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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 23, 2005

10:17 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

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P R O C E E D I N G S

THE PRESIDENT: The Senate will
please come to order.

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

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

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

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

THE PRESIDENT: Reading of the
Journal.

THE SECRETARY: In Senate,
Wednesday, June 22, the Senate met pursuant to
adjournment. The Journal of Tuesday, June 21,
was read and approved. On motion, Senate
adjourned.

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

Presentation of petitions.
Messages from the Assembly.

1 Messages from the Governor.
2 Reports of standing committees.
3 Reports of select committees.
4 The Secretary will read reports of
5 standing committees.

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

9 As a justice of the Supreme Court
10 of the Ninth Judicial District, Richard B.
11 Liebowitz, of Yonkers.

12 THE PRESIDENT: Senator
13 DeFrancisco.

14 SENATOR DeFRANCISCO: I'm proud
15 to rise to move the nomination of Richard B.
16 Liebowitz as justice of the Supreme Court for
17 the Ninth Judicial District.

18 For Mr. Liebowitz, soon to be Judge
19 Liebowitz, and all of the other candidates, I
20 should say generally that the committee
21 thoroughly reviewed their qualifications
22 before the hearing this morning, found all to
23 be qualified that are being nominated today,
24 and also they appeared before the committee
25 and were unanimously recommended to the full

1 Senate for confirmation.

2 Within that in mind, I would
3 request that you please recognize Senator
4 Spano to second the nomination.

5 THE PRESIDENT: Senator Spano.

6 SENATOR SPANO: Thank you, Madam
7 President and Mr. Chair.

8 And it's a distinct honor to stand
9 on the floor of the Senate today to second the
10 nomination of Richard Liebowitz to the Supreme
11 Court.

12 I've known Judge Liebowitz for over
13 twenty years, and have seen someone who
14 started his career in 1992 as a City Court
15 judge in the City of Yonkers has emerged as a
16 caring and sensitive person, tackling the
17 issues of domestic violence, as the judge
18 currently presides as an acting Family Court
19 judge in the integrated domestic violence
20 court. That's a very serious court in an
21 urban center of our state, and Judge Liebowitz
22 has shown the type of caring person that he
23 is, and sensitivity that he has, that would
24 certainly do us well as a member of the
25 Supreme Court.

1 It would be my pleasure to refer to
2 Judge Liebowitz as a Supreme Court judge. I
3 thank the Governor for this appointment today
4 and am pleased to second his nomination.

5 THE PRESIDENT: The question,
6 then, is on the nomination of Richard B.
7 Liebowitz, of Yonkers, as a justice of the
8 Supreme Court of the Ninth Judicial District.

9 All in favor please signify by
10 saying aye.

11 (Response of "Aye.")

12 THE PRESIDENT: Opposed, nay.

13 (No response.)

14 THE PRESIDENT: The nominee is
15 confirmed.

16 He is here this morning with his
17 wife, Rosalie; his daughters, Mary Ann
18 Liebowitz and Nancy Korn; his grandson, Alex;
19 and his sister-in-law, Marian Barbiare.

20 Congratulations, Judge, and best
21 wishes to you and your family.

22 (Applause.)

23 THE PRESIDENT: The Secretary
24 will continue to read.

25 THE SECRETARY: As a judge of the

1 Court of Claims, Frank A. Gulotta, Jr., of
2 Woodbury.

3 THE PRESIDENT: Senator
4 DeFrancisco.

5 SENATOR DeFRANCISCO: I move the
6 nomination of Frank A. Gulotta, Jr., for a
7 Court of Claims position.

8 And I would request that you would
9 please recognize Senator Marcellino for the
10 second.

11 THE PRESIDENT: Senator
12 Marcellino.

13 SENATOR MARCELLINO: Thank you,
14 Madam President. It's a pleasure to rise and
15 second the nomination of a good friend, a
16 long-time friend, Frank Gulotta, to go to the
17 Court of Claims.

18 Frank is a good person, comes from
19 a well-known family on Long Island, a long
20 history of judicial and political achievement,
21 firsts in many fields. But Frank has a
22 special talent. He has a quiet nature. He
23 has the right temperament to deal with the
24 issues that come before the Court of Claims.
25 Doesn't let little things get under his skin.

1 He has the proper judicial temperament, as
2 they say.

3 Not being a lawyer, I don't have to
4 appear before him, so I owe him nothing, he
5 owes me nothing on this one. But it is a
6 pleasure, it is a pleasure to nominate someone
7 who has the qualifications Frank has and who
8 will serve with distinction. And I
9 congratulate the Governor on his appointment.

10 Frank, God bless you, continue to
11 serve us well in the courts. I know you will.
12 We wish you well.

13 THE PRESIDENT: Senator Skelos.

14 SENATOR SKELOS: Madam President,
15 I too rise to second the nomination of Judge
16 Frank Gulotta to serve on the Court of Claims.

17 You know, Senator Marcellino
18 touched upon it, but Frank comes from a family
19 of distinguished public service. His dad
20 is -- was a trailblazer in Nassau County,
21 served in various capacities, but specifically
22 as the first Italian-American elected as
23 district attorney in Nassau County. He went
24 on to serve on the Supreme Court and the
25 Appellate Division.

1 And Frank has followed that
2 tradition: private practice, where he
3 understands the needs of attorneys, but also
4 as a county court judge, where he will have
5 the criminal acumen in trying cases as he
6 serves in the criminal part of the Court of
7 Claims.

8 I'm also delighted that his brother
9 Tom Gulotta is here to witness this, former
10 county executive of Nassau County, a family of
11 distinguished public servants. And I'm just
12 pleased to second the nomination of Frank
13 Gulotta.

14 THE PRESIDENT: Senator
15 Fuschillo.

16 SENATOR FUSCHILLO: Thank you,
17 Madam President. I'd just like to say ditto
18 and ditto to the comments from Senator
19 Marcellino and Senator Skelos.

20 As Senator Skelos said, there's a
21 long history of public service in the Gulotta
22 family. His father, as he said, was the first
23 Italo-American district attorney in Nassau
24 County and broke many barriers for many
25 generations, especially his sons.

1 And his other son, Tom Gulotta, is
2 there, who served in this legislative body in
3 the other house and in town and county
4 politics for many years. And, like his
5 brother, Frank has dedicated his life to
6 public service.

7 Frank has done an outstanding job
8 on the bench, and I know he'll do justice in
9 serving the residents of this state as a
10 justice of the Court of Claims.

11 Frank, congratulations, and I wish
12 you the best.

13 THE PRESIDENT: The question now
14 is on the nomination of Frank Gulotta, Jr., of
15 Woodbury, as a judge of the Court of Claims.

16 All in favor please signify by
17 saying aye.

18 (Response of "Aye.")

19 THE PRESIDENT: Opposed, nay.

20 (No response.)

21 THE PRESIDENT: The nominee is
22 hereby confirmed.

23 And Judge Gulotta is accompanied
24 today by his brother, Tom Gulotta.

25 Congratulations, Judge, and best

1 wishes to you and your family for a great
2 celebration.

3 (Applause.)

4 THE PRESIDENT: The Secretary
5 will continue to read.

6 THE SECRETARY: As a judge of the
7 Court of Claims, Antonio I. Brandveen, of East
8 Northport.

9 THE PRESIDENT: Senator
10 DeFrancisco.

11 SENATOR DeFRANCISCO: I move the
12 nomination of Antonio Brandveen for a
13 reappointment to the Court of Claims.

14 And since this apparently is Nassau
15 County Day, and judges who reside in Senator
16 Marcellino's district, I request that you
17 acknowledge or recognize Senator Marcellino to
18 second the nomination.

19 THE PRESIDENT: Senator
20 Marcellino.

21 SENATOR MARCELLINO: I rise with
22 pleasure to second this nomination, but to
23 correct my esteemed colleague from Syracuse.
24 The judge that appears before us at this point
25 lives in East Northport, which is in the

1 Suffolk County portion of my district. I'm
2 equally proud to represent that area of the
3 district. It is one that I count on on
4 Election Day for a fairly wide margin.

5 Judge Brandveen, as you say, is a
6 reappointment, but his history shows you the
7 kind of individual he is. He served a term in
8 the Family Court. This is probably one of the
9 most difficult courts any lawyer will talk
10 about. They always tell you it's very
11 difficult to get good lawyers, good judges to
12 go, because it's a hard court, you're dealing
13 with families in distress, and the problems
14 are serious and usually very tragic.

15 But Judge Brandveen has served well
16 there, and he's served with distinction in the
17 Court of Claims, and he's up for
18 reappointment. I congratulate the Governor on
19 a great appointment. This man obviously has
20 the credentials, and I'm proud to second this
21 nomination.

22 THE PRESIDENT: Senator Ada
23 Smith.

24 SENATOR ADA SMITH: Thank you,
25 Madam Chair. It is indeed an honor to commend

1 the Governor for this renomination of a good
2 friend, Tony Brandveen, who has excelled as a
3 jurist and who has proven himself in many
4 arenas.

5 We miss him in the City of
6 New York. Nassau County has taken him away
7 from us. But he still comes back to work with
8 young people. And he has always been the
9 pride of many of us who are in the arena of
10 government, and he has really shown what
11 people can do when they serve the law the
12 proper way.

13 Tony has really been an example of
14 what a fine education and a concern for people
15 can do on the bench. And we're very proud of
16 him, and we commend the Governor for his
17 reappointment.

18 THE PRESIDENT: The question now
19 is on the nomination of Antonio I. Brandveen,
20 of East Northport, as a judge of the Court of
21 Claims.

22 All in favor please signify by
23 saying aye.

24 (Response of "Aye.")

25 THE PRESIDENT: Opposed, nay.

1 (No response.)

2 THE PRESIDENT: The nominee is
3 confirmed.

4 And he is accompanied today by
5 Charlene Plummer.

6 Congratulations, Judge, and best
7 wishes to you on the bench.

8 (Applause.)

9 THE PRESIDENT: The Secretary
10 will continue to read.

11 THE SECRETARY: As a judge of the
12 Court of Claims, Daniel Martin, of Huntington.

13 THE PRESIDENT: Senator
14 DeFrancisco.

15 SENATOR DeFRANCISCO: I move the
16 nomination of Daniel Martin for reappointment
17 to the Court of Claims. And since he lives
18 somewhere on Long Island --

19 (Laughter.)

20 SENATOR DeFRANCISCO: -- I
21 request that you recognize Senator Marcellino
22 for the second.

23 THE PRESIDENT: Senator
24 Marcellino.

25 SENATOR MARCELLINO: Thank you,

1 Madam President. And thank you, Senator
2 DeFrancisco.

3 Dan Martin lives with his wife,
4 Ellen Crowley, in the town of Huntington. And
5 I've known Dan for a number of years. He was,
6 many years ago, the town leader of the town of
7 Huntington when I was first nominated to run
8 in a special election to succeed my
9 predecessor, Ralph Marino, who had resigned
10 from the Senate. Dan was very instrumental in
11 me getting the nomination and winning the
12 election and serving where I am today.

13 And it's my pleasure to stand up
14 and second his nomination for reappointment to
15 the Court of Claims. Danny has served with
16 distinction his county and this state, and I
17 commend the Governor on this appointment.
18 Danny is a fine man and the epitome of what
19 one might call the quiet man. I've never seen
20 him raise his voice, I've never seen him lose
21 his temper, but I know he has a fine mind and
22 a great judicial background.

23 And, Danny, congratulations.

24 THE PRESIDENT: The question is
25 on the nomination of Daniel Martin, of

1 Huntington, as a judge of the Court of Claims.

2 All in favor please signify by
3 saying aye.

4 (Response of "Aye.")

5 THE PRESIDENT: Opposed, nay.

6 (No response.)

7 THE PRESIDENT: The nominee is
8 hereby confirmed.

9 Congratulations, Judge Martin, and
10 good luck to you.

11 (Applause.)

12 THE PRESIDENT: The Secretary
13 will continue to read.

14 THE SECRETARY: As a judge of the
15 Court of Claims, Dominic R. Massaro, of Pelham
16 Manor.

17 THE PRESIDENT: Senator
18 DeFrancisco.

19 SENATOR DeFRANCISCO: I rise to
20 move the nomination of Dominic Massaro, a
21 reappointment to the Court of Claims, and
22 would request that you would recognize Senator
23 Maltese for the second.

24 THE PRESIDENT: Senator Maltese.

25 SENATOR MALTESE: Yes, Madam

1 President, I'm very proud to second the
2 nomination of Judge Dominic Massaro as an
3 extension of the Court of Claims.

4 Judge Massaro, through many, many
5 years of public service, has served ably and
6 well. He has some twenty -- in excess of
7 twenty years as a distinguished jurist, and
8 just about forty years of public service where
9 he has acquitted himself in the noblest
10 traditions.

11 In addition to publications and
12 lectures, he has appeared not only in New York
13 State but throughout the country, has received
14 the highest decorations and honors, not only
15 from our authorities but authorities in Italy
16 and elsewhere across this country. And he is
17 the recipient of many, many distinguished
18 honors through the Catholic Church, through
19 the many, many distinguished knighthood
20 orders.

21 He is a person that exemplifies
22 what a true jurist and true public service
23 means. I am proud to second the nomination of
24 Judge Dominic R. Massaro as a judge of the
25 Court of Claims.

1 THE PRESIDENT: Senator Klein.

2 SENATOR KLEIN: Madam President,
3 I too rise to support the nomination of Judge
4 Dominic Massaro.

5 I have the privilege of having
6 Dominic Massaro residing in my district in
7 Pelham Manor. As a matter of fact, at one
8 time he lived in the Bronx portion of the
9 district as well.

10 He's someone who I think always
11 remembered who he is and where he came from.
12 Always giving back to the community, involved
13 in a full array of philanthropic endeavors
14 over the years; the Bronx Chamber of Commerce,
15 many, many Italian-American organizations.
16 And I think he proves the quote that
17 philanthropy is almost the only virtue fully
18 appreciated by mankind.

19 Well, with that being said, the
20 number that appreciate Judge Massaro is
21 boundless.

22 Thank you, Judge.

23 THE PRESIDENT: The question now
24 is on the nomination of Dominic R. Massaro, of
25 Pelham Manor, as a judge of the Court of

1 Claims.

2 All in favor please signify by
3 saying aye.

4 (Response of "Aye.")

5 THE PRESIDENT: Opposed, nay.

6 (No response.)

7 THE PRESIDENT: The nominee is
8 hereby confirmed.

9 Congratulations, Judge, and best
10 wishes for continued success.

11 (Applause.)

12 THE PRESIDENT: The Secretary
13 will continue to read.

14 THE SECRETARY: As a judge of the
15 Court of Claims, Victor Myron Ort, of Oyster
16 Bay.

17 THE PRESIDENT: Senator
18 DeFrancisco.

19 SENATOR DeFRANCISCO: I move the
20 nomination of Victor Ort for reappointment for
21 the Court of Claims.

22 And again, I ask you to recognize
23 Senator Marcellino.

24 THE PRESIDENT: The Long Island
25 Senator, Marcellino.

1 SENATOR MARCELLINO: This is a
2 very pleasant day for me. Not only do I have
3 the chance to get the exercise of getting up
4 and down, but I also have the chance to second
5 the nomination of a good friend and long-time
6 friend, Vic Ort.

7 It wasn't till today, Vic, that I
8 finally found out what the "N" stood for. So
9 now we have the full name to put with the
10 face.

11 Vic was one of those people when
12 you first met him -- when I first met him,
13 many years ago, people said: This man will be
14 a judge and should be a judge one day. And
15 it's come true.

16 I know it's been his lifelong wish.
17 He has the credentials, he has the judicial
18 background and the temperament to serve. And
19 he wants to serve, and he has served with
20 distinction.

21 I am proud to nominate him, to give
22 the second to his nomination to succeed
23 himself on the Court of Claims.

24 Congratulations and good luck, Vic.

25 THE PRESIDENT: The question now

1 is on the nomination of Victor Myron Ort, of
2 Oyster Bay, as a judge of the Court of Claims.

3 All in favor please signify by
4 saying aye.

5 (Response of "Aye.")

6 THE PRESIDENT: Opposed, nay.

7 (No response.)

8 THE PRESIDENT: The nominee is
9 hereby confirmed.

10 Congratulations, Judge Ort.

11 And he is accompanied by his wife,
12 Judy, today. Best wishes.

13 (Applause.)

14 THE PRESIDENT: The Secretary
15 will continue to read.

16 THE SECRETARY: As a judge of the
17 Court of Claims, Catherine M. Bartlett, of
18 Goshen.

19 THE PRESIDENT: Senator
20 DeFrancisco.

21 SENATOR DeFRANCISCO: I move the
22 nomination of Catherine Bartlett to the Court
23 of Claims.

24 And I would request that you
25 recognize Senator Bonacic to second.

1 THE PRESIDENT: Senator Bonacic.

2 SENATOR BONACIC: Thank you,
3 Madam President.

4 First of all, I'd like to
5 congratulate Governor Pataki for submitting
6 the name of Catherine Bartlett as a nominee
7 for Court of Claims judge.

8 This is a young woman who has
9 accomplished so much in twenty years, from
10 being a private practitioner to being a town
11 justice, assistant county attorney, county
12 attorney, and then being the chief
13 administrative officer of the County of
14 Orange.

15 She has had so much vast experience
16 in so many facets of the law. But when I
17 think of Katie Bartlett, I think of a
18 professional who is very dedicated, who is
19 very disciplined, who is very focused on
20 achieving her goal. I know that she will be
21 an exemplary judge.

22 She's here with her husband, Bill
23 DeProspero, another prominent figure in Orange
24 County, and their daughter.

25 And so I will vote in the

1 affirmative. Thank you, Madam President.

2 THE PRESIDENT: Senator Larkin.

3 SENATOR LARKIN: Thank you, Madam
4 President.

5 I'm very honored to recognize my
6 constituent, Katie Bartlett, a distinguished
7 young lady not only in the field of law but
8 every endeavor that Katie has ever associated
9 herself with. Whether you're talking about
10 law or community service, when you needed
11 someone to participate and make things happen,
12 Katie was there.

13 Her efforts in the district
14 attorney's office are well known. Her efforts
15 as a town judge in the Town of Goshen -- ask
16 most of your attorneys, they'll tell you, she
17 knows her business. As the county attorney,
18 she turned around many, many facilities in the
19 county, to the credit of the county, the
20 county exec who appointed her.

21 And today we're here appointing
22 her, the first time in the history of Orange
23 County that we've had a Court of Claims judge.
24 It is an honor and a privilege for me to stand
25 here and second the nomination of Katie

1 Bartlett.

2 And to her children and her
3 husband, now, Bill, you'll have to take out
4 the garbage.

5 (Laughter.)

6 THE PRESIDENT: Senator Morahan.

7 SENATOR MORAHAN: Thank you,
8 Madam President.

9 I too rise in support of the
10 nomination by the Governor of Catherine M.
11 Bartlett.

12 Many fine words have been said
13 about her. Her resume is clear. Her record
14 is pure. She has done such great services in
15 the various positions she's had. And she
16 represents the county in all of those
17 positions, and now she'll represent people on
18 the Court of Claims. And I really am
19 privileged to stand and second her nomination.

20 THE PRESIDENT: The question now
21 is on the nomination of Catherine M. Bartlett,
22 of Goshen, as a judge of the Court of Claims.

23 All in favor please signify by
24 saying aye.

25 (Response of "Aye.")

1 THE PRESIDENT: Opposed, nay.

2 (No response.)

3 THE PRESIDENT: The nominee is
4 hereby confirmed.

5 And I want to add my personal as
6 well as professional congratulations to Judge
7 Bartlett. In my years on the bench, as well
8 as Lieutenant Governor, I have observed her
9 professional demeanor, her discipline, and her
10 excellence, and it's quite a privilege to be
11 here and preside.

12 She is here today with her husband,
13 William DeProspero; her children, Atticus, Bart,
14 and Chatham; and her niece, Sarah Bresette.

15 Congratulations to you and your
16 family, and best wishes, Judge.

17 (Applause.)

18 THE PRESIDENT: The Secretary
19 will continue to read.

20 THE SECRETARY: As a judge of the
21 Court of Claims, Robert K. Holdman, of
22 New York City.

23 THE PRESIDENT: Senator
24 DeFrancisco.

25 SENATOR DeFRANCISCO: I move the

1 nomination of Robert K. Holdman for Court of
2 Claims.

3 And I do want to just speak for a
4 moment. In reviewing the file on Mr. -- soon
5 to be Judge -- Holdman, you know, and hearing
6 him at the committee meeting, we're really
7 fortunate to have a new Court of Claims judge
8 of this caliber.

9 Unfortunately, nowadays, we're
10 hearing more and more of child abuse and child
11 deaths at the hands of predators. While
12 soon-to-be Judge Holdman was in the Bronx
13 County district attorney's office for the lead
14 prosecutor for these types of crimes, with 400
15 lawyers in that office, he not only has
16 prosecuted these crimes, but he's also
17 lectured nationwide and also overseas in
18 various forums on this topic.

19 In addition, he just finished a
20 fellowship at Harvard, a public interest
21 fellowship. So obviously he's the type of
22 person that is a thoughtful individual, that
23 wants to increase his knowledge, that wants to
24 encourage people to go into public service.
25 And he certainly is going to be in a perfect

1 position to affect many, many people's lives.

2 So I would proudly move the
3 nomination of Robert K. Holdman.

4 THE PRESIDENT: Senator Duane, do
5 you wish to be heard?

6 SENATOR DUANE: Usually, but not
7 at the moment. Later.

8 (Laughter.)

9 THE PRESIDENT: On the nomination
10 of Robert K. Holdman, of New York City, as a
11 judge of the Court of Claims, all in favor of
12 the nomination please signify by saying aye.

13 (Response of "Aye.")

14 THE PRESIDENT: Opposed, nay.

15 (No response.)

16 THE PRESIDENT: The nominee is
17 hereby confirmed.

18 He is here this morning accompanied
19 by his fiancée, Catherine Nolan.

20 Best wishes to you, Judge Holdman,
21 and congratulations.

22 (Applause.)

23 THE PRESIDENT: The Secretary
24 will read the report of the Finance Committee.

25 THE SECRETARY: Senator Johnson,

1 from the Committee on Finance, reports the
2 following nominations.

3 As a member of the Board of
4 Trustees of the State University of New York,
5 Robert J. Bellafiore, of Delmar.

6 THE PRESIDENT: Senator Johnson.

7 SENATOR JOHNSON: Move the
8 nomination.

9 THE PRESIDENT: Senator Farley.

10 SENATOR FARLEY: Thank you, Madam
11 President.

12 I just want to say a few words
13 about Bob Bellafiore, who is being appointed
14 to the Board of Trustees of the State
15 University.

16 He is an honors graduate of the
17 crown jewel of the State University at Albany,
18 where I also am a graduate and taught for
19 35 years. You know, this is a person that
20 I've followed his career since he's been with
21 the Knickerbocker News, right out of college.

22 Every job he's done, he's done
23 well. He's superbly educated. He knows a lot
24 about the state university. You know, we're
25 fortunate to have somebody with this

1 background to serve on the trustees.

2 I just want to say something else
3 in there. If you'd look at his resume, which
4 is very, very extensive, he was a Toll Fellow
5 for the Council of State Governments, which
6 John Marchi was one of the original founders
7 of that. I started the Toll Fellow program.
8 This is an honors program for public servants
9 who are rising stars, young people that are
10 rising stars in state government. And he was
11 certainly well-chosen when he won that award.

12 We're fortunate to have somebody of
13 this character and integrity to serve the
14 state university. And again, I want to
15 applaud Governor Pataki for recognizing the
16 talent of this young man.

17 And he's here with his family. And
18 it's with pleasure that I second the
19 nomination of Bob Bellafiore for the State
20 University Board of Trustees.

21 THE PRESIDENT: Senator Balboni.

22 SENATOR BALBONI: Madam
23 President, one of the first people I met in
24 the press when I first came to Albany in 1985
25 was a guy by the name of Bob Bellafiore. At

1 the time I forget if he worked for UPI or AP.
2 But, you know, the folks in the press, we're
3 always a little nervous about them, because
4 you're not really sure they're human, some of
5 them. You're not really sure how they
6 approach life.

7 This guy was full of life. And he
8 was a competitor. We played softball
9 together, we played basketball together. I've
10 seen this guy move up.

11 And the one thing I can say about
12 this nominee, he is a terrific person. He has
13 a big heart, he loves his family, he's a true
14 friend, and he's incredibly bright, writes
15 really, really well.

16 You know, if we wanted to take
17 somebody who is an academic but with a heart
18 and a soul, Bob Bellafiore is the guy that
19 you'd pick up and you'd put on this board.
20 And frankly, I think we need more of that in
21 our academic institutions.

22 I enthusiastically second this
23 nomination, Madam President.

24 THE PRESIDENT: Senator
25 Schneiderman.

1 SENATOR SCHNEIDERMAN: I've
2 checked very carefully, but I believe this is
3 the first time I'm able to agree with
4 absolutely everything Michael Balboni just
5 said since I've been on the floor of the
6 Senate. And I'll leave it at that.

7 Congratulations.

8 THE PRESIDENT: The question,
9 then, is on the nomination of Robert J.
10 Bellafiore, of Delmar, for a term on the Board
11 of Trustees of the State University of
12 New York.

13 All in favor please signify by
14 saying aye.

15 (Response of "Aye.")

16 THE PRESIDENT: Opposed, nay.

17 (No response.)

18 THE PRESIDENT: The nominee is
19 hereby confirmed.

20 I want to congratulate Bob and am
21 pleased to see him in this position. His
22 intellect, his dedication and his perspective
23 will be an excellent addition to the Board of
24 Trustees of SUNY.

25 He is here this morning with his

1 wife, Marilyn, and his sons, Sam and Robert.

2 Congratulations. Have a great
3 celebration, and best wishes.

4 (Appause.)

5 THE PRESIDENT: The Secretary
6 will continue to read.

7 THE SECRETARY: As a member of
8 the Board of Trustees of the State University
9 of New York, Teresa A. Santiago, of Hartsdale.

10 THE PRESIDENT: Senator Johnson.

11 SENATOR JOHNSON: Move the
12 nomination.

13 THE PRESIDENT: Senator
14 Hassell-Thompson.

15 SENATOR HASSELL-THOMPSON: Thank
16 you, Madam President.

17 It is with great pleasure that I
18 stand to congratulate the Governor on his
19 selection.

20 Three years ago, when Ms. Santiago
21 was appointed to head the Consumer Protection
22 Board, I was there for her appointment. And I
23 was very concerned because we knew that there
24 was very little to no money in that budget.
25 And she had such ambitious goals, and we

1 didn't know what she was going to be able to
2 do with them.

3 Well, I can tell you, three years
4 later, having worked very intimately and
5 closely with her over that period, that she is
6 one of the most creative people that I've ever
7 worked with. She has been able to cross all
8 kind of agency lines and help agencies
9 understand how what she does impacts what they
10 do, and has created a whole cadre of people
11 that are available to make sure that the
12 consumers of the State of New York are
13 protected, are educated about their rights.

14 I am very excited that she will
15 take this kind of talent in her role as a
16 trustee of the State University, and I know
17 that we will be proud of the work that she
18 will do there. And I want to congratulate her
19 and congratulate us on a marvelous selection.

20 Thank you, Madam President.

21 THE PRESIDENT: Senator Diaz.

22 SENATOR DIAZ: Thank you, Madam
23 President.

24 As a Puerto Rican and Hispanic, I
25 am proud to second the nomination of Teresa

1 Santiago as a member of the Board of Trustees
2 of the State University of New York State. I
3 have known Teresa Santiago for many years.
4 She is one of those Hispanic persons that have
5 made us proud to be Hispanic.

6 Teresa Santiago was the leader of
7 El Comite Noviembre, a committee formed to
8 protect, maintain and promote our Puerto Rican
9 culture.

10 Teresa Santiago was a deputy
11 director of the New York State Governor's
12 Office for Hispanic Affairs. She was also
13 deputy director for communications and
14 legislative affairs.

15 Ms. Santiago is a graduate of
16 Fordham University in Bronx County.

17 Right now, Ms. Santiago is the
18 commissioner of the New York State Department
19 of Consumer Affairs, where she protects,
20 defends and serves 20 million residents of
21 New York State.

22 It is an honor and a privilege for
23 me to stand before you and second the
24 nomination of Teresa Santiago. And I also
25 would like to congratulate Teresa and her

1 mother and her family and the Governor and all
2 of you that are supporting her today.

3 Thank you very much, Madam
4 President.

5 THE PRESIDENT: Senator Parker.

6 SENATOR PARKER: Madam President,
7 I rise to add my voice to the chorus of those
8 who are singing the praises this morning of
9 Commissioner Teresa Santiago, who has been
10 somebody who has been a champion for the
11 people of the State of New York as it relates
12 to consumer protection. She's somebody who
13 knows the issues and the concerns of people,
14 because she is one of us and from our
15 community.

16 And so I want to congratulate her
17 today on all that she's done so far. And I
18 know that she will bring those same energies,
19 expertise, and competence to her work with the
20 SUNY board. And so I look forward to our
21 continued work together and for her continued
22 service to the people of the State of
23 New York.

24 THE PRESIDENT: Senator Ada
25 Smith.

1 SENATOR ADA SMITH: Thank you,
2 Madam President.

3 The only thing that I can add is
4 ditto. And my congratulations to the
5 Governor.

6 And I know that Teresa A. Santiago
7 will make us all proud.

8 THE PRESIDENT: Senator
9 Fuschillo.

10 SENATOR FUSCHILLO: Thank you,
11 Madam President. Just quickly, I want to echo
12 the sentiments of my colleagues.

13 As chair of the Consumer Protection
14 Committee, I have worked with this fine woman
15 for many years. She has done an outstanding
16 job representing all the consumers of this
17 state. And I know she'll do an outstanding
18 job on the board. Congratulations.

19 And I want to compliment the
20 Governor on this nomination.

21 THE PRESIDENT: The question now
22 is on the nomination of Teresa A. Santiago for
23 a term on the Board of Trustees of the State
24 University of New York.

25 All in favor please signify by

1 saying aye.

2 (Response of "Aye.")

3 THE PRESIDENT: Opposed, nay.

4 (No response.)

5 THE PRESIDENT: The nominee is
6 hereby confirmed.

7 I want to offer my professional
8 congratulations. I too have observed your
9 professional excellence as commissioner, and I
10 know that SUNY is going to be very endowed to
11 have you on the Board of Trustees.

12 Best wishes.

13 (Applause.)

14 THE PRESIDENT: Communications
15 and reports from state officers.

16 Motions and resolutions.

17 Senator Fuschillo.

18 SENATOR FUSCHILLO: Thank you,
19 Madam President.

20 On behalf of Senator Maziarz, I
21 wish to call up Print Number 4185, recalled
22 from the Assembly, which is now at the desk.

23 THE PRESIDENT: The Secretary
24 will read.

25 THE SECRETARY: Calendar Number

1 684, by Senator Maziarz, Senate Print 4185, an
2 act to amend the Workers' Compensation Law.

3 SENATOR FUSCHILLO: I now move to
4 reconsider the vote by which the bill was
5 passed.

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

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 55.

10 THE PRESIDENT: Senator
11 Fuschillo.

12 SENATOR FUSCHILLO: I now move to
13 commit the bill to the Committee on Rules.

14 THE PRESIDENT: So ordered.

15 SENATOR FUSCHILLO: Thank you.

16 THE PRESIDENT: The Secretary
17 will read the substitutions.

18 THE SECRETARY: On page 17,
19 Senator Maziarz moves to discharge, from the
20 Committee on Rules, Assembly Bill Number 7744
21 and substitute it for the identical Senate
22 Bill Number 4346A, Third Reading Calendar 647.

23 On page 24, Senator Rath moves to
24 discharge, from the Committee on Rules,
25 Assembly Bill Number 7818 and substitute it

1 for the identical Senate Bill Number 4128,
2 Third Reading Calendar 830.

3 On page 32, Senator Golden moves to
4 discharge, from the Committee on Rules,
5 Assembly Bill Number 4322C and substitute it
6 for the identical Senate Bill Number 2210B,
7 Third Reading Calendar 1054.

8 On page 36, Senator Trunzo moves to
9 discharge, from the Committee on Rules,
10 Assembly Bill Number 7827A and substitute it
11 for the identical Senate Bill Number 5094A,
12 Third Reading Calendar 1226.

13 On page 44, Senator LaValle moves
14 to discharge, from the Committee on Rules,
15 Assembly Bill Number 8827 and substitute it
16 for the identical Senate Bill Number 5713,
17 Third Reading Calendar 1730.

18 On page 47, Senator Rath moves to
19 discharge, from the Committee on Rules,
20 Assembly Bill Number 8926 and substitute it
21 for the identical Senate Bill Number 5858,
22 Third Reading Calendar 1807.

23 And on page 48, Senator Robach
24 moves to discharge, from the Committee on
25 Rules, Assembly Bill Number 8913 and

1 substitute it for the identical Senate Bill
2 Number 5850, Third Reading Calendar 1846.

3 THE PRESIDENT: Substitutions
4 ordered.

5 SENATOR PATERSON: Madam
6 President.

7 THE PRESIDENT: Senator.

8 SENATOR PATERSON: There being no
9 further business, I move that we adjourn for
10 the rest of the day.

11 (Laughter.)

12 SENATOR BRUNO: Point of order,
13 Madam President.

14 THE PRESIDENT: The Senator has
15 no further business.

16 (Laughter.)

17 SENATOR BRUNO: Following that
18 note, Madam President, can we now have the
19 noncontroversial reading of the calendar, with
20 Senator Paterson's indulgence.

21 SENATOR PATERSON: Absolutely.

22 SENATOR BRUNO: Thank you.

23 THE PRESIDENT: So ordered.

24 The Secretary will read.

25 THE SECRETARY: Calendar Number

1 94, by the Assembly Committee on Rules,
2 Assembly Print Number 8894, an act to amend
3 the Penal Law and others.

4 THE PRESIDENT: Read the last
5 section.

6 THE SECRETARY: Section 4. This
7 act shall take effect on the first of
8 September.

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

11 THE SECRETARY: Ayes, 55.

12 THE PRESIDENT: The bill is
13 passed.

14 THE SECRETARY: Calendar Number
15 127, by Senator Nozzolio, Senate Print 1973B,
16 an act to amend the Energy Law.

17 THE PRESIDENT: Read the last
18 section.

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

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

23 THE SECRETARY: Ayes, 55.

24 THE PRESIDENT: The bill is
25 passed.

1 THE SECRETARY: Calendar Number
2 408, by Senator Fuschillo, Senate Print 3488A,
3 an act to amend the Agriculture and --
4 SENATOR SABINI: Lay it aside.
5 THE PRESIDENT: The bill is laid
6 aside.
7 THE SECRETARY: Calendar Number
8 582, by Member of the Assembly McEneny,
9 Assembly Print Number 3001, an act to amend
10 the Real Property Tax Law.
11 THE PRESIDENT: Read the last
12 section.
13 THE SECRETARY: Section 2. This
14 act shall take effect on the first of January.
15 THE PRESIDENT: Call the roll.
16 (The Secretary called the roll.)
17 THE SECRETARY: Ayes, 55.
18 THE PRESIDENT: The bill is
19 passed.
20 THE SECRETARY: Calendar Number
21 647, substituted earlier today by Member of
22 the Assembly Schimminger, Assembly Print
23 Number 7744, an act to authorize the City of
24 North Tonawanda.
25 THE PRESIDENT: There is a

1 home-rule message at the desk.

2 Read the last section.

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

5 THE PRESIDENT: Call the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 55.

8 THE PRESIDENT: The bill is
9 passed.

10 THE SECRETARY: Calendar Number
11 655, by Senator Nozzolio, Senate Print 1323B,
12 an act to amend the Correction Law.

13 THE PRESIDENT: Read the last
14 section.

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

17 THE PRESIDENT: Call the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 55.

20 THE PRESIDENT: The bill is
21 passed.

22 THE SECRETARY: Calendar Number
23 686, by Member of the Assembly Destito,
24 Assembly Print Number 748, an act to amend the
25 Labor Law and others.

1 THE PRESIDENT: Read the last
2 section.

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

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

7 THE SECRETARY: Ayes, 55.

8 THE PRESIDENT: The bill is
9 passed.

10 THE SECRETARY: Calendar Number
11 706, by Senator Marcellino, Senate Print
12 Number 4471B, an act to amend the
13 Environmental Conservation Law and the Public
14 Health Law.

15 THE PRESIDENT: Read the last
16 section.

17 THE SECRETARY: Section 5. This
18 act shall take effect on the 60th day.

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

21 THE SECRETARY: Ayes, 55.

22 THE PRESIDENT: The bill is
23 passed.

24 THE SECRETARY: Calendar Number
25 717, by Senator Volker, Senate Print 1628B, an

1 act to amend the Criminal Procedure Law.

2 THE PRESIDENT: Read the last
3 section.

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

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

8 THE SECRETARY: Ayes, 55.

9 THE PRESIDENT: The bill is
10 passed.

11 THE SECRETARY: Calendar Number
12 731, by Member of the Assembly Latimer,
13 Assembly Print Number 2349B, an act to amend
14 the Vehicle and Traffic Law.

15 THE PRESIDENT: Read the last
16 section.

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

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

21 THE SECRETARY: Ayes, 55.

22 THE PRESIDENT: The bill is
23 passed.

24 THE SECRETARY: Calendar Number
25 1098, by Senator Skelos, Senate Print 1999B,

1 an act to amend the Real Property Tax Law.

2 THE PRESIDENT: Read the last
3 section.

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

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

8 THE SECRETARY: Ayes, 55.

9 THE PRESIDENT: The bill is
10 passed.

11 THE SECRETARY: Calendar Number
12 1148, by Senator Seward, Senate Print 4096A,
13 an act to amend the Insurance Law.

14 ACTING PRESIDENT MEIER: Read the
15 last section.

16 THE SECRETARY: Section 2. This
17 act shall take effect January 1, 2006.

18 ACTING PRESIDENT MEIER: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 55. Nays,
22 1. Senator DeFrancisco recorded in the
23 negative.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1193, by Senator Marchi, Senate Print 2235A,
3 an act requiring the Triborough Bridge and
4 Tunnel Authority.

5 ACTING PRESIDENT MEIER: Read the
6 last section.

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

9 ACTING PRESIDENT MEIER: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Those recorded in
13 the negative on Calendar Number 1193 are
14 Senators Duane, L. Krueger and Schneiderman.

15 Ayes, 53. Nays, 3.

16 ACTING PRESIDENT MEIER: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 1208, by Senator Maltese, Senate Print 1955A,
20 an act to amend the Civil Service Law.

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

23 Read the last section.

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

1 ACTING PRESIDENT MEIER: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 56.

5 ACTING PRESIDENT MEIER: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 1278, by Senator Balboni, Senate Print 2969B,
9 an act to amend the General Municipal Law.

10 ACTING PRESIDENT MEIER: Read the
11 last section.

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

14 ACTING PRESIDENT MEIER: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 56.

18 ACTING PRESIDENT MEIER: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 1285, by Senator Robach, Senate Print 4406A,
22 an act authorizing the chief of police of the
23 Town of Parma.

24 ACTING PRESIDENT MEIER: Read the
25 last section.

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

3 ACTING PRESIDENT MEIER: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 56.

7 ACTING PRESIDENT MEIER: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1317, by Senator Bonacic, Senate Print 5125,
11 an act to amend the Education Law.

12 ACTING PRESIDENT MEIER: Read the
13 last section.

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

16 ACTING PRESIDENT MEIER: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 55. Nays,
20 1. Senator Alesi recorded in the negative.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 1395, by Senator Skelos, Senate Print 4708B,
25 an act to amend the Vehicle and Traffic Law.

1 SENATOR SKELOS: Read the last
2 section.

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

5 ACTING PRESIDENT MEIER: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 56.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1474, by Senator Marchi, Senate Print 5497, an
13 act to authorize the State Department of
14 Transportation.

15 ACTING PRESIDENT MEIER: Read the
16 last section.

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

19 ACTING PRESIDENT MEIER: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 56.

23 ACTING PRESIDENT MEIER: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 1487, by Senator Young, Senate Print 568B, an
2 act to amend the Alcoholic Beverage Control
3 Law.

4 SENATOR SCHNEIDERMAN: Lay it
5 aside.

6 ACTING PRESIDENT MEIER: Lay the
7 bill aside.

8 THE SECRETARY: Calendar Number
9 1561, by Senator Marcellino, Senate Print
10 5634, an act to amend the Vehicle and Traffic
11 Law.

12 ACTING PRESIDENT MEIER: Read the
13 last section.

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

17 ACTING PRESIDENT MEIER: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 56.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 1654, by Senator Hannon, Senate Print 4371A,
25 an act to amend the Public Health Law and the

1 Executive Law.

2 ACTING PRESIDENT MEIER: Read the
3 last section.

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

6 ACTING PRESIDENT MEIER: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 56.

10 ACTING PRESIDENT MEIER: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 1662, by Senator Young, Senate Print 5718, an
14 act to amend the Social Services Law.

15 ACTING PRESIDENT MEIER: Read the
16 last section.

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

19 ACTING PRESIDENT MEIER: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 56.

23 ACTING PRESIDENT MEIER: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 1698, by Senator Maziarz, Senate Print 5658A,
2 an act to amend the Public Authorities Law.

3 ACTING PRESIDENT MEIER: Read the
4 last section.

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

7 ACTING PRESIDENT MEIER: Lay the
8 aside for the day.

9 THE SECRETARY: Calendar Number
10 1702, by Senator Volker, Senate Print 5681, an
11 act to amend the Tax Law.

12 ACTING PRESIDENT MEIER: Read the
13 last section.

14 THE SECRETARY: Section 3. This
15 act shall take effect on the first of January
16 next succeeding.

17 ACTING PRESIDENT MEIER: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT MEIER: Senator
21 Brown, to explain his vote.

22 SENATOR BROWN: Thank you, Mr.
23 President.

24 I just want to rise to commend
25 Senator Volker on this excellent piece of

1 legislation that will be an important economic
2 development tool to the City of Buffalo.

3 As we all know in this chamber, the
4 City of Buffalo has faced many fiscal
5 challenges over the past few years, and
6 Buffalo is beginning to rebound. This year,
7 for the first year, Buffalo has a balanced
8 budget, showing that the City of Buffalo is
9 moving in the right direction.

10 This piece of legislation by
11 Senator Volker will provide a powerful tool
12 that will enable developers who want to
13 redevelop historic properties to be able to do
14 that.

15 I have heard from the development
16 community in and around the City of Buffalo.
17 They applaud this bill, they support this
18 bill, and I am very proud to also support this
19 bill. I vote aye.

20 ACTING PRESIDENT MEIER: Senator
21 Brown will be recorded in the affirmative.

22 Announce the results.

23 THE SECRETARY: Ayes, 56.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1703, by Senator Young, Senate Print 5686, an
3 act to amend the Education Law.

4 ACTING PRESIDENT MEIER: Read the
5 last section.

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

8 ACTING PRESIDENT MEIER: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 56.

12 ACTING PRESIDENT MEIER: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 1709, by Senator LaValle, Senate Print 843B,
16 an act to amend the Education Law.

17 ACTING PRESIDENT MEIER: Read the
18 last section.

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

21 ACTING PRESIDENT MEIER: Call the
22 roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 56.

25 ACTING PRESIDENT MEIER: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 1714, by Senator Flanagan, Senate Print 2828D,
4 an act to amend the Environmental Conservation
5 Law and the Economic Development Law.

6 ACTING PRESIDENT MEIER: Read the
7 last section.

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

10 ACTING PRESIDENT MEIER: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 56.

14 ACTING PRESIDENT MEIER: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 1722, by Member of the Assembly Kolb, Assembly
18 Print Number 8583A, an act to amend the
19 Alcoholic Beverage Control Law.

20 ACTING PRESIDENT MEIER: Read the
21 last section.

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

24 ACTING PRESIDENT MEIER: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 56.

3 ACTING PRESIDENT MEIER: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 1723, by Senator Alesi, Senate Print 5543A, an
7 act to amend the Correction Law and others.

8 ACTING PRESIDENT MEIER: Read the
9 last section.

10 THE SECRETARY: Section 6. This
11 act shall take effect on the 60th day.

12 ACTING PRESIDENT MEIER: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 56.

16 ACTING PRESIDENT MEIER: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 1728, by Senator Padavan, Senate Print --

20 SENATOR SCHNEIDERMAN: Lay it
21 aside.

22 ACTING PRESIDENT MEIER: Lay the
23 bill aside.

24 THE SECRETARY: Calendar Number
25 1729, by Senator Fuschillo, Senate Print 5698,

1 an act to amend the Penal Law.

2 ACTING PRESIDENT MEIER: Read the
3 last section.

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

6 ACTING PRESIDENT MEIER: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 56.

10 ACTING PRESIDENT MEIER: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 1730, substituted earlier today by the
14 Assembly Committee on Rules, Assembly Print
15 Number 8827, an act to amend the Public Health
16 Law.

17 ACTING PRESIDENT MEIER: Read the
18 last section.

19 THE SECRETARY: Section 3. This
20 act shall take effect January 1, 2006.

21 ACTING PRESIDENT MEIER: Call the
22 roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT MEIER: Senator
25 LaValle, to explain his vote.

1 SENATOR LaVALLE: Thank you, Mr.
2 President.

3 This is very important legislation
4 dealing with the extension of the present
5 Breast Cancer Council in the Health
6 Department, to add cervical cancer to that,
7 and additional members.

8 There are more than 10,000 women
9 that are diagnosed every year with cervical
10 cancer, and 3,700 of those will die from this
11 disease. No woman should die from cervical
12 cancer, because it is one of the most
13 treatable and easily diagnosed diseases.

14 This council will do some very
15 substantial things in the legislation, as we
16 give them a substantial charge to raise public
17 awareness, to develop with the department a
18 statewide comprehensive cervical cancer
19 prevention plan, to facilitate coordination of
20 communication among state and local agencies.
21 And in their annual report they are to include
22 strategies for the implementation of the
23 cervical cancer prevention plan and for
24 promoting the plan to the general public.

25 And I think once again we are

1 taking a substantial step in -- I hope the
2 next time we talk about this, the number of
3 deaths will be zero. And I vote in the
4 affirmative.

5 ACTING PRESIDENT MEIER: Senator
6 LaValle will be recorded in the affirmative.

7 Senator Savino, to explain her
8 vote.

9 SENATOR SAVINO: I want to thank
10 Senator LaValle and Assemblywoman Aurelia
11 Greene for their leadership on this issue.

12 Shortly after I was elected, I was
13 privileged to attend a conference sponsored by
14 Women in Government, which is a national
15 bipartisan conference of women legislators who
16 have been involved in a campaign called the
17 "Challenge to Eliminate Cervical Cancer." The
18 previous senator, Nancy Lorraine Hoffmann, who
19 was the New York State director of Women in
20 Government before she left, was also very
21 involved in that.

22 We now know what causes cervical
23 cancer. Unlike many cancers, we can pinpoint
24 exactly what it is that causes it. It is the
25 HPV virus. We now have advanced screening

1 tests, and we can assist women in determining
2 whether or not they are at risk.

3 Now we need to make sure that all
4 women are educated about cervical cancer and
5 the virus that causes it and have access to
6 the best cervical cancer screening
7 technologies available. That's what this task
8 force is going to do. And I want to applaud
9 and thank Senator LaValle for taking up the
10 banner and leading in this critical way.

11 We actually stand at the threshold
12 of being able to eliminate a cancer that
13 deprives women, far too often, of their
14 reproductive ability. Far too many young
15 women are forced to have hysterectomies
16 because of cervical cancer. And because of
17 the work of this task force and other task
18 forces in 17 other states, we can actually
19 eliminate cervical cancer in our lifetime.

20 So I want to thank Senator LaValle
21 and Assemblywoman Greene for their leadership
22 on this, and I vote yes.

23 ACTING PRESIDENT MEIER: Senator
24 Savino will be recorded in the affirmative.

25 Senator Young, to explain her vote.

1 SENATOR YOUNG: Thank you, Mr.
2 President, to explain my vote.

3 I too want to commend our colleague
4 Senator LaValle for his leadership on this
5 issue. I began working on this two years ago,
6 when I was in the Assembly. And so this is a
7 culmination of a lot of working together,
8 people making sure that this issue gets to the
9 table.

10 And as we talked about just a
11 moment ago, it is crucial to women in New York
12 State. Seventy percent of women are infected
13 with the virus that causes cervical cancer.
14 It's the second leading cause of cancer in
15 women in New York State. And it's a problem
16 for all women, but it's even more of a problem
17 for minority women, because African-American
18 women have double the infection rate and they
19 have double the death rate.

20 This bill, this project is
21 undoubtedly going to save lives in New York
22 State. Because if you catch cervical cancer
23 early, through detection, then you can treat
24 it and women will be saved.

25 So again, thank you, Senator

1 LaValle for all your hard work on this. It
2 really is a giant step forward for women's
3 health. And I commend you for all that you've
4 done.

5 ACTING PRESIDENT MEIER: Senator
6 Young will be recorded in the affirmative.

7 Announce the results.

8 THE SECRETARY: Ayes, 56.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1734, by the Assembly Committee on Rules,
13 Assembly Print Number 8851, an act to amend
14 the Agriculture and Markets Law and the
15 Alcoholic Beverage Control Law.

16 ACTING PRESIDENT MEIER: Read the
17 last section.

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

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 56.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1737, by Senator Skelos, Senate Print 5753A,
3 an act to amend the Correction Law.

4 ACTING PRESIDENT MEIER: Read the
5 last section.

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

9 ACTING PRESIDENT MEIER: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 56.

13 ACTING PRESIDENT MEIER: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 1744, by Senator Flanagan, Senate Print --

17 SENATOR SCHNEIDERMAN: Lay it
18 aside.

19 ACTING PRESIDENT MEIER: Lay the
20 bill aside.

21 THE SECRETARY: Calendar Number
22 1745, by Member of the Assembly Sanders,
23 Assembly Print Number 88A, an act to amend the
24 Education Law.

25 ACTING PRESIDENT MEIER: Read the

1 last section.

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

4 ACTING PRESIDENT MEIER: Call the
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 55. Nays,
8 1. Senator Meier recorded in the negative.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1747, by Senator Padavan, Senate Print 2583B,
13 an act to amend the Tax Law.

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

16 Read the last section.

17 THE SECRETARY: Section 2. This
18 act shall take effect on the first day of a
19 sales tax quarterly period.

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 56.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1753, by Senator Johnson, Senate Print 5182A,
3 an act to amend the Public Officers Law and
4 the Executive Law.

5 ACTING PRESIDENT MEIER: Read the
6 last section.

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

9 ACTING PRESIDENT MEIER: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 56.

13 ACTING PRESIDENT MEIER: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 1754, by Senator Padavan, Senate Print 5405,
17 an act to amend the Education Law.

18 SENATOR LIBOUS: Lay it aside for
19 the day.

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

22 THE SECRETARY: Calendar Number
23 1757, by Senator Winner, Senate Print 5553B,
24 an act to amend the Environmental Conservation
25 Law and the General Obligations Law.

1 ACTING PRESIDENT MEIER: Read the
2 last section.

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

5 ACTING PRESIDENT MEIER: Call the
6 roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT MEIER: Senator
9 Winner, to explain his vote.

10 SENATOR WINNER: Thank you, Mr.
11 President.

12 This is a relatively unknown
13 measure, but a measure that will provide for
14 an absolute major amount of economic benefit
15 for New York. I want to thank Senator Libous
16 for his leadership in the past on this issue
17 of natural gas development in New York State.

18 This measure will balance the
19 interests of landowners, producers, operators
20 of the development of natural gas development
21 in New York, particularly in the Southern
22 Tier, in my area, and will facilitate the
23 investment of likely more than a billion
24 dollars of private investment in this state.
25 And the resulting economic growth and

1 development that it will produce will be of
2 benefit to every area of the state, not just
3 the Southern Tier.

4 So I want to commend this body for
5 supporting this measure, and I'm sure that it
6 will reap tremendous benefits in the future as
7 we go forward.

8 Thank you, Mr. President. I vote
9 in the affirmative.

10 ACTING PRESIDENT MEIER: Senator
11 Winner will be recorded in the affirmative.

12 Announce the results.

13 THE SECRETARY: Ayes, 56.

14 ACTING PRESIDENT MEIER: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 1761, by Senator Nozzolio, Senate Print 5679,
18 an act authorizing James J. Colacino to
19 receive a waiver.

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 56.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1763, by Senator Leibell, Senate Print 5708,
3 an act to amend the Public Authorities Law.

4 ACTING PRESIDENT MEIER: Read the
5 last section.

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

8 ACTING PRESIDENT MEIER: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 56.

12 ACTING PRESIDENT MEIER: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 1766, by Senator Young, Senate Print 5726A, an
16 act to amend the Correction Law.

17 ACTING PRESIDENT MEIER: Read the
18 last section.

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

21 ACTING PRESIDENT MEIER: Call the
22 roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 56.

25 ACTING PRESIDENT MEIER: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 1767, by Senator Morahan, Senate Print 5733,
4 an act to amend the Penal Law.

5 ACTING PRESIDENT MEIER: Read the
6 last section.

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

9 ACTING PRESIDENT MEIER: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 56.

13 ACTING PRESIDENT MEIER: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 1778, by Senator Robach, Senate Print 5712, an
17 act to amend the Retirement and Social
18 Security Law.

19 ACTING PRESIDENT MEIER: Read the
20 last section.

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

23 ACTING PRESIDENT MEIER: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 56.

2 ACTING PRESIDENT MEIER: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 1793, by Senator Golden, Senate Print 5804, an
6 act to amend the Social Services Law.

7 ACTING PRESIDENT MEIER: Read the
8 last section.

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

11 ACTING PRESIDENT MEIER: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 56.

15 ACTING PRESIDENT MEIER: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 1799, by Senator Trunzo, Senate Print 5830, an
19 act to amend the Criminal Procedure Law.

20 ACTING PRESIDENT MEIER: Read the
21 last section.

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

24 ACTING PRESIDENT MEIER: Call the
25 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 56.

3 ACTING PRESIDENT MEIER: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 1800, by Senator Skelos, Senate Print 5831, an
7 act to amend the Criminal Procedure Law.

8 ACTING PRESIDENT MEIER: Read the
9 last section.

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

12 ACTING PRESIDENT MEIER: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 56.

16 ACTING PRESIDENT MEIER: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 1802, by Senator Wright, Senate Print 5834, an
20 act to amend the Social Services Law.

21 ACTING PRESIDENT MEIER: Read the
22 last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect on the same date and
25 subject to the same qualifications as a

1 chapter of the Laws of 2005.

2 ACTING PRESIDENT MEIER: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 56.

6 ACTING PRESIDENT MEIER: The bill
7 is passed.

8 THE SECRETARY: Calendar Number
9 1805, by Senator Fuschillo, Senate Print 5843,
10 an act to amend a chapter of the Laws of 2005
11 amending the Labor Law.

12 ACTING PRESIDENT MEIER: Read the
13 last section.

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

16 ACTING PRESIDENT MEIER: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 56.

20 ACTING PRESIDENT MEIER: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 1806, by Senator Robach, Senate Print 5851, an
24 act directing the state comptroller to study
25 deferred retirement option plans.

1 ACTING PRESIDENT MEIER: Read the
2 last section.

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

5 ACTING PRESIDENT MEIER: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 56.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1807, substituted earlier today by the
13 Assembly Committee on Rules, Assembly Print
14 Number 8926, an act relating to the payment of
15 an accidental death benefit.

16 ACTING PRESIDENT MEIER: Read the
17 last section.

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

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 56.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1808, by Senator Morahan, Senate Print 5859,
3 an act to authorize the Commissioner of
4 General Services.

5 ACTING PRESIDENT MEIER: Read the
6 last section.

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

9 ACTING PRESIDENT MEIER: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 56.

13 ACTING PRESIDENT MEIER: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 1813, by Senator Oppenheimer, Senate Print
17 950, an act to amend the Public Officers Law.

18 SENATOR OPPENHEIMER: Lay it
19 aside for the day, please.

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

22 THE SECRETARY: Calendar Number
23 1830, by Senator Balboni, Senate Print 5579A,
24 an act to amend the County Law.

25 ACTING PRESIDENT MEIER: Read the

1 last section.

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

4 ACTING PRESIDENT MEIER: Call the
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 56.

8 ACTING PRESIDENT MEIER: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 1832, by Senator Young, Senate Print 5685, an
12 act to amend the Penal Law.

13 ACTING PRESIDENT MEIER: Read the
14 last section.

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

18 ACTING PRESIDENT MEIER: Call the
19 roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT MEIER: Senator
22 Young, to explain her vote.

23 SENATOR YOUNG: Thank you, Mr.
24 President, to explain my vote.

25 This bill comes in answer to a

1 horrific case that recently occurred in my
2 district, in Jamestown, in Chautauqua County,
3 where a 55-year-old pedophile sexually
4 molested and raped a little 9-year-old girl.
5 And not only did he did do that, but he set up
6 a web camera, put it on the Internet and got
7 suggestions and encouragement from other
8 pedophiles, not only from around the state and
9 the country but from around the world.

10 So basically what this bill does is
11 make the law catch up with technology so that
12 we have the penalties in place to deal with
13 these terrible situations.

14 And I want to thank my colleagues
15 for their support on this measure. I vote
16 yes.

17 ACTING PRESIDENT MEIER: Senator
18 Young will be recorded in the affirmative.

19 Announce the results.

20 THE SECRETARY: Ayes, 56.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 1834, by Senator Saland, Senate Print 5736A,
25 an act to amend the General Business Law.

1 ACTING PRESIDENT MEIER: Read the
2 last section.

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

5 ACTING PRESIDENT MEIER: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 56.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1835, by Senator Morahan, Senate Print 5743,
13 an act authorizing a period of probable
14 usefulness.

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

17 Read the last section.

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

20 ACTING PRESIDENT MEIER: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 56.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1846, substituted earlier today by the
3 Assembly Committee on Rules, Assembly Print
4 Number 8913, an act to amend the Executive Law
5 and the State Finance Law.

6 ACTING PRESIDENT MEIER: Read the
7 last section.

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

10 ACTING PRESIDENT MEIER: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 56.

14 ACTING PRESIDENT MEIER: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 1847, by the Senate Committee on Rules, Senate
18 Print Number 5855, an act to amend the Public
19 Health Law.

20 ACTING PRESIDENT MEIER: Read the
21 last section.

22 THE SECRETARY: Section 2. This
23 act shall take effect on the same date and in
24 the same manner as a chapter of the Laws of
25 2005.

1 ACTING PRESIDENT MEIER: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 56.

5 ACTING PRESIDENT MEIER: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 1849, by the Assembly Committee on Rules,
9 Assembly Print Number 8936, an act to amend
10 the Education Law.

11 ACTING PRESIDENT MEIER: Read the
12 last section.

13 THE SECRETARY: Section 22. This
14 act shall take effect July 1, 2005.

15 ACTING PRESIDENT MEIER: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 56.

19 ACTING PRESIDENT MEIER: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 1850, by Senator Wright, Senate Print 5866 --

23 SENATOR SCHNEIDERMAN: Lay it
24 aside.

25 ACTING PRESIDENT MEIER: Lay the

1 bill aside.

2 THE SECRETARY: Calendar Number
3 1851, by the Senate Committee on Rules, Senate
4 Print Number 58 --

5 SENATOR SCHNEIDERMAN: Lay it
6 aside.

7 ACTING PRESIDENT MEIER: Lay the
8 bill aside.

9 Senator Libous, that completes the
10 noncontroversial reading of the calendar.

11 SENATOR LIBOUS: Mr. President,
12 if we can just stand at ease for a second.

13 ACTING PRESIDENT MEIER: The
14 Senate will stand at ease.

15 (Whereupon, the Senate stood at
16 ease at 11:27 a.m.)

17 SENATOR LIBOUS: Mr. President.

18 ACTING PRESIDENT MEIER: Senator
19 Libous.

20 SENATOR LIBOUS: There will be an
21 immediate meeting of the Rules Committee in
22 the Majority Conference Room, and the Senate
23 will stand at ease.

24 ACTING PRESIDENT MEIER:
25 Immediate meeting of the Rules Committee in

1 the Senate Majority Conference Room.

2 The Senate will stand at ease.

3 (Whereupon, the Senate reconvened
4 at 11:46 a.m.)

5 ACTING PRESIDENT MEIER: Senator
6 Libous.

7 SENATOR LIBOUS: Mr. President,
8 Calendar 1850 was inadvertently laid aside.
9 Could we take that up, please.

10 ACTING PRESIDENT MEIER: We'll
11 take up Calendar 1850 on the noncontroversial
12 reading.

13 The Secretary will read.

14 THE SECRETARY: Calendar Number
15 1850, by Senator Wright, Senate Print 5866, an
16 act to amend the Public Authorities Law and
17 the Economic Development Law.

18 ACTING PRESIDENT MEIER: Read the
19 last section.

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

22 ACTING PRESIDENT MEIER: Call the
23 roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT MEIER: Senator

1 Wright, to explain his vote.

2 SENATOR WRIGHT: Thank you very
3 much, Mr. President.

4 I'm very pleased to have before us
5 this morning, or this afternoon, the
6 Governor's program bill that is the
7 culmination of two years of efforts in the
8 energy arena.

9 ACTING PRESIDENT MEIER: Can we
10 have some order in the chamber, please. We
11 have a member speaking.

12 Senator Wright, you have the floor.

13 SENATOR WRIGHT: Thank you, Mr.
14 President.

15 As I said, this is a Governor's
16 program bill that we have achieved three-way
17 agreement on, having spent two years on these
18 issues. And it's actually the combination of
19 five different energy issues creating one
20 comprehensive energy plan.

21 It provides for the permanent
22 extension in state statute for replacement
23 power, which allocates a portion of the
24 hydropower generated at Niagara to Western
25 New York. It adopts preservation power, which

1 does the same for Northern New York,
2 allocating a portion of the hydropower
3 committed to that region.

4 It provides for the extension of
5 economic development, high-load and municipal
6 development agency power that is utilized
7 across the state of New York, providing
8 contract extensions and low-cost energy to in
9 excess of 70 companies across the state and
10 literally protecting in excess of tens of
11 thousands of jobs.

12 It also restores flexibility to the
13 Power for Jobs program, which impacts more
14 than 120 companies across this state.

15 And it provides recodification of
16 commitments for the Liberty and Resurgence
17 zones in the Manhattan development region
18 subsequent to September 11 as part of our
19 World Trade Center redevelopment efforts.

20 So as you can tell, it is truly
21 comprehensive, providing low-cost energy to
22 all of the regions of the state and at the
23 same time providing a consistent standard in
24 terms of jobs and reinvestment for all of the
25 economic development programs involving

1 energy.

2 I appreciate the Governor's
3 efforts, I appreciate the efforts of my
4 colleagues in achieving a consensus on what is
5 a very difficult issue involving many regional
6 concerns. But we have achieved a statewide
7 consensus, and I appreciate that and urge my
8 colleagues to vote yes.

9 I'm voting aye. Thank you.

10 ACTING PRESIDENT MEIER: Senator
11 Wright will be recorded in the affirmative.

12 Senator Parker, to explain his
13 vote.

14 SENATOR PARKER: Mr. President,
15 to explain my vote.

16 First, I applaud the very hard work
17 done by the three-way negotiations that
18 resulted in this legislation. The jobs of
19 tens of thousands of New Yorkers were hanging
20 in the balance awaiting the outcome of this
21 very important legislation. New York workers
22 from all over the state, from Buffalo to
23 Watertown to Brooklyn, will benefit from these
24 low-cost power programs.

25 I can't stress enough the

1 importance of continuing to offer this
2 electricity to New York's industries.
3 Businesses, hospitals, and universities all
4 benefit from this program. These programs
5 keep New York businesses alive.

6 Because, however, this is only a
7 one-year fix, it remains very important that
8 we continue the work started here. And
9 hopefully we will come back in the next
10 session and do a longer solution that takes
11 in, you know, three to four years.

12 I look forward to working with
13 Chairman Wright and Chairman Tonko to find
14 ways to sustain New York's industries and
15 business base, and to protect New York's
16 consumers and residents from the ravages of
17 skyrocketing energy costs and unsustainable
18 systems of producing New York's electricity.

19 So on this bill I vote aye, and I
20 encourage my colleagues to also vote aye.

21 ACTING PRESIDENT MEIER: Senator
22 Parker will be recorded in the affirmative.

23 Senator Valesky, to explain his
24 vote.

25 SENATOR VALESKY: Thank you, Mr.

1 President.

2 This bill, in a very real way,
3 averts a potential crisis that could have
4 occurred in the manufacturing community as
5 soon as November of this year.

6 I rise in support of this bill. I
7 want to commend Senator Wright for his
8 leadership on this issue and for his
9 shepherding this bill through the process and
10 bringing it to the floor today.

11 I also want to acknowledge the work
12 of the Manufacturers Association of Central
13 New York that made this one of their top
14 priorities for this legislative session. I
15 vote in the affirmative on this bill, and I
16 encourage all of my colleagues to do the same.

17 Thank you, Mr. President.

18 ACTING PRESIDENT MEIER: Senator
19 Valesky will be recorded in the affirmative.

20 Senator DeFrancisco, to explain his
21 vote.

22 SENATOR DeFRANCISCO: Yes, I also
23 rise to vote aye and explain my vote.

24 Over the last couple of months,
25 there has been some consternation in Central

1 New York by the Manufacturers Association of
2 Central New York and many of their members.
3 With our manufacturing base dwindling in
4 New York State and in Central New York, it's
5 important that we retain those jobs and it's
6 also very, very important that we start
7 expanding manufacturing jobs, which are the
8 highest-paying jobs and also which have so
9 many spin-offs from those high-paying jobs
10 that it drives the economy.

11 The Manufacturers Association of
12 Central New York and their members were very
13 concerned that some of these low-cost power
14 sources would be not available any longer,
15 which might have meant the loss of further
16 jobs because of a cheaper way of doing
17 business in other states.

18 I know Senator Wright and Senator
19 Libous and myself and others had meetings with
20 MACNY in order to try to find a solution. And
21 I always expressed my confidence that Senator
22 Wright would find that solution, and I want to
23 commend him for what he's done to retain that
24 low-cost power and in effect retain and
25 hopefully create some more manufacturing jobs

1 in Central New York.

2 ACTING PRESIDENT MEIER: Senator
3 DeFrancisco will be recorded in the
4 affirmative.

5 Senator Maziarz, to explain his
6 vote.

7 SENATOR MAZIARZ: Thank you very
8 much, Mr. President.

9 I too want to rise in support of
10 this bill. I think that with the passage of
11 this legislation now, this will, echoing the
12 sentiment of many of my colleagues, but from
13 the western end of the state, replacement
14 power, which companies have enjoyed for many
15 years, will be retained and those companies
16 will be able to make long-term decisions
17 hopefully regarding reinvestment within the
18 Western New York economy. Thousands of jobs,
19 manufacturing jobs, as Senator DeFrancisco
20 pointed out, are tied to the passage of this
21 legislation.

22 I will be voting in favor.

23 Thank you, Mr. President.

24 ACTING PRESIDENT MEIER: Senator
25 Maziarz will be recorded in the affirmative.

1 Senator Volker, to explain his
2 vote.

3 SENATOR VOLKER: Mr. President, I
4 want to thank Jim Wright also. This has been
5 a bill that -- and George, by the way,
6 Maziarz, for their work on this bill.

7 This is something that the last
8 time that we dealt with this issue, I was
9 Chairman of Energy, and the late John Daly
10 worked with us on the Power Authority part of
11 this legislation.

12 I have to say that I took a lot of
13 grief over last year's legislation, which, by
14 the way, was entirely different than this
15 year's legislation, which is a comprehensive
16 piece of legislation. And for those of you
17 that don't know, I defended one of my
18 colleagues here and got hit pretty good
19 because of it.

20 The truth is, this bill represents
21 a compromise that takes care of a whole series
22 of areas. It takes care of, primarily, for
23 us, of the replacement power in Western
24 New York retains 45 megawatts of what's called
25 the loose juice.

1 Unfortunately, the Buffalo business
2 community completely misunderstood what this
3 issue was all about and thought they could set
4 up a situation where they could do
5 portability. And immediately that created a
6 problem for us, and a lot of things happened
7 here. They actually lobbied against us,
8 because they didn't realize what this issue
9 was all about. In fact, today I got hit in
10 the newspaper, the Buffalo News, because the
11 Buffalo News editorial board has no idea what
12 energy is all about.

13 But I want to thank Senator Wright,
14 who did a heck of a job on this, and all my
15 colleagues. This is maybe, in my opinion, the
16 most important bill of this session for
17 business, and certainly for upstate New York.
18 But it also impacts on downstate New York
19 also.

20 So thank you, Senator Wright. I
21 vote in the affirmative.

22 ACTING PRESIDENT MEIER: Senator
23 Volker will be recorded in the affirmative.

24 Senator Stachowski, to explain his
25 vote.

1 SENATOR STACHOWSKI: Mr.
2 President, I too rise to support this bill.
3 I congratulate Senator Wright on
4 working on the compromise. I also
5 congratulate Senator Maziarz, who led our
6 delegation on this particular issue. And all
7 of us were in support of this to try to make
8 sure that the replacement power stayed with
9 all the industries in Western New York, who
10 would probably not be able to stay or possibly
11 even expand without this power. And the fact
12 that there's a compromise and we get to keep
13 what we had is wonderful to us.

14 And I happen to agree with Senator
15 Volker that there seems to be some confusion
16 out our area about some of the things that
17 were available and aren't available. But
18 we're happy with the compromise. We think it
19 benefits all of New York State. And it's a
20 great reason for a job well done.

21 And I support this bill and vote
22 yes. Thank you.

23 ACTING PRESIDENT MEIER: Senator
24 Stachowski will be recorded in the
25 affirmative.

1 Senator Farley, to explain his
2 vote.

3 SENATOR FARLEY: I also rise to
4 throw a bouquet at Senator Wright.

5 You have made the entire Senate
6 look good on this one, and the entire
7 Legislature, because this was a very difficult
8 issue that took a long time to try to bring to
9 pass. And, Senator Wright, you made it
10 happen. You made all of us look good.

11 But it really addresses a major
12 problem in New York State and the upstate
13 region. It isn't just Western New York or
14 Central New York or Northern New York, it's
15 the entire upstate region, which is really
16 desperate for jobs. And this makes a huge
17 difference for all of us in the state of
18 New York, and I applaud you on this
19 compromise.

20 ACTING PRESIDENT MEIER: Senator
21 Farley will be recorded in the affirmative.

22 Senator Rath, to explain her vote.

23 SENATOR RATH: Thank you, Mr.
24 President.

25 I join my colleagues in thanking

1 Senator Wright for the hard work on this
2 issue. Had we moved on this last year as we
3 were being urged to do, some of the
4 complexities of next year and the year after
5 would not have been uncovered and I'm sure
6 would not have been dealt with in as clear a
7 way as the future is now considered and being
8 dealt with in this bill.

9 We will revisit some of this next
10 year and the year after, I understand. But at
11 the time, right now, the replacement power for
12 the industries in western New York and the
13 considerations that Power for Jobs will have
14 for our new jobs that are hopefully going to
15 be appearing in all of upstate New York, it's
16 a great day and it's a great day for all of
17 the state of New York.

18 Thank you, Senator Wright.

19 ACTING PRESIDENT MEIER: Senator
20 Rath will be recorded in the affirmative.

21 Senator Libous, to explain his
22 vote.

23 SENATOR LIBOUS: Thank you, Mr.
24 President.

25 I too want to applaud Senator

1 Wright and my colleagues for this excellent
2 piece of legislation. This will affect some
3 2400 jobs just in my district, and I know that
4 it affects thousands of jobs in New York
5 State.

6 So Senator Wright has done a good
7 job in negotiating this bill. And I think it
8 will keep jobs here and particularly in
9 upstate New York, and keep them from moving
10 out of the state. And I vote aye.

11 ACTING PRESIDENT MEIER: Senator
12 Libous will be recorded in the affirmative.

13 Senator Seward, to explain his
14 vote.

15 SENATOR SEWARD: Thank you, Mr.
16 President. I too rise to commend our
17 colleague Senator Wright.

18 I would have to observe that when
19 we're talking about rebuilding our economy in
20 the state of New York, particularly upstate,
21 when we talk to business owners and employers,
22 one of the key issues for them, of course, is
23 the cost of power.

24 And with the replacement power, the
25 Power for Jobs program, economic development

1 power, all the various programs that are
2 available, this is a great safety valve for us
3 in terms of being able to offer employers,
4 job-creating employers, job-retention and
5 -retaining employers, with the ability to have
6 lower-cost energy.

7 And this is a key component to our
8 economic development strategy, particularly
9 upstate. This is good news for the people of
10 this state that this agreement has been
11 reached and we can proceed with the effort to
12 rebuild our economy. This legislation will be
13 a big step in that direction.

14 I vote aye.

15 ACTING PRESIDENT MEIER: Senator
16 Seward will be recorded in the affirmative.

17 Announce the results.

18 THE SECRETARY: Ayes, 59.

19 ACTING PRESIDENT MEIER: The bill
20 is passed.

21 Senator Libous.

22 SENATOR LIBOUS: Mr. President,
23 can we return to reports of standing
24 committees, please.

25 ACTING PRESIDENT MEIER: Reports

1 of standing committees.

2 The Secretary will read.

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

6 Senate Print 26B, by Senator
7 Maziarz, an act to amend the General Municipal
8 Law;

9 1365B, by Senator LaValle, an act
10 to amend the Environmental Conservation Law;

11 2616, by Senator Winner, an act to
12 amend the Highway Law;

13 3083, by Senator Young, an act to
14 amend the Tax Law;

15 3176C, by Senator Young, an act to
16 amend the Agriculture and Markets Law;

17 3624A, by Senator Leibell, an act
18 to amend the Transportation Law;

19 3655, by Senator Larkin, an act to
20 amend the Tax Law;

21 4171, by Senator Spano, an act to
22 amend the Election Law;

23 4313, by Senator Fuschillo, an act
24 to amend the Education Law;

25 4464, by Senator Leibell, an act to

1 amend the Tax Law;
2 4529A, by Senator Golden, an act to
3 amend the General Municipal Law;
4 4574A, by Senator Padavan, an act
5 to amend the Local Finance Law;
6 5550A, by Senator Valesky, an act
7 to amend the Highway Law;
8 5565A, by Senator Wright, an act to
9 amend the Tax Law;
10 5582A, by Senator Seward, an act to
11 amend the Insurance Law;
12 5596, by Senator Maltese, an act to
13 amend the Administrative Code of the City of
14 New York;
15 5649A, by Senator Johnson, an act
16 to amend the Environmental Conservation Law;
17 5704, by Senator Flanagan, an act
18 to amend the Public Health Law;
19 5809, by the Senate Committee on
20 Rules, an act to amend Chapter 370 of the Laws
21 of 2001;
22 5845, by Senator Johnson, an act to
23 amend the Real Property Tax Law;
24 5871, by Senator Flanagan, an act
25 to amend the Election Law;

1 5876, by Senator Morahan, an act to
2 amend the Mental Hygiene Law;

3 5878, by Senator Flanagan, an act
4 to create;

5 5884, by the Senate Committee on
6 Rules, an act to amend a chapter of the Laws
7 of 2005;

8 5885, by the Senate Committee on
9 Rules, an act to amend Chapter 582 of the Laws
10 of 2004;

11 5905, by Senator Volker, an act to
12 amend the Public Authorities Law;

13 And Senate Print 5825, by Senator
14 Meier, an act to amend the State Finance Law.

15 All bills ordered direct to third
16 reading.

17 ACTING PRESIDENT MEIER: Senator
18 Libous.

19 SENATOR LIBOUS: Can we move to
20 accept the report of Rules Committee.

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

24 (Response of "Aye.")

25 ACTING PRESIDENT MEIER: Those

1 opposed, nay.

2 (No response.)

3 ACTING PRESIDENT MEIER: The
4 report of the Rules Committee is accepted.
5 Senator Libous.

6 SENATOR LIBOUS: Can we move to
7 the controversial reading of the original
8 active list, please.

9 ACTING PRESIDENT MEIER: The
10 Secretary will conduct the controversial
11 reading of the first active list.

12 The Secretary will ring the bell.
13 Members should keep in mind that
14 during the business regarding controversial
15 bills, that when debate is terminated we will
16 wait exactly two minutes and no more before
17 beginning the roll call.

18 Secondly, members are reminded that
19 the Senate rules provide two minutes for the
20 explanation of votes and that that rule will
21 be strictly enforced.

22 The Secretary will read.

23 THE SECRETARY: Calendar Number
24 408, by Senator Fuschillo, Senate Print 3488A,
25 an act to amend the Agriculture and Markets

1 Law.

2 ACTING PRESIDENT MEIER: Senator
3 Klein.

4 SENATOR KLEIN: On the bill, Mr.
5 President.

6 ACTING PRESIDENT MEIER: Senator
7 Klein, on the bill.

8 SENATOR KLEIN: I rise today in
9 opposition to this legislation, although I
10 have the utmost respect for my colleague
11 Senator Fuschillo, who is certainly a great
12 consumer advocate. I think what we're doing
13 here today in this legislation is taking a
14 step backwards as it applies to the sanitary
15 conditions at supermarkets.

16 I have a long history in writing
17 many pieces of legislation that deal with the
18 sanitary conditions of our supermarkets. It
19 came out of a thorough investigation that I
20 did of the Greater New York City area, which
21 showed at the time that 54 percent of the
22 supermarkets failed one or both of their most
23 recent inspections.

24 I know everybody hasn't had their
25 lunch yet, so I can say most of the violations

1 were because of pest violations -- rodents,
2 rats, mice near or on top of the food.

3 And we've passed some very
4 comprehensive legislation that was signed into
5 law by the Governor in 2002 which created a
6 three-strikes-you're-out. Now, supermarkets,
7 if they fail three inspections in a row, lose
8 their license to do business as a supermarket.

9 We also now have posting
10 requirements where if you go into your local
11 supermarket or your local food store, you
12 should be able to see in the doorway whether
13 or not that business passed or failed their
14 most recent inspection.

15 We've gone a long way towards
16 cleaning up the sanitary conditions of
17 supermarkets. Now, it's only about 22 percent
18 that fail inspections.

19 While I think it's important that
20 we set up a system in this legislation which
21 provides sort of education for local
22 supermarkets in learning how to keep their
23 establishments in a sanitary manner, the
24 problem with this bill is we exclude smaller
25 establishments. My studies showed that

1 unfortunately the smaller grocery stores,
2 bodegas are the ones in many cases that have
3 problems.

4 The interesting thing about this
5 issue is it doesn't have anything to do with
6 where the supermarket is located. We found
7 very clean supermarkets in the South Bronx,
8 and we found very dirty ones in the Upper East
9 Side of Manhattan.

10 So I think education is key. And I
11 think this legislation, as I said, takes a
12 step back because we're failing to educate the
13 smaller establishments who I think really
14 could use the help. I think we should make
15 sure to mandate that they seek help. So I
16 vote no on this piece of legislation.

17 ACTING PRESIDENT MEIER: Any
18 other member wish to be heard on the bill?

19 Senator Fuschillo.

20 SENATOR FUSCHILLO: Thank you,
21 Mr. President.

22 I look at this legislation -- on
23 the bill -- as a step forward to enhance the
24 efforts that Senator Klein had talked about.

25 Under current law, you're only

1 required to participate in the food training
2 programs after the store has failed the
3 consecutive sanitation requirements. What
4 this bill does is it establishes a continuing
5 education certification program for retail
6 food establishments.

7 Senator Klein, I don't disagree
8 with you. I'd like to have everybody in this.
9 Some of your colleagues on the other side
10 raised the question last year about the small
11 businesses, and there is an exemption in there
12 for small businesses, there is an exemption in
13 there for family-owned businesses. And
14 there's a \$3 million exemption in there.

15 This is geared primarily, as
16 Senator Klein had said, towards the grocery
17 stores and the large chains. But it's added
18 to what the current law has by requiring this
19 food safety certification program. It's a
20 training program that will enhance the efforts
21 that most stores do now, but create uniformity
22 throughout the state.

23 I will be voting in the affirmative
24 on the bill.

25 ACTING PRESIDENT MEIER: Senator

1 Robach.

2 SENATOR ROBACH: Yes, Mr.

3 President, briefly.

4 I rise to support this measure and
5 commend Senator Fuschillo. I don't think --
6 this really builds on the good work we've
7 already done. The continuing education piece
8 is very important.

9 And what hasn't been brought up
10 yet, why this is also important, is this will
11 not only do an education component but it will
12 make it uniform in the state. So for large
13 chains such as Wegman's, which is one of the
14 best food chains in the country, headquartered
15 in Rochester, or any other large or small
16 chains, for that matter, are not going to have
17 to deal with different regulations from county
18 to county on the education piece of safe food
19 handling. And I think this is very much
20 needed, and I'm glad we're moving in that
21 direction.

22 The other thing I would point out
23 here too, now for people who work in that
24 field who will get this uniform training, if
25 they move from one establishment to another,

1 albeit big or small, they will now have that
2 uniform training no matter where they go or
3 work in the food process.

4 I think this is a good bill and
5 would encourage my colleagues to support it.
6 Thank you.

7 ACTING PRESIDENT MEIER: Senator
8 Schneiderman.

9 SENATOR SCHNEIDERMAN: Yes, Mr.
10 President, this has been an interesting and
11 informative debate. And I think it is clear
12 that everyone who has spoken has the same
13 intent.

14 I do think that Senator Klein
15 raises an important point. There are serious
16 health issues with small stores. I have many
17 of them in my district. And I think that the
18 concern that this could impose an undue
19 financial burden I think in some respects is
20 overstated.

21 I would like to support this bill,
22 but with a view to the future, that hopefully
23 we're going to be able to take an additional
24 step to deal with smaller stores. I don't
25 think that we really are addressing the

1 fundamental health issues if we leave out this
2 large number of facilities, and I think
3 Senator Klein's points are absolutely right on
4 point.

5 So I commend both sides on this.
6 And I have a feeling that as Senator Fuschillo
7 expands the scope of his intervention in every
8 area of consumer activity, personal activity,
9 personal safety and personal hygiene, we may
10 be seeing further bills extending this into
11 smaller establishments.

12 And I will vote yes with that
13 understanding, Mr. President.

14 Thank you.

15 ACTING PRESIDENT MEIER: Senator
16 Wright.

17 SENATOR WRIGHT: Thank you, Mr.
18 President.

19 I rise to commend our colleague
20 Senator Fuschillo and his leadership on this
21 bill. Because as I think everyone recognizes,
22 there are a number of us who had concerns a
23 year ago. And in fact, the Senator listened.
24 And he heard those concerns, and those
25 concerns are reflected in this statute. And I

1 think that's particularly important and
2 indicative of the way we do business here in
3 the Senate.

4 So I want to acknowledge his
5 effort. I want to commend him on this
6 particular bill. I think it does exactly what
7 we're all looking to accomplish. And I'm
8 fully prepared to vote aye.

9 Thank you.

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

12 Debate is closed, then.

13 Read the last section.

14 THE SECRETARY: Section 5. This
15 act shall take effect one year after it shall
16 have become a law.

17 ACTING PRESIDENT MEIER: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT MEIER: Senator
21 DeFrancisco, to explain his vote.

22 SENATOR DeFRANCISCO: I vote aye.

23 And it's amazing, sometimes you get
24 a kick out of what happens in the chambers.
25 Sometimes you're damned if you do and you're

1 damned if you don't.

2 Senator Fuschillo came in with a
3 good consumer protection bill, and people from
4 both sides of the aisle said it was too broad
5 and it affected too many small businesses. So
6 in order to take into account what everyone
7 says, he gives a small business exemption, and
8 now some complain that it's not broad enough.

9 I think this is a good compromise,
10 and he's got a bill here that I could support.
11 I vote aye.

12 ACTING PRESIDENT MEIER: Senator
13 DeFrancisco will be recorded in the
14 affirmative.

15 Senator Hassell-Thompson, to
16 explain her vote.

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

19 This bill came before the Consumer
20 Protection Committee about a year or so ago,
21 and at that time I was the ranking member.
22 And I want to first say that I appreciate the
23 fact that Senator Fuschillo -- who understood
24 that many of us on that committee, even though
25 we were on the Democratic side of that

1 committee, had some real reservations about
2 the bill -- set about to try to work to change
3 it.

4 I'm not excited that the bill
5 doesn't speak to how we educate smaller
6 businesses and whatever. But I certainly know
7 that this is a far better bill than the one
8 that we originally saw. I appreciate the
9 conscientiousness with which he respected the
10 opinions of all the members of the committee,
11 and has gone a long way. I would like to work
12 with him to kind of figure out how do we work
13 with small businesses to make sure that they
14 are educated and are not adversely affected
15 from a business perspective.

16 Thank you, Mr. President. I will
17 be voting aye.

18 ACTING PRESIDENT MEIER: Senator
19 Hassell-Thompson will be recorded in the
20 affirmative.

21 Senator Stachowski, to explain his
22 vote.

23 SENATOR STACHOWSKI: Yes, Mr.
24 President, I rise to support this bill and
25 maybe offer a suggestion to Senator Fuschillo

1 to how to deal with the small businesses.

2 If I'm not mistaken, the restaurant
3 association has a program that all the
4 restaurants make available to themselves on
5 how to deal with food and handle food. And
6 quite possibly some of that is run through
7 community colleges. And maybe we can get the
8 smaller delis, et cetera, to either reach out
9 or you can reach out to the restaurant
10 association, see how they do it, or also
11 contact the community colleges that sometimes
12 offer this, if they have food service.

13 And we can work out some kind of
14 economical way that might not cost a small
15 bodega owner or small delicatessen owner very
16 little, if anything, in getting this training
17 done, which is needed for everybody that works
18 in any kind of food service industry, whether
19 it's selling the food or serving the food.

20 So I think it's a good bill, a good
21 step forward, but I think you should cover the
22 smaller ones, and this is a way to do it. And
23 I can understand your concern for their
24 expenses.

25 I vote yes.

1 ACTING PRESIDENT MEIER: Senator
2 Stachowski will be recorded in the
3 affirmative.

4 Senator Sabini, to explain his
5 vote.

6 SENATOR SABINI: Thank you, Mr.
7 President.

8 Senator Klein did great work on
9 this legislation when he was in the Assembly,
10 and I know his intentions are good on this.
11 But I want to congratulate Chairman Fuschillo
12 for his work on this. He listened to the
13 concerns that people had about the mom-and-pop
14 businesses and how they in effect would have
15 to shut down if we stayed with the original
16 legislation for large periods of time, if they
17 have one or two employees or if it's literally
18 mom and pop in some of these places.

19 So I want to commend Senator
20 Fuschillo for listening and working with us.
21 You know, sometimes we on the Democratic side
22 have to speak up for small business and curb
23 the rampant regulation that runs through the
24 Consumer Affairs Committee that tries to
25 really hurt our small businesses. But some of

1 us here want to stand up and say: Enough,
2 small business in New York State deserves a
3 break too.

4 And I'm glad that we were able to
5 do that on behalf of all the small businesses
6 in the state, and I'm happy to vote aye.

7 ACTING PRESIDENT MEIER: Senator
8 Sabini will be recorded in the affirmative.

9 Announce the results.

10 THE SECRETARY: Those recorded in
11 the negative on Calendar Number 408 are
12 Senators Klein and A. Smith.

13 Those absent from voting: Connor,
14 L. Krueger and Oppenheimer.

15 Ayes, 55. Nays, 2.

16 ACTING PRESIDENT MEIER: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 1487, by Senator Young, Senate Print 568B, an
20 act to amend the Alcoholic Beverage Control
21 Law.

22 SENATOR SABINI: Explanation.

23 ACTING PRESIDENT MEIER: Senator
24 Young, an explanation has been requested about
25 Calendar 1487.

1 SENATOR YOUNG: Thank you, Mr.
2 President.

3 This bill addresses
4 alcohol-without-liquid machines, which is a
5 new health threat that we have here in
6 New York State. These types of machines
7 encourage the reckless consumption of alcohol
8 and could increase alcohol abuse, brain
9 damage, underage drinking, and drunk driving
10 because of the effects of this device.

11 The way that it works is that a
12 shot of pure liquor is poured into the
13 machine. It's then vaporized and mixed with
14 oxygen, and the person imbibing this actually
15 breathes it in, in a tube. And when that
16 happens, it totally bypasses the digestive
17 system and is absorbed directly into the
18 bloodstream through the lungs, creating an
19 immediate and powerful drunkenness.

20 What is really concerning, and it
21 should be concerning to everyone in this
22 house, is that this machine is being marketed
23 to children. It's marketed as the ultimate
24 party machine; it's hangover-free,
25 calorie-free, carb-free. And the verbiage in

1 the advertising has words such as "light" and
2 "clean" used by the distributors who are
3 promoting this product.

4 You can buy these machines over the
5 Internet, and there is no age verification
6 required in New York State. And because these
7 machines are portable, there is no question
8 that they are going to end up at underage
9 drinking parties.

10 The medical community is very
11 concerned with AWOL machines because of the
12 risk of brain damage and the fact that --

13 ACTING PRESIDENT MEIER: Excuse
14 me, Senator Young.

15 Senator Young has the floor.

16 SENATOR YOUNG: -- and the fact
17 that it would promote underage drinking.

18 And, you know, in the State
19 Legislature we have made great strides over
20 the past several years to combat underage
21 drinking, to diminish drunken driving. And
22 this could wipe away a lot of that progress,
23 and that's why I sponsored this bill.

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

1 Senator Sabini.

2 SENATOR SABINI: Mr. President,
3 would the sponsor yield for a question.

4 ACTING PRESIDENT MEIER: Senator
5 Young, do you yield for a question?

6 SENATOR YOUNG: I yield, Mr.
7 President.

8 ACTING PRESIDENT MEIER: The
9 sponsor yields.

10 SENATOR SABINI: The sponsor
11 noted, both in debate and the sponsor's
12 memorandum, that there be no age requirement
13 for purchasing this machine.

14 So this bill would, as I read it,
15 prohibit the purchase of this machine by
16 either individuals -- would that be
17 prohibited?

18 SENATOR YOUNG: Yes.

19 SENATOR SABINI: Would the
20 sponsor yield for an additional question, Mr.
21 President.

22 ACTING PRESIDENT MEIER: Senator
23 Young, do you yield?

24 SENATOR YOUNG: Yes.

25 ACTING PRESIDENT MEIER: The

1 sponsor yields.

2 SENATOR SABINI: Would this also
3 prevent the purchase of this machine by
4 licensed alcoholic beverage control businesses
5 who are regulated by the State of New York?
6 Would they be prohibited from purchasing this
7 machine?

8 SENATOR YOUNG: Yes, it would,
9 because basically what this bill is about is
10 protecting people's health. And when you have
11 something that promotes addiction, that
12 promotes brain damage, that is still being
13 studied by the medical community and the
14 medical community has great concerns about it,
15 we should take action.

16 Basically the penalties that are
17 attached to this are that persons who sell
18 alcohol vaporizing devices are guilty of a
19 Class B misdemeanor for a first offense, and
20 that's elevated to a Class A misdemeanor for a
21 subsequent offense within five years.

22 And people who purchase or use
23 these machines would be guilty of a violation.

24 SENATOR SABINI: Would the
25 sponsor continue to yield for another

1 question.

2 ACTING PRESIDENT MEIER: Senator
3 Young, will you yield for another question?

4 SENATOR YOUNG: Yes, Mr.
5 President, I will yield.

6 ACTING PRESIDENT MEIER: The
7 sponsor yields.

8 SENATOR SABINI: My understanding
9 from these machines are that basically, for
10 the machine to be used, you have to purchase
11 alcohol to put into the machine, which is
12 controlled by the State of New York, and
13 therefore there is an age verification to
14 purchase alcohol in the State of New York.

15 So why, if the machine is
16 inoperable without alcohol, which is an
17 age-required purchase, why is this a dangerous
18 thing on its own?

19 SENATOR YOUNG: The answer to
20 that question is because of the dangerous way
21 that the alcohol is administered. This
22 actually could be the next epidemic, similar
23 to something like crack, because of the harm
24 that it does to someone's body.

25 And the fact is is that, yes, there

1 are adults who can buy alcohol, obviously, in
2 this state. But why would we market something
3 that is -- or why would we allow something
4 that is being marketed directly to underage
5 drinkers? I have a huge problem with that.

6 SENATOR SABINI: Mr. President,
7 on the bill.

8 ACTING PRESIDENT MEIER: Senator
9 Sabini, on the bill.

10 SENATOR SABINI: Mr. President, I
11 reject the argument that this machine is being
12 marketed to underage drinkers. It is being
13 used in bars and restaurants around the
14 country as a unique way of an evening out. It
15 eliminates carbohydrates from alcohol. It
16 doesn't give you any more alcohol than you put
17 into the machine.

18 If this causes alcoholism,
19 addiction, then let's close all the bars.
20 Because that's in effect what you're saying by
21 saying that this is a dangerous machine.

22 There is no attempt to market this,
23 from what I've seen, to children. I'd be
24 against it if there was. But this is no more
25 dangerous an item that has to be controlled

1 than a cocktail shaker. Because it's not the
2 machine, it's what you put in it. And we
3 already regulate what you put in it.

4 There are a number of our
5 businesses around this state that are
6 struggling to stay open after we've taken away
7 people's ability to smoke, and we've
8 restricted the activities that go on in bars
9 to the point that a lot of them are hurting.
10 And now we're saying that someone came up with
11 something that some places, some nightclubs
12 are using, and let's make that a crime to even
13 sell it to these nightclubs.

14 I don't think that this is any more
15 dangerous than a cocktail shaker or ice. And
16 so I think this is just another way of saying
17 no and sounding like we're doing something
18 that really isn't doing anything at all.

19 I think we need tough alcoholic
20 beverage control laws in this state; we have
21 them, and we will continue to have them. But
22 I don't see the harm in some of the
23 restaurants and bars in New York State that
24 have used this now. And I believe that those
25 restaurants and bars would use it responsibly.

1 And I'll be voting no.

2 Thank you.

3 ACTING PRESIDENT MEIER: Senator
4 Young.

5 SENATOR YOUNG: Will Senator
6 Sabini yield to a question.

7 ACTING PRESIDENT MEIER: Senator,
8 do you yield for a question from Senator
9 Young?

10 SENATOR SABINI: Yes.

11 ACTING PRESIDENT MEIER: The
12 Senator yields.

13 SENATOR YOUNG: A year or two ago
14 the State Legislature actually put regulations
15 on kegs and people being able to purchase
16 kegs. And the reason that I bring that up is
17 that we put restrictions on what people could
18 purchase, even though that the product inside
19 the keg is legal.

20 And my question to you is, did you
21 vote for that legislation?

22 SENATOR SABINI: I can't hear
23 what -- what we -- kegs? No, I did not. I
24 voted no.

25 SENATOR YOUNG: Okay. Thank you.

1 Mr. President, may I speak on the
2 bill?

3 ACTING PRESIDENT MEIER: Senator
4 Young, on the bill.

5 SENATOR YOUNG: I think that most
6 people in this house care about people's
7 health and they would like to see, if alcohol
8 is going to be consumed, that it's consumed in
9 moderation.

10 You know, most people have that
11 check and balance within their own physiology
12 that if they drink 10 or 20 shots in an hour,
13 hopefully their body expels that before they
14 get alcohol poisoning. That's not going to
15 happen in this case. What could happen is
16 severe brain damage. And what could happen is
17 that people are so drunk so quickly that they
18 don't realize how drunk they are, and they get
19 on the road and they kill and maim other
20 people.

21 Now, we just had a great bill
22 earlier today protecting people's health as
23 far as detection of cervical cancer. I think
24 we should be consistent in these areas. This
25 is a major health threat, and we need to

1 address this problem.

2 So I would urge my colleagues to
3 vote yes on this legislation so that we can
4 protect children and adults in this state.

5 ACTING PRESIDENT MEIER: Senator
6 Schneiderman.

7 SENATOR SCHNEIDERMAN: Thank you.
8 Mr. President, if the sponsor would yield for
9 a few questions.

10 ACTING PRESIDENT MEIER: Senator
11 Young, do you yield for a question?

12 SENATOR YOUNG: Yes, Mr.
13 President.

14 ACTING PRESIDENT MEIER: The
15 sponsor yields.

16 SENATOR SCHNEIDERMAN: I note in
17 the sponsor's memo that we don't know, and I'm
18 quoting from the memo, we don't yet know what
19 kind of health risks are involved with
20 inhaling alcohol. Which indicates that in
21 fact there is no scientific testing. It says
22 no scientific testing has been done. This is
23 in the sponsor's memo.

24 How, then, do we know that there's
25 any greater problem from inhaling alcohol than

1 drinking alcohol?

2 SENATOR YOUNG: We know, through
3 the medical research that's gone on for many,
4 many years, that alcohol kills brain cells.
5 And that people in the medical community are
6 very concerned about the effects of this
7 because it's so intensified.

8 So we have the research available
9 saying that alcohol kills brain cells. This
10 is magnified and can be consumed at an even
11 greater rate than by drinking it. So even
12 though this is so new we don't have the data,
13 the medical profession is telling us that it
14 does, in fact, in their mind, create a health
15 risk.

16 SENATOR SCHNEIDERMAN: Through
17 you, Mr. President, if the sponsor would
18 continue to yield.

19 ACTING PRESIDENT MEIER: Senator
20 Young, do you yield?

21 SENATOR YOUNG: The sponsor
22 yields.

23 ACTING PRESIDENT MEIER: The
24 sponsor yields.

25 SENATOR SCHNEIDERMAN: Is there

1 any memo that has been submitted or any
2 documented study of any kind that is available
3 to us -- because the sponsor's memo states
4 that there has been no scientific testing. Is
5 there anything available to us to back up that
6 assertion, to indicate that it's a concern of
7 the medical community that inhaling as opposed
8 to just drinking alcohol by ordinary means is
9 just dangerous?

10 We all know that drinking alcohol
11 is dangerous, kills brain cells, causes drunk
12 driving. What's missing from this argument is
13 any evidence that inhalation is more dangerous
14 than imbibing.

15 Is there any scientific evidence,
16 study, memo in support of this legislation
17 that we could be referred to?

18 SENATOR YOUNG: Mr. President, I
19 think we should apply some common sense here.
20 As we said, we have all kinds of scientific
21 data that says that alcohol kills brain cells.
22 The problem with these machines is, is that
23 when you drink, you get full. And if you
24 drink too much, a lot of times you get sick to
25 your stomach. There are not those

1 physiological checks and balances with this
2 system.

3 So while my colleague may say,
4 Well, there's no science on this, there's no
5 science on this, I in fact think that there is
6 a ton of science on this. The proven fact is
7 that alcohol kills brain cells and causes
8 brain damage.

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

12 ACTING PRESIDENT MEIER: Senator
13 Young, do you yield?

14 SENATOR YOUNG: Yes, I yield.

15 ACTING PRESIDENT MEIER: The
16 sponsor yields.

17 SENATOR SCHNEIDERMAN: So you
18 stated earlier that this -- the alcohol
19 bypasses your gastrointestinal system. Does
20 that mean that inhaling alcohol would result
21 in less liver damage than drinking alcohol?

22 SENATOR YOUNG: Actually, it does
23 go right into your bloodstream. And when it
24 goes into your bloodstream, it does go to all
25 the organs.

1 SENATOR SCHNEIDERMAN: And
2 through you, Mr. President, is this in fact a
3 calorie-free way to consume and enjoy alcohol
4 as advertised?

5 SENATOR YOUNG: That's how it's
6 advertised. I have no idea.

7 SENATOR SCHNEIDERMAN: But it
8 doesn't go into your stomach, so presumably
9 it's lower calorie than just doing shots and
10 beer.

11 SENATOR YOUNG: Well, I guess I'm
12 trying to follow your reasoning. Are you
13 saying that, for example, that if heroin
14 doesn't have any calories that it's okay to
15 take?

16 SENATOR SCHNEIDERMAN: No, no,
17 not at all. I'm just questioning whether or
18 not in fact these claims are true.

19 SENATOR YOUNG: These are claims
20 made by the distributors, not by me.

21 SENATOR SCHNEIDERMAN: Thank you.
22 I'd like to thank the sponsor for her answers.

23 I must admit to being somewhat
24 puzzled at this. On the bill, Mr. President.
25 We don't really have any scientific evidence

1 about these machines. Obviously, as Senator
2 Sabini has pointed out, the machine in itself
3 is not the problem, it's the alcohol you put
4 into the machine.

5 I don't know if they have other
6 uses, for therapeutic purposes, such as
7 perhaps aromatherapy or something else that
8 requires vaporization.

9 And I appreciate the sponsor's
10 concern with the consumption of alcohol. I
11 just don't see, at this point, that we have
12 the evidence to ban a product like this before
13 us. And I am sympathetic to the effort to
14 be -- better to be safe than sorry. But in
15 this situation, I'm really not sure that the
16 state is prepared to act. And that I would
17 suggest that further scientific evidence
18 should be obtained before we take a step like
19 this.

20 Thank you, Mr. President.

21 ACTING PRESIDENT MEIER: Senator
22 Hannon.

23 SENATOR HANNON: Mr. President,
24 I've heard the argument against this bill, and
25 it seems to me that it is totally misdirected.

1 The bill itself talks about the use
2 of alcohol-vaporizing devices. The only, only
3 effect of that is to get someone intoxicated.
4 There does not seem to be any other legitimate
5 reason. It's not like, say, a hypodermic
6 needle, where it could be used for illegal
7 substances or for legal substances.

8 The second point that hits me is
9 studies. Do you need studies for that which
10 is obvious? I have several bills that are
11 pending in regard to rescheduling drugs for
12 the schedule so they'll match that which is on
13 the federal drug schedule. The reason for
14 some of those is because they're used as
15 date-rape drugs. We don't have studies, but
16 we do have substantial anecdotal evidence that
17 they're misused. And the same case as here,
18 substantial anecdotal evidence it's being
19 misused.

20 The headlines of every paper show
21 you tragedies that occur when people drive
22 when drunk. There's one in the Post today
23 that talks -- that the headline is "Bodies
24 Strewn All Over the Road."

25 To accept the arguments against

1 this bill is to ignore reality, and I'm happy
2 that Senator Young has sponsored it.

3 Thank you.

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

6 Debate is closed.

7 Read the last section.

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

10 ACTING PRESIDENT MEIER: Call the
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT BALBONI: Can we
14 please have some order.

15 Senator Sabini, to explain his
16 vote.

17 SENATOR SABINI: Thank you, Mr.
18 President.

19 I thought the debate was
20 interesting. I want to point out that we,
21 both sides of the aisle, have a lot to be
22 proud of in terms of legislation this session
23 for combating drunk driving, particularly
24 Vasean's Law.

25 But I really think that we have to

1 trust the business owners in this state, who
2 have strict licensures to dispense alcohol, to
3 make some judgment when it comes to the
4 commercial use of this machine.

5 And when it comes to the personal
6 use of this machine in people's homes, much
7 like anything else, or someone's refrigerator,
8 parents have to have some responsibility too
9 as to what goes in it and what comes out of
10 it.

11 So I don't step back from
12 protecting us from the recklessness of drunk
13 driving. I just think that there's nothing
14 inherently wrong with this machine, and I'm
15 voting in the negative.

16 Thank you.

17 ACTING PRESIDENT BALBONI:
18 Senator Sabini, you will be recorded in the
19 negative.

20 Senator Marcellino, to explain his
21 vote.

22 SENATOR MARCELLINO: Listening to
23 this, I hear the comments about a device that
24 in and of itself is harmless. It's not a bad
25 thing, it's only what you put in it. It's

1 like saying the gun is okay, it's only the
2 bullet that can hurt you.

3 I vote aye.

4 ACTING PRESIDENT BALBONI:

5 Senator Marcellino will be recorded in the
6 affirmative.

7 Announce the results.

8 THE SECRETARY: Those recorded in
9 the negative on Calendar Number 1487 are
10 Senators Duane, L. Krueger, Parker, Sabini,
11 Savino and Schneiderman.

12 Absent from voting: Senators
13 Connor and Dilan. Ayes, 52. Nays, 6.

14 ACTING PRESIDENT BALBONI: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 1728, by Senator Padavan, Senate Print 5694,
18 an act to amend the General City Law.

19 SENATOR LIZ KRUEGER:
20 Explanation.

21 ACTING PRESIDENT BALBONI:

22 Senator Padavan, an explanation has been asked
23 for your bill.

24 SENATOR PADAVAN: Mr. President,
25 this deals with the very successful Relocation

1 and Employment Assistance Program, which since
2 1995 has been helpful in encouraging
3 businesses to move into New York City and move
4 into some of the outer boroughs in terms of
5 economic development, providing new jobs,
6 providing new revenues and generally improving
7 the economic climate of the City of New York.

8 The bill before us would expand the
9 REAP program for certain categories of
10 businesses which have had a national increase
11 in terms of growth but, unfortunately, in the
12 City of New York, while growing, have not
13 grown at the same rate. These are areas that
14 involve the biotech industry, computer systems
15 design businesses, and certain other growth
16 industries which nationally are ballooning in
17 terms of development jobs and so on, but in
18 the City of New York they are not.

19 So what we're doing with this bill
20 is increasing the REAP amount to \$8,000 for
21 those specific industries.

22 ACTING PRESIDENT BALBONI:

23 Senator Krueger.

24 SENATOR LIZ KRUEGER: Thank you,
25 Mr. President. If, through you, the sponsor

1 would yield.

2 SENATOR PADAVAN: Yes.

3 SENATOR LIZ KRUEGER: Thank you.

4 Senator, as you just explained in
5 your explanation, this expands the universe of
6 businesses who would be eligible, and it also
7 dramatically increases the value of the tax
8 credit, which had started out as a \$500 per
9 worker tax credit, then moved to \$1,000, then
10 moved to \$3,000. And this would add an
11 additional \$5,000 for these target growth
12 industries. So it would be an \$8,000 tax
13 credit per job.

14 Is there any projection on how much
15 lost tax revenue we would expect from this
16 significant expansion, both in universe of
17 industries covered and the dollar value per
18 job?

19 SENATOR PADAVAN: Senator, if you
20 were listening to what I said, is we're trying
21 to attract these businesses.

22 Let's take biotech. In your
23 borough, as an example, we have a wealth of
24 biotech talent associated with universities
25 and others. Yet the industry is not coming to

1 New York City where you would assume, with
2 that intellectual value, that capacity in
3 terms of people in the biotech field, it would
4 be the case.

5 So we're attracting business into
6 New York City. That's what the purpose here
7 is doing. So when we attract business into
8 New York City, while we're giving a REAP
9 advantage, an increase to \$8,000 -- and you're
10 correct. And by the way, it's currently in
11 some cases \$3,000, and this bill would also
12 raise that to \$5,000. But nevertheless, we
13 are providing that credit -- we will increase
14 our economic base and in the reasonably short
15 term, if not the long term, we will increase
16 revenues to the City of New York.

17 SENATOR LIZ KRUEGER: Mr.
18 President, through you, if the sponsor would
19 continue to yield.

20 ACTING PRESIDENT BALBONI:
21 Senator Padavan, do you continue to yield?

22 SENATOR PADAVAN: Yes.

23 ACTING PRESIDENT BALBONI: The
24 Senator continues to yield.

25 SENATOR LIZ KRUEGER: Thank you.

1 I appreciate the Senator's
2 response. And I don't think we disagree that
3 we want to draw new jobs into the City of
4 New York, and we want to draw new, good-paying
5 jobs. And as you mentioned, REAP's been
6 around for a while.

7 But where I perhaps differ in my
8 analysis is it's not clear to me that this tax
9 credit per job is what's either drawing new
10 jobs into New York or will draw new jobs into
11 New York.

12 My understanding -- again, you
13 pointed out my borough. My understanding is
14 that some of the reasons why we're not drawing
15 high-tech industries into New York City is,
16 one, the cost of the land for building
17 facilities and the cost of building
18 facilities. And also the fact that, say, we
19 haven't been able to pass a stem-cell bill in
20 this state clarifying what's legal and not
21 legal for many of the biotechnology and
22 physical-science developing businesses.

23 But I haven't seen a lot of
24 information out there arguing that the reason
25 companies are not coming to New York City is

1 because of the local tax costs for new
2 employees. So I was wondering where we know,
3 based on the experience of REAP to date, that
4 this is the right model. Although I agree we
5 want to do things we ought to do to encourage
6 businesses to come, expand, and stay in our
7 city.

8 SENATOR PADAVAN: First, your
9 point about the costs being higher is correct.
10 And the REAP program is intended to offset
11 that, so that deterrent will no longer exist
12 in the net result.

13 I should also point out that this
14 is an authorization. This is an authorization
15 to the City of New York to adopt these
16 incentives. It is not a mandate. So they
17 will be able to selectively decide where and
18 how they want to do this, within the confines
19 of the legislation.

20 SENATOR LIZ KRUEGER: Mr.
21 President, through you, if the sponsor would
22 continue to yield.

23 ACTING PRESIDENT BALBONI:
24 Senator Padavan, do you continue to yield?

25 SENATOR PADAVAN: One more

1 question, Mr. President.

2 ACTING PRESIDENT BALBONI:

3 Senator Padavan will yield for one more
4 question, Senator Krueger.

5 SENATOR KRUEGER: And I had one
6 more, so that's perfect.

7 ACTING PRESIDENT BALBONI:

8 Perfect timing.

9 SENATOR LIZ KRUEGER: Very nice.

10 This would give a tax advantage to
11 businesses in one set of arenas --
12 biotechnology, physical science, computer
13 system design, business and management,
14 scientific and technical consulting business
15 services, which I would guess is actually a
16 fairly broad arena in our city. It would give
17 a tax advantage to these businesses over other
18 more traditional industries like manufacturing
19 or retail.

20 Do you have any concern about the
21 inequity in the tax policy where one set of
22 businesses pay lower taxes to the City of
23 New York than others?

24 SENATOR PADAVAN: No.

25 SENATOR LIZ KRUEGER: Thank you,

1 Mr. President. On the bill.

2 ACTING PRESIDENT BALBONI: On the
3 bill.

4 SENATOR LIZ KRUEGER: Thank you.
5 I appreciate the sponsor's answers.
6 And I know that he and I both have the same
7 goals. We want to expand business activities
8 in the City of New York. We want good-paying
9 jobs. We want growth in our economic
10 development. We want high-tech businesses to
11 come, to stay, to flourish.

12 My concern is that much research
13 that has been done around tax-exemption
14 retention and job-development deals show that
15 this model doesn't work. It doesn't actually
16 accomplish its mission.

17 There are no clawback requirements
18 in this bill if companies fail to meet their
19 obligations. There's no clarification of
20 whether these jobs have to pay living wages
21 with benefits, whether there has to be good
22 corporate responsibility by the companies,
23 whether this would in fact expand the number
24 of jobs in these businesses or simply lower
25 the economic tax revenue to the City of

1 New York.

2 I do understand that the city, at
3 least the City Council is supporting this.
4 I'm not sure that the City of New York overall
5 is -- the mayor's office, rather. I don't
6 know whether they support it or not.

7 But again, my experience with
8 reviewing research on tax exemption bills for
9 certain subindustries leads me to believe that
10 these aren't models that are working and that
11 there are better ways for us to move forward.

12 So as I often do, I support certain
13 tax exemption bills on this floor and I object
14 to others. I don't think this bill meets the
15 test, although I completely respect the goal
16 of those who are continuing to struggle to
17 figure out how we keep and attract and retain
18 good-paying jobs.

19 And so I'll be voting no. Thank
20 you, Mr. President.

21 ACTING PRESIDENT BALBONI: Any
22 other Senator wishing to be heard?

23 Ring the bells.

24 Read the last section.

25 THE SECRETARY: Section 19. This

1 act shall take effect immediately.

2 ACTING PRESIDENT BALBONI: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Those recorded in
6 the negative on Calendar Number 1728 are
7 Senators Duane and L. Krueger.

8 Absent from voting: Senators
9 DeFrancisco and Dilan.

10 Ayes, 56. Nays, 2.

11 ACTING PRESIDENT BALBONI: The
12 bill is passed.

13 Senator Libous.

14 SENATOR LIBOUS: Mr. President,
15 could you temporarily lay aside Calendar
16 Number 1744, please.

17 ACTING PRESIDENT BALBONI:
18 Calendar Number 1744 has been laid aside.

19 THE SECRETARY: Calendar Number
20 1851, by the Senate Committee on Rules, Senate
21 Print Number 5886, an act to amend the Labor
22 Law.

23 ACTING PRESIDENT BALBONI:
24 Senator Libous.

25 SENATOR LIBOUS: Mr. President,

1 this was inadvertently laid aside. Could we
2 take this up as a noncontroversial issue.

3 ACTING PRESIDENT BALBONI:
4 Noncontroversial calendar.

5 Clerk will read the last section.

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

8 ACTING PRESIDENT BALBONI: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 60.

12 ACTING PRESIDENT BALBONI: The
13 bill is passed.

14 Senator Libous.

15 SENATOR LIBOUS: Mr. President,
16 could we please now have the noncontroversial
17 reading of Supplemental Calendar A, please.

18 ACTING PRESIDENT BALBONI: We'll
19 now have the reading of the noncontroversial
20 Supplemental Calendar A.

21 Clerk will read.

22 THE SECRETARY: Calendar Number
23 1853, by Senator LaValle, Senate Print 1365B,
24 an act to amend the Environmental Conservation
25 Law.

1 ACTING PRESIDENT BALBONI: Read
2 the last section.

3 THE SECRETARY: Section 28. This
4 act shall take effect immediately.

5 ACTING PRESIDENT BALBONI: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 60.

9 ACTING PRESIDENT BALBONI: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 1854, by Senator Winner, Senate Print 2616, an
13 act to amend the Highway Law.

14 ACTING PRESIDENT BALBONI: Read
15 the last section.

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

18 ACTING PRESIDENT BALBONI: Call
19 the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 60.

22 ACTING PRESIDENT BALBONI: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 1855, by Senator Young, Senate Print 3083, an

1 act to amend the Tax Law.

2 ACTING PRESIDENT BALBONI: Read
3 the last section.

4 THE SECRETARY: Section 2. This
5 act shall take effect on the first day of a
6 sales tax quarterly period.

7 ACTING PRESIDENT BALBONI: Call
8 the roll.

9 (The Secretary called the roll.)

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

12 ACTING PRESIDENT BALBONI: The
13 bill is passed.

14 THE SECRETARY: In relation to
15 Calendar Number 1856, Senator Young moves to
16 discharge, from the Committee on Rules,
17 Assembly Bill Number 4534C and substitute it
18 for the identical Senate Bill Number 3176C,
19 Third Reading Calendar 1856.

20 ACTING PRESIDENT BALBONI:
21 Substitution is ordered.

22 The Secretary will read.

23 THE SECRETARY: Calendar Number
24 1856, by Member of the Assembly Magee,
25 Assembly Print Number 4534C, an act to amend

1 the Agriculture and Markets Law.

2 ACTING PRESIDENT BALBONI: Read
3 the last section.

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

6 ACTING PRESIDENT BALBONI: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 60.

10 ACTING PRESIDENT BALBONI: The
11 bill is passed.

12 THE SECRETARY: In relation to
13 Calendar Number 1857, Senator Leibell moves to
14 discharge, from the Committee on Rules,
15 Assembly Bill Number 6721A and substitute it
16 for the identical Senate Bill Number 3624A,
17 Third Reading Calendar 1857.

18 ACTING PRESIDENT BALBONI:
19 Substitution is ordered.

20 The Secretary will read.

21 THE SECRETARY: Calendar Number
22 1857, by Member of the Assembly Bradley,
23 Assembly Print Number 6721A, an act to amend
24 the Transportation Law.

25 ACTING PRESIDENT BALBONI: Read

1 the last section.

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

4 ACTING PRESIDENT BALBONI: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 60.

8 ACTING PRESIDENT BALBONI: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 1858, by Senator Larkin, Senate Print 3655, an
12 act to amend the Tax Law.

13 ACTING PRESIDENT BALBONI: Read
14 the last section.

15 THE SECRETARY: Section 2. This
16 act shall take effect December 1, 2005.

17 ACTING PRESIDENT BALBONI: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Those recorded in
21 the negative on Calendar Number 1858 are
22 Senators Duane, L. Krueger and Winner.

23 Ayes, 57. Nays, 3.

24 ACTING PRESIDENT BALBONI: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 1859, by Senator Spano, Senate Print 4171, an
3 act to amend the Election Law.

4 ACTING PRESIDENT BALBONI: Read
5 the last section.

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

8 ACTING PRESIDENT BALBONI: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Those recorded in
12 the negative on Calendar Number 1859:
13 Senators Little and Winner. Also Senator
14 Seward.

15 Ayes, 57. Nays, 3.

16 ACTING PRESIDENT BALBONI: The
17 bill is passed.

18 THE SECRETARY: In relation to
19 Calendar Number 1860, Senator Fuschillo moves
20 to discharge, from the Committee on Education,
21 Assembly Bill Number 6283A and substitute it
22 for the identical Senate Bill Number 4313,
23 Third Reading Calendar 1860.

24 ACTING PRESIDENT BALBONI:
25 Substitution is ordered.

1 The Secretary will read.

2 THE SECRETARY: Calendar Number
3 1860, by Member of the Assembly Weisenberg,
4 Assembly Print Number 6283A, an act to amend
5 the Education Law.

6 ACTING PRESIDENT BALBONI: Read
7 the last section.

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

10 ACTING PRESIDENT BALBONI: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 60.

14 ACTING PRESIDENT BALBONI: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 1861, by Senator Leibell, Senate Print 4464,
18 an act to amend the Tax Law.

19 ACTING PRESIDENT BALBONI: Read
20 the last section.

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

23 ACTING PRESIDENT BALBONI: Call
24 the roll.

25 (The Secretary called the roll.)

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

3 ACTING PRESIDENT BALBONI: The
4 bill is passed.

5 THE SECRETARY: In relation to
6 Calendar Number 1862, Senator Golden moves to
7 discharge, from the Committee on Rules,
8 Assembly Bill Number 7423A and substitute it
9 for the identical Senate Bill Number 4529A,
10 Third Reading Calendar 1862.

11 ACTING PRESIDENT BALBONI:
12 Substitution is ordered.

13 The Secretary will read.

14 THE SECRETARY: Calendar Number
15 1862, by Member of the Assembly Boyland,
16 Assembly Print Number 7423A, an act to amend
17 the General Municipal Law.

18 ACTING PRESIDENT BALBONI: Read
19 the last section.

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

22 ACTING PRESIDENT BALBONI: Call
23 the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 60.

1 ACTING PRESIDENT BALBONI: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 1863, by Senator Padavan, Senate Print 4574A,
5 an act to amend the Local Finance Law.

6 ACTING PRESIDENT BALBONI: Read
7 the last section.

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

10 ACTING PRESIDENT BALBONI: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 60.

14 ACTING PRESIDENT BALBONI: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 1865, by Senator Valesky, Senate Print 5550A,
18 an act to amend the Highway Law.

19 ACTING PRESIDENT BALBONI: Read
20 the last section.

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

23 ACTING PRESIDENT BALBONI: Call
24 the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 60.

2 ACTING PRESIDENT BALBONI: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 1867, by Senator Seward, Senate Print 5582A,
6 an act to amend the Insurance Law.

7 ACTING PRESIDENT BALBONI: Read
8 the last section.

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

11 ACTING PRESIDENT BALBONI: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 60.

15 ACTING PRESIDENT BALBONI: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 1868, by Senator Maltese, Senate Print 5596 --

19 SENATOR SCHNEIDERMAN: Lay it
20 aside.

21 ACTING PRESIDENT BALBONI: Lay
22 the bill aside.

23 THE SECRETARY: Calendar Number
24 1869, by Senator Johnson, Senate Print 5649A,
25 an act to amend the Environmental Conservation

1 Law.

2 ACTING PRESIDENT BALBONI:

3 Senator LaValle, why do you rise?

4 SENATOR LaVALLE: I rise to
5 explain my vote, Mr. President.

6 ACTING PRESIDENT BALBONI: Read
7 the last section first, please.

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

10 ACTING PRESIDENT BALBONI: Call
11 the roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT BALBONI:

14 Senator LaValle, to explain his vote.

15 SENATOR LaVALLE: Mr. President,
16 this is actually a very historic moment with
17 passage of this bill. I think it's the first
18 time in I don't know how many years that there
19 is a bill dealing with marine life fisheries.

20 And it's a Johnson-LaValle bill.

21 It's a good bill dealing with scallops. I
22 vote in the affirmative.

23 ACTING PRESIDENT BALBONI:

24 Senator LaValle will be recorded in the
25 affirmative.

1 Announce the results.

2 THE SECRETARY: Ayes, 60.

3 ACTING PRESIDENT BALBONI: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 1870, by Senator Flanagan, Senate Print --

7 SENATOR LIBOUS: Lay it aside for
8 the day, please.

9 ACTING PRESIDENT BALBONI: The
10 bill is laid aside for the day.

11 THE SECRETARY: Calendar Number
12 1871, by the Senate Committee on Rules, Senate
13 Print Number 5809, an act to amend Chapter 370
14 of the Laws of 2001.

15 ACTING PRESIDENT BALBONI: Read
16 the last section.

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

19 ACTING PRESIDENT BALBONI: Call
20 the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 60.

23 ACTING PRESIDENT BALBONI: The
24 bill is passed.

25 THE SECRETARY: In relation to

1 Calendar Number 1872, Senator Johnson moves to
2 discharge, from the Committee on Rules,
3 Assembly Bill Number 8910 and substitute it
4 for the identical Senate Bill Number 5845,
5 Third Reading Calendar 1872.

6 ACTING PRESIDENT BALBONI:
7 Substitution is ordered.

8 The Secretary will read.

9 THE SECRETARY: Calendar Number
10 1872, by the Assembly Committee on Rules,
11 Assembly Print Number 8910, an act to amend
12 the Real Property Tax Law and the
13 Environmental Conservation Law.

14 ACTING PRESIDENT BALBONI: Read
15 the last section.

16 THE SECRETARY: Section 3. This
17 act shall take effect on the same date as a
18 chapter of the Laws of 2005.

19 ACTING PRESIDENT BALBONI: Call
20 the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 60.

23 ACTING PRESIDENT BALBONI: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 1873, by Senator Flanagan --

2 SENATOR SCHNEIDERMAN: Lay it

3 aside.

4 ACTING PRESIDENT BALBONI: Lay

5 the bill aside.

6 THE SECRETARY: Calendar Number

7 1874, by Senator Morahan, Senate Print --

8 SENATOR SCHNEIDERMAN: Lay it

9 aside.

10 ACTING PRESIDENT BALBONI: Lay

11 that bill aside.

12 THE SECRETARY: Calendar Number

13 1875, by Senator Flanagan, Senate Print 5878,

14 an act to create the Kings Park land

15 redevelopment task force.

16 ACTING PRESIDENT BALBONI: Read

17 the last section.

18 THE SECRETARY: Section 3. This

19 act shall take effect immediately.

20 ACTING PRESIDENT BALBONI: Call

21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 60.

24 ACTING PRESIDENT BALBONI: The

25 bill is passed.

1 THE SECRETARY: Calendar Number
2 1876, by the Senate Committee on Rules, Senate
3 Print Number 5884, an act to amend a chapter
4 of the Laws of 2005.

5 ACTING PRESIDENT BALBONI: Read
6 the last section.

7 THE SECRETARY: Section 2. This
8 act shall take effect on the same date and in
9 the same manner as a chapter of the Laws of
10 2005.

11 ACTING PRESIDENT BALBONI: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 60.

15 ACTING PRESIDENT BALBONI: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 1877, by the Senate Committee on Rules, Senate
19 Print Number 5885, an act to amend Chapter 582
20 of the Laws of 2004.

21 ACTING PRESIDENT BALBONI: Read
22 the last section.

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

25 ACTING PRESIDENT BALBONI: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 60.

4 ACTING PRESIDENT BALBONI: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 1879, by Senator Meier, Senate Print 5825, an
8 act to amend the State Finance Law.

9 ACTING PRESIDENT BALBONI: Read
10 the last section.

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

13 ACTING PRESIDENT BALBONI: Call
14 the roll.

15 (The Secretary called the roll.)

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

18 ACTING PRESIDENT BALBONI: The
19 bill is passed.

20 THE SECRETARY: Excuse me. In
21 relation to Calendar Number 1879: Ayes, 58.
22 Nays, 2. Senators Duane and Hassell-Thompson
23 recorded in the negative.

24 ACTING PRESIDENT BALBONI: The
25 bill is passed again.

1 Senator Libous, that completes the
2 calendar of noncontroversial bills.

3 SENATOR LIBOUS: Mr. President,
4 with your approval, could we move to the
5 controversial calendar, please.

6 ACTING PRESIDENT BALBONI: The
7 Secretary will ring the bell.

8 Senator Volker, why do you rise?

9 SENATOR VOLKER: Mr. President,
10 may I make an inquiry on Calendar Number 1878,
11 which is the Erie County fiscal stability
12 board.

13 That bill is still high, and we
14 don't have a message yet; is that correct?

15 ACTING PRESIDENT BALBONI:
16 According to the Secretary, that is correct.

17 SENATOR VOLKER: Thank you.

18 ACTING PRESIDENT LITTLE: The
19 Secretary will read.

20 THE SECRETARY: Calendar Number
21 1868, by Senator Maltese, Senate Print 5596,
22 an act to amend the Administrative Code of the
23 City of New York.

24 SENATOR LIZ KRUEGER:
25 Explanation.

1 ACTING PRESIDENT LITTLE: Thank
2 you.

3 Senator Krueger has requested an
4 explanation from Senator Maltese.

5 SENATOR MALTESE: Madam
6 President, this bill is a bill to amend the
7 Administrative Code of the City of New York in
8 relation to providing tax credits for eligible
9 businesses that relocate to industrial
10 business zones in the City of New York.

11 In addition, it creates an
12 Industrial Business Zone Boundary Commission
13 and the designation, repeal and amendment of
14 those zones.

15 The bill would provide that this
16 Industrial Business Zone Boundary Commission
17 shall have the authority to designate, amend
18 and repeal the boundaries. In addition, to
19 sets up the memberships of that commission
20 which would include most of the building --
21 most of the commissioners of the City of
22 New York dealing with business, industry and
23 building, would include five borough
24 presidents, would include a member of the
25 community to sit and make decisions as far as

1 expanding and decreasing the boundaries of the
2 industrial business zones.

3 The tax credit would apply against
4 the unincorporated business tax and would also
5 apply against the general corporation tax.
6 Eligible businesses relocating to such zones,
7 the credit would not exceed the actual
8 relocation cost of \$100,000 and would provide
9 for \$1,000 per full-time employee.

10 It also provides that any two
11 employees whose working hours add up to
12 approximately 30 hours would also apply for
13 \$1,000.

14 Basically, in the fifties, there
15 were 2 million industrial employees in the
16 City of New York. Now we are down to less
17 than 500,000. What the mayor of the City of
18 New York and the City of New York is
19 attempting to do is provide incentives for
20 businesses relocating within the City of
21 New York and providing business opportunities.

22 The some 500,000 employees are
23 15 percent of the city's entire business
24 workforce.

25 It's an important bill, it's a bill

1 that would provide incentives for business.
2 It would do something about the blue-collar
3 workers. Queens is the county that would
4 appear to be most beneficially affected, but
5 it basically would affect all of the counties
6 of the City of New York.

7 The workforce that is affected is
8 almost wholly blue-collar and is primarily --
9 many immigrants are involved in this. This is
10 a helpful -- a bill helpful to economic
11 development in the City of New York, helpful
12 to providing a business climate for industry.

13 In a time when so many zoning
14 changes and overdevelopment is affecting
15 industries that provide working opportunities
16 for workers in the City of New York, this bill
17 would seek to provide some equity so that
18 businesses can have some stability, attract
19 working people, and provide for the tax base
20 of the City of New York.

21 ACTING PRESIDENT LITTLE: Thank
22 you, Senator.

23 SENATOR LIZ KRUEGER: Madam
24 President, if, through you, the sponsor would
25 yield.

1 ACTING PRESIDENT LITTLE: Thank
2 you.

3 Senator Maltese, do you yield?

4 SENATOR MALTESE: Yes, Madam
5 President.

6 ACTING PRESIDENT LITTLE: The
7 Senator yields.

8 SENATOR LIZ KRUEGER: Thank you.

9 And thank you for the detailed
10 explanation. Only just a couple of questions
11 on this bill.

12 One, I agree completely we have to
13 do something to try to retain and even create
14 new industrial blue-collar jobs in the City of
15 New York. And I agree that it
16 disproportionately affects your borough.

17 But I wonder why we're limiting it
18 to specific zones. Since the goal is to
19 encourage these jobs to move into New York
20 City, why wouldn't we just do across the board
21 for people who are starting businesses or
22 moving to New York City to do industry? Why
23 do we limit it to these select zones?

24 SENATOR MALTESE: I'm sorry, I
25 didn't hear the end of the question, Senator.

1 SENATOR LIZ KRUEGER: Why do we
2 limit this tax credit only for industry in
3 specific zones? Why, if an industry decides
4 to move to a small geographic corner of an
5 area that is not in the zone, wouldn't they
6 get the tax credit?

7 SENATOR MALTESE: Through you,
8 Madam President, I think one of the problems
9 is the amount of tax revenue that the City of
10 New York would have to give up.

11 Right now this is all a follow-up
12 to the creation of the industry and
13 manufacturing offices that the Mayor of
14 New York created in conjunction with the city.
15 As a result, this is a -- you could call it a
16 preliminary effort to try to create an
17 extension of these industrial and business
18 zones.

19 Right now there are only 14
20 industrial areas affected by it in the city.
21 I imagine, if it is successful, you would very
22 well have it increased. And one of the
23 functions of the commission would be to
24 increase the borders, which could very well
25 end up increasing the areas affected.

1 As I state, the tax revenues that
2 would be affected would have to be taken into
3 consideration, because the amount that would
4 be paid out in some cases would affect the tax
5 base of the city.

6 Which, by the way, the industry
7 provides a significant portion of the -- of
8 tax revenues for the City of New York. And if
9 they don't have a place to set up business or
10 locate, you would end up having a diminishing
11 return for tax revenues for the City of
12 New York.

13 SENATOR LIZ KRUEGER: Thank you.

14 Madam President, on the bill.

15 ACTING PRESIDENT LITTLE: Thank
16 you.

17 Senator Krueger, on the bill.

18 SENATOR LIZ KRUEGER: Thank you.

19 I want to thank the sponsor. I am
20 happy to support this bill. I did want to ask
21 the questions to elicit the answer.

22 Just a few minutes ago I argued
23 against a bill that will give an \$8,000 credit
24 for companies who actually tend to hire very
25 high-paying people with good benefits who are

1 likely not to be in desperate situations.

2 Senator Maltese's bill, though, is
3 targeted specifically to an arena that we are
4 desperate to help in New York City. There is
5 no question we need to try to hold on to some
6 very minimal base of manufacturing and
7 blue-collar jobs. And it is, in fact, one of
8 the key areas where we suffer the highest
9 unemployment rate, people who don't have other
10 alternatives for employment. If they can't
11 find manufacturing jobs because we don't have
12 any in the City of New York, we all pay a
13 significant price.

14 My only concern is although he
15 addressed it that perhaps this is a pilot
16 attempt, it seems to me that if it's good for
17 us to support manufacturing in one geographic
18 area, it's good for us to support it in other
19 areas of the city. So I might argue that we
20 should have made this available to anyone
21 across an industry for equity purposes.

22 And, second, I just want to
23 highlight that for these jobs we offer a
24 \$1,000 maximum tax credit while in the
25 previous bill that I didn't support it was an

1 \$8,000 tax credit. So I respect your point
2 that maybe this is too great a loss of revenue
3 to the City of New York, but my reason for
4 supporting your bill is in fact a
5 reaffirmation of my reason for not supporting
6 the previous REAP bill.

7 Nobody has done the fiscal
8 analysis, either of the win from this kind of
9 program or the lost revenue to the City of
10 New York. Nonetheless, we absolutely know
11 that we should be doing more to try to support
12 a continued base of manufacturing and industry
13 in the city.

14 So I support your bill. I hope
15 we'll go further. But more important, I
16 think, also for us here in the Legislature, we
17 need to ask more questions about how these
18 programs work -- whether they're successful,
19 whether they're not, what the cost to the
20 locality or the state is, whether we are
21 rational in our decisions about when we give
22 tax exemptions or credits or when we don't.

23 Because I wonder about the
24 difference between an \$8,000 per employee
25 credit and a \$1,000 per employee credit. The

1 City of New York will take the hit for both.
2 But who decided between those, and who
3 prioritized?

4 So I will be voting yes, and I
5 appreciate your comments.

6 Thank you, Madam President.

7 ACTING PRESIDENT LITTLE: Thank
8 you.

9 Is there any other Senator who
10 wishes to speak on the bill?

11 The debate is closed. The
12 Secretary will ring the bell.

13 Read the last section.

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

16 ACTING PRESIDENT LITTLE: Call
17 the roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT LITTLE: Senator
20 Montgomery, to explain your vote.

21 SENATOR MONTGOMERY: Yes, thank
22 you, Madam President.

23 I just want to join my colleague
24 Senator Krueger in supporting this legislation
25 that Senator Maltese has introduced. Clearly

1 it's something that's going to benefit many of
2 us.

3 A district like mine, for instance,
4 where there's a tremendous amount of tension
5 and struggle to maintain as much industrial
6 and manufacturing business as possible, and to
7 also encourage new industries to come into the
8 district, I think this is going to be welcomed
9 by them and helpful. And so I'm going to be
10 supporting this legislation.

11 Thank you.

12 ACTING PRESIDENT LITTLE: Thank
13 you.

14 Senator Montgomery will be recorded
15 in the affirmative.

16 Senator Stavisky.

17 SENATOR STAVISKY: Madam
18 President, as someone who represents Queens
19 County, I recognize the needs of these
20 businesspeople and the manufacturers, and this
21 can only help in the economic development
22 which will contribute to the city's tax base.

23 And I'm delighted to support this
24 legislation.

25 ACTING PRESIDENT LITTLE: Senator

1 Stavisky will be recorded in the affirmative.

2 The Secretary will announce the
3 results.

4 THE SECRETARY: Ayes, 60.

5 ACTING PRESIDENT LITTLE: The
6 bill is passed.

7 Senator Libous.

8 SENATOR LIBOUS: Madam President,
9 would you please recognize Senator
10 DeFrancisco.

11 ACTING PRESIDENT LITTLE: Thank
12 you.

13 Senator DeFrancisco.

14 SENATOR DeFRANCISCO: Yes, I was
15 out of the chambers when the vote was taken on
16 Calendar Number 1728, Senate 5694, with an
17 unavoidable conflict. Had I been here, I
18 would have voted yes.

19 ACTING PRESIDENT LITTLE: The
20 record will so reflect.

21 The Secretary will read.

22 THE SECRETARY: Calendar Number
23 1873, by Senator Flanagan, Senate Print 5871,
24 an act to amend the Election Law and the State
25 Finance Law.

1 SENATOR SCHNEIDERMAN:

2 Explanation.

3 ACTING PRESIDENT LITTLE: Thank
4 you.

5 Senator Flanagan, for an
6 explanation.

7 SENATOR FLANAGAN: Thank you,
8 Madam President.

9 This is one of the bills that would
10 be perhaps considered to be part of the HAVA
11 package that we've been dealing with this
12 year. And this is the only bill, as part of
13 the package, that does not happen to be agreed
14 upon with the Assembly. But I think it's
15 important to highlight some of the aspects of
16 the bill that change present law.

17 I'd fundamentally say that our
18 goal, and I think the goal of everybody in
19 this room, is to make sure that anybody's
20 who's eligible to vote who's registered to
21 vote who shows up at a polling place should
22 have the proper access, not only to a machine
23 but to any facility or building where the
24 person may be actually trying to vote.

25 And we have not done anything to

1 deviate that. In fact, I think we've made the
2 law stronger.

3 The highlights of this bill would
4 be the following. We repeal the waiver
5 provisions that have concerned many advocates
6 for a number of years. That's a very
7 significant step. We create a citizen's
8 advisory committee, and that's done within the
9 context of the machine bill that we'll be
10 doing quite soon. And there are at least four
11 out of the 12 members of that committee who
12 are from the disabled community.

13 And I would also say that this bill
14 represents a step forward and beyond the
15 requirements of HAVA. HAVA calls for --
16 actually calls for machines to be compliant
17 for the 2006 election. What this bill does is
18 go beyond and make sure that polling sites
19 also are compliant. There is correspondence
20 from the Justice Department that says what
21 good is it to have a machine that's compliant
22 if the person can't get into the building.

23 And then probably perhaps the most
24 significant aspect of this bill is we've
25 actually provided money. There's \$5 million

1 appropriated from the HAVA funds for
2 municipalities to come to the State of
3 New York and say: Here are our issues, here
4 are our problems, we need some help from the
5 State of New York. That will be controlled
6 and regulated by the State Board of Elections,
7 and there's \$5 million to do that.

8 I believe this is a very positive
9 bill and a very strong step forward.

10 ACTING PRESIDENT LITTLE: Thank
11 you, Senator.

12 Senator Schneiderman.

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

15 ACTING PRESIDENT LITTLE: Thank
16 you. On the bill.

17 SENATOR SCHNEIDERMAN: This
18 unfortunately is a one-house bill on what many
19 of us believe to be an extremely important
20 issue, handicapped access to polling sites.

21 And this is perhaps a gesture
22 towards access, but it is a gesture that I
23 believe falls far short. It is not as good as
24 the counterpart bill in the Assembly. It
25 provides the absurd sum of \$5 million

1 statewide to make polling places accessible.
2 And it provides further waivers, it provides
3 further delays in the requirements and I think
4 that in fact may be completely inconsistent
5 with HAVA and possibly subject to litigation.

6 This will delay handicapped access
7 to polling. It doesn't provide enough money.
8 We have to do better than this. So I would
9 urge all of my colleagues, until we come to
10 agreement on something that is a meaningful
11 bill to provide the funds and close the
12 loopholes, we should not be supporting a
13 futile gesture and a flawed gesture at that.

14 I vote no and encourage everyone to
15 vote no.

16 ACTING PRESIDENT LITTLE: Is
17 there any other Senator wishing to be heard?
18 Senator Flanagan.

19 SENATOR FLANAGAN: Madam
20 President, on the bill.

21 ACTING PRESIDENT LITTLE: On the
22 bill.

23 SENATOR FLANAGAN: I listened to
24 the comments of my colleague Senator
25 Schneiderman, and I would respectfully

1 disagree on a couple of different points.

2 Number one, there's a tremendous
3 amount of work that's gone into this issue.
4 This is not a gesture. This is actual
5 legislation. This is an important piece of
6 legislation that we're moving forward to help
7 the disabled community, to make sure that
8 people have access to voting facilities.

9 Now, the representation was made,
10 to quote, that the sum of \$5 million is
11 absurd. Let me make one very clear
12 distinction. The Assembly has done nothing.
13 They haven't provided a nickel, not a dime,
14 not a dollar, not a million dollars. This
15 bill provides \$5 million.

16 And the intention of this bill was
17 never to go to municipalities and say, By the
18 way, we're going to build you a new building
19 for \$5 million. We want to work with them.
20 They have to come to the state, show what they
21 need, make a compelling case to the State
22 Board of Elections, and then, then they may be
23 eligible for funding.

24 But to suggest that \$5 million is
25 insignificant is frankly offensive. This bill

1 is a good-faith effort. It is far more than a
2 gesture. And it is something that everybody
3 should be voting for and be proud of, because
4 it goes beyond the requirements of HAVA and
5 it's a very positive step forward for the
6 voting public in the State of New York.

7 ACTING PRESIDENT LITTLE: Thank
8 you, Senator.

9 Is there any other Senator wishing
10 to be heard?

11 The debate is closed. The
12 Secretary will ring the bell.

13 Read the last section.

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

16 ACTING PRESIDENT LITTLE: Call
17 the roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT LITTLE: The
20 Secretary will announce the results.

21 THE SECRETARY: Those recorded in
22 the negative on Calendar Number 1873 are
23 Senators Andrews, Breslin, Connor, Diaz,
24 Dilan, Duane, Hassell-Thompson, L. Krueger,
25 C. Kruger, Montgomery, Parker, Paterson,

1 Sabini, Sampson, Savino, Schneiderman,
2 A. Smith and Stavisky.

3 Ayes, 42. Nays, 18.

4 ACTING PRESIDENT LITTLE: The
5 bill is passed.

6 The Secretary will read.

7 THE SECRETARY: In relation to
8 Calendar Number 1874, Senator Morahan moves to
9 discharge, from the Committee on Rules,
10 Assembly Bill Number 8954 and substitute it
11 for the identical Senate Bill Number 5876,
12 Third Reading Calendar 1874.

13 ACTING PRESIDENT LITTLE:
14 Substitution ordered.

15 The Secretary will read.

16 THE SECRETARY: Calendar Number
17 1874, by the Assembly Committee on Rules,
18 Assembly Print Number 8954, an act to amend
19 the Mental Hygiene Law.

20 SENATOR MONTGOMERY: Explanation.

21 ACTING PRESIDENT LITTLE: Thank
22 you.

23 Could we have quiet in the chamber,
24 please.

25 Senator Morahan, for an

1 explanation.

2 SENATOR MORAHAN: Thank you,
3 Madam President.

4 This bill amends the Mental Hygiene
5 Law in relationship to the assisted outpatient
6 program. It extends the existing program to
7 June 30, 2010.

8 It also calls for the Commission of
9 Mental Health to contract to an outside agency
10 an evaluation and give quarterly reports on
11 the progress of the study and have the study
12 back one year prior to the expiration of this
13 law.

14 ACTING PRESIDENT LITTLE: Thank
15 you, Senator.

16 SENATOR MONTGOMERY: Madam
17 President, Senator Duane would like to ask
18 some questions.

19 SENATOR DUANE: Thank you, Madam
20 President. If the sponsor would yield.

21 ACTING PRESIDENT LITTLE: Thank
22 you.

23 Senator Morahan, do you yield for a
24 question?

25 SENATOR MORAHAN: Yes, I do.

1 ACTING PRESIDENT LITTLE: Thank
2 you.

3 The Senator yields.

4 If we could have it quiet, however,
5 while they are debating the bill, please.

6 SENATOR DUANE: Thank you, Madam
7 President.

8 I just want to refer to, and I'm
9 hoping the sponsor has the same version, page
10 12 of the bill, line -- actually, if we can
11 just go down to line 33. I'm sorry, let me go
12 back up further.

13 Line 26 says -- this is regarding
14 the external evaluation report, which I think
15 is actually a very good thing. But it says --

16 SENATOR MORAHAN: I can't hear
17 him, Madam President.

18 ACTING PRESIDENT LITTLE: We
19 can't even hear the questions, so the sponsor
20 cannot answer.

21 SENATOR DUANE: It reads as
22 follows: External evaluation report -- which
23 I think is a very good thing. It refers to
24 there will be an external evaluation report.
25 But it says: "The commissioner of mental

1 health, subject to appropriation therefor,
2 shall contract with an external research
3 organization." And I'm wondering what that
4 appropriation will be.

5 SENATOR MORAHAN: There's been no
6 estimate on what that appropriation would be.
7 We do know that it would not be impacted by
8 this year's fiscal calendar -- fiscal budget.
9 The appropriation would probably be in the
10 next budget.

11 ACTING PRESIDENT LITTLE: Thank
12 you.

13 SENATOR DUANE: Through you,
14 Madam President, if the sponsor would continue
15 to yield.

16 ACTING PRESIDENT LITTLE: Thank
17 you.

18 Senator Morahan, do you continue to
19 yield?

20 SENATOR MORAHAN: Yes, I do.

21 ACTING PRESIDENT LITTLE: The
22 Senator yields.

23 SENATOR DUANE: If you go down to
24 line 33 on the same page, it says:
25 "Availability of nonstate dollars to support

1 the project."

2 Does that mean that an agency that
3 has substantial private or foundation or other
4 government funding besides will be -- other
5 than the government funding besides the
6 state -- will have a better chance at getting
7 the contract to do the evaluation and report?

8 SENATOR MORAHAN: I don't know if
9 they would get the contract. But we're
10 certainly open to other groups helping with
11 the finances of the study, yes.

12 That's just to leave the door open
13 so that we would get funding from other
14 sources.

15 ACTING PRESIDENT LITTLE: Thank
16 you.

17 SENATOR DUANE: And through you,
18 Madam President, if the sponsor would continue
19 to yield.

20 ACTING PRESIDENT LITTLE: Senator
21 Morahan, do you continue to yield?

22 SENATOR MORAHAN: Yes, I do,
23 Madam President.

24 ACTING PRESIDENT LITTLE: Thank
25 you.

1 The Senator yields.

2 SENATOR DUANE: If the
3 appropriation for the study will be in next
4 year's budget, when would the report be
5 expected to be made available?

6 SENATOR MORAHAN: The report
7 would have to be finalized by 2009.

8 SENATOR DUANE: Okay. Thank you,
9 Madam President. On the bill.

10 ACTING PRESIDENT LITTLE: Thank
11 you. On the bill.

12 SENATOR DUANE: There are
13 improvements to the bill which I commend the
14 sponsor for making to this bill.

15 I am, however, still very concerned
16 that the legislation, in addition to not
17 having an appropriation for the study, doesn't
18 have appropriations for the services which I
19 think are the first line of defense against
20 seeing the same kind of tragedy that befell
21 Kendra.

22 And I also think that in the
23 absence of our passing Timothy's Law, we're
24 still going to have a giant gap in the
25 provision of mental health services in our

1 state, mental health services that really
2 would go a long way towards having a healthier
3 New York State and avoiding tragedies like the
4 tragedy that befell Kendra and, frankly, like
5 the tragedy that befell Timothy.

6 And in the past, the last time, I
7 did vote no on this bill. However, this year,
8 because of the improvements that have been
9 made to the legislation, even though I think
10 that more needs to be done, I'm going to be
11 voting in the affirmative.

12 And I also want to again make the
13 strongest possible pitch for additional
14 funding for programs for those who are trying
15 to recover from mental illness as well as for
16 all New Yorkers who need to get the services
17 and care they need if we did have parity for
18 mental health in our state.

19 Thank you, Mr. President.

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

22 Senator Young.

23 SENATOR YOUNG: Thank you, Mr.
24 President. On the bill.

25 First, I want to thank my colleague

1 Senator Morahan for making sure that this bill
2 passed.

3 This law is based on a constituent
4 from my district, Kendra Webdale, who was
5 tragically killed more than five years ago
6 when she was pushed in front of a subway train
7 in New York City by a mental health patient
8 that was not taking his medication, nor was he
9 receiving treatment for his mental illness.

10 And as a result, the Webdale
11 family, led by Kendra's parents, Ralph and
12 Pat, began a quest to change the laws in
13 New York State so that mental health patients
14 could get the services and the medicines that
15 they need.

16 We put Kendra's Law into place
17 about five years ago. There was a sunset
18 provision in it. It's set to expire later
19 this month, and it's important that we get
20 this bill passed.

21 The Webdale family would like to
22 see the law made permanent. But there's a
23 study that Senator Morahan has wisely
24 associated with this bill that will give us
25 more data so that we can work in the future

1 toward making the law permanent.

2 So again, I thank Senator Morahan
3 for all of his assistance in this matter, and
4 I vote yes.

5 Thank you.

6 ACTING PRESIDENT MEIER: Senator
7 Morahan.

8 SENATOR MORAHAN: Yes, in
9 response to Senator Duane's comment regarding
10 appropriations for ongoing programs and
11 existing programs, those appropriations are
12 indeed in the current fiscal budget, so those
13 programs go on.

14 If Senator Duane has some
15 recommendations on enhancing any of the
16 funding for any particular program, we
17 certainly would take that under advisement.

18 Thank you, Mr. President.

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

21 Debate is closed, then.

22 Read the last section.

23 THE SECRETARY: Section 11. This
24 act shall take effect June 30, 2005.

25 ACTING PRESIDENT MEIER: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 60.

4 ACTING PRESIDENT MEIER: The bill
5 is passed.

6 Senator Libous.

7 SENATOR LIBOUS: Mr. President,
8 there will be an immediate meeting of the
9 Rules Committee in the Majority Conference
10 Room, and the Senate will stand at ease.

11 ACTING PRESIDENT MEIER:
12 Immediate meeting of the Rules Committee in
13 the Senate Majority Conference Room.

14 SENATOR LIBOUS: Mr. President.

15 ACTING PRESIDENT MEIER: Senator
16 Libous.

17 SENATOR LIBOUS: Are there any
18 substitutions at the desk?

19 ACTING PRESIDENT MEIER: Yes.

20 SENATOR LIBOUS: Please make them
21 at this time.

22 ACTING PRESIDENT MEIER: The
23 Secretary will read the substitutions.

24 THE SECRETARY: On page 9,
25 Senator LaValle moves to discharge, from the

1 Committee on Rules, Assembly Bill Number 5408
2 and substitute it for the identical Senate
3 Bill Number 1548, Third Reading Calendar 322.

4 On page 20, Senator Golden moves to
5 discharge, from the Committee on Rules,
6 Assembly Bill Number 7395 and substitute it
7 for the identical Senate Bill Number 4458,
8 Third Reading Calendar 749.

9 On page 43, Senator Maziarz moves
10 to discharge, from the Committee on Rules,
11 Assembly Bill Number 8544A and substitute it
12 for the identical Senate Bill Number 5658A,
13 Third Reading Calendar 1698.

14 And on page 47, Senator Seward
15 moves to discharge, from the Committee on
16 Rules, Assembly Bill Number 7559B and
17 substitute it for the identical Senate Bill
18 Number 5888, Third Reading Calendar 1811.

19 ACTING PRESIDENT MEIER:
20 Substitutions ordered.

21 Senator Libous.

22 SENATOR LIBOUS: Mr. President,
23 there will be an immediate meeting of the
24 Rules Committee.

25 And as I said earlier, the Senate

1 will be at ease.

2 ACTING PRESIDENT MEIER:

3 Immediate meeting of the Rules Committee.

4 The Senate will be at ease.

5 (Whereupon, the Senate stood at
6 ease at 1:44 p.m.)

7 (Whereupon, the Senate reconvened
8 at 2:00 p.m.)

9 ACTING PRESIDENT SEWARD: Senator
10 Skelos.

11 SENATOR SKELOS: Mr. President,
12 if we could return to reports of standing
13 committees, I believe there's a report of the
14 Rules Committee at the desk. I ask that it be
15 read at this time.

16 ACTING PRESIDENT SEWARD: Reports
17 of standing committees.

18 The Secretary will read.

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

22 Senate Print 1557, by Senator
23 LaValle, an act to amend the Tax Law;

24 1633, by Senator LaValle, an act to
25 amend the Tax Law;

1 3258, by Senator Breslin, an act to
2 amend the Tax Law;

3 3304B, by Senator Winner, an act to
4 amend the Education Law;

5 3428, by Senator Padavan, an act to
6 amend the Civil Service Law;

7 3588, by Senator Alesi, an act to
8 amend the Insurance Law;

9 3832A, by Senator Golden, an act to
10 amend the Retirement and Social Security Law;

11 4129, by Senator Skelos, an act to
12 amend the Navigation Law;

13 4252A, by Senator Hannon, an act to
14 authorize;

15 4399A, by Senator Robach, an act to
16 amend the Executive Law;

17 4560A, by Senator Maltese, an act
18 to amend the Agriculture and Markets Law;

19 4580, by Senator Fuschillo, an act
20 to amend the Banking Law;

21 4832, by Senator Padavan, an act to
22 amend the Public Health Law;

23 4862A, by Senator Hannon, an act to
24 amend the Public Health Law;

25 4885B, by Senator Libous, an act to

1 amend the Vehicle and Traffic Law;
2 4929A, by Senator Maziarz, an act
3 to establish;
4 5377, by Senator Winner, an act to
5 amend the Tax Law;
6 5437, by the Senate Committee on
7 Rules, an act to amend the Retirement and
8 Social Security Law;
9 5591A, by the Senate Committee on
10 Rules, an act to amend the Tax Law;
11 5692A, by Senator Meier, an act
12 authorizing;
13 5737, by Senator Morahan, an act to
14 amend the Public Health Law;
15 5755, by Senator Spano, an act to
16 amend the Tax Law;
17 5867, by Senator Maziarz, an act to
18 amend a chapter of the Laws of 2005;
19 5877, by Senator Flanagan, an act
20 to amend the Election Law;
21 5880, by the Senate Committee on
22 Rules, an act to authorize;
23 5898, by the Senate Committee on
24 Rules, an act to amend Chapter 738 of the Laws
25 of 2004;

1 5899, by the Senate Committee on
2 Rules, an act to amend Chapter 405 of the Laws
3 of 1999;

4 5900, by the Senate Committee on
5 Rules, an act to amend the Education Law;

6 5901, by the Senate Committee on
7 Rules, an act to amend the Education Law;

8 5908, by Senator Rath, an act to
9 amend the Public Health Law;

10 And Senate Print 5909, by Senator
11 Morahan, an act to amend the Mental Hygiene
12 Law.

13 All bills ordered direct to third
14 reading.

15 ACTING PRESIDENT SEWARD: Senator
16 Skelos.

17 SENATOR SKELOS: Mr. President,
18 move to accept the report of the Rules
19 Committee.

20 ACTING PRESIDENT SEWARD: All in
21 favor of accepting the Rules report say aye.

22 (Response of "Aye.")

23 ACTING PRESIDENT SEWARD:

24 Opposed?

25 (No response.)

1 ACTING PRESIDENT SEWARD: The
2 Rules report is accepted.

3 SENATOR SKELOS: Mr. President,
4 there will be an immediate conference of the
5 Majority in the Majority Conference Room.

6 ACTING PRESIDENT SEWARD: Senator
7 Sabini.

8 SENATOR SABINI: Mr. President,
9 I'd like to announce to Senator Dilan and
10 Senator Hassell-Thompson that there will be an
11 immediate conference of the Minority in the
12 Minority Conference Room.

13 ACTING PRESIDENT SEWARD: there
14 will be immediate conferences of both the
15 Majority and the Minority.

16 SENATOR SKELOS: And if the
17 Senate would stand at ease.

18 ACTING PRESIDENT SEWARD: The
19 Senate will stand at ease.

20 (Whereupon, the Senate stood at
21 ease at 2:04 p.m.)

22 (Whereupon, the Senate reconvened
23 at 3:07 p.m.)

24 ACTING PRESIDENT LITTLE: Senator
25 Skelos.

1 SENATOR SKELOS: Madam President,
2 if we could take up Supplemental Calendar B,
3 noncontroversial.

4 ACTING PRESIDENT LITTLE: Senator
5 Skelos, could we do a motion first?

6 SENATOR SKELOS: Yes.

7 ACTING PRESIDENT LITTLE: Senator
8 Fuschillo.

9 SENATOR FUSCHILLO: Thank you,
10 Madam President.

11 On behalf of Senator Johnson, I
12 wish to call up Senate Print Number 5649A,
13 recalled from the Assembly, which is now at
14 the desk.

15 ACTING PRESIDENT LITTLE: The
16 Secretary will read.

17 THE SECRETARY: Calendar Number
18 1869, by Senator Johnson, Senate Print 5649A,
19 an act to amend the Environmental Conservation
20 Law.

21 SENATOR FUSCHILLO: I now move to
22 reconsider the vote by which the bill was
23 passed and ask that the bill be restored to
24 the order of third reading.

25 ACTING PRESIDENT LITTLE: The

1 Secretary will call the roll on
2 reconsideration of the vote.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 60.

5 SENATOR FUSCHILLO: Madam
6 President, I now move to discharge, from the
7 Committee on Rules, Assembly Print Number
8 6454B and substitute it for the identical
9 bill.

10 ACTING PRESIDENT LITTLE: So
11 ordered.

12 SENATOR FUSCHILLO: The Senate
13 bill, on first passage, was voted unanimously.
14 I now move that the substituted Assembly bill
15 have its third reading at this time.

16 ACTING PRESIDENT LITTLE: The
17 Secretary will read.

18 THE SECRETARY: Calendar Number
19 1869, substituted earlier by Member of the
20 Assembly DiNapoli, Assembly Print Number
21 6454B, an act to amend the Environmental
22 Conservation Law.

23 ACTING PRESIDENT LITTLE: Read
24 the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT LITTLE: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 60.

6 ACTING PRESIDENT LITTLE: The
7 bill is passed.

8 Senator Skelos.

9 SENATOR SKELOS: Madam President,
10 if we could now go to the noncontroversial
11 reading of Supplemental Calendar B.

12 ACTING PRESIDENT LITTLE: The
13 Secretary will read.

14 THE SECRETARY: Calendar Number
15 1864, by Senator LaValle, Senate Print 1557,
16 an act to amend the Tax Law.

17 ACTING PRESIDENT LITTLE: Read
18 the last section.

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

21 ACTING PRESIDENT LITTLE: Call
22 the roll.

23 (The Secretary called the roll.)

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

1 ACTING PRESIDENT LITTLE: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 1880, by Senator LaValle, Senate Print 1633,
5 an act to amend the Tax Law.

6 ACTING PRESIDENT LITTLE: Read
7 the last section.

8 THE SECRETARY: Section 2. This
9 act shall take effect September 1.

10 ACTING PRESIDENT LITTLE: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 60.

14 ACTING PRESIDENT LITTLE: The
15 bill is passed.

16 THE SECRETARY: In relation to
17 Calendar Number 1881, Senator Breslin moves to
18 discharge, from the Committee on
19 Investigations and Government Operations,
20 Assembly Bill Number 6370 and substitute it
21 for the identical Senate Bill Number 3258,
22 Third Reading Calendar 1881.

23 ACTING PRESIDENT LITTLE:
24 Substitution ordered.

25 The Secretary will read.

1 THE SECRETARY: Calendar Number
2 1881, by Member of the Assembly Canestrari,
3 Assembly Print Number 6370, an act to amend
4 the Tax Law.

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

8 Read the last section.

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

11 ACTING PRESIDENT LITTLE: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 59. Nays,
15 1. Senator Valesky recorded in the negative.

16 ACTING PRESIDENT LITTLE: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 1882, by Senator Winner, Senate Print --

20 SENATOR SCHNEIDERMAN: Lay it
21 aside.

22 ACTING PRESIDENT LITTLE: The
23 bill is laid aside.

24 THE SECRETARY: In relation to
25 Calendar Number 1883, Senator Padavan moves to

1 discharge, from the Committee on Rules,
2 Assembly Bill Number 6943A and substitute it
3 for the identical Senate Bill Number 3428,
4 Third Reading Calendar 1883.

5 ACTING PRESIDENT LITTLE:
6 Substitution ordered.

7 The Secretary will read.

8 THE SECRETARY: Calendar Number
9 1883, by Member of the Assembly Abbate,
10 Assembly Print Number 6943A, an act to amend
11 the Civil Service Law.

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

14 Read the last section.

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

17 ACTING PRESIDENT LITTLE: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 60.

21 ACTING PRESIDENT LITTLE: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 1884, by Senator Alesi, Senate Print 3588, an
25 act to amend the Insurance Law.

1 ACTING PRESIDENT LITTLE: Read
2 the last section.

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

5 ACTING PRESIDENT LITTLE: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 60.

9 ACTING PRESIDENT LITTLE: The
10 bill is passed.

11 THE SECRETARY: In relation to
12 Calendar Number 1885, Senator Golden moves to
13 discharge, from the Committee on Rules,
14 Assembly Bill Number 7191A and substitute it
15 for the identical Senate Bill Number 3832A,
16 Third Reading Calendar 1885.

17 ACTING PRESIDENT LITTLE:
18 Substitution ordered.

19 The Secretary will read.

20 THE SECRETARY: Calendar Number
21 1885, by Member of the Assembly Abbate,
22 Assembly Print Number 7191A, an act to amend
23 the Retirement and Social Security Law and the
24 Administrative Code of the City of New York.

25 ACTING PRESIDENT LITTLE: Read

1 the last section.

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

4 ACTING PRESIDENT LITTLE: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 60.

8 ACTING PRESIDENT LITTLE: The
9 bill is passed.

10 THE SECRETARY: In relation to
11 Calendar Number 1886, Senator Skelos moves to
12 discharge, from the Committee on Rules,
13 Assembly Bill Number 1477A and substitute it
14 for the identical Senate Bill Number 4129,
15 Third Reading Calendar 1886.

16 ACTING PRESIDENT LITTLE:
17 Substitution ordered.

18 The Secretary will read.

19 THE SECRETARY: Calendar Number
20 1886, by Member of the Assembly Eddington,
21 Assembly Print Number 1477A, an act to amend
22 the Navigation Law.

23 ACTING PRESIDENT LITTLE: Read
24 the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect on the first of January.

2 ACTING PRESIDENT LITTLE: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 60.

6 ACTING PRESIDENT LITTLE: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 1887, by Senator Hannon, Senate Print 4252A,
10 an act to authorize Debbie Cleva to be
11 reclassified.

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

14 Read the last section.

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

17 ACTING PRESIDENT LITTLE: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 60.

21 ACTING PRESIDENT LITTLE: The
22 bill is passed.

23 THE SECRETARY: In relation to
24 Calendar Number 1888, Senator Robach moves to
25 discharge, from the Committee on Rules,

1 Assembly Bill Number 7192A and substitute it
2 for the identical Senate Bill Number 4399A,
3 Third Reading Calendar 1888.

4 ACTING PRESIDENT LITTLE:
5 Substitution ordered.

6 The Secretary will read.

7 THE SECRETARY: Calendar Number
8 1888, by Member of the Assembly Abbate,
9 Assembly Print Number 7192A, an act to amend
10 the Executive Law.

11 ACTING PRESIDENT LITTLE: Read
12 the last section.

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

15 ACTING PRESIDENT LITTLE: Call
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 60.

19 ACTING PRESIDENT LITTLE: The
20 bill is passed.

21 THE SECRETARY: In relation to
22 Calendar Number 1889, Senator Maltese moves to
23 discharge, from the Committee on Rules,
24 Assembly Bill Number 7644A and substitute it
25 for the identical Senate Bill Number 4560A,

1 Third Reading Calendar 1889.

2 ACTING PRESIDENT LITTLE:

3 Substitution ordered.

4 The Secretary will read.

5 THE SECRETARY: Calendar Number

6 1889, by Member of the Assembly Grannis,

7 Assembly Print Number 7644A, an act to amend

8 the Agriculture and Markets Law.

9 ACTING PRESIDENT LITTLE: Read
10 the last section.

11 THE SECRETARY: Section 5. This
12 act shall take effect on the 60th day.

13 ACTING PRESIDENT LITTLE: Call
14 the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 60.

17 ACTING PRESIDENT LITTLE: The
18 bill is passed.

19 THE SECRETARY: In relation to
20 Calendar Number 1890, Senator Fuschillo moves
21 to discharge, from the Committee on Rules,
22 Assembly Bill Number 6808A and substitute it
23 for the identical Senate Bill Number 4580,
24 Third Reading Calendar 1890.

25 ACTING PRESIDENT LITTLE:

1 Substitution ordered.

2 The Secretary will read.

3 THE SECRETARY: Calendar Number
4 1890, by Member of the Assembly Nolan,
5 Assembly Print Number 6808A, an act to amend
6 the Banking Law.

7 ACTING PRESIDENT LITTLE: Read
8 the last section.

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

11 ACTING PRESIDENT LITTLE: Call
12 the roll.

13 (The Secretary called the roll.)

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

16 SENATOR DeFRANCISCO: Is this
17 1890, Calendar 1890? Yes, I just want to
18 explain my vote.

19 This bill calls for posting of a
20 sign in various facilities that
21 counterfeiting, forgery, is a crime and if you
22 commit a crime, you're prosecuted. I voted
23 against a similar bill concerning security
24 guards at airlines, that if you harass or
25 don't cooperate, there should be a sign to say

1 that that's against the law.

2 I just think that this is getting
3 to the point of not enough room for signs. If
4 we're going to have a sign for every law that
5 is a law to notify people if they violate
6 them, we're going to have problems with our
7 environment.

8 So as a result, I'm going to vote
9 no on this bill.

10 ACTING PRESIDENT LITTLE: Senator
11 DeFrancisco will be recorded in the negative.

12 Announce the results.

13 THE SECRETARY: Those recorded in
14 the negative on Calendar Number 1890 are
15 Senators DeFrancisco and Meier.

16 Ayes, 58. Nays, 2.

17 ACTING PRESIDENT LITTLE: The
18 bill is passed.

19 THE SECRETARY: In relation to
20 Calendar Number 1891, Senator Padavan moves to
21 discharge, from the Committee on Rules,
22 Assembly Bill Number 7398 and substitute it
23 for the identical Senate Bill Number 4832,
24 Third Reading Calendar 1891.

25 ACTING PRESIDENT LITTLE:

1 Substitution ordered.

2 The Secretary will read.

3 THE SECRETARY: Calendar Number
4 1891, by Member of the Assembly Carrozza,
5 Assembly Print Number 7398, an act to amend
6 the Public Health Law.

7 ACTING PRESIDENT LITTLE: Read
8 the last section.

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

11 ACTING PRESIDENT LITTLE: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 60.

15 ACTING PRESIDENT LITTLE: The
16 bill is passed.

17 THE SECRETARY: In relation to
18 Calendar Number 1892, Senator Hannon moves to
19 discharge, from the Committee on Rules,
20 Assembly Bill Number 6577 and substitute it
21 for the identical Senate Bill Number 4862A,
22 Third Reading Calendar 1892.

23 ACTING PRESIDENT LITTLE:
24 Substitution ordered.

25 The Secretary will read.

1 THE SECRETARY: Calendar Number
2 1892, by Member of the Assembly Gottfried,
3 Assembly Print Number 6577, an act to amend
4 the Public Health Law.

5 ACTING PRESIDENT LITTLE: Read
6 the last section.

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

9 ACTING PRESIDENT LITTLE: Call
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 60.

13 ACTING PRESIDENT LITTLE: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 1893, by Senator Libous, Senate Print 4885B,
17 an act to amend the Vehicle and Traffic Law
18 and others.

19 ACTING PRESIDENT LITTLE: Read
20 the last section.

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

24 ACTING PRESIDENT LITTLE: Call
25 the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT LITTLE: Senator
3 Libous, to explain his vote.

4 SENATOR LIBOUS: Thank you, Madam
5 President, to explain my vote.

6 On May 20th, in the Southern Tier,
7 of this year an unfortunate incident happened
8 where three construction workers were killed.
9 And it was the seventh major incident in
10 New York State since January in a construction
11 site.

12 We spent numerous hours working
13 with the State Police, the Department of
14 Transportation, local -- the statewide labor
15 unions, contractors association, and have come
16 up with a variety of alternatives in this bill
17 that we believe will save lives and protect
18 the workers that are working on our highways,
19 roads and bridges.

20 And the three people that were
21 killed on May 20th were no different than
22 anybody else in this chamber. They went to
23 work and, because of the negligence of a
24 couple of drivers who were speeding at a high
25 rate of speed through the work zones, they

1 lost their lives on that day.

2 We believe that the pieces of --
3 this piece of legislation has a number of
4 factors in it: at major construction sites,
5 putting police with flashing lights, signage.
6 And we believe that this will hopefully save
7 lives in the future.

8 Madam President, I vote aye.

9 ACTING PRESIDENT LITTLE: Senator
10 Libous will be recorded in the affirmative.

11 The Secretary will announce the
12 results.

13 THE SECRETARY: Ayes, 59. Nays,
14 1. Senator Montgomery recorded in the
15 negative.

16 ACTING PRESIDENT LITTLE: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 1894, by Senator Maziarz, Senate Print 4929A,
20 an act establishing a safe patient handling
21 demonstration program.

22 ACTING PRESIDENT LITTLE: Read
23 the last section.

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

1 ACTING PRESIDENT LITTLE: Call
2 the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 60.

5 ACTING PRESIDENT LITTLE: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 1895, by Senator Winner, Senate Print 5377, an
9 act to amend the Tax Law.

10 ACTING PRESIDENT LITTLE: Read
11 the last section.

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

14 ACTING PRESIDENT LITTLE: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 60.

18 ACTING PRESIDENT LITTLE: The
19 bill is passed.

20 THE SECRETARY: In relation to
21 Calendar Number 1896, Senator Bruno moves to
22 discharge, from the Committee on Rules,
23 Assembly Bill Number 8245 and substitute it
24 for the identical Senate Bill Number 5437,
25 Third Reading Calendar 1896.

1 ACTING PRESIDENT LITTLE:

2 Substitution ordered.

3 The Secretary will read.

4 THE SECRETARY: Calendar Number

5 1896, by Member of the Assembly Abbate,

6 Assembly Print Number 8245, an act to amend

7 the Retirement and Social Security Law and the

8 Administrative Code of the City of New York.

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

11 Read the last section.

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

14 ACTING PRESIDENT LITTLE: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 60.

18 ACTING PRESIDENT LITTLE: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 1897, by the Senate Committee on Rules, Senate
22 Print Number 5591A, an act to amend the Tax
23 Law.

24 ACTING PRESIDENT LITTLE: Read
25 the last section.

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

3 ACTING PRESIDENT LITTLE: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 60.

7 ACTING PRESIDENT LITTLE: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 1898, by Senator Meier, Senate Print 5692A, an
11 act authorizing the City of Utica.

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

14 Read the last section.

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

17 ACTING PRESIDENT LITTLE: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 60.

21 ACTING PRESIDENT LITTLE: The
22 bill is passed.

23 THE SECRETARY: In relation to
24 Calendar Number 1899, Senator Morahan moves to
25 discharge, from the Committee on Rules,

1 Assembly Bill Number 6793A and substitute it
2 for the identical Senate Bill Number 5737,
3 Third Reading Calendar 1899.

4 ACTING PRESIDENT LITTLE:
5 Substitution ordered.

6 The Secretary will read.

7 THE SECRETARY: Calendar Number
8 1899, by Member of the Assembly Weisenberg,
9 Assembly Print Number 6793A, an act to amend
10 the Public Health Law.

11 ACTING PRESIDENT LITTLE: Read
12 the last section.

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

15 ACTING PRESIDENT LITTLE: Call
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 60.

19 ACTING PRESIDENT LITTLE: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 1900, by Senator Spano --

23 SENATOR LIZ KRUEGER: Lay it
24 aside.

25 ACTING PRESIDENT LITTLE: The

1 bill is laid aside.

2 THE SECRETARY: Calendar Number
3 1901, by Senator Maziarz, Senate Print 5867,
4 an act to amend a chapter of the Laws of 2005.

5 ACTING PRESIDENT LITTLE: Read
6 the last section.

7 THE SECRETARY: Section 2. This
8 act shall take effect on the same date and in
9 the same manner as a chapter of the Laws of
10 2005.

11 ACTING PRESIDENT LITTLE: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 60.

15 ACTING PRESIDENT LITTLE: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 1902, by Senator Flanagan, Senate Print 5877,
19 an act to amend the Election Law and the State
20 Finance Law.

21 ACTING PRESIDENT LITTLE: Read
22 the last section.

23 SENATOR MONTGOMERY: Lay it
24 aside, please.

25 ACTING PRESIDENT LITTLE: The

1 bill is laid aside.

2 THE SECRETARY: Calendar Number
3 1903, by the Senate Committee on Rules, Senate
4 Print 5880, an act to reauthorize the
5 resentencing of certain Class A-II felony
6 controlled substance offenders.

7 SENATOR MONTGOMERY: Lay it
8 aside.

9 ACTING PRESIDENT LITTLE: The
10 bill is laid aside.

11 THE SECRETARY: In relation to
12 Calendar Number 1905, Senator Bruno moves to
13 discharge, from the Committee on Rules,
14 Assembly Bill Number 8467 and substitute it
15 for the identical Senate Bill Number 5899,
16 Third Reading Calendar 1905.

17 ACTING PRESIDENT LITTLE:
18 Substitution ordered.

19 The Secretary will read.

20 THE SECRETARY: Calendar Number
21 1905, by Member of the Assembly Reilly,
22 Assembly Print Number 8467, an act to amend
23 Chapter 405 of the Laws of 1999.

24 ACTING PRESIDENT LITTLE: Read
25 the last section.

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

3 ACTING PRESIDENT LITTLE: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 60.

7 ACTING PRESIDENT LITTLE: The
8 bill is passed.

9 THE SECRETARY: In relation to
10 Calendar Number 1907, Senator Bruno moves to
11 discharge, from the Committee on Rules,
12 Assembly Bill Number 2168A and substitute it
13 for the identical Senate Bill Number 5901,
14 Third Reading Calendar 1907.

15 ACTING PRESIDENT LITTLE:
16 Substitution ordered.

17 The Secretary will read.

18 THE SECRETARY: Calendar Number
19 1907 --

20 SENATOR OPPENHEIMER: Lay it
21 aside.

22 ACTING PRESIDENT LITTLE: The
23 bill is laid aside.

24 The Secretary will read.

25 THE SECRETARY: Calendar Number

1 1909, by Senator Morahan, Senate Print 5909,
2 an act to amend the Mental Hygiene Law.

3 ACTING PRESIDENT LITTLE: Senator
4 Skelos.

5 SENATOR SKELOS: Is there a
6 message of necessity at the desk?

7 ACTING PRESIDENT LITTLE: Yes,
8 there is, Senator.

9 SENATOR SKELOS: Move to accept.

10 ACTING PRESIDENT LITTLE: All in
11 favor of accepting the message say aye.

12 (Response of "Aye.")

13 ACTING PRESIDENT LITTLE:
14 Opposed, nay.

15 (No response.)

16 ACTING PRESIDENT LITTLE: The
17 message is accepted.

18 Read the last section.

19 THE SECRETARY: Section 2. This
20 act shall take effect on the same date and in
21 the same manner as a chapter of the Laws of
22 2005.

23 ACTING PRESIDENT LITTLE: Call
24 the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 60.

2 ACTING PRESIDENT LITTLE: The
3 bill is passed.

4 Senator Skelos, that completes the
5 noncontroversial reading of Supplemental
6 Calendar B.

7 SENATOR SKELOS: Thank you, Madam
8 President. If we could now go to the
9 controversial reading of Supplemental
10 Calendar B.

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

13 Senator Skelos.

14 SENATOR SKELOS: Madam President,
15 Calendar Number 1900 was inadvertently laid
16 aside. If we could take it up at this time.

17 ACTING PRESIDENT LITTLE: Could
18 we have order, please.

19 Calendar 1900. The Secretary will
20 read.

21 THE SECRETARY: Calendar Number
22 1900, by Senator Spano, Senate Print 5755, an
23 act to amend the Tax Law.

24 ACTING PRESIDENT LITTLE: Read
25 the last section.

1 THE SECRETARY: Section 8. This
2 act shall take effect September 1, 2005.

3 ACTING PRESIDENT LITTLE: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 58. Nays,
7 2. Senators Balboni and Duane recorded in the
8 negative.

9 ACTING PRESIDENT LITTLE: The
10 bill is passed.

11 Senator Skelos.

12 SENATOR SKELOS: Madam President,
13 if we could now go to the controversial
14 reading of Supplemental Calendar B.

15 ACTING PRESIDENT LITTLE: The
16 Secretary will read controversial Supplemental
17 Calendar B.

18 THE SECRETARY: Calendar Number
19 1882, by Senator Winner, Senate Print 3304B,
20 an act to amend the Education Law.

21 SENATOR SCHNEIDERMAN:
22 Explanation.

23 ACTING PRESIDENT LITTLE: Thank
24 you.

25 Senator Winner, for an explanation.

1 SENATOR WINNER: Thank you, Madam
2 President.

3 This bill would permit certified
4 dental assistants to perform any noninvasive
5 reversible supportive procedure to a dentist
6 in his or her performance of dental service.

7 ACTING PRESIDENT LITTLE: Can we
8 try to keep it quiet so the speaker can be
9 heard. Thank you.

10 Senator Winner.

11 SENATOR WINNER: Thank you, Madam
12 President.

13 Again, this would permit certified
14 dental assistants to perform any noninvasive
15 reversible supportive procedure to a dentist
16 in his or her performance of dental services
17 authorized under the Dental Practice Act and
18 also as would be approved by the department.

19 ACTING PRESIDENT LITTLE: Thank
20 you, Senator.

21 Senator Krueger.

22 SENATOR LIZ KRUEGER: Thank you.
23 If the sponsor would please yield.

24 ACTING PRESIDENT LITTLE: Thank
25 you.

1 Senator Winner, do you yield?

2 SENATOR WINNER: Yes.

3 ACTING PRESIDENT LITTLE: Thank

4 you.

5 The Senator yields.

6 SENATOR LIZ KRUEGER: Thank you.

7 When this bill came up in
8 committee, there had been some concern about
9 the scope of practice differences between
10 dental hygienists and dental assistants and
11 what could be approved or not approved just at
12 the option of a dentist.

13 This is a B print. How has it
14 changed since our discussion in committee?

15 SENATOR WINNER: Well, in
16 accordance with your concern and the concerns
17 of others on the committee, Senator, the bill
18 was amended to require that the department
19 approve any types of procedures that would be
20 authorized under this bill, so that sole
21 determination of what would be authorized
22 would not be the dentist but would also have
23 to be on an approved list of the Department of
24 Education.

25 That would continue to create the

1 difference in scope of practice between the
2 hygienist and the dental assistant, so that
3 there would be no commingling of those types
4 of functions and that the services that are
5 being provided by a certified dental assistant
6 would be only those for which he or she is
7 qualified to perform under regulations as
8 determined by -- not under regulations, but as
9 approval of the department, as well as
10 ensuring that those procedures are not
11 irreversible or surgical in nature.

12 SENATOR LIZ KRUEGER: Madam
13 President, briefly on the bill.

14 ACTING PRESIDENT LITTLE: Thank
15 you.

16 Senator Krueger, on the bill.

17 SENATOR LIZ KRUEGER: Thank you.

18 I want to thank the sponsor, not
19 only for his explanation but for his going
20 back reflecting the concerns that were raised
21 in committee and changing his bill. And I do
22 support it.

23 Thank you.

24 ACTING PRESIDENT LITTLE: Thank
25 you.

1 Is there any other Senator wishing
2 to speak on the bill?

3 Senator Montgomery.

4 SENATOR MONTGOMERY: Yes, Madam
5 President, I'm not sure that I have the
6 correct information, but I have the
7 opposition, including the Dental Assistants
8 Association, the State Dental Hygiene
9 Educators, the Long Island Dental Hygienists
10 Association, the Westchester Dental Hygienists
11 and NYSUT --

12 ACTING PRESIDENT LITTLE: Senator
13 Montgomery, do you have a question or are you
14 speaking on the bill?

15 SENATOR MONTGOMERY: For the
16 record, I want to note that there is
17 considerable opposition to throwing out the
18 regulations, the commissioners' regulations on
19 the scope of practice of dental assistants.

20 ACTING PRESIDENT LITTLE: One
21 moment.

22 SENATOR MONTGOMERY: These groups
23 are still opposed to this legislation, Madam
24 Chair, and I'm going to vote no as well. I
25 think it's a bad idea.

1 Thank you.

2 ACTING PRESIDENT LITTLE: Thank
3 you.

4 Is there any other Senator wishing
5 to speak on the bill?

6 The debate is closed.

7 The Secretary will ring the bell.

8 Read the last section.

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

11 ACTING PRESIDENT LITTLE: Call
12 the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT LITTLE: Senator
15 Schneiderman, to explain your vote.

16 SENATOR SCHNEIDERMAN: Thank you,
17 Madam President.

18 In addition to the concerns that
19 Senator Montgomery raised, I would like to
20 point out to my colleagues that this B print
21 is strongly opposed by NYSUT, by the teachers.
22 And one of the issues that they raise is the
23 educational requirements of the profession of
24 dental hygienists are not being addressed in
25 this legislation.

1 So while this will change the scope
2 of practice, it doesn't address any of the
3 educational issues. And for that reason the
4 teachers are opposed, and I will also be
5 voting no.

6 Thank you, Madam President.

7 ACTING PRESIDENT LITTLE: Thank
8 you.

9 Senator Schneiderman will be
10 recorded in the negative.

11 Senator Winner, to explain your
12 vote.

13 SENATOR WINNER: Briefly to
14 explain my vote.

15 With regard to the organizations
16 that have been listed as being in opposition
17 to it, frankly, it's kind of bizarre to me
18 that the dental assistants, who are benefited
19 by this bill, would be against it. But it
20 should be noted that that organization
21 consists of approximately 200 members, out of
22 20,000 dental assistants in New York State.
23 So therefore, it's pretty easy to start an
24 association if you don't have any members.

25 But under those circumstances also,

1 with regard to NYSUT, NYSUT's objection with
2 regard to the educational requirements are --
3 should be distinguished due to the fact that
4 the alternative pathway course that they're
5 concerned about has really not been utilized
6 by the dental assistants. And therefore, with
7 all due respect to that organization, which I
8 do respect very strongly, there is -- has not
9 been to date any difficulties with regard to
10 the educational requirements for dental
11 assistants to date.

12 And the requirements for
13 certification would still have been updated in
14 accordance with the department, and it has to
15 be approved by the department in order to be
16 certified as a dental assistant.

17 I vote aye, Madam President.

18 ACTING PRESIDENT LITTLE: Thank
19 you.

20 Senator Winner will be recorded in
21 the affirmative.

22 The Secretary will announce the
23 results.

24 THE SECRETARY: Those recorded in
25 the negative on Calendar Number 1882 are

1 Senators Alesi, Andrews, Brown, Connor, Dilan,
2 Duane, Hassell-Thompson, C. Kruger,
3 Marcellino, Montgomery, Oppenheimer, Parker,
4 Paterson, Rath, Sabini, Savino, Schneiderman,
5 Serrano, M. Smith, Stachowski, Stavisky and
6 Valesky. Also Senator A. Smith.

7 Ayes, 37. Nays, 23.

8 ACTING PRESIDENT LITTLE: The
9 bill is passed.

10 The Secretary will read.

11 THE SECRETARY: Calendar Number
12 1902, by Senator Flanagan, Senate Print 5877,
13 an act to amend the Election Law and the State
14 Finance Law.

15 SENATOR SCHNEIDERMAN:
16 Explanation.

17 ACTING PRESIDENT LITTLE: Thank
18 you.

19 Senator Flanagan, for an
20 explanation.

21 SENATOR FLANAGAN: Thank you,
22 Madam President.

23 This is the last major HAVA bill
24 that we're going to have. We are going to
25 have, before the end of the day, a bill

1 dealing with the governance of the State Board
2 of Elections. And in case anyone has any
3 concern, that bill will be forthcoming and it
4 will be passed by this house.

5 But in terms of issues affecting
6 HAVA directly, this is the last bill in the
7 package. This is an agreed-upon bill with the
8 Assembly.

9 And let me start by thanking
10 Senator Dilan in particular for his help and
11 support, being very gracious during the
12 conference committee process, and my
13 colleagues Senators Spano, Maltese and Maziarz
14 for helping us through the conference
15 committee process, and Assemblyman Wright and
16 the members of the Assembly and the staff over
17 there.

18 And internally, because this has
19 taken several years, I would be remiss if I
20 did not thank Mike Melkonian, from our
21 counsel's office, for his countless hours
22 working on this, Mike Avella, Ken Riddett, and
23 John Conklin, from my own office, for their
24 herculean efforts to help achieve compromise.

25 And, ladies and gentlemen, that's

1 what this bill is about. It's about
2 compromise. There are things that we like,
3 there are things that the Assembly likes, but
4 ultimately we came to an agreement on how
5 machines should be selected in the state of
6 New York. And this is part of a package that
7 is the largest Election Law overhaul probably
8 in the last 50 years.

9 There's \$190 million in this bill
10 for machine purchase. We are providing
11 guidance and asking the State Board of
12 Elections to do a number of different things,
13 including setup, rules and regulations, work
14 with local county boards.

15 And this is a huge step forward in
16 terms of modernizing our elections system, and
17 to do a couple of things that somehow have
18 again lost in the debate. We're trying to
19 protect the integrity of every person's vote,
20 to prevent voter fraud. If you look at the
21 administrative complaint procedure, the
22 statewide database, voter verification, voter
23 ID, county takeover or county governance, and
24 now the voting machine bill, this is a package
25 that represents sweeping change. And in many,

1 many respects it's all positive.

2 There are several things that I
3 think are worthy of mention beyond the money,
4 one of which is that there is a citizens'
5 advisory committee comprised of 12 different
6 members, at least four of whom have to be from
7 disability rights organizations throughout the
8 state.

9 We are allowing counties to
10 purchase one system countywide. Now, I know
11 there will be some points made and perhaps
12 some comments and questions: Why don't we
13 have a uniform system? Why are we doing it
14 this way? As I suggested to you early on,
15 this is about compromise.

16 And I think there's an element
17 where we should allow the State Board of
18 Elections and, frankly, the election
19 commissioners all throughout the State of
20 New York to put their imprint and have their
21 imprimatur on this process, because they do it
22 every day. They're being lobbied, and I know
23 this is all around, there's been so much
24 lobbying on machines. The people really being
25 lobbied are at the county level. So we've set

1 up a system where the state board will provide
2 the overall framework, the overall guidelines,
3 and work with our counties throughout the
4 State of New York.

5 I do have in front of me a memo of
6 support from the Election Commissioners
7 Association of the State of New York on all of
8 these bills, including the voting machine bill
9 that we have before us.

10 This is something we need to do,
11 and it's something we need to do now, because
12 we have to provide ample time for our counties
13 all across the state to be able to get into
14 the HAVA process and be ready for the upcoming
15 elections in 2006.

16 ACTING PRESIDENT LITTLE: Thank
17 you, Senator.

18 Senator Sabini.

19 SENATOR SABINI: Thank you, Madam
20 President. May I ask the sponsor to yield for
21 a question.

22 ACTING PRESIDENT LITTLE: Thank
23 you.

24 Senator Flanagan, do you yield?

25 SENATOR FLANAGAN: Yes.

1 ACTING PRESIDENT LITTLE: The
2 Senator yields.

3 SENATOR SABINI: First of all,
4 let me congratulate the sponsor and the
5 conferees.

6 It's been a long process, and this
7 is one that we -- this meets the standards of
8 what we should be doing in making law. And
9 the work you've done, you deserve a lot of
10 credit, and I congratulate you. And last
11 year -- you got done what we couldn't do last
12 year when Senator Morahan and I and others
13 tried to get this done. Because there's a lot
14 of different concerns here, and it's a tough
15 job.

16 I have some what I feel like are
17 real policy concerns that really haven't been
18 addressed, and I just want to ask you to try
19 and address them.

20 My understanding is -- and correct
21 me if I'm wrong -- that in the New York City
22 Board of Elections, comprising the five
23 counties and the City of New York, that
24 they're going to buy -- the order for the
25 machines is so large that no manufacturer can

1 supply them that quickly. Is that your
2 understanding?

3 SENATOR FLANAGAN: No. No.

4 SENATOR SABINI: Madam President,
5 through you, will the sponsor yield?

6 SENATOR FLANAGAN: Yes.

7 ACTING PRESIDENT LITTLE: Thank
8 you.

9 The Senator yields.

10 SENATOR SABINI: Well, what is
11 your understanding about how the machine
12 purchase would go in the City of New York?

13 SENATOR FLANAGAN: Well, the
14 machine purchase in the City of New York would
15 be like any other municipality or any other
16 county throughout the state.

17 The fact that New York City has --
18 happens to have the largest potential
19 purchase, I'm not going to make the assumption
20 and I don't think we should be making the
21 assumption that they're not going to be able
22 to meet that mandate.

23 They're going to work through the
24 State Comptroller's office, they're going to
25 work with the State Board of Elections, just

1 like Suffolk County, Nassau County, and every
2 other county throughout the State of New York.

3 SENATOR SABINI: Madam President,
4 will the sponsor continue to yield.

5 ACTING PRESIDENT LITTLE: Thank
6 you.

7 Senator Flanagan, do you continue
8 to yield?

9 SENATOR FLANAGAN: Yes.

10 ACTING PRESIDENT LITTLE: Thank
11 you.

12 The Senator yields.

13 SENATOR SABINI: So it is your
14 assertion, then, that the City of New York
15 would get all the machines in time for the
16 next general election? When is the sponsor's
17 assertion that New York City will have their
18 machines in?

19 SENATOR FLANAGAN: Senator
20 Sabini, I'm not asserting anything. I'm not
21 representing anything on behalf of the City of
22 New York. I don't view them any differently
23 from any other county across this state.

24 The mandate that they have is to
25 modernize their election systems. We are now

1 providing a framework, we're providing money,
2 and we're providing the rules and regulations.
3 At some point quickly down the road, I hope,
4 they will say here are the standards, here are
5 the potential options that you have, this is
6 how you would purchase, this is how the money
7 is going to flow.

8 I have faith that the City of
9 New York will comply with the components of
10 this law and the components of HAVA just as
11 every other county in the State of New York
12 will.

13 SENATOR SABINI: Madam President,
14 if the sponsor would continue to yield.

15 ACTING PRESIDENT LITTLE: Thank
16 you.

17 Senator Flanagan, do you continue
18 to yield?

19 SENATOR FLANAGAN: Yes.

20 ACTING PRESIDENT LITTLE: The
21 Senator yields.

22 SENATOR SABINI: Senator, the
23 good-intention question is based on the fact
24 that it's been my understanding that the city
25 has been told that they couldn't reach -- no

1 manufacturer could fulfill the order in time
2 under the HAVA deadline, and that the order
3 would be placed ahead of time and that some
4 machines would be delivered and that would be,
5 in effect, compliance. That is not your
6 understanding?

7 SENATOR FLANAGAN: Well, you may
8 have information that I am not privy to. But
9 I don't know about any order being placed, I
10 don't know about any order being discussed.

11 But I could take a logical
12 extension of your argument, and for argument's
13 sake I'll say the State Board of Elections
14 comes out and they say: This machine is
15 acceptable. And every county across the State
16 of New York says: You know what, I'm on
17 board, we're going with that machine. And
18 now, instead of 20,000 machines for the City
19 of New York, you need 50,000 across the state.
20 Is that manufacturer going to say, I'm sorry,
21 we're not going to be able to do it?

22 I think if those companies are out
23 there, whether it's the City of New York or my
24 own county or any other county, they're going
25 to look and say, Hey, I got a great shot at

1 some serious money and some serious action
2 here on voting machines. I think they're
3 going to get in the game, they're going to get
4 engaged, they're going to come up with the
5 machines they need to.

6 And I would be remiss if I
7 suggested anything to the contrary, because
8 nobody should labor under the illusion that
9 there's some broad opportunity here -- ah, you
10 know, we'll see if it works. Everybody should
11 be saying: Here's the money, here are the
12 rules, get in the game and get it done.

13 SENATOR SABINI: Madam President,
14 if the sponsor would continue to yield.

15 ACTING PRESIDENT LITTLE: Thank
16 you.

17 Senator Flanagan, do you continue
18 to yield?

19 SENATOR FLANAGAN: Yes.

20 ACTING PRESIDENT LITTLE: The
21 Senator yields.

22 SENATOR SABINI: I appreciate the
23 sponsor's reference to Larry the Cable Guy.

24 (Laughter.)

25 SENATOR SABINI: If -- as you

1 know, New York, Kings and Bronx County are
2 under the voting rights mandate that any
3 action that a board of elections takes in
4 those counties has to be precleared with the
5 Justice Department.

6 My concern is that if we have some
7 machines and not others, that the educational
8 efforts that the Justice Department are going
9 to require and that HAVA pays for, which is
10 good, for public service announcements and
11 advertising and information for both the
12 voting population and the election officials,
13 that that will be sort of a muddled message
14 that the Justice Department will not accept.

15 In other words, that some people
16 will be voting on one kind of a machine in
17 parts of Manhattan and some people will be
18 voting on another, and how does the voter know
19 before they get there.

20 I'm concerned that -- you know, we
21 had an election, for historical purposes, in
22 1981 in New York City where the City Council
23 elections were canceled the night before the
24 election. And people spent tens of thousands
25 of dollars on their campaigns and the night

1 before the election were told: Oh, by the
2 way, we're going to have the election next
3 year, because the Justice Department stopped
4 us.

5 And I'm just worried that we're
6 leaving ourselves open to a situation here
7 where the Justice Department will tell us, You
8 can't do this. And then I wonder where we
9 are. I mean, have the conferees thought about
10 the danger of that?

11 SENATOR FLANAGAN: I would
12 suggest to you that the conferees have
13 discussed this issue. I don't know that they
14 would categorize it as a danger.

15 But I would certainly tell you that
16 in my own limited experience in dealing with
17 the State Board of Elections and the election
18 commissioners and, indirectly, the Justice
19 Department, they are on their game, they are
20 engaged, and, at the same time, they have also
21 been very diligent and very helpful in looking
22 to clear issues as quickly as possible.

23 I think one of the benefits that we
24 will have is that if there are legitimate
25 identifiable issues, the Justice Department

1 will not come to us the night before an
2 election. They're going to be holding our
3 hand and walking us and embracing us -- or
4 perhaps knocking us around a little bit --
5 throughout this process.

6 SENATOR SABINI: Thank you, Madam
7 President.

8 ACTING PRESIDENT LITTLE: Thank
9 you.

10 Senator Dilan.

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

13 ACTING PRESIDENT LITTLE: Thank
14 you. On the bill.

15 SENATOR DILAN: I rise to support
16 this legislation today.

17 And I want to say that, first of
18 all, I want to thank Senator Flanagan for all
19 the work on this bill. I want to thank all
20 the staff that was involved and assisted me,
21 especially Jim Long from our conference.

22 And I also want to indicate that
23 the conference committees do work, and that's
24 why that bill is here today.

25 This bill provides for choice to

1 the various counties in New York City in terms
2 of determining which type of voting system
3 they want. And hopefully, to answer Senator
4 Sabini's question in regard to New York City,
5 this bill would provide a phase-in for
6 New York City to comply with the HAVA act and
7 hopefully be eligible for the entire amount of
8 money for New York City.

9 That's something that New York City
10 requested, where they indicate that they
11 cannot have the machines in time for
12 implementation for the 2006 election. The
13 executive directors of the Board of Elections
14 and their counsel indicate that by the middle
15 of 2006, they will have all machines in-house,
16 but they're not authorized to purchase the
17 machines until this bill passes the
18 Legislature and is signed by the Governor.

19 Also, one of their major concerns
20 in terms of not being able to comply with HAVA
21 on time was the education of the inspectors
22 and voters in terms of the new voting system.
23 This bill also provides for handicapped and
24 disabled individuals to vote on the same type
25 of machines that we all vote on and would also

1 give them the privacy of the vote.

2 And for these reasons, I'm
3 supporting the bill and ask that my colleagues
4 support it. Thank you.

5 ACTING PRESIDENT LITTLE: Thank
6 you, Senator.

7 Senator Liz Krueger.

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

10 ACTING PRESIDENT LITTLE: On the
11 bill.

12 SENATOR LIZ KRUEGER: Thank you.

13 Well, I've listened to my
14 colleagues, and I do agree this took a long
15 time, there was a lot of good work put into
16 this, and it was a compromise.

17 Unfortunately, I'm not comfortable
18 with the compromise, and I don't think that
19 passage of this bill is in the best interests
20 of the future of voting in the State of
21 New York. I feel pretty strongly we should
22 have gone with one standard for the state.

23 And Senator Sabini raised just some
24 of the concerns that I have about what it
25 might look like in the City of New York with

1 multiple machines multiple places, what
2 happens when there are elections across county
3 lines with counties who may be using different
4 machines, which then of course translates into
5 different Election Day standards, different
6 standards for provisional balloting, different
7 rules for how both workers need to be trained
8 and voters need to be educated.

9 I think that we had a great
10 opportunity to finally work out many of the
11 problems we've had in the State of New York
12 for decades, because certainly election
13 problems are not new. We are all familiar
14 with them. That we had an opportunity to come
15 up with one system and one set of standards
16 for the state to resolve so many of the
17 problems we've already had.

18 And that this bill, while I accept
19 that this is compromise over a very long
20 period of time, will result in a new layer of
21 new problems without resolving the old
22 problems with multiple systems and different
23 standards, and that we will be continuing to
24 revisit these problems -- hopefully not with
25 devastating election outcomes or inability to

1 track the outcomes of elections.

2 For the record, I think we should
3 be going with one -- not just one standard,
4 but optical scanning.

5 Also just to note, last night we
6 talked about the importance of passing
7 procurement lobbying reform, and we voted for
8 it and we're all very happy about it. Just
9 for the record, that bill goes into effect
10 January 2006. The mass lobbying, county by
11 county, commissioner of election by
12 commissioner of election, has started already
13 and probably will be done before our
14 procurement lobbying law goes into effect.

15 So for those of us who are pleased
16 we passed the bill -- and we are -- we should
17 just note that the added problems of 57
18 counties with 57 sets of election
19 commissioners and local elected officials now
20 being lobbied over which system to go with
21 really won't be included under the law we
22 passed.

23 So I'll be voting no, Madam
24 President. Thank you.

25 ACTING PRESIDENT LITTLE: Thank

1 you.

2 Senator Schneiderman.

3 SENATOR SCHNEIDERMAN: Thank you,
4 Madam President. On the bill very briefly.

5 ACTING PRESIDENT LITTLE: On the
6 bill.

7 SENATOR SCHNEIDERMAN: I
8 appreciate the hard work that has gone into
9 this, not just by the people, the members on
10 the committee and the staffs, but by the
11 public interest and good government groups
12 that have been working for a very long time to
13 try and get the best possible resolution for
14 New York State to the HAVA requirements.

15 I also feel compelled to vote no,
16 though, because I feel that we have not come
17 close to what we should have achieved here.
18 And I would note, in particular, the
19 objections of NYPIRG, the League of Women
20 Voters, Demos, Common Cause, and Citizens
21 Union, who identify, among other failings, the
22 fact that we are issuing statewide standards
23 and recommendations but we are going to
24 produce what they call a hodgepodge system in
25 which New Yorkers in one part of the state may

1 be voting under dramatically different
2 circumstances than voters in other parts of
3 the state. That applies within districts.

4 And I think that, you know, it is
5 unfortunate that I believe that the
6 representatives of the other house were
7 holding out for a statewide system so we would
8 avoid that chaos, and that my colleagues on
9 the other side of the aisle did not want to go
10 along with that.

11 This also authorizes a type of
12 machine that has, in other jurisdictions, had
13 tremendous problems, direct recording
14 electronics machines.

15 So we shouldn't be authorizing bad
16 equipment, we shouldn't be forcing this down
17 to the county level to produce a system in
18 which within one district, one congressional
19 district and one Senate district, we'll have
20 different voting machines. And that, I think,
21 is a bad compromise.

22 I'm sorry that we again, this
23 house, the majority in this house refused to
24 reauthorize the conference committee while the
25 majority in the other house was willing to do

1 so. We could have done with more work by the
2 conference committee. I think a better deal
3 was within our reach and we failed to reach
4 it. I respect the work that's been done, but
5 we have to do better than this.

6 And I'm going to vote no.

7 Thank you, Madam President.

8 ACTING PRESIDENT LITTLE: Thank
9 you.

10 Senator Connor.

11 SENATOR CONNOR: Thank you, Madam
12 President.

13 In 1985 I served on the electronic
14 voting machine commission, temporary state
15 commission. It was headed by, cochaired by
16 the late great Senator Gene Levy and a young
17 assemblyman, Sheldon Silver, and actually, I
18 guess, Fabian Palamino from the governor.

19 And I guess the major
20 accomplishment we did is we put into law that
21 you couldn't use punchcard ballots, which
22 everybody was trying to sell us at that time.
23 We also put in testing standards and passed a
24 lot of legislation dealing with certifying
25 electronic voting machines.

1 The one thing that I advanced in
2 those commission meetings that never got
3 anywhere was that the state should have a
4 uniform voting machine and should pay for it,
5 rather than having it as a mandate on towns or
6 cities. Interestingly enough, at the time,
7 the then-governor wasn't interested. He
8 didn't like the fiscal impact. So on the
9 governor's side of that commission, they said,
10 no, we're not going there.

11 But, Madam President, I have -- I
12 looked forward to this HAVA process, hoping
13 that we would end up with a statewide system
14 of voting, with uniformity. It's certainly
15 comfortable. I've certainly, in my other role
16 as an attorney, done many, many recounts in
17 various parts of the state and have done
18 statewide as well election recounts. And, you
19 know, it's comforting to know that there isn't
20 that much variable in the system. Because
21 whatever machine you use or whatever system
22 you use, there's a slight error -- we hope a
23 slight error factor. Some systems have
24 grossly large error factors, particularly
25 those punchcard-ballot types, which were used

1 until a year ago in three counties in this
2 state for absentees. They were grandfathered
3 in in the '85 legislation.

4 So I am disappointed to see us end
5 up with this compromise, which will
6 potentially result in great diversity among
7 counties in terms of the voting machines they
8 use, or the voting systems.

9 I'm also -- and it's too late to do
10 anything about this. You know, I see it being
11 set up now where they say, oh, New York City
12 won't be able to comply in time. And
13 sometimes it's said as if the city just can't
14 get it together. The fact of the matter is,
15 of all of the voting machines -- and we've
16 seen them all, they've all been in
17 demonstrations and all -- every system, there
18 is no manufacturer that can deliver 10,000
19 machines to New York City by February 2006.
20 They don't make them that fast. They don't
21 warehouse them. They don't have them. That's
22 the reason why.

23 And I understand there's an attempt
24 here to give New York City a break, to maybe
25 it can be deemed by the federal government to

1 be in compliance and won't lose all that
2 money. But it's just a very, very difficult
3 situation. It's a huge, huge contract,
4 10,000 machines, and it just can't be done in
5 that time frame.

6 Unfortunately, this process in the
7 Legislature has taken up a lot of time and has
8 left it such that the city will never be able
9 to acquire that many voting machines. And
10 this legislation recognizes that, of course,
11 and tries to deal with it. I'm not sanguine
12 that it will be successful, the methodology
13 here will be successful.

14 So that said, while I have
15 disappointments, it was a process, it was a
16 process that engaged the Legislature. And
17 many, many of us here in the Legislature
18 watched and pitched in and contributed our
19 thoughts and comments.

20 On balance, though, I really have
21 to defer to the leadership of my conference.
22 And therefore, I have to vote for this bill,
23 because Senator Dilan is the leader of this
24 conference on this issue. He's done a great
25 job working with Senator Flanagan. And I am

1 therefore going to vote for this legislation
2 because of the true leadership of my
3 conference on this issue.

4 Thank you.

5 ACTING PRESIDENT LITTLE: Thank
6 you, Senator.

7 Is there any other Senator wishing
8 to be heard?

9 Senator Diaz.

10 SENATOR DIAZ: Thank you.

11 Thank you, Madam President. I
12 would just take this opportunity to thank
13 Senator Dilan. Because all the questions that
14 have been asked here, they were asked in our
15 conference, and Dilan answered all of them.
16 And, you know, I just want to support Dilan
17 and Flanagan. But the question I -- this is
18 the second time that I hear the same thing.

19 So thank you.

20 ACTING PRESIDENT LITTLE: Thank
21 you.

22 Any other Senator wishing to be
23 heard?

24 Debate is closed. The Secretary
25 will ring the bell.

1 The Secretary will read the last
2 section.

3 THE SECRETARY: Section 21. This
4 act shall take effect immediately.

5 ACTING PRESIDENT LITTLE: Call
6 the roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT LITTLE: Senator
9 Flanagan, to explain his vote.

10 SENATOR FLANAGAN: Thank you,
11 Madam President. Just a couple of brief
12 comments; there were some concerns raised.

13 I think we need to remember two
14 basic points. People talk about a uniform
15 system. Ladies and gentlemen, we don't have a
16 uniform system in the state of New York today.
17 We have different voting machines across the
18 state of New York. So it's not like we're
19 departing from any tradition that's been
20 around for some time.

21 And also, again, in calling for the
22 uniform standard, if you look at all the
23 states across the country, there's maybe a
24 handful, five or six, that have a uniform
25 system. Over 40 states have a system set up

1 just like we have here.

2 This is a -- it's a good bill.

3 And I will only add one final
4 thing, just in case anyone is looking at our
5 legislative intent. The concerns that have
6 been raised about New York City can really be
7 raised anywhere. Get into a small county, are
8 they going to be ready, can they get it all
9 done, even if it's a small purchase.

10 Everybody should operate on the
11 assumption that there are no exceptions, that
12 there is money there that we want to make sure
13 we don't risk losing. So to the election
14 commissioners and any local legislative bodies
15 who have an interest, don't waste any time.
16 The time is now, the money is there. And
17 anyone who tries to deviate from that is only
18 setting themselves up for problems.

19 Thank you.

20 ACTING PRESIDENT LITTLE: Thank
21 you.

22 Senator Flanagan will be recorded
23 in the affirmative.

24 Senator Oppenheimer.

25 SENATOR OPPENHEIMER: To explain

1 my vote, please, Madam President.

2 ACTING PRESIDENT LITTLE: To
3 explain your vote.

4 SENATOR OPPENHEIMER: I think I
5 echo pretty much what Senator Connor said, so
6 I won't be repetitious.

7 It's just that I felt very strongly
8 I wanted a single machine for our entire
9 state. I feel very strongly that I wanted it
10 to be optical scan. Though I tell you, I
11 understand that the software on optical scan
12 can also be rigged, so I'm not sure there's a
13 machine being made now that I think is worthy.

14 But I'm going to support this,
15 because we can't move ahead until we have
16 supported this, and we can't buy the equipment
17 we need. So it just is logical that we have
18 to support this even if it isn't ideal. But
19 you can't make the good the enemy of the
20 better.

21 ACTING PRESIDENT LITTLE: Thank
22 you.

23 Senator Oppenheimer will be
24 recorded in the affirmative.

25 The Secretary will announce the

1 results.

2 THE SECRETARY: Those recorded in
3 the negative on Calendar Number 1902 are
4 Senators Duane, Klein, L. Krueger, Montgomery,
5 Paterson, Sabini, Schneiderman and Serrano.

6 Ayes, 52. Nays, 8.

7 ACTING PRESIDENT LITTLE: The
8 bill is passed.

9 The Secretary will read.

10 THE SECRETARY: Calendar Number
11 1903, by the Senate Committee on Rules, Senate
12 Print Number 5880, an act to authorize the
13 resentencing of certain Class A-II felony
14 controlled substance offenders.

15 ACTING PRESIDENT LITTLE: Senator
16 Duane.

17 SENATOR DUANE: Thank you, Madam
18 President.

19 I think it's important to note that
20 our conference, our leader, David Paterson,
21 and I, along with Senator Montgomery, Senator
22 Hassell-Thompson -- who else? -- Senator
23 Parker, Senator Andrews, have been working on
24 a task force having to do with reforming the
25 Rockefeller Drug Laws.

1 And while I know last January we
2 did some resentencing and some work around
3 good-behavior issues of those convicted under
4 the Rockefeller Drug Laws, it really could
5 only be called a minor sentencing reform. The
6 largest population of people incarcerated
7 under the drug laws still were not going to be
8 affected by the actions that we took last
9 January.

10 Only those who were convicted of
11 A-I felonies were eligible, for the most part,
12 to have their sentences looked at again, with
13 an eye towards having their sentences reduced
14 and in many cases, we would hope, to be able
15 to finally be released from prison.

16 The flaw with even the A-I
17 drug-related felonies is that those who are
18 incarcerated were not in any way provided with
19 the resources to have their sentences looked
20 at again. And to this day, we are all
21 struggling to find attorneys to take on these
22 cases to have the cases looked at, because
23 there are no Legal Aid or legal services
24 resources to help those incarcerated under the
25 A-I drug offenses to have their cases

1 revisited.

2 And even those few who are having
3 their cases revisited are having different
4 kinds of results, depending on what borough or
5 what county their cases emanated from. So,
6 for instance, the Brooklyn district attorney
7 is kind of moving them along. The same is
8 true in Westchester. The same is true in
9 Queens. However, in Manhattan, none of these
10 cases are moving forward.

11 And in fact, I know that there's a
12 case going on -- I don't know the
13 circumstances -- where the Manhattan DA is
14 actually actively fighting one of these
15 resentencings.

16 And really, what we did here was to
17 say that -- or the intent was that the
18 sentences for these A-I nonviolent felonies
19 were too draconian and we acknowledged that
20 those sentences should be reduced.

21 In addition, in that bill, on the
22 issue of having, you know, participating in
23 programs and having a good record should go
24 towards a reduction in your sentences for
25 other categories of felons, is really a

1 mirage, because all of those programs have
2 waiting lists on them and there was no money
3 to increase the number of those programs. So
4 no one can get into the programs so that they
5 can get the good-time benefits and have their
6 sentences be reduced.

7 So now, we have before us a bill
8 that deals with the A-IIIs. I would have to
9 say we're going to have the same problem.
10 There are no attorneys out there who have the
11 time or have -- you know, or are getting paid
12 in any way privately or through government
13 grants to help those who are unfairly
14 incarcerated, which we admit that they were
15 unfairly incarcerated under the Rockefeller
16 Drug Laws.

17 Now, on top of all of that, we're
18 still not touching the Bs. The B felons still
19 are not able to have their sentences reviewed
20 except under the mirage of going through
21 programs which have waiting lists so they
22 can't even get into those programs to get the
23 good records so they can have their sentences
24 reduced.

25 Now, many of you know that we did

1 an exhaustive study with our conference and
2 with the staff members of our conference where
3 we reached out to DAs and judges and people
4 across the country in every state. And what
5 our survey proved was that New York State is
6 completely and totally, utterly out of the
7 mainstream, that our laws are far beyond what
8 any other jurisdiction has in this nation.

9 And we had DAs come before us and
10 say, We would never need what you have. What
11 we have in our criminal justice system, the
12 laws that we have on our books -- which are
13 far less onerous than the laws that we have in
14 New York State -- are plenty to prosecute drug
15 offenders.

16 And so, still, nonviolent drug
17 offenders, those who have already been
18 convicted of B felonies, those who may be
19 convicted of B felonies in the future --
20 nonviolent B felonies -- are still going to
21 have unconscionably long sentences. Judges'
22 hands will still be tied in terms of giving
23 them a fair sentence. They're still not going
24 to be allowed to sentence people to drug
25 treatment.

1 And so, again, this tiny little
2 incremental sentencing reform is -- is so
3 minimal, so tiny compared to what we should be
4 doing in this Legislature to really reform the
5 Rockefeller Drug Laws.

6 We've had all year to keep working
7 on it. And yet this is the end result, just a
8 little bit more with the A-II felons when we
9 know what was wrong with what was done in
10 December? We still, for nonviolent drug
11 offenders -- by the way, many of whom are
12 women -- are still not going to be able to
13 have their addiction or any of the crime, the
14 nonviolent crime that may result from their
15 conviction be dealt with as a mental health
16 issue, as a way to deal with the addiction
17 issue? Still, judges are still only going to
18 be able to look at what is happening with them
19 as a criminal justice issue.

20 So, yes, a few more incarcerated
21 men, almost all men, will be eligible to have
22 their sentences reduced under this sentencing
23 reform we're doing today. But they have to
24 get in line, because the A-Is still aren't
25 having their cases looked at.

1 So who's getting helped right now?
2 Very few people. Only those lucky enough to
3 find lawyers willing to take their cases for
4 free. So the A-IIIs are going to have to get
5 in line behind the A-Is who aren't getting
6 help. People still not going to be able to
7 get into programs, because the programs are
8 filled in the prison system. And those who
9 have now already been in jail because they
10 were convicted as B felons, and those who are
11 going to be convicted under B felonies, are
12 not going to get the treatment they need, are
13 going to languish in jail. And it's our
14 fault. Surely we can do better than this.

15 Thank you, Madam President.

16 ACTING PRESIDENT LITTLE: Thank
17 you.

18 Senator Montgomery.

19 SENATOR MONTGOMERY: Yes, Madam
20 President, I just want to reiterate what
21 Senator Duane said in terms of the smallness
22 of this move.

23 And I know that I was one of the
24 people who voted no on the so-called reform
25 bill, because I thought that it was such a

1 contradiction in what we were talking about.
2 We still are not talking about treatment.
3 We're not talking about judicial discretion.
4 There is no indication that we're doing
5 anything about reentry, issues around reentry.
6 We're not talking about probation, expanded
7 probation to address drug offenses, or any
8 other alternative to incarceration.

9 So this is really very, very small.
10 It's a small number of people who will be
11 eligible under this. We have -- even with the
12 legislation that we passed last year, there
13 are very, very few people who have to date
14 been able to have their sentences redressed
15 based on that. So we're not doing very much.
16 But it's inching along.

17 I must add that the big
18 disappointment for me is that as we move these
19 little inches along forward, we are taking
20 giant steps backward in every other sense. So
21 in a sense we have not addressed criminal
22 justice reform, really.

23 So, Madam President, I think I'm
24 going to vote yes on this bill. But it
25 certainly defies my sense of any real -- what

1 we should be doing about any real criminal
2 justice reform.

3 Thank you.

4 ACTING PRESIDENT LITTLE: Thank
5 you.

6 Senator Schneiderman.

7 SENATOR SCHNEIDERMAN: Thank you,
8 Madam President. Briefly on the bill.

9 ACTING PRESIDENT LITTLE: On the
10 bill.

11 SENATOR SCHNEIDERMAN: I want
12 to -- I am also going to support this reform,
13 incremental as it is, tiny as it is.

14 But I cannot emphasize enough one
15 of the central points that was just made by
16 Senator Duane and by Senator Montgomery. We
17 have provided no system to see that the people
18 who are eligible for resentencing are
19 receiving legal representation.

20 I have participated in meetings in
21 New York City of pro bono coordinators at law
22 firms or the leaders of the Legal Aid and the
23 New York State Defenders. Those agencies are
24 taking on a burden without any increase -- in
25 fact, with decreases in their funding, in many

1 cases -- that they shouldn't have to take on.

2 We are setting ourselves up for
3 failure when you say we're going to make a few
4 people eligible for resentencing but you're
5 not going to have any reentry counseling,
6 you're not going to have access to a lawyer.
7 You're taking people who have been in prison
8 for a long time and essentially leaving them
9 to their own devices.

10 So the system by which we are
11 seeking to reform the Rockefeller Drug Laws is
12 flawed in two respects. One, it's proceeding
13 too slowly, in very small increments. And,
14 second, it will not succeed at all if we don't
15 address the issue of legal counsel and reentry
16 programs for the people we are making
17 eligible.

18 I am going to support this bill,
19 Madam President, but next year I hope we will
20 address the broader issues involved.

21 Thank you.

22 ACTING PRESIDENT LITTLE: Thank
23 you.

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

1 The debate is closed. The
2 Secretary will ring the bell.

3 Read the last section.

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

6 ACTING PRESIDENT LITTLE: Call
7 the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT LITTLE: Excuse
10 me. Could we have quiet in the chamber,
11 please, while we have members who wish to
12 explain their vote.

13 Senator DeFrancisco, to explain his
14 vote.

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

17 And having been on the conference
18 committee, the joint conference committee on
19 reform of the Rockefeller Drug Laws, I think
20 this is the next logical step.

21 No one is going to be let out of
22 jail without a full hearing and without proof
23 that this is the right thing to do. And it
24 corrects some of the inflexible sentencing
25 that we've been having for years under the

1 original Rockefeller Drug Laws.

2 So it's the right thing to do. And
3 having put in the first Rockefeller drug
4 reform bill in the Senate, I think we're
5 moving in the right direction. And hopefully
6 we'll continue with flexible sentencing on
7 other charges as well so courts can be in a
8 position to impose a sentence that fits the
9 particular individual.

10 ACTING PRESIDENT LITTLE: Thank
11 you.

12 Senator DeFrancisco will be
13 recorded in the affirmative.

14 Senator Duane, to explain his vote.

15 SENATOR DUANE: Thank you, Madam
16 President.

17 I'm voting in the negative, as I
18 believe I indicated in my remarks. But I have
19 to say that I was a participant in the
20 conference committee meetings, and I must have
21 missed the meetings where we agreed to this
22 particular part of the sentencing reform.

23 So I hope that I'm kept posted when
24 these decisions are being made in the
25 future -- unless perhaps the conference

1 committee actually didn't meet about this.

2 Thank you, Madam President.

3 ACTING PRESIDENT LITTLE: Senator
4 Duane will be recorded in the negative.

5 The Secretary will announce the
6 results.

7 THE SECRETARY: Those recorded in
8 the negative on Calendar Number 1903 are
9 Senators Andrews, Duane, Hassell-Thompson,
10 C. Kruger, Maltese, Marcellino, Meier,
11 Montgomery, Parker, Winner, Wright and Young.
12 Also Senator Padavan. Also Senator Connor.

13 Ayes, 46. Nays, 14.

14 ACTING PRESIDENT LITTLE: The
15 bill is passed.

16 The Secretary will read.

17 THE SECRETARY: Calendar Number
18 1907, substituted earlier today by Member of
19 the Assembly Sanders, Assembly Print Number
20 2168A, an act to amend the Education Law.

21 SENATOR OPPENHEIMER:
22 Explanation.

23 ACTING PRESIDENT LITTLE: Senator
24 Saland for an explanation, please.

25 SENATOR SALAND: Thank you, Madam

1 President.

2 Madam President, this is a bill
3 which deals with the use of federal funds for
4 preschool funding for children with
5 disabilities. Under existing law, what we
6 have been doing is distributing those monies
7 to providers based on a per-student basis.

8 What this proposes to do is to
9 change that distribution. What it does is it
10 will provide those funds now based on a
11 prorated basis, starting in the 2007-2008
12 school year, it will be driven by the types of
13 services --

14 ACTING PRESIDENT LITTLE: Thank
15 you, Senator Saland. Go ahead.

16 SENATOR SALAND: It will be
17 driven by services and not merely students.

18 So that if, for example, somebody
19 is providing, as part of the IEP for these
20 preschool students with disabilities, speech
21 therapy, under the existing law, they will be
22 paid on a per-capita basis, whereas somebody
23 may be providing multiple services and will
24 get the same amount of money.

25 It's an effort to try and be a bit

1 more equitable so this pro-rata basis will
2 recognize that.

3 There are two municipalities, or
4 two counties, Westchester and Suffolk, which
5 effectively will continue to be funded as they
6 have previously. They are treated differently
7 than everybody else. And that's in large part
8 because, in addition to the services they're
9 providing, they're also providing educational
10 programming.

11 ACTING PRESIDENT LITTLE: Thank
12 you.

13 Senator Oppenheimer.

14 SENATOR OPPENHEIMER: Thank you
15 for the explanation, Senator Saland.

16 If I could ask some questions of
17 the Senator.

18 ACTING PRESIDENT LITTLE: Thank
19 you.

20 Senator Saland, do you yield?

21 SENATOR SALAND: Yes, Madam
22 President.

23 ACTING PRESIDENT LITTLE: Thank
24 you.

25 The Senator yields.

1 SENATOR OPPENHEIMER: Thank you
2 for yielding.

3 Are you aware, Senator Saland, that
4 there are currently hundreds of children with
5 disabilities in Nassau and in Suffolk and
6 New York City that are waiting for services
7 because there are no providers available?

8 And I have an actual waiting list
9 from the New York City Department of Education
10 with like 350 names that are waiting for
11 services now in April of '05.

12 SENATOR SALAND: Well, I'm not
13 aware of the exact number. But certainly I
14 would think that the use of pro-rata funding,
15 as distinguished from per-capita funding, is
16 going to free up additional dollars to provide
17 for more students.

18 SENATOR OPPENHEIMER: Actually --
19 if the Senator would continue to yield.

20 ACTING PRESIDENT LITTLE: Thank
21 you.

22 Senator Saland, do you continue to
23 yield for a question?

24 SENATOR SALAND: Yes, Madam
25 President.

1 ACTING PRESIDENT LITTLE: Thank
2 you.

3 The Senator yields.

4 SENATOR OPPENHEIMER: Are you
5 aware that the providers that provide these
6 services in the home of the child, that they
7 have said they cannot continue to provide
8 these services unless the allocation for them
9 is increased?

10 They figure maybe a quarter -- a
11 third of the money they now receive by
12 providing in home services will be reduced.
13 And right now the rates are so low that many
14 of them are moving away from this service, and
15 that's prior to the one-third reduction.
16 So --

17 SENATOR SALAND: Madam President,
18 could I just have a little quiet here, please.
19 I'm having difficulty hearing Senator
20 Oppenheimer.

21 ACTING PRESIDENT LITTLE: Thank
22 you. It's difficult to hear the speakers who
23 are addressing the bill. Could we have it
24 quieter in the chamber, please.

25 SENATOR OPPENHEIMER: Thank you,

1 Madam President.

2 The issue is that for those who are
3 not providing the services in a center, those
4 who are not -- you know, not the center-based,
5 but those that services that are being
6 provided in-home, the fees that they are paid
7 are very, very low. And for the most part,
8 the in-home service providers are saying they
9 cannot continue if their reimbursement is
10 one-third reduced.

11 SENATOR SALAND: My understanding
12 is that this is supplemental funding in
13 addition to the funding that they may be
14 receiving through SED.

15 And again, the effort here is to
16 try and recognize that the per-capita system
17 is a system that says if you provide one
18 service to one preschool disabled student,
19 you're going to get the same amount of funding
20 as the entity, whether it be in the home or in
21 a more structured environment, that provides
22 two, three or four of those services.

23 So the sense was to try and
24 establish equity. And in the process, instead
25 of paying everybody uniformly the same amount,

1 it would hopefully free up some funds that
2 could be used for additional programming.

3 SENATOR OPPENHEIMER: If the
4 Senator would continue to yield.

5 ACTING PRESIDENT LITTLE: Thank
6 you.

7 Senator Saland, do you continue to
8 yield?

9 SENATOR SALAND: Yes, Madam
10 President.

11 ACTING PRESIDENT LITTLE: Thank
12 you.

13 The Senator yields.

14 SENATOR OPPENHEIMER: The
15 center-based services are provided funding
16 from more than one source. The people that go
17 into the home, those providers have this
18 single source. And that source is not paying
19 them enough now to continue. The center-based
20 are already filled. So if the providers that
21 are doing in-home say that they won't
22 continue, what are we going to do with these
23 disabled children?

24 SENATOR SALAND: These funds that
25 we're addressing here are a pot that's finite.

1 They're federal funds that are passed through
2 to us. We may alter the manner in which
3 they're distributed, and are attempting to do
4 that here, in part to provide greater equity
5 and more services.

6 What SED does with the base rates
7 for centers is a function entirely separate
8 and apart from what this bill deals with.
9 This bill, incidentally, passed, I believe,
10 148 to nothing earlier in the Assembly.

11 SENATOR OPPENHEIMER: And if the
12 Senator will yield for one last question.

13 SENATOR SALAND: Yes, Madam
14 President.

15 ACTING PRESIDENT LITTLE: Thank
16 you.

17 The Senator yields.

18 SENATOR OPPENHEIMER: The ADA
19 says that children and people with
20 disabilities should be in their least
21 restrictive environment. Many parents feel
22 that their services -- perhaps their child
23 needs two hours of speech intervention twice a
24 week. Maybe the whole panoply of services
25 offered in the center are not what the child

1 needs. Maybe the least restrictive is the
2 in-home services.

3 Would this be able to continue if
4 we hear from those providers that they're not
5 going to do it?

6 SENATOR SALAND: I'm sorry, I
7 heard you as far as "would this be permitted
8 to continue."

9 SENATOR OPPENHEIMER: Well, the
10 fact is we feel that in Nassau and Suffolk and
11 New York City the in-home providers are saying
12 they will not continue. And I wonder how we
13 can assist them if we are not giving them the
14 funds that they need.

15 SENATOR SALAND: To the extent
16 that that is an issue of concern, as well it
17 should be, this bill, simply because of the
18 limits with which we're dealing,
19 passed-through federal dollars, will not get
20 to the kind of resolution that you're looking
21 at. To the extent that there are -- there's a
22 need for more funding, and that's certainly a
23 policy issue that's to be determined in this
24 house, the other house and with the Governor
25 and the Ed Department, that would be an issue

1 to be resolved with the Ed department.

2 But this pot is finite. Again, we
3 don't control the amount of money. What we're
4 attempting to do is reconfigure the
5 distribution of the money to be more
6 equitable.

7 SENATOR OPPENHEIMER: Thank you,
8 Senator Saland.

9 On the bill, please.

10 ACTING PRESIDENT LITTLE: Thank
11 you.

12 Senator Oppenheimer, on the bill.

13 SENATOR OPPENHEIMER: For some
14 reason the early intervention services in
15 Nassau and Suffolk are paid at a deplorably
16 low rate. And I think that is why we are
17 seeing so many of the providers saying if
18 there's another cut, we're out of here.

19 So I'll be voting no on this,
20 because I think it will reduce the number of
21 services that are available for our children
22 who are most in need. And the center-based
23 don't seem to have any additional slots, so I
24 don't know what will happen with these
25 children that will be deprived of those

1 services. These are our most vulnerable
2 children.

3 Thank you, Madam President.

4 ACTING PRESIDENT LITTLE: Thank
5 you.

6 Senator Stavisky.

7 SENATOR STAVISKY: Thank you,
8 Madam President.

9 I was going to raise that issue
10 also with the sponsor, that we seem to be
11 moving away from the mandate of putting a
12 child in the least restrictive environment and
13 really violating the spirit of the Individuals
14 with Disabilities Act. And I find that
15 troubling.

16 I know that this is a pass-through
17 agency, and the number of dollars is limited,
18 it is finite. However, when we shift away
19 from the least restrictive environment into an
20 organized school type or facility type of
21 setting, the number of choices are also
22 reduced.

23 There has really been, as far as
24 I'm concerned, a lack of research. And in
25 fact, one of the memoranda from the New York

1 State Association of Counties points out the
2 fact that we ought to take a look at the
3 research and determine how the allocations
4 should be appropriated.

5 I am very concerned about the fact
6 that there are 350 or so children from
7 New York City on that waiting list.
8 Approximately a little over 80 children are
9 from Queens County, which I represent. And
10 they're not receiving the services. And
11 they're going to continue on the waiting list
12 if this legislation is enacted.

13 We're shifting our funding from the
14 lowest-cost providers to the most expensive.
15 And when the number of dollars is limited, I
16 think that's a foolish move.

17 I will vote no on this legislation.
18 And I hope that a study can be conducted to
19 determine how these federal dollars can best
20 be allocated. And until such time as that is
21 concluded, I will vote in the negative.

22 ACTING PRESIDENT LITTLE: Thank
23 you, Senator.

24 Senator Schneiderman.

25 SENATOR SCHNEIDERMAN: Thank you,

1 Madam President. On the bill.

2 ACTING PRESIDENT LITTLE: On the
3 bill.

4 SENATOR SCHNEIDERMAN: I
5 appreciate the problem that this legislation
6 attempts to address. We are essentially in a
7 position where we're being forced to rob Peter
8 to pay Paul or Steve to pay Susie or something
9 like that.

10 Unfortunately, I think that this
11 particular solution moves us away from a
12 treatment model that I think is very
13 important, both in terms of the delivery of
14 services and, frankly, in terms of financial
15 efficiency.

16 The least restrictive environment
17 is something that is tremendously important.
18 The number of students who can get services in
19 a natural environment there's no question will
20 be reduced by this particular approach.

21 We should be expanding those types
22 of choices, expanding the choices. And this
23 is a part of a much broader movement in
24 healthcare, healthcare for seniors. Let's use
25 the least restrictive environment. Let's

1 finance the least restrictive environment
2 whenever possible. Let's not force people
3 into programs they don't need to be in and
4 that cost more money.

5 And quite simply, that's why I'm
6 going to be voting in the negative on this
7 bill. I think this moves us in the wrong
8 direction, and it could reduce payments to
9 providers of those services by as much as
10 20 percent, according to our analysis. And I
11 just think that that -- there has to be a
12 better way.

13 I know this is not a situation of
14 our own choosing, but we have to take care of
15 the providers who are offering services that
16 are the best services and the least expensive
17 services for thousands of our children. We
18 shouldn't be hurting them, and this
19 legislation would.

20 So with all respect for the intent,
21 I'm going to be voting no.

22 Thank you, Madam President.

23 ACTING PRESIDENT LITTLE: Thank
24 you.

25 Are there any other Senators

1 wishing to be heard?

2 Thank you. The debate is closed.

3 The Secretary will ring the bell.

4 Read the last section.

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

7 ACTING PRESIDENT LITTLE: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT LITTLE: Senator
11 Saland, to explain his vote.

12 SENATOR SALAND: Yes, to explain
13 my vote.

14 During the course of the exchange,
15 I mentioned that this pro rata -- I'm sorry,
16 this proration would begin, I believe I said,
17 in 2007-2008. It begins in 2006-2007,
18 two-thirds '06-'07, one-third '07-'08. And I
19 wanted to correct the record.

20 And I'll still vote in the
21 affirmative.

22 ACTING PRESIDENT LITTLE: Thank
23 you.

24 Senator Saland will be recorded in
25 the affirmative.

1 The Secretary will announce the
2 results.

3 THE SECRETARY: Those recorded in
4 the negative on Calendar Number 1907 are
5 Senators Breslin, Connor, Duane, Hannon,
6 L. Krueger, Marcellino, Sabini, Schneiderman,
7 A. Smith and Stavisky. Also Senator Morahan.
8 Also Senator Oppenheimer.

9 Ayes, 48. Nays, 12.

10 ACTING PRESIDENT LITTLE: The
11 bill is passed.

12 Senator Skelos.

13 SENATOR SKELOS: Thank you, Madam
14 President. If we could now go to the
15 supplemental active list, beginning with
16 Calendar Number 4 -- oh, you have a motion?

17 ACTING PRESIDENT LITTLE: Senator
18 Skelos, could we do some motions?

19 SENATOR SKELOS: Please do the
20 motions.

21 ACTING PRESIDENT LITTLE: Senator
22 Robach.

23 SENATOR ROBACH: I wish to call
24 up my bill, Print Number 3894, recalled from
25 the Assembly, which is now at the desk.

1 ACTING PRESIDENT LITTLE: The
2 Secretary will read.

3 SENATOR ROBACH: Madam President,
4 I now move to reconsider the vote -- hey,
5 don't slow me down.

6 (Laughter.)

7 ACTING PRESIDENT LITTLE: The
8 Secretary will read.

9 THE SECRETARY: Calendar Number
10 551, by Senator Robach, Senate Print 3894, an
11 act to amend the Retirement and Social
12 Security Law.

13 ACTING PRESIDENT LITTLE: Senator
14 Robach.

15 SENATOR ROBACH: Madam President,
16 I now move to reconsider the vote by which the
17 bill was passed.

18 ACTING PRESIDENT LITTLE: Call
19 the roll on reconsideration of the vote.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 60.

22 ACTING PRESIDENT LITTLE: Senator
23 Robach.

24 SENATOR ROBACH: That's all I
25 have.

1 ACTING PRESIDENT LITTLE: The
2 Secretary will read the substitutions.

3 THE SECRETARY: On page 26,
4 Senator Volker moves to discharge, from the
5 Committee on Rules, Assembly Bill Number 4745C
6 and substitute it for the identical Senate
7 Bill Number 4625B, Third Reading Calendar 901.

8 And on page 29, Senator Hannon
9 moves to discharge, from the Committee on
10 Rules, Assembly Bill Number 7769 and
11 substitute it for the identical Senate Bill
12 Number 4789, Third Reading Calendar 985.

13 ACTING PRESIDENT LITTLE:
14 Substitutions ordered.

15 Senator Skelos.

16 SENATOR SKELOS: If we could go
17 to the supplemental active list, beginning
18 with Calendar Number 473.

19 ACTING PRESIDENT LITTLE: The
20 Secretary will read the supplemental active
21 list.

22 THE SECRETARY: Calendar Number
23 473, by Senator LaValle, Senate Print 3658A,
24 an act to amend the Environmental Conservation
25 Law and the Public Lands Law.

1 ACTING PRESIDENT LITTLE: Read
2 the last section.

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

5 ACTING PRESIDENT LITTLE: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 60.

9 ACTING PRESIDENT LITTLE: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 589, by Senator Maltese, Senate Print 4173A,
13 an act to amend the Administrative Code of the
14 City of New York.

15 ACTING PRESIDENT LITTLE: Read
16 the last section.

17 THE SECRETARY: Section 14. This
18 act shall take effect immediately.

19 ACTING PRESIDENT LITTLE: Call
20 the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 60.

23 ACTING PRESIDENT LITTLE: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 691, by Member of the Assembly Paulin,
2 Assembly Print Number 1011A, an act to amend
3 the Agriculture and Markets Law.

4 ACTING PRESIDENT LITTLE: Read
5 the last section.

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

9 ACTING PRESIDENT LITTLE: Call
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 60.

13 ACTING PRESIDENT LITTLE: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 726, by Member of the Assembly Bradley,
17 Assembly Print Number 6723A, an act to amend
18 the Penal Law.

19 ACTING PRESIDENT LITTLE: Read
20 the last section.

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

24 ACTING PRESIDENT LITTLE: Call
25 the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 60.

3 ACTING PRESIDENT LITTLE: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 783, by Member of the Assembly Wright,
7 Assembly Print Number 6362B, an act to amend
8 the Arts and Cultural Affairs Law.

9 ACTING PRESIDENT LITTLE: Read
10 the last section.

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

13 ACTING PRESIDENT LITTLE: Call
14 the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 60.

17 ACTING PRESIDENT LITTLE: The
18 bill is passed.

19 THE SECRETARY: Calendar Number
20 911, by Senator Fuschillo, Senate Print 4040B,
21 an act to amend the Retirement and Social
22 Security Law.

23 ACTING PRESIDENT LITTLE: Senator
24 Skelos, there is a message of necessity at the
25 desk.

1 SENATOR SKELOS: Move to accept.

2 ACTING PRESIDENT LITTLE: All in
3 favor of the motion to accept the message of
4 necessity say aye.

5 (Response of "Aye.")

6 ACTING PRESIDENT LITTLE:
7 Opposed, nay.

8 (No response.)

9 ACTING PRESIDENT LITTLE: The
10 message is accepted.

11 Read the last section.

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

14 ACTING PRESIDENT LITTLE: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 60.

18 ACTING PRESIDENT LITTLE: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 927, by Senator Balboni, Senate Print 4286A,
22 an act to amend the Public Authorities Law.

23 ACTING PRESIDENT LITTLE: Read
24 the last section.

25 THE SECRETARY: Section 4. This

1 act shall take effect immediately.

2 ACTING PRESIDENT LITTLE: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 60.

6 ACTING PRESIDENT LITTLE: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 1281, by Member of the Assembly Thiele,
10 Assembly Print Number 6069A, an act in
11 relation to reassessment.

12 ACTING PRESIDENT LITTLE: Read
13 the last section.

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

16 ACTING PRESIDENT LITTLE: Call
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 60.

20 ACTING PRESIDENT LITTLE: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 1331, by Senator Balboni, Senate Print 186C,
24 an act to amend the General Business Law.

25 ACTING PRESIDENT LITTLE: Senator

1 Skelos.

2 SENATOR SKELOS: Is there a
3 message of necessity at the desk?

4 ACTING PRESIDENT LITTLE: Yes,
5 Senator, there is a message of necessity at
6 the desk.

7 SENATOR SKELOS: Move to accept,
8 please.

9 ACTING PRESIDENT LITTLE: All in
10 favor of the message of necessity say aye.

11 (Response of "Aye.")

12 ACTING PRESIDENT LITTLE: All
13 opposed, nay.

14 (No response.)

15 ACTING PRESIDENT LITTLE: The
16 message is accepted.

17 Read the last section.

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

20 ACTING PRESIDENT LITTLE: Call
21 the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT LITTLE: Senator
24 Balboni, to explain his vote.

25 SENATOR BALBONI: Yes, Madam

1 President, this is a new version of a bill
2 that this house has passed several years in a
3 row now. We are moving closer to an
4 agreement. It's on the issue of spyware.

5 I just attended a cybersecurity
6 conference that was held up here. The
7 director of cybersecurity infrastructure, Will
8 Pegrin, held a great conference. And, ladies
9 and gentlemen, the threats get more and more
10 serious to the integrity of our computer
11 systems.

12 This is an incredibly necessary
13 act, along with Senator Fuschillo's bill about
14 intrusion notification, all the other measures
15 we're taking. We need to do this to make sure
16 that the computing systems that we rely on so
17 integrally every single day are safe and
18 secure. We hope to have agreement on this
19 very shortly.

20 Thank you, Madam President. I vote
21 aye.

22 ACTING PRESIDENT LITTLE: Thank
23 you.

24 Senator Balboni will be recorded in
25 the affirmative.

1 Senator Montgomery, to explain her
2 vote.

3 SENATOR MONTGOMERY: Yes, Madam
4 President, I note that on prior bills there
5 are several --

6 ACTING PRESIDENT LITTLE: Are you
7 explaining your vote?

8 SENATOR MONTGOMERY: I'm
9 explaining my vote.

10 ACTING PRESIDENT LITTLE: On this
11 bill?

12 SENATOR MONTGOMERY: On this
13 bill.

14 ACTING PRESIDENT LITTLE: Okay,
15 thank you.

16 SENATOR MONTGOMERY: In prior
17 votes, Senator Krueger, myself, Senator
18 Paterson, Senator A. Smith and Senator
19 M. Smith have opposed this. I believe we are
20 withdrawing our opposition, and we're now
21 supporting the new version of Senator
22 Balboni's bill.

23 Thank you.

24 ACTING PRESIDENT LITTLE: Thank
25 you.

1 Senator Montgomery will be recorded
2 in the affirmative.

3 The Secretary will announce the
4 results.

5 THE SECRETARY: Ayes, 60.

6 ACTING PRESIDENT LITTLE: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 1630, by Senator Libous, Senate Print 5688A,
10 an act to amend the Education Law.

11 ACTING PRESIDENT LITTLE: Senator
12 Skelos.

13 SENATOR SKELOS: Madam President,
14 is there a message of necessity at the desk?

15 ACTING PRESIDENT LITTLE: Yes,
16 there is, Senator.

17 SENATOR SKELOS: Move to accept.

18 ACTING PRESIDENT LITTLE: Thank
19 you.

20 All in favor of the message of
21 necessity say aye.

22 (Response of "Aye.")

23 ACTING PRESIDENT LITTLE:
24 Opposed, nay.

25 (No response.)

1 ACTING PRESIDENT LITTLE: The
2 message is accepted.

3 Read the last section.

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

6 ACTING PRESIDENT LITTLE: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 60.

10 ACTING PRESIDENT LITTLE: The
11 bill is passed.

12 THE SECRETARY: In relation to
13 Calendar Number 1775, Senator Winner moves to
14 discharge, from the Committee on Finance,
15 Assembly Bill Number 4975A and substitute it
16 for the identical Senate Bill Number 5848A,
17 Third Reading Calendar 1775.

18 ACTING PRESIDENT LITTLE:
19 Substitution ordered.

20 The Secretary will read.

21 THE SECRETARY: Calendar Number
22 1775, by Member of the Assembly Destito,
23 Assembly Print Number 4975A, an act to amend
24 the Executive Law.

25 ACTING PRESIDENT LITTLE: Read

1 the last section.

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

4 ACTING PRESIDENT LITTLE: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 60.

8 ACTING PRESIDENT LITTLE: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 1794, by Senator Golden, Senate Print 5810A,
12 an act to amend the Social Services Law.

13 ACTING PRESIDENT LITTLE: Senator
14 Skelos.

15 SENATOR SKELOS: Madam President,
16 is there a message of necessity at the desk?

17 ACTING PRESIDENT LITTLE: Yes,
18 there is.

19 SENATOR SKELOS: Move to accept.

20 ACTING PRESIDENT LITTLE: Thank
21 you.

22 All those in favor of accepting the
23 message of necessity say aye.

24 (Response of "Aye.")

25 ACTING PRESIDENT LITTLE:

1 Opposed, nay.

2 (No response.)

3 ACTING PRESIDENT LITTLE: The
4 message is accepted.

5 Read the last section.

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

8 ACTING PRESIDENT LITTLE: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT LITTLE: Senator
12 Golden, to explain his vote.

13 SENATOR GOLDEN: Thank you, Madam
14 President.

15 I rise today to thank the Governor
16 of the State of New York and the task force
17 that was assembled, with Children and Family
18 Services, to look into the 1400 children that
19 we have in placements outside of the city and
20 state of New York.

21 In those placements, they were
22 placed in residences where we had little
23 oversight. And the oversight that we did have
24 did not match the oversight of that of the
25 State of New York. And what we've seen were

1 our children being strapped down, being abused
2 for hours upon hours, days upon days. We've
3 seen two deaths in New Jersey. We've seen in
4 another state where they were using electric
5 shock in 2004.

6 It is about time that we bring
7 these children home and that we give them the
8 proper services and the proper treatment and
9 the proper residency requirements for them and
10 their families and bring them home to their
11 families. And if they do have to place them
12 out of state, that the residences that they
13 are placed in adhere to the rules and
14 regulations of that of the State of New York.

15 So this is a great day for Billy --
16 that is the gentleman which we took this
17 endeavor on for. And Billy's Law is something
18 that we brought before this body last year; we
19 were unsuccessful. But this year we are
20 successful.

21 It costs us \$200,000 per child to
22 send him out of state or her out of state.
23 You could keep a child at the Waldorf Astoria
24 for \$200,000 a year and give them better
25 treatment than what they were giving them in

1 Jersey and in other states around the country.

2 So we're glad to have been able to
3 bring these children, a lot of them, home, and
4 we're glad that we're able to get the
5 requirements and the securities and the
6 prerequisites that we need to be able to make
7 sure that our children are safe.

8 So we thank the Governor, we thank
9 the task force. It's a great day for all of
10 the children that are brain-trauma'd and that
11 are outside this city. And we thank the
12 Governor and the task force for doing that.

13 Thank you, Madam President.

14 ACTING PRESIDENT LITTLE: Thank
15 you.

16 Senator Golden will be recorded in
17 the affirmative.

18 The Secretary will announce the
19 results.

20 THE SECRETARY: Ayes, 60.

21 ACTING PRESIDENT LITTLE: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 1844, by Senator Libous, Senate Print 5829, an
25 act to amend the Public Authorities Law.

1 ACTING PRESIDENT LITTLE: Senator
2 Spano.

3 SENATOR SPANO: Is there a
4 message at the desk?

5 ACTING PRESIDENT LITTLE: Yes,
6 there is, Senator.

7 SENATOR SPANO: I request that it
8 be read.

9 ACTING PRESIDENT LITTLE: All
10 those in favor of accepting the message of
11 necessity say aye.

12 (Response of "Aye.")

13 ACTING PRESIDENT LITTLE: Those
14 opposed.

15 (No response.)

16 ACTING PRESIDENT LITTLE: The
17 message is accepted.

18 Read the last section.

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

21 ACTING PRESIDENT LITTLE: Call
22 the roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 60.

25 ACTING PRESIDENT LITTLE: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 1852, by Senator Maziarz, Senate Print 26B, an
4 act to amend the General Municipal Law and the
5 State Finance Law.

6 ACTING PRESIDENT LITTLE: Senator
7 Spano.

8 SENATOR SPANO: Madam President,
9 is there a message at the desk?

10 ACTING PRESIDENT LITTLE: Yes,
11 there is.

12 SENATOR SPANO: I ask that it be
13 read.

14 ACTING PRESIDENT LITTLE: Thank
15 you.

16 All those in favor of accepting the
17 message of necessity say aye.

18 (Response of "Aye.")

19 ACTING PRESIDENT LITTLE: Those
20 opposed.

21 (No response.)

22 ACTING PRESIDENT LITTLE: The
23 message is accepted.

24 The Secretary will read.

25 THE SECRETARY: Section 6. This

1 act shall take effect immediately.

2 ACTING PRESIDENT LITTLE: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 59. Nays,
6 1. Senator Rath recorded in the negative.

7 ACTING PRESIDENT LITTLE: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 1866, by Senator Wright, Senate Print 5565A,
11 an act to amend the Tax Law.

12 ACTING PRESIDENT LITTLE: Senator
13 Spano.

14 SENATOR SPANO: Is there a
15 message at the desk?

16 ACTING PRESIDENT LITTLE: Yes,
17 there is, Senator.

18 SENATOR SPANO: I ask that it be
19 read.

20 ACTING PRESIDENT LITTLE: Thank
21 you.

22 All those in favor of accepting the
23 message of necessity say aye.

24 (Response of "Aye.")

25 ACTING PRESIDENT LITTLE: Those

1 opposed.

2 (No response.)

3 ACTING PRESIDENT LITTLE: The
4 message is accepted.

5 Read the last section.

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

8 ACTING PRESIDENT LITTLE: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 60.

12 ACTING PRESIDENT LITTLE: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 1878, by Senator Volker, Senate Print 5905, an
16 act to amend the Public Authorities Law and
17 the Tax Law.

18 ACTING PRESIDENT LITTLE: Senator
19 Spano.

20 SENATOR SPANO: Madam President,
21 is there a message at the desk?

22 ACTING PRESIDENT LITTLE: Yes,
23 there is, Senator.

24 SENATOR SPANO: I ask that it be
25 read.

1 ACTING PRESIDENT LITTLE: All
2 those in favor of accepting the message of
3 necessity say aye.
4 (Response of "Aye.")
5 ACTING PRESIDENT LITTLE: Those
6 opposed.
7 (No response.)
8 ACTING PRESIDENT LITTLE: The
9 message is accepted.
10 Read the last section.
11 THE SECRETARY: Section 12. This
12 act shall take effect immediately.
13 ACTING PRESIDENT LITTLE: Call
14 the roll.
15 (The Secretary called the roll.)
16 SENATOR MONTGOMERY: Lay it
17 aside.
18 ACTING PRESIDENT LITTLE: The
19 bill is laid aside.
20 Senator Skelos.
21 SENATOR SKELOS: Madam President,
22 would you please call up Calendar Number 1801,
23 which is on the supplemental active list.
24 ACTING PRESIDENT LITTLE: The
25 Secretary will read.

1 THE SECRETARY: Calendar Number
2 1801, by Senator Marcellino, Senate Print
3 5833, an act to amend the Environmental
4 Conservation Law.

5 ACTING PRESIDENT LITTLE: Senator
6 Skelos.

7 SENATOR SKELOS: Is there a
8 message of necessity at the desk?

9 ACTING PRESIDENT LITTLE: Yes,
10 there is, Senator.

11 SENATOR SKELOS: Move to accept.

12 ACTING PRESIDENT LITTLE: Thank
13 you.

14 All those in favor of accepting the
15 message of necessity say aye.

16 (Response of "Aye.")

17 ACTING PRESIDENT LITTLE: Those
18 opposed.

19 (Response of "Nay.")

20 ACTING PRESIDENT LITTLE: The
21 message is accepted.

22 Read the last section.

23 THE SECRETARY: Section 2. This
24 act shall take effect upon the adoption of the
25 Interstate Wildlife Violator Compact.

1 ACTING PRESIDENT LITTLE: Call
2 the roll.
3 (The Secretary called the roll.)
4 THE SECRETARY: Ayes, 60.
5 ACTING PRESIDENT LITTLE: The
6 bill is passed.
7 Senator Skelos.
8 SENATOR SKELOS: Madam President,
9 on Supplemental Calendar B, would you please
10 call up Calendar Number 1904.
11 ACTING PRESIDENT LITTLE: The
12 Secretary will read.
13 THE SECRETARY: Calendar Number
14 1904, by the Senate Committee on Rules, Senate
15 Print Number 5898, an act to amend Chapter 738
16 of the Laws of 2004.
17 ACTING PRESIDENT LITTLE: Senator
18 Skelos.
19 SENATOR SKELOS: Is there a
20 message at the desk?
21 ACTING PRESIDENT LITTLE: Yes,
22 there is, Senator.
23 SENATOR SKELOS: Move to accept.
24 ACTING PRESIDENT LITTLE: All in
25 favor of accepting the message of necessity

1 say aye.

2 (Response of "Aye.")

3 ACTING PRESIDENT LITTLE: And
4 those opposed.

5 (No response.)

6 ACTING PRESIDENT LITTLE: The
7 message is accepted.

8 Read the last section.

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

11 ACTING PRESIDENT LITTLE: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 60.

15 ACTING PRESIDENT LITTLE: The
16 bill is passed.

17 Senator Skelos.

18 SENATOR SKELOS: Madam President,
19 could we take up Calendar Number 1878, which
20 is on the controversial calendar.

21 ACTING PRESIDENT LITTLE: The
22 Secretary will read.

23 THE SECRETARY: Calendar Number
24 1878, by Senator Volker, Senate Print 5905, an
25 act to amend the Public Authorities Law and

1 the Tax Law.

2 ACTING PRESIDENT LITTLE: Senator
3 Brown.

4 SENATOR BROWN: Thank you, Madam
5 President.

6 Let me just say that a control
7 board is never a good thing. But in this
8 case, unfortunately, it's a necessary thing.
9 Erie County government has a deficit in excess
10 of \$18 million, and the county executive and
11 the legislature have been unable on their own
12 to work together to close that deficit. So
13 this is a necessary action.

14 And as you all know, the Erie
15 County government is the seventh largest
16 county in our state, containing the city of
17 Buffalo, the second largest city in our state.

18 Initially, as this board was coming
19 together, I was concerned that it sounded like
20 the County of Erie would be treated
21 differently from the City of Buffalo. I'm
22 very pleased that that did not occur.

23 I'm very pleased that Buffalo, as
24 you know, that has a control board also -- and
25 a tough control board -- is beginning to

1 rebound. The city is beginning to again see
2 fiscal stability, and this year Buffalo was
3 able to balance its budget.

4 In this legislation there are a
5 number of triggers in the legislation that
6 require the county executive and the
7 legislature to do certain things to show that
8 county government is being managed in a
9 fiscally responsible way. If those triggers,
10 if those threshold levels are not met, the
11 control board will go from what is being
12 called a soft board, a soft control board, to
13 what is being described as a hard board with
14 greater fiscal oversight, with greater
15 monitoring of the actions and management of
16 county government. And I think that that is
17 an appropriate step.

18 But I do want to say that as this
19 legislation goes forward and as we contemplate
20 the needs of the County of Erie and the City
21 of Buffalo in the future, I want to make sure
22 that we are treating the City of Buffalo
23 within the County of Erie fairly, that we are
24 realizing that this is the seventh largest
25 county in our state, that Buffalo is the

1 second largest city in our state, and for our
2 state to remain healthy, for our state to
3 remain strong, it's important for Erie County
4 and the City of Buffalo to remain healthy and
5 strong.

6 I just want to use this opportunity
7 to talk about one disparity that I see. As
8 you know, there is an additional 1 percent
9 sales tax above and beyond the initial
10 original 7 percent that Erie County had. That
11 additional 1 percent all goes to the County of
12 Erie. Now, many, including myself, have
13 expressed our concerns about that. But I want
14 you to know what that means in real numbers.

15 That additional 1 percent is almost
16 20 years old now, something that was supposed
17 to be a temporary tax to get the County of
18 Erie initially out of what was a fiscal
19 deficit in the mid-eighties. Now, that
20 deficit at that time was \$75 million, with
21 interest of about \$30 million. Well, in all
22 this period of time that additional 1 percent
23 has generated \$1.823 billion for Erie County
24 government, none of it shared with the City of
25 Buffalo.

1 So while I am certainly going to be
2 supporting this necessary piece of legislation
3 to secure, to stabilize, to shore up the
4 necessary Erie County government, I am hopeful
5 that as we revisit and look at these issues in
6 the future that we will make sure that the
7 City of Buffalo is treated fairly.

8 I just want to share some numbers
9 with you. When you look at Erie County, the
10 City of Buffalo receives 24.31 percent of the
11 additional 1 percent of sales tax.

12 When you look at Rochester, in
13 Monroe County, Rochester receives
14 66.22 percent of the sales tax.

15 When you look at Syracuse, in
16 Onondaga County, Syracuse received a whopping
17 70.99 percent of the sales tax.

18 Now, Buffalo is 31 percent of the
19 county population, Rochester is 29 percent of
20 the population of Monroe, and Syracuse is
21 31 percent of Onondaga's population. There's
22 clearly a disparity here. I'm asking you,
23 colleagues, to consider this, to look at this
24 in the future. We won't deal with this this
25 year, but you will have the opportunity to

1 look at this in future years.

2 I want to commend Senator Volker
3 and Assembly Member Tokasz for their action in
4 fashioning this piece of legislation. I want
5 to also commend all of the other members of
6 the Western New York State legislative
7 delegation, and Senator Volker as the dean of
8 the delegation that made sure that we were all
9 involved in this process, that we were able to
10 provide some input in how this control board
11 came together.

12 A control board is never a good
13 thing. In this case, it's a necessary thing.
14 We're taking the next steps to shore up the
15 seventh largest county in the State of New
16 York.

17 Thank you, Madam President. I will
18 be voting yes.

19 ACTING PRESIDENT LITTLE: Thank
20 you, Senator Brown.

21 Senator Rath.

22 SENATOR RATH: I'll speak after
23 Senator Volker.

24 ACTING PRESIDENT LITTLE: I
25 apologize. I didn't see you, Senator Volker.

1 SENATOR VOLKER: No, that's okay.

2 Madam President, let me just say
3 that a couple of years ago when we did the
4 Buffalo control board, it was the last thing
5 from any of our minds in Western New York that
6 we would have to do a control board for Erie
7 County. We have the lowest taxes of any major
8 county -- considering county taxes, school
9 taxes, and local taxes -- in the state.
10 There's really absolutely no reason for us to
11 be in this situation that we're in right now.

12 Buffalo was a whole different
13 situation. Buffalo was going down
14 dramatically for years, with its assessed
15 valuation declining, loss of \$50 million to
16 \$70 million in taxes over a short period of
17 time. In particular, because the business
18 community got tax breaks, assessment was
19 declining and so forth. And we knew that
20 ultimately it would have to be done.

21 And 9/11 is really what caused the
22 city to become -- into a control board,
23 because the State of New York had been
24 averaging about \$50 million a year to the city
25 and stopped doing that after 9/11.

1 Nassau County, one of the -- well,
2 maybe the wealthiest county in the state, had
3 a problem. And really, that problem related
4 to a series of things. And I think Senator
5 Skelos would certainly would agree with me
6 when he said there was mismanagement there,
7 there were a lot of problems that caused it.

8 Truly, although there's been a lot
9 of talk about local counties -- and certainly
10 Medicaid has to be dealt with, and we've been
11 trying to deal with it -- but the local
12 counties have the ability to deal with their
13 problems. Maybe they have to cut corners and
14 raise taxes. But let's remember that what
15 happened is we actually cut Medicaid back in
16 1997, and there was a drop in Medicaid for
17 some years, and most counties then raised
18 their budgets. Erie County was one of those.

19 Erie County has continued to spend
20 at a high level and yet has raised no money.
21 And when I say raised no money, I mean really
22 didn't do any particular cutting and received
23 all sorts of benefits from this Legislature --
24 the hospital was taken off the backs of the
25 county taxpayers, a whole series of things.

1 Tobacco money and so forth.

2 The bottom line is the last thing
3 that any of us wanted was a control board
4 here. And we've labored throughout this year,
5 our delegation. We've been united in
6 attempting to make sure that our county
7 righted itself and was able to make it. The
8 last straw, frankly, was when the people from
9 Wall Street informed us that they did not see
10 any way that the county could borrow. And
11 that, coupled with the fact that the
12 Comptroller, Alan Hevesi, announced a minimum
13 \$118 million deficit for this year and a
14 \$200-some-million deficit for next year,
15 obviously something had to be done.

16 And there are many people that for
17 a long time were calling for something to be
18 done. We held off as long as we could. The
19 time is now.

20 What this control board does is
21 basically say -- first of all, there's going
22 to be a chapter amendment, so everybody knows
23 also it's a technical chapter amendment that
24 deals with borrowing. It sets up the revenues
25 for potential borrowing through the control

1 board. Because we do not believe that the
2 present county situation would even allow them
3 to get through this year. They would, in
4 effect, go into -- well, if you could call it
5 bankruptcy or whatever you want to call it.
6 They must deficit borrow. They have a RAN
7 coming up in July, I believe it is, of
8 \$80 million, I believe. From what we
9 understand, if we didn't go the enabling
10 legislation here to back up that, they
11 couldn't renew it.

12 So the bottom line is there's a
13 control board, seven people, four appointed by
14 the Governor, one by the Senate, one by the
15 Assembly, one by the Comptroller.

16 What we want to do here is give the
17 county legislature and the county executive
18 the opportunity to fix this problem, come up
19 with a plan. If it doesn't work, then the
20 full powers of the control board will come
21 into effect on October 1st. The first thing
22 to do is to right Erie County, which this
23 legislation we expect will allow the county to
24 go to the market and be able to right itself.

25 By the way, in case you're

1 wondering, Erie County's unemployment rate has
2 been -- outside the city, has been some of the
3 lowest in the state. In fact, I was told that
4 it was about 3 percent, which means it was
5 virtually full employment. Except that since
6 the county crisis, about 2200 people have been
7 laid off, and therefore obviously a huge
8 problem there. And it has offset a rise in
9 private industry employment. So although the
10 economy of Western New York is doing a lot
11 better than people think, obviously the county
12 is in terminus. And this is why we need this
13 control board.

14 The delegation is totally committed
15 to dealing with this issue. I have to say
16 something -- and I've lived in Western
17 New York all my life -- thank goodness for the
18 people of Western New York that our delegation
19 stays together, refuses to play the
20 unfortunate politics that has been occurring
21 in Erie County. Because if not, the situation
22 would be a lot worse.

23 And I want to thank all my
24 colleagues, Democrats and Republicans, for the
25 cooperation they've given in dealing with this

1 issue.

2 ACTING PRESIDENT LITTLE: Thank
3 you, Senator Volker.

4 Senator Rath.

5 SENATOR RATH: Thank you, Madam
6 President.

7 I rise to congratulate Senator
8 Volker and Assemblyman Tokasz, the two leaders
9 of the western delegation, for shepherding
10 this measure through this house and through
11 the Assembly.

12 I'm going take a little bit of a
13 different approach as we finish this up, and I
14 will be brief. Because it is time to put this
15 crisis behind us in Erie County and get on
16 with it.

17 The people in Erie County, like
18 every place in this state, need to have
19 confidence in their government and need to
20 trust their government. That hasn't been true
21 in Erie County this past year. The workings
22 of the control board, I am convinced, will be
23 enough to right the ship of county, if you
24 will. The triggers that are in place, if they
25 do not meet the appropriate benchmarks, will

1 bring a full-blown control board into place
2 quickly enough to take care of any problems
3 that might arise.

4 But as a county legislator, as I
5 was for many years, and with the opportunity
6 and privilege of serving as the minority
7 leader in that body for quite some time, I
8 remember how we hated it when the state told
9 us what to do. It was called a mandate, and
10 we hated it. Because we felt the government
11 lowest to the people was the government that
12 was best for the people. I still believe
13 that. And I have a little trouble looking at
14 this and knowing how they feel, because they
15 feel we're coming in and we're going to tell
16 them what to do.

17 That's not what's happening here.
18 We have a group of people who will be
19 appointed, who will be of the best intentions,
20 to do the best to help Erie County through
21 this crisis.

22 But let's look at what has
23 happened. I always say to people that,
24 although we don't talk politics on the floor
25 of the state legislature any more than we did

1 the county legislature, on Election Day it's a
2 marriage of politics and government. And when
3 people are in that voting booth, they pull a
4 lever for you or for me. And we came up the
5 political route, and then we are their
6 government official, if we are lucky enough,
7 fortunate enough to be representing them.

8 And so we have, this fall, seven
9 county legislators not running for reelection.
10 There will be a whole new legislature,
11 virtually, there. Who knows if the incumbents
12 will get reelected.

13 They need a chance and an
14 opportunity to right the ship of county. And
15 with the charter and with this control board
16 looking over their shoulder, they have a
17 chance to do that. And I am going to wish
18 them well before they're even elected.

19 There will be a charter revision
20 committee in Erie County, and I assume that
21 they will be looking at all the kinds of
22 things of governments, as to whether we have a
23 county executive in the future or whether we
24 go to a county manager form of government.
25 Lots of changes going to be happening in Erie

1 County.

2 So I assume you'll all be
3 supporting us on this. I hope you will. But
4 moreover, I ask the people of the County of
5 Erie to support this control board, because it
6 has the best intentions in mind. The state
7 legislators will be there to back it up, not
8 look over their shoulder every minute. But if
9 they get into trouble, we'll be there to help,
10 as will the control board.

11 I urge its support. Thank you.

12 ACTING PRESIDENT LITTLE: Thank
13 you, Senator Rath.

14 Senator Stachowski.

15 SENATOR STACHOWSKI: Madam
16 President, I also rise to support this
17 legislation.

18 There's been some criticism in the
19 local media about the fact that it's a soft
20 control board to start with and that we had
21 put a hard control board in Buffalo. But the
22 fact is that there's five triggers that as
23 soon as one of those aren't met, it's
24 immediately a hard control board.

25 And one of the important things to

1 keep in mind is, for example, when they now
2 did their quarter percent that's going to be
3 able to pay for their deficit borrowing, which
4 is a term most of us hate to even hear on this
5 floor, the fact is even in that little
6 process, they had 10 votes, and now one of
7 them -- I don't know what they did today, so I
8 really can't tell you -- but one of them
9 threatened not to do it. So I guess he
10 reneged on his threat not to vote for it and
11 he voted for it.

12 But that's the kind of things that
13 were happening in Erie County. And that's
14 what made you think, well, they were always
15 able, as Senator Volker said, to help
16 themselves, but they didn't choose to do it.
17 They didn't have the political will to make
18 the hard decisions. And unfortunately, part
19 of government is making hard decisions.

20 Senator Rath talked about that she
21 was the minority leader. While she was there,
22 they had a very difficult financial problem,
23 but they persevered and took care of it
24 themselves. They didn't need someone to come
25 from the outside and force them to do the

1 right thing.

2 When I was a county legislator in
3 1976 -- and I only bring that up because I
4 read some quotes by Ned Regan, who was the
5 former comptroller of the state, talking about
6 how he had warned about Medicaid, and it's
7 Medicaid. But what he didn't talk about was
8 that in 1976, he proposed a 77 percent
9 property tax increase. The fact is the
10 legislature dealt with it, and we finished the
11 budget on time, and government went on. And
12 all the things that we cut, fortunately we
13 were on our feet the next year, and we put
14 most of those things back in.

15 But the realization is that when
16 you get elected to a position, it's not always
17 we vote for the budget, we vote for all the
18 popular things and we never have to do a hard
19 decision. And unfortunately, that seemed to
20 be what was going on there. And now when they
21 were faced with difficult decisions, nobody
22 seemed able to make them.

23 The reality is the county was given
24 some things to help them cope with increased
25 costs and Medicaid that they never recognized.

1 For example, even when we did the hospital
2 bill -- and nowhere when we were doing this
3 public benefit corporation was there anywhere
4 talked about that they were going to then make
5 this private/public benefit corporation buy
6 the hospital from the county and then the
7 county executive was going to take most of the
8 money and use it to balance his budget. Which
9 he did. None of us -- I mean, that might not
10 have been a public benefit corporation
11 hospital had we known that was going to happen
12 in the first place.

13 When they got Family Health Plus,
14 which they always beat to a pulp, saying, We
15 got this increased cost that nobody gave us
16 the money for -- the funny thing is, before
17 that time, counties never got revenue sharing.
18 All of a sudden in the state budget appeared
19 revenue sharing for counties, which was a way
20 to send them money to help offset the cost of
21 Family Health Plus.

22 So there were some things going on
23 that maybe weren't recognized by people in the
24 media or people criticizing the state for not
25 helping Erie County. But the fact is we were.

1 We're going to continue to do it with this
2 control board, because it will help them right
3 themselves, we hope.

4 And the other thing about the
5 control board is we are giving them every
6 opportunity to fix the problem themselves.
7 And that's why it's a soft control board
8 rather than immediate hard. Hopefully it will
9 stay that way. But if they should show not to
10 have the political will to do all the things
11 necessary, then one of those triggers will get
12 pulled and it will be a hard control board.
13 We hope it doesn't happen.

14 But we hope that this control board
15 will help Erie County come out of the
16 situation they are now, help people to get
17 more sure of their county government, help the
18 employees in Erie County become more sure of
19 what's going on with their lives, and help
20 make life better for the people in Western
21 New York and Erie County in particular.

22 I'm supporting this issue.

23 ACTING PRESIDENT LITTLE: Thank
24 you, Senator Stachowski.

25 Is there any other Senator wishing

1 to be heard on the bill?

2 The debate is closed, and the
3 Secretary will ring the bell.

4 Read the last section.

5 THE SECRETARY: Section 12. This
6 act shall take effect immediately.

7 ACTING PRESIDENT LITTLE: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT LITTLE: Senator
11 Volker, to explain his vote.

12 SENATOR VOLKER: Yeah, just for a
13 second.

14 I didn't mention, and I do want to
15 do that, I want to thank the Governor, the
16 Assembly. This was a very cooperative
17 adventure, shall I call it, and complicated.

18 I especially want to thank our
19 staff -- Mary Clark, behind us here, and my
20 own staff that worked hard on this, and Paul
21 Tokasz and the Assembly staff also. Everyone
22 worked very hard to get this done. And I want
23 to thank everybody for their cooperation.

24 I vote aye.

25 ACTING PRESIDENT LITTLE: Thank

1 you.

2 Senator Volker will be recorded in
3 the affirmative.

4 The Secretary will announce the
5 results.

6 THE SECRETARY: Ayes, 60.

7 ACTING PRESIDENT LITTLE: The
8 bill is passed.

9 Senator Skelos.

10 SENATOR SKELOS: Madam President,
11 if we could move to the order of motions and
12 resolutions and adopt the Resolution Calendar,
13 with the exception of Resolution 2715.

14 ACTING PRESIDENT LITTLE: All in
15 favor of adopting the Resolution Calendar say
16 aye.

17 (Response of "Aye.")

18 ACTING PRESIDENT LITTLE:
19 Opposed, nay.

20 (No response.)

21 ACTING PRESIDENT LITTLE: The
22 Resolution Calendar is adopted.

23 Senator Skelos.

24 SENATOR SKELOS: Madam President,
25 if we could take up Resolution 2715, by

1 Senator Hassell-Thompson, have the title read,
2 move for its immediate adoption, and open it
3 up for sponsorship.

4 ACTING PRESIDENT LITTLE: Thank
5 you.

6 If we could have quiet in the
7 chamber, please, while the Secretary will read
8 the resolution.

9 Thank you.

10 THE SECRETARY: By Senator
11 Hassell-Thompson, Legislative Resolution
12 Number 2715, mourning the death of Andre
13 Pancham, Jr.

14 ACTING PRESIDENT LITTLE: Senator
15 Hassell-Thompson.

16 SENATOR HASSELL-THOMPSON: Thank
17 you, Madam President.

18 I just want to thank all of my
19 colleagues for their support for this
20 resolution for Andre Pancham, who was a
21 student, a young man in my district who died
22 very suddenly.

23 It is so interesting that sometimes
24 we -- at the death of someone, we want to
25 paint the picture so rosy and so perfect. But

1 I want to tell you that we don't need to paint
2 a rosy picture of this young man. He was an
3 awesome student, appeared to have such a
4 future in front of him, and suddenly he was
5 not with us any longer.

6 He is an only child, and his
7 parents are so devastated. And they are
8 having a great deal of difficulty just being
9 able to understand what has happened to Andre.
10 And his principal and many of the teachers
11 have had a lot of difficulty with students at
12 school trying to understand why Andre has
13 died.

14 I am hoping that this resolution,
15 along with the cards and prayers that have
16 been extended to this family, will in some way
17 offer them the comfort of knowing that they
18 are not alone. And I thank my colleagues for
19 supporting this and hope that all of my
20 colleagues are willing to sign on to this
21 resolution to this family.

22 Thank you.

23 ACTING PRESIDENT LITTLE: Thank
24 you, Senator.

25 On the resolution, all in favor say

1 aye.

2 (Response of "Aye.")

3 ACTING PRESIDENT LITTLE:

4 Opposed, nay.

5 (No response.)

6 ACTING PRESIDENT LITTLE: The

7 resolution is adopted.

8 Senator Skelos.

9 SENATOR SKELOS: Madam President,
10 I believe there's some housekeeping at the
11 desk.

12 ACTING PRESIDENT LITTLE: Yes, we
13 do.

14 Senator Trunzo.

15 SENATOR TRUNZO: Madam President,
16 I wish to call up Senate Bill Print Number
17 431A, recalled from the Assembly, which is now
18 at the desk.

19 ACTING PRESIDENT LITTLE: The
20 Secretary will read.

21 THE SECRETARY: Calendar Number
22 1404, by Senator Trunzo, Senate Print 431A, an
23 act to amend the Executive Law.

24 ACTING PRESIDENT LITTLE: Senator
25 Trunzo.

1 SENATOR TRUNZO: I now move to
2 reconsider the vote by which the bill was
3 passed and ask that it be restored to the
4 order of third reading.

5 ACTING PRESIDENT LITTLE: The
6 Secretary will call the roll on
7 reconsideration of the vote.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 60.

10 SENATOR TRUNZO: I now move to
11 discharge, from the Committee on Rules,
12 Assembly Print Number 1233A and substitute it
13 for my identical bill.

14 The Senate bill on first passage
15 was voted unanimously. I now move that the
16 substituted Assembly bill have its third
17 reading at this time.

18 ACTING PRESIDENT LITTLE:
19 Substitution ordered.

20 And the Secretary will read the
21 Assembly bill.

22 THE SECRETARY: Calendar Number
23 1404, by Member of the Assembly Tokasz,
24 Assembly Print Number 1233A, an act to amend
25 the Executive Law.

1 ACTING PRESIDENT LITTLE: Read
2 the last section.

3 THE SECRETARY: Section 5. This
4 act shall take effect on the 60th day.

5 ACTING PRESIDENT LITTLE: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 60.

9 ACTING PRESIDENT LITTLE: The
10 bill is passed.

11 Senator Skelos.

12 SENATOR SKELOS: Madam President,
13 there will be an immediate meeting of the
14 Finance Committee in the Majority Conference
15 Room.

16 If you would recognize Senator
17 Montgomery.

18 ACTING PRESIDENT LITTLE: Senator
19 Montgomery.

20 SENATOR MONTGOMERY: Yes, Madam
21 President. Immediately following the Finance
22 Committee, there will be a conference of the
23 Senate Minority.

24 ACTING PRESIDENT LITTLE: Thank
25 you.

1 SENATOR SKELOS: Madam President,
2 I expect that we will be back at ten to 6:00
3 to take up several bills.

4 ACTING PRESIDENT LITTLE: Thank
5 you, Senator.

6 The Senate stands in recess until
7 ten minutes of 6:00.

8 (Whereupon, the Senate stood at
9 ease at 5:30 p.m.)

10 (Whereupon, the Senate reconvened
11 at 6:34 p.m.)

12 THE PRESIDENT: Senator Skelos.

13 SENATOR SKELOS: Madam President,
14 if we could return to motions and resolutions,
15 I believe there's a motion to be made at this
16 time.

17 THE PRESIDENT: Motions and
18 resolutions.

19 Senator Little.

20 SENATOR LITTLE: Thank you.

21 Madam President, I wish to call up
22 Calendar 749, Assembly Print Number 7395.

23 THE PRESIDENT: The Secretary
24 will read.

25 THE SECRETARY: Calendar Number

1 749, by Member of the Assembly Abbate,
2 Assembly Print Number 7395, an act to amend
3 the General Municipal Law.

4 SENATOR LITTLE: I now move to
5 reconsider the vote by which this Assembly
6 bill was substituted for my bill, Senate Print
7 Number 4458, on June 23rd, on behalf of
8 Senator Golden.

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

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 60.

13 SENATOR LITTLE: I now move that
14 Assembly Bill Number 7395 be recommitted to
15 the Committee on Rules, and my Senate bill be
16 restored to the order of the Third Reading
17 Calendar.

18 THE PRESIDENT: So ordered.

19 SENATOR LITTLE: Madam President,
20 I now offer the following amendments.

21 THE PRESIDENT: The amendments
22 are received.

23 SENATOR LITTLE: Thank you.

24 THE PRESIDENT: Senator Skelos.

25 SENATOR SKELOS: Madam President,

1 if we could return to reports of standing
2 committees, I believe there's a report of the
3 Finance Committee at the desk. I ask that it
4 be read.

5 THE PRESIDENT: Reports of
6 standing committees.

7 The Secretary will read the Finance
8 Committee report.

9 THE SECRETARY: Senator Johnson,
10 from the Committee on Finance, reports the
11 following nomination.

12 Susan G. Metzger, Ph.D., of
13 Warwick.

14 THE PRESIDENT: Senator Johnson.

15 First of all, I'm going to ask the
16 members to take their conversations out of the
17 chambers.

18 Senator Johnson.

19 SENATOR JOHNSON: Move the
20 nomination.

21 THE PRESIDENT: Senator Morahan.

22 SENATOR MORAHAN: Thank you,
23 Madam President.

24 I just want to take a moment to
25 second the nomination of Susan Metzger, from

1 Warwick, New York, as a member of the MTA.

2 Susan is a very active person in
3 our community, involved in transportation
4 issues, concerned about commuter issues, and
5 will be an excellent addition to the MTA
6 board. And I'm delighted to second her
7 nomination.

8 THE PRESIDENT: The question now
9 is on the nomination of Susan G. Metzger,
10 Ph.D., of Warwick, as a member of the
11 Metropolitan Transportation Authority, for a
12 term to expire June 30, 2010.

13 All in favor please signify by
14 saying aye.

15 (Response of "Aye.")

16 THE PRESIDENT: Opposed, nay.

17 (No response.)

18 THE PRESIDENT: The nominee is
19 confirmed.

20 The Secretary will continue to
21 read.

22 THE SECRETARY: Senator Johnson,
23 from the Committee on Finance, reports the
24 following bills:

25 Senate Print 5870, by the Senate

1 Committee on Rules, an act to amend the
2 Education Law;

3 5902, by the Senate Committee on
4 Rules, an act to amend a chapter of the Laws
5 of 2005;

6 And Senate Print 5903, from the
7 Senate Committee on Rules, an act to amend
8 Chapter 53 of the Laws of 2005.

9 All bills ordered direct to third
10 reading.

11 THE PRESIDENT: Without
12 objection, all bills reported direct to third
13 reading.

14 Senator Skelos.

15 SENATOR SKELOS: Madam President,
16 if we could take up Calendar Number 1910.

17 THE PRESIDENT: The Secretary
18 will read.

19 THE SECRETARY: Calendar Number
20 1910, Senate Print 5870, from the Senate
21 Committee on Rules, an act to amend the
22 Education Law.

23 SENATOR SCHNEIDERMAN:
24 Explanation. Or lay it aside.

25 THE PRESIDENT: Senator Skelos,

1 what do you like? Whatever you like.

2 SENATOR SKELOS: Well, the bill
3 is laid aside, so we will now to go the
4 controversial calendar and take the bill up.

5 THE PRESIDENT: The bill is laid
6 aside.

7 The Secretary will first ring the
8 bell, and members should return to their
9 seats.

10 Senator Johnson.

11 SENATOR JOHNSON: This bill is a
12 budget and technical amendment bill to the
13 fiscal year 2005-2006 enacted budget. There's
14 no money appropriated here. Some money is
15 moved from one account to another. Mostly
16 it's cleanup of language. Some words were
17 left out in the bills, some words were added
18 in the bills, but there is nothing really
19 changed except that the budget is in a more
20 proper form than it was when we passed it.

21 THE PRESIDENT: Senator
22 Schneiderman.

23 SENATOR SCHNEIDERMAN: Thank you
24 very much for that extraordinary explanation.

25 SENATOR SABINI: Madam President.

1 THE PRESIDENT: Senator Sabini.

2 SENATOR SABINI: Would the
3 sponsor yield for a question.

4 THE PRESIDENT: Senator Johnson,
5 do you yield?

6 SENATOR JOHNSON: Yes.

7 THE PRESIDENT: You may proceed,
8 Senator.

9 SENATOR SABINI: I'm just
10 wondering if the sponsor would explain in
11 section -- I guess it's 31(a) of the bill,
12 there's some verbiage regarding the New York
13 Racing Association and Aqueduct Racetrack.
14 And as we all know, the moving along of the
15 project at Aqueduct is an important item both
16 for the state budget, the Governor's budget
17 protections, and for the economy of Queens
18 County. There are a lot of jobs involved, a
19 lot of construction jobs, a lot of operational
20 jobs.

21 And I'm just wondering, since we're
22 just seeing this now, what the effect of the
23 Aqueduct project and -- that this bill would
24 have on the Aqueduct project and what does
25 this do to the New York Racing Association.

1 SENATOR JOHNSON: Are you
2 awaiting my response, Senator?

3 SENATOR SABINI: Yes.

4 SENATOR JOHNSON: Okay. This
5 requires all contracts entered into by the
6 New York Racing Association prior to the
7 effective date of the legislation and related
8 to the operation, management or distribution
9 of revenues, the design of a video lottery
10 gaming facility at Aqueduct will be subject to
11 the approval of the Division of Lottery.

12 SENATOR SABINI: Madam President,
13 if the sponsor would continue to yield.

14 THE PRESIDENT: Senator Johnson,
15 do you yield?

16 SENATOR JOHNSON: Yes, Madam
17 President.

18 THE PRESIDENT: You may proceed,
19 Senator.

20 SENATOR SABINI: Would it be the
21 sponsor's assertion, then, that this bill is
22 necessary to keep the Aqueduct project alive
23 and in fact expedite its opening?

24 SENATOR JOHNSON: That is
25 correct, Senator.

1 SENATOR SABINI: Would the
2 sponsor continue to yield.

3 THE PRESIDENT: Senator Johnson,
4 do you yield?

5 SENATOR JOHNSON: Yes, Madam
6 President.

7 THE PRESIDENT: You may proceed.

8 SENATOR SABINI: Thank you, Madam
9 President.

10 I'm also wondering, through you, if
11 the sponsor, who ably chairs our Finance
12 Committee, could tell me if he thinks there's
13 going to be more NYRA legislation that we're
14 anticipating before we close up.

15 SENATOR JOHNSON: I'm not certain
16 if I heard your question, Senator.

17 SENATOR SABINI: Do we expect
18 more NYRA governance legislation besides this
19 before we close business today?

20 SENATOR JOHNSON: My counsel said
21 the day is still young, Senator.

22 But so far we have no plans to do
23 that.

24 SENATOR SABINI: Thank you, Madam
25 President.

1 THE PRESIDENT: Does any other
2 member wish to be heard on this bill?

3 Then the debate is closed.

4 The Secretary will ring the bell.

5 Read the last section.

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

8 THE PRESIDENT: Call the roll.

9 (The Secretary called the roll.)

10 THE PRESIDENT: The Secretary
11 will announce the results.

12 THE SECRETARY: Those recorded in
13 the negative on Calendar Number 1910 are
14 Senators Duane, L. Krueger, and Schneiderman.

15 Ayes, 57. Nays, 3.

16 THE PRESIDENT: The bill is
17 passed.

18 Senator Skelos.

19 SENATOR SKELOS: Madam President,
20 if we could return to motions and resolutions,
21 I believe there's a resolution at the desk by
22 Senator Brown. I ask that the title be read
23 and move for its immediate adoption.

24 THE PRESIDENT: Motions and
25 resolutions.

1 The Secretary will read.

2 THE SECRETARY: By Senator Brown,
3 Legislative Resolution Number 2762,
4 commemorating the 25th Anniversary of the
5 New Beginnings Choral Ensemble.

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

8 (Response of "Aye.")

9 THE PRESIDENT: Opposed, nay.

10 (No response.)

11 THE PRESIDENT: The resolution is
12 adopted.

13 Senator Skelos.

14 SENATOR SKELOS: Madam President,
15 I believe there's a supplemental active list
16 on its way, so if we could just stand at ease.

17 THE PRESIDENT: The Senate stands
18 at ease.

19 (Whereupon, the Senate stood at
20 ease at 6:46 p.m.)

21 (Whereupon, the Senate reconvened
22 at 7:10 p.m.)

23 SENATOR SKELOS: Madam President.

24 THE PRESIDENT: Senator Skelos.

25 SENATOR SKELOS: Madam President,

1 if we could have the noncontroversial reading
2 of the supplemental active list.

3 THE PRESIDENT: The Secretary
4 will read.

5 THE SECRETARY: Calendar Number
6 497, by Member of the Assembly Brodsky,
7 Assembly Print Number 3469, an act to amend
8 the Legislative Law.

9 THE PRESIDENT: Read the last
10 section.

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

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

15 THE SECRETARY: Ayes, 60.

16 THE PRESIDENT: The bill is
17 passed.

18 THE SECRETARY: Calendar Number
19 743, by Member of the Assembly Nesbitt,
20 Assembly Print Number 5969, an act to amend
21 the Military Law.

22 THE PRESIDENT: Read the last
23 section.

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

1 THE PRESIDENT: Call the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 60.

4 THE PRESIDENT: The bill is
5 passed.

6 THE SECRETARY: Calendar Number
7 876, by Senator Hannon, Senate Print 4331A, an
8 act to amend the Public Health Law.

9 THE PRESIDENT: Read the last
10 section.

11 THE SECRETARY: Section 17. This
12 act shall take effect immediately.

13 THE PRESIDENT: Call the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 60.

16 THE PRESIDENT: The bill is
17 passed.

18 THE SECRETARY: Calendar Number
19 880, by the Assembly Committee on Rules,
20 Assembly Print Number 8800, an act to amend
21 the Public Health Law.

22 THE PRESIDENT: Read the last
23 section.

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

1 THE PRESIDENT: Call the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 60.

4 THE PRESIDENT: The bill is

5 passed.

6 THE SECRETARY: Calendar Number
7 893, by Senator Balboni, Senate Print 4123, an
8 act to amend the Penal Law.

9 THE PRESIDENT: Read the last
10 section.

11 THE SECRETARY: Section 16. This
12 act shall take effect on the first day of
13 November.

14 THE PRESIDENT: Call the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 60.

17 THE PRESIDENT: The bill is

18 passed.

19 THE SECRETARY: Calendar Number
20 1226, substituted earlier today by Member of
21 the Assembly Abbate, Assembly Print Number
22 7827A, an act to amend the Retirement and
23 Social Security Law.

24 THE PRESIDENT: Read the last

25 section.

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

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

5 THE SECRETARY: Ayes, 60.

6 THE PRESIDENT: The bill is
7 passed.

8 THE SECRETARY: Calendar Number
9 1279, by Member of the Assembly Abbate,
10 Assembly Print Number 7020, an act to amend
11 the General Municipal Law.

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

14 Read the last section.

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

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

19 THE SECRETARY: Ayes, 60.

20 THE PRESIDENT: The bill is
21 passed.

22 THE SECRETARY: Calendar Number
23 1811, substituted earlier today by Member of
24 the Assembly Grannis, Assembly Print Number
25 7559B, an act to amend the Insurance Law.

1 THE PRESIDENT: Read the last
2 section.

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

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

7 THE SECRETARY: Ayes, 60.

8 THE PRESIDENT: The bill is
9 passed.

10 Senator Skelos, that completes the
11 noncontroversial reading of the supplemental
12 calendar.

13 SENATOR SKELOS: Madam President.

14 THE PRESIDENT: Senator Skelos.

15 SENATOR SKELOS: There will be a
16 meeting of the Rules Committee at 7:00 p.m. in
17 the Majority Conference Room.

18 And if we could stand at ease at
19 this time.

20 THE PRESIDENT: There will be a
21 meeting of the Rules Committee at 7:25 in the
22 Majority Conference Room.

23 The Senate stands at ease.

24 (Whereupon, the Senate stood at
25 ease at 7:15 p.m.)

1 (Whereupon, the Senate reconvened
2 at 7:34 p.m.)

3 SENATOR SKELOS: Mr. President.

4 ACTING PRESIDENT NOZZOLIO:
5 Senator Skelos.

6 SENATOR SKELOS: If we could
7 return to reports of standing committees,
8 there's a report of the Rules Committee at the
9 desk. I ask that it be read.

10 ACTING PRESIDENT NOZZOLIO: The
11 Secretary will read.

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

15 Senate Print 1071A, by Senator
16 Alesi, an act to amend the Education Law;

17 3059, by Senator Alesi, an act to
18 amend the Executive Law;

19 3369A, by Senator Spano, an act to
20 amend the Education Law;

21 3570, by Senator Trunzo, an act to
22 amend the Real Property Tax Law;

23 3765, by Senator Morahan, an act
24 requiring;

25 4424A, by Senator Volker, an act to

1 amend the Penal Law;
2 4954B, by Senator M. Smith, an act
3 to amend the Vehicle and Traffic Law;
4 5008A, by Senator Fuschillo, an act
5 authorizing the assessor;
6 5264A, by Senator Bonacic, an act
7 to amend the Environmental Conservation Law;
8 5423A, by Senator Golden, an act to
9 amend the Education Law;
10 5458, by Senator Stachowski, an act
11 to amend the General Municipal Law;
12 5567A, by Senator Young, an act to
13 amend the Tax Law;
14 5618, by Senator Farley, an act to
15 amend the Tax Law;
16 5654B, by Senator Spano, an act to
17 amend the Tax Law;
18 5720A, by Senator Farley, an act to
19 authorize the extension;
20 5816, by Senator Balboni, an act to
21 amend the Education Law;
22 5849, by Senator Maziarz, an act
23 authorizing the office;
24 5861, by Senator LaValle, an act to
25 amend the Environmental Conservation Law;

1 5893, by the Senate Committee on
2 Rules, an act to amend Chapter 103 of the Laws
3 of 2004;

4 5904, by Senator Golden, an act to
5 amend the Tax Law;

6 5915, by Senator Padavan, an act to
7 amend the Tax Law;

8 And Assembly Print 8963, by the
9 Assembly Committee on Rules, an act to amend
10 Chapter 444 of the Laws of 1997.

11 All bills ordered direct to third
12 reading.

13 THE PRESIDENT: Senator Skelos.

14 SENATOR SKELOS: Madam President,
15 move to accept the report of the Rules
16 Committee.

17 THE PRESIDENT: All in favor of
18 accepting the report of the Rules Committee
19 please signify by saying aye.

20 (Response of "Aye.")

21 THE PRESIDENT: Opposed, nay.

22 (No response.)

23 THE PRESIDENT: The report is
24 accepted.

25 Senator Skelos.

1 SENATOR SKELOS: Madam President,
2 on behalf of Senator Bruno, there will be an
3 immediate conference of the Majority in the
4 Majority Conference Room.

5 THE PRESIDENT: There will be an
6 immediate conference of the Majority in the
7 Majority Conference Room.

8 SENATOR SKELOS: Stand at ease,
9 please.

10 THE PRESIDENT: The Senate stands
11 at ease.

12 (Whereupon, the Senate stood at
13 ease at 7:37 p.m.)

14 (Whereupon, the Senate reconvened
15 at 8:24 p.m.)

16 ACTING PRESIDENT MEIER: Senator
17 Skelos.

18 SENATOR SKELOS: Mr. President,
19 if we could please take up Calendar Number
20 1407.

21 THE SECRETARY: Calendar Number
22 1407, by Member of the Assembly R. Diaz,
23 Assembly Print Number 4433A, an act to amend
24 the Agriculture and Markets Law.

25 ACTING PRESIDENT MEIER: Read the

1 last section.

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

4 ACTING PRESIDENT MEIER: Call the
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 60.

8 ACTING PRESIDENT MEIER: The bill
9 is passed.

10 SENATOR SKELOS: Mr. President,
11 on Supplemental Calendar B, would you please
12 call up Calendar Number 1908.

13 ACTING PRESIDENT MEIER: The
14 Secretary will read Calendar Number 1908.

15 THE SECRETARY: Calendar Number
16 1908, by Senator Rath, Senate Print Number
17 5908, an act to amend the Public Health Law.

18 SENATOR SKELOS: Mr. President,
19 is there a message of necessity at the desk?

20 ACTING PRESIDENT MEIER: There
21 is.

22 SENATOR SKELOS: Move to accept.

23 ACTING PRESIDENT MEIER: All in
24 favor of accepting the message of necessity
25 signify by saying aye.

1 (Response of "Aye.")

2 ACTING PRESIDENT MEIER: Those
3 opposed, nay.

4 (No response.)

5 ACTING PRESIDENT MEIER: The
6 message is accepted.

7 Read the last section.

8 THE SECRETARY: Section 2. This
9 act shall take effect on the same date and in
10 the same manner as Section 1 of a chapter of
11 the Laws of 2005.

12 ACTING PRESIDENT MEIER: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 60.

16 ACTING PRESIDENT MEIER: The bill
17 is passed.

18 Senator Skelos.

19 SENATOR SKELOS: Mr. President,
20 if we could go now to Supplemental Calendar C,
21 noncontroversial.

22 ACTING PRESIDENT MEIER: The
23 Secretary will conduct the noncontroversial
24 reading of Supplemental Calendar C.

25 THE SECRETARY: In relation to

1 Calendar Number 1913, Senator Alesi moves to
2 discharge, from the Committee on Rules,
3 Assembly Bill Number 236A and substitute it
4 for the identical Senate Bill Number 1071A,
5 Third Reading Calendar 1913.

6 ACTING PRESIDENT MEIER:
7 Substitution ordered.

8 The Secretary will read.

9 THE SECRETARY: Calendar Number
10 1913, by Member of the Assembly Weisenberg,
11 Assembly Bill Number 236A, an act to amend the
12 Education Law.

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

15 Read the last section.

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

18 ACTING PRESIDENT MEIER: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 58. Nays,
22 2. Senators Meier and Wright recorded in the
23 negative.

24 ACTING PRESIDENT MEIER: The bill
25 is passed.

1 THE SECRETARY: In relation to
2 Calendar Number 1914, Senator Alesi moves to
3 discharge, from the Committee on Rules,
4 Assembly Bill Number 2947 and substitute it
5 for the identical Senate Bill Number 3059,
6 Third Reading Calendar 1914.

7 ACTING PRESIDENT MEIER:
8 Substitution ordered.

9 The Secretary will read.

10 THE SECRETARY: Calendar Number
11 1914, by Member of the Assembly Morelle,
12 Assembly Bill Number 2947, an act to amend the
13 Executive Law.

14 ACTING PRESIDENT MEIER: Read the
15 last section.

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

18 ACTING PRESIDENT MEIER: Call the
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 59. Nays,
22 1. Senator Meier recorded in the negative.

23 ACTING PRESIDENT MEIER: The bill
24 is passed.

25 THE SECRETARY: In relation to

1 Calendar Number 1915, Senator Spano moves to
2 discharge, from the Committee on Rules,
3 Assembly Bill Number 2767C and substitute it
4 for the identical Senate Bill Number 3369A,
5 Third Reading Calendar 1915.

6 ACTING PRESIDENT MEIER:
7 Substitution ordered.

8 The Secretary will read.

9 THE SECRETARY: Calendar Number
10 1915, by Member of the Assembly Brodsky,
11 Assembly Bill Number 2767C, an act to amend
12 the Education Law.

13 ACTING PRESIDENT MEIER: Read the
14 last section.

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

17 ACTING PRESIDENT MEIER: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 60.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 THE SECRETARY: In relation to
24 Calendar Number 1916, Senator Trunzo moves to
25 discharge, from the Committee on Rules,

1 Assembly Bill Number 4973 and substitute it
2 for the identical Senate Bill Number 3570,
3 Third Reading Calendar 1916.

4 ACTING PRESIDENT MEIER:
5 Substitution ordered.

6 The Secretary will read.

7 THE SECRETARY: Calendar Number
8 1916, by Member of the Assembly Sweeney,
9 Assembly Bill Number 4973, an act to amend the
10 Real Property Tax Law.

11 ACTING PRESIDENT MEIER: Read the
12 last section.

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

15 ACTING PRESIDENT MEIER: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 60.

19 ACTING PRESIDENT MEIER: The bill
20 is passed.

21 THE SECRETARY: In relation to
22 Calendar Number 1917, Senator Morahan moves to
23 discharge, from the Committee on Rules,
24 Assembly Bill Number 5616 and substitute it
25 for the identical Senate Bill Number 3765,

1 Third Reading Calendar 1917.

2 ACTING PRESIDENT MEIER:

3 Substitution ordered.

4 The Secretary will read.

5 THE SECRETARY: Calendar Number

6 1917, by Member of the Assembly Weisenberg,

7 Assembly Bill Number 5616, an act requiring

8 the use of politically correct terminology.

9 ACTING PRESIDENT MEIER: Read the
10 last section.

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

13 ACTING PRESIDENT MEIER: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 60.

17 ACTING PRESIDENT MEIER: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 1918, by Senator Volker --

21 SENATOR SCHNEIDERMAN: Lay it
22 aside.

23 ACTING PRESIDENT MEIER: Lay the
24 bill aside.

25 THE SECRETARY: In relation to

1 Calendar Number 1920, Senator Fuschillo moves
2 to discharge, from the Committee on Rules,
3 Assembly Bill Number 8269A and substitute it
4 for the identical Senate Bill Number 5008A,
5 Third Reading Calendar 1920.

6 ACTING PRESIDENT MEIER:
7 Substitution ordered.

8 The Secretary will read.

9 THE SECRETARY: Calendar Number
10 1920, by Member of the Assembly McDonough,
11 Assembly Bill Number 8269A, an act authorizing
12 the assessor of the County of Nassau.

13 ACTING PRESIDENT MEIER: Read the
14 last section.

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

17 ACTING PRESIDENT MEIER: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 60.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 1921, by Senator Bonacic, Senate Bill Number
25 5264A, an act to amend the Environmental

1 Conservation Law.

2 ACTING PRESIDENT MEIER: Read the
3 last section.

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

6 ACTING PRESIDENT MEIER: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 60.

10 ACTING PRESIDENT MEIER: The bill
11 is passed.

12 THE SECRETARY: In relation to
13 Calendar Number 1922, Senator Golden moves to
14 discharge, from the Committee on Rules,
15 Assembly Bill Number 8398A and substitute it
16 for the identical Senate Bill Number 5423A --

17 SENATOR SCHNEIDERMAN: Lay it
18 aside.

19 THE SECRETARY: -- Third Reading
20 Calendar 1922.

21 ACTING PRESIDENT MEIER:
22 Substitution ordered.

23 Now lay the bill aside.

24 THE SECRETARY: In relation to
25 Calendar Number 1923, Senator Stachowski moves

1 to discharge, from the Committee on Rules,
2 Assembly Bill Number 8443 and substitute it
3 for the identical Senate Bill Number 5458,
4 Third Reading Calendar 1923.

5 ACTING PRESIDENT MEIER:
6 Substitution ordered.

7 The Secretary will read.

8 THE SECRETARY: Calendar Number
9 1923, by Member of the Assembly Tokasz,
10 Assembly Bill Number 8443, an act to amend the
11 General Municipal Law.

12 ACTING PRESIDENT MEIER: Read the
13 last section.

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

16 ACTING PRESIDENT MEIER: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 60.

20 ACTING PRESIDENT MEIER: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 1924, by Senator Young, Senate Print Number
24 5567A, an act to amend the Tax Law.

25 ACTING PRESIDENT MEIER: There is

1 a local fiscal impact note at the desk.

2 Read the last section.

3 THE SECRETARY: Section 2. This
4 act shall take effect January 1, 2006.

5 ACTING PRESIDENT MEIER: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 60.

9 ACTING PRESIDENT MEIER: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1925, by Senator Farley, Senate Bill Number
13 5618, an act to amend the Tax Law.

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

16 Read the last section.

17 THE SECRETARY: Section 3. This
18 act shall take effect March 1, 2006.

19 ACTING PRESIDENT MEIER: Call the
20 roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 60.

23 ACTING PRESIDENT MEIER: The bill
24 is passed.

25 THE SECRETARY: Calendar Number

1 1927, by Senator Farley, Senate Bill Number
2 5720A, an act to authorize an extension of
3 time to file.

4 ACTING PRESIDENT MEIER: Read the
5 last section.

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

8 ACTING PRESIDENT MEIER: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 60.

12 ACTING PRESIDENT MEIER: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 1929, by Senator Maziarz, Senate Bill Number
16 5849, an act to authorize the Office of Parks,
17 Recreation and Historic Preservation.

18 ACTING PRESIDENT MEIER: Read the
19 last section.

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

22 ACTING PRESIDENT MEIER: Call the
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 60.

1 ACTING PRESIDENT MEIER: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 1930, by Senator LaValle, Senate Bill Number
5 5861, an act to amend the Environmental
6 Conservation Law.

7 ACTING PRESIDENT MEIER: Read the
8 last section.

9 THE SECRETARY: Section 2. This
10 act shall take effect on the same date and in
11 the same manner as a chapter of the Laws of
12 2005.

13 ACTING PRESIDENT MEIER: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 60.

17 ACTING PRESIDENT MEIER: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 1934, by the Assembly Committee on Rules,
21 Assembly Bill Number 8963, an act to amend
22 Chapter 444 of the Laws of 1987.

23 ACTING PRESIDENT MEIER: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT MEIER: Call the
3 roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 60.

6 ACTING PRESIDENT MEIER: The bill
7 is passed.

8 Senator Skelos, that completes the
9 noncontroversial reading of Supplemental
10 Calendar C.

11 SENATOR SKELOS: Thank you, Mr.
12 President. If we could go to the
13 controversial reading of Supplemental
14 Calendar C.

15 ACTING PRESIDENT MEIER: The
16 Secretary will conduct the controversial
17 reading of Supplemental Calendar C.

18 THE SECRETARY: Calendar Number
19 1918, by Senator Volker, Senate Bill Number
20 4424A, an act to amend the Penal Law.

21 SENATOR SCHNEIDERMAN:
22 Explanation.

23 ACTING PRESIDENT MEIER: Senator
24 Volker, Senator Schneiderman has requested an
25 explanation of Calendar 1918.

1 SENATOR VOLKER: Mr. President,
2 this is a bill that we've been working on for
3 a long time to try to bring some sense to
4 fireworks laws in this state.

5 Unfortunately, we've had a great
6 difficulty because the City of New York
7 apparently does not want a fireworks law. The
8 bill before you does not include the City of
9 New York. But even though we were told that
10 the City of New York would not oppose it, they
11 put out a strong memo against it today.

12 Now, let me tell you what I believe
13 the reason the City of New York opposes this
14 bill. Because they like the fact that there's
15 basically no laws in this state outlawing
16 fireworks except laws that are about a hundred
17 year old. It's no secret that the New York
18 City police have been confiscating fireworks,
19 illegally in many cases. And they like to be
20 able to just pick up gobs of fireworks and so
21 forth. And I hate to say this, because I'm a
22 law enforcement guy.

23 What this bill tries to do is
24 develop a rational system of fireworks
25 regulation. It doesn't deal with New York

1 City, because New York City refuses to be part
2 of it. They still object to it because they
3 said, well, you could go across into some
4 other county and maybe get it. Well, they do
5 that now, because people sell fireworks all
6 over the place. The truth is, we've looked at
7 the numbers. Almost nobody gets arrested for
8 fireworks in this state. Handfuls of people.

9 Of course, in New York City they
10 just pick up scoops of them, throw them in the
11 dumps and things of that nature. We realize
12 that. We don't do that in most of this state.
13 We try to abide by some sort of regulation.

14 I'll be honest with you, the
15 problem with this bill is that it does set
16 up -- if you look at the history of fireworks
17 in this state, there really isn't any
18 regulation, the laws are so old. We try to
19 set up some regulation that rationally allows
20 law enforcement people to make arrests and to
21 keep people from being hurt in this state.
22 And that's really what this bill is all about.

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

25 Debate is closed, then.

1 The Secretary will ring the bell.

2 Read the last section.

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

6 ACTING PRESIDENT MEIER: Call the
7 roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT MEIER: Announce
10 the results.

11 THE SECRETARY: Those recorded in
12 the negative on Calendar Number 1918 are
13 Senators Andrews, Duane, L. Krueger, LaValle,
14 Little, Morahan, Padavan, Parker, Paterson,
15 Sabini, Sampson, and Schneiderman.

16 Ayes, 48. Nays, 12.

17 ACTING PRESIDENT MEIER: The bill
18 is passed.

19 Let me remind members that on
20 controversial bills, when we conclude debate,
21 there will be a hard and fast two minutes,
22 after which the roll call will start.

23 The Secretary will continue to
24 read.

25 THE SECRETARY: Calendar Number

1 1922, substituted earlier today by Member of
2 the Assembly Hikind, Assembly Bill Number
3 8398A, an act to amend the Education Law.

4 SENATOR OPPENHEIMER:

5 Explanation.

6 ACTING PRESIDENT MEIER: Senator
7 Golden, an explanation has been requested with
8 regard to Calendar 1922.

9 SENATOR GOLDEN: Thank you,
10 Acting President.

11 This bill -- there are 180 school
12 days a year that transportation is provided
13 for in the school system. This would allow
14 the nonpublic schools to choose the 10 days
15 that they believe -- up to 10 days that they
16 believe would suit their calendar. It would
17 give them more flexibility.

18 This is not more days than the
19 public schools; this is all within that
20 180 days. It's basically to cover the
21 religious holidays, so that they can have a
22 school break that they can have those days to
23 choose when they transport those students.

24 This does not fall on a Saturday,
25 Sunday, or a holiday. There is no overtime,

1 and there is no cost.

2 ACTING PRESIDENT MEIER: Senator
3 Oppenheimer.

4 SENATOR OPPENHEIMER: If Senator
5 Golden would yield for one question.

6 ACTING PRESIDENT MEIER: Senator
7 Golden, do you yield for a question?

8 SENATOR GOLDEN: Yes.

9 ACTING PRESIDENT MEIER: The
10 sponsor yields.

11 SENATOR OPPENHEIMER: Thank you,
12 Senator.

13 I think what you're saying is --
14 and this is the piece that had concerned me,
15 was I thought these were going to be
16 10 additional days outside of the regular
17 schedule of the public schools.

18 SENATOR GOLDEN: No, I said that
19 explicitly. I said there's 10 days within the
20 180 days that will be -- the nonpublic as well
21 as the public schools get 180 days.

22 SENATOR OPPENHEIMER: Well, I
23 thank you very much, Senator. And I'll be
24 happy to vote for this.

25 SENATOR GOLDEN: Thank you,

1 Senator.

2 ACTING PRESIDENT MEIER: Senator

3 Stavisky.

4 SENATOR STAVISKY: If the Senator
5 would yield.

6 ACTING PRESIDENT MEIER: Senator

7 Golden, do you yield?

8 SENATOR GOLDEN: Yes, Senator.

9 ACTING PRESIDENT MEIER: The
10 sponsor yields.

11 SENATOR STAVISKY: I heard you
12 say that there would be no additional cost to
13 the city; is that correct?

14 SENATOR GOLDEN: That's correct.

15 SENATOR STAVISKY: Thank you.

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

18 Debate is closed, then.

19 The Secretary will ring the bell.

20 Read the last section.

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

23 ACTING PRESIDENT MEIER: Call the
24 roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT MEIER: Senator
2 Parker, to explain his vote.

3 SENATOR PARKER: Thank you, Mr.
4 President, quickly to explain my vote.

5 I want to just thank Senator Golden
6 and Assemblyman Hikind for bringing this
7 important bill to the floor and making sure
8 that there is some flexibility for the myriad
9 of private and nonpublic schools throughout
10 the state.

11 I have a large number in my
12 district, and this is going to be a great help
13 in making sure that the young people of my
14 district are transported safely back and forth
15 to school.

16 I vote aye.

17 ACTING PRESIDENT MEIER: Senator
18 Parker will be recorded in the affirmative.

19 Announce the results.

20 THE SECRETARY: Ayes, 60.

21 ACTING PRESIDENT MEIER: The bill
22 is passed.

23 Senator Skelos, that completes
24 Supplemental Calendar C.

25 SENATOR SKELOS: Mr. President,

1 there will be a meeting of the Rules Committee
2 at 9:00 p.m. in the Majority Conference Room.

3 ACTING PRESIDENT MEIER: Meeting
4 of the Rules Committee at 9:00 p.m. in the
5 Majority Conference Room.

6 SENATOR SKELOS: The Rules
7 Committee will be reported to the floor, but
8 we will not be taking up those bills this
9 evening.

10 Is there any housekeeping at the
11 desk?

12 ACTING PRESIDENT MEIER: No,
13 there is not, Senator.

14 SENATOR SKELOS: Just for
15 members' planning, we will, when we adjourn,
16 adjourn until 9:30 a.m. tomorrow morning.
17 Sharp.

18 ACTING PRESIDENT MEIER: The
19 Senate will stand at ease.

20 (Whereupon, the Senate stood at
21 ease at 8:51 p.m.)

22 (Whereupon, the Senate reconvened
23 at 9:05 p.m.)

24 ACTING PRESIDENT MEIER: Senator
25 Skelos.

1 SENATOR SKELOS: Mr. President,
2 if we can return to reports of standing
3 committees, there's a report of the Rules
4 Committee at the desk. If we could have it
5 read at this time.

6 ACTING PRESIDENT MEIER: Reports
7 of standing committees.

8 The Secretary will read the report
9 of the Rules Committee.

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

13 2847A, by Senator Little, an act to
14 amend the Real Property Tax Law;

15 5492, by Senator Oppenheimer, an
16 act to amend Chapter 390 of the Laws of 1979;

17 5671, by the Senate Committee on
18 Rules, an act authorizing;

19 5821, by Senator Morahan, an act to
20 amend the Executive Law;

21 5874, by the Senate Committee on
22 Rules, an act to amend the Tax Law;

23 5875, by the Senate Committee on
24 Rules, an act to amend the Tax Law;

25 5918, by Senator Winner, an act to

1 amend the State Finance Law;

2 5919, by Senator Volker, an act to
3 amend the Public Authorities Law;

4 And 5920, by Senator Nozzolio, an
5 act to amend the Penal Law.

6 All bills ordered direct to third
7 reading.

8 SENATOR SKELOS: Mr. President, I
9 move to accept the report.

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

13 (Response of "Aye.")

14 ACTING PRESIDENT MEIER: Thsoe
15 opposed, nay.

16 (No response.)

17 ACTING PRESIDENT MEIER: The
18 report is accepted.

19 SENATOR SKELOS: Is there any
20 other housekeeping at the desk?

21 ACTING PRESIDENT MEIER: There is
22 nothing left, Senator.

23 SENATOR SKELOS: Thank you, Mr.
24 President.

25 There being no further business to

1 come before the Senate, I move we stand
2 adjourned until Friday, June 24th, at
3 9:30 a.m. sharp.

4 ACTING PRESIDENT MEIER: On
5 motion, the Senate stands adjourned until
6 Friday, June 24th, at 9:30 a.m. sharp.

7 (Whereupon, at 9:07 p.m., the
8 Senate adjourned.)

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