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

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.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

The Secretary will read reports of standing committees.

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

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

THE PRESIDENT: Senator DeFrancisco.

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

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

Senate for confirmation.

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

THE PRESIDENT: Senator Spano.

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

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

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

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

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

All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is confirmed.

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

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

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

THE SECRETARY: As a judge of the

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

THE PRESIDENT: Senator DeFrancisco.

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

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

THE PRESIDENT: Senator Marcellino.

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

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

He has the proper judicial temperament, as they say.

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

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

THE PRESIDENT: Senator Skelos.

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

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

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

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

THE PRESIDENT: Senator Fuschillo.

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

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

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

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

Frank, congratulations, and I wish you the best.

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

All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

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

Congratulations, Judge, and best

wishes to you and your family for a great celebration.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

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

THE PRESIDENT: Senator DeFrancisco.

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

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

THE PRESIDENT: Senator Marcellino.

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

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

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

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

THE PRESIDENT: Senator Ada Smith.

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

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

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

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

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

All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is confirmed.

And he is accompanied today by Charlene Plummer.

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

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

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

THE PRESIDENT: Senator DeFrancisco.

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

(Laughter.)

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

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Thank you,

Madam President. And thank you, Senator DeFrancisco.

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

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

And, Danny, congratulations.

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

Huntington, as a judge of the Court of Claims.

All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations, Judge Martin, and good luck to you.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

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

THE PRESIDENT: Senator DeFrancisco.

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

THE PRESIDENT: Senator Maltese.

SENATOR MALTESE: Yes, Madam

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

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

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

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

THE PRESIDENT: Senator Klein.

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

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

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

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

Thank you, Judge.

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

Claims.

All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations, Judge, and best wishes for continued success.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

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

THE PRESIDENT: Senator DeFrancisco.

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

And again, I ask you to recognize Senator Marcellino.

THE PRESIDENT: The Long Island Senator, Marcellino.

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

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

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

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

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

Congratulations and good luck, Vic.

THE PRESIDENT: The question now

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

All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations, Judge Ort.

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

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

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

THE PRESIDENT: Senator DeFrancisco.

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

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

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

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

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

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

She's here with her husband, Bill DeProspo, another prominent figure in Orange County, and their daughter.

And so I will vote in the

affirmative. Thank you, Madam President.

THE PRESIDENT: Senator Larkin.

SENATOR LARKIN: Thank you, Madam President.

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

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

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

Bartlett.

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

(Laughter.)

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

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

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

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

All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

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

She is here today with her husband, William DeProspo; her children, Atticus, Bart, and Chatham; and her niece, Sarah Bresette.

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

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

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

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the

nomination of Robert K. Holdman for Court of Claims.

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

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

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

position to affect many, many people's lives.

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

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

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

(Laughter.)

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

He is here this morning accompanied by his fiancee, Catherine Nolan.

Best wishes to you, Judge Holdman, and congratulations.

(Applause.)

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

THE SECRETARY: Senator Johnson,

from the Committee on Finance, reports the following nominations.

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

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

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

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

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

background to serve on the trustees.

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

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

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

THE PRESIDENT: Senator Balboni.

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

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

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

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

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

I enthusiastically second this nomination, Madam President.

THE PRESIDENT: Senator Schneiderman.

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

Congratulations.

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

All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

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

He is here this morning with his

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

Congratulations. Have a great celebration, and best wishes.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

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

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

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

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

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

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

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

Thank you, Madam President.

THE PRESIDENT: Senator Diaz.

SENATOR DIAZ: Thank you, Madam President.

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

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

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

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

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

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

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

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

Thank you very much, Madam President.

THE PRESIDENT: Senator Parker.

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

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

THE PRESIDENT: Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Madam President.

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

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

THE PRESIDENT: Senator Fuschillo.

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

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

And I want to compliment the Governor on this nomination.

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

All in favor please signify by

saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

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

Best wishes.

(Applause.)

THE PRESIDENT: Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

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

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: Senator Fuschillo.

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

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Thank you.

THE PRESIDENT: The Secretary will read the substitutions.

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

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

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

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

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

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

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

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

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

THE PRESIDENT: Substitutions ordered.

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator.

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

(Laughter.)

SENATOR BRUNO: Point of order, Madam President.

THE PRESIDENT: The Senator has no further business.

(Laughter.)

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

SENATOR PATERSON: Absolutely.

SENATOR BRUNO: Thank you.

THE PRESIDENT: So ordered.

The Secretary will read.

THE SECRETARY: Calendar Number

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

SENATOR SABINI: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 582, by Member of the Assembly McEneny, Assembly Print Number 3001, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 647, substituted earlier today by Member of the Assembly Schimminger, Assembly Print Number 7744, an act to authorize the City of North Tonawanda.

THE PRESIDENT: There is a

home-rule message at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

Ayes, 53. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SKELOS: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

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

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Lay the aside for the day.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR BROWN: Thank you, Mr. President.

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

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

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

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

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

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

Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill

is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR LaVALLE: Thank you, Mr. President.

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

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

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

And I think once again we are

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

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

Senator Savino, to explain her vote.

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

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

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

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

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

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

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

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

Senator Young, to explain her vote.

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

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

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

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

So again, thank you, Senator

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

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

Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR LIBOUS: Lay it aside for the day.

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR WINNER: Thank you, Mr. President.

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

This measure will balance the interests of landowners, producers, operators of the development of national gas development in New York, particularly in the Southern Tier, in my area, and will facilitate the investment of likely more than a billion dollars of private investment in this state. And the resulting economic growth and

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

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

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

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

Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill

is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

chapter of the Laws of 2005.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

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

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

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

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

This bill comes in answer to a

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

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

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

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

Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the

bill aside.

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

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

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

ACTING PRESIDENT MEIER: The Senate will stand at ease.

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

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT MEIER: Senator Libous.

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

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in

the Senate Majority Conference Room.

The Senate will stand at ease.

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

ACTING PRESIDENT MEIER: Senator Libous.

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

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

The Secretary will read.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator

Wright, to explain his vote.

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

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

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

Senator Wright, you have the floor.

SENATOR WRIGHT: Thank you, Mr. President.

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

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

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

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

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

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

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

energy.

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

I'm voting aye. Thank you.

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

Senator Parker, to explain his vote.

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

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

I can't stress enough the

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

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

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

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

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

Senator Valesky, to explain his vote.

SENATOR VALESKY: Thank you, Mr.

President.

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

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

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

Thank you, Mr. President.

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

Senator DeFrancisco, to explain his vote.

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

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

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

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

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

in Central New York.

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

Senator Maziarz, to explain his vote.

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

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

I will be voting in favor.

Thank you, Mr. President.

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

Senator Volker, to explain his vote.

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

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

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

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

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

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

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

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

Senator Stachowski, to explain his vote.

SENATOR STACHOWSKI: Mr. President, I too rise to support this bill.

I congratulate Senator Wright on working on the compromise. I also congratulate Senator Maziarz, who led our delegation on this particular issue. And all of us were in support of this to try to make sure that the replacement power stayed with all the industries in Western New York, who would probably not be able to stay or possibly even expand without this power. And the fact that there's a compromise and we get to keep what we had is wonderful to us.

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

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

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

Senator Farley, to explain his vote.

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

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

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

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

Senator Rath, to explain her vote.

SENATOR RATH: Thank you, Mr. President.

I join my colleagues in thanking

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

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

Thank you, Senator Wright.

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

Senator Libous, to explain his vote.

SENATOR LIBOUS: Thank you, Mr. President.

I too want to applaud Senator

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

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

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

Senator Seward, to explain his vote.

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

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

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

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

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

I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Libous.

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

ACTING PRESIDENT MEIER: Reports

of standing committees.

The Secretary will read.

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

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

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

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

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

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

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

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

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

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

4464, by Senator Leibell, an act to

amend the Tax Law;

4529A, by Senator Golden, an act to amend the General Municipal Law;

4574A, by Senator Padavan, an act to amend the Local Finance Law;

5550A, by Senator Valesky, an act to amend the Highway Law;

5565A, by Senator Wright, an act to amend the Tax Law;

5582A, by Senator Seward, an act to amend the Insurance Law;

5596, by Senator Maltese, an act to amend the Administrative Code of the City of New York;

5649A, by Senator Johnson, an act to amend the Environmental Conservation Law;

5704, by Senator Flanagan, an act to amend the Public Health Law;

5809, by the Senate Committee on Rules, an act to amend Chapter 370 of the Laws of 2001;

5845, by Senator Johnson, an act to amend the Real Property Tax Law;

5871, by Senator Flanagan, an act to amend the Election Law;

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

5878, by Senator Flanagan, an act to create;

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

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

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

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

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Senator Libous.

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

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those

opposed, nay.

(No response.)

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

Senator Libous.

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

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

The Secretary will ring the bell.

Members should keep in mind that during the business regarding controversial bills, that when debate is terminated we will wait exactly two minutes and no more before beginning the roll call.

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

The Secretary will read.

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

Law.

ACTING PRESIDENT MEIER: Senator Klein.

SENATOR KLEIN: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Klein, on the bill.

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

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

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

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

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

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

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

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

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

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

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

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

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

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

Under current law, you're only

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

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

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

I will be voting in the affirmative on the bill.

ACTING PRESIDENT MEIER: Senator

Robach.

SENATOR ROBACH: Yes, Mr. President, briefly.

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

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

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

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

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

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

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

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

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

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

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

Thank you.

ACTING PRESIDENT MEIER: Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

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

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

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

Thank you.

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

Debate is closed, then.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR DeFRANCISCO: I vote aye.

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

damned if you don't.

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

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

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

Senator Hassell-Thompson, to explain her vote.

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

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

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

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

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

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

Senator Stachowski, to explain his vote.

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

to how to deal with the small businesses.

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

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

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

I vote yes.

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

Senator Sabini, to explain his vote.

SENATOR SABINI: Thank you, Mr. President.

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

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

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

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

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

Announce the results.

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

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

Ayes, 55. Nays, 2.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SABINI: Explanation.

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

SENATOR YOUNG: Thank you, Mr. President.

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

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

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

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

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

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

ACTING PRESIDENT MEIER: Excuse me, Senator Young.

Senator Young has the floor.

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

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

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

Senator Sabini.

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

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

SENATOR YOUNG: I yield, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

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

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

SENATOR YOUNG: Yes.

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

ACTING PRESIDENT MEIER: Senator Young, do you yield?

SENATOR YOUNG: Yes.

ACTING PRESIDENT MEIER: The

sponsor yields.

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

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

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

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

SENATOR SABINI: Would the sponsor continue to yield for another

question.

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

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

ACTING PRESIDENT MEIER: The sponsor yields.

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

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

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

And the fact is is that, yes, there

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

SENATOR SABINI: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Sabini, on the bill.

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

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

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

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

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

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

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

And I'll be voting no.

Thank you.

ACTING PRESIDENT MEIER: Senator Young.

SENATOR YOUNG: Will Senator Sabini yield to a question.

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

SENATOR SABINI: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

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

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

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

SENATOR YOUNG: Okay. Thank you.

Mr. President, may I speak on the bill?

ACTING PRESIDENT MEIER: Senator Young, on the bill.

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

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

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

address this problem.

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

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

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

SENATOR YOUNG: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

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

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

drinking alcohol?

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

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

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

ACTING PRESIDENT MEIER: Senator Young, do you yield?

SENATOR YOUNG: The sponsor yields.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: Is there

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

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

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

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

physiological checks and balances with this system.

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

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

ACTING PRESIDENT MEIER: Senator Young, do you yield?

SENATOR YOUNG: Yes, I yield.

ACTING PRESIDENT MEIER: The sponsor yields.

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Hannon.

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

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

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

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

To accept the arguments against

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

Thank you.

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

Debate is closed.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BALBONI: Can we please have some order.

Senator Sabini, to explain his vote.

SENATOR SABINI: Thank you, Mr. President.

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

But I really think that we have to

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

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

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

Thank you.

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

Senator Marcellino, to explain his vote.

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

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

I vote aye.

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

Announce the results.

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

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

ACTING PRESIDENT BALBONI: The bill is passed.

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

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT BALBONI: Senator Padavan, an explanation has been asked for your bill.

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

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

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

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

ACTING PRESIDENT BALBONI: Senator Krueger.

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

would yield.

SENATOR PADAVAN: Yes.

SENATOR LIZ KRUEGER: Thank you.

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

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

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

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

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

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

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

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT BALBONI: The Senator continues to yield.

SENATOR LIZ KRUEGER: Thank you.

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

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

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

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

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

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

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

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

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

SENATOR PADAVAN: One more

question, Mr. President.

ACTING PRESIDENT BALBONI: Senator Padavan will yield for one more question, Senator Krueger.

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

ACTING PRESIDENT BALBONI: Perfect timing.

SENATOR LIZ KRUEGER: Very nice.

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

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

SENATOR PADAVAN: No.

SENATOR LIZ KRUEGER: Thank you,

Mr. President. On the bill.

ACTING PRESIDENT BALBONI: On the bill.

SENATOR LIZ KRUEGER: Thank you.

I appreciate the sponsor's answers. And I know that he and I both have the same goals. We want to expand business activities in the City of New York. We want good-paying jobs. We want growth in our economic development. We want high-tech businesses to come, to stay, to flourish.

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

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

New York.

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

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

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

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

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

Ring the bells.

Read the last section.

THE SECRETARY: Section 19. This

act shall take effect immediately.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

Absent from voting: Senators DeFrancisco and Dilan.

Ayes, 56. Nays, 2.

ACTING PRESIDENT BALBONI: The bill is passed.

Senator Libous.

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

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

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

ACTING PRESIDENT BALBONI: Senator Libous.

SENATOR LIBOUS: Mr. President,

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

ACTING PRESIDENT BALBONI: Noncontroversial calendar.

Clerk will read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

Senator Libous.

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

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

Clerk will read.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

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

act to amend the Tax Law.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Substitution is ordered.

The Secretary will read.

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

the Agriculture and Markets Law.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Substitution is ordered.

The Secretary will read.

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

ACTING PRESIDENT BALBONI: Read

the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

Ayes, 57. Nays, 3.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

Ayes, 57. Nays, 3.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Substitution is ordered.

The Secretary will read.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Substitution is ordered.

The Secretary will read.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

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

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT BALBONI: Lay the bill aside.

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

Law.

ACTING PRESIDENT BALBONI: Senator LaValle, why do you rise?

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

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

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BALBONI: Senator LaValle, to explain his vote.

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

And it's a Johnson-LaValle bill. It's a good bill dealing with scallops. I vote in the affirmative.

ACTING PRESIDENT BALBONI: Senator LaValle will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

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

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

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

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: In relation to

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

ACTING PRESIDENT BALBONI: Substitution is ordered.

The Secretary will read.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number

1873, by Senator Flanagan --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT BALBONI: Lay the bill aside.

THE SECRETARY: Calendar Number 1874, by Senator Morahan, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT BALBONI: Lay that bill aside.

THE SECRETARY: Calendar Number 1875, by Senator Flanagan, Senate Print 5878, an act to create the Kings Park land redevelopment task force.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT BALBONI: The bill is passed.

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

ACTING PRESIDENT BALBONI: The bill is passed again.

Senator Libous, that completes the calendar of noncontroversial bills.

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

ACTING PRESIDENT BALBONI: The Secretary will ring the bell.

Senator Volker, why do you rise?

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

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

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

SENATOR VOLKER: Thank you.

ACTING PRESIDENT LITTLE: The Secretary will read.

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

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger has requested an explanation from Senator Maltese.

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

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

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

expanding and decreasing the boundaries of the industrial business zones.

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

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

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

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

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

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

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

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

ACTING PRESIDENT LITTLE: Thank you, Senator.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Maltese, do you yield?

SENATOR MALTESE: Yes, Madam President.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

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

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

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

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

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

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

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

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

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

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

SENATOR LIZ KRUEGER: Thank you.

Madam President, on the bill.

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

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

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

likely not to be in desperate situations.

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

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

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

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

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

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

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

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

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

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

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

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR MONTGOMERY: Yes, thank you, Madam President.

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

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

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

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Montgomery will be recorded in the affirmative.

Senator Stavisky.

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

And I'm delighted to support this legislation.

ACTING PRESIDENT LITTLE: Senator

Stavisky will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Libous.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator DeFrancisco.

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

ACTING PRESIDENT LITTLE: The record will so reflect.

The Secretary will read.

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

SENATOR SCHNEIDERMAN:

Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Flanagan, for an explanation.

SENATOR FLANAGAN: Thank you, Madam President.

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

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

And we have not done anything to

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

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

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

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

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

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

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Schneiderman.

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

ACTING PRESIDENT LITTLE: Thank you. On the bill.

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

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

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

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

I vote no and encourage everyone to vote no.

ACTING PRESIDENT LITTLE: Is there any other Senator wishing to be heard?

Senator Flanagan.

SENATOR FLANAGAN: Madam President, on the bill.

ACTING PRESIDENT LITTLE: On the bill.

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

disagree on a couple of different points.

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

Now, the representation was made, to quote, that the sum of $5 million is absurd. Let me make one very clear distinction. The Assembly has done nothing. They haven't provided a nickel, not a dime, not a dollar, not a million dollars. This bill provides $5 million.

And the intention of this bill was never to go to municipalities and say, By the way, we're going to build you a new building for $5 million. We want to work with them. They have to come to the state, show what they need, make a compelling case to the State Board of Elections, and then, then they may be eligible for funding.

But to suggest that $5 million is insignificant is frankly offensive. This bill

is a good-faith effort. It is far more than a gesture. And it is something that everybody should be voting for and be proud of, because it goes beyond the requirements of HAVA and it's a very positive step forward for the voting public in the State of New York.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Is there any other Senator wishing to be heard?

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1873 are Senators Andrews, Breslin, Connor, Diaz, Dilan, Duane, Hassell-Thompson, L. Krueger, C. Kruger, Montgomery, Parker, Paterson,

Sabini, Sampson, Savino, Schneiderman, A. Smith and Stavisky.

Ayes, 42. Nays, 18.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1874, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 8954 and substitute it for the identical Senate Bill Number 5876, Third Reading Calendar 1874.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1874, by the Assembly Committee on Rules, Assembly Print Number 8954, an act to amend the Mental Hygiene Law.

SENATOR MONTGOMERY: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Could we have quiet in the chamber, please.

Senator Morahan, for an

explanation.

SENATOR MORAHAN: Thank you, Madam President.

This bill amends the Mental Hygiene Law in relationship to the assisted outpatient program. It extends the existing program to June 30, 2010.

It also calls for the Commission of Mental Health to contract to an outside agency an evaluation and give quarterly reports on the progress of the study and have the study back one year prior to the expiration of this law.

ACTING PRESIDENT LITTLE: Thank you, Senator.

SENATOR MONTGOMERY: Madam President, Senator Duane would like to ask some questions.

SENATOR DUANE: Thank you, Madam President. If the sponsor would yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Morahan, do you yield for a question?

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

If we could have it quiet, however, while they are debating the bill, please.

SENATOR DUANE: Thank you, Madam President.

I just want to refer to, and I'm hoping the sponsor has the same version, page 12 of the bill, line -- actually, if we can just go down to line 33. I'm sorry, let me go back up further.

Line 26 says -- this is regarding the external evaluation report, which I think is actually a very good thing. But it says --

SENATOR MORAHAN: I can't hear him, Madam President.

ACTING PRESIDENT LITTLE: We can't even hear the questions, so the sponsor cannot answer.

SENATOR DUANE: It reads as follows: External evaluation report -- which I think is a very good thing. It refers to there will be an external evaluation report. But it says: "The commissioner of mental

health, subject to appropriation therefor, shall contract with an external research organization." And I'm wondering what that appropriation will be.

SENATOR MORAHAN: There's been no estimate on what that appropriation would be. We do know that it would not be impacted by this year's fiscal calendar -- fiscal budget. The appropriation would probably be in the next budget.

ACTING PRESIDENT LITTLE: Thank you.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Morahan, do you continue to yield?

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR DUANE: If you go down to line 33 on the same page, it says: "Availability of nonstate dollars to support

the project."

Does that mean that an agency that has substantial private or foundation or other government funding besides will be -- other than the government funding besides the state -- will have a better chance at getting the contract to do the evaluation and report?

SENATOR MORAHAN: I don't know if they would get the contract. But we're certainly open to other groups helping with the finances of the study, yes.

That's just to leave the door open so that we would get funding from other sources.

ACTING PRESIDENT LITTLE: Thank you.

SENATOR DUANE: And through you, Madam President, if the sponsor would continue to yield.

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

SENATOR MORAHAN: Yes, I do, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR DUANE: If the appropriation for the study will be in next year's budget, when would the report be expected to be made available?

SENATOR MORAHAN: The report would have to be finalized by 2009.

SENATOR DUANE: Okay. Thank you, Madam President. On the bill.

ACTING PRESIDENT LITTLE: Thank you. On the bill.

SENATOR DUANE: There are improvements to the bill which I commend the sponsor for making to this bill.

I am, however, still very concerned that the legislation, in addition to not having an appropriation for the study, doesn't have appropriations for the services which I think are the first line of defense against seeing the same kind of tragedy that befell Kendra.

And I also think that in the absence of our passing Timothy's Law, we're still going to have a giant gap in the provision of mental health services in our

state, mental health services that really would go a long way towards having a healthier New York State and avoiding tragedies like the tragedy that befell Kendra and, frankly, like the tragedy that befell Timothy.

And in the past, the last time, I did vote no on this bill. However, this year, because of the improvements that have been made to the legislation, even though I think that more needs to be done, I'm going to be voting in the affirmative.

And I also want to again make the strongest possible pitch for additional funding for programs for those who are trying to recover from mental illness as well as for all New Yorkers who need to get the services and care they need if we did have parity for mental health in our state.

Thank you, Mr. President.

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

Senator Young.

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

First, I want to thank my colleague

Senator Morahan for making sure that this bill passed.

This law is based on a constituent from my district, Kendra Webdale, who was tragically killed more than five years ago when she was pushed in front of a subway train in New York City by a mental health patient that was not taking his medication, nor was he receiving treatment for his mental illness.

And as a result, the Webdale family, led by Kendra's parents, Ralph and Pat, began a quest to change the laws in New York State so that mental health patients could get the services and the medicines that they need.

We put Kendra's Law into place about five years ago. There was a sunset provision in it. It's set to expire later this month, and it's important that we get this bill passed.

The Webdale family would like to see the law made permanent. But there's a study that Senator Morahan has wisely associated with this bill that will give us more data so that we can work in the future

toward making the law permanent.

So again, I thank Senator Morahan for all of his assistance in this matter, and I vote yes.

Thank you.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Yes, in response to Senator Duane's comment regarding appropriations for ongoing programs and existing programs, those appropriations are indeed in the current fiscal budget, so those programs go on.

If Senator Duane has some recommendations on enhancing any of the funding for any particular program, we certainly would take that under advisement.

Thank you, Mr. President.

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

Debate is closed, then.

Read the last section.

THE SECRETARY: Section 11. This act shall take effect June 30, 2005.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room, and the Senate will stand at ease.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in the Senate Majority Conference Room.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT MEIER: Senator Libous.

SENATOR LIBOUS: Are there any substitutions at the desk?

ACTING PRESIDENT MEIER: Yes.

SENATOR LIBOUS: Please make them at this time.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 9, Senator LaValle moves to discharge, from the

Committee on Rules, Assembly Bill Number 5408 and substitute it for the identical Senate Bill Number 1548, Third Reading Calendar 322.

On page 20, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 7395 and substitute it for the identical Senate Bill Number 4458, Third Reading Calendar 749.

On page 43, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 8544A and substitute it for the identical Senate Bill Number 5658A, Third Reading Calendar 1698.

And on page 47, Senator Seward moves to discharge, from the Committee on Rules, Assembly Bill Number 7559B and substitute it for the identical Senate Bill Number 5888, Third Reading Calendar 1811.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Libous.

SENATOR LIBOUS: Mr. President, there will be an immediate meeting of the Rules Committee.

And as I said earlier, the Senate

will be at ease.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee.

The Senate will be at ease.

(Whereupon, the Senate stood at ease at 1:44 p.m.)

(Whereupon, the Senate reconvened at 2:00 p.m.)

ACTING PRESIDENT SEWARD: Senator Skelos.

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

ACTING PRESIDENT SEWARD: Reports of standing committees.

The Secretary will read.

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

Senate Print 1557, by Senator LaValle, an act to amend the Tax Law;

1633, by Senator LaValle, an act to amend the Tax Law;

3258, by Senator Breslin, an act to amend the Tax Law;

3304B, by Senator Winner, an act to amend the Education Law;

3428, by Senator Padavan, an act to amend the Civil Service Law;

3588, by Senator Alesi, an act to amend the Insurance Law;

3832A, by Senator Golden, an act to amend the Retirement and Social Security Law;

4129, by Senator Skelos, an act to amend the Navigation Law;

4252A, by Senator Hannon, an act to authorize;

4399A, by Senator Robach, an act to amend the Executive Law;

4560A, by Senator Maltese, an act to amend the Agriculture and Markets Law;

4580, by Senator Fuschillo, an act to amend the Banking Law;

4832, by Senator Padavan, an act to amend the Public Health Law;

4862A, by Senator Hannon, an act to amend the Public Health Law;

4885B, by Senator Libous, an act to

amend the Vehicle and Traffic Law;

4929A, by Senator Maziarz, an act to establish;

5377, by Senator Winner, an act to amend the Tax Law;

5437, by the Senate Committee on Rules, an act to amend the Retirement and Social Security Law;

5591A, by the Senate Committee on Rules, an act to amend the Tax Law;

5692A, by Senator Meier, an act authorizing;

5737, by Senator Morahan, an act to amend the Public Health Law;

5755, by Senator Spano, an act to amend the Tax Law;

5867, by Senator Maziarz, an act to amend a chapter of the Laws of 2005;

5877, by Senator Flanagan, an act to amend the Election Law;

5880, by the Senate Committee on Rules, an act to authorize;

5898, by the Senate Committee on Rules, an act to amend Chapter 738 of the Laws of 2004;

5899, by the Senate Committee on Rules, an act to amend Chapter 405 of the Laws of 1999;

5900, by the Senate Committee on Rules, an act to amend the Education Law;

5901, by the Senate Committee on Rules, an act to amend the Education Law;

5908, by Senator Rath, an act to amend the Public Health Law;

And Senate Print 5909, by Senator Morahan, an act to amend the Mental Hygiene Law.

All bills ordered direct to third reading.

ACTING PRESIDENT SEWARD: Senator Skelos.

SENATOR SKELOS: Mr. President, move to accept the report of the Rules Committee.

ACTING PRESIDENT SEWARD: All in favor of accepting the Rules report say aye.

(Response of "Aye.")

ACTING PRESIDENT SEWARD: Opposed?

(No response.)

ACTING PRESIDENT SEWARD: The Rules report is accepted.

SENATOR SKELOS: Mr. President, there will be an immediate conference of the Majority in the Majority Conference Room.

ACTING PRESIDENT SEWARD: Senator Sabini.

SENATOR SABINI: Mr. President, I'd like to announce to Senator Dilan and Senator Hassell-Thompson that there will be an immediate conference of the Minority in the Minority Conference Room.

ACTING PRESIDENT SEWARD: there will be immediate conferences of both the Majority and the Minority.

SENATOR SKELOS: And if the Senate would stand at ease.

ACTING PRESIDENT SEWARD: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 2:04 p.m.)

(Whereupon, the Senate reconvened at 3:07 p.m.)

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Supplemental Calendar B, noncontroversial.

ACTING PRESIDENT LITTLE: Senator Skelos, could we do a motion first?

SENATOR SKELOS: Yes.

ACTING PRESIDENT LITTLE: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Johnson, I wish to call up Senate Print Number 5649A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

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

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT LITTLE: The

Secretary will call the roll on reconsideration of the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

SENATOR FUSCHILLO: Madam President, I now move to discharge, from the Committee on Rules, Assembly Print Number 6454B and substitute it for the identical bill.

ACTING PRESIDENT LITTLE: So ordered.

SENATOR FUSCHILLO: The Senate bill, on first passage, was voted unanimously. I now move that the substituted Assembly bill have its third reading at this time.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1869, substituted earlier by Member of the Assembly DiNapoli, Assembly Print Number 6454B, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could now go to the noncontroversial reading of Supplemental Calendar B.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1864, by Senator LaValle, Senate Print 1557, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1880, by Senator LaValle, Senate Print 1633, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1881, Senator Breslin moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 6370 and substitute it for the identical Senate Bill Number 3258, Third Reading Calendar 1881.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1881, by Member of the Assembly Canestrari, Assembly Print Number 6370, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1882, by Senator Winner, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1883, Senator Padavan moves to

discharge, from the Committee on Rules, Assembly Bill Number 6943A and substitute it for the identical Senate Bill Number 3428, Third Reading Calendar 1883.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1883, by Member of the Assembly Abbate, Assembly Print Number 6943A, an act to amend the Civil Service Law.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1884, by Senator Alesi, Senate Print 3588, an act to amend the Insurance Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1885, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 7191A and substitute it for the identical Senate Bill Number 3832A, Third Reading Calendar 1885.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1885, by Member of the Assembly Abbate, Assembly Print Number 7191A, an act to amend the Retirement and Social Security Law and the Administrative Code of the City of New York.

ACTING PRESIDENT LITTLE: Read

the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1886, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 1477A and substitute it for the identical Senate Bill Number 4129, Third Reading Calendar 1886.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1886, by Member of the Assembly Eddington, Assembly Print Number 1477A, an act to amend the Navigation Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of January.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1887, by Senator Hannon, Senate Print 4252A, an act to authorize Debbie Cleva to be reclassified.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1888, Senator Robach moves to discharge, from the Committee on Rules,

Assembly Bill Number 7192A and substitute it for the identical Senate Bill Number 4399A, Third Reading Calendar 1888.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1888, by Member of the Assembly Abbate, Assembly Print Number 7192A, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1889, Senator Maltese moves to discharge, from the Committee on Rules, Assembly Bill Number 7644A and substitute it for the identical Senate Bill Number 4560A,

Third Reading Calendar 1889.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1889, by Member of the Assembly Grannis, Assembly Print Number 7644A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1890, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 6808A and substitute it for the identical Senate Bill Number 4580, Third Reading Calendar 1890.

ACTING PRESIDENT LITTLE:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1890, by Member of the Assembly Nolan, Assembly Print Number 6808A, an act to amend the Banking Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR DeFRANCISCO: Is this 1890, Calendar 1890? Yes, I just want to explain my vote.

This bill calls for posting of a sign in various facilities that counterfeiting, forgery, is a crime and if you commit a crime, you're prosecuted. I voted against a similar bill concerning security guards at airlines, that if you harass or don't cooperate, there should be a sign to say

that that's against the law.

I just think that this is getting to the point of not enough room for signs. If we're going to have a sign for every law that is a law to notify people if they violate them, we're going to have problems with our environment.

So as a result, I'm going to vote no on this bill.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1890 are Senators DeFrancisco and Meier.

Ayes, 58. Nays, 2.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1891, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 7398 and substitute it for the identical Senate Bill Number 4832, Third Reading Calendar 1891.

ACTING PRESIDENT LITTLE:

Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1891, by Member of the Assembly Carrozza, Assembly Print Number 7398, an act to amend the Public Health Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1892, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 6577 and substitute it for the identical Senate Bill Number 4862A, Third Reading Calendar 1892.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1892, by Member of the Assembly Gottfried, Assembly Print Number 6577, an act to amend the Public Health Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1893, by Senator Libous, Senate Print 4885B, an act to amend the Vehicle and Traffic Law and others.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR LIBOUS: Thank you, Madam President, to explain my vote.

On May 20th, in the Southern Tier, of this year an unfortunate incident happened where three construction workers were killed. And it was the seventh major incident in New York State since January in a construction site.

We spent numerous hours working with the State Police, the Department of Transportation, local -- the statewide labor unions, contractors association, and have come up with a variety of alternatives in this bill that we believe will save lives and protect the workers that are working on our highways, roads and bridges.

And the three people that were killed on May 20th were no different than anybody else in this chamber. They went to work and, because of the negligence of a couple of drivers who were speeding at a high rate of speed through the work zones, they

lost their lives on that day.

We believe that the pieces of -- this piece of legislation has a number of factors in it: at major construction sites, putting police with flashing lights, signage. And we believe that this will hopefully save lives in the future.

Madam President, I vote aye.

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

The Secretary will announce the results.

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

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1894, by Senator Maziarz, Senate Print 4929A, an act establishing a safe patient handling demonstration program.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1895, by Senator Winner, Senate Print 5377, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1896, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 8245 and substitute it for the identical Senate Bill Number 5437, Third Reading Calendar 1896.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1896, by Member of the Assembly Abbate, Assembly Print Number 8245, an act to amend the Retirement and Social Security Law and the Administrative Code of the City of New York.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1897, by the Senate Committee on Rules, Senate Print Number 5591A, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1898, by Senator Meier, Senate Print 5692A, an act authorizing the City of Utica.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1899, Senator Morahan moves to discharge, from the Committee on Rules,

Assembly Bill Number 6793A and substitute it for the identical Senate Bill Number 5737, Third Reading Calendar 1899.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1899, by Member of the Assembly Weisenberg, Assembly Print Number 6793A, an act to amend the Public Health Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1900, by Senator Spano --

SENATOR LIZ KRUEGER: Lay it aside.

ACTING PRESIDENT LITTLE: The

bill is laid aside.

THE SECRETARY: Calendar Number 1901, by Senator Maziarz, Senate Print 5867, an act to amend a chapter of the Laws of 2005.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1902, by Senator Flanagan, Senate Print 5877, an act to amend the Election Law and the State Finance Law.

ACTING PRESIDENT LITTLE: Read the last section.

SENATOR MONTGOMERY: Lay it aside, please.

ACTING PRESIDENT LITTLE: The

bill is laid aside.

THE SECRETARY: Calendar Number 1903, by the Senate Committee on Rules, Senate Print 5880, an act to reauthorize the resentencing of certain Class A-II felony controlled substance offenders.

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

THE SECRETARY: In relation to Calendar Number 1905, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 8467 and substitute it for the identical Senate Bill Number 5899, Third Reading Calendar 1905.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1905, by Member of the Assembly Reilly, Assembly Print Number 8467, an act to amend Chapter 405 of the Laws of 1999.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1907, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 2168A and substitute it for the identical Senate Bill Number 5901, Third Reading Calendar 1907.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1907 --

SENATOR OPPENHEIMER: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

The Secretary will read.

THE SECRETARY: Calendar Number

1909, by Senator Morahan, Senate Print 5909, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT LITTLE: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT LITTLE: All in favor of accepting the message say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos, that completes the noncontroversial reading of Supplemental Calendar B.

SENATOR SKELOS: Thank you, Madam President. If we could now go to the controversial reading of Supplemental Calendar B.

ACTING PRESIDENT LITTLE: The Secretary will ring the bell.

Senator Skelos.

SENATOR SKELOS: Madam President, Calendar Number 1900 was inadvertently laid aside. If we could take it up at this time.

ACTING PRESIDENT LITTLE: Could we have order, please.

Calendar 1900. The Secretary will read.

THE SECRETARY: Calendar Number 1900, by Senator Spano, Senate Print 5755, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 8. This act shall take effect September 1, 2005.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Balboni and Duane recorded in the negative.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could now go to the controversial reading of Supplemental Calendar B.

ACTING PRESIDENT LITTLE: The Secretary will read controversial Supplemental Calendar B.

THE SECRETARY: Calendar Number 1882, by Senator Winner, Senate Print 3304B, an act to amend the Education Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Winner, for an explanation.

SENATOR WINNER: Thank you, Madam President.

This bill would permit certified dental assistants to perform any noninvasive reversible supportive procedure to a dentist in his or her performance of dental service.

ACTING PRESIDENT LITTLE: Can we try to keep it quiet so the speaker can be heard. Thank you.

Senator Winner.

SENATOR WINNER: Thank you, Madam President.

Again, this would permit certified dental assistants to perform any noninvasive reversible supportive procedure to a dentist in his or her performance of dental services authorized under the Dental Practice Act and also as would be approved by the department.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Krueger.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Winner, do you yield?

SENATOR WINNER: Yes.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

When this bill came up in committee, there had been some concern about the scope of practice differences between dental hygienists and dental assistants and what could be approved or not approved just at the option of a dentist.

This is a B print. How has it changed since our discussion in committee?

SENATOR WINNER: Well, in accordance with your concern and the concerns of others on the committee, Senator, the bill was amended to require that the department approve any types of procedures that would be authorized under this bill, so that sole determination of what would be authorized would not be the dentist but would also have to be on an approved list of the Department of Education.

That would continue to create the

difference in scope of practice between the hygienist and the dental assistant, so that there would be no commingling of those types of functions and that the services that are being provided by a certified dental assistant would be only those for which he or she is qualified to perform under regulations as determined by -- not under regulations, but as approval of the department, as well as ensuring that those procedures are not irreversible or surgical in nature.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

I want to thank the sponsor, not only for his explanation but for his going back reflecting the concerns that were raised in committee and changing his bill. And I do support it.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to speak on the bill?

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, I'm not sure that I have the correct information, but I have the opposition, including the Dental Assistants Association, the State Dental Hygiene Educators, the Long Island Dental Hygienists Association, the Westchester Dental Hygienists and NYSUT --

ACTING PRESIDENT LITTLE: Senator Montgomery, do you have a question or are you speaking on the bill?

SENATOR MONTGOMERY: For the record, I want to note that there is considerable opposition to throwing out the regulations, the commissioners' regulations on the scope of practice of dental assistants.

ACTING PRESIDENT LITTLE: One moment.

SENATOR MONTGOMERY: These groups are still opposed to this legislation, Madam Chair, and I'm going to vote no as well. I think it's a bad idea.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Is there any other Senator wishing to speak on the bill?

The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Senator Schneiderman, to explain your vote.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

In addition to the concerns that Senator Montgomery raised, I would like to point out to my colleagues that this B print is strongly opposed by NYSUT, by the teachers. And one of the issues that they raise is the educational requirements of the profession of dental hygienists are not being addressed in this legislation.

So while this will change the scope of practice, it doesn't address any of the educational issues. And for that reason the teachers are opposed, and I will also be voting no.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman will be recorded in the negative.

Senator Winner, to explain your vote.

SENATOR WINNER: Briefly to explain my vote.

With regard to the organizations that have been listed as being in opposition to it, frankly, it's kind of bizarre to me that the dental assistants, who are benefited by this bill, would be against it. But it should be noted that that organization consists of approximately 200 members, out of 20,000 dental assistants in New York State. So therefore, it's pretty easy to start an association if you don't have any members.

But under those circumstances also,

with regard to NYSUT, NYSUT's objection with regard to the educational requirements are -- should be distinguished due to the fact that the alternative pathway course that they're concerned about has really not been utilized by the dental assistants. And therefore, with all due respect to that organization, which I do respect very strongly, there is -- has not been to date any difficulties with regard to the educational requirements for dental assistants to date.

And the requirements for certification would still have been updated in accordance with the department, and it has to be approved by the department in order to be certified as a dental assistant.

I vote aye, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Winner will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1882 are

Senators Alesi, Andrews, Brown, Connor, Dilan, Duane, Hassell-Thompson, C. Kruger, Marcellino, Montgomery, Oppenheimer, Parker, Paterson, Rath, Sabini, Savino, Schneiderman, Serrano, M. Smith, Stachowski, Stavisky and Valesky. Also Senator A. Smith.

Ayes, 37. Nays, 23.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1902, by Senator Flanagan, Senate Print 5877, an act to amend the Election Law and the State Finance Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT LITTLE: Thank you.

Senator Flanagan, for an explanation.

SENATOR FLANAGAN: Thank you, Madam President.

This is the last major HAVA bill that we're going to have. We are going to have, before the end of the day, a bill

dealing with the governance of the State Board of Elections. And in case anyone has any concern, that bill will be forthcoming and it will be passed by this house.

But in terms of issues affecting HAVA directly, this is the last bill in the package. This is an agreed-upon bill with the Assembly.

And let me start by thanking Senator Dilan in particular for his help and support, being very gracious during the conference committee process, and my colleagues Senators Spano, Maltese and Maziarz for helping us through the conference committee process, and Assemblyman Wright and the members of the Assembly and the staff over there.

And internally, because this has taken several years, I would be remiss if I did not thank Mike Melkonian, from our counsel's office, for his countless hours working on this, Mike Avella, Ken Riddett, and John Conklin, from my own office, for their herculean efforts to help achieve compromise.

And, ladies and gentlemen, that's

what this bill is about. It's about compromise. There are things that we like, there are things that the Assembly likes, but ultimately we came to an agreement on how machines should be selected in the state of New York. And this is part of a package that is the largest Election Law overhaul probably in the last 50 years.

There's $190 million in this bill for machine purchase. We are providing guidance and asking the State Board of Elections to do a number of different things, including setup, rules and regulations, work with local county boards.

And this is a huge step forward in terms of modernizing our elections system, and to do a couple of things that somehow have again lost in the debate. We're trying to protect the integrity of every person's vote, to prevent voter fraud. If you look at the administrative complaint procedure, the statewide database, voter verification, voter ID, county takeover or county governance, and now the voting machine bill, this is a package that represents sweeping change. And in many,

many respects it's all positive.

There are several things that I think are worthy of mention beyond the money, one of which is that there is a citizens' advisory committee comprised of 12 different members, at least four of whom have to be from disability rights organizations throughout the state.

We are allowing counties to purchase one system countywide. Now, I know there will be some points made and perhaps some comments and questions: Why don't we have a uniform system? Why are we doing it this way? As I suggested to you early on, this is about compromise.

And I think there's an element where we should allow the State Board of Elections and, frankly, the election commissioners all throughout the State of New York to put their imprint and have their imprimatur on this process, because they do it every day. They're being lobbied, and I know this is all around, there's been so much lobbying on machines. The people really being lobbied are at the county level. So we've set

up a system where the state board will provide the overall framework, the overall guidelines, and work with our counties throughout the State of New York.

I do have in front of me a memo of support from the Election Commissioners Association of the State of New York on all of these bills, including the voting machine bill that we have before us.

This is something we need to do, and it's something we need to do now, because we have to provide ample time for our counties all across the state to be able to get into the HAVA process and be ready for the upcoming elections in 2006.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Sabini.

SENATOR SABINI: Thank you, Madam President. May I ask the sponsor to yield for a question.

ACTING PRESIDENT LITTLE: Thank you.

Senator Flanagan, do you yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR SABINI: First of all, let me congratulate the sponsor and the conferees.

It's been a long process, and this is one that we -- this meets the standards of what we should be doing in making law. And the work you've done, you deserve a lot of credit, and I congratulate you. And last year -- you got done what we couldn't do last year when Senator Morahan and I and others tried to get this done. Because there's a lot of different concerns here, and it's a tough job.

I have some what I feel like are real policy concerns that really haven't been addressed, and I just want to ask you to try and address them.

My understanding is -- and correct me if I'm wrong -- that in the New York City Board of Elections, comprising the five counties and the City of New York, that they're going to buy -- the order for the machines is so large that no manufacturer can

supply them that quickly. Is that your understanding?

SENATOR FLANAGAN: No. No.

SENATOR SABINI: Madam President, through you, will the sponsor yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR SABINI: Well, what is your understanding about how the machine purchase would go in the City of New York?

SENATOR FLANAGAN: Well, the machine purchase in the City of New York would be like any other municipality or any other county throughout the state.

The fact that New York City has -- happens to have the largest potential purchase, I'm not going to make the assumption and I don't think we should be making the assumption that they're not going to be able to meet that mandate.

They're going to work through the State Comptroller's office, they're going to work with the State Board of Elections, just

like Suffolk County, Nassau County, and every other county throughout the State of New York.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Flanagan, do you continue to yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR SABINI: So it is your assertion, then, that the City of New York would get all the machines in time for the next general election? When is the sponsor's assertion that New York City will have their machines in?

SENATOR FLANAGAN: Senator Sabini, I'm not asserting anything. I'm not representing anything on behalf of the City of New York. I don't view them any differently from any other county across this state.

The mandate that they have is to modernize their election systems. We are now

providing a framework, we're providing money, and we're providing the rules and regulations. At some point quickly down the road, I hope, they will say here are the standards, here are the potential options that you have, this is how you would purchase, this is how the money is going to flow.

I have faith that the City of New York will comply with the components of this law and the components of HAVA just as every other county in the State of New York will.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Flanagan, do you continue to yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR SABINI: Senator, the good-intention question is based on the fact that it's been my understanding that the city has been told that they couldn't reach -- no

manufacturer could fulfill the order in time under the HAVA deadline, and that the order would be placed ahead of time and that some machines would be delivered and that would be, in effect, compliance. That is not your understanding?

SENATOR FLANAGAN: Well, you may have information that I am not privy to. But I don't know about any order being placed, I don't know about any order being discussed.

But I could take a logical extension of your argument, and for argument's sake I'll say the State Board of Elections comes out and they say: This machine is acceptable. And every county across the State of New York says: You know what, I'm on board, we're going with that machine. And now, instead of 20,000 machines for the City of New York, you need 50,000 across the state. Is that manufacturer going to say, I'm sorry, we're not going to be able to do it?

I think if those companies are out there, whether it's the City of New York or my own county or any other county, they're going to look and say, Hey, I got a great shot at

some serious money and some serious action here on voting machines. I think they're going to get in the game, they're going to get engaged, they're going to come up with the machines they need to.

And I would be remiss if I suggested anything to the contrary, because nobody should labor under the illusion that there's some broad opportunity here -- ah, you know, we'll see if it works. Everybody should be saying: Here's the money, here are the rules, get in the game and get it done.

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Flanagan, do you continue to yield?

SENATOR FLANAGAN: Yes.

ACTING PRESIDENT LITTLE: The Senator yields.

SENATOR SABINI: I appreciate the sponsor's reference to Larry the Cable Guy.

(Laughter.)

SENATOR SABINI: If -- as you

know, New York, Kings and Bronx County are under the voting rights mandate that any action that a board of elections takes in those counties has to be precleared with the Justice Department.

My concern is that if we have some machines and not others, that the educational efforts that the Justice Department are going to require and that HAVA pays for, which is good, for public service announcements and advertising and information for both the voting population and the election officials, that that will be sort of a muddled message that the Justice Department will not accept.

In other words, that some people will be voting on one kind of a machine in parts of Manhattan and some people will be voting on another, and how does the voter know before they get there.

I'm concerned that -- you know, we had an election, for historical purposes, in 1981 in New York City where the City Council elections were canceled the night before the election. And people spent tens of thousands of dollars on their campaigns and the night

before the election were told: Oh, by the way, we're going to have the election next year, because the Justice Department stopped us.

And I'm just worried that we're leaving ourselves open to a situation here where the Justice Department will tell us, You can't do this. And then I wonder where we are. I mean, have the conferees thought about the danger of that?

SENATOR FLANAGAN: I would suggest to you that the conferees have discussed this issue. I don't know that they would categorize it as a danger.

But I would certainly tell you that in my own limited experience in dealing with the State Board of Elections and the election commissioners and, indirectly, the Justice Department, they are on their game, they are engaged, and, at the same time, they have also been very diligent and very helpful in looking to clear issues as quickly as possible.

I think one of the benefits that we will have is that if there are legitimate identifiable issues, the Justice Department

will not come to us the night before an election. They're going to be holding our hand and walking us and embracing us -- or perhaps knocking us around a little bit -- throughout this process.

SENATOR SABINI: Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Dilan.

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

ACTING PRESIDENT LITTLE: Thank you. On the bill.

SENATOR DILAN: I rise to support this legislation today.

And I want to say that, first of all, I want to thank Senator Flanagan for all the work on this bill. I want to thank all the staff that was involved and assisted me, especially Jim Long from our conference.

And I also want to indicate that the conference committees do work, and that's why that bill is here today.

This bill provides for choice to

the various counties in New York City in terms of determining which type of voting system they want. And hopefully, to answer Senator Sabini's question in regard to New York City, this bill would provide a phase-in for New York City to comply with the HAVA act and hopefully be eligible for the entire amount of money for New York City.

That's something that New York City requested, where they indicate that they cannot have the machines in time for implementation for the 2006 election. The executive directors of the Board of Elections and their counsel indicate that by the middle of 2006, they will have all machines in-house, but they're not authorized to purchase the machines until this bill passes the Legislature and is signed by the Governor.

Also, one of their major concerns in terms of not being able to comply with HAVA on time was the education of the inspectors and voters in terms of the new voting system. This bill also provides for handicapped and disabled individuals to vote on the same type of machines that we all vote on and would also

give them the privacy of the vote.

And for these reasons, I'm supporting the bill and ask that my colleagues support it. Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Liz Krueger.

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

ACTING PRESIDENT LITTLE: On the bill.

SENATOR LIZ KRUEGER: Thank you.

Well, I've listened to my colleagues, and I do agree this took a long time, there was a lot of good work put into this, and it was a compromise.

Unfortunately, I'm not comfortable with the compromise, and I don't think that passage of this bill is in the best interests of the future of voting in the State of New York. I feel pretty strongly we should have gone with one standard for the state.

And Senator Sabini raised just some of the concerns that I have about what it might look like in the City of New York with

multiple machines multiple places, what happens when there are elections across county lines with counties who may be using different machines, which then of course translates into different Election Day standards, different standards for provisional balloting, different rules for how both workers need to be trained and voters need to be educated.

I think that we had a great opportunity to finally work out many of the problems we've had in the State of New York for decades, because certainly election problems are not new. We are all familiar with them. That we had an opportunity to come up with one system and one set of standards for the state to resolve so many of the problems we've already had.

And that this bill, while I accept that this is compromise over a very long period of time, will result in a new layer of new problems without resolving the old problems with multiple systems and different standards, and that we will be continuing to revisit these problems -- hopefully not with devastating election outcomes or inability to

track the outcomes of elections.

For the record, I think we should be going with one -- not just one standard, but optical scanning.

Also just to note, last night we talked about the importance of passing procurement lobbying reform, and we voted for it and we're all very happy about it. Just for the record, that bill goes into effect January 2006. The mass lobbying, county by county, commissioner of election by commissioner of election, has started already and probably will be done before our procurement lobbying law goes into effect.

So for those of us who are pleased we passed the bill -- and we are -- we should just note that the added problems of 57 counties with 57 sets of election commissioners and local elected officials now being lobbied over which system to go with really won't be included under the law we passed.

So I'll be voting no, Madam President. Thank you.

ACTING PRESIDENT LITTLE: Thank

you.

Senator Schneiderman.

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

ACTING PRESIDENT LITTLE: On the bill.

SENATOR SCHNEIDERMAN: I appreciate the hard work that has gone into this, not just by the people, the members on the committee and the staffs, but by the public interest and good government groups that have been working for a very long time to try and get the best possible resolution for New York State to the HAVA requirements.

I also feel compelled to vote no, though, because I feel that we have not come close to what we should have achieved here. And I would note, in particular, the objections of NYPIRG, the League of Women Voters, Demos, Common Cause, and Citizens Union, who identify, among other failings, the fact that we are issuing statewide standards and recommendations but we are going to produce what they call a hodgepodge system in which New Yorkers in one part of the state may

be voting under dramatically different circumstances than voters in other parts of the state. That applies within districts.

And I think that, you know, it is unfortunate that I believe that the representatives of the other house were holding out for a statewide system so we would avoid that chaos, and that my colleagues on the other side of the aisle did not want to go along with that.

This also authorizes a type of machine that has, in other jurisdictions, had tremendous problems, direct recording electronics machines.

So we shouldn't be authorizing bad equipment, we shouldn't be forcing this down to the county level to produce a system in which within one district, one congressional district and one Senate district, we'll have different voting machines. And that, I think, is a bad compromise.

I'm sorry that we again, this house, the majority in this house refused to reauthorize the conference committee while the majority in the other house was willing to do

so. We could have done with more work by the conference committee. I think a better deal was within our reach and we failed to reach it. I respect the work that's been done, but we have to do better than this.

And I'm going to vote no.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

In 1985 I served on the electronic voting machine commission, temporary state commission. It was headed by, cochaired by the late great Senator Gene Levy and a young assemblyman, Sheldon Silver, and actually, I guess, Fabian Palamino from the governor.

And I guess the major accomplishment we did is we put into law that you couldn't use punchcard ballots, which everybody was trying to sell us at that time. We also put in testing standards and passed a lot of legislation dealing with certifying electronic voting machines.

The one thing that I advanced in those commission meetings that never got anywhere was that the state should have a uniform voting machine and should pay for it, rather than having it as a mandate on towns or cities. Interestingly enough, at the time, the then-governor wasn't interested. He didn't like the fiscal impact. So on the governor's side of that commission, they said, no, we're not going there.

But, Madam President, I have -- I looked forward to this HAVA process, hoping that we would end up with a statewide system of voting, with uniformity. It's certainly comfortable. I've certainly, in my other role as an attorney, done many, many recounts in various parts of the state and have done statewide as well election recounts. And, you know, it's comforting to know that there isn't that much variable in the system. Because whatever machine you use or whatever system you use, there's a slight error -- we hope a slight error factor. Some systems have grossly large error factors, particularly those punchcard-ballot types, which were used

until a year ago in three counties in this state for absentees. They were grandfathered in in the '85 legislation.

So I am disappointed to see us end up with this compromise, which will potentially result in great diversity among counties in terms of the voting machines they use, or the voting systems.

I'm also -- and it's too late to do anything about this. You know, I see it being set up now where they say, oh, New York City won't be able to comply in time. And sometimes it's said as if the city just can't get it together. The fact of the matter is, of all of the voting machines -- and we've seen them all, they've all been in demonstrations and all -- every system, there is no manufacturer that can deliver 10,000 machines to New York City by February 2006. They don't make them that fast. They don't warehouse them. They don't have them. That's the reason why.

And I understand there's an attempt here to give New York City a break, to maybe it can be deemed by the federal government to

be in compliance and won't lose all that money. But it's just a very, very difficult situation. It's a huge, huge contract, 10,000 machines, and it just can't be done in that time frame.

Unfortunately, this process in the Legislature has taken up a lot of time and has left it such that the city will never be able to acquire that many voting machines. And this legislation recognizes that, of course, and tries to deal with it. I'm not sanguine that it will be successful, the methodology here will be successful.

So that said, while I have disappointments, it was a process, it was a process that engaged the Legislature. And many, many of us here in the Legislature watched and pitched in and contributed our thoughts and comments.

On balance, though, I really have to defer to the leadership of my conference. And therefore, I have to vote for this bill, because Senator Dilan is the leader of this conference on this issue. He's done a great job working with Senator Flanagan. And I am

therefore going to vote for this legislation because of the true leadership of my conference on this issue.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Is there any other Senator wishing to be heard?

Senator Diaz.

SENATOR DIAZ: Thank you.

Thank you, Madam President. I would just take this opportunity to thank Senator Dilan. Because all the questions that have been asked here, they were asked in our conference, and Dilan answered all of them. And, you know, I just want to support Dilan and Flanagan. But the question I -- this is the second time that I hear the same thing.

So thank you.

ACTING PRESIDENT LITTLE: Thank you.

Any other Senator wishing to be heard?

Debate is closed. The Secretary will ring the bell.

The Secretary will read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR FLANAGAN: Thank you, Madam President. Just a couple of brief comments; there were some concerns raised.

I think we need to remember two basic points. People talk about a uniform system. Ladies and gentlemen, we don't have a uniform system in the state of New York today. We have different voting machines across the state of New York. So it's not like we're departing from any tradition that's been around for some time.

And also, again, in calling for the uniform standard, if you look at all the states across the country, there's maybe a handful, five or six, that have a uniform system. Over 40 states have a system set up

just like we have here.

This is a -- it's a good bill.

And I will only add one final thing, just in case anyone is looking at our legislative intent. The concerns that have been raised about New York City can really be raised anywhere. Get into a small county, are they going to be ready, can they get it all done, even if it's a small purchase.

Everybody should operate on the assumption that there are no exceptions, that there is money there that we want to make sure we don't risk losing. So to the election commissioners and any local legislative bodies who have an interest, don't waste any time. The time is now, the money is there. And anyone who tries to deviate from that is only setting themselves up for problems.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Flanagan will be recorded in the affirmative.

Senator Oppenheimer.

SENATOR OPPENHEIMER: To explain

my vote, please, Madam President.

ACTING PRESIDENT LITTLE: To explain your vote.

SENATOR OPPENHEIMER: I think I echo pretty much what Senator Connor said, so I won't be repetitious.

It's just that I felt very strongly I wanted a single machine for our entire state. I feel very strongly that I wanted it to be optical scan. Though I tell you, I understand that the software on optical scan can also be rigged, so I'm not sure there's a machine being made now that I think is worthy.

But I'm going to support this, because we can't move ahead until we have supported this, and we can't buy the equipment we need. So it just is logical that we have to support this even if it isn't ideal. But you can't make the good the enemy of the better.

ACTING PRESIDENT LITTLE: Thank you.

Senator Oppenheimer will be recorded in the affirmative.

The Secretary will announce the

results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1902 are Senators Duane, Klein, L. Krueger, Montgomery, Paterson, Sabini, Schneiderman and Serrano.

Ayes, 52. Nays, 8.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1903, by the Senate Committee on Rules, Senate Print Number 5880, an act to authorize the resentencing of certain Class A-II felony controlled substance offenders.

ACTING PRESIDENT LITTLE: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I think it's important to note that our conference, our leader, David Paterson, and I, along with Senator Montgomery, Senator Hassell-Thompson -- who else? -- Senator Parker, Senator Andrews, have been working on a task force having to do with reforming the Rockefeller Drug Laws.

And while I know last January we did some resentencing and some work around good-behavior issues of those convicted under the Rockefeller Drug Laws, it really could only be called a minor sentencing reform. The largest population of people incarcerated under the drug laws still were not going to be affected by the actions that we took last January.

Only those who were convicted of A-I felonies were eligible, for the most part, to have their sentences looked at again, with an eye towards having their sentences reduced and in many cases, we would hope, to be able to finally be released from prison.

The flaw with even the A-I drug-related felonies is that those who are incarcerated were not in any way provided with the resources to have their sentences looked at again. And to this day, we are all struggling to find attorneys to take on these cases to have the cases looked at, because there are no Legal Aid or legal services resources to help those incarcerated under the A-I drug offenses to have their cases

revisited.

And even those few who are having their cases revisited are having different kinds of results, depending on what borough or what county their cases emanated from. So, for instance, the Brooklyn district attorney is kind of moving them along. The same is true in Westchester. The same is true in Queens. However, in Manhattan, none of these cases are moving forward.

And in fact, I know that there's a case going on -- I don't know the circumstances -- where the Manhattan DA is actually actively fighting one of these resentencings.

And really, what we did here was to say that -- or the intent was that the sentences for these A-I nonviolent felonies were too draconian and we acknowledged that those sentences should be reduced.

In addition, in that bill, on the issue of having, you know, participating in programs and having a good record should go towards a reduction in your sentences for other categories of felons, is really a

mirage, because all of those programs have waiting lists on them and there was no money to increase the number of those programs. So no one can get into the programs so that they can get the good-time benefits and have their sentences be reduced.

So now, we have before us a bill that deals with the A-IIs. I would have to say we're going to have the same problem. There are no attorneys out there who have the time or have -- you know, or are getting paid in any way privately or through government grants to help those who are unfairly incarcerated, which we admit that they were unfairly incarcerated under the Rockefeller Drug Laws.

Now, on top of all of that, we're still not touching the Bs. The B felons still are not able to have their sentences reviewed except under the mirage of going through programs which have waiting lists so they can't even get into those programs to get the good records so they can have their sentences reduced.

Now, many of you know that we did

an exhaustive study with our conference and with the staff members of our conference where we reached out to DAs and judges and people across the country in every state. And what our survey proved was that New York State is completely and totally, utterly out of the mainstream, that our laws are far beyond what any other jurisdiction has in this nation.

And we had DAs come before us and say, We would never need what you have. What we have in our criminal justice system, the laws that we have on our books -- which are far less onerous than the laws that we have in New York State -- are plenty to prosecute drug offenders.

And so, still, nonviolent drug offenders, those who have already been convicted of B felonies, those who may be convicted of B felonies in the future -- nonviolent B felonies -- are still going to have unconscionably long sentences. Judges' hands will still be tied in terms of giving them a fair sentence. They're still not going to be allowed to sentence people to drug treatment.

And so, again, this tiny little incremental sentencing reform is -- is so minimal, so tiny compared to what we should be doing in this Legislature to really reform the Rockefeller Drug Laws.

We've had all year to keep working on it. And yet this is the end result, just a little bit more with the A-II felons when we know what was wrong with what was done in December? We still, for nonviolent drug offenders -- by the way, many of whom are women -- are still not going to be able to have their addiction or any of the crime, the nonviolent crime that may result from their conviction be dealt with as a mental health issue, as a way to deal with the addiction issue? Still, judges are still only going to be able to look at what is happening with them as a criminal justice issue.

So, yes, a few more incarcerated men, almost all men, will be eligible to have their sentences reduced under this sentencing reform we're doing today. But they have to get in line, because the A-Is still aren't having their cases looked at.

So who's getting helped right now? Very few people. Only those lucky enough to find lawyers willing to take their cases for free. So the A-IIs are going to have to get in line behind the A-Is who aren't getting help. People still not going to be able to get into programs, because the programs are filled in the prison system. And those who have now already been in jail because they were convicted as B felons, and those who are going to be convicted under B felonies, are not going to get the treatment they need, are going to languish in jail. And it's our fault. Surely we can do better than this.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, I just want to reiterate what Senator Duane said in terms of the smallness of this move.

And I know that I was one of the people who voted no on the so-called reform bill, because I thought that it was such a

contradiction in what we were talking about. We still are not talking about treatment. We're not talking about judicial discretion. There is no indication that we're doing anything about reentry, issues around reentry. We're not talking about probation, expanded probation to address drug offenses, or any other alternative to incarceration.

So this is really very, very small. It's a small number of people who will be eligible under this. We have -- even with the legislation that we passed last year, there are very, very few people who have to date been able to have their sentences redressed based on that. So we're not doing very much. But it's inching along.

I must add that the big disappointment for me is that as we move these little inches along forward, we are taking giant steps backward in every other sense. So in a sense we have not addressed criminal justice reform, really.

So, Madam President, I think I'm going to vote yes on this bill. But it certainly defies my sense of any real -- what

we should be doing about any real criminal justice reform.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Briefly on the bill.

ACTING PRESIDENT LITTLE: On the bill.

SENATOR SCHNEIDERMAN: I want to -- I am also going to support this reform, incremental as it is, tiny as it is.

But I cannot emphasize enough one of the central points that was just made by Senator Duane and by Senator Montgomery. We have provided no system to see that the people who are eligible for resentencing are receiving legal representation.

I have participated in meetings in New York City of pro bono coordinators at law firms or the leaders of the Legal Aid and the New York State Defenders. Those agencies are taking on a burden without any increase -- in fact, with decreases in their funding, in many

cases -- that they shouldn't have to take on.

We are setting ourselves up for failure when you say we're going to make a few people eligible for resentencing but you're not going to have any reentry counseling, you're not going to have access to a lawyer. You're taking people who have been in prison for a long time and essentially leaving them to their own devices.

So the system by which we are seeking to reform the Rockefeller Drug Laws is flawed in two respects. One, it's proceeding too slowly, in very small increments. And, second, it will not succeed at all if we don't address the issue of legal counsel and reentry programs for the people we are making eligible.

I am going to support this bill, Madam President, but next year I hope we will address the broader issues involved.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

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

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Excuse me. Could we have quiet in the chamber, please, while we have members who wish to explain their vote.

Senator DeFrancisco, to explain his vote.

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

And having been on the conference committee, the joint conference committee on reform of the Rockefeller Drug Laws, I think this is the next logical step.

No one is going to be let out of jail without a full hearing and without proof that this is the right thing to do. And it corrects some of the inflexible sentencing that we've been having for years under the

original Rockefeller Drug Laws.

So it's the right thing to do. And having put in the first Rockefeller drug reform bill in the Senate, I think we're moving in the right direction. And hopefully we'll continue with flexible sentencing on other charges as well so courts can be in a position to impose a sentence that fits the particular individual.

ACTING PRESIDENT LITTLE: Thank you.

Senator DeFrancisco will be recorded in the affirmative.

Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Madam President.

I'm voting in the negative, as I believe I indicated in my remarks. But I have to say that I was a participant in the conference committee meetings, and I must have missed the meetings where we agreed to this particular part of the sentencing reform.

So I hope that I'm kept posted when these decisions are being made in the future -- unless perhaps the conference

committee actually didn't meet about this.

Thank you, Madam President.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1903 are Senators Andrews, Duane, Hassell-Thompson, C. Kruger, Maltese, Marcellino, Meier, Montgomery, Parker, Winner, Wright and Young. Also Senator Padavan. Also Senator Connor.

Ayes, 46. Nays, 14.

ACTING PRESIDENT LITTLE: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1907, substituted earlier today by Member of the Assembly Sanders, Assembly Print Number 2168A, an act to amend the Education Law.

SENATOR OPPENHEIMER: Explanation.

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

SENATOR SALAND: Thank you, Madam

President.

Madam President, this is a bill which deals with the use of federal funds for preschool funding for children with disabilities. Under existing law, what we have been doing is distributing those monies to providers based on a per-student basis.

What this proposes to do is to change that distribution. What it does is it will provide those funds now based on a prorated basis, starting in the 2007-2008 school year, it will be driven by the types of services --

ACTING PRESIDENT LITTLE: Thank you, Senator Saland. Go ahead.

SENATOR SALAND: It will be driven by services and not merely students.

So that if, for example, somebody is providing, as part of the IEP for these preschool students with disabilities, speech therapy, under the existing law, they will be paid on a per-capita basis, whereas somebody may be providing multiple services and will get the same amount of money.

It's an effort to try and be a bit

more equitable so this pro-rata basis will recognize that.

There are two municipalities, or two counties, Westchester and Suffolk, which effectively will continue to be funded as they have previously. They are treated differently than everybody else. And that's in large part because, in addition to the services they're providing, they're also providing educational programming.

ACTING PRESIDENT LITTLE: Thank you.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you for the explanation, Senator Saland.

If I could ask some questions of the Senator.

ACTING PRESIDENT LITTLE: Thank you.

Senator Saland, do you yield?

SENATOR SALAND: Yes, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR OPPENHEIMER: Thank you for yielding.

Are you aware, Senator Saland, that there are currently hundreds of children with disabilities in Nassau and in Suffolk and New York City that are waiting for services because there are no providers available?

And I have an actual waiting list from the New York City Department of Education with like 350 names that are waiting for services now in April of '05.

SENATOR SALAND: Well, I'm not aware of the exact number. But certainly I would think that the use of pro-rata funding, as distinguished from per-capita funding, is going to free up additional dollars to provide for more students.

SENATOR OPPENHEIMER: Actually -- if the Senator would continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Saland, do you continue to yield for a question?

SENATOR SALAND: Yes, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR OPPENHEIMER: Are you aware that the providers that provide these services in the home of the child, that they have said they cannot continue to provide these services unless the allocation for them is increased?

They figure maybe a quarter -- a third of the money they now receive by providing in home services will be reduced. And right now the rates are so low that many of them are moving away from this service, and that's prior to the one-third reduction. So --

SENATOR SALAND: Madam President, could I just have a little quiet here, please. I'm having difficulty hearing Senator Oppenheimer.

ACTING PRESIDENT LITTLE: Thank you. It's difficult to hear the speakers who are addressing the bill. Could we have it quieter in the chamber, please.

SENATOR OPPENHEIMER: Thank you,

Madam President.

The issue is that for those who are not providing the services in a center, those who are not -- you know, not the center-based, but those that services that are being provided in-home, the fees that they are paid are very, very low. And for the most part, the in-home service providers are saying they cannot continue if their reimbursement is one-third reduced.

SENATOR SALAND: My understanding is that this is supplemental funding in addition to the funding that they may be receiving through SED.

And again, the effort here is to try and recognize that the per-capita system is a system that says if you provide one service to one preschool disabled student, you're going to get the same amount of funding as the entity, whether it be in the home or in a more structured environment, that provides two, three or four of those services.

So the sense was to try and establish equity. And in the process, instead of paying everybody uniformly the same amount,

it would hopefully free up some founds that could be used for additional programming.

SENATOR OPPENHEIMER: If the Senator would continue to yield.

ACTING PRESIDENT LITTLE: Thank you.

Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR OPPENHEIMER: The center-based services are provided funding from more than one source. The people that go into the home, those providers have this single source. And that source is not paying them enough now to continue. The center-based are already filled. So if the providers that are doing in-home say that they won't continue, what are we going to do with these disabled children?

SENATOR SALAND: These funds that we're addressing here are a pot that's finite.

They're federal funds that are passed through to us. We may alter the manner in which they're distributed, and are attempting to do that here, in part to provide greater equity and more services.

What SED does with the base rates for centers is a function entirely separate and apart from what this bill deals with. This bill, incidentally, passed, I believe, 148 to nothing earlier in the Assembly.

SENATOR OPPENHEIMER: And if the Senator will yield for one last question.

SENATOR SALAND: Yes, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

The Senator yields.

SENATOR OPPENHEIMER: The ADA says that children and people with disabilities should be in their least restrictive environment. Many parents feel that their services -- perhaps their child needs two hours of speech intervention twice a week. Maybe the whole panoply of services offered in the center are not what the child

needs. Maybe the least restrictive is the in-home services.

Would this be able to continue if we hear from those providers that they're not going to do it?

SENATOR SALAND: I'm sorry, I heard you as far as "would this be permitted to continue."

SENATOR OPPENHEIMER: Well, the fact is we feel that in Nassau and Suffolk and New York City the in-home providers are saying they will not continue. And I wonder how we can assist them if we are not giving them the funds that they need.

SENATOR SALAND: To the extent that that is an issue of concern, as well it should be, this bill, simply because of the limits with which we're dealing, passed-through federal dollars, will not get to the kind of resolution that you're looking at. To the extent that there are -- there's a need for more funding, and that's certainly a policy issue that's to be determined in this house, the other house and with the Governor and the Ed Department, that would be an issue

to be resolved with the Ed department.

But this pot is finite. Again, we don't control the amount of money. What we're attempting to do is reconfigure the distribution of the money to be more equitable.

SENATOR OPPENHEIMER: Thank you, Senator Saland.

On the bill, please.

ACTING PRESIDENT LITTLE: Thank you.

Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: For some reason the early intervention services in Nassau and Suffolk are paid at a deplorably low rate. And I think that is why we are seeing so many of the providers saying if there's another cut, we're out of here.

So I'll be voting no on this, because I think it will reduce the number of services that are available for our children who are most in need. And the center-based don't seem to have any additional slots, so I don't know what will happen with these children that will be deprived of those

services. These are our most vulnerable children.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Stavisky.

SENATOR STAVISKY: Thank you, Madam President.

I was going to raise that issue also with the sponsor, that we seem to be moving away from the mandate of putting a child in the least restrictive environment and really violating the spirit of the Individuals with Disabilities Act. And I find that troubling.

I know that this is a pass-through agency, and the number of dollars is limited, it is finite. However, when we shift away from the least restrictive environment into an organized school type or facility type of setting, the number of choices are also reduced.

There has really been, as far as I'm concerned, a lack of research. And in fact, one of the memoranda from the New York

State Association of Counties points out the fact that we ought to take a look at the research and determine how the allocations should be appropriated.

I am very concerned about the fact that there are 350 or so children from New York City on that waiting list. Approximately a little over 80 children are from Queens County, which I represent. And they're not receiving the services. And they're going to continue on the waiting list if this legislation is enacted.

We're shifting our funding from the lowest-cost providers to the most expensive. And when the number of dollars is limited, I think that's a foolish move.

I will vote no on this legislation. And I hope that a study can be conducted to determine how these federal dollars can best be allocated. And until such time as that is concluded, I will vote in the negative.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you,

Madam President. On the bill.

ACTING PRESIDENT LITTLE: On the bill.

SENATOR SCHNEIDERMAN: I appreciate the problem that this legislation attempts to address. We are essentially in a position where we're being forced to rob Peter to pay Paul or Steve to pay Susie or something like that.

Unfortunately, I think that this particular solution moves us away from a treatment model that I think is very important, both in terms of the delivery of services and, frankly, in terms of financial efficiency.

The least restrictive environment is something that is tremendously important. The number of students who can get services in a natural environment there's no question will be reduced by this particular approach.

We should be expanding those types of choices, expanding the choices. And this is a part of a much broader movement in healthcare, healthcare for seniors. Let's use the least restrictive environment. Let's

finance the least restrictive environment whenever possible. Let's not force people into programs they don't need to be in and that cost more money.

And quite simply, that's why I'm going to be voting in the negative on this bill. I think this moves us in the wrong direction, and it could reduce payments to providers of those services by as much as 20 percent, according to our analysis. And I just think that that -- there has to be a better way.

I know this is not a situation of our own choosing, but we have to take care of the providers who are offering services that are the best services and the least expensive services for thousands of our children. We shouldn't be hurting them, and this legislation would.

So with all respect for the intent, I'm going to be voting no.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Are there any other Senators

wishing to be heard?

Thank you. The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR SALAND: Yes, to explain my vote.

During the course of the exchange, I mentioned that this pro rata -- I'm sorry, this proration would begin, I believe I said, in 2007-2008. It begins in 2006-2007, two-thirds '06-'07, one-third '07-'08. And I wanted to correct the record.

And I'll still vote in the affirmative.

ACTING PRESIDENT LITTLE: Thank you.

Senator Saland will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1907 are Senators Breslin, Connor, Duane, Hannon, L. Krueger, Marcellino, Sabini, Schneiderman, A. Smith and Stavisky. Also Senator Morahan. Also Senator Oppenheimer.

Ayes, 48. Nays, 12.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Thank you, Madam President. If we could now go to the supplemental active list, beginning with Calendar Number 4 -- oh, you have a motion?

ACTING PRESIDENT LITTLE: Senator Skelos, could we do some motions?

SENATOR SKELOS: Please do the motions.

ACTING PRESIDENT LITTLE: Senator Robach.

SENATOR ROBACH: I wish to call up my bill, Print Number 3894, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

SENATOR ROBACH: Madam President, I now move to reconsider the vote -- hey, don't slow me down.

(Laughter.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 551, by Senator Robach, Senate Print 3894, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT LITTLE: Senator Robach.

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

ACTING PRESIDENT LITTLE: Call the roll on reconsideration of the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: Senator Robach.

SENATOR ROBACH: That's all I have.

ACTING PRESIDENT LITTLE: The Secretary will read the substitutions.

THE SECRETARY: On page 26, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 4745C and substitute it for the identical Senate Bill Number 4625B, Third Reading Calendar 901.

And on page 29, Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill Number 7769 and substitute it for the identical Senate Bill Number 4789, Third Reading Calendar 985.

ACTING PRESIDENT LITTLE: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: If we could go to the supplemental active list, beginning with Calendar Number 473.

ACTING PRESIDENT LITTLE: The Secretary will read the supplemental active list.

THE SECRETARY: Calendar Number 473, by Senator LaValle, Senate Print 3658A, an act to amend the Environmental Conservation Law and the Public Lands Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 589, by Senator Maltese, Senate Print 4173A, an act to amend the Administrative Code of the City of New York.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number

691, by Member of the Assembly Paulin, Assembly Print Number 1011A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 726, by Member of the Assembly Bradley, Assembly Print Number 6723A, an act to amend the Penal Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 783, by Member of the Assembly Wright, Assembly Print Number 6362B, an act to amend the Arts and Cultural Affairs Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 911, by Senator Fuschillo, Senate Print 4040B, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT LITTLE: Senator Skelos, there is a message of necessity at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT LITTLE: All in favor of the motion to accept the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 927, by Senator Balboni, Senate Print 4286A, an act to amend the Public Authorities Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1281, by Member of the Assembly Thiele, Assembly Print Number 6069A, an act in relation to reassessment.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Senator

Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT LITTLE: Yes, Senator, there is a message of necessity at the desk.

SENATOR SKELOS: Move to accept, please.

ACTING PRESIDENT LITTLE: All in favor of the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: All opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR BALBONI: Yes, Madam

President, this is a new version of a bill that this house has passed several years in a row now. We are moving closer to an agreement. It's on the issue of spyware.

I just attended a cybersecurity conference that was held up here. The director of cybersecurity infrastructure, Will Pegrin, held a great conference. And, ladies and gentlemen, the threats get more and more serious to the integrity of our computer systems.

This is an incredibly necessary act, along with Senator Fuschillo's bill about intrusion notification, all the other measures we're taking. We need to do this to make sure that the computing systems that we rely on so integrally every single day are safe and secure. We hope to have agreement on this very shortly.

Thank you, Madam President. I vote aye.

ACTING PRESIDENT LITTLE: Thank you.

Senator Balboni will be recorded in the affirmative.

Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Madam President, I note that on prior bills there are several --

ACTING PRESIDENT LITTLE: Are you explaining your vote?

SENATOR MONTGOMERY: I'm explaining my vote.

ACTING PRESIDENT LITTLE: On this bill?

SENATOR MONTGOMERY: On this bill.

ACTING PRESIDENT LITTLE: Okay, thank you.

SENATOR MONTGOMERY: In prior votes, Senator Krueger, myself, Senator Paterson, Senator A. Smith and Senator M. Smith have opposed this. I believe we are withdrawing our opposition, and we're now supporting the new version of Senator Balboni's bill.

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Senator Montgomery will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, is there a message of necessity at the desk?

ACTING PRESIDENT LITTLE: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT LITTLE: Thank you.

All in favor of the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1775, Senator Winner moves to discharge, from the Committee on Finance, Assembly Bill Number 4975A and substitute it for the identical Senate Bill Number 5848A, Third Reading Calendar 1775.

ACTING PRESIDENT LITTLE: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1775, by Member of the Assembly Destito, Assembly Print Number 4975A, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Read

the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1794, by Senator Golden, Senate Print 5810A, an act to amend the Social Services Law.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, is there a message of necessity at the desk?

ACTING PRESIDENT LITTLE: Yes, there is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT LITTLE: Thank you.

All those in favor of accepting the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE:

Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR GOLDEN: Thank you, Madam President.

I rise today to thank the Governor of the State of New York and the task force that was assembled, with Children and Family Services, to look into the 1400 children that we have in placements outside of the city and state of New York.

In those placements, they were placed in residences where we had little oversight. And the oversight that we did have did not match the oversight of that of the State of New York. And what we've seen were

our children being strapped down, being abused for hours upon hours, days upon days. We've seen two deaths in New Jersey. We've seen in another state where they were using electric shock in 2004.

It is about time that we bring these children home and that we give them the proper services and the proper treatment and the proper residency requirements for them and their families and bring them home to their families. And if they do have to place them out of state, that the residences that they are placed in adhere to the rules and regulations of that of the State of New York.

So this is a great day for Billy -- that is the gentleman which we took this endeavor on for. And Billy's Law is something that we brought before this body last year; we were unsuccessful. But this year we are successful.

It costs us $200,000 per child to send him out of state or her out of state. You could keep a child at the Waldorf Astoria for $200,000 a year and give them better treatment than what they were giving them in

Jersey and in other states around the country.

So we're glad to have been able to bring these children, a lot of them, home, and we're glad that we're able to get the requirements and the securities and the prerequisites that we need to be able to make sure that our children are safe.

So we thank the Governor, we thank the task force. It's a great day for all of the children that are brain-trauma'd and that are outside this city. And we thank the Governor and the task force for doing that.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

Senator Golden will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1844, by Senator Libous, Senate Print 5829, an act to amend the Public Authorities Law.

ACTING PRESIDENT LITTLE: Senator Spano.

SENATOR SPANO: Is there a message at the desk?

ACTING PRESIDENT LITTLE: Yes, there is, Senator.

SENATOR SPANO: I request that it be read.

ACTING PRESIDENT LITTLE: All those in favor of accepting the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those opposed.

(No response.)

ACTING PRESIDENT LITTLE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The

bill is passed.

THE SECRETARY: Calendar Number 1852, by Senator Maziarz, Senate Print 26B, an act to amend the General Municipal Law and the State Finance Law.

ACTING PRESIDENT LITTLE: Senator Spano.

SENATOR SPANO: Madam President, is there a message at the desk?

ACTING PRESIDENT LITTLE: Yes, there is.

SENATOR SPANO: I ask that it be read.

ACTING PRESIDENT LITTLE: Thank you.

All those in favor of accepting the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those opposed.

(No response.)

ACTING PRESIDENT LITTLE: The message is accepted.

The Secretary will read.

THE SECRETARY: Section 6. This

act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1866, by Senator Wright, Senate Print 5565A, an act to amend the Tax Law.

ACTING PRESIDENT LITTLE: Senator Spano.

SENATOR SPANO: Is there a message at the desk?

ACTING PRESIDENT LITTLE: Yes, there is, Senator.

SENATOR SPANO: I ask that it be read.

ACTING PRESIDENT LITTLE: Thank you.

All those in favor of accepting the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those

opposed.

(No response.)

ACTING PRESIDENT LITTLE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 1878, by Senator Volker, Senate Print 5905, an act to amend the Public Authorities Law and the Tax Law.

ACTING PRESIDENT LITTLE: Senator Spano.

SENATOR SPANO: Madam President, is there a message at the desk?

ACTING PRESIDENT LITTLE: Yes, there is, Senator.

SENATOR SPANO: I ask that it be read.

ACTING PRESIDENT LITTLE: All those in favor of accepting the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those opposed.

(No response.)

ACTING PRESIDENT LITTLE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please call up Calendar Number 1801, which is on the supplemental active list.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1801, by Senator Marcellino, Senate Print 5833, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT LITTLE: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT LITTLE: Thank you.

All those in favor of accepting the message of necessity say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those opposed.

(Response of "Nay.")

ACTING PRESIDENT LITTLE: The message is accepted.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect upon the adoption of the Interstate Wildlife Violator Compact.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, on Supplemental Calendar B, would you please call up Calendar Number 1904.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1904, by the Senate Committee on Rules, Senate Print Number 5898, an act to amend Chapter 738 of the Laws of 2004.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Is there a message at the desk?

ACTING PRESIDENT LITTLE: Yes, there is, Senator.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT LITTLE: All in favor of accepting the message of necessity

say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: And those opposed.

(No response.)

ACTING PRESIDENT LITTLE: The message is accepted.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, could we take up Calendar Number 1878, which is on the controversial calendar.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1878, by Senator Volker, Senate Print 5905, an act to amend the Public Authorities Law and

the Tax Law.

ACTING PRESIDENT LITTLE: Senator Brown.

SENATOR BROWN: Thank you, Madam President.

Let me just say that a control board is never a good thing. But in this case, unfortunately, it's a necessary thing. Erie County government has a deficit in excess of $18 million, and the county executive and the legislature have been unable on their own to work together to close that deficit. So this is a necessary action.

And as you all know, the Erie County government is the seventh largest county in our state, containing the city of Buffalo, the second largest city in our state.

Initially, as this board was coming together, I was concerned that it sounded like the County of Erie would be treated differently from the City of Buffalo. I'm very pleased that that did not occur.

I'm very pleased that Buffalo, as you know, that has a control board also -- and a tough control board -- is beginning to

rebound. The city is beginning to again see fiscal stability, and this year Buffalo was able to balance its budget.

In this legislation there are a number of triggers in the legislation that require the county executive and the legislature to do certain things to show that county government is being managed in a fiscally responsible way. If those triggers, if those threshold levels are not met, the control board will go from what is being called a soft board, a soft control board, to what is being described as a hard board with greater fiscal oversight, with greater monitoring of the actions and management of county government. And I think that that is an appropriate step.

But I do want to say that as this legislation goes forward and as we contemplate the needs of the County of Erie and the City of Buffalo in the future, I want to make sure that we are treating the City of Buffalo within the County of Erie fairly, that we are realizing that this is the seventh largest county in our state, that Buffalo is the

second largest city in our state, and for our state to remain healthy, for our state to remain strong, it's important for Erie County and the City of Buffalo to remain healthy and strong.

I just want to use this opportunity to talk about one disparity that I see. As you know, there is an additional 1 percent sales tax above and beyond the initial original 7 percent that Erie County had. That additional 1 percent all goes to the County of Erie. Now, many, including myself, have expressed our concerns about that. But I want you to know what that means in real numbers.

That additional 1 percent is almost 20 years old now, something that was supposed to be a temporary tax to get the County of Erie initially out of what was a fiscal deficit in the mid-eighties. Now, that deficit at that time was $75 million, with interest of about $30 million. Well, in all this period of time that additional 1 percent has generated $1.823 billion for Erie County government, none of it shared with the City of Buffalo.

So while I am certainly going to be supporting this necessary piece of legislation to secure, to stabilize, to shore up the necessary Erie County government, I am hopeful that as we revisit and look at these issues in the future that we will make sure that the City of Buffalo is treated fairly.

I just want to share some numbers with you. When you look at Erie County, the City of Buffalo receives 24.31 percent of the additional 1 percent of sales tax.

When you look at Rochester, in Monroe County, Rochester receives 66.22 percent of the sales tax.

When you look at Syracuse, in Onondaga County, Syracuse received a whopping 70.99 percent of the sales tax.

Now, Buffalo is 31 percent of the county population, Rochester is 29 percent of the population of Monroe, and Syracuse is 31 percent of Onondaga's population. There's clearly a disparity here. I'm asking you, colleagues, to consider this, to look at this in the future. We won't deal with this this year, but you will have the opportunity to

look at this in future years.

I want to commend Senator Volker and Assembly Member Tokasz for their action in fashioning this piece of legislation. I want to also commend all of the other members of the Western New York State legislative delegation, and Senator Volker as the dean of the delegation that made sure that we were all involved in this process, that we were able to provide some input in how this control board came together.

A control board is never a good thing. In this case, it's a necessary thing. We're taking the next steps to shore up the seventh largest county in the State of New York.

Thank you, Madam President. I will be voting yes.

ACTING PRESIDENT LITTLE: Thank you, Senator Brown.

Senator Rath.

SENATOR RATH: I'll speak after Senator Volker.

ACTING PRESIDENT LITTLE: I apologize. I didn't see you, Senator Volker.

SENATOR VOLKER: No, that's okay.

Madam President, let me just say that a couple of years ago when we did the Buffalo control board, it was the last thing from any of our minds in Western New York that we would have to do a control board for Erie County. We have the lowest taxes of any major county -- considering county taxes, school taxes, and local taxes -- in the state. There's really absolutely no reason for us to be in this situation that we're in right now.

Buffalo was a whole different situation. Buffalo was going down dramatically for years, with its assessed valuation declining, loss of $50 million to $70 million in taxes over a short period of time. In particular, because the business community got tax breaks, assessment was declining and so forth. And we knew that ultimately it would have to be done.

And 9/11 is really what caused the city to become -- into a control board, because the State of New York had been averaging about $50 million a year to the city and stopped doing that after 9/11.

Nassau County, one of the -- well, maybe the wealthiest county in the state, had a problem. And really, that problem related to a series of things. And I think Senator Skelos would certainly would agree with me when he said there was mismanagement there, there were a lot of problems that caused it.

Truly, although there's been a lot of talk about local counties -- and certainly Medicaid has to be dealt with, and we've been trying to deal with it -- but the local counties have the ability to deal with their problems. Maybe they have to cut corners and raise taxes. But let's remember that what happened is we actually cut Medicaid back in 1997, and there was a drop in Medicaid for some years, and most counties then raised their budgets. Erie County was one of those.

Erie County has continued to spend at a high level and yet has raised no money. And when I say raised no money, I mean really didn't do any particular cutting and received all sorts of benefits from this Legislature -- the hospital was taken off the backs of the county taxpayers, a whole series of things.

Tobacco money and so forth.

The bottom line is the last thing that any of us wanted was a control board here. And we've labored throughout this year, our delegation. We've been united in attempting to make sure that our county righted itself and was able to make it. The last straw, frankly, was when the people from Wall Street informed us that they did not see any way that the county could borrow. And that, coupled with the fact that the Comptroller, Alan Hevesi, announced a minimum $118 million deficit for this year and a $200-some-million deficit for next year, obviously something had to be done.

And there are many people that for a long time were calling for something to be done. We held off as long as we could. The time is now.

What this control board does is basically say -- first of all, there's going to be a chapter amendment, so everybody knows also it's a technical chapter amendment that deals with borrowing. It sets up the revenues for potential borrowing through the control

board. Because we do not believe that the present county situation would even allow them to get through this year. They would, in effect, go into -- well, if you could call it bankruptcy or whatever you want to call it. They must deficit borrow. They have a RAN coming up in July, I believe it is, of $80 million, I believe. From what we understand, if we didn't go the enabling legislation here to back up that, they couldn't renew it.

So the bottom line is there's a control board, seven people, four appointed by the Governor, one by the Senate, one by the Assembly, one by the Comptroller.

What we want to do here is give the county legislature and the county executive the opportunity to fix this problem, come up with a plan. If it doesn't work, then the full powers of the control board will come into effect on October 1st. The first thing to do is to right Erie County, which this legislation we expect will allow the county to go to the market and be able to right itself.

By the way, in case you're

wondering, Erie County's unemployment rate has been -- outside the city, has been some of the lowest in the state. In fact, I was told that it was about 3 percent, which means it was virtually full employment. Except that since the county crisis, about 2200 people have been laid off, and therefore obviously a huge problem there. And it has offset a rise in private industry employment. So although the economy of Western New York is doing a lot better than people think, obviously the county is in terminus. And this is why we need this control board.

The delegation is totally committed to dealing with this issue. I have to say something -- and I've lived in Western New York all my life -- thank goodness for the people of Western New York that our delegation stays together, refuses to play the unfortunate politics that has been occurring in Erie County. Because if not, the situation would be a lot worse.

And I want to thank all my colleagues, Democrats and Republicans, for the cooperation they've given in dealing with this

issue.

ACTING PRESIDENT LITTLE: Thank you, Senator Volker.

Senator Rath.

SENATOR RATH: Thank you, Madam President.

I rise to congratulate Senator Volker and Assemblyman Tokasz, the two leaders of the western delegation, for shepherding this measure through this house and through the Assembly.

I'm going take a little bit of a different approach as we finish this up, and I will be brief. Because it is time to put this crisis behind us in Erie County and get on with it.

The people in Erie County, like every place in this state, need to have confidence in their government and need to trust their government. That hasn't been true in Erie County this past year. The workings of the control board, I am convinced, will be enough to right the ship of county, if you will. The triggers that are in place, if they do not meet the appropriate benchmarks, will

bring a full-blown control board into place quickly enough to take care of any problems that might arise.

But as a county legislator, as I was for many years, and with the opportunity and privilege of serving as the minority leader in that body for quite some time, I remember how we hated it when the state told us what to do. It was called a mandate, and we hated it. Because we felt the government lowest to the people was the government that was best for the people. I still believe that. And I have a little trouble looking at this and knowing how they feel, because they feel we're coming in and we're going to tell them what to do.

That's not what's happening here. We have a group of people who will be appointed, who will be of the best intentions, to do the best to help Erie County through this crisis.

But let's look at what has happened. I always say to people that, although we don't talk politics on the floor of the state legislature any more than we did

the county legislature, on Election Day it's a marriage of politics and government. And when people are in that voting booth, they pull a lever for you or for me. And we came up the political route, and then we are their government official, if we are lucky enough, fortunate enough to be representing them.

And so we have, this fall, seven county legislators not running for reelection. There will be a whole new legislature, virtually, there. Who knows if the incumbents will get reelected.

They need a chance and an opportunity to right the ship of county. And with the charter and with this control board looking over their shoulder, they have a chance to do that. And I am going to wish them well before they're even elected.

There will be a charter revision committee in Erie County, and I assume that they will be looking at all the kinds of things of governments, as to whether we have a county executive in the future or whether we go to a county manager form of government. Lots of changes going to be happening in Erie

County.

So I assume you'll all be supporting us on this. I hope you will. But moreover, I ask the people of the County of Erie to support this control board, because it has the best intentions in mind. The state legislators will be there to back it up, not look over their shoulder every minute. But if they get into trouble, we'll be there to help, as will the control board.

I urge its support. Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator Rath.

Senator Stachowski.

SENATOR STACHOWSKI: Madam President, I also rise to support this legislation.

There's been some criticism in the local media about the fact that it's a soft control board to start with and that we had put a hard control board in Buffalo. But the fact is that there's five triggers that as soon as one of those aren't met, it's immediately a hard control board.

And one of the important things to

keep in mind is, for example, when they now did their quarter percent that's going to be able to pay for their deficit borrowing, which is a term most of us hate to even hear on this floor, the fact is even in that little process, they had 10 votes, and now one of them -- I don't know what they did today, so I really can't tell you -- but one of them threatened not to do it. So I guess he reneged on his threat not to vote for it and he voted for it.

But that's the kind of things that were happening in Erie County. And that's what made you think, well, they were always able, as Senator Volker said, to help themselves, but they didn't choose to do it. They didn't have the political will to make the hard decisions. And unfortunately, part of government is making hard decisions.

Senator Rath talked about that she was the minority leader. While she was there, they had a very difficult financial problem, but they persevered and took care of it themselves. They didn't need someone to come from the outside and force them to do the

right thing.

When I was a county legislator in 1976 -- and I only bring that up because I read some quotes by Ned Regan, who was the former comptroller of the state, talking about how he had warned about Medicaid, and it's Medicaid. But what he didn't talk about was that in 1976, he proposed a 77 percent property tax increase. The fact is the legislature dealt with it, and we finished the budget on time, and government went on. And all the things that we cut, fortunately we were on our feet the next year, and we put most of those things back in.

But the realization is that when you get elected to a position, it's not always we vote for the budget, we vote for all the popular things and we never have to do a hard decision. And unfortunately, that seemed to be what was going on there. And now when they were faced with difficult decisions, nobody seemed able to make them.

The reality is the county was given some things to help them cope with increased costs and Medicaid that they never recognized.

For example, even when we did the hospital bill -- and nowhere when we were doing this public benefit corporation was there anywhere talked about that they were going to then make this private/public benefit corporation buy the hospital from the county and then the county executive was going to take most of the money and use it to balance his budget. Which he did. None of us -- I mean, that might not have been a public benefit corporation hospital had we known that was going to happen in the first place.

When they got Family Health Plus, which they always beat to a pulp, saying, We got this increased cost that nobody gave us the money for -- the funny thing is, before that time, counties never got revenue sharing. All of a sudden in the state budget appeared revenue sharing for counties, which was a way to send them money to help offset the cost of Family Health Plus.

So there were some things going on that maybe weren't recognized by people in the media or people criticizing the state for not helping Erie County. But the fact is we were.

We're going to continue to do it with this control board, because it will help them right themselves, we hope.

And the other thing about the control board is we are giving them every opportunity to fix the problem themselves. And that's why it's a soft control board rather than immediate hard. Hopefully it will stay that way. But if they should show not to have the political will to do all the things necessary, then one of those triggers will get pulled and it will be a hard control board. We hope it doesn't happen.

But we hope that this control board will help Erie County come out of the situation they are now, help people to get more sure of their county government, help the employees in Erie County become more sure of what's going on with their lives, and help make life better for the people in Western New York and Erie County in particular.

I'm supporting this issue.

ACTING PRESIDENT LITTLE: Thank you, Senator Stachowski.

Is there any other Senator wishing

to be heard on the bill?

The debate is closed, and the Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR VOLKER: Yeah, just for a second.

I didn't mention, and I do want to do that, I want to thank the Governor, the Assembly. This was a very cooperative adventure, shall I call it, and complicated.

I especially want to thank our staff -- Mary Clark, behind us here, and my own staff that worked hard on this, and Paul Tokasz and the Assembly staff also. Everyone worked very hard to get this done. And I want to thank everybody for their cooperation.

I vote aye.

ACTING PRESIDENT LITTLE: Thank

you.

Senator Volker will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could move to the order of motions and resolutions and adopt the Resolution Calendar, with the exception of Resolution 2715.

ACTING PRESIDENT LITTLE: All in favor of adopting the Resolution Calendar say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Resolution 2715, by

Senator Hassell-Thompson, have the title read, move for its immediate adoption, and open it up for sponsorship.

ACTING PRESIDENT LITTLE: Thank you.

If we could have quiet in the chamber, please, while the Secretary will read the resolution.

Thank you.

THE SECRETARY: By Senator Hassell-Thompson, Legislative Resolution Number 2715, mourning the death of Andre Pancham, Jr.

ACTING PRESIDENT LITTLE: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

I just want to thank all of my colleagues for their support for this resolution for Andre Pancham, who was a student, a young man in my district who died very suddenly.

It is so interesting that sometimes we -- at the death of someone, we want to paint the picture so rosy and so perfect. But

I want to tell you that we don't need to paint a rosy picture of this young man. He was an awesome student, appeared to have such a future in front of him, and suddenly he was not with us any longer.

He is an only child, and his parents are so devastated. And they are having a great deal of difficulty just being able to understand what has happened to Andre. And his principal and many of the teachers have had a lot of difficulty with students at school trying to understand why Andre has died.

I am hoping that this resolution, along with the cards and prayers that have been extended to this family, will in some way offer them the comfort of knowing that they are not alone. And I thank my colleagues for supporting this and hope that all of my colleagues are willing to sign on to this resolution to this family.

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator.

On the resolution, all in favor say

aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there's some housekeeping at the desk.

ACTING PRESIDENT LITTLE: Yes, we do.

Senator Trunzo.

SENATOR TRUNZO: Madam President, I wish to call up Senate Bill Print Number 431A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: Calendar Number 1404, by Senator Trunzo, Senate Print 431A, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Senator Trunzo.

SENATOR TRUNZO: I now move to reconsider the vote by which the bill was passed and ask that it be restored to the order of third reading.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

SENATOR TRUNZO: I now move to discharge, from the Committee on Rules, Assembly Print Number 1233A and substitute it for my identical bill.

The Senate bill on first passage was voted unanimously. I now move that the substituted Assembly bill have its third reading at this time.

ACTING PRESIDENT LITTLE: Substitution ordered.

And the Secretary will read the Assembly bill.

THE SECRETARY: Calendar Number 1404, by Member of the Assembly Tokasz, Assembly Print Number 1233A, an act to amend the Executive Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

If you would recognize Senator Montgomery.

ACTING PRESIDENT LITTLE: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. Immediately following the Finance Committee, there will be a conference of the Senate Minority.

ACTING PRESIDENT LITTLE: Thank you.

SENATOR SKELOS: Madam President, I expect that we will be back at ten to 6:00 to take up several bills.

ACTING PRESIDENT LITTLE: Thank you, Senator.

The Senate stands in recess until ten minutes of 6:00.

(Whereupon, the Senate stood at ease at 5:30 p.m.)

(Whereupon, the Senate reconvened at 6:34 p.m.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to motions and resolutions, I believe there's a motion to be made at this time.

THE PRESIDENT: Motions and resolutions.

Senator Little.

SENATOR LITTLE: Thank you.

Madam President, I wish to call up Calendar 749, Assembly Print Number 7395.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

749, by Member of the Assembly Abbate, Assembly Print Number 7395, an act to amend the General Municipal Law.

SENATOR LITTLE: I now move to reconsider the vote by which this Assembly bill was substituted for my bill, Senate Print Number 4458, on June 23rd, on behalf of Senator Golden.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

SENATOR LITTLE: I now move that Assembly Bill Number 7395 be recommitted to the Committee on Rules, and my Senate bill be restored to the order of the Third Reading Calendar.

THE PRESIDENT: So ordered.

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

THE PRESIDENT: The amendments are received.

SENATOR LITTLE: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President,

if we could return to reports of standing committees, I believe there's a report of the Finance Committee at the desk. I ask that it be read.

THE PRESIDENT: Reports of standing committees.

The Secretary will read the Finance Committee report.

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

Susan G. Metzger, Ph.D., of Warwick.

THE PRESIDENT: Senator Johnson.

First of all, I'm going to ask the members to take their conversations out of the chambers.

Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

I just want to take a moment to second the nomination of Susan Metzger, from

Warwick, New York, as a member of the MTA.

Susan is a very active person in our community, involved in transportation issues, concerned about commuter issues, and will be an excellent addition to the MTA board. And I'm delighted to second her nomination.

THE PRESIDENT: The question now is on the nomination of Susan G. Metzger, Ph.D., of Warwick, as a member of the Metropolitan Transportation Authority, for a term to expire June 30, 2010.

All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is confirmed.

The Secretary will continue to read.

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

Senate Print 5870, by the Senate

Committee on Rules, an act to amend the Education Law;

5902, by the Senate Committee on Rules, an act to amend a chapter of the Laws of 2005;

And Senate Print 5903, from the Senate Committee on Rules, an act to amend Chapter 53 of the Laws of 2005.

All bills ordered direct to third reading.

THE PRESIDENT: Without objection, all bills reported direct to third reading.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Calendar Number 1910.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1910, Senate Print 5870, from the Senate Committee on Rules, an act to amend the Education Law.

SENATOR SCHNEIDERMAN: Explanation. Or lay it aside.

THE PRESIDENT: Senator Skelos,

what do you like? Whatever you like.

SENATOR SKELOS: Well, the bill is laid aside, so we will now to go the controversial calendar and take the bill up.

THE PRESIDENT: The bill is laid aside.

The Secretary will first ring the bell, and members should return to their seats.

Senator Johnson.

SENATOR JOHNSON: This bill is a budget and technical amendment bill to the fiscal year 2005-2006 enacted budget. There's no money appropriated here. Some money is moved from one account to another. Mostly it's cleanup of language. Some words were left out in the bills, some words were added in the bills, but there is nothing really changed except that the budget is in a more proper form than it was when we passed it.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you very much for that extraordinary explanation.

SENATOR SABINI: Madam President.

THE PRESIDENT: Senator Sabini.

SENATOR SABINI: Would the sponsor yield for a question.

THE PRESIDENT: Senator Johnson, do you yield?

SENATOR JOHNSON: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR SABINI: I'm just wondering if the sponsor would explain in section -- I guess it's 31(a) of the bill, there's some verbiage regarding the New York Racing Association and Aqueduct Racetrack. And as we all know, the moving along of the project at Aqueduct is an important item both for the state budget, the Governor's budget protections, and for the economy of Queens County. There are a lot of jobs involved, a lot of construction jobs, a lot of operational jobs.

And I'm just wondering, since we're just seeing this now, what the effect of the Aqueduct project and -- that this bill would have on the Aqueduct project and what does this do to the New York Racing Association.

SENATOR JOHNSON: Are you awaiting my response, Senator?

SENATOR SABINI: Yes.

SENATOR JOHNSON: Okay. This requires all contracts entered into by the New York Racing Association prior to the effective date of the legislation and related to the operation, management or distribution of revenues, the design of a video lottery gaming facility at Aqueduct will be subject to the approval of the Division of Lottery.

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

THE PRESIDENT: Senator Johnson, do you yield?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator.

SENATOR SABINI: Would it be the sponsor's assertion, then, that this bill is necessary to keep the Aqueduct project alive and in fact expedite its opening?

SENATOR JOHNSON: That is correct, Senator.

SENATOR SABINI: Would the sponsor continue to yield.

THE PRESIDENT: Senator Johnson, do you yield?

SENATOR JOHNSON: Yes, Madam President.

THE PRESIDENT: You may proceed.

SENATOR SABINI: Thank you, Madam President.

I'm also wondering, through you, if the sponsor, who ably chairs our Finance Committee, could tell me if he thinks there's going to be more NYRA legislation that we're anticipating before we close up.

SENATOR JOHNSON: I'm not certain if I heard your question, Senator.

SENATOR SABINI: Do we expect more NYRA governance legislation besides this before we close business today?

SENATOR JOHNSON: My counsel said the day is still young, Senator.

But so far we have no plans to do that.

SENATOR SABINI: Thank you, Madam President.

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

Then the debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1910 are Senators Duane, L. Krueger, and Schneiderman.

Ayes, 57. Nays, 3.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to motions and resolutions, I believe there's a resolution at the desk by Senator Brown. I ask that the title be read and move for its immediate adoption.

THE PRESIDENT: Motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senator Brown, Legislative Resolution Number 2762, commemorating the 25th Anniversary of the New Beginnings Choral Ensemble.

THE PRESIDENT: All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there's a supplemental active list on its way, so if we could just stand at ease.

THE PRESIDENT: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 6:46 p.m.)

(Whereupon, the Senate reconvened at 7:10 p.m.)

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President,

if we could have the noncontroversial reading of the supplemental active list.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 497, by Member of the Assembly Brodsky, Assembly Print Number 3469, an act to amend the Legislative Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 743, by Member of the Assembly Nesbitt, Assembly Print Number 5969, an act to amend the Military Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 876, by Senator Hannon, Senate Print 4331A, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 17. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 880, by the Assembly Committee on Rules, Assembly Print Number 8800, an act to amend the Public Health Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 893, by Senator Balboni, Senate Print 4123, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 16. This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1226, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 7827A, an act to amend the Retirement and Social Security Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1279, by Member of the Assembly Abbate, Assembly Print Number 7020, an act to amend the General Municipal Law.

THE PRESIDENT: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1811, substituted earlier today by Member of the Assembly Grannis, Assembly Print Number 7559B, an act to amend the Insurance Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the noncontroversial reading of the supplemental calendar.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: There will be a meeting of the Rules Committee at 7:00 p.m. in the Majority Conference Room.

And if we could stand at ease at this time.

THE PRESIDENT: There will be a meeting of the Rules Committee at 7:25 in the Majority Conference Room.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 7:15 p.m.)

(Whereupon, the Senate reconvened at 7:34 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT NOZZOLIO: Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees, there's a report of the Rules Committee at the desk. I ask that it be read.

ACTING PRESIDENT NOZZOLIO: The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 1071A, by Senator Alesi, an act to amend the Education Law;

3059, by Senator Alesi, an act to amend the Executive Law;

3369A, by Senator Spano, an act to amend the Education Law;

3570, by Senator Trunzo, an act to amend the Real Property Tax Law;

3765, by Senator Morahan, an act requiring;

4424A, by Senator Volker, an act to

amend the Penal Law;

4954B, by Senator M. Smith, an act to amend the Vehicle and Traffic Law;

5008A, by Senator Fuschillo, an act authorizing the assessor;

5264A, by Senator Bonacic, an act to amend the Environmental Conservation Law;

5423A, by Senator Golden, an act to amend the Education Law;

5458, by Senator Stachowski, an act to amend the General Municipal Law;

5567A, by Senator Young, an act to amend the Tax Law;

5618, by Senator Farley, an act to amend the Tax Law;

5654B, by Senator Spano, an act to amend the Tax Law;

5720A, by Senator Farley, an act to authorize the extension;

5816, by Senator Balboni, an act to amend the Education Law;

5849, by Senator Maziarz, an act authorizing the office;

5861, by Senator LaValle, an act to amend the Environmental Conservation Law;

5893, by the Senate Committee on Rules, an act to amend Chapter 103 of the Laws of 2004;

5904, by Senator Golden, an act to amend the Tax Law;

5915, by Senator Padavan, an act to amend the Tax Law;

And Assembly Print 8963, by the Assembly Committee on Rules, an act to amend Chapter 444 of the Laws of 1997.

All bills ordered direct to third reading.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, move to accept the report of the Rules Committee.

THE PRESIDENT: All in favor of accepting the report of the Rules Committee please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report is accepted.

Senator Skelos.

SENATOR SKELOS: Madam President, on behalf of Senator Bruno, there will be an immediate conference of the Majority in the Majority Conference Room.

THE PRESIDENT: There will be an immediate conference of the Majority in the Majority Conference Room.

SENATOR SKELOS: Stand at ease, please.

THE PRESIDENT: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 7:37 p.m.)

(Whereupon, the Senate reconvened at 8:24 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could please take up Calendar Number 1407.

THE SECRETARY: Calendar Number 1407, by Member of the Assembly R. Diaz, Assembly Print Number 4433A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR SKELOS: Mr. President, on Supplemental Calendar B, would you please call up Calendar Number 1908.

ACTING PRESIDENT MEIER: The Secretary will read Calendar Number 1908.

THE SECRETARY: Calendar Number 1908, by Senator Rath, Senate Print Number 5908, an act to amend the Public Health Law.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as Section 1 of a chapter of the Laws of 2005.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go now to Supplemental Calendar C, noncontroversial.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of Supplemental Calendar C.

THE SECRETARY: In relation to

Calendar Number 1913, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 236A and substitute it for the identical Senate Bill Number 1071A, Third Reading Calendar 1913.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1913, by Member of the Assembly Weisenberg, Assembly Bill Number 236A, an act to amend the Education Law.

ACTING PRESIDENT MEIER: There is a local fiscal impact note at the desk.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Meier and Wright recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1914, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 2947 and substitute it for the identical Senate Bill Number 3059, Third Reading Calendar 1914.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1914, by Member of the Assembly Morelle, Assembly Bill Number 2947, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Meier recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to

Calendar Number 1915, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 2767C and substitute it for the identical Senate Bill Number 3369A, Third Reading Calendar 1915.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1915, by Member of the Assembly Brodsky, Assembly Bill Number 2767C, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1916, Senator Trunzo moves to discharge, from the Committee on Rules,

Assembly Bill Number 4973 and substitute it for the identical Senate Bill Number 3570, Third Reading Calendar 1916.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1916, by Member of the Assembly Sweeney, Assembly Bill Number 4973, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1917, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 5616 and substitute it for the identical Senate Bill Number 3765,

Third Reading Calendar 1917.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1917, by Member of the Assembly Weisenberg, Assembly Bill Number 5616, an act requiring the use of politically correct terminology.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1918, by Senator Volker --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to

Calendar Number 1920, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 8269A and substitute it for the identical Senate Bill Number 5008A, Third Reading Calendar 1920.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1920, by Member of the Assembly McDonough, Assembly Bill Number 8269A, an act authorizing the assessor of the County of Nassau.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1921, by Senator Bonacic, Senate Bill Number 5264A, an act to amend the Environmental

Conservation Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1922, Senator Golden moves to discharge, from the Committee on Rules, Assembly Bill Number 8398A and substitute it for the identical Senate Bill Number 5423A --

SENATOR SCHNEIDERMAN: Lay it aside.

THE SECRETARY: -- Third Reading Calendar 1922.

ACTING PRESIDENT MEIER: Substitution ordered.

Now lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1923, Senator Stachowski moves

to discharge, from the Committee on Rules, Assembly Bill Number 8443 and substitute it for the identical Senate Bill Number 5458, Third Reading Calendar 1923.

ACTING PRESIDENT MEIER: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1923, by Member of the Assembly Tokasz, Assembly Bill Number 8443, an act to amend the General Municipal Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1924, by Senator Young, Senate Print Number 5567A, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: There is

a local fiscal impact note at the desk.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2006.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1925, by Senator Farley, Senate Bill Number 5618, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: There is a local fiscal impact note at the desk.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect March 1, 2006.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1927, by Senator Farley, Senate Bill Number 5720A, an act to authorize an extension of time to file.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1929, by Senator Maziarz, Senate Bill Number 5849, an act to authorize the Office of Parks, Recreation and Historic Preservation.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1930, by Senator LaValle, Senate Bill Number 5861, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2005.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1934, by the Assembly Committee on Rules, Assembly Bill Number 8963, an act to amend Chapter 444 of the Laws of 1987.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos, that completes the noncontroversial reading of Supplemental Calendar C.

SENATOR SKELOS: Thank you, Mr. President. If we could go to the controversial reading of Supplemental Calendar C.

ACTING PRESIDENT MEIER: The Secretary will conduct the controversial reading of Supplemental Calendar C.

THE SECRETARY: Calendar Number 1918, by Senator Volker, Senate Bill Number 4424A, an act to amend the Penal Law.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Volker, Senator Schneiderman has requested an explanation of Calendar 1918.

SENATOR VOLKER: Mr. President, this is a bill that we've been working on for a long time to try to bring some sense to fireworks laws in this state.

Unfortunately, we've had a great difficulty because the City of New York apparently does not want a fireworks law. The bill before you does not include the City of New York. But even though we were told that the City of New York would not oppose it, they put out a strong memo against it today.

Now, let me tell you what I believe the reason the City of New York opposes this bill. Because they like the fact that there's basically no laws in this state outlawing fireworks except laws that are about a hundred year old. It's no secret that the New York City police have been confiscating fireworks, illegally in many cases. And they like to be able to just pick up gobs of fireworks and so forth. And I hate to say this, because I'm a law enforcement guy.

What this bill tries to do is develop a rational system of fireworks regulation. It doesn't deal with New York

City, because New York City refuses to be part of it. They still object to it because they said, well, you could go across into some other county and maybe get it. Well, they do that now, because people sell fireworks all over the place. The truth is, we've looked at the numbers. Almost nobody gets arrested for fireworks in this state. Handfuls of people.

Of course, in New York City they just pick up scoops of them, throw them in the dumps and things of that nature. We realize that. We don't do that in most of this state. We try to abide by some sort of regulation.

I'll be honest with you, the problem with this bill is that it does set up -- if you look at the history of fireworks in this state, there really isn't any regulation, the laws are so old. We try to set up some regulation that rationally allows law enforcement people to make arrests and to keep people from being hurt in this state. And that's really what this bill is all about.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Debate is closed, then.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the first day of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1918 are Senators Andrews, Duane, L. Krueger, LaValle, Little, Morahan, Padavan, Parker, Paterson, Sabini, Sampson, and Schneiderman.

Ayes, 48. Nays, 12.

ACTING PRESIDENT MEIER: The bill is passed.

Let me remind members that on controversial bills, when we conclude debate, there will be a hard and fast two minutes, after which the roll call will start.

The Secretary will continue to read.

THE SECRETARY: Calendar Number

1922, substituted earlier today by Member of the Assembly Hikind, Assembly Bill Number 8398A, an act to amend the Education Law.

SENATOR OPPENHEIMER: Explanation.

ACTING PRESIDENT MEIER: Senator Golden, an explanation has been requested with regard to Calendar 1922.

SENATOR GOLDEN: Thank you, Acting President.

This bill -- there are 180 school days a year that transportation is provided for in the school system. This would allow the nonpublic schools to choose the 10 days that they believe -- up to 10 days that they believe would suit their calendar. It would give them more flexibility.

This is not more days than the public schools; this is all within that 180 days. It's basically to cover the religious holidays, so that they can have a school break that they can have those days to choose when they transport those students.

This does not fall on a Saturday, Sunday, or a holiday. There is no overtime,

and there is no cost.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: If Senator Golden would yield for one question.

ACTING PRESIDENT MEIER: Senator Golden, do you yield for a question?

SENATOR GOLDEN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR OPPENHEIMER: Thank you, Senator.

I think what you're saying is -- and this is the piece that had concerned me, was I thought these were going to be 10 additional days outside of the regular schedule of the public schools.

SENATOR GOLDEN: No, I said that explicitly. I said there's 10 days within the 180 days that will be -- the nonpublic as well as the public schools get 180 days.

SENATOR OPPENHEIMER: Well, I thank you very much, Senator. And I'll be happy to vote for this.

SENATOR GOLDEN: Thank you,

Senator.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: If the Senator would yield.

ACTING PRESIDENT MEIER: Senator Golden, do you yield?

SENATOR GOLDEN: Yes, Senator.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STAVISKY: I heard you say that there would be no additional cost to the city; is that correct?

SENATOR GOLDEN: That's correct.

SENATOR STAVISKY: Thank you.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Debate is closed, then.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Parker, to explain his vote.

SENATOR PARKER: Thank you, Mr. President, quickly to explain my vote.

I want to just thank Senator Golden and Assemblyman Hikind for bringing this important bill to the floor and making sure that there is some flexibility for the myriad of private and nonpublic schools throughout the state.

I have a large number in my district, and this is going to be a great help in making sure that the young people of my district are transported safely back and forth to school.

I vote aye.

ACTING PRESIDENT MEIER: Senator Parker will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos, that completes Supplemental Calendar C.

SENATOR SKELOS: Mr. President,

there will be a meeting of the Rules Committee at 9:00 p.m. in the Majority Conference Room.

ACTING PRESIDENT MEIER: Meeting of the Rules Committee at 9:00 p.m. in the Majority Conference Room.

SENATOR SKELOS: The Rules Committee will be reported to the floor, but we will not be taking up those bills this evening.

Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: No, there is not, Senator.

SENATOR SKELOS: Just for members' planning, we will, when we adjourn, adjourn until 9:30 a.m. tomorrow morning. Sharp.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 8:51 p.m.)

(Whereupon, the Senate reconvened at 9:05 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, if we can return to reports of standing committees, there's a report of the Rules Committee at the desk. If we could have it read at this time.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read the report of the Rules Committee.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

2847A, by Senator Little, an act to amend the Real Property Tax Law;

5492, by Senator Oppenheimer, an act to amend Chapter 390 of the Laws of 1979;

5671, by the Senate Committee on Rules, an act authorizing;

5821, by Senator Morahan, an act to amend the Executive Law;

5874, by the Senate Committee on Rules, an act to amend the Tax Law;

5875, by the Senate Committee on Rules, an act to amend the Tax Law;

5918, by Senator Winner, an act to

amend the State Finance Law;

5919, by Senator Volker, an act to amend the Public Authorities Law;

And 5920, by Senator Nozzolio, an act to amend the Penal Law.

All bills ordered direct to third reading.

SENATOR SKELOS: Mr. President, I move to accept the report.

ACTING PRESIDENT MEIER: All those in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Thsoe opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report is accepted.

SENATOR SKELOS: Is there any other housekeeping at the desk?

ACTING PRESIDENT MEIER: There is nothing left, Senator.

SENATOR SKELOS: Thank you, Mr. President.

There being no further business to

come before the Senate, I move we stand adjourned until Friday, June 24th, at 9:30 a.m. sharp.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Friday, June 24th, at 9:30 a.m. sharp.

(Whereupon, at 9:07 p.m., the Senate adjourned.)