percent.

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

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

SENATOR VALESKY: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

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

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

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

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

SENATOR VALESKY: Yes, of course.

ACTING PRESIDENT LITTLE: The Senator yields.

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

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

promotion efforts.

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

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

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

Will the Senator continue to yield.

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

SENATOR VALESKY: Yes, of course.

ACTING PRESIDENT LITTLE: The Senator yields.

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

SENATOR VALESKY: Yes, I am.

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

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

SENATOR VALESKY: Yes, of course.

ACTING PRESIDENT LITTLE: The Senator yields.

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

ACTING PRESIDENT LITTLE: Senator Valesky.

SENATOR VALESKY: Yes, I do.

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

SENATOR VALESKY: Yes, I will.

ACTING PRESIDENT LITTLE: The Senator yields.

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

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

ACTING PRESIDENT LITTLE: Senator Valesky.

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

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

SENATOR MEIER: Madam President,

will the Senator continue to yield.

SENATOR SABINI: Point of order, Madam President.

ACTING PRESIDENT LITTLE: Senator Sabini.

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

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

And I'd like a ruling on it.

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

Senator Meier.

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

SENATOR VALESKY: Yes, I will.

ACTING PRESIDENT LITTLE: Senator Valesky continues to yield.

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

ACTING PRESIDENT LITTLE: Senator Valesky.

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

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

ACTING PRESIDENT LITTLE: Senator Meier.

SENATOR MEIER: Will the Senator continue to yield.

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

SENATOR VALESKY: Yes, I will.

ACTING PRESIDENT LITTLE: The

Senator yields.

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

SENATOR VALESKY: That is correct.

SENATOR MEIER: I thank the Senator for his patience.

I thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

Senator Skelos.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Valesky, do you yield?

SENATOR VALESKY: Of course.

ACTING PRESIDENT LITTLE: The Senator yields.

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

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

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

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

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

SENATOR SKELOS: If the Senator would continue to yield.

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

SENATOR VALESKY: Yes, I will.

ACTING PRESIDENT LITTLE: The Senator yields.

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

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

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

SENATOR VALESKY: That's correct.

SENATOR SKELOS: Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

There is a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR LIZ KRUEGER: Thank you, Madam President.

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

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

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

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

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

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

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

Senator Skelos.

SENATOR SKELOS: Madam President, to explain my vote.

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

of the state.

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

ACTING PRESIDENT LITTLE: Senator Skelos in the affirmative.

Senator DeFrancisco, to explain his vote.

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

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

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

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

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

ACTING PRESIDENT LITTLE: Thank you.

Senator DeFrancisco will be recorded in the affirmative.

Senator Schneiderman, to explain his vote.

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

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

We would love to hold hearings. But if you hold a forum instead of a hearing, you don't get on the public calendar, you don't get any resources for the hearing. In fact, we're denied conference rooms, hearing rooms, and office space.

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

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

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

and Senator Valesky are clearly legitimately concerned with the issue.

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

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

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

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

Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Madam President.

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

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

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

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

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

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

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

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

But I just voted yes on this bill.

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

The Secretary will announce the results.

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

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

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

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

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT LITTLE: Senator Golden, for an explanation.

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

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

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

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

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman.

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

On the bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman, on the bill.

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

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

but goodie but still accurate.

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

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

So this is something that, again, I

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

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

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Is there any other Senator --

Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you, Madam President.

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

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

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

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

So I'm opposing this legislation.

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

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Montgomery.

Senator Savino.

SENATOR SAVINO: Thank you, Madam President.

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

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

there's a slight difference in this one.

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

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

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

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

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

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

ACTING PRESIDENT LITTLE: Thank you, Senator Savino.

Is there any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: The Secretary will announce the results.

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

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

Ayes, 44. Nays, 13.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

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

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

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

Rules Committee in the Majority Conference Room.

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

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

The Senate stands at ease.

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

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

ACTING PRESIDENT LITTLE: Senator Skelos.

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

ACTING PRESIDENT LITTLE: The report of the Rules Committee.

The Secretary will read.

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

Senate Print 568A, by Senator Young, an act to amend the Alcoholic Beverage Control Law;

720, by Senator Little, an act to amend the Tax Law;

1574A, by Senator Rath, an act to amend the Social Services Law;

1690A, by Senator Farley, an act in relation to effecting;

1832, by Senator Saland, an act to amend the Tax Law;

2306, by Senator Little, an act to amend the General Business Law;

2559, by Senator Hannon, an act to amend the Public Health Law;

2758A, by Senator Spano, an act to amend the Retirement and Social Security Law;

2985A, by Senator Volker, an act to amend the Executive Law;

3409, by Senator Young, an act in relation to authorizing;

3528, by Senator Johnson, an act to amend Chapter 672 of the Laws of 1993;

3663, by Senator Young, an act to amend the State Finance Law;

3701, by Senator Robach, an act to authorize;

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

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

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

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

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

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

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

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

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

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

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

4530A, by Senator Golden, an act to

amend the Retirement and Social Security Law;

4822, by Senator Robach, an act to amend the Civil Service Law;

4835, by Senator Winner, an act to amend the Environmental Conservation Law;

5231A, by Senator Flanagan, an act to amend the Correction Law;

5347, by Senator Marcellino, an act to amend the Town Law;

5378, by the Senate Committee on Rules, an act to amend the Tax Law;

5381A, by Senator Meier, an act to amend the Tax Law;

5433A, by Senator Skelos, an act to amend the Parks, Recreation and Historic Preservation Law;

5442A, by Senator Meier, an act to amend the Social Services Law;

5464, by the Senate Committee on Rules, an act to amend the Labor Law;

5469, by the Senate Committee on Rules, an act to make;

5473, by Senator Meier, an act to amend the Executive Law;

5508A, by Senator Young, an act to

amend the Agriculture and Markets Law;

5522A, by Senator Nozzolio, an act to amend the Agriculture and Markets Law;

5564, by Senator Maziarz, an act to amend the Environmental Conservation Law;

5574, by Senator DeFrancisco, an act to amend the Court of Claims Act;

5584, by Senator Volker, an act to amend the Civil Practice Law and Rules;

5610, by Senator Hassell-Thompson, an act to amend Chapter 183 of the Laws of 2002;

And Senate Print 5611, by Senator Winner, an act to amend the Public Officers Law.

All bills ordered direct to third reading.

ACTING PRESIDENT LITTLE: Senator Skelos.

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

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

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The Rules report is accepted.

Senator Skelos, we have some motions.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Farley, for a motion.

SENATOR FARLEY: Thank you, Senator Skelos.

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

ACTING PRESIDENT LITTLE: The Secretary will read.

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

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

this bill passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

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

ACTING PRESIDENT LITTLE: The amendments are received.

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

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

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

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

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

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

Senator Skelos.

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

ACTING PRESIDENT LITTLE: The Secretary will read.

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

SENATOR SCHNEIDERMAN: Explanation.

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

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

ACTING PRESIDENT LITTLE: Thank you, Senator Young.

Senator Schneiderman.

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

On the bill.

ACTING PRESIDENT LITTLE: Senator Schneiderman, on the bill.

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

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

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

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

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

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

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

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

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

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

financing for our health care system.

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

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

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

employers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Spano.

SENATOR SPANO: Thank you, Madam President.

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

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

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

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

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

against it.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Spano.

Senator Padavan.

SENATOR PADAVAN: Thank you, Madam President.

Let me disagree with both of the prior two speakers.

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT LITTLE: Thank you, Senator Padavan.

Senator Krueger.

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

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

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

Constitution as regards the right of bodily autonomy.

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

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

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

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

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

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

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

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

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

this law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Farley.

SENATOR FARLEY: Yes, Madam

President, I rise in support of this bill.

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT LITTLE: Thank you, Senator Farley.

Senator Diaz.

SENATOR DIAZ: Thank you, Madam President.

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

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

Minority Leader who told us "Vote your conscience."

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

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

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

Today I heard one of my leaders,

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

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

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

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

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

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

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

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

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

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

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

This is not, this is not about poor

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

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

This is a good bill. Congratulations, Senator Young.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

not my insurance coverage.

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

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Connor.

Senator Parker.

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

ACTING PRESIDENT LITTLE: Senator Parker, on the bill.

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

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

themselves the circumstances under which they live.

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

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

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

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

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

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

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

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

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Sabini.

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

ACTING PRESIDENT LITTLE: Senator Sabini, on the bill.

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

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

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

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

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

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

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

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

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

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

I'll be voting no.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Maltese.

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

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

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

other abortion, pro-abortion legislation.

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

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

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

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

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

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

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

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

ACTING PRESIDENT LITTLE: Thank you, Senator Maltese.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

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

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

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

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

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

I call on the Majority to take the time now, before this session ends, to recognize that we need a working committee system. We need a vote on the 11 resolutions pending before the Rules Committee. We need direct citizen participation and involvement. And we need hearings on this bill now before we act.

There are only six days left for us to truly reform our Senate in New York State.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Madam President.

You know, I recognize the different philosophies and the different backgrounds that we all bring to this chamber. And I respect our differences. And I think we work together relatively well, considering our differences and our philosophic backgrounds.

This is one issue, though, that I think does sharply divide us. I was thinking, in response to one of the speakers that did not want his tax dollars going to this purpose, I don't particularly want my tax dollars going to fight wars. I'm someone that believes that almost everything in this world can be solved peacefully if you work hard enough at it. But a lot of my federal tax dollars, and we all pay plenty, go to the war machinery and to fighting wars. And that's being said as the daughter of a colonel in the Army.

So we don't have choices. We -- you know, they say, what do you have to do in life? You have to die and you have to pay

taxes. And taxes aren't always going to the things that you want it to go to. That was one response.

Another, someone said that they thought that abortion was being used as an alternative to contraception. Ask any woman that has had an abortion if she is using it for contraception. It's much easier, as my daughters do, to swallow a pill. That does the trick. And nobody seeks to have an abortion. Nobody would want an abortion. It's something, if you get yourself in a real bind and you find that it's impossible for you to care for a child, you then have to do what you have to do.

I don't think there's a single person in this world that would say they want an abortion. Abortion is horrible. But sometimes -- I mean, think if it were a child of yours, a daughter, let's say, and she comes to you and she's in great pain because this has happened and she's pregnant. And she's young and she wants to go to college and she wants to finish the plans that she's made. And, I mean, how would you respond? I think

you have to think of it personally to see that this is not a large, universal issue but something that can be very personal to each one of us that has a family.

Fortunately, my girls have not put me in that spot. But I think, were they to seek my help, I would surely try and offer it to them.

So I only wanted to say a few other things. I do feel that, irrespective of wealth, women who are poor should have the same safe environment and skilled doctors that other, wealthier people can have.

In 1970, New York State did a very bold thing, because we believed at that time that poor women were suffering disproportionately in very high maternal and infant deaths. And there were many of these deaths due to illegal abortions and high-risk, very closely spaced pregnancies.

Which is one reason a lot of women, I should inject here, seek abortions. We are told we should not have children more than -- you know, at least 12 months apart. I was lucky my first two came in 12 months apart.

But if it's closer than that, you really have a need where you are not supposed to have the child. It is not healthy for the woman.

But New York has protected reproductive freedom for its poorest women ever since that time, 1970. And we've done it through the state Medicaid funding for abortion, since the federal funding, as we know, can't go for that purpose.

So we hear today a great deal about early detection and early intervention in our health care, because we all recognize that early identification is going to mean less costly procedures, less complicated procedures, and certainly better health for the patient.

And the fact is that many women are delaying their abortions because they cannot pay for them. And abortion after the first trimester of pregnancy is much more complicated and, as I said, much more expensive, and there are fewer and fewer providers to do it now.

I was looking at some costs, and the costs really escalate in the -- now, this

goes back a few years, about eight years. But at that time, in 12 weeks the cost for an abortion was about $300. Four weeks later, it was doubled. And four weeks later after that, it was tripled. So costwise, it certainly does get vastly more expensive.

And women who are having trouble to find the money to pay for the abortion, it takes more time and it gets more costly and it gets more serious as time goes on.

And I personally think that this house should be really proud of the historic work it did many years ago, and it has done, to ensure that the health of all women, the health is protected. And I think it would be very sad and I think it would be shameful to turn back the clock and to turn our backs on these poor women.

And I also think -- I'll have to check this, but I think it would be violating our responsibilities under Article 17 of our state constitution, which says that we should provide aid, care and support of the needy.

So I know there's not that much new happening on this issue. This chamber goes

over and over this in the 21 years I've been here. But it's not going to happen in the other house, and so I rest assured that poor women will have this as an option.

So I'll be voting no, and I hope my colleagues will also.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

A short time ago Senator Connor mentioned Senator James Donovan, who was the leading champion in this body for many years for the pro-life cause. I was Senator Donovan's counsel for two years. He was my mentor, he was my friend. And I am no James Donovan. But I feel compelled to raise some points today that I think he would raise were he here.

And one of them is kind of troubling, but this is one that Senator Donovan used to raise. And Senator Donovan would bring this legislation to the floor even after the Supreme Court decided Roe v. Wade

because, as he used to remind this body, in 1857 the United States Supreme Court decided a case called the Dred Scott case. And that case said that a slave was not a man or a woman, but property.

And following that, the Supreme Court ruled unconstitutional the Missouri Compromise, because if a slave is property, then you can move it from state to state like any other piece of property.

And Senator Donovan would bring this legislation to the floor, even though some might have said it was an exercise in futility, because he thought it important to continue the discussion about just what are we talking about when we talk about abortion.

And one of the useful things about this discussion is that people seem to agree, even those who would regard themselves as being in the pro-choice camp, that you hear this business that abortion should be rare, we should do everything we can to reduce the number of abortions.

And I find the argument that abortion should be rare but readily available

to be both troubling and really intellectually arresting in many ways. Why rare, if untroubling? Why widely available, if there's something about this that ought to be troubling?

And what I suggest to you, and the reason that this discussion today is important, as many discussions are in the deliberative body, whether we get it resolved today or not, is because there's an important idea at stake here. I would suggest to you that it's troubling because there is at least at stake in the mind of everyone here, regardless of where you stand on this, the nagging realization that we're not dealing with the removal of a diseased organ, we're not dealing -- you know, it's been alleged that those on the side of this bill that I would advocate treat this lightly, like an elective procedure. Quite to the contrary. It's troubling and it ought to be rare, if occurring at all, because of what we are dealing with.

Abortion ends the life of a living being of the species homo sapiens, otherwise

known, in plain English, as a human being. That is not theology. That is not something that the church that I attend teaches me. That is, my friends and colleagues, science.

And that's why it is indeed so troubling. And that's why this discussion continues to be important. Because in reality, in reality, what the abortion debate is about, as it continues, it's not just about who ought to pay or at what stage it's permissible. You have to acknowledge that you are talking about ending a human life. And we're niggling and haggling and debating about at what stage is it permissible and who ought to pay.

This debate is important because it is important that we go back to the fundamentals of this. I'm not going to belabor this. There are others who have far more eloquently discussed this than I. But let me tell you something else that came to mind today.

In the 18th century, an English writer named Jonathan Swift wrote an essay that sent shock waves across Great Britain and

across the European continent. It was called "A Modest Proposal."

And what brings to mind Jonathan Swift's modest proposal is the suggestion that somehow we're dealing with economics, the suggestion that somehow removing Medicaid funding of abortions violates the constitutional provision in this state -- by the way, a constitutional provision authored by a Republican, Teddy Roosevelt, that provides that it's a -- I'm sorry, Fiorello LaGuardia -- that provides that the state shall provide for the aid and care of the poor. The state shall provide for the aid and care of the poor.

And it's been suggested today that providing abortions under Medicaid provides for the aid and care of the poor.

Jonathan's Swift's modest proposal in his essay was posed in the face of a famine that was going on in Ireland and the grinding, abject poverty that people lived under in that country. And Swift's modest proposal was that the Irish alleviate their grinding poverty and ease their hunger by eating their children.

It was satire, of course. It was satire, of course.

But I would suggest to you that what I've heard here today, that providing abortions is aid and care for the poor, that is a modest proposal, certainly. And it is one that I find offensive, surely. Surely we can shape a vision for the poor of this state that is more ennobling, that is more positive, that opens more opportunities and that is more welcoming than providing them public funds to abort their unborn children.

Madam President, when this comes to vote, I'll vote aye.

ACTING PRESIDENT LITTLE: Thank you, Senator Meier.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you, Madam President.

I believe that most of my arguments have already been made. I certainly agree with my colleagues that this is a very, very difficult decision.

I certainly can accept the argument that Senator Meier makes about how really very

serious this is. It is very personal, very private, very much a part of a medical decision that women have to make for many, many different reasons, very often. And throughout the country.

It is the law of the land. So we're not arguing whether or not we have the right to, but whether or not we believe that we should have the right to. And certainly there is a lot of room for debate, continuing. As we do, unfortunately, around that issue.

But right now the question is whether or not I have the right to make that decision because I don't have -- I'm not eligible for Medicaid funding, but my sister that lives down the hall from me may need to make that decision. Does she have the right to make that decision? And I think that is really ultimately what we're talking about today.

I am afraid, however, that if we deny my sister down the hall from being able to make that decision, it won't be very long before you will be here debating whether or not I can make that decision. Because we are

sisters, you know. And if it's not right for my sister, then surely you're going to make the same argument at some point for me. And you'll figure out a rationale for that, as I've heard many very interesting rationales for supporting this legislation.

I want to point out to my colleagues that while we debate the availability of this particular reproductive health procedure, whether or not it's available to women, we are not debating how do we avoid unintended pregnancies, if that's what you're talking about. Some people say this is a means of contraception, that people -- women just decide to use this as a contraceptive measure.

But where is the bill that would allow emergency contraception to be distributed by the pharmacy? It says emergency -- I have a statement here that says emergency contraception reduces the risk of pregnancy by up to 89 percent if taken within 72 hours. The sooner a woman can access and take emergency contraception, the better it works.

So we have options. But that's not what we are debating today, is it? It's how are we going to make certain women unable to afford one way and one decision as it relates to her reproductive health and care.

So I have to question the sincerity of this argument, because you're not telling me that you are going to do as much as you can for women which will allow them more options than what we say abortion does.

The other thing that we're not debating and we're not funding, and some of us don't want to support that either, that is school-based health clinics. Do you know that if there were school-based health clinics in many -- in the middle schools, especially, when young people begin to talk about becoming sexually active -- you know, I've heard so much about sex today. We have talked about sex all day long.

But we're not talking about how do we teach young people about their bodies, how do we provide for them where they are, in their schools, by health professionals, a team of health and mental health professionals:

How do you protect your body, how do you engage in being able to avoid having premature sex activity, and how do you respect your body and other people's bodies? And on and on. How do you use contraception as a means of avoiding pregnancy so that you don't have to deal with abortions?

And begin the process at an early enough stage and age with sex education, health care, mental health services, where they are in their schools. It would be so much cheaper, more efficient. It would serve the needs of young people, help them avoid becoming prematurely pregnant as well as contracting other life-threatening diseases.

Where are we with that? Why aren't we talking about doing that?

So I must say this is very sad, because we're talking about taking away the right of a certain group of women to have a decision that they may need in order to save their lives, while at the same time we are not talking at all about how do we support women in being able to absolutely avoid unwanted pregnancies, in particular, along with many

other things that go along with sex. How are we going to support those women, how are we going to make sure that every woman in the State of New York has access to reproductive health care, all of what reproductive health care means to a woman?

And are we going continue to support, support men and their need for Viagra while we are -- while we deny women access to reproductive health? I want to talk about that.

So this is really a very sad moment for me. And, Madam President, I know that I will be voting no on this legislation, and I hope that my enlightened male and female colleagues will vote no on this. This is the wrong thing to do.

The women in the State of New York have not asked you to do this. They have not asked us to do this. Please leave us alone with our health care decisions, our reproductive health care that we need. Let us make that decision with our physicians. And just stay out of my bedroom and the bedrooms of the women in this state.

Thank you very much.

ACTING PRESIDENT LITTLE: Thank you.

Senator Savino.

SENATOR SAVINO: Thank you, Madam President.

And it's very hard to follow Senator Montgomery on that. But I must say, if you would all stay out of the bedrooms of the women in this state, we wouldn't have the need for this debate. But unfortunately, that's not the case.

This has actually been a very enlightening debate, because many of you have been here for many years when this bill has come up. And as it's been pointed out time and time again, it is a one-house bill that has never been debated in the other house. But what it proves here today, to me, is that reasonable people can disagree on an issue and still learn from one another.

But let's be clear about what this really is. This is an equal-access issue, it is a class and economic issue, it is a health-care issue. That's what this

represents to women. We don't seek to restrict payment for elective procedures for anything else in the Medicaid problem, with the exception of probably plastic surgery, which most insurers restrict.

I've heard many of the people here today say that: We don't want to pay for abortions, we don't want our taxpayers' dollars to go towards paying for a women's right to make reproductive choices. And the question I have is, who is the "we" that we're referring to? Because the vast majority of Americans actually support a woman's right to make reproductive choices for herself, the vast majority of Americans.

Senator Diaz said that if you stopped the working poor who got up in the morning and went to work at 5 o'clock in the morning every day and stopped them at the subway and you asked them if they wanted to pay for this, would they want their taxpayer dollars to pay for this, they would say no.

And my response to him is, if you asked those same working people if they wanted their taxpayer dollars to pay for his salary,

they would probably say no to that too. If you wanted their taxpayer dollars to pay for anything, they would say no to that.

So we don't make public policy based upon knee-jerk reactions from people at a subway stop. They elect us to make those public policy decisions.

And the interesting thing about those working poor people is the vast majority of them who don't qualify for health insurance for their employers or don't receive it from their employers are on Family Health Plus, which is a fancy name for Medicaid in New York State. And if you were to ask them the same question, if it applied to them, their answer would probably be no.

I've heard some other things here today which, quite frankly, I find disturbing, which are somewhat stereotypical of people's view of women -- that we're immoral, that we're irresponsible, and that we would choose to have abortions as a method of birth control. And quite frankly, that's insulting to women, because it's just not the case.

Poor women and rich women and

middle-class women struggle with reproductive issues all the time. And the decision to have an abortion is not an easy one for any woman. And to think that she would just simply go out and do it because she's irresponsible and it's just more convenient is -- it belittles the process.

I agree with everyone here who said that abortion should be rare. And it should be. In a perfect world, it wouldn't have to happen. Every woman would be in a committed relationship, and she would be economically capable of having as many children as she wants. But that's just not the reality. Every woman would be healthy enough to have as many children as she wants. But that sometimes is not the reality. And every woman would have the support of her partner so that she could have as much children as she wants. But that's not the reality.

So we need to recognize that this is an equal-access issue for women, regardless of whether we approve of their choice or we don't. It is the law of the land that women have the right to make that choice. And we

should not restrict it based upon our own philosophy or ideology.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Golden.

SENATOR GOLDEN: Thank you, Madam President.

It's been said and it's continually said how this is the greatest nation in the world, and it is. And we have a great biography and we have a great history. But unfortunately, we are the capital of the world when it comes to abortions. And unfortunately, when you look at some of the statistics that are out there, it's pretty sad, especially for the State of New York. We have over 120,000 abortions a year. Over 42 million abortions since 1973.

I don't know, I was voted from my community to come represent them here in the State Senate. And the numbers in my community are overwhelming against funding taxpayer dollars for this procedure. And I'm going to listen to the people in my community and vote with this bill.

These numbers are just astounding. We as a body, we as a state have to do more. I know there's a lot of talk going on here today, and I've heard the one-house bill go back and forth, back and forth. Well, God willing, hopefully someday in the future it will become a two-house bill.

Do you know, for every 1,000 births here in the State of New York there are 500 abortions. But guess what? We're number two. We're like Avis, trying harder. The District of Columbia has 706, in 2001, out of the Kaiser report. The numbers have gone down somewhat, but not a whole lot.

Here in this state we've gone down about 5,000 abortions. Hopefully we can see that number go down 60, 70, 80 percent. Hopefully, that this is the greatest nation in the world, and this being the greatest state in that nation, that we can come together and find a way of bringing that number down.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Golden.

Before I call upon Senator

Schneiderman and Senator Young to close the debate for their respective conferences, is there any other Senator wishing to be heard?

Seeing none, Senator Schneiderman, to close for the Minority.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

This is -- I believe it's safe to say, while we do break down to a great degree on party lines, this is not an issue that I view as a partisan issue. And I think that we've had a far-ranging debate on a variety of subjects here. And I would suggest, in closing, that there are really two critical points.

One is that we can disagree about the issue of whether or not a woman should have a right to choose. I feel very strongly that, whether it's science or religion -- and I don't think Senator Meier meant any disrespect to people making decisions based on religion -- the question isn't evaluating whether or not to have an abortion. Many of us believe that evaluation of the science, evaluation of the religion should be left to a

woman.

It's not a matter of what the decision is. To most of us, it's a matter of who decides, and treating women with the respect to allow them to make that decision for themselves and not imposing our views or the views of the predominantly male engines of government on the women of the State of New York.

I think that that is something that people of good conscience can disagree about. I think people who have strong positions where they have religious concerns -- anti-choice, anti-death penalty, if you're going to be consistent and following the teachings of your religion -- that's something I may disagree with, but I can respect.

I do, however, respectfully submit to my colleagues that if you feel you have to make a statement on this issue because it's a strongly felt issue -- sometimes you have to make a statement on whatever bill comes before you, whether it's you want to make a statement by voting against a local tax bill. Sometimes you're just trying to make a statement.

But that this piece of legislation, I would urge my colleagues who disagree with me on the issue of abortion rights, is the worst possible place to make this argument. Because this is clearly an issue about allowing the wealthy to have rights, that they're allowed to exercise in this state their constitutional rights while you deny them to the poor.

This is not a bill that changes the legality of abortion. It's a bill that simply would deny health care to women based on their income. And that, I would suggest, even whatever your views are on the issue, is not the best way to make the argument. It's not the place we should be drawing the line.

I don't think anyone here disagrees -- and Senator Meier again mentioned this -- that of course abortion is troubling. Of course we want them to be, in the words of President Clinton, "safe, legal and rare."

But I would suggest, my colleagues, that the way to do that is for this house to stop blocking the true sex education bill that has passed the Assembly that is dying here.

This is -- the way to accomplish that is for this house to stop killing the emergency contraception access bill that would prevent thousands of abortions. And, to those of you who are concerned about tax expenditures, the Comptroller of the State of New York has demonstrated that this would save hundreds of millions of dollars. That's dying in this house.

So if we're really troubled by abortions, there are ways to make them more rare. But let's be honest about it. This bill is not one of them. This bill I don't think evokes the Dred Scott decision that was cited earlier. This bill evokes Plessy v. Ferguson, separate but unequal, the shameful decision in which the U.S. Supreme Court said black people can be denied access to white facilities of all kinds. And they can be as unattractive, as rundown, as underfunded as you want, and that's okay. Separate but unequal was okay under that decision.

This is a Plessy v. Ferguson bill. This would create a two-tier health care system where poor women would be denied access

to something that women of means would have.

And it is something, again, that is tremendously personal. And I don't think we should send the message that some women in this state have constitutional rights, some women's consciences are respected by the government of the State of New York, but women who don't have enough money aren't going to have access to those rights, their consciences don't count. That's the message of this bill.

I would prefer that we debate the issue of abortion rights -- which is absolutely a troubling, a fundamental, a big issue for all of us; there's no one I know who takes this easily or lightly -- in the context of another bill that was not a bill about economic discrimination. Let's debate that issue in its own context.

But I would urge all of you, any of you who are concerned about the number of abortions in this state, as long as this house stands in the way of sex education and access of women to emergency contraception, you really don't have standing to make that argument, in my view. Let's do the job, let's

pass the bills that are sitting on our doorstep from the Assembly before we start complaining about that issue.

I'm going to be voting no, Madam President. I appreciate the legitimate concerns on both sides of the aisle of my colleagues on this fundamental -- on the fundamental issue of abortion rights. But I strongly disagree with the effort to make a statement about the position of many of my opponents on this issue through denying poor women access to these health-care services.

Thank you very much.

ACTING PRESIDENT LITTLE: Thank you, Senator Schneiderman.

Senator Young, to close the debate.

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

ACTING PRESIDENT LITTLE: Senator Young, on the bill.

SENATOR YOUNG: You know, I've listened very intently to this debate today because, quite honestly, this is the first time that I've heard this.

I did serve in the Assembly for

more than six years. And Senator Farley is right, we voted repeatedly, many of us in the Assembly, to try to get this issue out on the floor. And, sadly, we were unable to do so. So it's important that we have this discussion today.

It's been interesting to me to hear many of my colleagues characterize Medicaid-funded abortions as health care. I would assert to you that abortion is not health care. Medicaid, by definition, is intended to cure illness and disability. Most abortions are performed for social reasons, not medical reasons. In fact, nearly half of the abortions that are performed in New York State are paid for by Medicaid. And many taxpayers are opposed, morally, to abortion and object that their tax monies are being used for this purpose.

Some of my colleagues said that abortion is horrible. I agree. It's a violent, invasive procedure. And for the mother, there is an unacceptable risk for complications. The minimum reported immediate complications are about 10 percent. Delayed

or long-term health complications affecting future pregnancies and reproductive health range from 17 to 50 percent.

And you know what? The actually complication rate is actually much higher, because most complications go unreported. Clinics, where 90 percent of the abortions are performed in this state, are not required to report complications, and they rarely do.

Most abortions funded by New York State are done in free-standing abortion clinics where the physician has taken no medical history, has done no physical, and has had no consultation at all with the patient, who is a complete stranger.

Now, I've heard some of my colleagues say here today that abortion in this state is not used as a form of birth control. I'd like to share with you a story. One of my friends is a nurse, and she has spent her career working in a metropolitan hospital. And for a while she worked in the recovery room of this hospital. And she told me about one particular patient who stood out.

This woman was a poor woman. She

was a prostitute, she was a known prostitute with an arrest record. And she repeatedly came into the hospital for abortions. She would get pregnant, wait until she started to show after the fourth or fifth month, get an abortion, and go back out, and in a few months would be in again to have another abortion.

My friend left that recovery room to go another part of the hospital, and when they left the recovery room, that woman had been in for her ninth Medicaid-funded abortion.

That is not health care. And in fact, that shows the failure of the system. Many people say that this system is here to protect women's health. I say in many cases this victimizes poor women's health in this state.

So I am glad to hear this debate. I am glad to hear that we're discussing this. But abortion is a personal and private decision that is an elective procedure that should not be funded by our tax dollars.

So I speak in favor of this bill. This is an important bill. And I urge my

colleagues to vote yes on this bill.

ACTING PRESIDENT LITTLE: Thank you, Senator Young.

The debate is closed.

The Secretary will ring the bell.

SENATOR SCHNEIDERMAN: Madam President, we request a slow roll call.

ACTING PRESIDENT LITTLE: Since five members are standing, there will be a slow roll call on this bill.

Read the last section.

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

ACTING PRESIDENT LITTLE: The Secretary will call the roll.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Aye.

THE SECRETARY: Senator Andrews.

SENATOR ANDREWS: No.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: Yes.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: No.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: No.

THE SECRETARY: Senator Brown.

SENATOR BROWN: No.

THE SECRETARY: Senator Bruno.

(Senator Bruno was indicated as voting in the affirmative.)

THE SECRETARY: Senator Connor.

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

SENATOR CONNOR: Thank you, Madam President.

I listened to this entire debate. And I listened to the sponsor close and say the fundamental principle was that many people believe, because of their convictions, that taxpayer money should not be used to fund abortion services, which according to the sponsor are elective.

No one explained to me who holds that position why it is okay, in their mind, then, that taxpayer money is being used to fund abortion services for public employees of the State of New York, including members of the Legislature and the Legislature's staff.

The absence of that reconciliation is a perfect example, Madam President, of why

I vote no.

ACTING PRESIDENT LITTLE: Thank you.

Senator Connor in the negative.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator Diaz.

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

SENATOR DIAZ: Thank you, Madam President.

Some time ago I used a terminology here trying to -- against abortion. And I compared the -- the thing that happened in Germany against abortion. And that was wrong, the comparison was wrong.

And Senator Stachowski was good enough to call me aside and tell me, You shouldn't, I think it's wrong. And he explained to me. And I accepted his explanation that it was wrong and I would no longer use those kind of comparisons.

My other colleague, my deputy conference -- deputy leader, he went public to

the press. He didn't call me, he went to the press and he blasted me to the Daily News.

And there's two different comparisons there, how things could be handled.

Today I heard one of my colleagues saying that -- comparing the using of taxes to pay for an abortion as equally by using taxes to pay for war to defend the freedom of the country, and for education.

So, you know, those are two different issues. Two different things. And today we are not dealing about abortion. This is not about abortion. This is about who's going to pay for it. This is what it is. It's not about abortion or about a woman's right. It's about who's paying for it.

The working people, the people that get up in the morning, at 5 o'clock in the morning, and have two or three jobs to pay for abortion? Who's paying for it? I refuse to make the working people of New York State to pay for abortions.

I'm voting yes.

ACTING PRESIDENT LITTLE: Senator

Diaz will be recorded in the affirmative.

THE SECRETARY: Senator Dilan.

SENATOR DILAN: No.

THE SECRETARY: Senator Duane.

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

SENATOR DUANE: Thank you, Madam President.

Just my philosophy, my strong belief on this issue is that family planning and reproductive services, including abortion, are health care. And health care should be a right for everyone in our state. And as such, it should be covered by Medicaid dollars.

So because abortion is part of health care and health care is a right, I'm voting no, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Duane will be recorded in the negative.

THE SECRETARY: Senator Farley.

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

SENATOR FARLEY: Thank you, Madam

President.

I just want to say that -- commend Senator Young for the articulate way she defended this bill as a woman.

And also to say that we would have 35 votes here today except two members that would be voting yes are not here.

But I applaud the fact that we are able to discuss this issue in this chamber and to vote on it. It's something, again, that has been here, it's a tradition in this house. We have passed it year after year. Senator Connor was right that we used to have to do an amendment, which none of us liked. But this bill has passed almost every year that I've been here.

And I'm going to vote aye.

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

THE SECRETARY: Senator Flanagan.

SENATOR FLANAGAN: Yes.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Aye.

THE SECRETARY: Senator Golden.

SENATOR GOLDEN: Aye.
THE SECRETARY: Senator Gonzalez.
(No response.)
THE SECRETARY: Senator Hannon.
SENATOR HANNON: Yes.
THE SECRETARY: Senator Hassell-Thompson.
SENATOR HASSELL-THOMPSON: No.
THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Klein.
SENATOR KLEIN: No.
THE SECRETARY: Senator L. Krueger.
ACTING PRESIDENT LITTLE: Senator Krueger, to explain her vote.
SENATOR LIZ KRUEGER: Thank you.
By singling out abortion as an exclusion from Medicaid coverage, our government would establish a two-tiered system of health care in which poor women do not have the same freedom in making decisions about their lives and their reproductive health as women with income or with private insurance.
It is fundamentally unjust. It is

discriminatory. It is in violation of the constitution of the State of New York. I'll be voting no.

ACTING PRESIDENT LITTLE: Senator Krueger will be voting in the negative.

THE SECRETARY: Senator C. Kruger.

SENATOR C. KRUGER: No.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Yes.

THE SECRETARY: Senator LaValle.

SENATOR LaVALLE: Aye.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Aye.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Yes.

THE SECRETARY: Senator Little.

SENATOR LITTLE: Yes.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Yes.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Maziarz.
SENATOR MAZIARZ: Aye.
THE SECRETARY: Senator Meier.
SENATOR MEIER: Yes.
THE SECRETARY: Senator Montgomery.
SENATOR MONTGOMERY: No.
THE SECRETARY: Senator Morahan.
SENATOR MORAHAN: Yes.
THE SECRETARY: Senator Nozzolio.
(No response.)
THE SECRETARY: Senator Onorato.
SENATOR ONORATO: Yes.
THE SECRETARY: Senator Oppenheimer.
(No response.)
THE SECRETARY: Senator Padavan.
SENATOR PADAVAN: Yes.
THE SECRETARY: Senator Parker.
SENATOR PARKER: No.
THE SECRETARY: Senator Paterson.
(Senator Paterson was indicated as voting in the negative.)
THE SECRETARY: Senator Rath.
SENATOR RATH: Yes.

THE SECRETARY: Senator Robach.
SENATOR ROBACH: Yes.
THE SECRETARY: Senator Sabini.
SENATOR SABINI: No.
THE SECRETARY: Senator Saland, excused.
Senator Sampson.
SENATOR SAMPSON: No.
THE SECRETARY: Senator Savino.
SENATOR SAVINO: No.
THE SECRETARY: Senator Schneiderman.
SENATOR SCHNEIDERMAN: No.
THE SECRETARY: Senator Serrano.
SENATOR SERRANO: No.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: No.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Aye.
THE SECRETARY: Senator A. Smith.
ACTING PRESIDENT LITTLE: Senator Smith, to explain her vote.
SENATOR ADA SMITH: Thank you, Madam President.
I believe that health care is the

right of everyone. And this is clearly a health care issue. I also acknowledge that every woman in this room, although most of us are of an age where an abortion would not be necessary, has a right to have an abortion at taxpayers' expense, because they are paying into our health insurance.

It's totally unfair that we should be given that privilege, even though we don't need it, and women who very much need it are denied that right. Therefore, I clearly and resoundingly vote no.

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

THE SECRETARY: Senator M. Smith.

SENATOR MALCOLM SMITH: No.

THE SECRETARY: Senator Spano.

SENATOR SPANO: No.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stavisky.

SENATOR STAVISKY: Madam President, to briefly --

ACTING PRESIDENT LITTLE: Senator

Stavisky, to explain her vote.

SENATOR STAVISKY: Thank you.

Madam President, I've heard people say here that it's about who pays for it, who pays for a medical procedure. And what's the next procedure that we're going to attack?

Madam President, I vote no.

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

THE SECRETARY: Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Valesky.

SENATOR VALESKY: No.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Winner.

SENATOR WINNER: No.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

THE SECRETARY: Senator Young.

SENATOR YOUNG: Yes.

ACTING PRESIDENT LITTLE: The Secretary will read the absentees.

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Nozzolio.

(No response.)

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: I vote no.

THE SECRETARY: Ayes, 32. Nays, 27.

Absent from voting: Senators Gonzalez and Nozzolio.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the supplemental active list and take up Calendar Number 1257, by Senator Bonacic.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read.

THE SECRETARY: Calendar Number 1257, by Senator Bonacic, Senate Print 4656A, an act to amend the Correction Law.

SENATOR SCHNEIDERMAN: Explanation.

Lay it aside.

ACTING PRESIDENT LITTLE: We are on the noncontroversial reading, and the bill will be laid aside.

The Secretary will read.

THE SECRETARY: Calendar Number 1488, by Senator Little, Senate Print 720, an act to amend the Tax Law.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: We are on the noncontroversial reading of the supplemental active list, and we are beginning with Senator Bonacic's bill, Calendar Number 1257.

ACTING PRESIDENT LITTLE: That bill has been laid aside.

SENATOR SKELOS: I believe Senator Schneiderman asked for an explanation.

SENATOR SCHNEIDERMAN: Oh, I'm sorry, I meant lay it aside.

SENATOR SKELOS: You meant lay it aside.

Well, then, the bill is laid aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 1488, by Senator Little, Senate Print 720, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1489, by Senator Rath, Senate Print 1574A, an act to amend the Social Services Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays,

1. Senator Duane recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1491, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 4539 and substitute it for the identical Senate Bill Number 1832, Third Reading Calendar 1491.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1491, by Member of the Assembly Miller, Assembly Print Number 4539, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The

bill is passed.

THE SECRETARY: Calendar Number 1492, by Senator Little, Senate Print 2306, an act to amend the General Business Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1493, by Senator Hannon, Senate Print 2559, an act to amend the Public Health Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1494, by Senator Spano, Senate Print 2758A, an act to amend the Retirement and Social Security Law.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1495, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 6595B and substitute it for the identical Senate Bill Number 2985A, Third Reading Calendar 1495.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1495, by Member of the Assembly Jacobs, Assembly Print Number 6595B, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1496, Senator Young moves to discharge, from the Committee on Rules, Assembly Bill Number 4223A and substitute it for the identical Senate Bill Number 3409, Third Reading Calendar 1496.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1496, by Member of the Assembly Parment, Assembly Print Number 4223A, an act in relation to authorizing.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1497, by Senator Johnson, Senate Print 3528, an act to amend Chapter 672 of the Laws of 1993.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1498, by Senator Young, Senate Print 3663, an act to amend the State Finance Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1499, by Senator Robach, Senate Print 3701, an act to authorize.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1500, by Senator Larkin, Senate Print 3913, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1501, by Senator Robach, Senate Print 3919, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1502, by Senator Larkin, Senate Print 4017, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1503, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 7021 and substitute it for the identical Senate Bill Number 4067,

Third Reading Calendar 1503.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1503 --

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1504, Senator Morahan moves to discharge, from the Committee on Mental Health and Developmental Disabilities, Assembly Bill Number 1248 and substitute it for the identical Senate Bill Number 4142, Third Reading Calendar 1504.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1504, by Member of the Assembly Dinowitz, Assembly Print Number 1248, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT LITTLE: Read

the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1505, by Senator Farley, Senate Print 4195, an act to amend the Banking Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1506, by Senator Farley, Senate Print 4198, an act to amend the Banking Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 16. This act shall take effect on the 30th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1507, by Senator Hannon, Senate Print 4244A, an act to amend the Public Health Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1508, by Senator Wright, Senate Print 4268, an

act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1509, by Senator Wright, Senate Print 4368, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1509 are Senators Duane, Hassell-Thompson, and

L. Krueger.

Ayes, 57. Nays, 3.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1510, by Senator Golden, Senate Print 4455, an act to amend the Retirement and Social Security Law and the Administrative Code of the City of New York.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1511, by Senator Golden, Senate Print 4530A, an act to amend the Retirement and Social Security Law and the Administrative Code of the City of New York.

ACTING PRESIDENT LITTLE: There

is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1512, by Senator Robach, Senate Print 4822, an act to amend the Civil Service Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1513, by Senator Winner, Senate Print 4835, an

act to amend the --

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

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

THE SECRETARY: Calendar Number 1514, by Senator Flanagan, Senate Print 5231A, an act to amend the Correction Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1515, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 7892 and substitute it for the identical Senate Bill Number 5347, Third Reading Calendar 1515.

ACTING PRESIDENT LITTLE:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1515, by Member of the Assembly DiNapoli, Assembly Print Number 7892, an act to amend the Town Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1516, by the Senate Committee on Rules, Senate Print Number 5378, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1518, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 7422A and substitute it for the identical Senate Bill Number 5433A, Third Reading Calendar 1518.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1518, by Member of the Assembly Weisenberg, Assembly Print Number 7422A, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1520, by the Senate Committee on Rules, Senate Print Number 5464, an act to amend the Labor Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1521, by the Senate Committee on Rules, Senate Print Number 5469, an act to make the widow and children of a former uniformed employee.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1522, by Senator Meier, Senate Print 5473, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2006.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1523, Senator Young moves to discharge, from the Committee on Rules, Assembly Bill Number 6873A and substitute it for the identical Senate Bill Number 5508A,

Third Reading Calendar 1523.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1523, by Member of the Assembly Magee, Assembly Print Number 6873A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT LITTLE: Senator Sabini.

SENATOR SABINI: Madam President, to explain my vote.

ACTING PRESIDENT LITTLE: Can you hold till we do the roll call.

Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the 180th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR SABINI: Thank you, Madam President. I was called out of turn, and I apologize.

I just want to say I'm going to vote for the bill, but I urge the sponsors to look at my bill, S5454. In the sponsor's memorandum, it talks about having a greater level of efficiency for dog licensing. And in this state, people who purchase a dog are not notified by the purchaser, are not required to be notified by the purchaser of the local license requirements, where to get a license.

And I believe my bill, which is now in Rules and has passed Consumer Affairs, would make this bill even more effective. And I vote aye, but I implore the sponsor to look at my bill and add it to the repertoire.

Thank you.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1525, Senator Maziarz moves to discharge, from the Committee on Rules,

Assembly Bill Number 8484 and substitute it for the identical Senate Bill Number 5564, Third Reading Calendar 1525.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1525, by Member of the Assembly DelMonte, Assembly Print Number 8484, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1526, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 8174 and substitute it for the identical Senate Bill

Number 5574, Third Reading Calendar 1526.

ACTING PRESIDENT LITTLE: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1526, by Member of the Assembly Karben, Assembly Print Number 8174, an act to amend the Court of Claims Act.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1527, by Senator Volker, Senate Print 5584, an act to amend the Civil Practice Law and Rules and the Real Property Actions and Proceedings Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1527 are Senators Duane and L. Krueger.

Ayes, 58. Nays, 2.

ACTING PRESIDENT LITTLE: The bill is passed.

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

SENATOR SKELOS: Thank you, Madam President.

If we could go to the controversial reading of the supplemental active list.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 1257, by Senator Bonacic, Senate Print 4656A, an act to amend the Correction Law.

SENATOR SCHNEIDERMAN: Explanation.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT LITTLE: Senator Bonacic, for an explanation.

SENATOR BONACIC: Thank you, Madam President.

This legislation amends the Correction Law in relation to requiring the electronic monitoring of Level 3 sex offenders. These Level 3 sex offenders are the most dangerous, they're most likely to commit a crime of rape, assault, murder against children and women.

This legislation was part of the omnibus bill by Senator Skelos with Megan's Law last week. I talked to the portion of the bill that dealt with GPS monitoring; now it is a stand-alone bill.

We have, I believe, 34 sponsors in a bipartisan way in the Senate. There were two no votes on the omnibus Megan's bill, of which this was a component.

ACTING PRESIDENT LITTLE: Senator Montgomery.

SENATOR MONTGOMERY: Madam President, would the sponsor yield for a question on this legislation.

ACTING PRESIDENT LITTLE: Senator Bonacic, do you yield?

SENATOR BONACIC: Absolutely.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR MONTGOMERY: Senator Bonacic, your legislation, does it -- is this monitoring for life? This is a lifetime monitoring bill?

SENATOR BONACIC: As long as there's a Level 3 sex offender category, then there could be electronic monitoring for life.

SENATOR MONTGOMERY: Madam President, through you, if Senator Bonacic would answer another question.

ACTING PRESIDENT LITTLE: Senator Bonacic, do you yield?

SENATOR BONACIC: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR MONTGOMERY: Thank you.

So, Senator Bonacic, who pays for this electronic monitoring? Is this part of the Criminal Justice DOCS budget, or is there some fee that's charged to the person?

SENATOR BONACIC: At the present time, we have approximately a little over 5,200 Level 3 sex offenders that have been designated as such in the State of New York, of which 4,400 are in the communities in the State of New York. The rest are still in jail.

It is estimated that passive electronic monitoring is $5 per person. Active electronic monitoring is $10 per person. Total cost is approximately $10 million per year that would have to be paid by the budget, out of our budget, the taxpayers, to be offset based on a needs standard. If that Level 3 sex offender could pay, was working, we would have him pay for his own monitoring as an offset.

SENATOR MONTGOMERY: Through you, Madam President, if Senator Bonacic would continue to yield.

ACTING PRESIDENT LITTLE: Thank

you.

Senator Bonacic, do you continue to yield?

SENATOR BONACIC: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR MONTGOMERY: Thank you.

Senator Bonacic, your proposal to spend the $10 million, approximating, that it might cost us to do this, do we have any idea of how the extent of recidivism, if you will, that --

SENATOR BONACIC: You mean how successful it will be?

SENATOR MONTGOMERY: Not how successful it will be. But how many people commit additional offenses, of the Level 3s? I mean, this must be a huge problem that we're going to spend $10 million, I would imagine.

SENATOR BONACIC: Well, let me make sure I understand your question.

In the state of Florida since 1998, they have put in GPS monitoring of Level 3 sex offenders. The recidivism rate dropped by 30 percent, of that category.

Now, you're asking me of the 4,400 that we have designated now, if we go to GPS monitoring, how many of those people are not apt to commit a crime again?

SENATOR MONTGOMERY: No. My question is, what is the basis of us making a decision to spend the $10 million?

SENATOR BONACIC: Why we're making an investment of $10 million?

SENATOR MONTGOMERY: Is this a crisis issue at this point in time, based on the statistics that you have of how many repeat offenses of people in this category?

SENATOR BONACIC: The purpose of investing $10 million is to protect children and community from acts of violence of assault, rape or murder from this day forward into the future. That's the purpose of making the investment.

SENATOR MONTGOMERY: I see. Okay.

And one last question regarding Senator Bonacic's legislation, Madam President, through you.

ACTING PRESIDENT LITTLE: Senator

Bonacic, do you yield?

SENATOR BONACIC: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR MONTGOMERY: Thank you.

So now if a person does not wear the monitor or for some reason takes it off, this becomes a felony, a D felony? In other words, the person is required to wear the monitor, somehow takes it off and is found to be in violation of wearing the monitor, that person gets charged with an additional charge of a D felony?

SENATOR BONACIC: The Criminal Justice Department has prescribed rules and regulations of when it would be appropriate to take the electronic monitoring off.

If you're in your home and you're within 150 feet of the transmitter, it's appropriate. But if you intentionally break the connection between the ankle bracelet and the transmitter, the first offense would be a misdemeanor.

If you go into what we call exclusionary zones, hot zones -- which are

schools, daycare centers, places where there are vulnerable children -- that will be a violation.

And what happens is when that happens, a signal goes off to what we call a collecting agency. And within 60 to 90 seconds, they notify the Division of Criminal Justice. Either a state parole officer will go out, in those cases where those counties don't have a county parole officer, or the call could go to a county parole officer, who would then make a judgment to go out and try to find that Level 3 sexual predator.

More than one intentional violation is a D felony.

SENATOR MONTGOMERY: I see. All right, thank you.

Just briefly on the legislation.

ACTING PRESIDENT LITTLE: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: I want to thank Senator Bonacic. I think that I have the idea.

And it sounds like at least for Level 3s, which we all agree that's a very

serious level of criminality -- and I would associate it to some extent with mental illness, to tell you the honest truth, the criminally mentally ill, if you will.

I think, however, there are some experts, if you will, professionals who are involved in this field, in this area, who -- with whom we have not had any dialogue and discussion vis-a-vis some public hearings, some hearings where we can at least discuss what are the potentials, what are the ramifications, what should we be doing as a legislature along these lines.

Clearly, there probably are some instances where lifetime -- requiring electronic monitoring for a period of a lifetime might be necessary. Maybe there are other situations that may not require it.

Maybe there are other ways of monitoring other than having an electronic system. And maybe we don't have to spend $10 million on -- just specifically on the electronic monitoring, and I would imagine that's only the beginning.

So I really think that it is

important for us to have much more information on just what is needed for these Level 3 offenders. I know we've talked a lot about it today. It's -- and everybody wants to do something about it. At least everybody wants to be on record having said something about these sex people. But we do need more information, I think, because we're talking about, essentially, quite a major expense for the state.

So, Madam President, I'm going to support this legislation. But I do think that it is a very bad thing for us to continue down this road where we're going to be expending very large sums of money and we really don't know what we're talking about at this point in time. So we may be spending good money after bad people for no good reason, necessarily, or not to get the outcome that we want.

So I'll be voting yes. Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Montgomery.

Senator Onorato.

SENATOR ONORATO: Madam President, will the sponsor yield for a

question?

ACTING PRESIDENT LITTLE: Senator Bonacic, do you yield?

SENATOR BONACIC: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR ONORATO: Senator Bonacic, I certainly intend to support this bill, as I have in the past.

I just have one concern. You mentioned the fact that the individual wearing the monitor is allowed to remove it while he's at home.

SENATOR BONACIC: Yes.

SENATOR ONORATO: What safeguards do we have if he takes the monitor off at home and goes out the door without the monitor, back into the neighborhood?

SENATOR BONACIC: Well, when you say what safeguards do we have, we don't -- you mean if he walks out, he's -- you're asking the same question if he takes it off during the day.

In other words, there will be a pattern, for the sake of discussion, of when

they go home. Let's say they leave normally at 9:00 in the morning. I'm just trying to give you a common-sense explanation. If there is no communication or no signal from that house, say, within 24 hours or 30 hours, that probation officer could then -- a red light would go off, and maybe he'd start making a phone call or he would start maybe making a visit to that home to see if he's there.

That's the only answer I could give you. There's no perfect guarantee of anything. This GPS is not a substitute for tougher criminal penalties. It's not a substitute for civil confinement. It's not a substitute for more parole officers. It's the latest technology to help parole officers monitor, as best they can, Level 3 sex offenders.

SENATOR ONORATO: Thank you.

ACTING PRESIDENT LITTLE: Senator Duane.

SENATOR DUANE: Thank you, Madam President. If the sponsor would yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Bonacic --

SENATOR BONACIC: Yes, I do.

ACTING PRESIDENT LITTLE: Senator Bonacic yields.

SENATOR DUANE: I am aware that there have been hearings around the state on Megan's Law under the leadership of the chairman, Senator Nozzolio. But I'm wondering if this specific piece of legislation was the subject of any of those hearings or included in those hearings.

SENATOR BONACIC: As I understand it, the GPS Level 3 electric -- electronic monitoring was part of the omnibus bill and part of the public hearings.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Bonacic, do you continue to yield?

SENATOR BONACIC: Yes, I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR DUANE: Is there an Assembly sponsor of this specific piece of legislation at this time?

SENATOR BONACIC: The answer is yes. Assemblyman David Koon and I have similar bills, of which there are 28 majority Assembly sponsors in that house. The same David Koon who lost a 19-year-old daughter who was molested and murdered.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Bonacic, do you continue to yield?

SENATOR BONACIC: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR DUANE: Thank you, Madam President.

And I am aware of that tragedy within Assembly Member Koon's family, and he had my greatest sympathy for it.

I noted, however, that the sponsor

said that the bills were similar. And I just want to clarify, does that mean that they're not same-as or exactly the same at this time?

SENATOR BONACIC: Yes. Assemblyman Koon took our first bill on GPS and adopted it identically.

We've tried to make our bill more specific with the Division of Criminal Justice Services, and on a very specific procedure -- on passive GPS, active GPS, and contracting it out to low-bid companies that are involved in this business.

At this time, Assemblyman Koon and I are working on the detailed language. And so our amended version is not exactly the same as the first version, which he embraced a hundred percent. But that's technical language that we are working out, and we expect to have the same-as bill with Assemblyman Koon by tomorrow.

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

ACTING PRESIDENT LITTLE: Senator Bonacic, do you continue to yield?

SENATOR BONACIC: Excuse me, Senator. I'm told by my counsel as of two hours ago we now have reached agreement with Assemblyman Koon on the language.

So the answer is we now have a same-as bill.

ACTING PRESIDENT LITTLE: Thank you.

And do you continue to yield?

SENATOR BONACIC: I do.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR DUANE: Through you, Madam President, I was just wondering if the sponsor just had anything else to say on that matter.

SENATOR BONACIC: I'm sorry, Senator, I didn't hear the last question.

SENATOR DUANE: I just felt as if you were going to make one final comment on it, and I was going to wait to see -- I might not have a question if that was the case.

SENATOR BONACIC: I'm ready for your next question, if you have one.

SENATOR DUANE: Well, what I'm trying to get at, through you, Madam President, is whether or not there will be -- and I know that the sponsor doesn't have a crystal ball about this, but I'm wondering if we might see yet another version of this legislation in this house or if he thinks this is the end and this is the final bill.

ACTING PRESIDENT LITTLE: Senator Bonacic?

SENATOR BONACIC: Yes, as far as the Senate is concerned, at this time the bill on GPS with Assemblyman Koon is the bill we want to see go forward.

In the other house, the Speaker speaks of a bill carried by another Assembly member that talks about GPS that would only have Level 3 GPS monitoring of those people who have committed a crime against children 16 years or younger and leaves vulnerable no GPS monitoring of a woman 17 years old and older.

I don't know, you know. Which bill will go forward. I -- furthermore, I spoke to the minority leader, Assemblyman Nesbitt, and

I believe his entire conference supports the Koon bill.

So we believe that there is the necessary votes in the Assembly to pass that bill if Sheldon Silver allows it to come to the floor.

SENATOR DUANE: Thank you, Madam President. I just have one final question, if the sponsor would continue to yield for it.

ACTING PRESIDENT LITTLE: Thank you.

Senator Bonacic, do you continue to yield?

SENATOR BONACIC: I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR DUANE: And I have to acknowledge I think I used to know the answer to this question, but now I'm unsure whether I know the question.

Is there a mechanism by which a Level 3 offender can have their level reduced to Level 2? Or is it, under present law, that a Level 3 offender always keeps that Level 3 status?

SENATOR BONACIC: Senator, under Megan's Law now, there is a petition to change your level.

Under our bill, there also is a petition process for a Level 3 sex offender to have his day in court. At least once a year, that they can bring that petition to ask a judge to reduce their level from 3 to a lower level.

SENATOR DUANE: Thank you, Madam President. Thank you.

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

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR BONACIC: I wanted to

give a further explanation to Senator Onorato's question about when a Level 3 sexual predator was at home.

The ankle bracelet has to stay on at all times. It's the transmitter that he can take off. And if he goes 150 feet away from that transmitter, then an alarm would go off.

So anywhere in his house or 150 feet from that transmitter, if he leaves the house and walks beyond 150 feet of it, they will know immediately, and he will have been in violation.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: And, Senator Bonacic, how do you vote?

SENATOR BONACIC: I vote in the affirmative.

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

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1257: Ayes, 58.

Those Senators absent from voting:

Senators Gonzalez, Nozzolio and Parker.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1503, by Member of the Assembly Abbate, Assembly Print Number 7021, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT LITTLE: Senator Duane.

SENATOR DUANE: Thank you, Madam President. I'm wondering if the sponsor would yield for a question.

ACTING PRESIDENT LITTLE: Senator Padavan, will you yield for a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR DUANE: Thank you, Madam President. I'm going to have the courage to be confused as I ask these questions.

I was reviewing the Governor's veto message of this bill, as well as a bill that Senator Velella had brought to the floor in 2003 similar to the one that came before this body in 2004. And in 2003, I notice that the

Governor didn't raise an issue, but in 2004 the Governor did raise an issue which is of concern, and I'm wondering if the sponsor could clarify.

The Governor was concerned that the bill appeared to grant hepatitis, HIV and tuberculosis presumption to Tier 4 peace officers. And I was hoping that the sponsor could address the Governor's concerns that he raised in his veto message.

SENATOR PADAVAN: Yes, I can.

And in response to the Governor's concern, we changed the section of law that we're amending where we're adding these particular categories of individuals. So this presumption that you just articulated would no longer exist.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan, do you continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT LITTLE: Senator Padavan yields.

SENATOR DUANE: If the sponsor would just indulge me and just tell me where it is in the legislation, in the language of the --

SENATOR PADAVAN: It's not in the language, it's in the section of law. We're amending Section 605(D), which is different than that in the prior legislation that was vetoed.

And in this section there is a specific methodology, if you will, used when, as an example, today a paramedic or a firefighter or a police officer or a correction officer applies for a disability based on an injury that he or she experienced on the job.

So that section of law is now applicable, would be applicable to these other categories, such as individuals who are people who give out traffic tickets or work as security guards at our City University or at our schools, where they too might be injured in a similar fashion in the conduct of their

employment, and then be able to apply for disability insurance -- disability coverage, rather.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan, do you continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR DUANE: Just for clarification, we're talking about Section -- oh, I see, we're talking about Section 608, not 605. Is that correct?

SENATOR PADAVAN: This bill amends Section 605(D), accidental disability retirement.

SENATOR DUANE: Then through you, Madam President, if the sponsor would continue to yield.

SENATOR PADAVAN: Yes.

ACTING PRESIDENT LITTLE: The

sponsor yields.

SENATOR DUANE: When I look at Section 605 of the Retirement and Social Security Law, under Section D, as I read it, I could be wrong, but it just -- it says that -- this part of the law speaks to that a person has to, at the time that they retire, that they are -- it's for the reason that they are too ill or too physically unable to work, and doesn't particularly address the issue of how it is that they became disabled.

In other words, it's just at the moment when they say, I can no longer work, at the moment that the agency says this person is in longer able to work, that's all this section of the Retirement and Social Security Law is looking at.

And so what I'm concerned about is that the presumption that the physical health problem is presumed to have happened on the job. There is no way that you could go back and prove that an incident happened that would cause that employee to be disabled.

SENATOR PADAVAN: Is that a question, Senator? Well, let me respond then.

In the body of the bill it says very specifically, listing the individuals that I mentioned earlier, "who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an accident sustained in the performance of his or her duties, not caused by his or her willful negligence, sustained in such service," and on and on it goes.

It has been to be an accident, an incident during the time of employment that the individual didn't wilfully cause, and as a direct result of employment. That's the specific language in this section we are amending.

So this is not a presumption that after the fact, they're working for 20 years and now they're going to retire and they say, Hey, by the way, I've got a disability and I want to enhance my pension. This has to be reported, documented and dealt with at the time it occurs.

ACTING PRESIDENT LITTLE: Senator Duane.

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

ACTING PRESIDENT LITTLE: Senator Padavan, do you continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR DUANE: I'm still trying to find where it is that the employee makes the report that an incident happened on the job.

And so I was hoping that the sponsor could tell me where that specific reporting requirement is, because I don't see it in the --

SENATOR PADAVAN: Well, Senator, if the bill says -- if the law we're trying to adopt here, the bill we're trying to adopt here becomes law, the bill says it has to be an accident that occurred while you were in the course of your duties.

Now, the only way that could ever be used is if it was reported. You just can't say, 10 years, 20 years later, by the way,

when I was giving that guy a traffic ticket for parking illegally, he hit me over the head and now I've got some kind of mental disability.

The first question is who, what, when, and where. That has to be reported, a matter of record. Otherwise, you're not going to get anywhere with your application.

SENATOR DUANE: And through you, Madam President, and I don't -- I ask this with the utmost respect, where would I, as a citizen, find that report?

ACTING PRESIDENT LITTLE: Senator Padavan, could you answer the question?

SENATOR PADAVAN: What's that? I didn't quite understand you.

SENATOR DUANE: Where would I, as a citizen, or anyone here --

ACTING PRESIDENT LITTLE: The speakers can't hear.

SENATOR PADAVAN: I think I understand the question.

SENATOR DUANE: -- find that report?

SENATOR PADAVAN: A disability

pension is not something that's given out willy-nilly. Local government has to pay for this. There's a cost associated with it. There's an investigation, an inquiry, a process, irrespective of this legislation, in any case where a disability pension is being applied for.

And here we're very specific that it has to be a disability, again, I say, caused in the performance of your duties and not one that you precipitated.

So that has to be a matter of record in order to claim disability under the provision of this bill.

SENATOR DUANE: Through you, Madam President, if the sponsor would yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan, will you continue to yield?

SENATOR PADAVAN: One more.

ACTING PRESIDENT LITTLE: The Senator will yield for one more question.

SENATOR PADAVAN: One more.

SENATOR DUANE: Where do I find

the record?

SENATOR PADAVAN: The Office of Disability Retirement has these files, and that's where the records are kept. That's where you would find them. Where else would they be?

SENATOR DUANE: On the bill, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Duane, on the bill.

SENATOR DUANE: The primary concern I have about the bill is that it appears that if a person is not planning on retiring at the moment that something happens to them, then they would not make a report of whatever incident that is that ultimately might lead them to retire sooner than they would want to, but that the person would not think to report that to this retirement board.

And that they would only be able to make at that report at the time that they're retiring. And to say something happened a month ago, you know, a year ago, five years ago -- and yet at the point that they're

retiring because they're too ill to continue to work, there isn't a requirement that a report be made at the time that the incident happened.

And in the past I had had concerns about presumptions particularly around the issue of exposure to HIV and AIDS. And that a person could say, because they had to retire because they had AIDS, that somewhere in the past or sometime in the past, because of some incident that was not reported anywhere, that there was no record of the incident happening, it would still be presumed that something must have happened to cause them to be infected with HIV and then ultimately to come down with full-blown AIDS.

And I want to make as clear as possible that I would never, ever do anything that would negatively impact the ability of a person who is disabled because of AIDS -- or for anything, for that matter -- to not be able to retire with a pension of some high level of what their salary would be or of what their pension would be. I would want them to get that. I would want them to get full

benefits.

What I'm concerned about still is the presumption, as the Governor talked about in his veto, that it could be presumed that the person contracted, for instance, HIV on the job and yet there would be no report of an incident having happened.

And I'm further concerned that we not allow the message to go out there that you could contract HIV in any kind of casual way. And I've spoken on the floor about the very specific ways which HIV could be contracted, and they are the only ways that HIV can be contracted -- sharing needles, unprotected sex, breast-feeding, or a blood transfusion.

But because there is no way to say that, for instance, you know, someone was stuck with a needle, you know, when they were inspecting a cab or whatever it might be, or a security officer that was going through someone's briefcase or pocketbook or something like that, it seems to me that you would want to make sure that that person had to make a report that that happened to their supervisor, to their union, to someplace.

And, you know, I authored, when I was in the city, a bill which mandated that people who were disabled by AIDS got a certain level of benefits and they were able to receive those benefits in a prescribed length of time. And so of course I would want people with AIDS who were unable to work to get the full level of benefits to which they're entitled -- in fact, enhanced benefits -- and in a timely manner.

So I want to make sure that hard-working people who are injured on the job get as close to their full salary as they possibly can because of what happened to them on their job. But I'm conflicted because I still think -- and even though, you know, in the past I've voted against bills which had language which I found much more objectionable, this bill is more or less silent on the language that I found objectionable, and yet the Governor in his veto message raised the same issue which I've been concerned about all along.

And so what I'd like to do, and what I actually did with former Senator

Velella when he was here, is to try to work with the sponsor of this legislation and other similar legislation to try to find language which actually would have a reporting requirement in it to ensure that a bad public health message that you could get HIV by just casual contact is not in any way on the record anywhere in the State of New York, and at the same time make sure that workers get the protection that they're entitled to when they are injured on the job.

So I'm going to vote no on this. I'm assuming the Governor will veto this bill again. If that does happen, I would like to continue to work with sponsors of this legislation and similar legislation to craft language which has a reporting requirement in it.

Thank you, Madam President. I'll be voting no.

ACTING PRESIDENT LITTLE: Thank you, Senator Duane.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

I've followed this debate as carefully as I could. And as I read it -- and I know the concern in the past which I shared with Senator Duane was that some sort of presumption was in there. But I think the dispute here is over what's not in the bill but what is already in the law.

To get a disability pension or a line-of-duty injury or job-related disability, the claimant has to prove their case. Now, not beyond a reasonable doubt, but there are review boards, you have to demonstrate that your disability was job-related.

And I would object to saying that there's a magic report that would have had to have been filed way back when, only because, you know, a report could get lost. It also becomes like a lawyer's trick: Aha, you didn't file the report within 30 days, therefore forget about it, even though you have six other pieces of evidence.

For example -- and all workers know this. On my first job at 17, I remember they give you the rules. And one of the rules is -- they had a sign in the locker room, this

was a factory, "Report All Injuries." Report all injuries. Workers are told that, report all on-the-job injuries the same day.

People who work for a living know that they get hurt on the job, they're supposed to report it. Not just because later on they may be disabled, but because of workers' compensation issues, insurance claim issues, medical treatment and who pays for it. Workers report injuries on the job.

So that if you didn't report it to the employer, there are other ways to prove that you incurred an injury on the job five years ago. If you sought medical treatment, there will be medical records, there will be a doctor's evaluation, there will be your account five years ago, what you told the doctor. You know, gee, I was -- you know, my job was cleaning out the cab and I didn't see it, there was a hypodermic needle, I got stabbed. I'm worried; do I have something?

People aren't going to be casual about those kinds of injuries. You know, I got cut, I was in an accident, other people were injured, blood was all over the place.

It's going to get reported in one way or another. It may not be reported -- or there may not be a record at the time they apply for the disability pension, a record in the employer's employee personnel file, for whatever reason, on the right form. But there may be other ways that the worker can demonstrate that they did actually incur a job related thing. As I pointed out, there may be a police report because it was an accident outside the workplace but driving the employer's vehicle. Who knows? There's a lot of ways.

But generally the employee will have to demonstrate some occurrence that then medical reports can relate to the later disability.

So I am no longer as concerned as I was before. I don't see any presumption in this. I see that it's a straightforward -- if you can show, when you're retiring, that you're disabled because of HIV, AIDS and you have proof that something that happened to you work-related caused that, then you get the pension.

Otherwise, there's no presumption that just because you have HIV that it had to do with your job. As Senator Duane has reminded us in past year's debates, as well as today, that that kind of presumption is frankly -- there's no basis for it in scientific or medical evidence, it's just a fright thing. You know, casual contact of whatever sort with persons who are HIV isn't going to cause any kind of worker or public servant to have HIV.

So I am voting this year in favor of this bill because I think the sponsor has removed that section and has dealt with the issue in an appropriate way.

ACTING PRESIDENT LITTLE: Thank you, Senator Connor.

Is there any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1503: Senator Duane.

Those Senators absent from voting: Gonzalez and L. Krueger.

Ayes, 58. Nays, 1.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Alesi, that completes the controversial reading of the supplemental calendar.

SENATOR ALESI: Thank you, Madam President.

Would you be kind enough to recognize Senator Nozzolio at this time.

ACTING PRESIDENT LITTLE: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Senator Alesi. Thank you, Madam President.

I wish the record to reflect my affirmative support for Calendar Number 1257

and Calendar Number 1485.

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

Senator Alesi.

SENATOR ALESI: Madam President, there will be an immediate meeting of the Rules Committee, and after the Rules Committee report is accepted, there will be a Majority conference.

Madam President, may we at this time return to motions and resolutions.

ACTING PRESIDENT LITTLE: Motions and resolutions.

Senator Robach.

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

Senator Marcellino, page 23, Calendar 706, Senate Print Number 4471;

Senator Morahan, page 28, Calendar 801, Senate Print 4775;

Senator Flanagan, page 43, Calendar 1131, Senate Print Number 5109;

And Senator Wright, page 56, Calendar 1428, Senate Print 5532.

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

ACTING PRESIDENT LITTLE: The amendments are received, and the bills will retain their place on third reading.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

I wish to call up my bill, Print Number 4388, which was recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 837, by Senator Farley, Senate Print 4388, an act to amend Chapter 223 of the Laws of 1996.

SENATOR FARLEY: I now move to reconsider the vote by which this bill passed.

ACTING PRESIDENT LITTLE: The Secretary will call the roll on reconsideration of the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR FARLEY: I now offer the

following amendments.

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR FARLEY: Madam President, on behalf of Senator Hannon, I wish to call up Calendar Number 876, Assembly Print 8105.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 876, by Member of the Assembly Eddington, Assembly Print Number 8105, an act to amend the Public Health Law.

SENATOR FARLEY: I now move to reconsider the vote by which this Assembly bill was substituted for Senator Hannon's bill, Senate Print 4331, on 6/1/05.

ACTING PRESIDENT LITTLE: The Secretary will call the roll on reconsideration of the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

SENATOR FARLEY: I now move that Assembly Bill 8105 be committed to the Committee on Rules, and Senator Hannon's Senate bill be restored to the order of Third

Reading Calendar.

ACTING PRESIDENT LITTLE: So ordered.

SENATOR FARLEY: And I now offer the following amendments to Senator Hannon's bill.

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR SEWARD: Madam President.

ACTING PRESIDENT LITTLE: Senator Seward.

SENATOR SEWARD: Yes, I wish to call up Senator Volker's bill, Print Number 1219, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 731, by Senator Volker, Senate Print 1219, an act to amend the Vehicle and Traffic Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT LITTLE: Senator Seward.

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

ACTING PRESIDENT LITTLE: The amendments are received.

Senator Alesi.

SENATOR ALESI: Thank you, Madam President. May we stand at ease pending the report from the Rules Committee.

ACTING PRESIDENT LITTLE: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 5:05 p.m.)

(Whereupon, the Senate reconvened at 5:15 p.m.)

ACTING PRESIDENT LITTLE: Senator Alesi.

SENATOR ALESI: Thank you, Madam President. May we return to the reports of standing committees.

ACTING PRESIDENT LITTLE: Reports

of standing committees.

SENATOR ALESI: Yes, I believe there's a report from the Rules Committee at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

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

Senate Print 618A, by Senator Bonacic, an act to amend the Executive Law;

787, by Senator Fuschillo, an act to amend the Tax Law;

2460, by Senator Trunzo, an act to amend the Civil Service Law;

2496, by Senator Libous, an act to amend the Tax Law;

3044A, by Senator Johnson, an act to amend the Real Property Tax Law;

3122, by Senator Breslin, an act to amend the Tax Law;

4677A, by Senator Farley, an act to amend the Banking Law;

5116, by Senator Spano, an act to amend the Environmental Conservation Law;

5173, by Senator Maziarz, an act to amend Chapter 218 of the Laws of 2004;

5180, by the Senate Committee on Rules, an act authorizing;

5270, by Senator Johnson, an act to amend the Civil Practice Law and Rules;

5272, by the Senate Committee on Rules, an act to amend the Tax Law;

5376A, by Senator Larkin, an act to amend the Civil Service Law;

5385, by Senator Winner, an act to amend the Tax Law;

5393, by Senator Meier, an act to amend the Family Court Act;

5435, by Senator Saland, an act to amend the Education Law;

5496, by Senator Robach, an act relating to transportation;

5501, by Senator Flanagan, an act to amend Chapter 69 of the Laws of 1992;

5513, by the Senate Committee on Rules, an act to amend the Education Law;

5527, by the Senate Committee on Rules, an act to amend the Education Law;

5546, by Senator Spano, an act to

amend the Tax Law;

5559, by Senator Morahan, an act to amend the Mental Hygiene Law;

5593, by Senator Young, an act in relation;

5594, by Senator Balboni, an act to amend the Public Authorities Law;

5601, by Senator Young, an act to amend the Highway Law;

5605, by Senator Balboni, an act to amend the Penal Law;

5609, by Senator Volker, an act to amend the Penal Law;

5615, by Senator Larkin, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law;

5616, by Senator Larkin, an act to amend the Domestic Relations Law;

5622, by Senator Volker, an act to amend the Penal Law;

5627, by Senator Flanagan, an act to amend the State Administrative Procedure Act;

5634, by Senator Marcellino, an act to amend the Vehicle and Traffic Law;

5639, by Senator Maziarz, an act to amend the Parks, Recreation and Historic Preservation Law;

5641, by Senator Balboni, an act to amend the General Municipal Law;

5647, by Senator Johnson, an act to amend the Environmental Conservation Law;

5651, by Senator Little, an act to amend the General Municipal Law;

5653, by Senator Trunzo, an act to amend the Criminal Procedure Law;

5659, by Senator Skelos, an act to amend the Education Law;

5669, by Senator Bruno, an act to amend the Real Property Tax Law;

And Senate Print 5672, by the Senate Committee on Rules, an act to amend the Administrative Code of the City of New York.

All bills ordered direct to third reading.

ACTING PRESIDENT LITTLE: Senator Alesi.

SENATOR ALESI: Thank you, Madam President. I move to accept the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The Rules report is accepted.

Senator Alesi.

SENATOR ALESI: Madam President, is there any further business before the Senate?

ACTING PRESIDENT LITTLE: No, there is not, Senator.

SENATOR ALESI: There being no further business to come before the Senate, I move we adjourn until Thursday, June 16th, at 11:00 a.m.

ACTING PRESIDENT LITTLE: On motion, the Senate stands adjourned until Thursday, June 16th, at 11:00 a.m.

(Whereupon, at 5:19 p.m., the Senate adjourned.)