NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 20, 2005

3:25 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

THE PRESIDENT: With us today to give the invocation is Deacon Walter J. MacKinnon, from St. Edwards the Confessor Church, part of the Catholic Diocese of Albany.

DEACON MacKINNON: Creator God, for the many blessings that we have received, we give thanks.

We now ask for Your guidance as we prepare for this session of the Senate. Give us grace and understanding so that we may continue to govern with truth and honesty for the citizens of the State of New York.

Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate,

Sunday, June 19, the Senate met pursuant to adjournment. The Journal of Saturday, June 18, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President. I've got a lot of motions here.

On behalf of Senator Volker, on page 22 --

SENATOR FUSCHILLO: Madam President.

THE PRESIDENT: Excuse me, Senator Farley. I have to call on Senator Fuschillo.

Senator Fuschillo.

SENATOR FUSCHILLO: May we just postpone the motions and resolutions for a moment, please.

THE PRESIDENT: Yes, Senator.

SENATOR FUSCHILLO: I believe there's a resolution at the desk, 2636, by Senator Paterson. May we have it read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Paterson, Legislative Resolution Number 2636, honoring Patricia Meili, Achilles Track Club Board Chair and Founder of the Hope & Possibility 5 Mile Run/Walk.

"WHEREAS, It is the custom of this Legislative Body that the quality and character of life in this great Empire State is indelibly enriched by individuals of remarkable integrity and character whose professional lives and civic endeavors serve to enhance the stature of the State of New York; and

"WHEREAS, Attendant to such

concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to honor Patricia Meili, a most extraordinary woman, upon whose inspiration The Annual Hope & Possibility 5 Mile Run/Walk came to be; and

"WHEREAS, This incredible journey of courage and perseverance began 16 years ago, when an unspeakable horror befell one lone female jogger in New York City's Central Park; and

"WHEREAS, Slowly, and with an inner strength of unimaginable proportions, Patricia Meili charted a course to reclaim her life. But hers is not a story in the singular, it is one of many, for she has used her experience to give voice to millions of others who have survived the odds and championed adversity; and

"WHEREAS, Through her elegant selflessness and brave honesty, Patricia Meili has inspired within all of us a renewed sense of hope and possibility. For this, we are all made better people; and

"WHEREAS, Founded in 1983 by Dick

Traum, the Achilles Track Club is an international organization dedicated to helping disabled people partake in athletic activities. Patricia Meili serves as chairwoman of its board of directors; and

"WHEREAS, Three years ago, she conceived of an event that would rejoice in the human spirit, a high-profile and visible indicia of her and the Achilles Track Club's unwavering commitment to empowering the disabled community; and

"WHEREAS, This event, the Annual Hope & Possibility 5 Mile Run/Walk, is more than an athletic exercise, it is a celebration of life, a statement of strength and a chorus of collective community energy as abled-bodied and challenged men, women and children come together in one unified voice of hope and possibility; and

"WHEREAS, The Third Annual Hope & Possibility 5 Mile Run/Walk takes place on Sunday, June 26, 2005. Its participants hail from across America and all over the world -- members of the New York City police and fire departments, advocates from the disability

community, the children who comprise Achilles kids, and the After-School All Stars; our war veterans, the heroes and heroines of America; mothers, fathers, supporters and friends, and, of course, one famous jogger, Patricia Meili; and

"WHEREAS, Let New York and America stand in solidarity with Patricia Meili and the courageous participants of the Third Annual Hope & Possibility 5 Mile Run/Walk, for these men, women and children are worthy of our highest respect and esteem; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor Patricia Meili and to commemorate the Annual Hope & Possibility 5 Mile Run/Walk; and be it further

"RESOLVED, that a copy of this resolution, suitably engrossed, be transmitted to Patricia Meili."

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR PATERSON: It is my distinct honor, above even the other times I've been honored, to speak before this chamber in support of this resolution honoring Patricia Meili, whose name was not known to many of us for years but who was commonly referred to as the "Central Park Jogger."

In mid-April of 1989, while on an evening jog through the park, she was attacked and suffered severe, major brain injuries and other unsettling injuries as a result of this action. She was taken to Metropolitan Hospital; her brain swelled to twice its size. We won't go into the particulars of the devastation of this trauma, but just to say that after a very long, long convalescence and a lot of hard work, she was able to transpose herself from victim to survivor.

She was a person who was looked upon by residents of the City of New York as one who had conquered one of the most insufferable tragedies and actually turned it into an experience that was spiritual and shared by many.

She joined the Achilles Track Club,

which is the running track club for the disabled, and completed the New York City Marathon in 1994. At her side, and at her side today, is the executive director of the Achilles Track Club, Dick Traum.

And in 2003, she went back into the park to run around the park, six miles, which is one lap around the park, in what she coined the Race for Hope & Possibility, in which, as is described in the resolution, many others joined, including myself.

However, that was my first year serving as leader of this body. And because Senator Skelos and Senator Bruno and so many people here made me work during the months of April, May, and June when I should have been practicing, though I ran in the New York City Marathon in 1999, I found those six miles the most torturous of my life. And in addition to Ms. Meile's great achievements was the fact that, for the last mile of that race, she carried a state senator across the finish line.

Now, on Sunday, June 26th, the third anniversary of the Race for Hope &

Possibility will occur.

Patricia Meili and Dick Traum have also gone to Washington to visit our injured and disabled as a result of the wars in Iraq and Afghanistan. They have created a five-mile run for those, even those who are in wheelchairs or on crutches, a five-mile race for them. It has demonstrated their willingness and desire to continue their lives, their dedication and perseverance against the injuries that they suffered defending our country overseas.

One year after the September 11th tragedy, they organized a race around the Ground Zero area, again, to try to ameliorate some of the pain and some of the uncertainty that arose from that attack on this country just four years ago.

These two individuals have distinguished themselves and have really demonstrated what can happen when people start to look at who we are and what we are and what we actually can be.

In an NBC special aired last year on the life and the travails of Patricia

Meili, she talked at one point about the double tragedy. The double tragedy refers to the fact that in 2002, the district attorney's office of New York County exonerated five individuals who were convicted for attacking Ms. Meile when a sixth individual came forward whose DNA was the match for the attacker and who had committed other offenses in the area at the same time that were never reported because they were on the New York City Police Department's sex crimes unit log and not on the homicide unit log where Ms. Meile's case was.

This unfortunate second tragedy led to the incarceration of five young people who had nothing to do with the attack on Ms. Meile. And her ability to fight through the pain and anguish to revisit the original incident in which she was at the time a victim, to actually demonstrate that kind of compassion and sympathy for the young men and their families, again bears witness to the tremendous character and the seemingly unparalleled way in which she has affected so many people around the State of New York and

particularly those who live in the City of New York.

Now a resident of Connecticut, Ms. Meile continues her work as chair of the Achilles Track Club board and as a contributor and an advocate for many causes, including those of major brain injury and those of women who are victims of rape and other serious attacks.

So there are very few times that we in this chamber are able to recognize and to spend a moment to thank an individual such as this, who it would be well understood if they just had gone on to the rest of their life and celebrated it in privacy, for them to come out time and time again to help those who have been afflicted as they have been and to help those who have been disabled or injured in the prospect of their lives.

So it is my distinct pleasure, and I hope all of yours, to recognize Ms. Meile at this time.

And I took the liberty of volunteering to Dick Traum that we would all run the New York City Marathon this year in

November. And I think that right after this week, we all better start training. I can see that a few who will be in the front of the line might need to get out there and run around a little bit. But please know that every scientific experiment conducted demonstrates the more people run, the more intelligent they become. So certainly this chamber could take advantage of that.

But in the midst of all that, and with deepest sincerity, I would like to thank Patricia Meili for all that she's done and would like to welcome her to the New York State Senate.

Thank you.

THE PRESIDENT: Senator Balboni.

SENATOR BALBONI: Madam President, so many times in this chamber we focus on the deeds and actions of the criminals of our society -- the savages, the animals, the people who would prey on those who are vulnerable and unprotected.

And yet oftentimes as a society we move on, and we never remember the forgotten, the victims, the folks who have to carry on

with their lives.

It's really appropriate, Senator Paterson, and I'd like to thank you for inviting this guest today, who I think personifies for so many of us the strength of character that can come from one individual who's supported by an community, but does so in anonymity.

And we want to tell you that you are an inspiration to all of us. So many people, who if they had suffered what you have suffered, might not have gone on.

And it's great to be able to have you here today, looking so fit and continuing to do what you love, what you were doing at the time of the horrible attack, run. It's a great exercise. You're a great person. This is a wonderful opportunity for us.

Thank you, Madam President.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, I too rise to just add a few words to this resolution.

And earlier I had the opportunity

to have lunch with Patricia and with Dick. And one of the things they pointed out, and David brushed by it because he had so much to say, was that they had visited some of the injured veterans.

And 75 of those injured veterans are going to run in this race for hope. And not only are they physically injured veterans, there's some of them that are brain-injured. And part of the purpose of Ms. Meile's work now is to promote help for major traumatic brain injury.

And that seems to be one of the unknown injuries coming out of these wars, more so than out of previous wars, because these men are surviving because of the equipment they have, but they're also incurring brain injuries. Which they can't show up on x-rays unless they have brain swelling, and they have major effects on your life and on your existence. And sometimes they go unnoticed. And I think it's very important that they've reached out to them.

And as Senator Paterson mentioned in his remarks, that runners become more

intelligent, there are also some studies that are showing that people that have had brain injuries, if they can start to exercise again, they get more recuperative advantages from that. And so that if they were runners and start running again, it's very helpful to them. And it's not something they're proposing to test, they already have some tests where people that were injured have done this.

So I think that it's real important to make a second note of the fact that these veterans are participating. And it's a wonderful aspect that they reached out, the Achilles Truck Club and these two individuals reached out to these veterans to get them involved and give them hope and show them that, you know, as most people find when you first get injured, you lack a sense of -- that you're never going to be same and things might not work out for you.

But by people that are dealing with injury come in and show you hope, I think it gives those veterans hope. And for that, I too would like to mention that and add that to

something that makes us also proud and glad that we have this resolution to support.

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

The question, then, is 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.

And you have our very best and sincere wishes for continued success. You deserve every bit of it.

Best wishes.

(Standing ovation.)

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, will you please recognize Senator Paterson.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Oh, Madam President, this is the part where Senator

Fuschillo wants me to open it up so that all the members can be on the resolution. And I'll open it to all the members who will be there on Sunday to run 5 miles, 6 miles for hope and possibility.

(Laughter.)

SENATOR PATERSON: And since you can't lie about the future, I'll open it up and let's have all the members on the resolution. Thank you.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, will you please return to reports of standing committees. I believe there's a report of the Judiciary Committee at the desk.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Judiciary, reports the following nominations.

As a judge of the Court of Claims,

Margaret Lillian Clancy, of Hastings-on-Hudson.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Madam President. I rise to move the nomination of Margaret Lillian Clancy as a judge of the Court of Claims.

We have several motions of the same sort, all for reappointments to the Court of Claims.

The committee, prior to the committee meeting, thoroughly reviewed her qualifications. She appeared before the Judiciary Committee and was unanimously approved for submission to the full Senate on the nomination. And I would move that nomination.

Senator Spano, her Senator, was hoping to be here. He's in several meetings that are going one at a time and very, very slowly, unfortunately. So I would, on his behalf, just talk a little bit about her qualifications.

She has been a Court of Claims

judge since June of 2000 and served in the Criminal Division. Before that time, she was the chief of the Frauds Bureau of the New York County District Attorney's Office, then was, before that, the chief of the Special Prosecutions Bureau, the deputy chief of the Trial Bureau.

And her career is always the chief. She was always the chief of one bureau or another, and has shown her great qualifications in the area of criminal law.

So I'm very pleased to move her nomination and recommend her confirmation by the Senate.

THE PRESIDENT: The question now is on the nomination of Margaret Lillian Clancy as a judge of the Court of Claims. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

She is here with her husband, Steven Standiford, and her daughters, Emily

and Catherine Standiford.

Congratulations, and every best wish for success.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Robert Joseph Collini, of Staten Island.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I also rise to move the nomination of Robert Joseph Collini, of Staten Island.

He also had his qualifications thoroughly reviewed. He appeared before the committee, and his nomination was unanimously approved to be sent to the full Senate.

And I would request that you please call on Senator Marchi to second the nomination.

THE PRESIDENT: Senator Marchi.

SENATOR MARCHI: Well, I'm pleased to add my name here.

I might add, Madam President, that

this morning -- or this afternoon, I'll be suffering from an embarrassment of riches. There are several more coming up, and these people are incredible. They're awfully good.

And it's with great pleasure that I start out with Robert J. Collini, with a Bachelor of Arts in political science, Phi Beta Kappa, Regents diploma from Xaverian High School in Brooklyn. Probably I'm embarrassed because, you know, some of this stuff, I enjoyed some of the same privileges.

But he's had so many here that I'm very, very proud to forward his nomination. New York State Civil and Military Affairs Detachment, captain; Kings County Criminal Bar Association; Small Claims in Richmond County and Kings County. Affiliations: Juvenile Diabetes Research Foundation, U.S. Army War College, Republican County Committee. And it goes on and on.

He was born in Vicenza, Italy, a city that I know well. Probably I remember it better than he does. But in any event, he's married, and they have an 18-year-old daughter.

And his record is studded with interesting sidelights and accomplishments during his academic and professional career. So I'm very happy to second this nomination.

THE PRESIDENT: The question now is on the nomination of Robert Joseph Collini, of Staten Island, as a judge of the Court of Claims. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

He is here this afternoon with his wife, Ann, and his daughter, Victoria.

Best wishes and congratulations, Judge.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Alan L. Honorof, of Mineola.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I again rise to move the nomination of a reappointment to the Court of Claims, Alan L. Honorof.

He also had his qualifications thoroughly reviewed. He appeared before the full committee and was unanimously voted to have his nomination forwarded to the full Senate.

I would call on Senator Balboni to second the nomination.

THE PRESIDENT: Senator Balboni.

SENATOR BALBONI: Yes, Madam President. I have the opportunity and privilege to speak on behalf of a good friend.

It's so nice when we see people who come up through the ranks and who have developed an expertise in certain areas of the law but, when they ascend to the bench, don't forget where they come from. They're always available to people who would ask their advice on things, treat litigants fairly and competently and, frankly, are somebody who we all look to as providing the right type of persona for someone who would ascend to the bench.

And, Madam President, I know as an excellent jurist in your own right you appreciate those kinds of qualities in these nominees.

I wish the judge many years of success as he goes forward, and I am proud to second this nomination.

Thank you, Madam President.

THE PRESIDENT: The question now is on the nomination of Alan L. Honorof, of Mineola, as a judge of the Court of Claims. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

He is here today with his friend Martha Rohl.

Congratulations and best wishes, Judge.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a judge of the

Court of Claims, Richard C. Kloch, Sr., of North Tonawanda.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I again rise to move the nomination of Richard C. Kloch, also a reappointment for the Court of Claims.

The committee thoroughly reviewed his qualifications. He appeared before the Judiciary Committee and was unanimously referred to the full Senate.

I would call on the Honorable George Maziarz to second the nomination.

THE PRESIDENT: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President. Thank you, Senator DeFrancisco.

Madam President, it is with a great deal of honor that I stand up to second the nomination of my very good friend Judge Richard Kloch.

I had the occasion just this last week, Madam President, to speak to a woman who was the mother of a crime victim. This mother

of an 8-year-old little girl was very skeptical, going into the criminal justice system, that her daughter would receive fair and good treatment. But she said to me one thing that I think is very memorable, that she didn't expect good things but, when she went into court in front of Judge Kloch, not only were her expectations met, but they were exceeded. That Judge Kloch was extremely fair, he was generous, and he really helped very much in putting her daughter on the road to recovery.

Richard has served very well as a city court judge, as corporation counsel for the City of North Tonawanda. He's joined here today by his wife, Ellie, and his beautiful little daughter Richelle, who's hiding because she's embarrassed. And I know that his other children could not be here today, Richard and Bob and Sara, but I know that they are very proud, as well they should be, of their father.

And sadly, of course, not here in person but here in spirit, and I'm sure most meaningful to Richard, the fact that his mom

and dad are here in spirit. They are as proud of you today, Richard, as they were back in November of 1977 when you were first elected to public office. And both of us have come a long way since November of '77, Richard.

Thank you, Madam President.

THE PRESIDENT: Senator Rath.

SENATOR RATH: Thank you, Madam President.

I would like to add my seconding to Senator Maziarz's seconding for Judge Kloch. In our neighboring counties of Niagara and Erie, everyone knows everyone. All the bench and all the bar, everyone knows who is who, and everyone is always very cognizant of when someone is being elevated.

And as Judge Kloch has come along, everyone been so very pleased to have him in his position, because he does put a face on justice, as Senator Maziarz said, a kindly face, a face that's thoughtful, backed up by wisdom, and a true professional spirit.

So congratulations. We're very happy for you, Judge.

THE PRESIDENT: Senator Maziarz.

SENATOR MAZIARZ: Madam President, continuing on my nomination, and at the urging of my colleagues over here in this row, I should have noted, just for the record, that last November, 6 1/2, 7 months ago, Judge Kloch actually performed the marriage ceremony of myself and my wife.

Thank you, Madam President.

(Applause.)

THE PRESIDENT: That's grounds for congratulations all the way around.

Any other member wish to be heard?

Then the question, now, is on the nomination of Richard C. Kloch, Sr., of North Tonawanda, as a judge of the Court of Claims. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And we wish you the very best and continued success, Judge.

(Applause.)

THE PRESIDENT: The Secretary

will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Dan Lamont, of Cobleskill.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I again rise to move the nomination of Dan Lamont as a reappointment to the Court of Claims.

His qualifications were determined to be in line with those required of a Court of Claims judge, and it far exceeded them, quite frankly. He appeared before the committee, and the committee unanimously voted to move his nomination to the full floor.

I would request that, Madam President, you recognize Senator Seward to second the nomination.

THE PRESIDENT: Senator Seward.

SENATOR SEWARD: Well, thank you, Senator DeFrancisco and Madam President.

It's indeed both a personal and professional privilege to rise to second the nomination of Judge Dan Lamont to continue on the New York State Court of Claims.

Judge Lamont is a graduate of

Hamilton College and Albany Law School. And after a stint as an Assistant Attorney General under Attorney General Lefkowitz, and serving our country in the United States Navy as a counsel, trial counsel, he went back to Cobleskill, in Schoharie County, to set up a private practice, and in 1978 was elected the Schoharie County judge, which also includes the Surrogate Court and Family Court judge. We call that a three-hatted judge in our area.

So Judge Lamont had 17 years' experience hearing all kinds of cases in all three of those courts in Schoharie County. And in 1995, Governor Pataki nominated Judge Lamont to sit on the Court of Claims, and he has done so very admirably these last ten years. So I'm very, very pleased to rise to second his confirmation here today.

I might add that public service runs in the Lamont family. His wife, Beth, happens to be on my staff in Schoharie County, and his son Seth is counsel to our Senate Insurance Committee in my office.

Also joining the judge in the gallery is another daughter, who happens to be

an attorney as well, Katherine, and her husband Darrell Teal.

Their other two children, Wendy and Sarah, I know are here in spirit and very, very proud of their father as well.

So, Madam President, I'm very, very pleased to second this nomination. The Governor once again has made an outstanding choice in Judge Dan Lamont.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

Although Judge Lamont lives in Schoharie County, he generally presides in Albany County, in my jurisdiction. And he's been a great mentor to my younger brother Tom, who is the county court judge in Albany. And among lawyers that I talk to in Albany County, Dan has the highest -- the highest -- record of excellence among judges, including members of my family as well.

So I also commend the Governor for this choice 10 years ago. I look forward to seeing Dan on the bench for many, many more years to come.

Thank you.

THE PRESIDENT: The question now is on the nomination of Dan Lamont, of Cobleskill, as a judge of the Court of Claims. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

He is here with his wife, Elizabeth; his son, Seth; and his daughter and son-in-law, Katherine and Darrell Teal.

And before I congratulate you, I want to say how pleased I am and honored to be here presiding when my friend and former colleague Judge Lamont is confirmed for another 10 years, at least.

In my years as district attorney, he presided over some of my cases -- quite fairly, I might add -- and I got to know him quite well when I served on the bench in Albany County with him.

It's a wonderful day. You deserve this. And I'd like to emphasize that not only

is he dedicated to his job, but to his family. You have a wonderful family. I'm pleased to see them here with you today. And I think that has enabled you, your reflection on the work that you do shows your dedication to family and community.

Best wishes, Dan -- Judge. Good luck and congratulations.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Joseph J. Maltese, of Staten Island.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: This is the second of the third of Senator Marchi's, or 43 percent of the nominees today are from Senator Marchi's district.

(Laughter.)

SENATOR DeFRANCISCO: I don't know that that has anything to do with seniority.

But I rise to move the nomination

of Joseph J. Maltese, of Staten Island. His qualifications were thoroughly reviewed. He appeared before the committee, and we unanimously recommended confirmation before the full Senate.

I'd request that you again recognize Senator Marchi.

THE PRESIDENT: Senator Marchi, once again.

SENATOR MARCHI: Thank you very much, Madam President.

Joseph Malt-ehs-eh, I should say -- and that's the way I pronounce it, being a fairly strong Roman.

But in any event, he has a brilliant background. He was military judge, U.S. Army Trial Judiciary. He's been special assistant for U.S. Attorney for the Middle District, Tennessee and Western Kentucky. He represented the United States government in the prosecution of the United States Code.

And if I read everything that was in here, it's just studded with opportunities and very difficult assignments that were processed by him. Counsel to the Supreme

Court Appellate Division, Second Department. Represented residents of psychiatrically and developmentally disabled persons in court proceedings.

And the list goes on and on. An instructor of law in a number of places -- New York Law School, Fordham University School of Law, St. John's University School of Law.

New York State judicial seminars. New York State Bar Association. Practicing Law Institute. St. John's University. Wagner College. And the list goes on and on of -- including a jurist doctorate title that was given to him -- New York University Graduate School of Arts and Sciences, University of Nevada in Reno. University of -- Touro College, Master of Science of forensic examination.

It's rife with -- brigadier general of the New York Guard, colonel of the New York Guard, lieutenant colonel. He served in all of those capacities. Outstanding jurist. Distinguished Citizenship Award from the American Legion. Outstanding citizenship from the Order of the Sons of Italy. Distinguished

Alumnus Award. Phi Beta Kappa Honor Society.

And it just goes on and on, and replete with recognition of his professional, his social and his participation in the betterment of the community.

So I don't know why we command so much of the best talent in the State of New York down in Staten Island, but they themselves deserve a wealth of recognition.

And he moves on to greater responsibilities, and we all of us feel very confident that he will give a good account of himself.

THE PRESIDENT: The question, then, is on the nomination of Joseph J. Maltese, of Staten Island, as a judge of the Court of Claims. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations and best wishes, Judge.

(Applause.)

THE PRESIDENT: The judge is accompanied by his law clerk, Anthony Ruffini, an important part of the team, as I well know.

Best wishes to all of you.

The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Stephen J. Rooney, of Staten Island.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I rise to move the nomination of Stephen J. Rooney, of Staten Island, for reappointment to the Court of Claims.

His qualifications were determined to be in accordance with those required by that position, and far exceeding that. The committee, at the Judiciary Committee meeting, unanimously voted to refer his nomination to the full Senate.

And again, I'd like to request that you recognize Senator Marchi for the seconding. And I'm looking forward to the

Italian pronunciation of "Rooney."

(Laughter.)

THE PRESIDENT: Senator Marchi.

SENATOR MARCHI: Well, thank you.

Gee, I hope there's something in there for you too. I've been blessed by an embarrassment of riches this afternoon.

And Stephen J. Rooney, well, I have to be very careful with him. His wife is my special law counsel for all purposes while I'm up here. So if I've made mistakes, they're mine, my creation. But she weaves her magic, and in his case it's been done splendidly.

He's been assistant district attorney of Richmond County, assistant district attorney also of New York County, is a first lieutenant of the Signal Corps. He has a fantastic legislative, educational and professional training: Albany Law School, Georgetown University. Member of many bar associations. Georgetown University Alumni Admissions Committee. Judge of the Brooklyn Law School Moot Court. St. Joseph Hill School mock trial. St. Vincent Medical Center of Richmond, special fundraising committee.

Indeed, his whole background is studded with remarkable achievements that have been chalked up to his credit. And he is -- I know him very well, because he is the husband of a valued collaborator in the work that we do here in Albany.

And I'm very happy to endorse for renomination to an office that he has served so well, and I do this with the greatest pride and the greatest pleasure.

Thank you, Madam President.

THE PRESIDENT: Thank you, Senator.

On the question of the nomination of Stephen J. Rooney, of Staten Island, as a judge of the Court of Claims, all in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

And he's here with his wife, Kathryn.

Congratulations, Judge. Best

wishes.

(Applause.)

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, could we please have an immediate meeting of the Rules Committee in the Majority Conference Room.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President. Could we please return to motions and resolutions, and please recognize Senator Farley.

THE PRESIDENT: I'll be very happy to.

Senator Farley, I'm pleased to recognize you.

SENATOR FARLEY: I was going to pawn these off, because I've got to go to Rules, but I'll do them.

On behalf of Senator Skelos, Madam President, I wish to call up his bill, Print

Number 484A, which was recalled from the Assembly and it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 149, by Senator Skelos, Senate Print 484A, an act to amend the Education Law.

SENATOR FARLEY: I now move to reconsider the vote by which this bill passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

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

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: Madam President, on behalf of our Acting Majority Leader, Senator Fuschillo, I wish to call up his bill, 4040, which was recalled from the Assembly and it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

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

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

SENATOR FARLEY: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: Madam President, on behalf of Senator Marchi, I wish to call up his bill, 2235, which was recalled from the Assembly and it's now at the desk.

THE PRESIDENT: The Secretary will read.

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

SENATOR FARLEY: I now move to reconsider the vote by which this bill passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

SENATOR FARLEY: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: On behalf of Senator Nozzolio, Madam President, I wish to call up his bill, 1323A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

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

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

SENATOR FARLEY: I now offer the

following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: On behalf of Senator Skelos, Madam President, I wish to call up his bill, 479, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 94, by Senator Skelos, Senate Print 479, an act to amend the Penal Law and others.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

SENATOR FARLEY: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: Madam President, amendments are offered to the following Third

Reading Calendar bills:

Senator Marcellino, page 5, Calendar 62, Senate Print 891A;

Senator Nozzolio, page 6, Calendar 127, Senate Print 1973A;

Senator Nozzolio, on page 15, Calendar 478, Senate Print 1567A;

Senator Maltese, on page 18, Calendar Number 589, Senate Print 4173;

Senator DeFrancisco, on page 29, Calendar Number 867, Senate Print 4854;

Senator Balboni, on page 32, Calendar 927, Senate Print 4286;

Senator Golden, on page 38, Calendar 1054, Senate Print 2210A;

Senator Skelos, on page 40, Calendar Number 1098, Senate Print 1999A;

Senator Seward, on page 42, Calendar Number 1148, Senate Print 4096;

Senator Golden, on page 43, Calendar Number 1178, Senate Print 4089A;

Senator Morahan, on page 49, Calendar Number 1304, Senate Print 4877A;

And on behalf of Senator Skelos, on page 51, Calendar Number 1395, Senate Print

4708A.

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

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

Senator Seward.

SENATOR SEWARD: Yes, Madam President. On behalf of Senator Flanagan, on page number 41 I offer the following amendments to Calendar Number 1131, Senate Print Number 5109A, and ask that the bill retain its place on the Third Reading Calendar.

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

SENATOR SEWARD: Also, Madam President, on page 50, on behalf of Senator LaValle, I offer the following amendments to Calendar Number 1314, Senate Print Number 2862A, and ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments

are received, and that bill will also retain its place on the Third Reading Calendar.

SENATOR SEWARD: Thank you.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Thank you, Madam President. I wish to call up my bill, Print Number 2234, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1407, by Senator Diaz, Senate Print 2234, an act to amend the Agriculture and Markets Law and others.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

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

THE PRESIDENT: The amendments are received.

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

On behalf of Senator Volker, on page 22, I offer the following amendments to Calendar Number 717, Senate Print 1628A, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR MEIER: Madam President, on behalf of Senator DeFrancisco, on page number 42, I offer the following amendments to Calendar Number 1172, Senate Print 4845A, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR MEIER: Madam President, on behalf of Senator Young, on page number 52, I offer the following amendments to Calendar Number 1487, Senate Print 568A, and ask that said bill retain its place on the Third

Reading Calendar.

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

SENATOR MEIER: Madam President, on behalf of Senator Marcellino, on page 22, I offer the following amendments to Calendar Number 706, Senate Print 4471A, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR MEIER: Thank you, Madam President.

THE PRESIDENT: You're welcome.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President. Are there any substitutions at the desk?

THE PRESIDENT: Yes, there are.

SENATOR FUSCHILLO: If you would please make them.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 4, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 1491 and substitute it for the identical Senate Bill Number 272, Third Reading Calendar 19.

On page 16, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 5733B and substitute it for the identical Senate Bill Number 2602B, Third Reading Calendar 543.

On page 27, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 8286 and substitute it for the identical Senate Bill Number 4327, Third Reading Calendar 814.

On page 33, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 7056A and substitute it for the identical Senate Bill Number 4029A, Third Reading Calendar 943.

On page 42, Senator Balboni moves to discharge, from the Committee on Rules, Assembly Bill Number 1377C and substitute it for the identical Senate Bill Number 936B, Third Reading Calendar 1146.

On page 46, Senator Balboni moves to discharge, from the Committee on Rules, Assembly Bill Number 4457 and substitute it for the identical Senate Bill Number 3576, Third Reading Calendar 1241.

On page 48, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 6069A and substitute it for the identical Senate Bill Number 3322A, Third Reading Calendar 1281.

On page 50, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 7518 and substitute it for the identical Senate Bill Number 4738, Third Reading Calendar 1316.

On page 53, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 6977A and substitute it for the identical Senate Bill Number 618A, Third Reading Calendar 1530.

On page 54, Senator Flanagan moves to discharge, from the Committee on Rules, Assembly Bill Number 7061A and substitute it for the identical Senate Bill Number 5627, Third Reading Calendar 1560.

On page 54, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 8770 and substitute it for the identical Senate Bill Number 5647, Third Reading Calendar 1564.

And on page 25, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 6800A and substitute it for the identical Senate Bill Number 4027, Third Reading Calendar 780.

THE PRESIDENT: Substitutions ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, can the Senate stand at ease pending the return of the report of the Rules Committee.

THE PRESIDENT: The Senate stands at ease.

SENATOR FUSCHILLO: Thank you, Madam President.

(Whereupon, the Senate stood at ease at 4:20 p.m.)

(Whereupon, the Senate reconvened at 4:27 p.m.)

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, can we have some order in the chambers.

Mr. President, if we can return to the order of reports of standing committees, I believe there's a pending report of the Rules Committee at the desk.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read the report of the Rules Committee.

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

Senate Print 945A, by Senator Brown, an act to authorize the City of Niagara Falls;

2495, by Senator Padavan, an act to amend the Agriculture and Markets Law;

3025A, by Senator Morahan, an act to amend the Vehicle and Traffic Law;

3598, by Senator Maziarz, an act to amend Chapter 511 of the Laws of 1995;

3815, by Senator Golden, an act to amend the Administrative Code of the City of New York;

4696, by Senator Golden, an act to amend the Administrative Code of the City of New York;

4737B, by Senator Maltese, an act to amend the Public Officers Law;

5005B, by Senator Wright, an act to amend the Penal Law;

5031, by Senator Golden, an act to amend the Executive Law;

5090, by Senator Leibell, an act to amend the Public Health Law;

5287, by the Senate Committee on Rules, an act to amend the Tax Law;

5314, by Senator Larkin, an act to amend the Retirement and Social Security Law;

5426, by the Senate Committee on Rules, an act to amend the General Municipal Law;

5460, by the Senate Committee on Rules, an act to amend Chapter 401 of the Laws of 2002;

5465A, by Senator Golden, an act to

amend the Real Property Tax Law;

5643, by Senator Meier, an act to amend the Retirement and Social Security Law;

5644, by Senator Saland, an act to amend Chapter 524 of the Laws of 1987;

5655A, by Senator Spano, an act to amend the Tax Law;

5664, by Senator Little, an act to amend Chapter 444 of the Laws of 1997;

5678, by Senator Alesi, an act to amend the Tax Law;

5683, by Senator DeFrancisco, an act to dedicate;

5688, by Senator Libous, an act to amend the Education Law;

5696, by Senator Saland, an act to authorize;

5705, by the Senate Committee on Rules, an act to amend the Tax Law;

5729, by Senator Bruno, an act to establish;

5745A, by Senator Volker, an act authorizing the County of Erie;

And Senate Print 5805, by Senator Meier, an act to amend the Family Court Act

and others.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Fuschillo.

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, could we have the reading of the noncontroversial calendar.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of the calendar.

SENATOR FUSCHILLO: Thank you, Mr. President.

THE SECRETARY: Calendar Number 32, by Senator LaValle, Senate Print 165A, an act to amend the Vehicle and Traffic Law and the State Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 49, by Member of the Assembly Pheffer, Assembly Print Number 3494A, an act to amend the General Business Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Meier recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 58, by Senator LaValle, Senate Print 559B, an act in relation to free association libraries and permits.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Fuschillo recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 190, by Senator Saland, Senate Print 317A, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 250, by Senator Saland --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 379, by Member of the Assembly Crouch, Assembly Print Number 4454B, an act to amend the Village Law and the Public Officers Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 529, by Senator Winner, Senate Print 3154A, an act to amend the General Municipal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 672, by Senator Skelos, Senate Print 3898B, an act authorizing the assessor of the County of Nassau.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 746, by Senator Balboni, Senate Print 4496A, an act to amend the Executive Law and the Agriculture and Markets Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 786, by Senator Farley, Senate Print 4390A, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Valesky recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 807, by Senator Meier, Senate Print 2741A, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 846, by Senator Meier, Senate Print 4060A, an act to amend the Family Court Act and the

Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 870, by Senator DeFrancisco, Senate Print 5223A, an act to amend the Family Court Act.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

887, by Senator Padavan, Senate Print 3914B, an act to amend the Penal Law and others.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the first of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 888, by Senator DeFrancisco, Senate Print 4019, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 904, by Senator DeFrancisco, Senate Print 4842A, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 943, substituted earlier today by Member of the Assembly Tonko, Assembly Print Number 7056A, an act to authorize the County of Schenectady.

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

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 944, by Senator Fuschillo, Senate Print 4087A, an act authorizing the Bethel Christian Church.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 949, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 7451A and substitute it

for the identical Senate Bill Number 4517A, Third Reading Calendar 949.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 949, by Member of the Assembly Weisenberg, Assembly Print Number 7451A, an act to authorize Young Israel of Hewlett.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 950, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 7450A and substitute it for the identical Senate Bill Number 4556A, Third Reading Calendar 950.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 950, by Member of the Assembly Weisenberg, Assembly Print Number 7450A, an act to amend Chapter 564 of the Laws of 2004.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 960, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 7467B and substitute it for the identical Senate Bill Number 5162B, Third Reading Calendar 960.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 960, by Member of the Assembly Thiele, Assembly Print Number 7467B, an act to authorize the Independent Group Home Living Program, Inc.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR FUSCHILLO: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

The Secretary will read Calendar 960.

THE SECRETARY: Calendar Number 960, substituted earlier by Member of the Assembly Thiele, Assembly Print Number 7467B, an act to authorize.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 961, by Senator LaValle, Senate Print 5163, an act to authorize.

SENATOR FUSCHILLO: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1016, by Senator Balboni, Senate Print 4985A, an act to amend the General Business Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1022, by Senator Skelos, Senate Print 4097A, an act to amend the Real Property Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1030, by Senator Spano, Senate Print 3743D, an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1068, by Senator Fuschillo, Senate Print 4686, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2005.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1093, by Senator Meier, Senate Print 5069, an act to amend the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1102, by Senator Winner, Senate Print 3415A, an act to authorize the County of Schuyler.

ACTING PRESIDENT MEIER: 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 MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1111, by Senator Skelos, Senate Print 4644A, an act authorizing the assessor of the County of Nassau.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1135, by Senator LaValle, Senate Print 2864B, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 12. This act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1231, by Senator Golden, Senate Print 5153A, an act to amend the Retirement and Social Security Law and others.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 20. This act shall take effect at the beginning of the first payroll period following 60 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1291, by Member of the Assembly Magee, Assembly Print Number 7931, an act to authorize the Village of Vernon.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1331, by Senator Balboni, Senate Print 186B --

SENATOR FUSCHILLO: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

Ayes, 55. Nays, 4.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR FUSCHILLO: Mr. President.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Can we please return to Calendar Number 1111 and move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1111.

THE SECRETARY: Calendar Number 1111, by Senator Skelos, Senate Print 4644A, an act authorizing.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1350, by Senator Little, Senate Print 4069B, an act to amend the Public Officers Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1397, by Senator DeFrancisco, Senate Print

4855B, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1425, by Senator Maziarz, Senate Print 5468B, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1482, by Senator Winner, Senate Print 5552, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1490, by Senator Farley --

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

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1517, by Senator Meier, Senate Print 5381A, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1519, by Member of the Assembly Glick, Assembly Print Number 8492A, an act to amend the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1528, by Senator Hassell-Thompson, Senate Print 5610, an act to amend Chapter 183 of the Laws of 2002.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1530, substituted earlier today by Member of the Assembly Gunther, Assembly Print Number 6977A, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1536, by Senator Farley, Senate Print 4677A, an act to amend the Banking Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1557, by Senator Larkin, Senate Print 5615 --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1558, by Senator Larkin, Senate Print 5616, an act to amend the Domestic Relations Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1559, by Senator Volker, Senate Print 5622, an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1560, substituted earlier today by Member of the Assembly Christensen, Assembly Print Number 7061A, an act to amend the State Administrative Procedure Act.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1564, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8770, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1566, by --

SENATOR FUSCHILLO: Lay it aside for the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1568, by Senator Bruno, Senate Print 5669A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1569, by the Senate Committee on Rules, Senate Print Number 5672, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This

act shall take effect July 1, 2005.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1572, by Senator Robach, Senate Print 1613, an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1575, by Senator Padavan, Senate Print 24 --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1576, by Senator Fuschillo, Senate Print 2471, an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1578, by Senator Winner, Senate Print 2617A, an act to amend the Real Property Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1587, by Senator Alesi, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1594, by Senator Padavan, Senate Print 5457A, an act to authorize the Commissioner of General Services.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1601, by Senator Rath, Senate Print 5607, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1602, by Senator Padavan, Senate Print 5620, an act to amend the Real Property Tax Law.

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1603, by Senator Flanagan, Senate Print 5624, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 8. This

act shall take effect on the 180th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will read Calendar 961.

THE SECRETARY: In relation to Calendar Number 961, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 7468 and substitute it for the identical Senate Bill Number 5163, Third Reading Calendar 961.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 961, by Member of the Assembly Thiele, Assembly Print Number 7468, an act to authorize the Independent Group Home Living Program, Inc.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR FUSCHILLO: Mr. President, will you please call up Senator Balboni's bill, Calendar Number 1331.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1331.

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

SENATOR BALBONI: Mr. President.

ACTING PRESIDENT MEIER: Senator Balboni, why do you rise?

SENATOR BALBONI: Mr. President, the bill is currently being negotiated with the Attorney General's office and the State

Assembly. Therefore, I would request that the bill be laid aside for the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

SENATOR BALBONI: Thank you.

SENATOR FUSCHILLO: Mr. President, will you please recognize Senator DeFrancisco.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I'd just like to note for the record that there were four bills, I was out of chambers when they were voted on on Thursday, June 16th: Calendar 826, which is Senate Print 3158B; Senate 1239, Senate Print 1750; Calendar 1540, Senate Print 5270; and Calendar 1555, Senate Print 5605.

Had I been present, I would have voted in favor of all those bills.

ACTING PRESIDENT MEIER: The record will so note.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you please call up Calendar

Number 1111.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1111.

THE SECRETARY: In relation to Calendar Number 1111, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 7549A and substitute it for the identical Senate Bill Number 4644A, Third Reading Calendar 1111.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1111, by Member of the Assembly Weisenberg, Assembly Print Number 7549A, an act authorizing the assessor of the County of Nassau.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, may we please have the reading of the controversial calendar, starting with Calendar Number 250.

ACTING PRESIDENT MEIER: The Secretary will conduct the controversial reading of the calendar, starting with Calendar 250.

The Secretary will ring the bell.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you please take up Senator Saland's bill.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 250.

THE SECRETARY: Calendar Number 250, by Senator Saland, Senate Print 477, an act to amend the Social Services Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Saland, Senator Schneiderman has requested an

explanation with regard to Calendar 250.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this is a bill that we initially saw in this chamber some three years ago. At that time this bill then, as it does now, was intended to deal with several issues. One of those issues was the reporting of incidents of clergy abuse and certainly concern about the institutional lack of willingness seemingly existing at that time to deal with those issues.

But more importantly than that, this bill was intended to expand protection for children from abuse from really virtually any and all sources.

And in the closing days of that session we, by way of a three-way agreement, came to closure, only to find an hour later that, due to objections by certain advocacy groups, including Planned Parenthood and the Civil Liberties Union, that something called the high-school sweethearts situation, in which a teenage young woman or girl might find that due to the reporting requirements in that

bill -- which basically required that there be no confidentiality where in fact there was an act of child abuse that had occurred, where there was reason to believe that that act was in fact a crime -- there was a duty to report imposed upon all mandated reporters, including clergy, found under I believe it's Section 413.

And at that point, as was reported, the desire to avoid this chilling effect on young people's willingness to report to -- that's a poor choice of word here -- to be seen by or visit with a counselor, we attempted to create a construct that avoided that problem. And I was quoted in several newspapers at that time saying if that's the problem, it's readily resolvable.

And there were folks representing at least one gentleman, whose name escapes me right now, who was the vice president of Planned Parenthood, who was quoted as saying there was no hidden agenda, basically it's a high-school sweetheart problem.

Well, the first iteration of this bill as amended created something called a

person in position of authority. That was unacceptable to the Assembly. That person in a position of authority would have included members of the clergy, would have included a host of other people who, by reason of their position, their vocation, their perceived authority, would reasonably expect to have some degree of disciplinary authority and a position of trust involving a child.

And we required that were such a person in fact engaged in some criminal act of abuse, that their -- notwithstanding confidentiality, that that would have to be reported. That was deemed objectionable.

And then in the past year, in an effort to try and deal with some of the objections that the Assembly and others had raised, we made this age-sensitive.

So what we have said in this bill is that the duty to report by a mandated reporter occurs where -- and this is all on page 3 of the bill -- a mandated reporter is required to report or cause to be reported to an appropriate law agency where they have reasonable cause to believe, in their

professional or official capacity, that a child who's 13 years or younger has been the victim of a crime, a sexual abuse or child abuse crime caused by someone who's 19 years or older, or that the person who has abused in some criminal fashion as defined in this bill, that young person is 21 years or older and the child is 16 years or younger.

There is no conceivable way -- or let me say there is little if any conceivable way that the high-school sweetheart situation, which was the alleged source of the difficulty in closing this deal some three years ago, exists under this construct.

This bill basically elevates, as it should, the primacy of the concern for the well-being of children. I have said time and again on this floor one of the major responsibilities of society, of government, is to provide for public safety among the most vulnerable, those who can least protect themselves, our children.

This bill says, first and foremost, it's society's obligation to protect children, children who are being abused by people

considerably older than they are; children, for instance, under the first construct who would be a grade-school student, someone who's a kindergartener, first-grader, second-grader, third-grader, fourth-grader, fifth-grader, sixth-grader, perhaps a seventh- or eighth-grader.

We then go on to say that where somebody -- for instance, a scout leader, who may be, would be an adult, an older person; a coach, again, a young adult, an older person -- abuses a child in some criminal way, that that too would require reporting by the otherwise mandated reporter.

The simple fact of the matter is, is that there's no privilege in Family Court matters when a child has been abused -- and we're talking a child generally of tender years -- there's no reason why there should be some cloak of secrecy that protects the perpetrator, who may well be a serial offender, may well be somebody who preys on children.

And if in fact he or she is merely a first-time offender and that child -- and I

say "merely" facetiously, with my tongue firmly planted in my cheek -- and that child is 6, 7, 8, 9, or 10 years old, what social purpose is served by protecting the perpetrator by saying that the reporter should not have the privilege waived?

That's basically what the essence of this bill is about. It's about the battleground over at what point does privilege exceed the importance of protecting children. Is it more important to protect the territories of those who profess to be interested in the well-being of children, or is it more important to protect those children and not preserve some seemingly sacred and, I would offer, perhaps sanctimonious pretense of being concerned about the well-being of children? The simple matter of fact is, this is about the well-being of children.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Savino.

SENATOR SAVINO: Yes, would the sponsor yield for a couple of questions.

ACTING PRESIDENT MEIER: Senator

Saland, do you yield for a question?

SENATOR SALAND: Certainly, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SAVINO: Thank you.

Having been a mandated reporter myself in the past, I'm fairly familiar with what mandated reporters do, who they're required to report to, and what categories they're required to report on. So the expansion of this to members of the clergy I think is long overdue.

I received several calls from advocates, not -- beyond family planning and beyond the usual suspects. Particularly, NASW was most concerned about this. And when I read the bill originally -- I know this is a long question -- I couldn't understand what their opposition was. Quite honestly, it appeared to me we were expanding this to include members of the clergy. And as I said, it's long overdue.

But they pointed out a couple of things in the bill that they felt could

actually get in the way of delivering services to teenagers, children who are seeking counsel and/or assistance. So I'm going to pose a couple of hypotheticals, and perhaps you can clear this up.

If you're a caseworker and you have assigned to your caseload a teenager, a young girl who is under the age of 16, and she reports to you that she is having a sexual relationship, an inappropriate sexual relationship with someone over the age of 19, would this new bill, would it require that caseworker to report to law enforcement that relationship?

SENATOR SALAND: No. Unless that person over the age of 19 was a coach, her boss, who might be taking advantage of her as an employee, there would not be an obligation to report.

Let me also suggest to you, I would venture I've probably handled more of these cases than anybody in this chamber. I've handled any number of these cases, and I'm well familiar -- and I thought my first one would be my last one, because it was just so

far and horrific.

SENATOR SAVINO: Another hypothetical. If I'm a social worker in private practice and I am treating a young person and he or she confides to me of a relationship, in the context of that therapeutic session, a relationship that under the law could be considered illegal, would I then be required to violate confidentiality between myself and my client and report it to law enforcement?

SENATOR SALAND: It would depend upon whether you had reason to believe whatever the relationship was amounted to a crime, in your professional opinion, believed that it was a crime, and whether the victim or your patient -- your client, excuse me, was either 13 or younger and the person whom she spoke about was 19 or older or whether she was 16 or younger and the person was 21 years or older or whether she was handicapped.

SENATOR SAVINO: And the same thing would --

ACTING PRESIDENT MEIER: Senator Savino, are you requesting Senator Saland to

continue to yield?

SENATOR SAVINO: I'm sorry, yes. Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR SAVINO: Would this also apply to healthcare providers? If I was a nurse and/or a doctor or a healthcare practitioner --

SENATOR SALAND: It would apply to all of the mandated reporters that are laid out in Section 413.

SENATOR SAVINO: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Savino, on the bill.

SENATOR SAVINO: Thank you.

I'm going to support this bill. I think it's the right direction that we move to expand this category of mandated reporters to members of the clergy.

But I would like to say, for the record, that I reflect some of the concerns that the members of the NASW, teachers, family planning advocates and healthcare providers have when they feel that there's going to be an added burden on them to violate the confidentiality that they have to develop with young people, particularly young people, so that they can come to them and feel safe in providing information to them.

Now, I understand that Assemblymember McEneny has a similar bill. It does not have this added requirement. And I would hope that as we go forward before the end of the session, we can resolve the differences between those two and come out of this with a bill that will expand members of the clergy to the status of mandated reporters and protect the confidentiality and service provision to the children that we're trying to protect.

Thank you.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you, Mr.

President. On the bill, please.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: Thank you.

I actually welcome this opportunity, because I wanted to clarify something that happened on this floor that was perhaps misinterpreted. And if, Mr. President, you'll indulge me with a little bit of leeway on it, I will get to the point of why this is germane to the bill.

There was an incident where a bishop came and said a prayer -- which was not the issue that I wanted to raise in particular at that time on the floor. The issue was that that particular bishop remained on the floor while we were conducting Senate business.

And it doesn't make any difference to me whether it's a member of the clergy or it's, for that matter, a trial attorney or another lobbyist. I objected to a lobbyist being on the floor while Senate business was being conducted. There being a reason that we call lobbyists lobbyists; they're supposed to be in the lobby.

And just as a further -- a lot of controversy developed around that, and I think my reasons for the objection were misinterpreted at that time. And I do want to reference also that a member of my staff, who was the victim of clergy abuse, since that time has actually met with Bishop Hubbard and they've broken bread together. So there has been some progress on reconciliation on that issue.

I do, though, think it's important to not just address the issue of lobbyists being on the floor but also what happens in terms of lobbying in general and how there are big problems with our campaign finance laws, which I hope I'll get a moment to address at another point.

That said, I think you'll hear from some of my colleagues other reasons why they may not be able to support this bill. But I do want to just talk about, as I did in the past, a couple of the glaring problems with this bill, the first being that the bill only requires clergy to release records of abuse dating back 20 years or less. So that would

be 1985.

And yet we know that the scandal and the tragedy of clergy abuse extends back much further, and we also know that records on that have been kept back further than that. And we also know that there are those still alive today who have knowledge of reports that may have been made and incidents of clergy abuse. And what this bill would do is make it so that those records would never have to be disclosed and those people, those members of the clergy who have knowledge of abuse, would not have to come forward and talk about what it is that they knew had happened in the past.

And then the other issue -- and I've spoken on, and people can go back and look at the record on this, of other reasons why I object to this bill. But again, one of the most bizarre parts of this legislation is that if a clergy member is deceased, then even if the abuse happened within the past 20 years, if the clergy member is deceased, the information doesn't have to be disclosed. And what that does is deny someone who has been victimized by a clergy member from having

confirmation that it happened.

And I would venture to say that while oftentimes we read accounts that have to do with trying to enact monetary relief on the issue of clergy abuse, perhaps the more important thing to those who are victims of clergy abuse is recognition that it happened, confirmation that it happened. And so just in two incidents, from the way this bill is crafted, if the clergy member is deceased or if the bias abuse happened more than 20 years ago, we would have no access to that information and the victim would have no confirmation of what happened.

And again, if we are ever to really deal with this issue, we have to have an acknowledgment that some of the cases occurred with members of the clergy who are now deceased. Or, for that matter, what the church often does, what the Catholic Church does is it takes them out of active duty, if you will, which means that they are not responsible for their records.

But if the abuse happened more than 20 years ago, if the clergy member is

deceased, the victim then is denied the ability to get confirmation from another source that what happened to them in fact can be recognized and put on the record. And that is, I believe, the most important thing.

I think that a lot of the lawsuits and the discussion around money has to do with the denial of abuse having happened. And that there could be a much greater chance for reconciliation, a much greater chance of these terrible and tragic lawsuits happening if there was recognition by those in authority of the clergy and if there was confirmation of the abuse that happened. Only then will the victims really get any of the peace that they deserve after years of denial of the terrible thing that happened to them.

So those are a couple of the reasons why again I'll be voting no on this bill, Mr. President. And thank you very much.

ACTING PRESIDENT MEIER: Senator Liz Krueger.

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

Well, I think this is perhaps the

third year -- I may be wrong -- that we're debating this bill, which puts me in the quandary of I support half the bill, I support the bill -- the sections of the bill that address the problem we thought we were trying to address in this house; that is, reporting of clergy abuse by adding members of the clergy to the list of professionals who have to report and have to be reported on.

And in fact, there are many good arguments for Senator Saland's bill. And actually, my colleague Diane Savino already covered some of those issues.

And yet we still find ourselves with a bill that attempts to make changes in other categories of social service law and reporting that in fact result in it being a bill that unfortunately -- and I do say unfortunately -- I can't support. Because I want to support, I want to support this bill. I want to address the problems of reporting child abuse.

But I also don't want to create laws in the State of New York that will result in young people being afraid to go and speak

to healthcare professionals -- doctors, nurses, counselors -- in confidentiality, in such a way that they won't get the information they need, they won't get the counselling or advice they need, they won't get the healthcare they need. And instead we will bury problems rather than bringing them to the surface and helping those young people.

And I don't believe Senator Saland intends to do that, because I know that he wants the right things in this legislation. He wants us to stop abuse of children. He wants to have people who are guilty of sex crimes to be reported in and to be moved through the criminal justice system. And I don't believe he wants to discourage young people and teenagers from seeking out healthcare and counseling.

But unfortunately, the way the bill is written, we are still in a situation that if this becomes the law -- and it is still my understanding that we still don't have a two-house agreement because of equal concerns in the Assembly about the second section of this bill -- that because of the way the bill

is written, teenagers, who won't read our bills, they don't read the law before they make decisions about whether they seek out help from doctors and nurses and counselors or go to a sex ed program or a reproductive health organization or go to learn about safe sex or explore being HIV-tested if they think they're at risk when they've been sexually active -- they don't read the legislation.

They don't understand the fine details between what should and shouldn't categorize as a report. They don't necessarily follow the differences between their definition of a sexually consenting relationship, even if it's wrong and they should be counseled against it and their families should be brought into it and potentially the police should be brought into it, they don't separate out those issues as we define them in the law.

What will happen if this becomes the law in New York State is that sexually active young people will not go and get help. They won't go to doctors, they won't go to nurses, they won't go to reproductive health

programs, they won't seek out birth control, they won't learn about safe sex. Because what they will know, what they will hear is that somebody's 20-year-old boyfriend with a 16-year-old girlfriend ended up being arrested by the police on statutory rape. And they won't do the analysis of, well, that wasn't my situation or that wasn't their situation. They'll just hear that if you go for help and you've been sexually active and you're a teenager, that it's potentially possible that you or whoever you've been having a relationship with can get visited by the police.

And that's not what we mean to do. I know that is not the intention of Senator Saland. But again, the way this bill is written this year, as it was written in the past, that will be the result or the perceived result by teenagers throughout New York State.

And so as much as I want to pass a bill that finally implements clergy reporting, as much as I want to ensure that the State of New York does everything it can to stop abuse of young people by adults in positions of

trust, I can't ignore the very articulate memos by people like the Family Planning Advocates, the NYCLU, Planned Parenthood of New York, the teachers of New York, the New York State Coalition Against Domestic Violence, the NASW of New York, and the New York State Coalition Against Sexual Assault. These groups are experts, not only in trying to stop sexual abuse of young people, but of understanding the difference between legislation that sounds right in a headline and legislation that does right or doesn't do right when it's implemented into law.

So unfortunately, I will continue my objections to this legislation and vote no, as disappointed as I am that we can't separate these two issues, move forward with a bill to address clergy reporting and then come back to a discussion about what we should be doing in other changes to social services law, mandatory reporting, the differences between dealing with the reports to the child abuse hotline and reports in to the police.

I was so hoping this year would be

the year we would finally separate the two issues, move forward with both in a rational way, but apparently we won't. And I'll be voting no.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. Very briefly on the bill.

I have to concur with the comments of some of my colleagues. And as I've said when similar pieces of legislation have come before this house in the past, it is astonishing to our constituents and unacceptable to our constituents that on an issue like this, where the overwhelming majority of people in the state support doing something about it, the Senate and the Assembly, year after year, are unable to accomplish that.

Senator Krueger points out that if we'd separate out some of those issues, we could probably achieve a partial victory.

The difficulty I have with this

particular incarnation of the bill, and the reason I think it's a one-house bill and we're going to adjourn again this year having failed to address this issue, is that all of the other issues being put aside, it is absolutely clear that this legislation creates a penalty for failure to report but no penalty for overreporting.

So the incentive for anyone who is a -- and that's found in the sections on immunity from liability and in the section also making it an A felony to not review records and report.

But this clearly indicates -- and it's in Section 429B, penalties for the failure to report. If you're someone required to report a case of suspected child abuse who willfully fails to do so, you're guilty of a Class A misdemeanor. If you're required to report a case and you willfully fail to do so, you're civilly liable. But if you wrongfully report it, you're immune from civil liability and from criminal liability.

So I think it just sets up a structure where, if you're a caseworker, you

know that if you're in doubt, you've got to report it, because you could be guilty of a crime, you could be subject to civil liability if you don't report -- but no penalty for overreporting.

So I think that this is a structurally unsound approach. I'm confident that this is not going to pass the Assembly. And I commend -- I don't attribute any bad faith to the sponsor. I know he's been working hard on this. But I would respectfully suggest that we have to take some sort of a different approach. And maybe another stab at a conference committee is necessary.

It is completely unacceptable that we are adjourning again this session without addressing this issue. And just as the voters have gone to the polls and sent messages in the past, this is the -- this epitomizes the gridlock in Albany that is turning so many people off to the work in this legislature, much of it good work.

I'm going to vote no on this bill this year, but I am absolutely committed to

trying to resolve this and extremely frustrated that in spite of a uniformity of agreement that we have to address the issue of clergy sex abuse, we're adjourning again not doing anything.

So I'm voting no, Mr. President, and I hope we will solve this problem. We're all committed on this side of the aisle to addressing it in the coming session.

Thank you.

ACTING PRESIDENT MEIER: Senator Saland.

SENATOR SALAND: To close, Mr. President.

I can't say there isn't anything that I've heard today that I haven't heard previously. The essence of what I'm hearing in part is the stupid-teenager argument, that if I'm a teenager I won't understand that this effectively applies only to grade-school students, that there's no way that the so-called high school sweetheart situation can occur under this construct.

Now, I've had four children, all of whom are now adults. Trust me, they would not

be befuddled. They would understand. I didn't think that teenagers were as stupid as some of my colleagues would make them out to be. But it does make for a nice argument.

I'd also point out to those -- and I believe it was Senator Krueger who said they won't go to doctors and nurses. Well, Senator Krueger, I want you to know that under the law right now, if they go to a doctor or nurse, that doctor or nurse could be subpoenaed and brought in if the victim is 15 years or younger. So if the 15-year-old, 14-, 13-, 12-year-old is the victim of crime, that doctor or nurse can be subpoenaed and brought in, and there's no confidentiality.

Now, I think all of us here are well familiar with the Assembly's posture on virtually any bill that smacks of penalties. It is what at best could be called minimalist, and that is very generous on my part. They remind me of the guy in the Capital One advertisement: It's no, nein, nyet.

And I can assure you with absolute certainty that the Assembly, until such time as one of their members has some absolutely

outrageous sexual offense occur in their district -- as was the case with the fingerprinting bill that we did. It wasn't until there were high-profile violations of students in districts in Westchester County that involved Assembly members from the majority side of the aisle, that the Assembly was even willing to talk about fingerprinting school employees.

The Assembly won't talk until somebody's next-door neighbor is violated by a coach, is violated by a scout leader. They will not deal with the issue if they don't have to.

I spent too long and too hard of a time dealing with issues like this throughout my professional career and in my career in this legislature. I, for one, am not going succumb to the Capital One philosophy of the Assembly majority. One day, however long it takes, we will get there. And I don't care if the Assembly has to be brought kicking and screaming.

And let me suggest to you, although I'm sure he will come up with amnesia, the

age-sensitive portion of this legislation was something that Assemblyman McEneny and I discussed last year. And it wasn't until Assembly central staff said "no, nein, nyet" that he backed off. But I'm sure he has amnesia now and won't recall that.

So I would urge all my colleagues to vote for this bill. It's about children. It's about protecting children. It's about saying that why in the world would anybody find anything redeemingly of value, any social policy that says if a child of less than 13 is violated by an adult, 13 or less, that somehow or other we should clothe the reporters with confidentiality, some of the very same reporters who could be subpoenaed in to testify.

I see no reason for it. Some of these memos -- only if you assume that teenagers are inherently stupid, only if you assume that they would not get the message, only if you assume that this is a benefit to a grade-school child to permit those who would foist themselves on children, those who would ensnare children -- understand that the

stereotype of a pedophile is not necessarily the guy lurking in a doorway. Very often it is some person of trust who in effect throws out a lure, brings in the child, gradually ensnaring that child and then abusing him or her almost at will.

So this house has taken a stand in the past. This house should continue to take this stand now. Again, it's about children. It's not about self-righteousness, it's not about people who don't want to be inconvenienced; namely, a bunch of reporters who have an obligation to report.

And keep in mind, when one talks about these systems, there's such a distinctly different system for civil complaints that go to the central registry and criminal complaints. Criminal complaints are vastly different. And the obligation of caseworkers who handle civil complaints is totally different from the obligation of law enforcement to investigate and prosecute a crime.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: The

debate is closed.

The Secretary will sound the bells, and members are asked to come to the chamber for a vote.

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Balboni, to explain his vote.

SENATOR BALBONI: Mr. President, sometimes you can listen to a debate and have it spin in a totally different direction.

Senator Schneiderman, in his debate, mentioned that for another year we will have failed to address this issue. I respectfully would like to correct that phraseology. It's not "failed to address."

The Senate has addressed this every year for the last couple of years, taking the lead on a very difficult issue, because Steve Saland has stood up and, frankly, the Senate has stood up. The fact that the entire

legislature can't get its act together on what form it wants to do does not mean that we have not led on this issue. And that's what we've done.

I vote in favor of this, Mr. President.

ACTING PRESIDENT MEIER: Senator Balboni will be recorded in the affirmative.

Could we have some order in the chamber.

Senator Breslin, to explain his vote.

SENATOR BRESLIN: Thank you, Mr. President.

I stand not to point fingers at anyone and blame anyone. I blame everyone, both the Assembly and the Senate.

Our constituents are out there saying that this is a clergy abuse bill. Why don't we restrict it to that and add the clergy on to the number of mandated people who must report, get that part done to satisfy the needs of our constituents and what should be right in New York State, and keep the reduction or the wearing away of the

confidential relationships of the other mandated categories to a different day.

I vote no.

ACTING PRESIDENT MEIER: Senator Breslin will be recorded in the negative.

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Mr. President, I have to rise. I wasn't going to say anything, but I can't take too much more of this.

I will not accept that everyone is to blame. Vasean's Law, Megan's Law, Kendra's Law, go on and on and on, name the laws after people who have had horrific acts forced upon them before the Assembly would move or come to the table to negotiate.

Enough is enough. How many more people have to die before we get the right thing done? I vote aye.

ACTING PRESIDENT MEIER: Senator Marcellino will be recorded in the affirmative.

Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

For three and a half of the five years that I've been here in the State Senate, I have been working with DAs and with advocate groups and with my colleagues here in the legislature in an effort to get a substantive child sexual abuse bill.

Senator Saland and I have had some dialogue and some efforts to try to begin to address aspects of this very complex problem. I am not in favor of piecemealing this bill. And I am very concerned that we do have a major issue out there that does speak to clergy.

But clergy is not the only mandated reporting that we ought to be doing. This is not just about the clergy. And even though clergy has gotten a significant amount of attention, it is more pervasive. And the pervasiveness doesn't just speak to who should be reported but how far back we should go, what should be the window of opportunity.

And this legislature -- we can blame the Assembly if we want to, and that may

be appropriate. But this legislature has failed to adopt a much more thorough bill. There have been other attempts by Democrats in this house to address this issue very broad-basedly. We have had press conferences, we have had advocate groups who have worked with us and had hearings to talk about what this bill ought to look like.

And for us to be satisfied with this as the only issue, only aspect of this issue that we deal with in this whole Senate session this year is an atrocity. I will be voting no.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson will be recorded in the negative.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you. Very briefly.

Echoing what Senator Hassell-Thompson said, and with regard to the comments of some of my colleagues, we're expected by our constituents to pass laws, not pass laws and point fingers. If we pass a bill, we refuse to move off of a position we

know is a poison pill for the Assembly, then we have to share the blame.

And I would suggest that as we prepare to adjourn, if we're going to point fingers at the Assembly, let's look at a list of bills that have passed the Assembly this year and have died in this house. Timothy's Law. Procurement lobbying reform, A9C. Ethics loophole, A947A. MTA reform and oversight, A7098. Public authorities reform, A5626. Bottle bill expansion. Emergency contraception over the counter. Children's Weapon Accident Prevention Act, the Gun-Free Kids Act. Banning .50-caliber weapons.

There are dozens of good bills that passed the Assembly -- Rockefeller drug reform -- that failed here.

So let's not just point the finger at the Assembly. Let's get the work done. And hopefully our constituents will hear the truth and not just get disgusted with the finger-pointing by both houses and stop paying attention.

Thank you.

ACTING PRESIDENT MEIER: How do

you vote, Senator?

SENATOR SCHNEIDERMAN: I'm voting no.

ACTING PRESIDENT MEIER: Just checking.

Senator Schneiderman will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 250 are Senators Andrews, Breslin, Duane, Hassell-Thompson, L. Krueger, Montgomery, Parker, Schneiderman, Serrano and Stavisky.

Absent from voting: Senator Bonacic.

Ayes, 50. Nays, 10.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, could we return to motions and resolutions and then take up Supplemental Calendar A, please.

ACTING PRESIDENT MEIER: Motions

and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Fuschillo, on page 43, I offer the following amendments to Calendar Number 1185, Senate Print 5370A, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received and adopted, and the bill will retain its place on the order of third reading.

SENATOR FARLEY: Mr. President, on behalf of Senator Robach, on page 48, I offer the following amendments to Calendar Number 1285, Senate Print 4406, and I ask that that bill retain its place.

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

SENATOR FARLEY: Mr. President, on behalf of Senator DeFrancisco, on page 49, I offer the following amendments to Calendar

Number 1299, Senate Print 5380A, and I ask that that bill retain its place.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, if there's a substitution, can you please make it at this time.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 34, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 7469 and substitute it for the identical Senate Bill Number 5164A, Third Reading Calendar 962.

ACTING PRESIDENT MEIER: Substitution ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, can you please take up Supplemental Calendar Number A.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial

reading of Supplemental Calendar 58A.

THE SECRETARY: In relation to Calendar Number 1609, Senator Brown moves to discharge, from the Committee on Rules, Assembly Bill Number 1880A and substitute it for the identical Senate Bill Number 945A, Third Reading Calendar 1609.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1609, by Member of the Assembly DelMonte, Assembly Print Number 1880A, an act to authorize the City of Niagara Falls.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1610, by Senator Padavan, Senate Print 2495, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Winner recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1611, by Senator Morahan, Senate Print --

ACTING PRESIDENT MEIER: The Secretary will read the negatives again with regard to Calendar 1610.

THE SECRETARY: In relation to Calendar Number 1610, those recorded in the negative: Senators Winner and Young.

Ayes, 59. Nays, 2.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1611, by Senator Morahan, Senate Print 3025A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1612, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 6623A and substitute it for the identical Senate Bill Number 3598, Third Reading Calendar 1612.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1612, by Member of the Assembly John, Assembly

Print Number 6623A, an act to amend Chapter 511 of the Laws of 1995.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1613, by Senator Golden, Senate Print 3815, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1614, by Senator Golden, Senate Print 4696, an act to amend the Administrative Code of the City of New York and the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1615, by Senator Maltese, Senate Print 4737B, an act to amend the Public Officers Law.

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1616, by Senator Wright, Senate Print 5005B,

an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1617, by Senator Golden, Senate Print 5031, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Is there a home

rule message?

ACTING PRESIDENT MEIER: No, there's not, Senator.

The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1618, by Senator Leibell, Senate Print 5090, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1619, by the Senate Committee on Rules, Senate Print Number 5287, an act to amend the Tax

Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1620, by Senator Larkin, Senate Print 5314, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first month next succeeding.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: In relation to Calendar Number 1621, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 7609 and substitute it for the identical Senate Bill Number 5426, Third Reading Calendar 1621.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1621, by Member of the Assembly Abbate, Assembly Print Number 7609, an act to amend the General Municipal Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect upon enactment into law by the State of New Jersey.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1622, by the Senate Committee on Rules, Senate Print Number 5460, an act to amend Chapter 401 of the Laws of 2002.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1623, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 6590B and substitute it for the identical Senate Bill Number 5465A, Third Reading Calendar 1623.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1623, by Member of the Assembly Wright,

Assembly Print Number 6590B, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1624, by Senator Meier, Senate Print 5643, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1625, by Senator Saland, Senate Print 5644, an act to amend Chapter 524 of the Laws of 1987.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1626, by Senator Spano --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1627, by Senator Little, Senate Print 56 --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the

bill aside.

THE SECRETARY: Calendar Number 1628, by Senator Alesi --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1629, Senator DeFrancisco moves to discharge, from the Committee on Rules, Assembly Bill Number 8446 and substitute it for the identical Senate Bill Number 5683, Third Reading Calendar 1629.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1629, by Member of the Assembly Magnarelli, Assembly Print Number 8446, an act to dedicate Camillus Forest Unique Area Preserve.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1630, by Senator Libous, Senate Print 5688, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1631, by Senator Saland, Senate Print 5696, an act to authorize the Commissioner of Environmental Conservation.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1632, by the Senate Committee on Rules, Senate Print Number 5705, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60. Nays, 1. Senator Valesky recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr.

President, please lay aside Calendar 1633, Senate Print 5729.

ACTING PRESIDENT MEIER: The bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1634, by Senator Volker, Senate Print 5745A, an act authorizing the County of Erie.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1635, by Senator Meier, Senate Print 5805, an act to amend the Family Court Act and others.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo, that completes the noncontroversial reading of Supplemental Calendar 58A.

SENATOR FUSCHILLO: Mr. President, could we return to the original calendar and have the reading of the controversial calendar, starting with Calendar Number 1557.

ACTING PRESIDENT MEIER: The Secretary will conduct the controversial reading of the original calendar, starting with Calendar 1557.

THE SECRETARY: Calendar Number 1557, by Senator Larkin, Senate Print 5615, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

SENATOR SABINI: Explanation.

ACTING PRESIDENT MEIER: Senator Larkin, an explanation has been requested with regard to Calendar 1557.

SENATOR LARKIN: Thank you, Mr. President.

This is a bill similar to what we did in the year 2000 when we had the Breeder's Cup here. The only difference is the year 2000-2001 budget, it was included in the budget because beforehand they had actually notified us as to what the costs were going to be associated with it.

The demands on the track now by the International Racing Association demands that the honoree, host, for the Breeder's Cup is required to do certain amounts of advertising, handling, stuff that they're not doing on a regular basis. So for the Breeder's Cup to get the attention it needs nationwide, they need to be able to encourage additional funding rather than us providing a direct fund to them.

So in the budget of 2000-2001 it was said that we would take the day before the race, the day of the race, the day after the

race, and they wouldn't be required to fund it to the state.

That's the same language that was there that passed three years ago.

ACTING PRESIDENT MEIER: Senator Sabini.

SENATOR SABINI: Thank you, Mr. President. Will the sponsor yield for a question or two.

ACTING PRESIDENT MEIER: Senator Larkin, do you yield for a question?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SABINI: Knowing the chairman's strong knowledge of the racing industry, I'm wondering, since the International Thoroughbred Racing Association is requiring all this additional advertising and promotion for the Breeder's Cup, didn't NYRA ask to host the Breeder's Cup?

SENATOR LARKIN: I'm not aware of it. I think it was just their turn.

And when we did the budget before,

Senator Sabini, it was from NYRA to put it in the budget. And in the year 2000, when we did the budget, we were here a long, long time, satisfactory, so that it would be eligible for the funding that was required in 2001.

SENATOR SABINI: Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Larkin, do you yield?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SABINI: It just seems to me that the Breeder's Cup is something that NYRA asked for rather than it being their turn. I think they -- could they not refuse to host the Breeder's Cup if they wanted to?

SENATOR LARKIN: Yeah, they could. But we could argue that for the next three days.

What we have is we have a great race that has a great tour, it brings a lot of tourism to our area. And they're saying we will do it, we will make money for the states,

we will make money for Senator Farley's district, for Assembly Tonko, Senator Bruno, and there will be revenue.

As a matter of fact, Senator Breslin will probably go to the Breeder's Cup.

SENATOR SABINI: Mr. President, will the sponsor continue to yield.

ACTING PRESIDENT MEIER: Senator Larkin, do you yield?

SENATOR LARKIN: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR SABINI: I'll be happy to note that the Breeder's Cup will be held, actually, in Belmont, which of course is downstate. Not to besmirch my friends from Saratoga.

But my question is, if we're not going to require NYRA to pay the pari-mutuel tax for those three days -- not just the Breeder's Cup day, but the day before and the day after -- is any of that savings going to be passed on to the wagering public?

SENATOR LARKIN: Well, I think, John, the thing that we have to remember here

is the Breeder's Cup is not the only race of that day. There are tremendous numbers, there's 10 or 11 races that day.

I think the real confusion here is that before, it became part of the budget; here, it didn't. So they want to be able to -- we're not going to amend the budget now at this late date and have funding for the marketing of the Breeder's Cup.

When you look at it -- and I've talked to three or four people who have better financial knowledge than I do who say that this was a simple issue -- the day before, day of, and day after -- in order to ensure that they had the funds to meet the obligations that would occur as a result of the marketing requirement.

SENATOR SABINI: Should I take that as a no?

SENATOR LARKIN: Pardon me?

SENATOR SABINI: I asked the question would the savings be passed on to the wagering public, and I said should I take your answer as a no.

SENATOR LARKIN: No, I think it's

very simple. That's how we did it before. We did it in the budget. And this time we're doing it in a way that it's up to the track. If they don't do this -- it's simple.

SENATOR SABINI: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Sabini, on the bill.

SENATOR SABINI: I'll take that as a no, that the savings won't be passed on to the betting public.

And indeed, the Breeder's Cup, on the day of the Breeder's Cup there's only one race that's not part of the Breeder's Cup card. I was the proud holder of a winning triple ticket the year it was at Aqueduct, so I know that.

But the day before and the day after are not part of the Breeder's Cup. And it just seems to me that while this may have been done the last time the Breeder's Cup was in Belmont, we're now faced with a situation where NYRA is on the front page of the newspaper every day with audits, pending investigations. They're in, I guess it's fair

to say, a legal limbo right now, depending on what the courts decide based on their probationary period of the last court order.

And I don't know that it really is fair to say, Well, we really want to have the Breeder's Cup, and oh, by the way, someone else should pay for its promotion, namely, the State of New York, who would be reaping these taxes.

Yes, this is a great event for New York State. It's a great day for racing. But I'm not sure that forcing the taxpayers of the state to pay for the promotion of this day is really a good thing. They asked for the event, and now they want us to pay for it. I'm not sure that's particularly good.

If you're going to eliminate the pari-mutuel tax for that day, I think you should pass some of the savings on to the wagering public. The people that make New York State racing, both its racing industry and its vast breeding industry and the horsemen, that make it all successful are the guys that go and plunk down a hundred bucks every day in $2 increments at the tracks

throughout the state, and they aren't really benefiting from this. Yeah, they're going to get to see some great racing that day, firsthand. But you're really asking someone else to pay for your party here.

And while I am, in my role as ranker for the Minority on Racing and Wagering, very supportive of the racing industry, I'm a little questioning at this time in NYRA's history whether or not this is the type of thing we should be absolving them from, from paying the pari-mutuel tax, and having it go to something other than the bettors.

You know, they might be smart to ask for a lower pari-mutuel tax and pass the savings on to the bettors. They'd get better crowds, better handles, and we'd all make some more money for the racing industry.

So I'm going to vote no on this, Mr. President, on the strong consideration this is not the time for us to be giving a tax break to NYRA at this point in our history.

Thank you.

ACTING PRESIDENT MEIER: Senator

Connor.

SENATOR CONNOR: Thank you, Mr. President.

Actually, this bill raises two issues. You know, I probably voted for this when it was in a budget bill like this. And the fact that this bill is coming out separately reminds me of the way this Senate once was 25 or 30 years ago, when issues like this were brought out in a bill -- the constitution says, you know, one bill, one subject -- and we could have a debate about the merits of that feature.

Of course we've long since abandoned that, under the guise of a budget, and we fold these things and we fold various gambling measures into the budget even though whenever we have a straight-up vote in this house, or at least in the past on gambling, it doesn't seem to command the support of a majority of the members. But when you put it in those big ugly budget bills, it passes.

So to say, oh, we did this before, doesn't convince me of anything. I'm sure we did. I'm sure I did. I'm sure it was in a

big bill and apple pie and motherhood were also in that bill and to vote against this you would have had to vote against half the budget of the State of New York and all the good things that are often done in it. So I'm glad this is a discrete bill. Now we can examine this.

First of all, who told NYRA, who told NYRA that they could host a Breeder's Cup and we'd pick up the tab, the State of New York would pick up the tab? That's rather presumptuous of NYRA to think we should do it this or we would automatically do this.

Secondly, to say -- and by the way, I am pro-racing. I love the racing industry. The breeding industry in New York State is very, very important to this state. But you know, I recently, in visiting colleges with my son, they had some different classes you could take in, and I took in one at Davidson College by a professor who studied the issues of sporting events and stadiums and so on, and he was generally skeptical of all these projections of how much money they bring in and add to the economy. But he said what you

do get is the water cooler bragging rights, people who stand around the water cooler: Hey, we're having the whatever game here, the Super Bowl or the this or the that, or the Breeder's Cup.

So I understand you get bragging rights by hosting it. And I think New York racing is great, and it's good imagewise. But how do you put a dollar sign on that? How do you quantify that?

I would like to see, accompanying a bill like this, some projections. How many people from out of state are expected to come to Belmont for the Breeder's Cup? How many are expected to come and stay overnight in New York? And what were they spending? I mean, these are things tourist-industry people do all the time.

And I know you look at these statistics sometimes and say, yeah, is it really worth that much, is it going to -- the Olympics or whatever, is it really going to bring in that much -- a national convention, whatever, going to bring in that much money when you take out security costs and other

hidden costs that the public pays.

So all I see here is a public expenditure. And I know, I know, it's not an expenditure, we're just forgiving, for three days, the pari-mutuel tax. Three big betting racing days. A big racing betting day, the day of the Breeder's Cup. And there are other races, and we're forgiving the tax on those. That's just like spending the public's money. It's the public's money.

My question, then, to NYRA would be: Well, how much of your take out of the pari-mutuel handle are you putting in to all this advertising for the Breeder's Cup? Are we partners? Is it fifty-fifty here? Or are we picking up the whole tab? And NYRA, at the end of year, can say, Oh, we had a great racing year, despite all of our problems, scandals, thievery and everything else, we made money? At whose expense? I want to know, are we paying the whole nut here? Is that what we're doing, the public is paying the whole nut so NYRA can host the Breeder's Cup?

NYRA, it's an embarrassment. I

remember years ago, when NYRA's franchise came up for renewal some 20-some years ago, and Stanley Fink was Speaker and he floated the idea that those tracks belong to the State of New York, we should take them and not leave them with that NYRA board with all those people with Roman numerals after their names and racing stables.

Because NYRA has often operated as if it was a private -- for the private benefit, edification and enjoyment of large, wealthy horse owners who race their horses there. We gave them those tracks and that franchise so they can enjoy themselves racing their horses against each other. That's how it looks to a lot of people.

Now, I've supported NYRA's efforts in the past to change, to adapt. But what I've been reading about for this last month again, and read about last year, it's absolutely scandalous the way they have mismanaged this franchise.

And I want -- I'm not going to vote for this, because I don't see solid numbers about who's paying for the entire costs. All

I see here is the public's supposed to pay some, what is it, 400 and some thousand dollars in forgiven pari-mutuel tax. Well, what happens to the rest of the pari-mutuel take that day? I'd like to know.

I'm voting no, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

The bill before us might seem to be just dealing with the Breeder's Cup horse race, although I think it has a lot more to do with public policy and how we make public policy here. And maybe it's important -- and my colleague on this side of the aisle raised this, you know, the forces that perhaps have ultimately brought this bill before us today.

But really, you know, what it is is a tax break. It's a tax break allegedly so that a special horse race can be held here in New York. But I think, and my colleagues sort of raised something to do with this, that maybe there's a lot more to do with this having to do with money. And I don't mean the

money that might be paid to those who win or even the money that we the taxpayers will be losing on it, but maybe, more importantly -- and this is an issue I alluded to a little while earlier on the floor -- the money that is given to those in the -- I'm sorry, money given by those in the thoroughbred racing industry.

Hundreds of thousands of dollars in campaign money goes -- on both sides of the aisle, in both houses -- but it's a tremendous amount of money, hundreds of thousands of dollars, that go towards this. And, you know, this is, well, the fourth day before the end of session. And the newspapers have been rallying that we need to do some campaign finance reform. And perhaps if we had that kind of campaign finance reform similar to, for instance, what New York City has, which is one of the premier campaign finance systems in the nation, we might not be coming up against these sort of special-interest bills like the one that's before us today.

So I'm going to vote no on this bill. I'm going to vote no on it because it

was actually difficult to figure out who it was that gives money to various candidates in both houses, because we don't have appropriate disclosure. And we don't have appropriate limits on contributions, and we don't have appropriate spending limits. And if we did enact that kind of campaign finance reform, we would be in a much better position here in the Senate to vote based on the people's interests and not only the special interests.

Thank you, Mr. President. I'll be voting no.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Senator Larkin.

SENATOR LARKIN: Mr. President, you know, we have dilly-dallied on this bill for about 25 minutes. This is a bill that's going to bring money into New York State.

I heard my good friend and colleague Senator Connor talk about there's no additive on it. The additive on here is to bring tourists. You remember a few years ago, some of you weren't in the chamber then, but we used to take all our horses for breeding

out to Kentucky. And people started screaming, and we said we're going to do it in New York. We'll do it in New York, breeding farms are up -- raising money, raising jobs, and doing something for the state.

For us to do this for three days -- and I hear my colleagues say, Well, how much is it? Well, I don't really know either. And I'm not so sure that they do. But every four years, the Breeder's Cup comes around to us. And it's something that we can attribute to the success of the racing industry.

Senator Connor correctly said there's problems with NYRA. There's a lot of problems with NYRA. And I hope that when we come back in January, when we put the commission together, we'll address those.

But right now the issue is do we provide the money for marketing, like every other track does. I say yes.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Senator Sabini.

SENATOR SABINI: Mr. President, would the sponsor yield for one more question?

ACTING PRESIDENT MEIER: Senator Larkin, do you yield for a question?

SENATOR LARKIN: One more.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SABINI: If this bill doesn't become law, is the Breeder's Cup going to happen anyway?

SENATOR LARKIN: Will it happen? Yes. It's too late now to cancel it.

SENATOR SABINI: Thank you.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Then the debate is closed.

Senator Liz Krueger.

SENATOR LIZ KRUEGER: Thank you. Very briefly on the bill. I've listened to all the complex arguments, and I think I can narrow it down to one sentence.

There are questions always for us when we move forward with gambling in this state and the costs to ourselves. If we don't collect taxes on gambling, really, what is the point? I vote no.

ACTING PRESIDENT MEIER: The

Secretary will sound the bell.

Members are asked to come to the chamber for a vote.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1557 are Senators Andrews, Breslin, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Marcellino, Montgomery, Oppenheimer, Parker, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, Stavisky and Valesky. Also Senator Brown.

Those Senators absent from voting on Calendar Number 1557 are Senators Bonacic and Volker.

Ayes, 34. Nays, 25.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1575, by Senator Padavan, Senate Print 2431, an act to amend the Tax Law.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT MEIER: Senator Padavan, an explanation has been requested.

Could we have some order in the chamber, please. You too, Senator Farley.

(Laughter.)

ACTING PRESIDENT MEIER: Senator Padavan, an explanation has been requested of Calendar 1575.

SENATOR PADAVAN: Thank you, Mr. President.

This bill would provide or allow for a tax credit for the rehabilitation of certified historic structures equal to the amount of tax credit currently provided by the federal government under Section 47 of the federal tax code.

ACTING PRESIDENT MEIER: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you,

Mr. President. If the sponsor could please yield.

ACTING PRESIDENT MEIER: Senator Padavan, do you yield for a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

In the memo to this bill it talks about this having -- specifically having an advantage for historic preservation involving --

SENATOR PADAVAN: I'm sorry, I can't hear you. You're looking down.

SENATOR LIZ KRUEGER: I'm so sorry, Senator. Excuse me.

In the memo it discusses this tax credit being particularly valuable for historic preservation involving low-income housing. Could you explain whether this is unique to low-income housing, or there's just an assumption that some --

SENATOR PADAVAN: Well, first, there are two categories that would qualify, both of them have to be on the National

Register. One would be a historic building, the other would be a historic district.

Now, there are historic districts for a variety of reasons, which are in low-income communities. And those districts, housing in them would qualify for this tax credit.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you. I appreciated the sponsor's explanation.

I tend to be hesitant to expand tax credits in general. But I do see that the potential win here is both to continue to support historic preservation, both in districts and in buildings, and hope that there will be some impact for protecting housing for low-income New Yorkers, although I hope that we will --

ACTING PRESIDENT MEIER: Just a second, Senator Krueger.

Could we have some order in the chamber, please, so we can get through this

calendar.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

To continue, I do hope, as I said, while I am always a little nervous about expanding any kind of tax credits, that this is an example where we will evaluate over time to ensure that these tax credits are actually being used effectively and don't grow at an exponential rate without our continuing to monitor this and seeing whether it was in the best interests of the people.

But I'm happy to support it now. Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Sabini.

SENATOR SABINI: Mr. President, I'll be voting aye on this, and I want to commend the sponsor.

We worked on similar legislation in the City Council when I was chairman of the landmarks committee. And people don't realize that the added costs of keeping a building in the historic district to the owner often makes what should be a prime acquisition in your

real estate portfolio one not so prime because of the added cost of things like windows and insulation and special shingles and all the other things you need to keep a property in a historic district or a landmark, keep that designation.

So I congratulate Senator Padavan on this bill. And I hope it becomes law, because there are lots of historic districts within the City of New York where the owners could use this help.

Thank you.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I too want to rise to congratulate my colleague for this legislation.

I also have a number of areas in my district that are historically landmarked. And the buildings they're in are privately owned, they're homeowners, home for many people. And this would be very helpful for them in an attempt to upgrade their properties and maintain the historical character of those properties.

So thank you. This is going to benefit my constituents an awful lot. I vote yes.

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: Yes, thank you, Mr. President. I too want to congratulate and thank Senator Padavan for bringing this bill forward.

I represent a number of historic landmark districts. Indeed, I represent and live in the first historic landmark neighborhood in New York City. When Robert Moses proposed to run a highway through the middle of Brooklyn Heights, the community organized -- in fact, you can read about this in the Caro book, The Power Broker.

And the community organized, and through the Brooklyn Heights Association, which is still going strong and is the oldest continuous civic association in New York City, a group of people came together, including a lawyer, then young lawyer, Otis Pratt Pearsall, who drafted the city landmarks law and passed it. And then Brooklyn Heights was

the first designated historic landmark district in the city and indeed in the state. And so there are others in my district now, subsequently.

And as has already been stated, it's very -- the building I live in, when they put in new windows, finally -- and had casement Anderson windows in the back, I should say. For the front, they had to have custom-built wood-framed windows, which cost a whole lot more. So owners of property do, when they have to replace or renovate something -- indeed, as once upon a time, when I had a district office in Brooklyn Heights, the Senate found out, when they couldn't just put up any old awning over the window but actually had to get one that had been approved by the landmarks commission.

So, Mr. President, my thanks to Senator Padavan for bringing this bill forward.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Debate is closed, then.

The Secretary will sound the bell.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 1575: Ayes, 59.

Those Senators absent from voting: Senators Bonacic and Volker.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1587, by Senator Alesi, Senate Print 4995, an act to amend the Tax Law.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT MEIER: Senator Alesi, Senator Liz Krueger has requested an explanation.

SENATOR ALESI: Thank you, Mr. President.

This bill simply takes the New York State estate tax credit and raises the amount from $1 million to $1.5 million so that it

coincides with existing federal law.

ACTING PRESIDENT MEIER: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. Will the sponsor please yield.

ACTING PRESIDENT MEIER: Senator Alesi, do you yield for a question?

SENATOR ALESI: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

I didn't see in the memo or in the bill how much this would cost the State of New York, how much would this change in our tax policy cost us in lost revenue.

SENATOR ALESI: I saw in the memo -- through you, Mr. President -- that it was approximately $60 million as a raw cost to the state.

SENATOR LIZ KRUEGER: I'm sorry, $6 million, is that what I heard? I'm sorry.

SENATOR ALESI: Sixty. Six-oh. $60 million.

SENATOR LIZ KRUEGER: Sixty

million dollars. Thank you.

Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Alesi, do you yield?

SENATOR ALESI: I'll be happy to, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

Is it your understanding that that cost would grow over time, particularly in relationship to the some of the changes in the federal estate tax policies?

SENATOR ALESI: Mr. President, through you, this bill extends to estates where the decedent has passed after January 1st of 2005 and thereafter.

It makes no representations to anything beyond that, nor does it in a dollar amount to anything beyond that as it would relate to the federal amount.

SENATOR LIZ KRUEGER: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator

Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

It's a dangerous step for New York to continue down the road of the federal government in losing estate tax revenue. The federal government, through laws that were effected in 2001 but have rolled into effect over the years, has actually resulted in enormous losses of revenue to the federal government. And in fact, that loss in revenue translates into lower federal revenue coming to the State of New York.

The State of New York, because of its coupling, in some cases, with estate taxes or capital-gains death taxes in particular, already loses over $700 million in revenue from taxes not collected on a very tiny percentage of New York estates, the taxes of -- excuse me, the estates of people who are the top 2 percent wealthiest New Yorkers.

And I would argue that this house should not move forward with this legislation because it will result in lost money to the State of New York, $60 million in the initial analysis that we won't receive, won't have

available for education and healthcare and other priorities for the state. And that it potentially has the domino impact, from looking at research in other states, of growing to a much larger amount of money in the future.

New York State was one of the states that wasn't coupled on estate taxes with the federal government. That means we didn't lose as much money as some of our neighboring states when the federal government changed the formula for collecting estate taxes. But with this step we would go down the road of doing exactly that, of attempting to match our rules with the federal government's, in my opinion, bad public policy of lowering the taxes on the wealthiest Americans and the wealthiest New Yorkers and their estates.

For the record, the estate tax itself only affects, on a national level, the top 2 percent of households. And that the amount of money that they are already saving, thanks to the changes in the federal laws, are in fact already substantial.

For example, for estates worth up to $2.5 million, the combined federal and state estate taxes owed by the state of between $1 million and $2.5 million -- I couldn't find a $1.5 million analysis -- already dropped from $805,000 federal/state combined to $533,000 federal/state combined, because of the federal changes in law. So these people have already saved approximately $272,000 on the estates.

If in fact New York State increased its exemption up to $1.5 million, we would be increasing the tax savings to a population of New Yorkers who truly are the least in need of tax exemptions.

There are national studies that have been done, and state-by-state studies, making the argument against lowering the tax revenue from estate taxes. There has been refutation of the arguments that small businesses have to be sold because of estate taxes. There have been refutations of the argument that family farms have to be sold because of estate taxes. There have been reports documenting that people don't choose

where to move or retire based on the marginal impact of their state's version of estate taxes.

New York State so far has been smart in not being coupled with the federal government on their changes in estate taxes. And I would argue that we should continue to be smart and not to go down the road of lowering the tax bills on estates of our wealthiest constituents. They aren't the ones who need the tax break. And unfortunately, giving them these kinds of tax breaks results in the State of New York having less money available to fund the kinds of programs that the less-well-to-do New Yorkers desperately need.

So to close, this is not the population who needs a tax cut. The State of New York can't afford to give up the tax revenue. It will not impact the economy of the State of New York not to move forward with this. And I think, as a statement about good public policy, this is exactly the type of tax cut we should not allow.

So I'll be voting no and hope my

colleagues vote no.

Thank you, Mr. President.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT MEIER: Senator Connor, why do you rise?

SENATOR CONNOR: I would ask if the sponsor would yield.

ACTING PRESIDENT MEIER: Well, I had a list going here, Senator Connor. Senator Winner asked for recognition, and then, if you don't mind, we'll do that and then we'll recognize you.

Senator Winner.

SENATOR WINNER: Thank you, Mr. President.

I am frankly astonished by the argument I just heard with regard to the estate tax. I've been around here a lot of years, and one of the proudest moments we had was when we lowered the estate tax in this state to prevent Senator Krueger's constituents from moving to Florida and changing their residence. The people in her district are the people that are paying these estate taxes and the ones that are moving to

Florida to escape the oppressive tax climate in New York State.

Remember, those seniors that don't move to Florida stay in New York and pay taxes on the money they earn from dividends and capital gains and the like, and not one dollar of those revenues that are being retained by those seniors are reflected in the statistics that you just reiterated.

You're talking about pure numbers about how much money we purportedly are losing by people not paying higher taxes, when you forget to attribute the fact that for years and years and years the number-one complaint I heard about senior citizens in New York State is they want to get out of New York so that their estates and their heirs will have the money left to them rather than New York State estate taxes.

Now to get up here and argue against this, to me, is absolutely preposterous. We should have never been anything other than joined at the hip with regard to the federal government on estate tax policy, so that this state doesn't have an

exodus of seniors of modest wealth going to Florida or other places. We can't do anything about the climate, the warm weather in Florida, but we certainly can do something about our tax climate to keep our seniors here in New York State, living in our communities, paying their taxes as they earn them year after year, instead of going to other states that have a more favorable tax climate.

So I commend the sponsor on this particular measure. And I'm sorry that we don't do more to couple ourselves with estate tax exemptions. Because if you don't believe that people vote with their feet by leaving the state when the taxes are oppressive, you haven't done a whole lot of tax counseling. But I certainly have, and I've seen the seniors from my area and others leave this state, go to Florida, establish residency -- or establish residency in any state that is more favorable -- and that's money that we are definitely losing.

So rather than talking about a $60 million problem, we should talk about the millions and millions of dollars that we're

receiving by having those seniors stay in New York, get those capital gains, get those dividends and get that other revenue that they would be receiving and paying New York State taxes on and which we are not getting if they leave.

I vote in favor.

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President. Would the sponsor yield for a question.

ACTING PRESIDENT MEIER: Senator Alesi, do you yield for a question?

SENATOR ALESI: I'd be happy to yield, especially in the wake of Senator Winner's comments, which so eloquently spoke to the issue that I was about to. Thank you, Senator Winner.

I'd be happy to yield to Senator Connor.

SENATOR CONNOR: Thank you.

I have a simple question. I don't have any notes in front of me, I don't have any studies or statistics, I don't have

anything to read. But I just have a simple question. Does the sponsor know or have a list of or know of any estates in probate that would be relieved from tax burdens by this law?

Because I note it's any decedent who dies after January 1, 2005. And I'd like to know -- we can't predict who's going to die tomorrow, or, if this becomes law, the day after it becomes law. I'd like to know what estates are we forgiving from taxes. Is there a list? Do you know of any?

Thank you, Mr. President.

SENATOR ALESI: Through you, Mr. President, let me try to answer that as simply as I can.

I don't prepare estate taxes, and I don't have any knowledge of anybody's estate preparation. I don't have any knowledge of who's died recently or their circumstances. This bill simply addresses a disparity between the New York State estate tax credit and the federal state tax credit.

SENATOR CONNOR: Thank you, Mr. President. On the bill.

ACTING PRESIDENT MEIER: Senator Connor, on the bill.

SENATOR CONNOR: My father had a saying, when I'd come home as a boy and I'd say, Oh, gee, Mr. So-and-so died, he'd say, "People are dying nowadays that never died before."

Well, this bill provides tax relief to people who have already died and are never going to die again. It provides tax relief to their estates.

In general, Mr. President, I agree with most of the comments that Senator Winner made. It was foolish for New York to not track federal estate tax policy, because people did walk. It's so easy to change domicile. I've done it for clients for different reasons in election matters. You could change your domicile quite legitimately. And people change domicile and go move to Florida, move to other locations. As long as you really move, you change your legal domicile. There's no doubt about it.

The fact is, though -- and people were leaving. So New York didn't really get a

benefit.

The other fact is that a million and a half dollars, Mr. President, may sound like a huge estate. But remember, Senator Krueger said these people don't need tax relief. Well, they're not getting it, Mr. President, they're dead. They're not getting any benefit from it. They're not getting a nickel of out of it. They're dead.

It's their heirs, their children. Now, $1.5 million divided among two or three kids -- a windfall? Well, Mr. President, how many times this week have we talked about the cost of housing here in New York City or Nassau County or Suffolk or Westchester? Not enough money for a child to let them buy a house.

Oh, young children. College? College is a couple hundred thousand dollars. Add on graduate school. It's not so much money anymore to be passed along to heirs, particularly if there's more than one heir.

So I don't think it's an inordinate relief to the heirs to the estate. I think it's appropriate.

I also think small business, if you've got a small business -- I know, you should have estate planning and you should do all this. Come on, how many people do you know have a small business? They don't live like millionaires, they don't make millions of dollars. They make a living, maybe a nice living, on their small business. But if you did an evaluation of it, oh, it's worth $1.5 million, it's worth $2 million.

But they're not millionaires, and they haven't been able to foist upon their children -- "foist" is the wrong word, they haven't been able to shower upon their children great riches. They just own a small business, a liquor store or whatever. They're not showering their children with Mercedeses and whatever. They're lucky if they can pay for an education for them. And they make a good living.

And they die. Maybe they'd like to leave that business to their child so they can make a good living at it. Oh, no, it's worth $1.5 million, it's worth $2 million, you've got to come up with a couple of hundred

thousand dollars in estate taxes. And you know what? You don't have the money. You have the asset, but you don't have the cash. Oh, sell the liquor store, the kid's got to get a different job.

So I'm in favor of this estate tax reform. But I'm voting against this bill, Mr. President, because I don't like bills, I don't like the fact that there's somebody -- and I don't mean the sponsor. He answered, and I take him at face value. Somebody out there knows who gets the benefit right now. Somebody out there.

There are people out there, they know what estates have gone into probate since January 1, 2005, until the day this becomes law, and they know exactly what it's going to save them. It's a couple of hundred thousand dollar tax break for estates that have already incurred the incidence of taxation the day of being deceased.

And I don't think it's right. I might feel more comfortable if somebody had a printout -- gee, we had printouts on school runs. We get printouts on all sorts of

things. Can't we get, from the State Tax Department, a printout of all those estates that are liable for this estate tax that will be forgiven? Because there is such a list, or it could be generated.

And I don't like the fact that I'm supposed to vote for a bill that I believe in, in principle, but that's going to put money -- in effect, refund the money -- not change tax liability, but refund large sums of money to estates, and I don't know who they are. And I suspect none of my colleagues know who they are. But I assure everyone, Mr. President, somebody knows who they are, and they know who they are. And they must be awaiting this law with bated breath.

So it's unfortunate that a good bill that I would speak in favor of, and I'm in favor of, I'm voting no on because I don't need notes and everything to tell me that January 1, 2005, was a while back.

Thank you, Mr. President.

SENATOR ALESI: On the bill.

ACTING PRESIDENT MEIER: Senator Alesi, on the bill.

SENATOR ALESI: There's several things to say.

As I mentioned earlier, Senator Winner touched on the salient points of why we should be taking care of people that live in this state. Not the least of which is to do everything we can to keep families living here and keep them from fleeing New York State to avoid estate taxes.

But it's beyond me, listening to the Senator implying that somebody is getting some kind of special treatment through this bill because they died sometime after January 1st of 2005. Completely ignores the fact that many people died after January 1st of 2005 and, more importantly, many more people will die after today and after session. And at this pace, I'm sure someone will even die of boredom.

(Laughter.)

SENATOR ALESI: But if a million dollars or a million and a half dollars is such an insignificant amount, even to the 2 percent of people that probably live in Manhattan, then what's the big deal? I would

just simply suggest that we all vote for it if it's such an insignificant amount.

But it is not an insignificant amount. There are people who will have to sell their assets to pay their estate taxes, because not every estate is that liquid, and there's no other way to pay those taxes unless you liquidate. And that is so unfair to people that have worked hard all their lives.

And yes, people are leaving their money to their heirs, but what's wrong with that? What's wrong with leaving your money to your spouse, your partner in building that estate through all the years of sacrifice, whether it's a farm or a small business, or just saving because you worked for so much an hour every week? I think it is absurd, as Senator Winner said, if we don't do this.

But if you have no other reason, if you can't embrace the argument I just gave, from a technical standpoint doesn't it just make sense to do what we've always done with the tax law? We make it coincide with the federal tax law, historically, in most cases.

It's true, a million dollars isn't

what it used to be. I can't remember who said that. But if it's an insignificant amount, then it would seem to me that it would be insignificant to support this bill. And I urge my colleagues to do that.

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

Just to be clear, I'm in favor of this bill. I don't like the effective date, because it is retroactive, and that means somebody out there, somebody out there knows who's getting the break retrospectively, I guess is the word tax authorities use.

I would like this bill and I would support it were it prospective from a certain -- and I understand, Mr. President, people can't pick the day they die. Well, maybe they can, in some places in this country. But people, in my opinion, shouldn't ought to pick the day they die. And I don't see the difference, then, why not last -- Mr. President, why not change the effective date to last December 24th and take pity on that

estate, the guy died on Christmas. You know, I don't understand this.

Make it July 1, 2005, and I'm for it. And I'll speak for it, and I'll vote for it. As it is now, I'm voting no.

ACTING PRESIDENT MEIER: Any other member wish to be heard?

Debate is closed, then.

The Secretary will sound the bell.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1587 are Senators Andrews, Connor, Duane, L. Krueger, Sabini, Sampson, Schneiderman, Serrano and Stavisky.

Absent from voting: Senator Bonacic.

Ayes, 51. Nays, 9.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on Supplemental Calendar A, will you please call up Calendar Number 1633, which was previously laid aside.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1633, from the supplemental calendar.

THE SECRETARY: Calendar Number 1633, by Senator Bruno, Senate Print 5729, an act to establish the Tech Valley High School.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr.

President, is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: We have some motions, Senator. Should we take those now?

SENATOR FUSCHILLO: Please take up the motions.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on page 13 I offer the following amendments, on behalf of Senator Fuschillo, to Calendar Number 408, Print Number 3488.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR NOZZOLIO: Mr. President, on page --

ACTING PRESIDENT MEIER: Hold on a second, Senator.

We've got to have some order in the chamber so the stenographer can record the motions, please.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr.

President.

On behalf of Senator Spano, on page 25, I offer the following amendments to Calendar Number 774, Print Number Senate 3906.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, is there any further business at the desk?

ACTING PRESIDENT MEIER: There is no further business, Senator.

SENATOR FUSCHILLO: There being no further business to come before the Senate, I move we adjourn until Tuesday, June 21 -- is there any further business at the desk?

ACTING PRESIDENT MEIER: We have one more motion that just arrived at the desk, Senator.

SENATOR FUSCHILLO: Please take up the motion.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on behalf of Senator Balboni, I wish to call

up Print Number 2969A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1278, by Senator Balboni, Senate Print 2969A, an act to amend the General Municipal Law.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, is there any other business at the desk?

ACTING PRESIDENT MEIER: That's

it, Senator.

SENATOR FUSCHILLO: There being no further business to come before the Senate, I move we adjourn until Tuesday, June 21st, at 11:00 a.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, June 21st, at 11:00 a.m.

(Whereupon, at 7:06 p.m., the Senate adjourned.)