NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 21, 2005

11:11 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT LITTLE: The Senate will come to order.

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

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

ACTING PRESIDENT LITTLE: In the absence of clergy, may we bow our heads in a moment of silence.

(Whereupon, the assemblage respected a moment of silence.)

ACTING PRESIDENT LITTLE: Reading of the Journal.

THE SECRETARY: In Senate, Monday, June 20, the Senate met pursuant to adjournment. The Journal of Sunday, June 19, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Balboni, on page number 47, I offer the following amendments to Calendar Number 1331, Senate Print Number 186B, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Are there any substitutions at the desk?

ACTING PRESIDENT LITTLE: Yes, Senator.

SENATOR FUSCHILLO: If you would please take them up.

ACTING PRESIDENT LITTLE: The

Secretary will read.

THE SECRETARY: On page 19, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 7187 and substitute it for the identical Senate Bill Number 4216, Third Reading Calendar 645.

On page 20, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 2676 and substitute it for the identical Senate Bill Number 4881, Third Reading Calendar 687.

On page 21, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 1280B and substitute it for the identical Senate Bill Number 2517B, Third Reading Calendar 695.

On page 22, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 2349B and substitute it for the identical Senate Bill Number 1219A, Third Reading Calendar 731.

On page 25, Senator Balboni moves to discharge, from the Committee on Rules, Assembly Bill Number 6362B and substitute it for the identical Senate Bill Number 4289B,

Third Reading Calendar 783.

On page 26, Senator Wright moves to discharge, from the Committee on Rules, Assembly Bill Number 5608B and substitute it for the identical Senate Bill Number 3249B, Third Reading Calendar 810.

On page 30, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 8178B and substitute it for the identical Senate Bill Number 4343B, Third Reading Calendar 898.

On page 31, Senator Valesky moves to discharge, from the Committee on Local Government, Assembly Bill Number 3652A and substitute it for the identical Senate Bill Number 1738A, Third Reading Calendar 937.

On page 34, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 7925A and substitute it for the identical Senate Bill Number 1075A, Third Reading Calendar 1010.

On page 37, Senator Robach moves to discharge, from the Committee on Rules, Assembly Bill Number 7059 and substitute it for the identical Senate Bill Number 3187,

Third Reading Calendar 1081.

On page 40, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 5957A and substitute it for the identical Senate Bill Number 4089B, Third Reading Calendar 1178.

On page 40, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 75A and substitute it for the identical Senate Bill Number 4225A, Third Reading Calendar 1180.

On page 41, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 6082B and substitute it for the identical Senate Bill Number 5050A, Third Reading Calendar 1190.

On page 42, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 5394A and substitute it for the identical Senate Bill Number 4476A, Third Reading Calendar 1222.

On page 45, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 6761B and substitute it for the identical Senate Bill

Number 890B, Third Reading Calendar 1267.

On page 45, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 7020 and substitute it for the identical Senate Bill Number 3118, Third Reading Calendar 1279.

On page 48, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 4466A and substitute it for the identical Senate Bill Number 4811A, Third Reading Calendar 1369.

And on page 51, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 8737 and substitute it for the identical Senate Bill Number 5659, Third Reading Calendar 1567.

ACTING PRESIDENT LITTLE: Substitutions ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, please adopt the Resolution Calendar, with the exception of Resolution 2529.

ACTING PRESIDENT LITTLE: All in favor of adopting the Resolution Calendar,

with the exception of Resolution Number 2529, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The Resolution Calendar is adopted.

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, may we please have the reading of the noncontroversial calendar.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 63, by Senator Little, Senate Print 1052, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT LITTLE: There is a local fiscal impact statement at the desk.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 113, by Senator Marcellino, Senate Print 1771B, an act to amend the Public Health Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 114, by Senator DeFrancisco, Senate Print 217A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 211, by Senator Sampson, Senate Print 742, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 318, by Senator Fuschillo, Senate Print 3344A, an act to amend the General Business Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 319, by Member of the Assembly Brennan, Assembly Print Number 4254A, an act to amend the State Technology Law and the General Business Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 120th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 411, by Senator Skelos, Senate Print 495A, an

act to amend the Correction Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 460, by Senator Spano, Senate Print 2899, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 508, by Member of the Assembly Parment, Assembly Print Number 6353, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: There is a local fiscal impact statement at the desk.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41. Nays, 1. Senator Valesky recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 523, by Senator Meier, Senate Print 2321, an act to amend the General Municipal Law.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 548, by Senator LaValle, Senate Print 3744A, an act to amend the Education Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 713, by Senator LaValle, Senate Print 1003, an act to amend the Penal Law.

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 729, by Senator Bonacic, Senate Print 268A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 781, by the Senate Committee on Rules, Senate Print Number 4079A, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 801, by Senator Morahan, Senate Print 4775A, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 816, by Senator Leibell, Senate Print 4537A, an act to amend the Not-For-Profit Corporation Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 837, by Senator Farley, Senate Print 4388A, an act to amend Chapter 223 of the Laws of 1996.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 840, by Senator LaValle, Senate Print 419A, an act to amend the Education Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 875, by Member of the Assembly Tonko, Assembly Print Number 8176, an act to amend the Long-Term Care Integration and Finance Act of 1997.

ACTING PRESIDENT LITTLE: Read the last section.

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 898, substituted earlier today by Member of the Assembly A. Cohen, Assembly Print Number 8178B, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 990, by Member of the Assembly Gottfried, Assembly Print Number 6620, an act to amend Chapter 521 of the Laws of 1994.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 962, by Member of the Assembly Thiele, Assembly Print Number 7469B, an act to authorize the Independent Group Home Living Program, Inc.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 997, by Senator Maziarz, Senate Print 3335, an act --

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

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

THE SECRETARY: Calendar Number 1010, substituted earlier today by Member of the Assembly Lafayette, Assembly Print Number 7925A, an act to amend the General Business Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 180th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1020, by Senator Fuschillo, Senate Print 5178, an act to amend the General Business Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read Calendar Number 989.

THE SECRETARY: Calendar Number 989, by Member of the Assembly Gottfried, Assembly Print Number 6618, an act to amend

Chapter 884 of the Laws of 1990.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1076, by Senator Volker, Senate Print 2415B, an act to amend the Civil Service Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number

1113, by Senator Hannon, Senate Print 4798A, an act authorizing the assessors of the Village of Hempstead in the County of Nassau.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1146, by Member of the Assembly Stringer, Assembly Print Number 1377C, an act to amend the Insurance Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the --

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number

1149, by Senator Spano, Senate Print 5406, an act prohibiting any employer from issuing checks.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect one year after the date.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1175, by Senator Padavan, Senate Print 1788, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

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

SENATOR SABINI: Thank you, Madam President.

For the second day in a row, I find myself complimenting Senator Padavan on a bill.

This bill is important because it's not a well-known fact, but in other countries they are now seeking to purchase our racehorses, particularly our champions, for menu items. Kentucky Derby winner Ferdinand was on a special banquet in Japan a few years ago. And some feel that it's not only inhumane, but in some ways anti-American, that they -- other countries are seeking to do this.

And I commend Senator Padavan and Congressman John Sweeney, who is leading the effort in the House of Representatives nationally, to prohibit us from using our racehorses, after they're finished with their careers, as food products in other countries.

I'm voting aye and congratulate the sponsor.

ACTING PRESIDENT LITTLE: Thank you.

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46. Nays, 1. Senator Seward recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1190, substituted earlier today by Member of the Assembly DiNapoli, Assembly Print Number 6082B, an act to amend the Education Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1198, by Senator Seward, Senate Print 4719A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1249, by Member of the Assembly Nesbitt, Assembly Print Number 4953A, an act to amend the Correction Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1257, by Senator Bonacic, Senate Print 4656B, an act to amend the Correction Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1263, by Senator Rath, Senate Print 3541, an act to amend the Social Services --

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 1266, by Senator Skelos, Senate Print 494B, an act to amend the Education Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1267, substituted earlier today by Member of the Assembly DiNapoli, Assembly Print Number 6761B, an act to amend the Education Law and the General Municipal Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1271, by Senator Saland, Senate Print 5048B, an act to amend the Education Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1310, by Member of the Assembly Nolan, Assembly Print Number 8064, an act to amend the Banking Law and the State Finance Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1316, by Member of the Assembly Brodsky, Assembly Print Number 7518, an act to amend the Education Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1352, by Senator Brown, Senate Print 4776A, an act to amend the Economic Development Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1356, by Senator Padavan, Senate Print 407, an act to amend the Vehicle and Traffic Law.

SENATOR SABINI: Lay it aside,

please.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 1369, substituted earlier today by Member of the Assembly DiNapoli, Assembly Print Number 4466A, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1372, by Senator Alesi, Senate Print 5024A, an act to amend the Vehicle and Traffic Law and the State Finance Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1428, by Senator Wright, Senate Print 5532A, an act to amend the Penal Law.

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 1444, by Senator Robach, Senate Print 5379A, an act to amend the Civil Service Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1513, by Senator Winner, Senate Print 4835A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1524, by Senator Nozzolio, Senate Print 5522A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1529, by Senator Winner, Senate Print 5611A, an act to amend the Public Officers Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1563, by Senator Balboni, Senate Print 5641, an act to amend the General Municipal Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1567, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8737, an act to amend the Education Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect July 1, 2005.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1584, by Senator Trunzo, Senate Print 4137A, an act in relation to giving Thomas J. Deluca credit.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1590, by Senator Saland, Senate Print 5424A, an act to authorize the City of Beacon.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: 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 SABINI: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

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

ACTING PRESIDENT LITTLE: Read the last section.

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 1626, by Senator Spano, Senate Print 5655A, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 1627, by Senator Little, Senate Print 5664 --

SENATOR SABINI: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: Calendar Number 1628, by Senator Alesi, Senate Print 5678, an

act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR LIZ KRUEGER: Thank you, Madam President.

While I've been known to speak out against tax-reduction bills on this floor frequently, and I will highlight that this bill would result in a $192 million estimated loss of tax revenue to the State of New York, and we should always factor in how we're going to make up that money or whether we can afford to lose tax revenue, as I've said frequently, I actually am happy to support this bill today because it addresses a marriage penalty, an unfair and inequitable tax structure where married people and unmarried people of the same income levels are in fact treated

differently.

So since I frequently stand to object to tax-reduction bills, I thought I would stand to say that I support this bill and think it's good tax policy.

Thank you, Madam President. I'll be voting for the bill.

ACTING PRESIDENT LITTLE: Thank you, Senator. You will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT LITTLE: The bill is passed.

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

SENATOR BRUNO: Madam President, can we recognize Senator Duane.

ACTING PRESIDENT LITTLE: I'm sorry, I apologize.

Senator Duane.

SENATOR DUANE: Thank you, Madam President.

Unfortunately, due to a small

family emergency, I was out of the chamber for Calendar Number 411. Had I been in the chamber, I would have voted no on Calendar Number 411.

ACTING PRESIDENT LITTLE: Thank you. The record will so reflect that.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe that I have a privileged resolution at the desk. I would ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT LITTLE: Motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 2529, honoring the Saratoga Performing Arts Center upon the occasion of its 40th Anniversary.

"WHEREAS, The arts, in whatever form depicted, are central to human expression. They are truly a universal language, and their contribution to the development of friendship and understanding among all peoples cannot be overestimated; and

"WHEREAS, The history, the heritage, and the lives of the people of all countries and all cultures are portrayed in their music and dance; the art and act of sharing them enriches us altogether; and

"WHEREAS, It is the sense of this Legislative Body to recognize and commend those musical organizations that have brought entertainment and cultural enrichment to the citizens of the great 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 the Saratoga Performing Arts Center upon the occasion of its 40th Anniversary; and

"WHEREAS, In early February 1961, Albany newspaperman Duane La Fleche noted a wire service report about a group hoping to entice the New York Philharmonic to make Stowe, Vermont, its summer residence; and

"WHEREAS, This report set off a chain reaction of historic proportions. Local civic, cultural and legislative leaders, who had previously considered a Saratoga Arts

Center an interesting possibility, were galvanized into action; and

"WHEREAS, Within a week, they held their first meeting. Within a month, they were focusing on Saratoga Spa State Park as the site, which had won the support of State Conservation Commissioner Harold Wilm, and had begun discussions with both the Philharmonic and New York City Ballet; and

"WHEREAS, The group funded start-up costs out of their own pockets. Then came the more formidable challenge of demonstrating community-wide support to foundations and philanthropists whose backing would be critical. The community came through in record time; and

"WHEREAS, By summer 1963, generous contributions from the Rockefeller Brothers Fund and New York State supplemented community support to ensure that the dream would become reality; and

"WHEREAS, The New York City Ballet's George Balanchine joined the development board, and together with Lincoln Kirstein helped define both the physical form

and artistic agenda of the Saratoga Performing Arts Center. Soon, The Philadelphia Orchestra came into the picture, with artistic director Eugene Ormandy offering his input; and

"WHEREAS, In February 1964, Richard Leach became the first executive director of the Saratoga Performing Arts Center, adding his programming experience at Lincoln Center to the mix. Shortly thereafter, The Philadelphia Orchestra and New York City Ballet formalized their commitments, and construction could begin; and

"WHEREAS, On July 19, 1966, New York City Ballet conductor Robert Irving raised his baton, and George Balanchine's 'A Midsummer Night's Dream' enchanted the opening-night audience at the Saratoga Performing Arts Center; and

"WHEREAS, The Saratoga Performing Arts Center Amphitheatre was created as a nurturing environment for great art. In every detail, it was conceived for performances and performers; and

"WHEREAS, For architect Arnold H. Vollmer, dance was the primary concern in

designing the stage itself. Honoring the wishes of George Balanchine and Kirstein, flooring of cypress and pine layered in a basketweave pattern for maximum resilience was installed on the stage and in a rehearsal studio of identical dimensions; and

"WHEREAS, Acoustical engineer Paul S. Veneklassen faced the challenge of producing optimal sound inside the enormous open-sided amphitheatre. With insights from the artistic director of The Philadelphia Orchestra, Eugene Ormandy, and working with a scale model and exotic testing devices, he designed an exotic series of baffles and sound-reflecting surfaces that draw out the full depth of the music, making the Saratoga Performing Arts Center one of the world's acoustically acclaimed outdoor performance venues; and

"WHEREAS, As the Saratoga Performing Arts Center's Amphitheatre offers grandeur, the Spa Little Theatre offers intimacy, and a rare sense of involvement that suspends time and banishes mundane concerns; and

"WHEREAS, In various seasons, the Spa Little Theatre has hosted events ranging from drama to chamber music to modern dance, including Director John Houseman's renowned Repertory Company and the Saratoga Chamber Music Festival under Music Director Chantal Juillet, as well as adventurous dance companies from Twyla Tharp to Merce Cunningham and Bella Lewitsky; and

"WHEREAS, The New York City Ballet will pay tribute to its 40-year Saratoga Performing Arts Center heritage, opening on July 5, 2005, with 'A Midsummer Night's Dream,' which was performed the very first night of SPAC's inaugural session. In addition, several ballets by famed Broadway choreographer and director Jerome Robbins, including 'Glass Pieces,' 'Fanfare and Concertino,' 'Swan Lake,' 'Agon,' 'Harlequinade,' and 'Ballo Della Regina,' will be presented, as well as three works new to SPAC: 'Octet,' by NYCB Ballet Master-in-Chief Peter Martins, and two new works by the company's resident choreographer, Christopher Wheeldon; and

"WHEREAS, The Saratoga Chamber Music Festival will present seven concerts under the music direction of renowned Canadian violinist Chantal Juillet, August 2 through 21, 2005, to celebrate Saratoga Performing Arts Center's 40th Anniversary season. Highlights of the performance season include an opening-night recital by violinist Lisa Batiashvili and her husband, Francois Leleux, on oboe, with brilliant pianist Jean-Yves Thibaudet; Ranjbaran premieres; piano performances by Emanuel Ax and Andre Watts; cellist Daniel Muller-Schott; The Chris Brubeck Quartet; an evening with acclaimed violinist Gil Shaham and Skidmore College Senior Artist-in-Residence Joel Brown on guitar; and a spectacularly unique evening with native Argentine pianist Martha Argerich and her 19-year-old Budapest-born protege, Geza Szilvay, on violin; and

"WHEREAS, To celebrate the 40th Anniversary of the Saratoga Performing Arts Center, a remarkable roster of classical soloists will join The Philadelphia Orchestra and Maestro Charles Dutoit, principal

conductor and artistic director of the orchestra's Saratoga season, including Itzhak Perlman, Emanuel Ax, Andre Watts, Yo-Yo Ma, Martha Argerich, Jean-Yves Thibaudet, Pulitzer Prize-winner Marvin Hamlisch, Behzad Ranjbaran, Lisa Batiashvili, Gil Shaham, Van Cliburn, and Chantal Juillet; and

"WHEREAS, It is the sense of this Legislative Body that when organizations of such noble aims and accomplishments are brought to our attention, they should be celebrated and recognized by all the citizens of the great State of New York; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor the Saratoga Performing Arts Center upon the occasion of its 40th Anniversary; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the Saratoga Performing Arts Center."

ACTING PRESIDENT LITTLE: Senator Bruno.

SENATOR BRUNO: Thank you, Madam

President and colleagues.

It is very, very fitting that we pass a resolution honoring and recognizing the 40th anniversary of the Performing Arts Center of Saratoga. It has been, for forty years, founded with people in the Capital Region, all over the state, I believe under the leadership of then-Governor Rockefeller, and it has brought culture, the arts, economic impact, people literally from all over the world. Celebrities go there, perform there. It really is one of the largest and biggest, best assets that we have in the Capital Region.

There probably isn't anyone here that hasn't been there, your families that haven't been there, your neighbors, your constituents. It is just tremendous to have.

My colleague Senator Balboni, who joins Senator Fuschillo, was observing that he believes that Picasso said something like: The arts help you brush off the dust of the day. How profound is that? I think Senator Balboni actually made that up.

(Laughter.)

SENATOR BRUNO: But how

appropriate -- you think about it -- after a day to go and just enjoy the music, whatever presentation is taking place, and the acoustical soundness of that amphitheater.

We're very, very fortunate Marcia White is here, with many of the board members from SPAC, who are extremely busy but are providing their time, their energy, their enlightenment to support Marcia White as the president and to support the good works of the Performing Arts Center in the Capital Region and this state.

So we are indebted to you for your personal commitment. And Marcia White, having spent the previous twenty years in the Senate, knows how to manage, she knows how to lead, she knows how to get things done. And since she's been there, everything has turned around and is headed in a bigger, better, greater, wider horizon.

And, Marcia, congratulations to you. Congratulations to the board. And we look forward, truly, with your leadership, with the support that you have, support of the colleagues here and so many other people that

would like to be here, we look forward to one of the most successful seasons that you've ever had in the last 40 years, and for at least 40 more years.

And Marcia and the board have committed their service for the next 40 years. And who knows, we might be back here, Marcia, 40 years from now, and I may have another resolution up.

So congratulations and thank you for your good work and for all of the support that you give people in the Capital Region and this state. You are a tremendous asset. We're honored to be honoring and recognizing you here on the floor of the Senate.

Thank you, Madam President.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

I think that you know, as a person that comes from the Capital District, that the Saratoga Performing Arts is a state treasure, it truly is. And the remarkable turnaround that has happened as a result of Marcia White and that new board is truly remarkable.

And the support that our Majority Leader has given the Saratoga Performing Arts is really outstanding. And I know that, as somebody that shares Saratoga with Senator Bruno, how proud we are of what has happened up there.

And this is -- as I said, this is truly a turnaround. And the way that the community and the entire Capital District have stepped up to save SPAC, it's truly an anniversary that needs to be recognized.

And I rise in support of this resolution and congratulate Marcia White and her board on the tremendous turnaround that has happened up there.

Thank you, Madam President.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

I too join with Senator Farley and Senator Bruno in commending the new board, but most especially its new president, who I think has generated a renewed excitement in the Capital District. I think you can actually call it a renaissance. People are now talking

about the ballet like they haven't in the past twenty years. They're talking about the orchestra, they're talking about the events that are taking place this summer.

And as I look up and see friends of mine who are on the board, who were each and every one of them selected for particular values and skills that they bring, and I commend each and every one of you for offering your time and you, Marcia, for undertaking a greatly of responsibility, but a responsibility that you can handle effortlessly.

And I look forward to being at the Spa so many times this summer. And again, a wonderful resolution.

Thank you, Madam President.

THE PRESIDENT: 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 congratulations and best wishes for many, many more years of similar success.

(Extended applause.)

SENATOR BRUNO: Madam President, can we open this resolution up to anyone that is here on the floor.

THE PRESIDENT: Yes.

SENATOR BRUNO: And if you'd rather not be on the resolution, would you privately address the desk.

Thank you, Madam President.

THE PRESIDENT: Thank you, Senator Bruno.

Any member who does not wish to cosponsor the last resolution, please notify the desk.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will ring the bell, and the members should return to their seats so we can commence with the controversial calendar.

Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

On Resolution 2532, which is commending POW Jessica Lynch, who will appear at the Teresian House, I would like to open it up for all members of the Senate. And if anyone wishes not to be on it, to notify the desk.

And I also applaud and commend Senator Larkin for bringing this to my attention.

THE PRESIDENT: Senator Fuschillo, at the request of Senator Breslin, are you in agreement with opening up Senate Resolution 2532 for sponsorship?

SENATOR FUSCHILLO: Yes, Madam President.

THE PRESIDENT: Then any member who does not want to cosponsor the proposed resolution, please notify the desk. Thank you.

The Secretary will read.

THE SECRETARY: Calendar Number 713, by Senator LaValle, Senate Print 1003, an act to amend the Penal Law.

SENATOR SABINI: Explanation.

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

SENATOR LaVALLE: Thank you, Madam President.

During the last couple of weeks, we have passed a plethora of bills, I don't know how many, dealing with sexual predators, sexual assault. And we have talked about various approaches on how to deal with the problem that is very, very vexing in our society today.

I think many people would not have believed that we as a legislature, in trying to deal with the protection of our -- particularly of our young people, would be using a GPS system to be able to track and keep surveillance on people who have a problem.

Today we are discussing a bill -- and I must say, years ago when I had filed this bill -- it goes back maybe six, seven, eight years ago -- a lot of people snickered. A lot of people said this bill really goes too far. But when we look at the context of the

year 2005 and all the different kinds of measures that we are considering, this legislation is really not out of the mainstream.

There are 11 states that will have enacted legislation allowing for chemical castration, those states being California, Texas, Georgia, Tennessee, Michigan, Florida, Iowa, Louisiana, Oregon, Wisconsin, Montana. And in the state of Minnesota, legislation is pending.

As we talk about this legislation, it is -- and my staff has done an enormous amount of research, calling various states to ask them about issues of recidivism, asking them how the system works, trying to get statistics and so forth for the debate today. We find that -- and I just want to say, because it is shown in the kinds of legislation that we have passed in this house, that there's no perfect cure, and that individuals who have a psychological and to some degree a physical problem really cannot help themselves. And so we're reaching out and trying to find a solution.

We contacted the states of California, Florida, Georgia, Iowa, Louisiana, Michigan, Montana, Oregon, Texas and Wisconsin, and every one of those states, with the exception of Michigan, have a civil commitment law. In the discussion that we've had with other states, they've talked about civil commitment and other measures being part of a large program in trying to deal with the problem.

We looked at the recidivism, because that's the most often asked question, and we found that different states count things differently. And so it's very, very hard to get a handle on it. But just to -- one thing that we do know is that in looking at three-year rates for sex offenders, we found that the percent returning to prison within three years of release, by offense type, for all sex offenders, 45 percent; sexual assault, 53 percent; sexual assault of a child, 41 percent; and indecency, 35 percent.

The legislation that -- and by the way, before we get into the specifics of the

legislation, there are numerous safeguards, not only in this legislation but in the legislation passed throughout the country. The State of Wisconsin has the most evidence of the number of individuals that have been chemically castrated, and the number is 29. And the question that we asked is, of the 29 people, have there been any that have been back for a sexual crime. And the answer was no. Although some were returned for -- whether it was burglary or some other crime. But not for a sex crime.

I would say, and say it right out, that castration is not a hundred percent cure. There is, from what we have, there's about a 5 percent -- a repeat offense rate of about 5 percent for sex criminals that have had chemical castration.

Chemical castration -- this might come up as a question -- is completely reversible. It is a treatment that has to be linked with other kinds of things, and we'll get into that, in terms of psychological treatment. And we find that a well-regulated system of drug treatment for sex offenders

really might offer the most promising possibility to achieve rehabilitation and safe integration of offenders into society.

In discussing this with my staff, we felt the approach that we were really taking here is to offer individuals who just cannot help themselves an opportunity to assimilate into society. Under this bill, if it were to become law, or in the other states, there are so many safeguards that either the judge or the physician would not go ahead and approve of this methodology.

So in just going through the bill, the bill has first violent felony sex offense -- and by the way, medroxyprogesterone acetate, MPA, is the chemical that we're talking about. For first violent felony offenders, MPA is an option. If there has been, under 1(B) of the legislation, if a defendant has a prior conviction, then the court shall, shall sentence an individual to undergo MPA.

Now, in the sentencing, a candidate, and the legislation talks about under this subdivision, shall be contingent

upon determination by a court-appointed medical expert. And to provide that a defendant sentenced to probation who is not custody shall be returned to custody for such treatment. And no such treatment shall be administered until the individual is informed of the side effects and has consented in writing.

Now, there are certain side effects. Individuals who have hypertension, coronary problems, a physician would have to make a determination whether that would interfere with the individual's good health.

I would also say to you in the legislation that for a first violent felony offender, they can voluntarily undergo treatment. And they must give their written consent to the court. And by the way, this legislation also voluntarily would allow an individual to undergo physical castration, once again upon a written motion by the defendant.

We have found that physicians, for whatever reason, have been very prudent and in some cases reluctant to use MPA. And

Wisconsin has the highest number of cases, as I have indicated, 29.

The last part of the bill indicates that the defendant shall be guilty of a Class A misdemeanor if they do not appear as required by the Department of Corrections or they do not allow administration of MPA. And before an individual is released, there's a time period in which the process would begin. But as I have indicated before, this in and of itself has to be coupled with counseling and so forth.

And lastly, probably one of the most important bills that we passed is Senator Volker's civil confinement legislation. Because all of the states that I have indicated have passed very comprehensive laws using both civil confinement and MPA as part of their total program.

THE PRESIDENT: Senator Krueger.

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

THE PRESIDENT: Senator LaValle, will you yield for a question?

SENATOR LaVALLE: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

Are there any other laws in New York State where we mandate people to take drugs against their will?

SENATOR LaVALLE: I don't know.

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

THE PRESIDENT: Senator LaValle, do you yield?

SENATOR LaVALLE: Yes, I do.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Are there any studies that have been done on the long-term health risks of this drug or its relationship to other illnesses or drug therapies?

SENATOR LaVALLE: My staff, as I have indicated, have had discussions with individuals from the states of California Florida, Georgia, Iowa, Louisiana, Michigan,

Montana, Oregon, Texas, and Wisconsin. And as I've indicated, Wisconsin has been the most aggressive. The first laws were passed in California -- the first law was passed in California in 1996. There were several that were passed in 1997, Iowa in '98, Oregon in '99, and Wisconsin more recently.

As I have indicated, the -- there are some studies that talk about some health problems that you have to be a little cautious -- I talked about hypertension, heart problems. There is also a weight gain that takes place. So we do know that there are some, some health problems. But in those cases, and I've said this repeatedly, the physicians have been very, very cautious, very measured in using MPA. Even though it is shown as being successful, as I've quoted, in Wisconsin in the recidivism rate for sex crimes. We know of none.

Now, I'm very cautious in that, Senator, because -- and we've had dialogue with the states. We know that some of those people have literally left the state, so tracking them becomes difficult.

SENATOR LIZ KRUEGER: Right. Thank you.

Madam President, on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate the Senator's detailed explanation of his bill.

I would argue that this is not a bill we should pass in New York State, despite other states claiming that they've had success with it. I'm concerned on a number of levels. One, it's the -- if it -- for voluntary purposes, I would not object. And certainly the argument that anything we can do to prevent repeat offenders from continuing to put any of our constituents at risk is obviously a very high standard for all of us, and one that we hope to meet.

But in this bill, it's a fairly drastic measure to mandate this even for people who are not repeat molesters. And that while some experts argue that this drug is effective, others argue that in fact it is not and does not statistically decrease repeat

offenders because in fact the underlying violent tendencies of people who are sexual abusers and predators is not necessarily related to a chemical response in their body as much as psychological problems that they suffer.

I'm also very, very concerned about a mandate by state government that we actually require people to take drug therapies that may not, in the long term, prove to be effective but may, in fact in the long term prove to cause other illnesses or complicate other illnesses. I think it's a very risky road on constitutional protections and on healthcare standards of not mandating people follow therapies that they choose not to, to open this door.

I would argue, though, that in fact I do support a bill that we passed here the other day, and I think there may be some amendment of it even today on the floor, involving GPS bracelets for Level 3 offenders. And I think that many of the concerns that I know Senator LaValle has and that motivate his decision to move forward with this bill are in

fact the same concerns we all do have and hope to address, which is ensuring that people who are potentially still putting at risk our constituents, based on their historical patterns of sexual offense, ensuring that even when they are released back into communities that there are ways to ensure that they never repeat their violent attacking offenses and that we can monitor and evaluate and ensure that they should retain the right to be in the community without putting anyone at risk.

I think that the approach that we have made in laws that -- bills, excuse me, that we have passed and perhaps are amending and negotiating with the Assembly even today on GPS monitoring is a better way for us to go and probably a more successful model to address the concerns of Senator LaValle.

And so I will be voting no. And I hope my colleagues will also think about what are the best ways and the not-best ways to address this problem.

Thank you, Madam President.

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

Senator Stavisky.

SENATOR STAVISKY: Madam President, if the sponsor would yield to one question.

THE PRESIDENT: Senator LaValle, will you yield for a question?

SENATOR LaVALLE: Yes.

THE PRESIDENT: You may proceed.

SENATOR STAVISKY: I had a Level 3 offender living in my district. And I tried to determine what the recidivism rate was for Level 3 offenders. And the statistics that the Division of Parole gave me I think were artificially low.

Can you tell us what the recidivism rate is in New York State for Level 3 offenders?

SENATOR LaVALLE: I don't have that.

There are a number of studies that have been done; I read some of the rates per crime. But the problem that we found, in talking to people, is that -- and my staff said to be very, very cautious in using numbers, because people count things in

different ways.

Now, I mean, I don't know, if you commit a crime, a sex crime, you go out, you come back, that sounds like you failed. But I do not have our numbers specifically.

I do have -- as I recall, the number for violent and nonviolent sex crimes was 13, 14 percent and recidivism for individuals at large was 36 percent.

Now, when I looked at those numbers, I too thought they were very, very low. So I think when you do the research that my staff has done on this -- and they were having trouble. They did this all by hand, state by state. And New York, they were very perplexed, because we're using different kinds of systems to put statistics together.

SENATOR STAVISKY: Thank you.

I've found the same problem. And the numbers that I had were very -- were in the 30 percent range, and I think that number is low.

THE PRESIDENT: No other member wishes to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

Senator Montgomery, to explain your vote.

SENATOR MONTGOMERY: Yes, Madam President, to briefly explain my vote.

I'm going to be supporting this legislation. I understand that there are many questions and issues that we don't still have answers for. I would hope that we could have an opportunity to have a broad discussion and some hearings and that this would go through that process.

THE PRESIDENT: Could I ask the members to refrain from conversing.

SENATOR MONTGOMERY: However, I applaud Senator LaValle's attempt to come up with a method of dealing with people who are in a category of inability to control themselves in this way. And it seems to be --

THE PRESIDENT: Senator Montgomery, may I ask you to wait until we have order here, so that you can be heard.

All right, please proceed.

SENATOR MONTGOMERY: Madam President, this bill aims to help those sex offenders who are unable to control their sexual proclivities to be able to use medication to help them. And that they would also be able to function in society once again without having the public be terrified of what they might do at any moment.

So I am going to support this and hope that we can have much more dialogue on this issue. But I vote yes.

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

Senator LaValle, to explain your vote.

SENATOR LaVALLE: Thank you, Madam President.

In casting my yes vote on this legislation, I very briefly just want to indicate that the U.S. Supreme Court, in Kansas v. Hendricks, 1997, gave us the legal

underpinnings for not only Senator Volker's civil confinement legislation but the laws throughout the country on chemical castration.

And so -- we have an epidemic here, and so we're trying to put as many arrows in the quiver to fight what is going on in our society. I believe this legislation will allow for individuals proper, as Senator Montgomery indicated, assimilation into our society so that they don't -- will not terrorize individuals and can be a productive member of our society.

Once again, I vote aye.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I vote aye as well.

But there's one segment of the bill that seems to be a more recurring theme in many, many bills that we see, and that is immunizing various people from liability. In this case that clause finds itself here as well, that if a healthcare provider is negligent in prescribing this type of treatment or administering the treatment,

it's -- the only liability would be if the person has not acted in good faith.

I'm not quite sure how a medical-care provider could be found ever to be found not operating in good faith. That's no standard at all. So it's truly total immunity.

The point I'm trying to raise, not only for this bill but many, many others that we've seen already, is that if someone's negligent, who's going to pay, then? The whole point of our tort system is to compensate individuals, no matter who they are, for negligence and let the party responsible pay.

And if we keep immunizing the entire human race, then that means government's got to step in, and it's going to be another cost of government. Plus there's no incentive for anyone to avoid negligence.

So I'm going to vote yes on the merits of the bill. But once again, I just want to state my concern over this troubling trend that seems to be expanding over the last few months.

THE PRESIDENT: Senator DeFrancisco and Senator LaValle, you will both be recorded as voting in the affirmative on this bill.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 713 are Senators Hassell-Thompson, L. Krueger and Parker.

Absent from voting: Connor, Gonzalez, and Sampson.

Ayes, 54. Nays, 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 875, by Member of the Assembly Tonko, Assembly Print Number 8176, an act to amend the Long-Term Care Integration and Finance Act of 1997.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT LITTLE: An explanation has been requested, Senator Hannon.

SENATOR HANNON: Yes. This legislation would extend the Long-Term Care Integration and Finance Act of 1997 for an additional two years.

This legislation covers the programs known as the PACE programs, which are basically a capitated experimental program to deal with the elderly, the frail elderly, sometimes referred to as the chronic care management demonstration programs.

There are five programs in existence in this state: The Eddy, Loretto, Rochester Healthcare, Beth Abraham, ElderCare. Each of them have requested an extension.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Hannon.

Senator Krueger.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Hannon, do you yield?

SENATOR HANNON: Yes.

ACTING PRESIDENT LITTLE: Yes, the Senator yields.

SENATOR LIZ KRUEGER: Thank you.

Senator, we extended this for two years two years ago. And now we're being asked to extend it again. It's a demonstration project or, as you explained, a series of them. What have they demonstrated so far? Why are we either continuing them another two years or not just establishing that they've succeeded and allowing this legislation to move forward on a permanent basis?

SENATOR HANNON: This legislation, which has been adopted by the national health policymakers, is something that many people feel will be the coming model. In order to make this the coming model, certain issues need to be finalized. And there is a policy tension between those of us in the legislature and the healthcare community and the regulators.

I would say they would cover questions in regard to rate-setting, questions in regard to interaction between the PACE

program and assisted living, questions about which regulations should and can apply, questions about documentation, as well as questions about assessment tools. Assessment tool being a term, a concept in the field of long-term care by which the provider takes a look at the patient, the prospective patient, and tries to evaluate the needs of that patient and the type of care that the patient will require.

Since we have last extended this, this Legislature has done two things. The Health Committee, in conjunction with the Social Services Committee, held some roundtables in regard to what are the most appropriate assessment tools that are available, what's happening in the state to upgrade the assessment tools, and when those might come about.

Second, as a line of inquiry, we actually adopted legislation that called for risk-adjusted rate setting by the Health Department to go to these programs. That legislation passed both houses but was vetoed by the Governor.

Therefore, what continues to exist is the final shape and form of these demonstration programs if we're to move them to permanent status.

Behind these demonstration programs, which are more fully developed than others, behind them is the less-developed programs, which can be called the long-term-care demonstration projects. They are still working in regard to the methodology, et cetera.

What we're trying to do is the most appropriate care at affordable prices for this government and society, the most appropriate care for the elderly, especially the frail elderly. As we are facing a population that will, by the year 2030, double the number of people over 65 and probably a little bit more than that increase the number of over 80, we have a continuing mission to determine what's the best way to take care of, in an institutional fashion, our elderly.

And the PACE program has done this by giving flexibility to the caregivers, by capitating the rate by having special

oversight so that we make sure the best care possible is being given. This is an ongoing discussion. It's one I wish were finalized. But in the meantime, these five programs need to have their life extended so the care they are giving ought to be continued.

SENATOR LIZ KRUEGER: Thank you.

Madam President, if the sponsor would please continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Hannon, do you continue to yield?

SENATOR HANNON: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

I appreciate the very detailed explanation. And I share your concern that these are critical programs. And you are absolutely right that as we age as a society, New York State is falling behind what we ought to be doing to address the problems of long-term care.

And I'm very pleased to hear that

there were roundtables. I am, of course, disappointed that the Governor vetoed the bill you referenced.

In this original legislation it called for an interim report to be received by the Legislature in 2003 and a final report by mid-2006. Have we received any reports from these demonstration projects, as required by the '97 law?

SENATOR HANNON: I don't know if we have any paper. I do know that there has been a fairly intensive, extensive ongoing communication with both -- with each of the five plans, as well as with the Department of Health and the Department of Budget. This has come up with fairly tough scrutiny during the budget process.

And I'm pretty aware of what's happening and have been and will be available to discuss any concerns you might have, not necessarily on the floor of this chamber.

SENATOR LIZ KRUEGER: Thank you, Madam President. Very briefly on the bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate Senator Hannon's detailed explanations. I think that we agree we need to do far more on long-term care planning for the State of New York. I think this Legislature should have more dialogue on these questions and these issues, whether it's on the floor of the chamber or in public hearings or by reviewing reports that I hope the Department of Health and other experts will provide us.

Perhaps one of the reasons that between 1997 and 2005 we haven't moved forward enough is because we're not spending enough time looking at these issues. We have our demonstrations, we are told they are doing well, but we are not moving forward to expand these very important programs, again, for a growing population of seniors in the state of New York.

So I hope that reports will be forthcoming. And I hope that before the next time we're asked to extend this, in 2007, we will have demonstrated enough to move forward

for the people of New York. I will be supporting the bill.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Hannon.

SENATOR HANNON: Yes, Madam President, on the bill.

ACTING PRESIDENT LITTLE: On the bill.

SENATOR HANNON: Notwithstanding the comments about public hearings and oversight and all that -- a continuing theme that I think is totally spurious and foreign to this whole discussion -- we have in this Senate, at least in the Majority, paid careful attention to the long-term care needs of our population. We've had roundtables throughout the state. We've had discussions, we've had ongoing hearings, we've had public budget discussions. There has been a very intensive effort.

To the extent the very esteemed Senator from Manhattan would like information about that, dare ask, this being the first

time I've ever heard of any inquiry, I will simply state I am perfectly willing to share any information at any time. But to say or imply or to simply state that we have not been doing this in public is erroneous and I think ought to be withdrawn.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator.

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

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

Those Senators absent from voting on Calendar Number 875: Senators Connor, Gonzalez and Sampson.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Larkin.

SENATOR LARKIN: Thank you, Madam President.

There are three resolutions on our calendar today that I'd like to open up. Number 2586 talks about our Americans that were taken out of the Philippines and went into Manchuria, the 50th anniversary.

The recent death of an individual in my district who went back to Iraq, Corporal Joe Tremblay, 2649.

And another one that should be important to every one of us is 2688, which encourages our Congressional delegation to ensure the proper healthcare for members of our National Guard.

ACTING PRESIDENT LITTLE: Senator Fuschillo, may we open those three resolutions?

SENATOR FUSCHILLO: Just follow the normal procedures of the house and open them up to the house. If anybody wishes not to go on them, please notify the desk.

ACTING PRESIDENT LITTLE: Any Senator not wishing to be on Resolutions 2586,

2649, or 2688, please notify us at the desk.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

I too have a resolution that I would like to open up for everyone to participate in.

This resolution calls for Obesity Awareness Month. And because of the numbers of cases that we are beginning to see of cancer, diabetes, and heart condition that are closely associated with obesity, we are trying to bring public attention.

When we talk about the costs of medical care, if we begin to look at our eating habits and our behaviors, we will be able to reduce significantly the cost of care just by observing diet.

So therefore, Madam President, I appreciate the opportunity to open up this resolution to the entire body and hope that not only will my colleagues sign on to this, but also will raise their consciousness about the way we eat when we go into the Senate lounge.

ACTING PRESIDENT LITTLE: Thank you. Senator Hassell-Thompson, can you give me the number of that resolution?

SENATOR FUSCHILLO: Madam President.

ACTING PRESIDENT LITTLE: Senator Fuschillo.

SENATOR FUSCHILLO: No objection. Same normal procedures.

Can we proceed with the reading of the controversial calendar, please.

ACTING PRESIDENT LITTLE: Thank you.

SENATOR HASSELL-THOMPSON: It's Resolution Number 2652, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Any Senator not wishing to be on Resolution 2652 please notify the desk.

The Secretary will read.

THE SECRETARY: Calendar Number 1146, by Member of the Assembly Stringer, Assembly Print Number 1377C, an act to amend the Insurance Law.

SENATOR DUANE: Explanation,

please.

ACTING PRESIDENT LITTLE: An explanation has been requested, Senator Balboni.

SENATOR BALBONI: Yes, thank you, Madam President.

This bill attempts to close one of those insidious loopholes that arises in the context of orders of protection. Anyone who has studied the law of the order of protection realizes that it is the attempt by the judiciary and by this legislature to try to prevent a violent act from happening. But unfortunately, as this bill addresses, we have systems in place which completely obfuscate the intention of that law.

The situation that this bill seeks to address is one where there is a policyholder for a contract for health insurance who has an order of protection against him or her and the order of protection is to protect the victim of domestic violence, who is the beneficiary of that policy.

Now, why does that matter? Because as a policyholder, under current law, I have

the right to receive information as to how the policy is being used, including the address of the individual who I have an order of protection against me for.

This bill, which has been negotiated now for two years and will become law should this house see fit to pass it, will now prohibit an insurance company from providing information as to the known whereabouts of a victim who has an order of protection for his or her protection to be disclosed to the policyholder.

The process works that the order of protection must be delivered to the offices of the insurance company, and then they are responsible for prohibiting the release of this information.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Balboni.

Senator Duane.

SENATOR DUANE: Thank you, Madam President.

With the exception of the word "obfuscate," the explanation is satisfactory.

(Laughter.)

ACTING PRESIDENT LITTLE: Thank you, Senator.

Is there any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 120th day.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

Those Senators absent from voting on Calendar Number 1146: Senators Connor, Gonzalez and Sampson.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1263, by Senator Rath, Senate Print 3541, an act to amend the Social Services Law.

SENATOR SCHNEIDERMAN: Explanation.

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

Senator Rath, an explanation has been requested.

SENATOR RATH: Madam President and my colleagues, this bill is a bill that is an implementation of a measure that we passed just three or four votes shy of unanimously two years ago, when an omnibus Medicaid bill was passed as a result of the hearings that Senator Hannon referred to a few minutes ago.

One of the prime messages from the people all across New York State as we went out on a task force -- a bipartisan task force, by the way, that was --

SENATOR SCHNEIDERMAN: I can't hear.

ACTING PRESIDENT LITTLE: The speaker cannot be heard. Can we keep the conversation out of the chamber.

SENATOR RATH: It's the first time in my life someone said they couldn't hear me. I usually have a very -- my children always thought they could hear me too much, probably. But okay, I'll try. Is this

better?

As a result of the bipartisan hearings that were across the state two years ago, the task force report resulted in a piece of legislation, omnibus piece of legislation, Medicaid reform legislation.

One of the chief concerns we heard all across the state of course was long-term care, as you just heard so much from Senator Hannon about the PACE demonstration programs that are going along and showing some good results. Because we know most of the costs of long-term care -- most of the costs of Medicaid are tied up in the long-term-care system.

But a very large portion of the cost is caught up in a circumstance that we're trying to start to right, to turn right. Assemblyman Schimminger and I share this bill. He introduced it in the Assembly. And the bill is in some parts technical and in other parts looking to expand managed care.

We know that managed care is effective, we know that it does work. We heard from county after county across the

state. And all of you know yesterday we passed a bill about Erie County. It was a problem. Erie County has had a problem, as many have, with their Medicaid costs. I could recite to you number after number after number about counties across the state that will tell you either all or close to all of their property tax is being used up by Medicaid, one way or another. We could debate that, we could talk about that, but I think it's pretty generally recognized that spiralling Medicaid costs are a problem not only in New York State but in every state in the country.

Let me just give you a couple of numbers from Erie County. Because, as I said, we have been really close to the problem because of the circumstance that has been just so clearly highlighted the last several months.

In 2003, the Erie County Department of Social Services had 131,150 residents eligible for and using Medicaid, about 80,000 of those enrolled in Medicaid managed-care. Approximately another 8,000 were in long-term care, leaving about 44,000 persons in a

fee-for-service Medicaid program with no known management of their healthcare.

This last fee-for-service group, representing 33 percent of the patients, expended $512 million per year, or 50 percent of the total Medicaid spending. Their average cost per person per year, $11,669, compared to $2,889 per year for the Medicaid managed-care enrollee.

It's a serious problem when you've got an almost 10,000 -- well, $9,000 difference between the services that are being provided for the people who are in managed care and those people who are in fee-for-service.

Erie County then went on to do a program to check out what they could do with managed care in terms of an addiction pilot project. The net savings over two years for 100 alcohol-addicted individuals, a net savings of $13,000 per person, both improving their health and their social well-being. The total amount was $1.3 million over two years.

We know managed care works. The program -- the bill in front of you today

expands the number of people who would be in managed care across New York State. But not just unilaterally making it happen, it adds the services to the rural communities by adding rural health networks and to the HIV communities by saying that the special kinds of provisions that are necessary for both of those communities to have quality service, coordinated service -- and oh, by the way, hopefully it will be efficient and economic service.

But in terms of efficient and economic, we have to look to our Health Department in New York State and the federal government, because none of this is going to happen without the rate structure being set, the fees being set, and the waivers coming from the federal government.

But I would advance to you, my colleagues, it's a start. We have to start somewhere. It's a bill in both houses. I don't know what the hopes are for this bill in the Assembly. I know that I have very high hopes for this bill here, seeing as we in essence supported this two years ago almost

unanimously in the omnibus Medicaid bill that we passed near the end of session two years ago.

So my hope is that your questions -- well, I can answer your questions and that you'll see your way clear to support this beginning effort.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Rath.

Senator Schneiderman.

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

ACTING PRESIDENT LITTLE: On the bill.

SENATOR SCHNEIDERMAN: I thank the sponsor for -- once we quieted things down here, it was good to be able to hear the explanation.

My concern with this legislation, the concern that has been expressed by a lot of colleagues as well as advocates, including the teachers, service providers such as Gay Men's Health Crisis and Medicaid Matters, which is a consumer group, is that it is

clear -- and as the sponsor has articulated, I think, quite effectively -- that managed care saves money.

However, I think it is also clear that it's at this stage of the evolution of New York's healthcare system, a decade or so after we started requiring some recipients of health services through the Medicaid program to enroll in managed care, that managed care also can result in reductions in services.

What this bill would do is require some of our most vulnerable, some of our most vulnerable citizens to enroll into managed-care programs that history has shown can create numerous barriers to receiving vital care. I would urge that people with HIV/AIDS are more likely to suffer from multiple chronic illnesses and more likely to need access to other types of services that managed-care programs frequently make it very difficult for them to receive.

The New York State Psychological Association has submitted opposition materials indicating that mental health professionals are refusing to participate in managed-care

programs because the paperwork is simply too burdensome.

I understand the desire to cut costs. But it is clear that in this case we are cutting costs by cutting care. And there are some of our citizens who should not be required to enroll in managed care. I think that we have to strike a balance between the fiscal needs, which are very, very real, of our healthcare system, where the costs are spiralling out of control, and the need to actually provide services to people who need them.

The fee-for-service Medicaid system provides access and flexibility for people in particular circumstances, such as those that this bill would require to enroll in managed care. I think we should stick with this system. It's not a perfect solution by any means. The sponsor is right, we have to cut costs. But we don't have to cut costs by cutting care for the most vulnerable citizens.

I would suggest that there are innovative programs that are being tried in some other states -- ranging from statewide

single-payer healthcare programs to other programs that create insurance pools that make it possible for people to have more expanded healthcare while reducing costs -- that we should be looking at.

I'm not going to suggest that we hold hearings on the subject, but some people think holding hearings is good and that reaching out to other places is good. But we may well have had hearings before that I just didn't know about because I'm not invited to those hearings. But I -- oh, I'm sorry, I apologize for letting him provoke me.

I do think that this bill does have serious problems, but it is a good-faith effort to solve half of the equation, which is the cost problem. We still have to solve the care problem. I'm going to vote no, but I do appreciate that this is a good-faith effort to deal with a crisis.

Which I guess at the beginning of this year, when the Governor announced our agenda for the year, dealing with the crisis in Medicaid costs was on the agenda. Unfortunately, we seem to be closing the

session without addressing that. And I hope that next year we will be able to deal with it in a more comprehensive manner.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Hannon.

SENATOR HANNON: Let me comment in regard to some of the points that Senator Schneiderman made, because I think there's some misconceptions that he has, misconceptions that perhaps the general population has in regard to what we're doing with managed care versus Medicaid managed care.

For instance, he brings forth the opposition of the psychologists to this because of the way the psychologists are being treated by the general health insurance programs with managed care. And it is true that those programs have taken the nonphysical health specialties, they have subcontracted, they have people who form special panels, especially of psychologists or other counterparts to them, and impose some

extraordinary paperwork requirements. That's a problem that needs to be dealt with.

However, when we're dealing with Medicaid managed care, which Senator Rath is putting forward, we have a number of elements that I think are different and, because they are different, are in support of the measure she proposes.

The very fact is that Medicaid managed care has to follow certain quality standards that the federal government has established, that it is done as part of a waiver with the federal government. The waiver involves oversight. And Medicaid managed care in New York, the consumer health groups have made sure that that oversight has been real, has resulted in good quality care for the individuals covered.

And lastly, in terms of the services, I do believe that the providers of these, the Medicaid managed-care plans in New York State, have done a pretty good job. We have not heard from their patients the same types of complaints that we have heard from the patients of the other -- the general

population managed-care plans.

So I think there is a vast difference. And if there's any place we can talk about managed care, it's under Medicaid, because it's been done with a fairly rigorous set of standards. People get the care they're entitled to, they're not denied it, and they're given a regular place to have a healthcare home.

Very important, and especially more important when we're dealing with those people who might have AIDS or are HIV-positive or mental illness, where we have not reached that population, we ought to go to that population. They will get better care, and I believe as a result of that better care there might be some savings to the state. To my mind, it's not just the savings that are the motivating factor, it's the better care.

So that has been brought out. There's an extensive discussion going on. But I think we have not moved that forward in recent years, and I commend Senator Rath for being insistent that this be addressed and be moved forward.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Hannon.

Senator Krueger.

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

ACTING PRESIDENT LITTLE: On the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate the work of Senator Rath. And there are parts of this bill that I'm quite comfortable with. I think it's reasonable to ask why there are counties that have not implemented Medicaid managed care, and instructing the commissioner to expand that to counties that don't have the program are reasonable. Certainly there are different issues in rural networks, as you obviously are far more expert than I.

But I'd like to speak about the problem I have the bill and why I can't support it, and that actually goes, I believe, to what Senator Hannon just spoke about, the special-needs populations.

It's approximately ten years ago, I

believe now, that New York City started its mandated Medicaid managed-care model. I think we were in the first in the state. And it was actually my work then that got me involved with creating the then Medicaid managed-care task force to evaluate what was working in and what wasn't working in New York City.

And some of the problems that we found, and the city confirmed and agreed ultimately with us on, was a simple concept that I think still is a dilemma in managed care. Managed care works best for people who are not sick. We all have healthcare needs, but some of us are sicker than others. And since it works on a capitated system where the provider network gets paid whether or not you come to them for healthcare, in fact they like healthy people. They like women of childbearing age, they like children, they like working people, who, by definition, don't tend to be too sick because they're able to keep jobs.

They don't technically like -- and we've found this now ten years later in New York City, they don't really like serving,

as much, sick people, because sick people cost more in healthcare. And they get a capitated fee that doesn't necessarily reflect the increased costs of serving an ill population over a relatively healthy actuarial-table-wise population.

So the problem I have with your bill is that it mandates dual-eligible Medicaid/Medicare people into these programs. People who are SSI-eligible, people who are HIV-positive, people who have serious mental illnesses, and children and adolescents with serious emotional disturbances, it mandates them into managed care.

These not only are people who are statistically sicker than the overall population -- because the Medicaid population is in fact sicker, statistically, than the overall population of New Yorkers -- it subsets out the sickest, so to speak, of the subpopulation of people on Medicaid in New York State and mandates them into programs that I would argue the evidence shows are not necessarily there for them and who in fact have not, at least till this date in the City

of New York -- I won't speak for the rest of the state -- been effective in ensuring that they have the services needed by these subpopulations of exceptionally ill people.

And what we have found over time also is that managed-care plans, whether they're involved with Medicaid or the paying insurance consumer or the Medicare consumer, have done pretty much anything they can to figure out how to avoid accepting or keeping or providing services to the most ill, because, again, one capitation rate, growing expenses for serving the ill.

And so I would argue that while we need to evaluate, as you point out very well, the need to expand the programs out there and the competition out there, decrease costs, make sure that we've got access to healthcare in every county in this state for people on Medicaid -- and I am not, by definition, an out-and-out opposer of managed care, although I share my colleague's view that we'd be doing far better in this state and country if we had a single-payer universal system -- I would argue that the data from New York City for

special-needs populations shows that those providers are still not out there, are really not equipped to deal with a sick population of people with special needs. And that in fact if we mandated these subpopulations of special-needs sick Medicaid recipients into Medicaid managed-care plans, what we would find is that in some counties there were no providers who were truly willing to serve them. And even in a city as large as New York, we would find that many of the fundamental basic healthcare services that they require are not available in a managed-care setting.

Which is why even in the program that's been set up a la special-needs population, Medicaid managed-care programs in the City of New York for the HIV-positive, we've seen actually people disenrolling over time as opposed to enrolling. Not because they're philosophically opposed to managed care, but rather because they couldn't get the services they need.

So I think it's an underlying issue within the model of managed care -- capitation

fee, profits versus costs-out for healthcare -- managed care is a model that doesn't work as well for the very ill. These are subpopulations who by definition are the very ill.

And so I would urge us to go back and consider parts of your bill without passing this section. So I'll be voting no.

Thank you very much, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Are there any other Senators wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR WINNER: Thank you, Madam

President. Briefly to explain my vote.

I'm supporting this bill very strongly because here in New York, as all of you know or should know, some 40 percent of our overall budget is expended for the Medicaid program.

In the Medicaid program there's nothing more urgent in this state than more managed care, more disease management, more control of our multiply chronically ill individuals. We have a whole series of state agencies that are uncoordinated to provide Medicaid services -- the Department of Health, Office of Aging, OASAS, OMRDD, Department of Mental Health, the Education Department and others that direct Medicaid expenditures. Yet there's no coordination.

And these chronically diseased, chronically ill individuals with these multiple illnesses make up a large proportion of the expenditures that we make under Medicaid. And unless we get them under control, we're not only not going to provide them the adequate and proper care that Senator Hannon eloquently demonstrated, but we're not

going to provide the cost savings that Senator Rath is so diligently working for to provide for our localities and our state in this Medicaid program.

So I enthusiastically support this, because not only it is necessary but it is what we are going to have to do. And this is going to happen, ladies and gentlemen, in the Medicaid program, or otherwise this state and other states throughout this country are going to go upside down from this Medicaid burden.

I vote aye.

ACTING PRESIDENT LITTLE: Thank you.

Senator Winner will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1263 are Senators Diaz, Dilan, Duane, Hassell-Thompson, L. Krueger, C. Kruger, Montgomery, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith and Stavisky.

Absent from voting: Senators

Connor, Gonzalez and Sampson.

Ayes, 42. Nays, 15.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1356, by Senator Padavan, Senate Print 407, an act to amend the Vehicle and Traffic Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan, for an explanation.

SENATOR PADAVAN: Thank you, Madam President.

Very simply put, this bill would preclude the issuance of a driver's license to an illegal immigrant, an undocumented alien.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: I would like to thank the sponsor for the brevity of the explanation.

On the bill, Madam President.

ACTING PRESIDENT LITTLE: Thank you. On the bill.

SENATOR SCHNEIDERMAN: The difficulty that I have -- and I have substantial difficulties with this piece of legislation, because I think it represents an absolutely incorrect, inefficient, inappropriate and improper approach to dealing with the immigration problems and the crisis that we face because of the breakdown in our federal immigration system.

The difficulty with this bill is that, as the sponsor indicates, it does preclude the Department of Motor Vehicles from issuing a driver's license to someone who is not -- cannot demonstrate that they are in the country legally. Unfortunately, the way this bill would have that process occur I think takes a department that functions moderately well now, the Department of Motor Vehicles, and attempts to make a horse out of a cow.

The Department of Motor Vehicles would be turned into an immigration agency under this bill. As it states, "The

department will be prohibited from issuing a driver's license or ID card to any person who does not submit satisfactory proof" -- I'm reading from the bill -- "that the applicant's presence in the United States is authorized under federal law."

Now, this means the clerks at the DMV are going to have to understand what satisfactory proof is.

It goes on to state: "If the department determines or reasonably suspects, based on the information provided, that the applicant's presence in the United States is not authorized, the department shall notify the United States Bureau of Immigrations and Customs Enforcement."

This is, unfortunately, a vaguely worded mandate that the Department of Motor Vehicles become an immigration agency.

And I assure you that the professionals in our existing federal immigration service have a very difficult time assessing who is and who is not in the country legally. Sometimes these situations are very, very complicated and difficult to ascertain.

We had a case in my district of someone who is in the country, functioning legally, was a citizen by virtue of his mother's marriage to an American citizen, and an issue came up as to whether that marriage had been legal. That required an inquiry about a marriage that had taken place 30 years earlier.

This legislation requires the Department of Motor Vehicles to assess whether or not someone is in the country legally and goes on to impose the requirement that they set up procedures to support -- and again, I'm reading from the bill -- "to set up appeals hearings from denials of licenses or temporary licenses." So we're trying to create a whole immigration bureaucracy in the Department of Motor Vehicles.

And I realize the sponsor is concerned about issues of immigration law. But I would urge him that trying to make the Department of Motor Vehicles into a front-line agency to evaluate people's immigration status is the wrong approach.

This is going on in other states --

this is going on in other states, and I commend to anyone concerned with this issue the reports on what's happened in Tennessee. This drives people out of the system. This forces people who otherwise would come in and get a license and be within the system for safety and law enforcement purposes out of the system, and I think creates two distinct harms.

One is what I've referred to before of turning the Department of Motor Vehicles into an immigration agency without providing it the resources or the training to do that. And we know from experiences in other states that this has had a very negative impact.

The second is this. The purpose of a driver's license is to ensure that people have training, that they're safe, we know who they are, they have insurance. That is a very important public safety function. To the extent that you break down that agency and you have some people who are driving cars refusing -- because they're afraid of untrained clerks with vaguely worded statutes inquiring into their immigration status, they

don't go to the Department of Motor Vehicles. They're out of the system.

That is why law enforcement agencies, to the extent I've had contact with them on this issue -- and we do, because it's a major issue, obviously, in my district, where we have many -- we thrive because of the presence of many immigrants -- law enforcement officers don't like this approach of taking our motor vehicle system and attempting to make it into an immigration agency.

So I would urge the sponsor that there may be other things we can do to deal with the issues of the unlawful presence in this country of many immigrants. But taking the Department of Motor Vehicles and trying to turn it into an immigration agency is not a good idea.

I realize that there's federal legislation that pushes us in this direction. It does not require us to do what is provided in this bill, however, Madam President. And I would suggest that if we are going to make a move in this direction, which we may have to do because of the federal law, the way to do

this is in the context of the budget.

Let's see what DMV needs to make any steps that we are proposing. We can't give them a mandate to set up a process for appeals hearings from denials of licenses or temporary licenses based on immigration status and then expect them to carry this out without creating chaos and without creating a situation in which people who are in this country lawfully will wrongfully be identified as people who are not, because it's sometimes hard to determine, and they don't have a right to a lawyer there. The process would break down, I'm sure, very quickly, because even in the professional agencies mandated to do this today, we have major problems.

So I respectfully suggest that this is not the right piece of legislation to address this problem. Let's work on the problem in a more serious and substantial way. Let's not ruin the Department of Motor Vehicles and create an entire new public safety problem and an entire new problem for immigrants.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Serrano.

SENATOR SERRANO: I yield to the sponsor, who is standing.

ACTING PRESIDENT LITTLE: Senator Padavan.

SENATOR PADAVAN: Yes, thank you, Madam President. Let me respond to some of the observations made by the previous speaker.

First, let's talk about the driver's license. He says its primary function is to ensure that the person behind that wheel is appropriately there, has passed the tests, is a safe driver, has insurance and so on.

That may be true. But let me tell you some of the other uses of that driver's license. It's the first document they ask before you get on an airplane: May I see your driver's license? If you're renting a motor vehicle or a small aircraft: May I see your driver's license, as identity. If you're buying a gun or ammunition, what's the document you provide? A driver's license.

Filling a prescription, applying for a job, opening a bank account, receiving money wire transfers from abroad, enrolling in a training or educational program like learning to fly.

Do any of these things seem familiar to you? Well, they are to me, because these are the things that those individuals who flew into the World Trade Center did. They used a driver's license to gain access in a whole host of ways. That's why the driver's license is so important. Which is why only last month a federal law was enacted and signed into law mandating that states do what this bill requires us to do.

Now, we talked about the DMV here a moment ago in terms of their responsibilities. The DMV has already stepped forward on this issue. How do they do it? Well, if you look at the application for a driver's license, you see one of the requirements is that you indicate what your Social Security number is, right on the form. So what they did, very simply -- perhaps not so simply, but they did it -- they checked, through the computer system, the validity of those Social Security

numbers. And they came up with 600,000 individuals in this state where there was a false Social Security number. Now, right away, when that person put that number down on the application, he or she committed a crime.

They set up a procedure for evaluating these wrong systems. And they came up with 252,000 people who had not responded and not resolved the issue through their offices.

Now, the matter was taken into state court, and the court ruled at this juncture, at this level of the system, that they did not have the authority to revoke these driver's licenses by virtue of the action they had taken and that the Legislature had to give them the authority. Now, that matter is on appeal.

In this bill we would be giving them the authority to do what they've already been doing. So this nonsense about a bureaucracy or all of the problems that DMV would have really is not applicable at all. They've already done it. They've already found out who these people are. Now we want

to give them the authority to do what they intended to do, and that's take away their driver's license.

Now, the enactment that I referred to before which took place in the capital, in our nation's capital, Title 8, Chapter 12, Subchapter 11, part 9 specifically mandates that states deal with the driver's license issue in the fashion that we are attempting to do today.

There is a phase-in for that enactment, that's true. But there's no reason in the world why we shouldn't step forward, particularly in view of what DMV has already done.

I've talked to the commissioner. He said they found examples of people with three different licenses, with three different Social Security numbers, with different driver's licenses in their possession for obviously illegal if not inappropriate purposes, depending upon the situation that they were dealing with. Massive fraud.

In regard to the issue of "reasonable" that the previous speaker

referred to, "reasonable" is reasonable. The DMV was reasonable in their approach to this problem. And certainly we want them to continue to be reasonable.

There can be situations where there are errors. Someone may have made a mistake when they put in the Social Security number. That has to be resolved. We want them to be reasonable in how they approach this entire issue.

But the fact remains, we have an obligation to the people of this state to not only comply with federal law but to protect our citizens against those who are here who are up to no good, who are here to commit crimes, who are here as terrorists, who are here to rip off our system. And that's what this legislation is all about.

ACTING PRESIDENT LITTLE: Thank you, Senator Padavan.

Senator Serrano.

SENATOR SERRANO: Madam President, on the bill.

ACTING PRESIDENT LITTLE: On the bill.

SENATOR SERRANO: We all know that immigration is the foundation of our society. Yet over the years there's been such a steady eroding of the rights of new immigrants, there have been so many barriers that have been put in place that have made it more difficult for those seeking a better life to obtain the necessary papers that they need in order to, as this law would put it, to get a driver's license.

We all know that immigrants provide a major pillar in the foundation of our economy. Without a driver's license, they will not be able to get to work, not be able to pay taxes, and not be able to make a better life for their family, which is the American dream.

And I believe that using 9/11 as a blanket excuse to hurt new immigrants is wrong. Law enforcement's role is to root out terrorists and criminals. And blanket methods that hurt the vast majority, vast majority of immigrants, which are here to build the American dream, is wrong. They are here to defend this country, they are here to die for

this country.

And I think we should be doing something more to send a more positive message to the immigrants that we want to help them to get the papers that they need in a more timely manner, so that they will be able to apply for their driver's license or do whatever it is that they need to do. Remove barriers to citizenship, which I think hurt immigrants year after year.

So I believe that this is the wrong message to send to immigrants. This is the wrong message to send to those who are looking to build a better life for themselves here. And I intend to vote no on this, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Balboni.

SENATOR BALBONI: Madam President, the place where I am seated in the chamber is eminently appropriate for my position on this bill. I am between Frank Padavan and Senator Serrano on this particular issue.

On the one hand, when I met with the spouses of victims of 9/11 and with the Director of Homeland Security, Jim McMahon, they had one message: Hey, it's four years later. What are we waiting for with driver's license security? We know it was the tool that terrorists used to gain access to the country. Why haven't we fixed it? What are we waiting for, and what is it going to take to act?

And then I traveled to Washington, D.C., represented 50 states in the nation in a negotiated rule-making group that talked about the implementation of this fix for driver's licenses. And what became very apparent was that you can't shut out the immigrant, that so much of our society depends upon the immigrant being able to drive. And that in certain cases it almost becomes secondary -- yes, secondary.

You know why? Because what became very apparent is that the federal government does not have their act together when it comes to immigration, plain and simple. They have never committed the resources they need to

commit to make our borders secure, safe and usable by folks who are innocent, law-abiding and taxpaying, who want to become citizens but we don't give them the opportunity. They have to stand in lines around the immigration departments in Lower Manhattan waiting to try to get a visa, waiting to try to get a green card. And we've never, never in this nation recognized that how we view government isn't the way everybody in the world views government.

On Long Island there's a huge population of individuals from El Salvador. Look at the El Salvadorian history. They view government with suspicion, not with hope. And yet I think we've done a terrible job as a nation, frankly, in reaching out to those immigrants to say, You know what, we want you here in this country, we want you here legally, we want you here as part of the mosaic. We've not done a good job.

So here's the conflict. On the one hand, Frank Padavan is absolutely correct. This bill is what the federal government has now said we must have. And in three years, if

we don't adopt this type of language, guess what happens? Our driver's licenses will not be usable for any federal purpose. That means getting into a federal building, that means getting on a plane, that means doing anything else.

But the Real ID Act did something that was bad. It put the cart before the horse. It said: Create a system of security, do it now, but we're not going to tell you what will constitute the safe card. We're not going to give you any of the parameters. You decide that yourself. We're not going to give you guidance. But make it secure and make it now.

We had an opportunity on this rule-making committee to actually get through some of these hard issues, and our legs were cut off in the middle of the process. That's too bad.

But like it or not, Frank Padavan's bill is necessary. And like it or not, we need to change the way we view the immigrant population in this nation and the realities of how people live and work in our society today.

I'm going to wait and hear the rest of the debate. I don't know how I'm voting on the bill. But I tell you this. We need to talk a lot more about this, because these are the basic tensions of our society. And until we figure out to solve this and make it into a user-friendly, secure system, we won't be secure and we won't be user-friendly for anybody that we want in our nation.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Balboni.

Senator Parker.

SENATOR PARKER: Madam President, on the bill.

ACTING PRESIDENT LITTLE: Thank you. On the bill.

SENATOR PARKER: I continue to be disturbed by bills that come up in this house that are both anti-immigrant and also, I think, overstep the bounds of what our authority is as a state legislature.

I want to agree with Senator Serrano as he talks about what we ought to be doing here: really, the value of making not

just the United States but New York State, the Empire State, more accessible to immigrants. Here we're talking about, you know, again a country, a state, a city that was built on the backs of immigrants.

And, you know, I think that some people in this Legislature suffer from what I call the Mayflower complex. And in the Mayflower complex, people all dream, they imagine that their ancestors arrived here on the Mayflower, before there was a United States, before there was a Constitution. That they were here, you know, standing next to the aboriginals and, you know, thus did not need any kind of naturalization. They pretend that everything is fair and equitable for everyone and that the American pie is an endless supply that anybody can just make access to. But unfortunately, that is not the reality.

And this Legislature is really proof positive of that, that we need to work together to figure out how we in fact make this place a better place for everyone, particularly for immigrants, who have given so much and continue to give so much.

I mean, let's understand who they are. The people who we are talking about denying access to drive a car today or to drive a vehicle or deny access for a driver's license are the people who drive cabs. They're the people who upstate, you know, make this one of the greatest agricultural communities in the entire country.

You know, New York State is the number-one producer of apples in the country, the number-two producer of cabbage, the number-three producer of snap peas and sweet corn, the second-largest producer of maple products, the fourth-largest producer or fifth-largest producer of dairy products. I mean -- and how does that stuff all get from upstate farms to our shelves in Brooklyn? Well, there are lots of immigrants who are engaged in farming all over the state of New York.

They are people who drive cabs and drive trucks. They are the folks who clean our houses. They are the folks who take care of our children. These are working men and women who want nothing more than an

opportunity to make a living in this country.

And I'm glad to see my colleague Senator Balboni speak to and point out the failure of leadership at the national level. Because President Bush has talked about, you know, making it accessible for immigrants to earn a living and to be engaged in the economic system of the United States. However, there has been no bill submitted. To date, there's no bill submitted.

And so we really need to figure out exactly, again, the issues that Senator Balboni raised. How do we give the vast majority of people who are here, who intend to be law-abiding, an opportunity to enjoy the economic opportunities that are present here in this great country, but at the same time protect ourselves against, you know, terrorist acts that we are now clear face us?

And I think that part of that needs to be done on the national level. And we really need to, you know, work together. Maybe a joint letter from the members of this Legislature, which I would love to help sit down and draft and obviously sign, you know,

asking the federal government to do better both at the immigration process but, more importantly, at dealing with fighting terrorism.

And particularly making sure that states like New York State are higher on the priority list in terms of how federal dollars are doled out. And making sure that we are able to get the things that we need for first responders. And to make sure that we have the kind of intelligence network across this country and throughout the world that we really need in order to prevent terrorism.

However, this bill doesn't do that. This bill is a response to the Real ID Act, and I do understand that. And where I agree with Senator Balboni on the fact that we need to respond to this duality, I disagree in the fact that this is the only way that we in fact can respond to the Real ID Act. Because there's actually many options. And creating a second tier is not the only option that exists. And we need to have a more thorough discussion about that.

I don't know, let's try something,

you know, radical. I don't know, a public hearing might work in terms of, you know, finding out what are the things that our constituents and some of the experts are thinking. I don't want to, you know, push this legis -- I know this is a deliberative body; I don't want to push us too far. But maybe a public hearing might work in terms of us, you know, trying to get to the root of this serious problem.

Our driver's licenses must be something that are of value. It does provide, as Senator Padavan pointed out, a first and primary ID for most people. And it should continue to do that, and we need to figure out the best way to do that. But I'm not clear -- actually, I'm very clear that it doesn't stop people who are engaged in terrorism from hatching their devilish schemes.

9/11, which is near the forefront of everybody's mind as we talk about terrorism, the men who were engaged in that horrible, horrible, horrible event had documents, had driver's licenses. It was not those driver's licenses that allowed them to

get on the plane. It was not those driver's licenses that allowed them to get access to the things they had access to. In fact, most of them were here legally, in fact.

So not having their driver's license would not have stopped them from boarding the plane, it would not have stopped them from flying the planes into the towers, it would not have stopped them from hatching what, again, proved to be one of the darkest days in this country's history.

And in fact, if you listen to the experts on the federal level, having driver's licenses actually allowed the law enforcement to identify who the terrorists were. And in fact, we ought to be looking at ways to get people registered in the system so we know who people are and where they are. That is a way that you deter terrorism and you deter -- and I mean, you know, just last week we were talking about sex offenders, and we want to put ID bracelets on sex offenders because we want to know where they are.

So what you're now saying is that you want to take away ID from people so they

can disappear, so we don't know where they are. So instead of having people that we begin with having a description, an address and a photo of, so that we can ID people, you're now saying let's make potential terrorists, who may in fact be illegal immigrants, let's make them totally invisible to the system. So that if in fact something does happen, we have no way to track them. That's what this legislation does.

And it has a number of implications. One of the things that bothers me, and this is why, in coming here with the leadership of David A. Paterson, we created and David has given me an opportunity to chair a task force on new Americans, to in fact look at and discuss these issues in a way that comes out in a win-win. Because if we in fact do this, the implications for our communities are going to be great, not just in mine but also in the sponsor's community, where people will not be able to earn a living, where both their dollars and their work will drop off of the grid, people will stop paying taxes, people will stop being engaged in the legal

economy.

But then also, many people who use transportation either as a means to earn their living or people who use transportation as a way to get to their job, I hate to tell us, I hate to tell people this, but they are not going to stop driving. They are not going to stop driving.

It would be irresponsible for me as a legislator and a member of the Insurance Committee to stand here and vote for a bill that I know will continue to increase ratepayers' rates around the state on insurance. Because we will not only have more people driving without insurance, but if you think the number of hit-and-runs that has been documented by the Daily News and the Post and the Times is bad now, take away people's driver's licenses and let's see what happens.

The numbers of hit-and-run accidents I assure you is going to quadruple. It's going to be through the roof. And what that will do to the insurance rates in places like Brooklyn and Queens and the Bronx will be -- people will not be able to afford to

drive cars. We'll have insurance companies fleeing the state. It will be a nightmare.

And so this bill doesn't take us where we need to go. Because if you think that a terrorist is going to be deterred -- you take a terrorist, somebody who's going to blow up a corporate headquarters, who gets a van, fills it up with explosives, is going to drive it through the lobby of a office building. You think that they're going to get there and say, Oh, I don't have a driver's license, I can't do this dastardly deed? It's ridiculous.

We are simply stopping people who want to be engaged in this country's economy, people who are primarily hardworking and good-intentioned. We are really killing the opportunity. We are waking people up from the American dream. And that's not what I think the sponsor wants to do. That's not what I think this Legislature wants to do.

And so I would ask that we don't vote no, but the sponsor withdraw this bill, that we immediately get together and convene some public hearings to talk about how we

engage this bill. And I will even come back, you know, from my summer vacation so that we may pass a bill that deals with properly addressing the issues of driver's licenses and making sure that we not only have a safe state but we have one that's accessible to the hopes and dreams of the people who have come here to earn a decent life.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Diaz.

SENATOR DIAZ: Thank you, Madam President.

Through you, Madam President, will the sponsor yield for a question.

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan, do you yield for a question?

SENATOR PADAVAN: Yes, certainly.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR DIAZ: Thank you.

I am a Puerto Rican. Puerto Rico is a small island in the Caribbean. For what's recently happened in the world, Puerto Rico is part of the United States. And I belong to a party in Puerto Rico called the New Progressive Party. That is a party that wants Puerto Rico to become the 51st state.

And this is the star of that party. This is the star. Whenever you see this star, anybody, that means the person --

SENATOR PADAVAN: May I inquire what your question is, Senator?

SENATOR DIAZ: I'm going to get to that. I'm going to get to the question.

SENATOR PADAVAN: Okay, thank you.

SENATOR DIAZ: That means that anybody, people that wear this star want Puerto Rico to be a state. And why is it that we want Puerto Rico to become a state? Because we avoid a lot of problems by coming here and by getting jobs and by producing paper.

Now, do you, Senator Padavan, do you know that there are close to 300,000

people with driver's licenses that are in danger of losing those licenses?

SENATOR PADAVAN: Senator, I don't know if you heard me --

SENATOR DIAZ: Yes or no?

SENATOR PADAVAN: What?

SENATOR DIAZ: Do you know that --

SENATOR PADAVAN: I'm going to answer your question.

SENATOR DIAZ: I just want you to answer my question. Do you know --

SENATOR PADAVAN: I am going to answer your question.

ACTING PRESIDENT LITTLE: The Senator is answering.

SENATOR DIAZ: Is it yes or no?

SENATOR PADAVAN: As I indicated earlier, the Department of Motor Vehicle bureau, our state agency responsible for the issuance of driver's licenses, by virtue of checking Social Security numbers, determined in the final analysis that there were 252,000 driver's licenses that were fraudulently in possession of individuals that we've been

talking about.

So therefore, I do know that there are a significant number of people who are driving with fraudulent driver's licenses obtained in a fraudulent manner.

SENATOR DIAZ: Madam President, through you, will the sponsor yield.

SENATOR PADAVAN: Yes.

ACTING PRESIDENT LITTLE: Thank you. Senator Padavan yields.

SENATOR DIAZ: Senator Padavan, then in order that those persons that have driver's licenses, they use those driver's licenses to work, they are earning money, they are driving trucks, taxis, they are supporting their families, through that -- because of that driver's license.

What do you suggest we do with them?

SENATOR PADAVAN: Well, Senator, the bill is very specific in this matter. If they are an illegal immigrant, a referral should be made and must be made, by virtue of this bill, to immigration authorities.

SENATOR DIAZ: So we should put

them -- through you, Madam --

ACTING PRESIDENT LITTLE: Senator Padavan, do you yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR DIAZ: So we should put all of them on a barge, on a ship, and send them back to their countries?

SENATOR SALAND: Every person who is addressed in that manner has an opportunity for a hearing and an appeal. There is a process that is followed. And that process should be followed.

You know, Senator, you know, I've listened to a lot of dialogue from you and your predecessor there on the floor, and some of it I find particularly offensive. The second time he indicated to me that my bill was anti-immigrant.

Now, I happen to be a second-generation immigrant in this country. My grandparents on both sides came here from Italy at a time when vast numbers of immigrants came to this country. And we see

another wave of immigrants coming to this country. And they are welcome because they provide so many resources and benefits, whether they come from Puerto Rico or wherever they come from. Although Puerto Rico is part of our -- you are a citizen if you are in Puerto Rico.

But the fact remains, the fact remains they came here legally. They came here with good purposes in mind, to improve their economic status, to raise a family, to work hard, to be contributors to this great nation. We are all, in this chamber, unless we happen to be Native Americans, the products of immigration. And we're all proud of it.

I'm proud of the sacrifice that my grandparents made. They were very brave people. They gave everything, they gave up everything and got into a boat on steerage -- is there someone up on the balcony you want to talk to, or you want to listen to me?

SENATOR DIAZ: I'm listening to you.

SENATOR PADAVAN: You're throwing kisses up there, and I'm just curious as to

who it was.

SENATOR DIAZ: You're not answering my question.

SENATOR PADAVAN: I'm answering your question.

SENATOR DIAZ: No, you're not.

SENATOR PADAVAN: Now, the fact remains that we have an obligation in this country to protect all our citizens. In my county -- which is referred to often, because it's so -- the most diverse county in the nation, we have more different immigrant populations in Queens than any part of this country. And many of them, if not most of them, live in my district. They're wonderful people. They all make a contribution.

When you have someone who came to this country up to no good, who does get a driver's license by breaking a law, both federal and state -- when you forge a Social Security number, you've violated a federal law. When you put it on an application with the Department of Motor Vehicle bureau, you're violating a state law. So at that point in time they've already committed two crimes.

When those type of individuals are out in the community, then we have to be concerned and we have to take action. And that's what this bill is all about.

The Statue of Liberty has at the foot of it, Senator, some beautiful words: Send us your wretched, your yearning masses to breathe free. And on and on it goes. It doesn't say: Send us your thieves, your cutthroats, your robbers, your arsonists, your terrorists. That's not who we want to welcome here. And if they fall in the category of these people, then we have an obligation to do something about it.

SENATOR DIAZ: Madam President, through you, will the sponsor continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan, do you continue to yield?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT LITTLE: Yes, the Senator yields.

SENATOR DIAZ: I'm going ask my

question one more time to see if we could understand each other.

Most of the 350,000, 400,000 people who happens to have driver's licenses in the State of New York, they, the majority of them use that driver's license to support their families, to work, to earn an honest living, drive trucks, taxis, whatever. What do you suggest, Senator Padavan, that we do with them?

SENATOR PADAVAN: Very simply, Senator, we do what the bill says. If they're an illegal immigrant, refer them to that authority that must deal with that issue.

SENATOR DIAZ: And the families?

SENATOR PADAVAN: Senator, if you applied for a medical license and you did so fraudulently, they take away your medical license. If you applied for a barber's license and you did so fraudulently, they take away your barber's license.

These licenses are privileges. They're not rights. If you do not apply properly and legally, you're not entitled to the license. That's the only answer I can

give you.

SENATOR DIAZ: One last question, if he have the desire to listen to me for one more question, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan, do you yield for an additional question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR DIAZ: I don't understand the purpose of this bill. Maybe --

SENATOR PADAVAN: I'm sorry, what?

SENATOR DIAZ: The purpose of this bill.

SENATOR PADAVAN: The purpose of the bill.

SENATOR DIAZ: Yes.

Number one, I don't know -- I'll play Columbo here. I don't know if the bill is to stop issuing driver's licenses or to make the Department of Motor Vehicles an agent

of the immigration department. So which one of the two is it?

SENATOR PADAVAN: Senator, I hate to be repetitious, because I'm sure people are --

SENATOR DIAZ: Please. You know, I'm a dumb Puerto Rican.

SENATOR PADAVAN: But I'll repeat what I said to you earlier --

SENATOR DIAZ: Don't worry, I'm a dumb Puerto Rican that --

SENATOR PADAVAN: I'm not worried. You may not be worried. But others may be worried. And I'll tell you what they're worried about.

The driver's license, what is it used for? We said it before, to get on an airplane, to rent an airplane, to rent a car, to do all kinds of things. How many times in your life -- I'm sure you will think about this for the moment -- have you been asked for your driver's license as a form of valid identity? Thousands. And it happens all the time, it happens everywhere.

So the driver's license is not just

permission to drive a car. It's the primary source of identification everywhere you go, for almost every purpose you could possibly think of.

So when terrorists transfer money which they use to do their thing -- or other criminal activity, drug smuggling. We passed a bill here just yesterday, which passed unanimously, dealing with placing immigrants in bondage, in slavery, for prostitution and other things, and money is transferred back and forth. What is used? The driver's license. You could go on and on on that issue.

And so when we deal with the driver's license, we're talking about a great deal more than driving. And that's why it's so critical that the driver's license should be in the hands of someone who has not already committed a crime. The word "unlawful" is quite clear. And when you get that driver's license in the manner I've described, you have committed an unlawful act.

And if you're an illegal immigrant, you're here illegally and action should be

taken as it's deemed appropriate by those agencies that have the enforcement authority.

SENATOR DIAZ: Madam President, on the bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Diaz, on the bill.

SENATOR DIAZ: In the three years that I have been here, I have learned that once a bill comes onto the floor, it is an exercise in futility to discuss it. You're going to pass it anyway. So -- but let me vent my frustration.

And this bill that I'm reading here, even though Senator Padavan says that the bill is to correct or to deal with the issuing of driver's licenses, when I read the bill Section 502(B), paragraph 3, the bill reads as follows: "If the department determines or reasonably suspects, based upon the information provided to it, that the applicant's presence in the United States is not authorized under federal law, the department" -- meaning the Department of Motor Vehicles -- "the department shall notify the

United States Bureau of Immigration and Customs Enforcement of such person's suspected illegal status."

So I don't understand if this bill is to deal with the driver's license or to make the Department of Transportation an agent of the immigration department.

Paragraph 4 reads: "The department shall adopt regulations to carry out the purposes of this section, including procedures for but not limited to verifying that the applicant's presence in the United States is authorized under federal law." So that means that this bill is making the Department of Transportation an agent of the immigration bureau.

And if that's what we're doing -- that's what I was asking. I want to understand, is that what we're doing. Are we dealing with the driver's licenses, or are we dealing with making the Department of Transportation an agent of the immigration department?

SENATOR PADAVAN: Madam President, will the Senator yield?

ACTING PRESIDENT LITTLE: Thank you.

SENATOR PADAVAN: Senator, did you hear me earlier when I told that you even without the federal statute, last year, over a period of time, the Department of Motor Vehicles, on its own initiative, without any direction from the Legislature, attempted to determine whether driver's licenses were in the hands of people illegally?

They took the initiative and checked the Social Security numbers, which they're able to do now. They determined there were over a quarter-million people out there who are running around with driver's licenses that they obtained fraudulently. This bill didn't make them do anything. They already did it.

Now, the problem is their actions have been challenged in the courts. And this legislation would in effect give them the authority to do what they've already done. I hope you understand that, Senator.

SENATOR DIAZ: No, I don't.

SENATOR PADAVAN: Well, then,

you're not listening.

SENATOR DIAZ: I don't. I mean, I --

ACTING PRESIDENT LITTLE: Thank you, Senator.

SENATOR DIAZ: They -- the Department of Transportation started to -- started a policy to stop issuing driver's licenses --

ACTING PRESIDENT LITTLE: Excuse me, Senator Diaz. Are you speaking on the bill?

SENATOR DIAZ: I'm still on the bill.

ACTING PRESIDENT LITTLE: Continue, thank you.

SENATOR DIAZ: I'm still on the bill, Madam President. And he stopped me for a question.

The Department of Motor Vehicles stopped issuing driver's licenses unless, unless the person could produce the necessary documents. And that was said. But the Department of Motor Vehicles never was reporting to the immigration department those

people that don't have papers.

This bill, this bill says here that this bill is authorizing the Department of Transportation to report illegal immigrants if the Department of Transportation feels that that person has not the necessary papers to be in this country. That's what this bill is saying.

And I'm saying that's outrageous. That's -- that's not what we're dealing with. I mean, we're dealing with driver's licenses, or we're dealing with making departments to start reporting to the Department of Immigration everybody that cannot produce papers? And that's -- that's -- that's what I don't understand.

I'm Puerto Rican; I'm saying again, I don't have the problems. But we have 350,000 or 300,000 people that are working. And the Department of Transportation issued those driver's licenses to them. They have driver's licenses. They are working, they are supporting their family, they are supporting their children, they are paying taxes. Now, we take away those driver's licenses, are they

going to work to support their family? Or we should send the family to welfare?

(Response from gallery.)

SENATOR DIAZ: Thank you. At least I got one follower there.

ACTING PRESIDENT LITTLE: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

I rise here really to address a greater issue that we are speaking all about, around, but not to.

I'm a son of immigrants. My family came, my mother and father came from the other side of the ocean. They settled here, they went through the application process. My father delivered ice off an ice wagon, my mother worked as a domestic, and they became citizens. Never had a driver's license; raised us anyhow. Put us through schools. They spent their lives trying to make the world for us, their children, and I in turn for my children, their grandchildren. I never had the privilege to meet a grandparent of mine.

So when I hear about immigrant talk here, I have no problem with immigrants. But there's a difference, in my mind, between an immigrant and an illegal alien. That's the term that we should be using, as opposed to "immigrant."

This country was built and will continue to be built by immigrants. It's the one thing that makes our nation strong. Because our population, no matter what the birth rate, continues to grow. And a country and a nation with a growing economy is a prosperous nation. So immigration is indeed, by itself, welcomed.

Now, we're talking about a nation of laws and regulations that come from those laws. And either we are a nation of laws or we're not. And what I hear here is that if people come into this country through illegal means and have an illegal status, that's the bar that they have to meet. And once you get to that bar, you're fine. Well, it's really not that way, not if we have the laws that we have on the books.

You want to change the laws on the

books? If we want to say as a nation that anyone who comes to our shores and arrives here safely is welcomed, period, end, they can vote the next day or whatever you want them to do as citizens, or declare them as citizens, that's a law. That's a change. But that is not the law in this country. It's not the regulations that are the outcropping of those laws. And I think that's what concerns many people around this state.

Senator Parker mentioned President Bush. President Bush came out with a proposal to give amnesty to all of those who are here now illegally, if you will, but give them status so they could remain. It was universally rejected. By Congress? Not necessarily. But by the American people, people along all the southern states, along the borders. People don't like that idea. They think that there's a process and we ought to meet that process.

So I get a little upset when I hear this anti-immigration talk. I don't think anybody would be in this room without immigration. So that is not purpose of this

bill.

We use the ID, the driver's license, as an acceptable, universal ID all through this state and indeed this nation. If I go to an airport, I have to show my passport or my driver's license. If I cash a check, I have to show my driver's license. There's not anything I do that takes verification that I don't have to show my driver's license. So we're talking about probably the most intrinsic document that verifies our citizenship or being and who we are. Even if we don't drive, we now use the same process for the nondriving resident ID.

Now, if you don't like that, then we ought to propose different sorts of laws. But what Senator Padavan is proposing here is that this is something that's being done as we speak. They have found hundreds of thousands of people with fraudulent IDs -- and licenses, therefore. And I don't know that I feel comfortable with 200,000 people riding around with fraudulent driver's licenses. We don't know how they got them. Did they pass a test, they didn't pass a test? Are they insured?

It brings up a host of other questions, not merely going to work.

There's ways to deal with the immigration problems. When I met with Mr. Jim Kallstrom, former FBI director for New York City, when I was chairing the Veterans and Military Affairs Committee in this Senate, we talked about security. And at that time it was almost a laughingstock on the security around this building after we even put it in place. It's still something that's built like a sieve. And I asked him, "How do we really deal with that?" He said, "Senator, this is all cosmetic. It's all about feeling a little bit safer."

But you're not safe. You're not safe till you protect your borders. You're not safe till you know who's inside the borders. That's when we'll be safe. I don't know that we'll ever be there, but we certainly should have that as some sort of goal.

Look at the alleged vigilantes that were covering the borders in the southeast part of -- the southwest, rather, in Texas,

along the borders. Citizens who were so riled up about the immigration, illegal immigration, that they took it onto themselves to guard the borders. That's a very dangerous situation. That's how things bad things happen. But it shows how driven people are about this issue.

The Department of Motor Vehicles now does its screening. It does what it does, there is an appeal process. Obviously, one appeal went to court and it was found -- the court said they didn't have the authority because there was no specific law saying this or that. But the court did not dismiss the case. The court did not say that Motor Vehicles was wrong. It just said they didn't have the authority to back them up.

This bill does that. This bill should be nothing to be feared for -- feared by immigrants or illegal -- legal immigrants. Illegal aliens, that's another issue.

How do we deal with the illegal aliens that are in the country already, paying taxes, if they are, supporting their families, as they do? I represent a farming community as well as others. And we do much for the

immigrant farmers. And these are itinerant farmers, labors, if you will, who come from across our borders with papers and work here temporarily, bring in the crops, and go back home to their families.

Some bring their families. I visit with their children in summer schools when they're being trained up here and educated up here. But they are immigrants for a purpose. They're farmworkers. They come under regulations, and they are protected by regulations.

So I believe this bill deserves our support. I support you, Senator Padavan, in this attempt to bring some control, if you will, over what is happening around us.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Morahan.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, very briefly.

But when we're talking about the illegal status, what we're talking about is condemning people to be permanently in an

underclass, permanently in a limbo state where they have no recourse to the courts, in fact, because if they do go to the police, go to the authorities, they're exposing their illegal status and putting themselves at risk.

Someone talked about them paying taxes. Aside from sales tax, I don't know what they could pay. They're mostly paid off the books. They're not paid on the books. They can't be paid on the books because they don't have legal status.

So we're dealing with a group of people who really do not have access to the American dream that they've come here for. And I agree, most -- they're not coming here to be terrorists, most are not here to be terrorists, most are not here to do bad things. Most are coming here to seek a better life. I agree with that. And I think we should make an effort to determine that and to try to help them in every way that we can to achieve a legal status.

But by perpetuating this myth that when you come here illegally it's okay, come here but you're going to have to take the

lowest-paid wages, you're going to not be able to get health benefits, you're going to not be able to go to the courts, you're in a constant state of movement, you can't get a mortgage because you couldn't qualify with a background check, you can't do anything that everybody else who has legal status can do, we're perpetuating a myth.

We're also creating a group of people, as I said before, who will be and can be exploited by a group of unscrupulous employers who want them permanently to be in an underpaid underclass. That is not my idea of the American dream. And that shouldn't be perpetuated in this country.

We should seek to help anyone who wants to come here legally to obtain a legal status. I have no problem with that. It's this somehow idealizing that I hear from the other side about this group of people who have come here and somehow they're going to elevate themselves up. It's not going to happen, because the law is going to stop them. They're going to run into that wall. They are illegal. And when that's discovered, they

have a problem.

So let's address the problem. Identify. This bill should be passed. It's a step to identify. This bill will bring them in. This bill gives them the right to make the applications. This bill gives them the right to go through a process. But if you don't bring them in, you're perpetually keeping them under the thumb of people who would exploit them for their own bad ends. And that's not a good thing.

So let's deal with their illegal status first. Let's make them legal. Let's help people who want to become American citizens and achieve the American dream get their wish. Let's do it legally. Everybody's welcome to our shores through the front door, not the back door.

ACTING PRESIDENT LITTLE: Thank you, Senator Marcellino.

Senator Parker.

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

ACTING PRESIDENT LITTLE: On the bill.

SENATOR PARKER: I rise again to address a couple of things that I think we really don't understand here, because I'm hearing a lot of inaccuracies.

And first, let me apologize to Senator Padavan if I have in any way disparaged your name or your reputation to make people think that you are anti-immigrant. If my comments have offended you, I do apologize.

However, if I see bills that come up that the New York Immigration Coalition, that groups like the Community Action Project in my district and other immigration organizations are coming up and they're saying, time after time, that this bill by Senator Padavan, this bill by Senator Padavan, this bill by Senator Padavan, this bill by Senator Padavan are problematic to their constituents, and to my constituents, I have to call them as I see them.

So I apologize if you are offended.

There's a couple of things that have been going on, and one of which is that people have been throwing around this 600,000

number of people that the DMV has found. And people are saying that these 600,000 people all have illegal numbers and are somehow cheating the system. That is absolutely wrong, untrue, and incorrect.

The reality is you have to understand the history. And the history of this problem is that up until a few months ago, people in the State of New York -- the State of New York did not require people to have a Social Security number or tax ID number in order to have a driver's license.

A few months ago, arbitrarily, the Commissioner of the Department of Transportation started to require this. They sent out letters and they identified in their database a large number of people who were either missing Social Security or tax ID numbers, or there was some incongruence in terms of those numbers sometimes being held by several people.

Yeah, there's fraud in it. But you show me one system, not just in this state or this country, but show me one system that doesn't have some level of fraud. And I think

we should deal with the fraud and we should root that out. But if we're going to start dealing with fraud, let's talk about the Empire Zone program. Let's begin, let's begin with large numbers of --

SENATOR PADAVAN: Will he yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan requests that you yield.

SENATOR PARKER: I will not yield now. I'll finish my statement, and I'll be happy to yield to the Senator after I'm done with my comments.

SENATOR PADAVAN: I'll wait.

ACTING PRESIDENT LITTLE: Thank you.

SENATOR PARKER: So you have, you know, fraud in almost any program. And if we're going to start looking at fraud, let's look at fraud that in fact costs the taxpayers of the State of New York literally hundreds of millions of dollars every year, if we're going to start talking about fraud.

The reality is people now need

driver's licenses to conduct work, to get to work. And I was glad to hear from Senator Morahan about his upbringing. And I'm not sure how old Senator Morahan is, or how old his parents are, but the world has changed significantly in terms of what people need in terms of cars. You know?

And again, without me trying to just speculate a time frame, you know, the amount of cars on the streets, the amount of taxis on the streets, the amount of trucks on the streets, the amount of the need for transportation has increased substantially over the last 50 or 60 years, let alone the last hundred years. And so, you know, the needs for immigrants to have driver's licenses is really at a premium.

I think what we, you know, continue to do -- because I've heard a couple of people say this bill is an answer. I really am serious about the fact that I think we need to have more dialogue about what the solution is on this bill, because certainly this bill does not deal with security issues. This bill, despite what everybody is saying, does not

give people who are out of status, it does not give out of status an opportunity to become in status. It just simply doesn't do it.

First of all, the state is not in charge of that. So how does the State Legislature supersede the federal government as it relates to immigration when that's a federal issue? So we couldn't do it if we wanted to do it. I wish we could. You know, I wish we could do it; then maybe we could get some conversation. But the reality is that this bill does not help people who are out of status.

And lastly, I would love to work with some colleagues, I don't care on what side of the aisle, on a bill that really puts some significant funding into a treatment for xenophobia. Because I really think that there's an outbreak that's affecting the Legislature in particular, and maybe some of the people around the country. And so, you know, I hope to do that.

And I will yield if Senator Padavan has a question.

ACTING PRESIDENT LITTLE: Senator

Padavan.

SENATOR PADAVAN: Senator Parker, I just want to be sure I heard you correctly. Did you indicate a moment ago that the requirement of a Social Security number on your application for a driver's license is not as I've stated it to be?

What did you say? I'm not sure.

SENATOR PARKER: I did say that. And let me explain, because that deserves some explanation.

On the form they did ask for it. So when we understand the idea of policy, policy can be two things. In government, policy can be what we actually write. The law of the State of New York, regulations from an agency is policy. But what an agency actually does is also policy.

So, yes, it was on the books. It was something that they asked for. But it was not something that they ever enforced. Up until about 18 months ago, the requirement for a Social Security number or a tax ID number was never enforced. And so, by policy, it wasn't required.

SENATOR PADAVAN: Well, Senator, then let me share with you. You've seen, I'm sure, the application for a driver's license. And that section dealing with Social Security number is very clear, along with all the other basic requirements, including your sex, height, eye color, and so on. This is an official department document, by regulation, authorized by law.

Now, whether or not in years back, whatever the time may be, they didn't check everybody as carefully as they're now doing or attempting to do, does that make this requirement any less lawful?

SENATOR PARKER: Yes.

SENATOR PADAVAN: In what way?

SENATOR PARKER: Because it wasn't the policy. You weren't enforcing it.

For instance, you know, people in New York City -- in your district, I'm sure, as in my district -- people jaywalk all the time. It is illegal? Yes, it's illegal. But how many people are getting stopped for jaywalking? Except on Queens Boulevard. But other than that, where are people getting

stopped for jaywalking in the City of New York?

Policy is both what is written in law, as I've indicated -- I'm not disagreeing with that -- but policy also is what people do. And all the time, in courts across the country, policies that are written down are overturned by what has been the practice and then the real policy of our agencies and our government.

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan.

SENATOR PADAVAN: Then you've answered my question. And I'll ask you, if you have not -- but I believe you have -- it is regulation established by law, meaning that the State Department of Motor Vehicles not only has the authority but the responsibility to see that their applications are valid, that they're not fraudulently applied for -- a license, that is -- that someone hasn't lied on this application.

You would agree with that?

SENATOR PARKER: Yes, absolutely.

SENATOR PADAVAN: Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Serrano.

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

One thing that I'm very concerned about that I keep hearing from the other side is how immigration back at the turn of the century was done in a way and that those should follow it now.

But I think it should be pointed out that immigration now is much stricter than it was back then. It's far more difficult for new immigrants to get the necessary documentation that they need to come to this country because of the quotas. And since 9/11, the federal government has used that as a further excuse to curtail new immigration. And I think it's wrong. I think it's very dehumanizing.

And another thing that I find equally distressing is that on the other side, whenever the discussion of immigration comes up, it is immediately linked with terrorism.

This link between immigration and terrorism is something that we really have to look at, because we are failing to understand that the vast majority of immigrants are here for a better life for themselves and for their families for generations to come. And some are so desperate to be in this great nation that they risk their lives every day coming here.

Now, the last time I checked, Timothy McVeigh was an American and was not an illegal immigrant, yet he committed one of the most horrific crimes on American soil. So if we want to talk about terrorism, let's talk about terrorism. Let's talk about curtailing the activities of those here and abroad who want to hurt American citizens. But let's stop linking the immigrants to terrorism.

ACTING PRESIDENT LITTLE: Senator Padavan.

SENATOR PADAVAN: Will you yield for a question, Senator.

ACTING PRESIDENT LITTLE: Senator Serrano, do you yield?

SENATOR SERRANO: Yes.

ACTING PRESIDENT LITTLE: Thank you. Senator Serrano yields.

SENATOR PADAVAN: Yesterday we passed a bill in this house dealing with immigrants who were being abused, enslaved, turned into prostitutes, into bondage. Did you vote for that bill?

SENATOR SERRANO: I did, yes.

SENATOR PADAVAN: Yes, you did, because everybody voted for it. It passed unanimously.

SENATOR SERRANO: Yes.

SENATOR PADAVAN: Now, who do you think is perpetrating those crimes? The illegal immigrants. And who are they hurting? Immigrants.

So we talk about these issues of fraud, matters of this sort, we're not only talking about people who are not in that category, the victims are immigrants.

Last year we passed a bill dealing with individuals who hold themselves out to be what are called notarios, charging $20,000, $30,000 for a green card. Which passed, I believe, unanimously. Who were the victims?

They were immigrants. Who were the perpetrators? Immigrants.

So the point of the matter is when we deal with these issues, we're talking about our society in general, not just those individuals who came to this country illegally. In the City of New York, invariably, the people who are victims of crime are people who are foreign-born. And we have to protect them as we protect everyone else. Would you agree?

SENATOR SERRANO: Yes, Senator.

SENATOR PADAVAN: Thank you.

SENATOR SERRANO: If I may, Madam President, to continue on the bill.

ACTING PRESIDENT LITTLE: Thank you. On the bill.

SENATOR SERRANO: I think, Senator Padavan, you've brought up a very good issue, although I don't think it's entirely germane to my point.

My point being that since 9/11, every discussion about immigration has been linked to terrorism. And I think that that is extremely unfair, and I think it's wrong. The

bottom line is that the reason why this nation is so great is because of immigrants, because of the immigrants who have come here to build a better today and a better tomorrow.

And when we continually send the wrong message to new immigrants, we are betraying the founding principles of this nation.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator LaValle.

SENATOR LaVALLE: Thank you, Madam President. I'd like to speak on the bill. But before I do, I'd like to ask the sponsor one question.

ACTING PRESIDENT LITTLE: Thank you.

Does the sponsor yield?

SENATOR PADAVAN: Yes.

SENATOR LaVALLE: Senator, before I make my remarks, I just want to make absolutely sure that I understand what the issue is here, because we've gone kind of far afield.

The federal government has passed an act that requires the states within a three-year period of time to pass state legislation or else there are some consequences for the citizens of our state. Am I understanding this correctly?

SENATOR PADAVAN: That's correct.

SENATOR LaVALLE: Thank you very much.

ACTING PRESIDENT LITTLE: Thank you.

Senator LaValle, on the bill.

SENATOR LaVALLE: Madam President, on the bill.

Just recently, and I think it -- the debate kind of echoes our Congressman, in a discussion I had, who said that the number-one issue that he was facing in town meetings that he had was over immigration policy.

And we're seeing that frustration. And of course, as has been mentioned, the president and Congress have to enact a policy that has some fairness to it and also allows for the economic viability to continue in this

country. And the debate has mentioned this.

I wanted to rise because, as many of the speakers, my grandparents came to this country with, as all other immigrants, with only those goods that they could carry with them from Italy. And I can feel in this debate the same kind of feelings that my grandparents had whenever we talked about the government. Whenever the government was involved, they would get very nervous, very circumspect.

And yet my grandmother worked in a situation as a seamstress and I remember, as a very young child, going to where my grandmother worked and seeing literally rows and rows and rows of sewing machines in a situation where they were all jammed together. No air-conditioning. I don't think -- I think they had to ask permission to go to the bathroom. And very little time to eat.

I saw -- my grandfather had a poultry farm, and whenever the county agent came, my grandfather was always nervous because he came from Italy and spoke broken English. But he wanted to make sure that all

the laws were complied with, because he was afraid that because he came from the other side, even though he became a citizen, that the government would point their finger at him.

That was, as was pointed out, a different period of time, because they came in to this country through Ellis Island, as did probably many of the people, many of us here in this chamber, our families. Today is a little different.

But you cannot turn your back on what happened on 9/11. And so with this legislation, we are part of the federalist system, we are complying with what the federal government has asked us to do.

And I looked through a form that Senator Padavan had from the National Conference of State Legislatures, and I don't see on here much of an opportunity -- and we can hold all of the hearings we want. The federal government is asking us to do very specific and precise things within a very specific period of time, with sanctions if we do not do that. So that's why I asked the

sponsor for confirmation of that, that I was reading that correctly.

And so we can, for different reasons, find that immigration policy is tough and that, yes, we have a lot of people working in many, many different industries that are doing jobs that United States citizens seemingly don't want and what happens if they have to return back to their countries.

So it is very complex. But that's not the issue before us. The issue is to get our state in compliance with federal law.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator LaValle.

Senator Sabini.

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

ACTING PRESIDENT LITTLE: On the bill.

SENATOR SABINI: Two things sort of struck me during the debate here.

One is that there's a pretty broad gap between what the DMV sought to do by checking Social Security numbers and what the

federal law seeks to do, which is to prove legal status.

Now, the Social Security Act, which was brought into our country under the administration of Franklin Delano Roosevelt, who served in this room, the Social Security Act says that you can't use the Social Security number you're given as an ID number, nor can it be required of you to be your ID number by anyone. By anyone. That's on your original Social Security documents you got when you first applied.

And that has been part of suits across the country on this that make it a taxpayer ID number, use some other form of documentation. But what DMV did in running these numbers has now been halted by a court.

Another thing that strikes me as a little funny is that -- and I don't want to tell people there's no Santa Claus or the Easter Bunny, but we were voting on a budget here on March 31st, and in that budget there was a reduction in the budget line of DMV for doing that. You all voted on that. You all voted yes on that.

That was as a result of very hard work by Assemblyman Reuben Diaz, for telling DMV if you're going to do something that we all agree isn't supposed to be done, we're not going to let -- we're going to smack your budget for it a little bit.

So we've already voted that this was a bad policy. A court's already ruled it's a bad policy. And the Social Security -- the original Social Security Act says we don't want a federal ID. Now, maybe we need one now. But it shouldn't be your Social Security number. And there are moves to have one now. Smart ID, Smart Card, I've heard all these different terms. And that may be what comes down the pike.

But what we're dealing with today I don't think is workable for the people that we have now in our state performing jobs that keep our economy going.

And I don't cast any aspersions on anyone's motivation on this. I want a secure country as well. I wish the federal government wanted to secure our borders as much as I do, because I agree that our borders

aren't secure.

We wouldn't be allowed admission to the United Nations today, under the United Nations rules on admissions, because we don't have secure borders. That's a number-one rule for admission to the U.N., to have safe and secure and definable borders. We don't. I admit that. But that's the federal government's fault.

What this bill deals with is not our borders, and in some ways it doesn't even deal with our security. It deals with our citizenship and our populace -- not just legal citizens, but people living in our state right now and whether or not they can continue to pursue their livelihoods.

So maybe not for some of the reasons others have talked about, but I think we've already made our position clear on this by voting for the budget and reducing the DMV budget by an amount certain that covered the amount that they used to do this action, which has been halted by the court.

So I'm going to be voting in the negative.

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President -- oh, Senator Oppenheimer.

ACTING PRESIDENT LITTLE: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you. Just briefly.

I'll be voting against this bill for a very pragmatic reason. We had a meeting in my village, in one of our churches, where about 250 of our immigrants in our village came, and they clearly were saying that they will continue to go to their jobs. They all have jobs, and they will not give up their jobs and the income that comes from those jobs even though they will be deprived, very possibly, of their driver's license.

So I feel that my safety is somewhat questioned when we have drivers driving without licenses but feel that they must continue their commitment to their jobs and to the money which their jobs bring for their families. So we will have a lot of

drivers who will be driving without licenses, and I think that is something that's very fearful.

So I'll be voting no.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I think that we're here -- this has been a very interesting debate, and I would urge my colleagues, even those who may be getting a little impatient, that there are few issues that we will be addressing that are more pressing and that are more vital to the future of our state than issues related to immigration in the years ahead of us.

So we should get used to this, and we should focus in on it, and we should get the perspective that we need to deal with this issue. Because we have never, in the great City of New York, had more immigrants than we have now. The city is doing well because of them. Many of them are undocumented. But we're going to have to deal with the reality

here.

I think there are two fallacies that we're confronting in this particular debate. The first fallacy is that we need to pass this bill now. We do not need to ever pass this bill to comply with the federal act. There are other options.

Second, we certainly don't need to pass any bill now. We have some more time. And as Senator Balboni observed, which may have been the most prescient observation in this entire debate, quote, We need to talk more about this, close quote. And I realize a lot of you can make jokes about Senator Balboni's propensity to loquaciousness, but in this case I think he's absolutely right. We do not need to pass this bill ever. There are other options. And we certainly don't need to pass anything now.

Other states -- most of the arguments that have been raised here related to the uses of driver's licenses for purposes other than operating a motor vehicle. That's exactly what some other states are looking at, systems for delinking the motor vehicle

requirements in licenses from anything to do with immigration status. We should be looking at that.

We need to talk more about this before we pass a bill that has negative unintended consequences that quite honestly, I think, really fly off the page. I think Senator Diaz read from it, I read from it. It's pretty obvious that there are going to be some severe negative consequences from this particular bill.

So fallacy one, we don't have to pass this bill ever in its present form. There are other options. And we certainly don't need to pass it now. We should talk more about this.

Fallacy two -- and this is the more fundamental issue which I think we're going to be grappling with in the years ahead -- not all the people who are here without documents are people who are, quote, up to no good. The vast majority of the undocumented immigrants who are working in this country and living in this country are in fact people who are up to a great deal of good. They're supporting

their families, they've come here in many cases because they are fleeing from severe oppression or poverty in other places.

And I would urge that whatever steps we take to get rid of the myth that Senator Marcellino referred to, they are going to continue to come, because there are places in the world that are a lot worse than any situation an immigrant will find here.

And most of these people are here trying to do something better for themselves and their families. And while most people here's families came legally to this country, there are members of this legislature I know whose families came here unlawfully. I know members of this legislature who themselves came here without papers. And they are making a contribution.

The laws change. And I respectfully submit that whether we like it or not, the laws at the federal level will change to deal with the fact that we have tens of millions of people here unlawfully and we're not going to get rid of them through a system of oppression and deportation.

So, ladies and gentlemen, those two fallacies I think compel us to vote against this bill. Let's not conflate undocumented immigrants with people up to no good. Let's deal with the reality.

As Senator Parker pointed out, there is law up in the ivory tower and there is law on the ground. And there's no one who's ever worked in law enforcement who will not tell you that you make a judgment call every day: I'm going to pull that car over with a broken taillight, I'm going to let that one go. These are judgment calls.

The law will change at the federal level, and the law is changing on the ground now because the law enforcement authorities know they cannot enforce this broken system of federal laws regarding the millions of people who are living here, trying to support their families, who the law makes the subjects of the oppression that I think Senator Marcellino rightly referred to.

But don't misunderstand this. This bill, if we pass it, will not just have an effect on people who are here without papers.

Legal immigrants are terrified of going into government offices now, because what if they make a mistake, as happens often. Senator Diaz spoke about people supporting their families. You can't afford to be locked up wrongfully for a few weeks and then get out: Oh, we made a mistake.

We have immigrants who are afraid to report things to the police, legal immigrants, because they're concerned about that kind of an inquiry, afraid to go to a hospital when they are seeking medical care.

This is a crisis that will not be dealt with by pretending that the law is the law and it's going to be enforced. And I think we should get on to the real debate that Senator Parker encouraged us to.

But this bill we do not need to pass now, we do not need to pass in its current form. Let's talk about delinkage of immigrant status and driver's licenses. Let's keep the system of driver's licenses working to keep us all safe on the roads and not drive people away and create more hit-and-run accidents where people have to run because

they aren't allowed to get driver's licenses.

And let's take Senator Balboni's words to heart. We need to talk more about this. I assure you, we will be talking more about this.

And, Senator Diaz, this is not an exercise in futility, because often we see bills that are one-house bills and because of the debate that takes place, sometimes the next year the bill's a little different and sometimes the Assembly moves things in another direction.

So I commend all my colleagues on both sides of the aisle for this debate. I encourage us to vote no, and let's get down to the real work of coping with a great state made greater by the presence of immigrants, legal and illegal, who need the law to address their real needs.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR PADAVAN: Very briefly, Madam President.

I just wanted to take this moment to respond to a couple of statements made by Senator Schneiderman.

He said we don't have to ever pass this kind of legislation, now or in the future. I presume that's what he meant. I would refer him to the Real ID Act of 2005 enacted by the Congress of the United States and signed into law on May 11th this year. In page after page, it states "a state shall," "a state shall," "a state shall." And it lists all the things that we are required to do.

It's not "may," it says "shall." We will. So that statement that this is

something we will not have to do ever is totally false.

The second issue I would agree with him on. The overwhelming majority of immigrants in this country who live in my district, and in yours, are here for good purposes -- to raise a family, the American dream, and everything that goes with it. But as we learned, sadly, while there were hundreds of immigrants in the World Trade Center on that day, it only took a handful to dispose of them. They were the victims. It only takes a small number to cause great harm and tragedy to a large population. And that's what this is all about.

I vote aye.

ACTING PRESIDENT LITTLE: Thank you.

Senator Padavan will be recorded in the affirmative.

Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Madam President.

Just when all of you vote, those of you that are going to vote in favor of this

bill, when you vote in favor of this bill you are voting not only to stop issuing driver's licenses, you are voting to authorize the Department of Transportation to report anybody that doesn't have the right papers.

So today you're voting to authorize or to make the Department of Transportation a branch of the immigration department. Tomorrow, which one will be next -- the Department of Education? Department of Health? Which department will be next?

Today this piece of legislation not only stops issuing licenses, you're also authorizing the Department of Transportation to report people under suspicion. So I'm telling you, be careful what you're doing. This is the wrong way to do it. This is the wrong message. And I'm voting no.

ACTING PRESIDENT LITTLE: Thank you.

Senator Diaz will be recorded in the negative.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, Madam President, just very briefly to explain my

vote.

Just to set the record clear, and I'm sure we will have many opportunities to discuss these issues, I didn't say we don't have to pass a bill to comply with the federal law, I said we don't have to pass this precise bill. Other states are looking at other options.

And again, I think Senator Balboni's words are right. We should take more time to talk about this. We can do better than this. We can come up with a better proposal. I didn't mean, as Senator Padavan suggests, we don't have to pass something. But we don't have to pass this specific bill, and we do have more time to work on it.

I will be voting no.

Thank you, Madam President.

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

Senator Balboni, to explain his vote.

SENATOR BALBONI: Madam President, I would compliment the members of

this chamber for taking on this issue. This is an issue that many people are very reluctant to discuss because it goes to the very heart, as I said before, of the dynamic tensions in our society.

And many of the things we talk about here, perhaps people sit there and say, Well, we don't have much of an impact. Whether we talk about border security -- I mean, what is the State of New York talking about border security for? We're only a state.

Well, ask any of the representatives who border Canada and realize, please, ladies and gentlemen, that probably one of the greatest threats we have to our security is the immigration policy not of this state or this nation, but of Canada. It allows someone to come in, anyone, and to have a declaration of political asylum without checking who they are. And now they are a Canadian citizen, and as a Canadian citizen they are allowed to come across our border at any time.

This issue today is more about

security and driver safety. Because when you have a driver's license, statistics show you are a better driver. And there is an eerie correlation between unlicensed drivers and fatalities.

It's also about information security and all the things we've talked about in terms of hijacking our personal information. If you don't have a secure driver's license system, you're much more vulnerable as a society to someone coming in and hacking your personal ID.

But today what we've done is something that the other house isn't doing. We're at least talking about this. And as many questions as are present in this particular debate, at least the debate is occurring.

I don't like the way this system was handled, this bill was handled at the federal level. I've said that. And I think it's going to lead to great consternation. But as with all things we do in this government, it is a balance. It is a balance between the needs of the many -- and there are

18 million people in this state that we should be concerned about, 18 million. And I understand and recognize that if this policy were to be adopted today in this particular form by this Department of Motor Vehicles, then you would have had 300,000 people who would then be put in jeopardy in terms of staying in this country.

But, ladies and gentlemen, are we going continue to walk past the cemetery? Are we going to continue to ignore this issue and sit back and say that as a free nation we'll let anybody in, no matter what they are, and not have them do the basic responsibility of trying to become a citizen and enable them to do? That the answer is no, we can't do that.

Madam President, I'm going to vote for the bill, with the hope that we get this right.

And I would also like to encourage Senator Parker, I know you. You're sincere about your efforts to try to make an impact in the federal government. Let's do it. Let's put a letter together, talk about border security in this state as it affects this

nation.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Balboni will be recorded in the affirmative.

Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. Just briefly.

In the 36th Senatorial District -- I heard one of my colleagues talk about the fact that they have one of the most diverse communities in this country, and I would say to you that it must mirror mine very distinctly, because there are over 96 different languages spoken every day, particularly just in the Mount Vernon portion of that district alone.

But in the Bronx, our district is made up of people from Nigeria, from Ghana, from every country island within the Caribbean, some from the Mediterranean, and certainly from South and Latin America.

My office is -- does not have

jurisdictional responsibility for immigration, and yet my staff spends almost a third of its time working with people around issues of immigration. And very few to none of them would be those who are not interested in becoming citizens in this country.

Many of them come to us because they've been here and their papers have been in for more than five years. Being processed is a major, major issue. And it isn't because they've done anything wrong or they've broken the law or anything, it's just that we continue to cut back in the federal government, as well as in state government, and we cut back in the places where it hurts those that can afford it the least.

And so when we spend an inordinate amount of time helping people to process paper, and to have us sit here in the state Senate and create further barriers to that, it makes me very, very uncomfortable.

I, like Senator Balboni, sit on the Veterans, Homeland Security and Military Affairs Committee and have worked with him very conscientiously for over a year on the

Homeland Security Committee for the State Senate. And both of us are very aware of some of the dangers, certainly, that Senator Padavan talks about.

But I don't want us to rush to judgment. I don't want us to rush and do something because we have to without giving the right thought to the process. And therefore I will vote no on this bill, but also will volunteer to work with Senators Balboni, Padavan and Parker to put together language for a bill, as well as a letter to our federal government asking them to move on it in a better process.

And so for that reason, I will be voting no at this time on this particular bill.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Hassell-Thompson will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 1356 are Senators Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, L. Krueger, C. Kruger, Montgomery, Oppenheimer, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith and Stavisky.

Those Senators absent from voting: Bonacic, Sampson and Volker.

Ayes, 38. Nays, 19.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1428, by Senator Wright, Senate Print 5532A, an act to amend the Penal Law.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Wright for an explanation, please.

SENATOR WRIGHT: Thank you, Madam President.

The bill amends the Penal Law in relation to making persons 14 and 15 years of

age criminally responsible for acts constituting cemetery desecration in the first degree.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger.

SENATOR LIZ KRUEGER: Will the sponsor please yield for a question.

ACTING PRESIDENT LITTLE: Thank you.

Senator Wright, do you yield?

SENATOR WRIGHT: I will.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

What is the penalty for cemetery desecration in the first degree under criminal law?

SENATOR WRIGHT: Currently it is 1 1/3 to 4 years.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger on the bill.

SENATOR LIZ KRUEGER: Thank you.

Without needing to explain why, of course, I strongly disapprove of anyone desecrating a cemetery, I do believe that passing a law that could potentially mean 14- and 15-year-olds who do wrong, no argument there, go to jail under an E felony for up to 4 years is too extreme a penalty and too big a leap to make in our criminal code.

So on the argument that we shouldn't be sending 14- and 15-year-olds to jail for up to 4 years -- even if there's no question that there should be penalties for desecrating cemeteries, and none of us would ever imagine supporting such a horrendous act by people of any age, but I do think that this is going too far and cannot support E felonies for 14- and 15-year-olds, with jail time.

Thank you, Madam President. I'll be voting no and hope my colleagues will join me.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator who

wishes to speak on the bill?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR MONTGOMERY: Yes, thank you, Madam President.

I am voting no on this legislation. I just think that we could find other ways to deal with teenagers who are 14 and 15 -- they're practically preteens, for goodness' sake. They're youth. Yes, they do foolish things. They may go into a cemetery and think that they're having fun and topple over some gravestones and whatever. But we should have some restitution for them, rather than giving them -- charging them with an E felony and making them criminals, as if they were a

threat to society.

So I'm voting no on this, and I hope my colleagues will reject this idea that we should make criminals out of 13 and 14 -- or 14- and 15-year-olds who find themselves in a cemetery having fun.

Thank you. Bye-bye.

ACTING PRESIDENT LITTLE: Thank you.

Senator Montgomery will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1428 are Senators Dilan, Duane, Hassell-Thompson, L. Krueger, Montgomery, Oppenheimer, Paterson, and A. Smith.

Those Senators absent from voting: Bonacic, Maziarz, Sampson and Volker.

Ayes, 48. Nays, 8.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number

1602, by Senator Padavan, Senate Print 5620, an act to amend the Real Property Tax Law.

ACTING PRESIDENT LITTLE: Senator Krueger.

SENATOR LIZ KRUEGER: Could I ask the sponsor a question while waiving explanation?

ACTING PRESIDENT LITTLE: Yes.

Senator Padavan, do you yield for a question?

SENATOR PADAVAN: You want an explanation, or you want to ask me a question?

SENATOR LIZ KRUEGER: No, I was going to ask you questions without the explanation.

SENATOR PADAVAN: Okay, sure. Go ahead.

ACTING PRESIDENT LITTLE: Okay, the Senator yields.

SENATOR LIZ KRUEGER: Thank you, Madam President.

This bill provides a tax reduction, a property tax reduction for Class 2 properties under 10 units. And in the memo it talks about having specific advantages for

renters. But this is all Class 2, so this would be coop, condo, and rental buildings?

SENATOR PADAVAN: Under Section 1805 of the Real Property Tax Law, Category 2, that's all. The class of occupancy. Residences under 10 units or less.

SENATOR LIZ KRUEGER: Thank you.

Madam President, on the bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

Well, the bill is a dilemma for me because I recognize that it would be helpful for some residences in New York City, some owners of small buildings, some coop/condo joint owners of small buildings. And I recognize that the City of New York --

ACTING PRESIDENT LITTLE: Senator DeFrancisco.

SENATOR DeFRANCISCO: I would request, in view of the gentlemanly way that Senator Padavan treated you, that you would waive explanation.

(Laughter.)

SENATOR LIZ KRUEGER: Madam President, to continue, since I've been labeled Senator No Fun, I'm afraid, Senator DeFrancisco, I have to explain a little bit about my position. But for the record, I did skip the last bill -- the bill before that.

So the dilemma, without spending too much time explaining, is that we have some fundamental problems with the property tax system in New York City. And I think that perhaps the sponsor would agree with me that there are serious inequities and imbalances in our tax policies for Classes 1, 2, 3, and 4.

And in fact the record shows that since 1981, when the State of New York overrode a proposal by Governor Carey that would have resolved many of the inequities in the property tax system in New York City -- and in fact, it was the Senate that overrode the Governor's veto of a bill and then chose to not move forward with proposals that I think would significantly help to deal with equity in property taxes in New York City -- that we have been struggling in a piecemeal way to try to deal with the problems of our

tax policy.

So that we have inequities in our assessments in the ways that we tax Class 1 to 3 family homes versus Class 2 units. Class 1 units, in fact, pay disproportionately less in taxes than other property tax owners in New York City.

My problem is I wish that we were doing a full evaluation of the property tax inequities in New York City and that we were not potentially, through this Band-Aid solution for one subuniverse of Class 2 properties with under 10 units -- rather than doing a Band-Aid that may help them but may increase inequity across the entire property tax system in New York City, that we were not either asking the City of New York to meet their obligations to this Legislature to propose alternatives for themselves or, as a Legislature, deal with the bigger problems.

So I will support the bill, and I appreciate Senator Padavan's desire to offer some tax relief to a certain subuniverse of property renters and owners in the City of New York. I would argue that one more

Band-Aid solution after over 20 years of not dealing with the bigger problem will not actually result in solving the problem for our city of inequity in our property tax policies.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Is there any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 1602: Ayes, 56. Nays, 0.

Those Senators absent from voting: Senators Bonacic, Gonzalez, Sampson and Volker.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

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

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT LITTLE: Senator Maltese, for an explanation.

SENATOR MALTESE: Madam President, this bill would amend the Public Officers Law to allow the hiring and continued employment by municipalities of members of the auto trades who reside in a New York county that is contiguous with the employing municipality.

The provisions allowing residence in a contiguous county are modeled after the existing provisions of the Public Officers Law allowing members of a municipal sanitation department to reside in a contiguous county. The same standards should apply to the skilled tradespersons employed in the auto trades who also find the costs of housing in certain other counties prohibitive and want the opportunity to raise their children in a less dense environment.

This bill would simply give members

of the auto trades the same opportunity as members of the sanitation department have according to the Public Officers Law.

This bill would apply to New York City automotive mechanics who are members of Local 246. This concerns approximately 1,505 members and has been done at their request.

ACTING PRESIDENT LITTLE: Thank you.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you, Madam President. I will just speak on this bill.

This is one of several pieces of legislation that we've debated this session, and it continues to come up. Eventually there will be no one who will be living in the city and paying taxes as citizens of our city. They will all be living in contiguous and noncontiguous counties.

And certainly we need to have the strength of people who work in the city also living in the city. And I note that the Senator's memo uses the excuse that, well, they can't afford housing in the city. Well,

I don't think the housing in the city is any less affordable than housing in Westchester County and the other contiguous counties. So I don't buy that excuse.

And certainly this particular category of civil service employees have no excuse for not living in the city, except that they choose to become suburbanites. Which is fine. I have no problem with that, no objections. But if they do, then they should be prepared to work as suburbanites.

So -- and of course the members of the Black, Puerto Rican, Hispanic and Asian Caucus have voted against this, because we view this as an impediment to being able to employ people who live in the city. And we would like to see, among other legislators who also agree with this -- this is not just that group, but other groups of legislators agree -- that employees who are paid by the city, municipal employees, uniformed employees in particular, but others as well, should live in the city.

So, Madam President, I vote no.

ACTING PRESIDENT LITTLE: Thank

you.

Senator Savino.

SENATOR SAVINO: Thank you, Madam President.

Again, I have to disagree with my colleagues. And as I've said before, it always pains me when I have to do that.

But just to be consistent, this is a similar situation to the bill that we passed two weeks ago for sanitation workers and again last week with respect to the fire alarm dispatchers. It's the same situation.

New York City employees are subject to the residency requirement as a result of a deal that was brokered in the 1970s to prevent middle-class flight from the city at a time when it was a serious problem. That is no longer the case. The city -- many of the neighborhoods that city employees live in and work in, they can no longer afford to purchase a home in. That is a reality. Every one of us knows that.

So we're just beginning to extend to city employees who have -- who have stayed in the city over the years, and they've

contributed to the city -- and remember, five years ago or six years ago, I think it was six years ago when the members of the Legislature repealed the commuter tax for people who live outside of New York City but work there, there was only one group of people that were exempted from that repeal. That was the City of New York's employees. They are required to 3 percent out of their salary under Section 1127 of New York State's tax code. So there is no loss of tax revenue when city employees move outside the City of New York.

And finally, one thing that I may not have mentioned when I spoke about this in the past is that many city employees live in rent-stabilized and rent-controlled apartments, and they also live in public housing. And since the City of New York has not contributed or built affordable housing as we lament, often, or low-income housing, moving some of those people out of that stock of housing would free it up for many of the members of the working poor who are living in substandard housing.

So again, I will ask my colleagues

to take that into consideration and recognize that New York City's employees have already, already met the burden, and it's time to allow them to move out of the city when they can -- and not everybody is going to go, but when they can, so that they can have that little patch of land that Senator Oppenheimer referred to in the past where they can have a garden and they can raise their children outside of the city.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Savino.

Is there any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR MALTESE: Madam President, just a brief word.

I believe in this great country of ours, in this great state of ours, in this great city of ours a person should be able to live where they want in order to carry out their living. I do not view living in New York City as a punishment, I regard it as a pleasure and something that we do voluntarily.

I vote aye.

ACTING PRESIDENT LITTLE: Thank you.

Senator Maltese recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1615 are Senators Brown, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Parker, Paterson, Serrano and A. Smith.

Those Senators absent from voting: Bonacic, Sampson and Volker.

Ayes, 45. Nays, 12.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1626, by Senator Spano, Senate Print 5655A, an act to amend the Tax Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Spano, for an explanation.

SENATOR SPANO: Madam President, the purpose of this bill is to direct a portion of the video lottery terminal money that is generated at Yonkers Raceway to be -- that's generated at the track to be given to the educational system of Yonkers.

It would require an additional 4 percent of the marketing allowance of Yonkers Raceway would be directed to the Yonkers Board of Education. We expect that it will generate somewhere in the area of some close to $10 million annually to the city when VLTs are fully implemented at the track.

ACTING PRESIDENT MEIER: Senator

Stachowski.

SENATOR STACHOWSKI: Mr. President, would the sponsor yield for a question.

ACTING PRESIDENT MEIER: Senator Spano, do you yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STACHOWSKI: I know that we supported an amendment similar to this in nature, so I'm prepared to vote for this. I just had a question on it.

I know that Yonkers has very little racing. I know they're still racing but they have cut back on the number of days they're racing. With VLTs finally coming in, are they planning on increasing the number of days that they're going to race?

SENATOR SPANO: The track is shutting down for a short period of time in order to go through rehabilitation to build out for the VLTs. Once they are implemented, we fully anticipate the track to expand their racing days, because there will be a lot more

competition, we'll have more horses.

And over the last several months we've seen days and weeks where the track was down as a result of not having enough horses to race. We expect, once the VLTs are implemented, we're going to see that enthusiasm at Yonkers Raceway, and the result will be additional racing days.

SENATOR STACHOWSKI: Thank you.

ACTING PRESIDENT MEIER: Senator Sabini.

SENATOR SABINI: Thank you, Mr. President. If the sponsor would yield.

ACTING PRESIDENT MEIER: Senator Spano, do you yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SABINI: I was just wondering if the sponsor could tell the body why the bill is restricted to only one VLT site in the state when we have one going into Aqueduct and we have other VLT sites around the state -- Saratoga Raceway, Buffalo, and a few others coming online.

SENATOR SPANO: We had a -- I had a bill previously that would share money with the host communities of any communities that had a racetrack with VLTs within their boundaries. It was clear that the Assembly showed no interest at all in passing that measure, although I think there was overwhelming support here in this house for it.

As a result, we said let's try to narrow the bill a bit to help a city that has some severe financial issues, with our proximity to the City of New York, where we are hurt as a result of the school aid formula. We are hurt because we're a unique city, being the only city to be under federal-court-ordered integration. And the final year of that funding for that integration suit is up next year, and we fall over the cliff by the amount of some $40 million.

So I think it's important for us to support the City of Yonkers in this measure, and I think it would be overwhelmingly successful and hope to expand that bill to

other host communities across the state.

SENATOR SABINI: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Sabini, on the bill.

SENATOR SABINI: While the sponsor knows that the Yonkers school system is in trouble, I would submit that the New York City school system has been documented by several courts now as being a system that's underfunded. And this would not direct any revenue from that facility in Aqueduct to the New York City school system.

I'm a little torn on this bill, but I'm not sure that it's the best of public policies with regard to Yonkers, not having enough horses to run now. With the -- hopefully the passage of Senator Padavan's bill, there will be enough horses around for everyone, and they won't be other places, they'll be at the racetrack where they belong.

I intend to vote no.

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

Debate is closed, then.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR KLEIN: Thank you, Mr. President.

I rise in support of this legislation, mainly because it's almost identical to an amendment that I tried to pass in March of this very year. I said at the time that we should be using our VLT monies to benefit our schoolchildren.

And schoolchildren, especially in Yonkers, certainly need a quick infusion of cash. There's presently a $46 million deficit in the education system in the City of Yonkers. And I think this is a wonderful opportunity to not only get them the money they need now to continue to educate our young people, but at the same time it's also a

wonderful opportunity, I think, to rehabilitate and bring back Yonkers Raceway. There was a time when Yonkers Raceway used to have over 40,000, 45,000 people in an evening. That's clearly not the case now.

But when I did introduce my amendment back in March, I still believe today it's still important not only to help Yonkers, but all of the host tracks. Clearly, even if you have a racetrack in Saratoga and you may not need that quick infusion of cash or any more cash for education, you still are providing more police service, more sanitation service. So I think it's very, very important that we do have those additional monies for the host racinos, so to speak.

So again, I commend Mr. Spano for putting in this important legislation. I hope it passes the Assembly as well, because I think this is a wonderful opportunity to help the schoolkids of Yonkers and also the racetrack in Yonkers Raceway, which happens to be in my district.

I vote yes on this legislation.

ACTING PRESIDENT MEIER: Senator

Klein will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1626 are Senators Breslin, Duane, L. Krueger, Padavan, Parker, Sabini, Savino, Schneiderman, Serrano, A. Smith and Stavisky.

Those Senators absent from voting: Bonacic, Sampson and Volker.

Ayes, 46. Nays, 11.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1627, by Senator Little, Senate Print 5664, an act to amend Chapter 444 of the Laws of 1997.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR LITTLE: Thank you, Mr. President.

This bill extends provisions of law relating to IDAs, industrial development

authorities, until July 1, 2008. It is a straight three-year extender.

The industrial development agencies' authority to finance not-for-profit projects will sunset unless they are extended by this Legislature. Authority to finance not-for-profit civic-facilities projects was first given to IDAs in 1987. Subsequently the law was extended in 1993, 1997, 1999, 2002. This bill proposes to extend the bill this year until July 1st of 2008.

ACTING PRESIDENT MEIER: Senator Krueger.

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

ACTING PRESIDENT MEIER: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

Well, there's been a lot of proposals floating around around IDAs, and I have to say it's very disappointing that we have a proposal to have a straight extender for three years when I think most of us in this house know that there are serious problems with the way the IDA system is run in

this state.

There have been any number of newspaper exposes about out-and-out scandals or serious questions of conflicts of interest with IDAs around the state. There have reports done by the State Comptroller's office around problems with the IDAs.

Some of us were hoping we would negotiate reforms for IDAs this year. We haven't. Then we thought perhaps we'd have a short-term extender, giving both houses more opportunity to make the needed changes and to come to an agreement. But I have to say I don't think anyone thought doing a straight extender for another 36 months was in the best interests of the state.

So for the record, despite the fact that I think clearly that is what this house will pass today, we should not be doing a straight extender of IDAs. We have a lot of cleaning up to do. And while we do a straight extender, we have more problems erupting around the state from allowing these public authorities, with the most minimal oversight by the Legislature or by any state agency,

continue to be allowed to give tax exemptions, PILOTs, compete with each other for businesses from one county to another, overlap various tax exemptions and credits with Empire Zones and brownfields and anything else imaginable, so that certain businesses appear to avoid paying any taxes to the State of New York and get to ride roughshod over local interests and local land-use policies.

Just to highlight from the Post Standard, problems with consultant services in the billing used in the Destiny USA project and their role in relationship to several IDAs in that area. Scandals from the New York Times involving funding to campaign donors through Nassau County and IDAs there. Comptroller's Report on Industrial Development Agencies Project Evaluation Criteria and Monitoring Efforts, highlighting distinct problems in both the decision-making process, the steps to be followed, whether or not jobs were created, project performance, the fact that there were no penalties or sanctions when businesses in agreements with IDAs failed to meet their obligations, no standard policies

or procedures for monitoring for projects, for bringing the public in to review proposals by the IDAs before decisions are made.

These are not new problems for any of us. They have been fully documented. There's probably not an IDA that hasn't had some newspaper stories at the local level questioning what was going on. I've got piles of them here. And in respect to Senator DeFrancisco, I won't read them all.

But the fact is that we know what we should be doing rather than a three-year extension for industrial development agencies. Some of us aren't sure we think we should have them at all. But if we are going to have them, we need to ensure that we've got broader oversight and coordination of their programs and activities, that we've got ongoing reporting of the impact on communities and what is happening in relationship to the changes made or the programs -- projects taken on by IDAs. Basic standards that are mandated for IDAs and their projects at the state level. Actual reporting requirements that measure, on an annual basis, how many jobs are

created or retained in relationship to the payments in lieu of taxes, tax credits or exemptions at the county or local level. Overlap between IDA deals and Empire Zone deals and brownfield deals requiring enforceable claw-back penalties. Having public hearings in a timely manner prior to decisions being made with no necessity for the public to ask -- to have to file FOIA requests to get the proposals, only to not even learn of the information before the board members of the IDA have voted. Requiring a standard of transparency in how IDAs are run that we haven't even started to explore. Establishing meaningful penalties for IDAs that violate state and local laws.

Again, the list is -- I could go on for an extended period of time on exactly what we ought to be doing. And yet with a three-year extender I will hazard to guess that this Legislature may choose to simply ignore any of these problems or any of the proposed fixes we could be making for another 36 months.

So I am very disappointed that in

the last few days of session, rather than taking on a very important change in the laws that we all recognize we should be addressing, we are proposing to punt the problem for another 36 months.

And I hazard to guess that the next time, if it does take another three years before we revisit these issues, that the next time we're asked to consider changes in IDA law, the memos in my file of scandals and problems and failures of IDAs around the state will be a much thicker file, and we will have only ourselves to blame for not addressing the issue now as the bill is sunsetting.

I urge us to vote against this bill and move forward with, if at minimum we can't make the reforms we ought to in both houses, a much shorter extension, perhaps six to eight months rather than 36 months.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

For the record, and in response to

the previous speaker's comments, I would like to say that this is one of three bills that I have proposed on the IDAs. Our first bill was a Senate bill that would make some changes to the IDA laws and regulations and would also extend this provision for the financing of not-for-profits.

However, after several meetings with my staff, the Senate staff, Assemblyman Sweeney's staff from the Assembly, we came up with another bill trying to incorporate some ideas for reform that the Assembly has, some ideas that the Senate had, and also to ensure the organizations in need of IDA funding would be able to get them.

We have been able to come to absolutely no agreement on the bill. And up until 10 o'clock last night, there were still meetings trying to come to an agreed-upon bill between the two houses. We were unable to do that.

And in response to being unable to do that, we propose a three-year extender. And I would emphasize the need for a lengthy period of an extension rather than a monthly

extension or a six-to-nine-month extension, because many projects are on the table or go on the table, so therefore they would not be able to rely upon the IDA funding that was necessary for them.

Extending this is important to many hospitals, to many developmental disability projects, many of them nonprofit projects that could be funded through IDA bonds by extending this bill. And therefore, we propose this extension.

And there is absolutely nothing that prevents either body from continuing to work on the reforms in the meantime.

Thank you.

ACTING PRESIDENT MEIER: Senator Brown.

SENATOR BROWN: Thank you, Mr. President.

I certainly understand what Senator Little is saying with respect to experiencing some difficulty in being able to work out some kind of compromise on IDA legislation. However, I too am disappointed that we are simply extending the IDA law as opposed to

reforming the IDA law.

I want to bring to everybody's attention a situation in my own county, in Erie County, where it has been all too common for businesses to be pirated from one section of the community to another section of the community.

In Buffalo, where I live, recently there was a court case involving a neighboring municipality where one business was given inducements, given benefits to move from the city of Buffalo to a neighboring municipality. And in that lawsuit, it was found that that was done improperly. But what ended up happening is that the company, the corporation, the developer that actually built out the facility that the new business went into, they ended up having to pay a penalty and having to pay taxes to the municipality that really was responsible for pirating this business from one municipality to the other municipality. And it seems like there should have been a penalty for the municipality.

So really the anti-piracy provisions in this legislation should be

strengthened, should be reformed. That's one issue that we're not dealing with through this extension. And that is one of the major reasons why I will be voting no for this piece of legislation.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

I strongly concur with the views expressed by my colleagues earlier, Senator Krueger and Senator Brown. We are voting to extend a program that is so problematic and so riddled with problems that it doesn't even come up to the level of other programs in this state that many of us find to be problematic in and of themselves.

The Empire Zone program includes a provision that makes compliance with environmental, worker safety and other public interest laws a condition for receiving and maintaining certification. There's no similar requirement for IDAs.

We have in New York State a serious problem that we're going to be addressing one

way or the other, and IDAs are emblematic of the problem. The problem is this. Our tax code -- and people on the other side of the aisle love to complain about high taxes. We have the worst of both worlds. We have high marginal tax rates, but our tax code is so riddled with loopholes, exceptions, tax giveaways and expenditures that we actually generate very little revenue for all these high marginal rates.

We're approaching a situation where we have two types of businesses in New York State. If you are not on the public dole through some IDA program, Empire Zone program or specific loophole crafted for you by clever lobbyists, you are in a business that's subsidizing all those other businesses.

This is not a situation where you can give tax breaks to half the businesses in the state and pretend it doesn't affect the other half of the businesses. So I also am going to vote against this. I think it is really an abrogation of our duty to give this long of an extension for a program that costs the taxpayers of this state hundreds of

millions of dollars, if not billions of dollars, without reforming it, without ensuring simple things -- like businesses that violate the law aren't receiving benefits. That's not in the IDA law.

So what we've got here is a situation where the refusal to agree, for whatever reason, whatever motivation, has the effect of providing some very, very politically connected businesses with a benefit that then results in them being subsidized by all the other businesses, particularly small businesses, in the state that do not have those connections.

So I'll be voting no. And I know we'll be dealing with this issue of tax expenditures as we go forward. This is just an unfortunate example of our inability to get some very basic reforms done before the end of this year's session.

Thank you, Mr. President.

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

Debate is closed, then.

The Secretary will ring the bell.

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.)

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

SENATOR STACHOWSKI: Mr. President, to explain my vote.

I'm reluctantly going to vote for this measure, because I don't want to see legitimate projects that are important to not-for-profits -- i.e., hospitals and some important groups in our areas that have IDAs that maybe are building or planning to build and not being able to do that project and hurt the community that way.

However, I would hope that Senator Little and the Assembly cochair of this area would get back together and still do something in the area of reform, because the anti-pirating thing is a joke. I mean, consistently one particular IDA in our area goes to court -- not on every project; they

could be there all the time if they had all the insurance companies that they took out of different communities and built tax-free buildings in their community and moved out all insurance companies up there. There's a lot of vacant office space in Buffalo due to that, but not everybody sues. Every time they do sue, they win.

The trouble is when they win, the fine is miniscule and the company is still in the community that they went to. That happens to Buffalo, it happens to the older suburbs. And it's not what IDAs are supposed to do.

So the fact is I'm going to vote for this measure, but I wish that they would continue to work to try to get some of these reform measures to do a little bit better oversight and make IDAs do what they're supposed to do, not move office buildings and medical centers to IDA property at a tax-free location.

I vote yes.

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

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I agree with much of what Senator Stachowski and Senator Krueger spoke about. The problem is we've got to move this legislation to keep projects going.

But it is very, very frustrating when you see a project in my community that has been talked about for four years, and nothing happens. And now the county IDA is literally considering expanding a project that doesn't exist by taking 29 property owners' property by eminent domain, and having a meeting tomorrow night to discuss and to vote upon a proposal by the developer which hasn't been publicly disclosed despite prior statements that they were going to disclose it. When you've got 29 business owners, active businesses paying taxes in the dark about what's going to happen to their project.

Now, if we as a legislative body did anything like that, I would suspect that there would be a public outcry. But it's even worse if it's an appointed group of people

basically making these decisions behind closed doors with no disclosure and a decision that seems to me absolutely out of line in view of the past history with this particular project developer.

So, you know, three years is a long time. And if I had my druthers, I would hope that we'd make it a shorter period. But there has to be some reforms of this process. It is getting out of control. And I'm just speaking from my perspective from my community.

Thank you.

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

Senator Hassell-Thompson, to explain her vote.

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

When IDAs were created, JDAs and all of the other authorities, municipalities needed ways in which to do certain projects that the constitution didn't allow them to do. But what I think we've done is we've created a shadow government. And I know that IDAs have

done some good projects, there's no question that they've done many good ones in my district and in other districts around the state.

But my concern comes when we extend, without any language that calls for reviews within that three-year period, that we do an extension of this length. I am very concerned that -- about the length of time, which is why I'm voting no.

But my real concern is that we continue to create authorities that later are subject to their own authority. And so I have real concerns about us extending something that most of us are already very uncomfortable with.

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

Senator Brown, to explain his vote.

SENATOR BROWN: Thank you, Mr. President, to explain my vote.

I initially was going to vote no on this piece of legislation, but Senator Stachowski makes a very persuasive point, the

same point that Senator Little made. While I am concerned that we are not performing the necessary reforms to IDA legislation, there are many projects in my community and across the state that are going to require these benefits. So for that reason, I will vote for this piece of legislation.

However, I do think that we are extending it for too long a period of time. I think this is a process that is crying out for reform. And I hope that we move to accomplish that reform sooner rather than later.

I vote yes.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1627 are Senators Connor, Diaz, Dilan, Duane, Hassell-Thompson, L. Krueger, Maziarz, Montgomery, Parker, Sabini, Savino, Schneiderman, Serrano, A. Smith and Stavisky.

Absent from voting: Senator Bonacic.

Ayes, 44. Nays, 15.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR FUSCHILLO: Mr. President, there will be a meeting of the Rules Committee in the Majority Conference Room at 4:20.

The Senate will stand at ease.

ACTING PRESIDENT MEIER: There will be a meeting of the Rules Committee in the Majority Conference Room at 4:20.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 4:06 p.m.)

(Whereupon, the Senate reconvened at 4:40 p.m.)

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, please return to reports of standing committees. I believe there's a 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 5819, by Senator Flanagan, an act to amend the Election Law;

5820, by Senator Flanagan, an act to amend the Election Law;

5822, by Senator Flanagan, an act to amend the Election Law;

1405, by Senator Seward, an act to amend the Insurance Law;

1473, by Senator LaValle, an act authorizing the Town of East Hampton;

1870A, by Senator Maltese, an act to amend the Civil Rights Law;

1894A, by Senator Robach, an act to amend the State Finance Law;

1925A, by Senator Balboni, an act to amend the Insurance Law;

1939, by Senator Golden, an act to amend the Tax Law;

2206, by Senator Padavan, an act to

amend the Penal Law and others;

2516A, by Senator Maltese, an act to amend the General Municipal Law;

2707C, by Senator Skelos, an act to amend the Public Health Law;

2709, by Senator DeFrancisco, an act to amend the Criminal Procedure Law;

2795B, by Senator Flanagan, an act to amend the Correction Law;

3484, by Senator Padavan, an act to amend the Administrative Code of the City of New York;

3489A, by Senator Padavan, an act to amend the Real Property Law;

4059, by Senator Libous, an act to amend the Public Authorities Law;

4332A, by Senator LaValle, an act in relation to granting;

4371A, by Senator Hannon, an act to amend the Public Health Law and the Executive Law;

4420, by Senator Wright, an act in relation to providing;

4469A, by Senator Marcellino, an act to amend the Environmental Conservation

Law;

4585A, by Senator Leibell, an act to amend the Public Service Law;

5086A, by Senator Hannon, an act to amend the Public Health Law;

5238, by Senator Leibell, an act to amend the Not-For-Profit Corporation Law;

5310, by Senator Spano, an act to amend the Labor Law;

5646, by Senator Spano, an act to amend the Vehicle and Traffic Law;

5718, by Senator Young, an act to amend the Social Services Law;

5725, by Senator Young, an act to amend Chapter 263 of the Laws of 1981;

5739, by the Senate Committee on Rules, an act to amend the Insurance Law;

5752, by Senator Meier, an act to amend the Highway Law;

5757, by Senator Golden, an act to amend the Social Services Law;

5773, by Senator Spano, an act to amend the Labor Law;

688A, by Senator Maziarz, an act to amend the Administrative Procedure Act;

785, by Senator Fuschillo, an act to amend the Tax Law;

And Senate Print 1259A, by Senator Sabini, an act to amend the Education Law.

All bills ordered direct to third reading.

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, may we please have the reading of the noncontroversial Supplemental Calendar 59A.

ACTING PRESIDENT MEIER: Senator, we have one substitution at the desk. Could we take care of that first.

SENATOR FUSCHILLO: Please take it up.

ACTING PRESIDENT MEIER: The Secretary will read the substitution.

THE SECRETARY: Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 8818 and substitute it for the identical Senate Bill Number 5739, Third Reading Calendar 1664.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will now conduct the noncontroversial reading of the supplemental calendar.

THE SECRETARY: Calendar Number 1636, by Senator Flanagan, Senate Print 5819, an act to amend the Election Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. This act shall take effect January 1, 2006.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator

Dilan, to explain his vote.

SENATOR DILAN: I just rise to explain my vote on this issue.

I just want to say that for the past six months we've been working in the conference committee on these bills. I think we've made good progress. I think the bill that's before us at this time is a good bill. I ask my colleagues to support the bill.

I want to thank all those individuals in the conference committee who worked so hard to get to this point, and I especially want to thank Senator Flanagan.

Thank you.

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

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1637, by Senator Flanagan, Senate Print 5820, an act to amend the Election 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 1638, by Senator Flanagan, Senate Print 5822, an act to amend the Election Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 17. This act shall take effect on the 15th 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 1639, by Senator Seward, Senate Print 1405 --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1640, by Senator LaValle, Senate Print 1473, an act authorizing the Town of East Hampton.

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

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1641, by Senator Maltese, Senate Print 1870A, an act to amend the Civil Rights Law and others.

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 1642, by Senator Robach, Senate Print 1894A, an act to amend the State Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th 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: In relation to Calendar Number 1643, Senator Balboni moves to discharge, from the Committee on Insurance, Assembly Bill Number 4972A and substitute it for the identical Senate Bill Number 1925A, Third Reading Calendar 1643.

ACTING PRESIDENT MEIER:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1643, by Member of the Assembly Sweeney, Assembly Print Number 4972A, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. 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 1645, by Senator Padavan, Senate Print 2206, an act to amend the Penal Law and others.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

SENATOR LIZ KRUEGER: Please lay it lay aside.

ACTING PRESIDENT MEIER: Withdraw the roll call.

Lay the bill aside.

THE SECRETARY: Calendar Number 1646, by Senator Maltese, Senate Print 2516A, an act to amend the General Municipal Law.

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1647, by Senator Skelos, Senate Print 2707C, an act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 3. This act shall take effect July 1, 2008.

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 1648, by Senator DeFrancisco, Senate Print 2709, an act to amend the Criminal Procedure 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 1649, by Senator Flanagan, Senate Print 2795B,

an act to amend the Correction 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 1650, by Senator Padavan, Senate Print 3484, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 19. 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 1651, by Senator Padavan, Senate Print 3489A, an act to amend the Real Property 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 1652, by Senator Libous, Senate Print 4059, 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, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1653, by Senator LaValle, Senate Print 4332A, an act in relation to granting Susan A. Long.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1655, Senator Wright moves to discharge, from the Committee on Rules, Assembly Bill Number 8545 and substitute it for the identical Senate Bill Number 4420, Third Reading Calendar 1655.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

1655, by Member of the Assembly Reilly, Assembly Print Number 8545, an act in relation to providing.

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 1656, by Senator Marcellino, Senate Print 4469A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 10. 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: In relation to Calendar Number 1657, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 2103B and substitute it for the identical Senate Bill Number 4585A, Third Reading Calendar 1657.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1657, by Member of the Assembly Brodsky, Assembly Print Number 2103B, an act to amend the Public Service Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. 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: In relation to Calendar Number 1658, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 8698A and substitute it for the identical Senate Bill Number 5086A, Third Reading Calendar 1658.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1658, by the Assembly Committee on Rules, Assembly Print Number 8698A, 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1659, by Senator Leibell, Senate Print 5238,

an act to amend the Not-For-Profit Corporation Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 18. 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 1660, by Senator Spano, Senate Print 5310, an act to amend the Labor 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1661, by Senator Spano, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1663, by Senator Young, Senate Print 5725, an act to amend Chapter 263 of the Laws of 1981.

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 1665, by Senator Meier, Senate Print 5752, an act to amend the Highway 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 1666, by Senator Golden, Senate Print 5757, an act to amend the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. This act shall take effect December 31, 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 1667, by Senator Spano, Senate Print 5773, an act to amend the Labor Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. 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 1668, by Senator Maziarz, Senate Print 688A, 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 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 1669, by Senator Fuschillo, Senate Print 785,

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: In relation to Calendar Number 1670, Senator Sabini moves to discharge, from the Committee on Higher Education, Assembly Bill Number 7150 and substitute it for the identical Senate Bill Number 1259A, Third Reading Calendar 1670.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1670, by Member of the Assembly Espaillat, Assembly Print Number 7150, 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you take up the reading of the controversial calendar, starting with Calendar Number 1639.

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

THE SECRETARY: Calendar Number 1639, by Senator Seward, Senate Print 1405, an act to amend the Insurance Law.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT MEIER: Senator Seward, an explanation has been requested, with regard to Calendar 1639, by Senator Liz

Krueger.

SENATOR SEWARD: Certainly, Mr. President.

This legislation is designed to address the serious problem that we have in the State of New York with over 3 million New Yorkers not having health insurance. And this legislation provides a multiple approach in strategy to reduce the number of uninsured that we have in this state and to help people afford health insurance.

It provides so by using the private market, tax advantages and state subsidy of the commercial market to bring health insurance within the means of every single New Yorker. It's market-driven, giving consumers real choices, another option, so that we can reduce the number of uninsured.

ACTING PRESIDENT MEIER: Senator Krueger.

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

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

SENATOR SEWARD: Certainly, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Since my understanding is the "freedom policies" would be a new model for insurance in New York State, what current coverage now mandated by New York State law might be excluded under this new policy?

SENATOR SEWARD: Well, Mr. President, this legislation before us does not in itself exclude any coverages.

However, those individuals who choose the -- this option, the "freedom policy" option, would have the flexibility to buy any coverage with any of the existing mandates -- and more, for that matter. It gives the consumer the choice to buy the type of coverage that makes sense for them and that they can afford.

SENATOR LIZ KRUEGER: Mr. President, if, through you, the sponsor will continue to yield.

ACTING PRESIDENT MEIER: Senator

Seward, do you continue to yield?

SENATOR SEWARD: Certainly.

SENATOR LIZ KRUEGER: By "consumer" in your previous answer did you mean the recipient of the health insurance policy or the employer? Who chooses?

SENATOR SEWARD: Well, Mr. President, it would depend on who was actually making the purchase of the health insurance. The -- most of our health insurance is employment-based. So under this option, it would provide the flexibility for employers and their employees to sit down with their health plan and design a health insurance plan that both the employer and the employee can afford and meets the needs of the employees and their families.

This does not take anything away from existing health insurance policies. People could -- people and businesses could still choose to remain right where they are. However, this provides an additional option.

And frankly, Mr. President, this is aimed directly at those 3 million New Yorkers who currently do not have any health

insurance. So the idea -- and this has been the experience in other states that have gone down this road, is that it tends to draw more people into the health insurance market. Those individuals and businesses who are currently not in the health insurance market, it gets them in, and that's better for everyone.

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

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

SENATOR SEWARD: Certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

Your last answer implied that this will be coverage for people not currently insured. But does that mean if I already am an employee of a company that provides me health insurance that I get to stay with that insurance? Or will my employer have the right to drop whatever coverage they have for me and go to this state-subsidized new "freedom

plan"?

SENATOR SEWARD: Well, Mr. President, the only state subsidy involved here is for small businesses, 50 or fewer, that under this legislation, as well as our Senate tax cut plan that we had passed earlier in this house, would receive a 50 percent tax credit.

But to answer your question directly, Mr. President, it offers flexibility. And what I mean by that is that employers and employees would have the option to stay right where they are.

However, employers working with their employees could decide to opt into the so-called freedom policies, which involve the health savings accounts which have become available because of the federal Medicare bill passed -- I believe it was in December 2003. And these are high-deductible policies. And under this legislation, we incorporate these health savings accounts with what we call freedom policies to provide flexibility. No one is required to go that route, but that's another option for them.

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

ACTING PRESIDENT MEIER: Senator Seward, do you yield?

SENATOR SEWARD: Certainly, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you. Each of these answers triggers another question that I want to ask.

What would be the savings for a person who opts into a new freedom account as opposed to the current insurance that they have as an employee of a small business?

SENATOR SEWARD: Well, Mr. President, a lot would depend on the various treatment options that are purchased as part of the policy. But we estimate that the health savings accounts with the high-deductible policies, coupled with these freedom accounts, we estimate about a 40 percent savings when it comes to their health insurance costs.

SENATOR LIZ KRUEGER: Thank you.

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

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

SENATOR SEWARD: Certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: You mention that these are low-cost, high-deductible. What's the high deductible? What does that mean in your plan?

SENATOR SEWARD: Well, Mr. President, this is dictated by the federal legislation. This -- our particular bill before us does not get into that.

But for the purposes of information, these health savings accounts are required to be high-deductible policies. The minimum is $1,000 for an individual, $2,000 for a family. And that actually, under the federal legislation, goes as high as a $5,000 deductible.

And I might add that preventive services are exempt from the deductible. And

while these deductibles may seem very high, this $1,000/$2,000 as a minimum, I would point out that those that choose this option, if they had that 40 percent savings when it comes that their health insurance costs, then they would have that pool of money -- the employer and the employee, for that matter, would have that pool of money to contribute to the health savings account.

And those funds could be used to take care of those expenses up to the deductible level and also cover any expenses that may not be covered under the particular health insurance plan that they purchase.

SENATOR LIZ KRUEGER: Through you, Mr. President, if the sponsor would continue to yield.

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

SENATOR SEWARD: Certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: So as I understood it, it could be $1,000 or $2,000 deductible, or even higher. There are choices

involved, including the freedom by the insurers from having to cover certain benefits that we mandate in other state insurance plans.

So since I've been here in the Legislature, we've required that health insurance policies sold in New York State cover mammograms, prescription contraceptives, osteoporosis screening, cervical cancer screening, prostate cancer, checkups and immunizations for children. None of these would be mandated under the freedom insurance plans?

SENATOR SEWARD: Mr. President, our legislation does not disrupt the mandates that Senator Krueger mentions if people choose to stay with those types of policies.

However, if they choose this option that we're including in this legislation, then they would have the flexibility, the purchaser -- it's not the insurer making these choices, it's the purchaser, the employer and the employee -- then they would have the flexibility to purchase and include in their plan those treatments, many of which, very

worthy ones that you've mentioned, Senator Krueger, they would have that flexibility to certainly include those that were important to them.

SENATOR LIZ KRUEGER: Mr. President, if the sponsor would yield for another question.

ACTING PRESIDENT MEIER: Senator, do you yield?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LIZ KRUEGER: Thank you.

What's the estimated cost to the state of this program, and where would that money come from?

SENATOR SEWARD: Well, Mr. President, in terms of the health savings accounts -- and that part of the program is no cost to the state. I mean, that's the contractual arrangement in terms of purchasing health insurance in the private market.

The tax credit portion for small employers, the 50 percent tax credit, is a phase-in over 10 years. And that grows,

according to the Department of Taxation and Finance, in that tenth year out, to close to $2 billion in terms of the tax credit. That is the only so-called cost to the state.

But I would point out that we, as part of our budget this year, have included in our Health Care Reform Act, HCRA, a lot of money is directed at this uninsured population in terms of providing care in the pools that go out to the hospitals that are caring for this group that show up at the hospital.

So if we can use that money, through this tax credit, to get more people to purchase private health insurance, my gut tells me that we will actually reduce those costs on the other side. So I don't really consider that tax credit as an expense to the state. I think we're going to derive many savings because more people will be in the health insurance market.

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

I appreciate the sponsor's answers. I could go on much longer, but I have reviewed this legislation in the past, and we've even

debated it here in the past, so I will spend some time explaining why I think this is a mistake.

For one, to I suppose jump to the cost issue, the sponsor's statement that this could cost up to $2 billion in tax credits to the State of New York is a real cost. When we don't collect taxes we otherwise would, it's the same thing as spending the money.

So from my perspective on economics, money we don't have in revenue for expenditures and money we don't collect through tax credits is the same, almost $2 billion.

Second, there's many questions raised about whether we would cover any new additional people in health insurance under this plan, as opposed to watch New Yorkers currently under health insurance losing their right to the health insurance they have through their current employers and being switched into these high-deductible, low-cost, limited-benefit health plans.

And a great concern that I think all of us should have is that in the absence

of having mandated services under these insurance plans, that the kinds of health care benefits most of us expect would be covered by health insurance -- certainly all of us in the Legislature recognize we have with our health insurance benefits as state employees -- would disappear.

As I stated in one of my questions to the sponsor, under this plan if an insurance company -- and he said keeps -- he said through choice, but it's not actually consumer choice, it's the health insurance company and the employer choice, not the consumer of healthcare choice -- if they so choose, that insurance won't cover women's health. It won't cover men's health. It might not cover child health. It might not cover cancer treatments. It might not cover almost anything we think of health insurance supposedly being there for.

So the fact that we are proposing a product without regulations on what kinds of healthcare coverages have to be there I think is a giant step in the wrong direction for the State of New York, which has fought long and

hard to ensure that in this state when we have health insurance we actually mandate that fundamental, basic healthcare is paid for through that health insurance.

So we have a program that will cost us up to $2 billion that may not lead to any additional New Yorkers being covered by health insurance, but we may replace and substitute weaker health insurance packages for the current packages currently provided by employers.

And I suppose most -- not most disturbing, but additionally disturbing to me is that this is a program modeled on a low-cost but high-deductible healthcare insurance model. And there was a recent report put out by the Commonwealth Fund, which I think is considered by most both nonpartisan and the premier health policy think tank in the country, or one of them. And their analysis of high-deductible, low-cost health insurance plans from around the country, or what they call HDHPs, shows that while it is an effective marketing strategy by insurance companies, that there are serious problems for

the consumers.

Adults with a high deductible have significantly greater difficulty accessing care due to costs, compared to those with a lower or no deductible -- again, the sponsor talked about $1,000 or $2,000 deductibles. Based on the Commonwealth study, 38 percent of adults with deductibles of $1,000 or more reported at least one of four cost-related access problems: not filling prescriptions, not getting needed specialist's care, skipping recommended tests or follow-up, or having a medical problem but not visiting a doctor or clinic. By contrast, only 21 percent of adults with no deductible report any of these problems.

High-deductible plans are particularly problematic for lower-income Americans. A predicted 44 percent of people with incomes below $35,000 and a deductible of $500 or more -- and we're talking $1,000 or $2,000 in this proposal -- experience cost-related access problems.

People who are sick would have a more difficult time obtaining needed care

under a high-deductible, low-cost plan. Among adults with a deductible of $500 who rate their healthcare as fair or poor who have a chronic condition or disability, a predicted 45 percent have cost-related access problems.

Medical bill problems are more common among those with higher deductibles. Medical bill problems and medical debt are greater among low-income adults with higher deductibles. And for insured adults who are ill, having higher deductibles would mean they would be likely to have more difficulties paying their medical bills and accumulating medical debt.

This isn't the direction New York State should be going. I agree completely with the sponsor we should be addressing the problems of uninsured New Yorkers. We should be coming up with models for health insurance that expand the pool of people who are covered at the lowest cost to the taxpayer, and with an assurance that the health insurance they're getting will in fact meet their needs when they're sick.

Unfortunately, this package would

not guarantee they actually get access to healthcare, just a high-deductible package called an insurance policy. It would cost the State of New York $2 billion annually when fully implemented, if I understood the sponsor's answers correctly. There's no documentation that new New Yorkers would be covered by this health insurance. This isn't the direction we should go.

On the other hand, I would argue that the Senate Democrats and Senator Valesky in his bill, 5544, actually proposes a plan that would address some of the needs of uninsured New Yorkers without costing an enormous amount of money to the state, that would provide insurance to people currently employed and not insured, that we would actually, through pooling, the buying power of small businesses and their employees, potentially decrease the cost of premiums for health insurance for small businesses up to 40 percent.

There are directions we can go. There are steps we should take to expand the pool of employees in the State of New York who

can be insured and to help decrease the costs for small businesses. But to quote Citizen Action, one of the opponents to the bill, "The Freedom to Sell Really, Really, Really Bad Health Insurance Policies" should be the name of this freedom plan.

So I hope that Senator Seward might consider going back to the drawing board, continuing his desire to expand health insurance in the State of New York for uninsured people, but please don't go down this road. The research done nationally on states who have done this has shown us that these are serious mistakes, that what this type of model gets you is a race to the bottom in terms of what health insurance means today and actually covers for people.

So we could say we feed every New Yorker by claiming, if we give every one of them a slice of bread, everybody ate every day, but we would know that wasn't really addressing the food needs of New Yorkers. And we can move forward with plans such as this and pretend we're expanding the universe of health insurance coverage. But it is a race

to the bottom where our health insurance coverage ultimately won't cover anything we get sick for.

So I would urge my colleagues to vote against this bill.

Thank you very much, Mr. President.

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

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, Mr. President.

I appreciate what it is Senator Seward is attempting with this bill, these freedom policies. But I have some objections which I'm going to mention in a moment.

But if the goal is to lower the cost of health insurance for small businesses and for their employees, I think there's better ways to do that. And $2 billion is not a small amount of money. But if it were to be put into our program which we already have, which is Family Health Plus, you could cover a half a million low-wage employees for the same amount of money, and the coverage would be much better and at a lower cost than what's

available now in the private health insurance market.

What I'm talking about is my concern, when I say the coverage is not ample, this really would, you know, move backwards on most of our consumer protection -- the consumer protections that we have put in in the last decade.

And what particularly concerns me is certain women's health benefits that are required now by law in our policies but would not be required, and they are important -- timely mammograms, osteoporosis screening, prescription contraception.

And it's not just women's health benefits, it's men's health benefits too. There's -- no screening for prostate cancer would be allowed. As far as our movement to try and have children get their checkups and their immunizations in a timely manner, that wouldn't be included. And we keep talking about preventive medicine. Well, that would be eliminated in this freedom policy.

So -- and there's ever so many other things that are not covered. Hospice

care isn't covered, home healthcare by registered nurses, outpatient treatment for mental health. I mean, it's too much to give up when you think that we do have a policy out there. The Family Health Plus could meet all the requirements of lower cost for small businesses and at the same time would permit good coverage for workers and their families.

So I'm going to be voting no and hoping that we can find another answer. I understand what you're doing is laudable, but I don't think this is the answer.

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

Senator Schneiderman.

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

We spoke earlier at length on the floor here today about immigration as an issue that we're going to have to be dealing with over the next few years. I would suggest that the second issue we have to deal with is the fact that the healthcare system in this country, the system for insuring Americans, is unravelling.

And I would respectfully submit that the bill before us right now is the wrong approach to solving that problem. This is not a market approach to dealing with healthcare, the fact that we have an exploding pool of uninsured in New York State. In fact, this is a bill where we intervene in the market to provide tax subsidies essentially to bribe small businesses to cut health benefits.

This is proving tax subsidies for the so-called freedom plans. The freedom plans are free from requirements that they provide healthcare services, that's what the freedom is.

And my colleagues have spoken about the struggle to pass health benefits for women, to provide managed-care consumer protections. Under this bill, a plan could eliminate all of these requirements that have been fought for, stop covering contraception, stop covering checkups and immunizations for children and, to add insult to injury, get a tax state subsidy. So the taxpayers are subsidizing plans to encourage small businesses to provide inadequate healthcare,

to provide less healthcare than many of those businesses are providing now.

This is not the right approach. We have got to do something about the crisis of the uninsured. We're not going to do it by cutting benefits.

I note that there is a campaign on this year, as there has been last year, and many are hopeful that we'll pass Timothy's Law to provide parity on the treatment of mental health problems. If we did that, this bill would provide a loophole for that also.

I mean, this is something that creates inadequate healthcare and requires a tax subsidy. It is not a market-driven bill.

On the other hand, Senator Valesky's bill, Senate 5544, is a completely market-driven bill. It pools small businesses to enable them to purchase health insurance at a lower rate by pooling their market power. That's the kind of market-driven approach.

Let's not pass a bill that subsidizes businesses that cut benefits for their workers. Let's move forward and expand coverage. Let's pass Timothy's Law. You want

to cut the expense of health insurance? Let's move towards a simpler, more rational system, as they have in every other industrial democracy, and stop the insurance bureaucrats from driving up the costs of healthcare.

I'm going to vote no, Mr. President, and encourage everyone to vote no.

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

Debate is closed, then.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 25. This act shall take effect January 1, 2006.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR SEWARD: Yes, thank you, Mr. President, to explain my vote.

I certainly would have to say that everyone deserves access to primary, preventive and acute care, along with all of the other medical technology and the new

pharmaceuticals that goes along with all of that, and especially the peace of mind that they and their families are covered with their health insurance.

But the question is, can they afford it. And for far too many New Yorkers, that answer is no.

And for those who would argue that everything is fine, that we do not need change in the state of New York, that the health insurance policies that have been designed through statute, in this house and the other, the simple fact is that over half the particularly small businesses of New York cannot afford the health insurance policies that have been designed by statute.

This legislation before us would provide available and affordable health insurance coverage for those 3 million New Yorkers who currently have no coverage at all. I think it's a worthy goal, this is a blueprint to get us there, and I vote aye.

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

Senator Hassell-Thompson, to

explain her vote.

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

We've had a lot of discussion. And the interesting thing is that many of our small businesses have in fact come to us to talk about the kinds of insurances that they need to be able to have for their employees.

But when I look at this bill, while it may purport to do that, the biggest concern that I have is that while gutting the basic protections of the Women's Health and Wellness Law, this plan would also experience drastic changes or cause drastic changes to maternity services, pediatric oncology, and possibly more.

Some of the examples of quick concerns that I have is that this bill would allow the HMOs to set their standards for hospital discharges for new mothers and babies. And while I know that many of you know historically that women have gone to the fields and had their babies and gone back to the fields in the same afternoon, I certainly don't encourage that kind of behavior for

maternal care.

The freedom plan also -- this legislation would also allow health plans to limit or deny the coverage for doctor-recommended well-child visits where children receive their immunization and practitioners track them for growth and development. On and on.

But suffice it to say that this would also allow HMOs to decide if they wish to exclude coverage for infertility.

For many of these reasons, I will be voting no, Mr. President, on this particular bill. Thank you.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1639 are Senators Brown, Connor, Diaz, Dilan, Duane, Hassell-Thompson, L. Krueger, C. Kruger, Montgomery, Morahan, Oppenheimer, Parker, Paterson, Sabini, Sampson, Savino,

Schneiderman, A. Smith, Stavisky. Also recorded in the negative, Senators M. Smith and Serrano.

Those Senators absent from voting on Calendar Number 1639: Senators Bonacic and Gonzalez.

Ayes, 37. Nays, 21.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, could we please return to the noncontroversial reading of Supplemental Calendar A.

Calendar Number 1664, Senate Print Number 5739, from the Rules report was inadvertently left off the active list. It was reported from Rules. Please take it up.

ACTING PRESIDENT MEIER: Very well. The Secretary will return to the noncontroversial reading of the calendar and will read Calendar 1664.

THE SECRETARY: Calendar Number 1664, substituted earlier today by the Assembly Committee on Rules, Assembly Print

Number 8818, an act to amend the Insurance 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 Breslin, to explain his vote.

SENATOR BRESLIN: Yes, Your Honor. When I arrived in the Senate nine years ago, I thought NYPIUA was the name of a dog. But fortunately for all of us, it's not. It's a safety net insurance association that provides coverage to homes and businesses throughout this state when, quite frankly, there's not insurance available other places. And it insures some 57,000 homes and businesses -- 30,000 in New York City, some 14,000 in Long Island, and the remainder basically in upstate cities, with some minor farm areas.

And we, other than Alabama, are the

only state that doesn't have this as a permanent association. So those 57,000 homes and businesses each year have to worry about extending it. And we've in fact let it lapse on a couple of occasions. The Assembly has seen fit over the last 10 years to pass legislation that has made it permanent. But we don't.

And think of yourself as a homeowner or a business owner, each year wondering what the New York State Legislature is going to do. If I'm in that precarious situation of being subject to storms off the coast of Long Island or be in cities and areas that are dangerous and subject to vandalism or fire, and each year wondering whether next year will I have the appropriate insurance, the appropriate insurance to keep my business afloat or to have a home for my family.

I vote aye on this legislation extending it a year, but I think we should seriously consider finally making it permanent and leaving Alabama alone.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator

Breslin will be recorded in the affirmative.

Senator LaValle, to explain his vote.

SENATOR LaVALLE: Thank you, Mr. President.

I rise to support this legislation, reluctantly. And my remarks really would parallel Senator Breslin's.

Orange homeowners, particularly on Long Island, where we have a lot of homes along the water, need permanency, need to know that they have coverage. Last year the law lapsed, actually, for a couple of months, and both agents and homeowners were really in a state of concern, nervousness. And that shouldn't happen.

I just hope in the intervening year that we heed the advice of the independent agents who really would like to see this, you know, extended for a longer period of time or made permanent. I think that time has really come. I don't believe we should be making laws that -- where we're playing Russian roulette with the homeowners of our state.

So I reluctantly cast my vote in

the affirmative.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, could we please return to the reading of the controversial calendar, starting with Calendar Number 1664 -- 1665 -- 1645.

ACTING PRESIDENT MEIER: The third time is the charm, Senator.

The Secretary will return to the controversial reading of the calendar, beginning with Calendar 1645.

THE SECRETARY: Calendar Number 1645, by Senator Padavan, Senate Print 2206, an act to amend the Penal Law and others.

SENATOR MONTGOMERY: Explanation.

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

Calendar 1645.

SENATOR PADAVAN: Thank you, Mr. President.

While auto crime in the state has dramatically decreased over the past decade, it's still a very serious issue.

We've done a bit of work in the subject area -- lot of hearings, two reports, one called "The Perfect Crime" and the other a follow-up to that report. We had police agencies, such as the NYPD, city of New York, district attorneys, such as the DAs from Queens and Brooklyn and others, come before us with recommendations and problem areas that they had identified in the course of their dealing with this serious problem.

And it is a serious problem. It affects all of us. It affects our insurance rates. It's a vehicle by which organized crime finances other activities as well as makes money off this. It affects the quality of life. It affects people's plans when they go outside their house one day and their car is not there. And it deals also with the issue of stolen parts, which sometimes are not

quite what they should be, ending up in someone else's vehicle and providing an unsafe environment.

Now, the primary problem that was brought to our attention is addressed by this bill. And I might say, parenthetically, the problem we have has been addressed many years ago in our neighboring states such as New Jersey and Pennsylvania. And that deals with the issue of reasonable presumptions.

First, the bill would create a statutory knowledge presumption modeled on the presumption for credit and debit cards contained in the same section of the law. It's highly unlikely that a person in the possession of two stolen vehicles would not know that they were stolen.

Second, the bill would create an evidentiary presumption that a person who takes, operates, rides or sits inside or otherwise uses a motor vehicle possesses that vehicle for the purposes of criminal possession of stolen property, that he wasn't just sitting in there getting out of the cold.

Now, this problem came to light

significantly in a case known as the Rivera case, where an individual -- a policeman came upon this individual in a car where the lock had been broken on the outside, where part of the steering wheel had been disassembled, obviously with the intent of shorting out the ignition, and he arrested him. And he was charged with auto theft.

In the final disposition of the case, the court ruled that since no evidence was offered to establish when the defendant entered the vehicle or what part, if any, he played in its taking, his presence in the car could not be equated to auto theft but simply a lesser crime which would be akin to trespass.

Now, obviously, that puts a crimp in the ability of dealing with individuals, because the penalty is significantly different. And so this bill would address that problem. The net result of the Rivera case is that passengers in stolen autos would only be subject to a charge of unauthorized use, unauthorized use of a motor vehicle. Unauthorized use statutes begin with a Class A

misdemeanor. As opposed to grand larceny, which is obvious a felony.

Now, I have personal experience of my own. A car was stolen in front of my house. Six weeks later, the person who stole it rammed it into another car, and as a result of that serious accident he was arrested. Because when the police came on the scene, while the license plate had been changed, from Senate whatever to North Carolina, he hadn't changed the registration sticker on the windshield. So they knew something was wrong.

And they arrested him, and they charged him with auto theft. Now, he said, "I didn't steal the car." And they said, "You didn't? Well, you were driving it. And as a matter of fact, you totaled it." He said, "No, it was given to me by another guy." And he gave him up.

And sure enough, someone had given him the car, the guy that had stolen it. Fortunately, that guy was also in jail at that moment in time, because he had committed another crime between stealing my car and giving my car to this other fellow who was

apprehended.

The point I'm making is that when that individual who was found with my car was facing an auto theft prosecution, he was very eager to tell the police who had actually stolen the car. Well, that may be an isolated case.

But the issue, simply put, is if someone is in a car, the lock's broken, he's sitting there, he hasn't driven off yet and a policeman comes upon the scene, does the district attorney have to prove that he was in the process of stealing the car? Or should the defendant have to prove that he wasn't in the process of stealing the car? Which is currently the way it is, as a result of the Rivera case.

This bill would address that issue, along with some other issues involving chop shops.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, I just wanted to thank Senator Padavan for that explanation and that example.

I think I just want to comment, Mr. President, on the legislation. I certainly agree with Senator Padavan that if you are -- if you possess two vehicles, two stolen vehicles, vehicles that you did not purchase, that you should know that they probably are stolen or you should know that there's a presumption that you should know that they're stolen.

However, I do have a serious problem with this issue of the fact that the bill creates an evidentiary presumption that a person who rides or sits inside a vehicle possesses that vehicle for the purpose of criminal possession of stolen property, and he creates a grand larceny charge.

Now, the problem that I have is that while in the case of the person who was found driving his car -- which is obviously a terrible traumatic experience to have a car stolen -- the person was not guilty of actually stealing the car himself but received the car from someone else who had stolen the car.

But in many parts of our state, as

well as the city, but not even as much as the city, in other parts of the state young people start to drive very early, and they ride in groups of two or three or four. And this legislation would, in the event some young person takes a vehicle that doesn't belong to that young person and goes to pick up several or his or her friends, those youngsters would be eligible to be prosecuted under this legislation.

And so I think that we need to really think a little bit more about how we include everybody. We already have that problem that if you're in the car and there's drugs in the car, there's a gun in the car, everyone in the car is equally guilty. This continues that trend. And I think that we should think about this a little bit more.

So I'm going to vote no on this, Mr. President, because I don't feel comfortable with including sitting in a vehicle as being presumed to have knowledge that it's stolen and thereby being charged with a crime. Thank you.

ACTING PRESIDENT MEIER: Any

other Senator wish to be heard on the bill?

Debate is closed, then.

The Secretary will ring the bell.

Senator Saland.

SENATOR SALAND: Thank you, Mr. President. A bit of housekeeping.

I'd like to remove a sponsor's star on Senate 5415, Calendar 1272.

ACTING PRESIDENT MEIER: So ordered.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1645 are Senators Duane, Hassell-Thompson, Montgomery and Parker.

Absent from voting: Senators Bonacic and Gonzalez.

Ayes, 54. Nays, 4.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1661, by Senator Spano --

SENATOR FUSCHILLO: Lay it aside for the day.

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

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

SENATOR FUSCHILLO: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Could we take care of some housekeeping?

We'll call an immediate meeting of the Rules Committee in the Majority Conference Room.

SENATOR FUSCHILLO: Is there housekeeping at the desk?

ACTING PRESIDENT MEIER: We have some, yes.

SENATOR FUSCHILLO: Please take care of it.

ACTING PRESIDENT MEIER: Senator

Robach.

SENATOR ROBACH: Yes, Mr. President. On page 31, I offer the following amendments to Calendar Number 911, Senate Print Number 4040A, and ask that the said bill retain its place on Third Reading Calendar, on behalf of Senator Fuschillo.

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

SENATOR ROBACH: And also, Mr. President, on page 7, I offer the following amendments to Calendar 149, Senate Print Number 484B, and ask that said bill retain its place on third reading, on behalf of Senator Skelos.

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

SENATOR FUSCHILLO: Mr. President.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: We will stand

at ease pending the return of the report of Rules Committee.

ACTING PRESIDENT MEIER: The Senate will stand at ease pending the report of the Rules Committee.

(Whereupon, the Senate stood at ease at 6:08 p.m.)

(Whereupon, the Senate reconvened at 6:30 p.m.)

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, would you return to the reports of standing committees. I believe there's a 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 751, by Senator Hannon, an act to amend the New York State Medical Care Facilities Finance Agency Act;

2444B, by Senator Padavan, an act to amend Part H of Chapter 60 of the Laws of 2004;

4157B, by Senator Robach, an act to amend the Criminal Procedure Law;

4175, by Senator Maltese, an act to amend the Penal Law;

4281, by Senator Oppenheimer, an act to amend the Vehicle and Traffic Law;

4504B, by Senator Maziarz, an act to amend the Vehicle and Traffic Law;

4698, by Senator Golden, an act to amend the Penal Law;

4734, by Senator Maltese, an act to amend the New York State Financial Emergency Act for the City of New York;

4758A, by Senator Saland, an act to amend the Penal Law;

4778, by Senator Padavan, an act to amend the Private Housing Finance Law;

4970, by Senator Padavan, an act to amend the Administrative Code of the City of New York;

5025A, by Senator Alesi, an act to establish;

5168, by Senator Marchi, an act to amend the Civil Service Law;

5185, by Senator Leibell, an act to amend the Public Authorities Law;

5259, by Senator Padavan, an act to amend the Real Property Tax Law;

5297A, by Senator Meier, an act to amend the Education Law;

5359, by Senator Padavan, an act to amend the Real Property Tax Law;

5373, by Senator Golden, an act to authorize;

5418, by Senator Marchi, an act to amend the Vehicle and Traffic Law;

5419A, by Senator Spano, an act to amend the Environmental Conservation Law;

5491A, by Senator Flanagan, an act to amend the Education Law;

5511, by Senator Spano, an act to authorize;

5520A, by the Senate Committee on Rules, an act to amend the Tax Law;

5534A, by Senator Wright, an act to amend the Social Services Law;

5576A, by Senator Marcellino, an

act to amend the Environmental Conservation Law;

5587A, by Senator Leibell, an act to amend the Military Law;

5617, by the Senate Committee on Rules, an act to amend the Tax Law;

5658A, by Senator Maziarz, an act to amend the Public Authorities Law;

5676, by Senator Little, an act to authorize;

5677, by Senator Johnson, an act to amend the Executive Law;

5680, by Senator Volker, an act to provide;

5681, by Senator Volker, an act to amend the Tax Law;

5686, by Senator Young, an act to amend the Education Law;

5687, by Senator Seward, an act to amend the Highway Law;

5691, by the Senate Committee on Rules, an act to amend the Tax Law;

5721, by the Senate Committee on Rules, an act to amend the Tax Law;

5738, by Senator Meier, an act to

amend the Public Authorities Law;

And Senate Print 5741, by Senator LaValle, an act establishing.

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, the Secretary has a couple of subs. Could we do those first?

SENATOR FUSCHILLO: Please take them up.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 4, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 6402A and substitute it for the identical Senate Bill Number 1485A, Third Reading Calendar 64.

On page 33, Senator Larkin moves to discharge, from the Committee on Rules, Assembly Bill Number 5767 and substitute it for the identical Senate Bill Number 444, Third Reading Calendar 992.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, please take up Supplemental Calendar B.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of Supplemental Calendar B.

THE SECRETARY: Calendar Number 1671, by Senator Hannon, Senate Print 751, an act to amend the New York State Medical Care Facilities Finance Agency 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1672, by Senator Padavan, Senate Print 2444B, an act to amend Part H of Chapter 60 of the Laws of 2004 amending 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 1674 --

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1675, by Senator Oppenheimer, Senate Print 4281, an act to amend the Vehicle and Traffic Law.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1676, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 7264B and substitute it for the identical Senate Bill Number 4504B, Third Reading Calendar 1676.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1676, by Member of the Assembly Abbate, Assembly Print Number 7264B, 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 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 1677, by Senator Golden, Senate Print 4698, 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 90th day.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

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

SENATOR PARKER: Yes, thank you, Mr. President, to explain my vote.

I want to first thank the sponsor, Senator Golden, for raising this important issue. And I think that, you know, prostitution and what happens with our young people is critically important, and it's important that we deal with it.

But there are many issues that have not been dealt with as of yet. We only have three days yet, three, before we end session. And it's critical that we spend some time really dealing with the issues that need to be dealt with. We would not have to worry about prostitution from young children if we had done what we were supposed to be doing here, what the people of the state have said we need to do, what the courts have said we need to do, what the Legislature knows we need to do, and putting more money into our schools for education. CFE needs to be dealt with, and it

needs to be dealt with before we leave here this session.

This is an important bill, and I think that we should continue -- I'm voting for it. I think we should pass it --

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

SENATOR FUSCHILLO: Mr. President, I appreciate everything Senator Parker is saying. I don't believe this is germane to the bill that's on the floor.

SENATOR PARKER: I'm explaining --

ACTING PRESIDENT MEIER: Well, Senator, the Acting Majority Leader's point is well taken. The purpose of the time you're granted is to explain your vote.

SENATOR PARKER: And I'm voting for this bill, and I'll tell you why I'm voting for this bill --

SENATOR SCHNEIDERMAN: Mr. President, point of order. Point of order.

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

SENATOR SCHNEIDERMAN: Point of

order.

There is nothing in the Senate Rules, and I invite anyone to contradict me, that imposes a germaneness requirement on explaining the vote. Two minutes, that's it.

I respectfully request that Senator Parker be allowed to continue. The germaneness requirement does apply when you're speaking on a bill, but not when you're explaining a vote.

ACTING PRESIDENT MEIER: Well, Senator, it's the ruling of the chair that the germaneness requirement relates to the matter before the house. And the Senator is recognized for the purpose of explaining his vote on the bill before the house.

Senator Parker.

SENATOR PARKER: I will explain my vote.

I'm voting yes on this bill and I'm voting yes on this bill because I've worked with Senator Golden, I think that he knows what's important for young people. I think that he thinks that this is a good step for us doing it.

But in addition to this good step, we also need to do other things, like CFE. And I'm hoping that he will use this as a gateway to talk about some of the other issues.

We're in the last three days, Mr. President. I hope we get an opportunity to talk about Timothy's Law and ethics reform and rules reform, in addition to dealing with these important issues.

I'm voting aye.

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

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President, to explain my vote.

I'm voting no on this bill, and I wish that Senator Golden would see fit to make sure that any john who accepts the actions that he describes in here of a 14-year-old should be severely punished. And maybe they should even receive the punishment of Senator LaValle's bill this morning. But he chooses to punish the children.

So I'm voting no on this legislation. I think it's the wrong -- we're punishing the wrong one. We should be punishing the johns.

Thank you.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1677 are Senators Duane, Hassell-Thompson and Montgomery.

Ayes, 57. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1678, by Senator Maltese, Senate Print 4734, an act to amend the New York State Financial Emergency Act for 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1679, by Senator Saland --

SENATOR SAVINO: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1680, by Senator Padavan, Senate Print 4778, an act to amend the Private Housing Finance 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

1681, by Senator Padavan, Senate Print 4970, 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1682, by Senator Alesi, Senate Print 5025A, an act to establish a statewide first responder building mapping information system.

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1683, by Senator Marchi, Senate Print 5168, an act to amend the Civil Service 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 1684, by Senator Leibell, Senate Print 5185, 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1685, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 7728 and substitute it for the identical Senate Bill Number 5259, Third Reading Calendar 1685.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1685, by Member of the Assembly McLaughlin, Assembly Print Number 7728, 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: In relation to Calendar Number 1686, Senator Meier moves to discharge, from the Committee on Rules, Assembly Bill Number 7172A and substitute it for the identical Senate Bill Number 5297A, Third Reading Calendar 1686.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1686, by Member of the Assembly Magee, Assembly Print Number 7172A, 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 1687, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 8120 and substitute it for the identical Senate Bill Number 5359, Third Reading Calendar 1687.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1687, by Member of the Assembly McLaughlin, Assembly Print Number 8120, 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 1688, by Senator Golden, Senate Print 5373, an act to authorize the City of New York.

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

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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1689, by Senator Marchi, Senate Print 5418, 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 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

1690, by Senator Spano, Senate Print 5419A, an act to amend the Environmental Conservation 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 1691, by Senator Flanagan, Senate Print 5491A, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number

1692, by Senator Spano, Senate Print 5511, an act to authorize the reopening of an optional twenty-year retirement plan.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1693, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 6214A and substitute it for the identical Senate Bill Number 5520A, Third Reading Calendar 1693.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1693, by Member of the Assembly Oaks, Assembly

Print Number 6214A, 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 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. Nays, 1. Senator Valesky recorded if the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1694, by Senator Wright, Senate Print 5534A, an act to amend the Social Services Law.

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1695, by Senator Marcellino, Senate Print 5576A, an act to amend the Environmental Conservation 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1696, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 8476B and substitute it for the identical Senate Bill Number 5587A, Third Reading Calendar 1696.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1696, by Member of the Assembly Towns, Assembly Print Number 8476B, an act to amend the Military 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 1697, by the Senate Committee on Rules, Senate Print Number 5617, an act to amend the Tax Law and others.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 22. 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 1699, by Senator Little, Senate Print 5676, an act to authorize the Town of Tupper Lake in

the County of Franklin.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1700, by Senator Johnson, Senate Print 5677, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1705, by the Senate Committee on Rules, Senate Print Number 5691, 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, 59. Nays, 1. Senator Valesky recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1706, by the Senate Committee on Rules, Senate Print Number 5721, 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 1707, by Senator Meier, Senate Print 5738, 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1708, by Senator LaValle, Senate Print 5741, an act establishing the Town of East Hampton.

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

Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the 60th day.

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 take up Calendar Number 1691, by Senator Flanagan. It was inadvertently laid aside.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1691.

THE SECRETARY: Calendar Number 1691, by Senator Flanagan, Senate Print 5491A, 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, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you please read the controversial calendar.

ACTING PRESIDENT MEIER: The Secretary will take up the controversial reading of the calendar.

The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 1674, by Senator Maltese, Senate Print 4175, an act to amend the Penal Law and the Public Health Law.

SENATOR HASSELL-THOMPSON: Explanation.

ACTING PRESIDENT MEIER: Senator Maltese, Senator Hassell-Thompson has requested an explanation of Calendar 1674.

SENATOR MALTESE: Yes, Mr. President. This bill concerns making a misdemeanor the knowingly and unlawfully possessing a hypodermic syringe or a hypodermic needle.

In addition, it changed the gender. The original legislation said "he." It changed it, making it gender-neutral, to "such

person."

And this bill is the result of so many instances of people going into public places and having exposed needles and apparently getting -- criminally injecting others in these public places, surreptitiously and harmfully, and then worrying the recipient of the punctures that the needle might possess AIDS or some similar disease that could be transmitted by the needle.

In addition, it makes unlawful the possession in a public place of the hypodermic needle that is not safely capped. It has some protections as far as possessing it for lawful purposes, and in addition renders as an affirmative defense to a prosecution, under that section, that the defense that the defendant's exposure of the hypodermic needle was both temporary and in conjunction with the necessary injection.

So if you have a person with diabetes and they're exposing the needle in a public place for the purposes of taking a dose of insulin or what have you, that is an exclusion under the bill.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Okay, thank you, Mr. President. Just quickly on the bill, because that was -- the last part of Senator Maltese's statement was, I guess, the bulk of my concern. Because many persons who are diabetic who have to give themselves injections in public would be subject to this.

But I guess the question that I -- if I have any to raise, would be, through you, Mr. President, is if they have to -- if -- this bill says it's unlawful. But you're saying that they are exempt. And I'm trying to figure out if they have to go to court before they're exempt, or is an explanation to the police officer that may arrest them sufficient in this instance. Because there's nothing in this bill that says that that exemption exists.

SENATOR MALTESE: Through you, Mr. President, it would seem that a person that was in such a public place with the hypodermic needle injecting themselves, except for the actual injection, would have the

needle safely capped or both retractable and retracted or otherwise enclosed in a puncture-proof container.

I don't think that this bill is an invitation to police officers to arrest diabetics who are injecting themselves. This is, as I've indicated, the result of persons unlawfully injecting others and subjecting them to unnecessary tests in connection with communicable diseases.

In response to your question, Senator, it does seem that the person, if arrested with an exposed needle and was unable to adequately explain themselves to a police officer, would have to use it as an affirmative defense.

SENATOR HASSELL-THOMPSON: On the bill.

ACTING PRESIDENT MEIER: Senator Hassell-Thompson, on the bill.

SENATOR HASSELL-THOMPSON: Therein lies my concern about this bill, which is why I will be voting no, because it puts the onus on the person in a court of law in order to prove themselves innocent.

Thank you, Mr. President.

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

Debate is closed, then.

The Secretary will ring the bell. 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 90th day.

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 1674 are Senators Duane, Hassell-Thompson, L. Krueger, Libous, Parker and Spano.

Those Senators absent from voting: Bonacic, Gonzalez and Winner.

Ayes, 51. Nays, 6.

ACTING PRESIDENT MEIER: The bill is passed.

Senators, the chair is constrained

to make an observation. We are adding about an hour to every calendar that we are going through to corral members back in to vote. And we're all going to grow old together if this continues.

So we would ask members, when we get to the controversial calendar, to please be in the chamber for the vote so that we can expedite passage of the bills that are remaining in the session.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1679, by Senator Saland --

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

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

THE SECRETARY: Calendar Number 1694, by Senator Wright, Senate Print 5534A, 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.)

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1694: Senators Hassell-Thompson and Montgomery.

Those Senators absent from voting: Bonacic and Gonzalez.

Ayes, 56. Nays, 2.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR CONNOR: Point of order, Mr. President.

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: I heard no explanation requested on that bill. Why does it remain controversial such that absents are recorded?

I know these are new rules; I've been here a long time. If no one asks for an explanation on the controversial reading, the bill reverts to an uncontroversial status.

ACTING PRESIDENT MEIER: Senator, the bill --

SENATOR CONNOR: It's laid aside for an explanation.

ACTING PRESIDENT MEIER: The point of order is addressed to the chair.

SENATOR CONNOR: Yes, Mr. President.

My point is, if no one requests an explanation, is not the bill no longer controversial?

ACTING PRESIDENT MEIER: No, Senator, the bill is laid aside and goes to the controversial calendar.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1700, by Senator Johnson, Senate Print --

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

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

Senator Fuschillo, that completes this calendar.

SENATOR FUSCHILLO: Mr.

President, there will be a meeting of the Rules Committee at 7:15 in the Majority Conference Room.

ACTING PRESIDENT MEIER: The Rules Committee will meet at 7:15 in the Majority Conference Room.

SENATOR FUSCHILLO: Pending the receipt and acceptance of the report, the report will be for tomorrow's calendar.

ACTING PRESIDENT MEIER: The Senate will stand at ease, then, Senator?

Senator, could we complete some housekeeping? We have a motion.

SENATOR FUSCHILLO: If there's housekeeping at the desk, please take it up.

ACTING PRESIDENT MEIER: Senator Flanagan.

SENATOR FLANAGAN: Thank you, Mr. President.

On behalf of Senator Libous, I request to call up Senate Bill 5688, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number

1630, by Senator Libous, Senate Print 5688, an act to amend the Education Law.

SENATOR FLANAGAN: Mr. President, I now move to reconsider the vote by which the bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

SENATOR FLANAGAN: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, Senator Bruno, on behalf of Senator Paterson, hands up the following Minority leadership changes.

ACTING PRESIDENT MEIER: Those are received and will be recorded in the Journal.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 7:08 p.m.)

(Whereupon, the Senate reconvened at 7:26 p.m.)

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, may we please return to reports of standing committees. I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

Senate Print 843B, by Senator LaValle, an act to amend the Education Law;

1404A, by Senator Seward, an act to amend Chapter 668 of the Laws of 1977;

1936A, by Senator Golden, an act to amend the Public Health Law;

2522, by Senator Krueger, an act to authorize;

2543, by Senator Valesky, an act authorizing;

2828D, by Senator Flanagan, an act

to amend the Environmental Conservation Law;

2936, by Senator Little, an act to grant Richard F. Kelly;

3638, by Senator Robach, an act to amend Chapter 657 of the Laws of 2002;

4658, by Senator Padavan, an act to amend the Administrative Code of the City of New York;

5273, by Senator Winner, an act to amend the Highway Law;

5285, by Senator Wright, an act to amend the Tax Law;

5441, by Senator Nozzolio, an act to amend the Penal Law;

5471B, by Senator Bonacic, an act to amend Chapter 172 of the Laws of 2002;

5540A, by Senator Volker, an act to amend the Alcoholic Beverage Control Law;

5543A, by Senator Alesi, an act to amend the Correction Law;

5614, by Senator Wright, an act to amend the Energy Law;

5640, by Senator Nozzolio, an act to amend the Correction Law;

5652, by Senator Spano, an act to

amend Chapter 57 of the Laws of 2005;

5689, by Senator Little, an act to amend the Correction Law;

5694, by Senator Padavan, an act to amend the General City Law;

5698, by Senator Fuschillo, an act to amend the Penal Law;

5713, by Senator LaValle, an act to amend the Public Health Law;

5716, by Senator Robach, an act to amend the Education Law;

5722, by Senator Larkin, an act to amend the Civil Service Law;

5727, by Senator DeFrancisco, an act in relation to the initial phase of reconstruction;

5742, by Senator Winner, an act to amend the Agriculture and Markets Law;

5747, by Senator Spano, an act to amend the Public Authorities Law;

5751, by Senator Meier, an act to amend the Highway Law;

5753A, by Senator Skelos, an act to amend the Correction Law;

5756, by Senator Golden, an act to

amend the Elder Law;

5760, by Senator Young, an act to amend the Highway Law;

5771, by Senator Spano, an act to amend the Arts and Cultural Affairs Law;

5788, by Senator Golden, an act to amend the Tax Law;

5799, by Senator Marcellino, an act to amend the Military Law;

5800, by Senator Young, an act to amend the Highway Law;

And Senate Print 5887, by Senator Flanagan, an act to amend the Labor Law.

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 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 by a wide margin.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, is there any other business at the desk?

ACTING PRESIDENT MEIER: No, there is not.

SENATOR FUSCHILLO: If we could return to motions and resolutions and recognize Senator Robach.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator Robach.

SENATOR ROBACH: Yes, Mr. President. On behalf of Senator Spano, on page 25, I offer the following amendments to Calendar Number 774, Senate Print Number 3906A, and ask that the said bill retain its place on 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 Fuschillo.

SENATOR FUSCHILLO: Mr. President, I'd like to announce that there will be a Majority conference tomorrow morning at 10:30 a.m. in the Majority Conference Room.

ACTING PRESIDENT MEIER: There will be a 10:30 a.m. Majority conference tomorrow morning.

SENATOR SCHNEIDERMAN: I'd like to thank Senator Fuschillo for his fine work here today.

SENATOR FUSCHILLO: Thank you, Senator.

Mr. President, is there any other housekeeping at the desk?

ACTING PRESIDENT MEIER: No, there is not.

SENATOR FUSCHILLO: Any members have any other business that they'd like to discuss here?

Mr. President, there being no further business to come before the Senate, I move we adjourn until Wednesday, June 22nd, at 11:00 a.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Wednesday, June 22nd, at 11:00 a.m.

(Whereupon, at 7:32 p.m., the Senate adjourned.)