NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 24, 2006

11:05 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, Monday, January 23, the Senate met pursuant to adjournment. The Journal of Sunday, January 22, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

Senate Print 5763B, by Senator Marcellino, an act to amend the Tax Law;

5846A, by Senator Wright, an act to amend the Tax Law;

5965A, by Senator Spano, an act to amend the Tax Law;

5968, by Senator Robach, an act to amend the Tax Law;

5970A, by Senator Hannon, an act to amend the Tax Law;

And Senate Print 6410, by Senator Hannon, an act to amend the Public Health Law.

All bills ordered direct to third reading.

THE PRESIDENT: All bills ordered direct to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR FARLEY: On behalf of Senator Volker, on page 10 I offer the following amendments to Calendar Number 18, Senate Print 6277, and I ask that that bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: Madam President, on behalf of Senator Nozzolio, I move to restore an amended Senate bill to its original previous print. And I move to amend the Senate Bill 1323C by striking out the amendments made on January 23rd and restoring it to its previous print number, 1323B.

THE PRESIDENT: So ordered.

Senator Skelos.

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

THE PRESIDENT: Yes, there are, Senator.

The Secretary will read.

THE SECRETARY: Senator Hannon, from the Committee on Health, moves to discharge Assembly Bill Number 9462 and substitute it for the identical Senate Bill Number 6410, Third Reading Calendar 88.

THE PRESIDENT: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: If we could adopt the Resolution Calendar at this time.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there's a resolution at the desk by Senator Meier. If we could have the title

read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Meier, Legislative Resolution Number 3306, honoring Pearl "Pi" Gentile upon the occasion of her retirement as Executive Director of Hospice & Palliative Care, Inc., of Oneida, Herkimer and Eastern Madison County.

THE PRESIDENT: All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Farley.

SENATOR FARLEY: Madam President, I'd like to offer Resolution 3298 to the rest of the body. It's asking Governor Pataki to proclaim February 5th as Inventors' Week. It's been one that's been sponsored by the chamber.

So if anybody would like to sponsor it, would you please see the desk. Or

everybody could be on it, unless there's an objection.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, we'll open up the resolution. If anybody wishes not to sponsor the resolution, they should notify the desk.

Would you please recognize Senator Connor.

THE PRESIDENT: Any member who does not wish to cosponsor the resolution referred to by Senator Farley, please notify the desk.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

Madam President, Resolution Number 3296 on today's calendar, sponsored by myself and Senators Duane, Golden, Savino, and Stavisky, commemorates the Asian-American New Year, which this year is on our January 29th. It ushers in the Year of the Dog, 4704.

People born in the Year of the Dog are responsible and compassionate. They're

known for offering kind words, support and advice to friends and family; attentive listeners, they always make themselves available to lend an ear or a shoulder to a friend in need.

Those born under the sign of the dog are reliable, generous, thoughtful of others, work well with people, and like to finish what they start. They are ethically and morally strong, honest, and trustworthy.

This resolution is something we do every year, and it really honors the many, many Asian-Americans we are privileged to have living in New York State and in New York City, where there's a large community, obviously. And we do offer this resolution to extend our good wishes for a happy new year to the Asian-Americans.

And, Madam President, if any other member would like to cosponsor it, myself and the cosponsors are certainly amenable to opening it to such sponsorship. Thank you.

THE PRESIDENT: Senator Skelos, do you have any objection to opening it for cosponsorship?

Then any member who does not wish to cosponsor the resolution referred to by Senator Connor, please notify the desk.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, thank you, Madam President.

I concur with Senator Connor's fine words about the Year of the Dog. And it's important for us to recognize, through our resolutions, things like Chinese New Year -- Xin Nian, Guo Nian -- Guo Nian I think is the way they talk about it in that part of his district. But Guo Nian is always a good year for progressives and reformers, traditionally, so I look forward to celebrating that as well.

I would also like to note, Madam President, on a less happy note, that while we are doing some excellent resolutions today commemorating people's achievements, achieving ranks of Eagle Scouts, retirements, wedding anniversaries, we did have a request today, that Senator Krueger and I and 12 other members put in, for a resolution commemorating the anniversary of Roe v. Wade. I'm very disappointed that we were unable to get that

on the calendar.

This is the 33rd anniversary of one of the most important decisions protecting the freedom and rights of women in the history of the U.S. Supreme Court, and it saddens me that the New York State Senate, which led the way before the federal government changed the law, is not able to commemorate that critical decision in support of women's lives and women's freedom today.

Thank you, Madam President.

THE PRESIDENT: Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1, by Senator Skelos, Senate Print 480A, an act to amend the Penal Law.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

2, by Senator Skelos, Senate Print 498, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 3, by Senator LaValle, Senate Print 913A, an act to amend the Penal Law and the Correction Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 4, by Senator Balboni, Senate Print 932, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 5, by Senator Skelos, Senate Print 1170, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 6, by Senator Rath, Senate Print 1517, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 7, by Senator Volker, Senate Print 1531, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 7 are Senators Duane and Montgomery. Ayes, 51. Nays, 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 8, by Senator Robach, Senate Print 1619, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 9, by Senator Skelos, Senate Print 2452, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 10, by Senator Skelos, Senate Print 2724, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 12, by Senator Volker, Senate Print 3230, an

act to amend the Penal Law and the Correction Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 13, by Senator Balboni, Senate Print 3509, 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 of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

14, by Senator Flanagan, Senate Print 3841, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 15, by Senator Nozzolio, Senate Print 4032, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 17, by Senator Spano, Senate Print 5355A, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 33. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 17 are Senators Duane, Gonzalez, Montgomery and Parker. Ayes, 50. Nays, 4.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 19, by Senator Maziarz, Senate Print 204A, an act to amend the Correction Law.

THE PRESIDENT: Read the last section.

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

November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 20, by Senator Skelos, Senate Print 481, an act to amend the Correction Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 21, by Senator Skelos, Senate Print 483A, an act to amend the Correction Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 22, by Senator Skelos, Senate Print 496B, an act to amend the Correction Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 23, by Senator Skelos, Senate Print 1169A, an

act to amend the Correction Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 24, 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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

25, by Senator Alesi, Senate Print 4025A, an act to amend the Correction Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 25: Ayes, 52. Nays, 2. Senators Duane and Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 26, by Senator Bonacic, Senate Print 4656B, an act to amend the Correction Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 27, by Senator Skelos, Senate Print 4793C, an act to amend the Correction Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 27. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays, 2. Senators Duane and Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 28, by Senator Skelos, Senate Print --

SENATOR SKELOS: Lay it aside for amendments, please.

THE PRESIDENT: The bill is laid aside for amendments.

THE SECRETARY: Calendar Number 35, by Senator Flanagan, Senate Print 6378, an act to amend the Election Law.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 88, substituted earlier today by Member of the Assembly Gottfried, Assembly Print Number 9462, an act to amend the Public Health Law.

SENATOR SKELOS: Lay it aside temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

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

SENATOR SKELOS: Thank you, Madam President. If we could go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

Senator Skelos.

SENATOR SKELOS: Please ring the bells.

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

The Secretary will read.

THE SECRETARY: Calendar Number 1, by Senator Skelos, Senate Print 480A, an act to amend the Penal Law.

THE PRESIDENT: Senator Duane.

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

THE PRESIDENT: Senator Skelos, do you yield for a question?

SENATOR SKELOS: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator Duane.

SENATOR DUANE: Thank you.

Would a member of the clergy be included as a person in a position of trust?

SENATOR SKELOS: The whole issue is whether the person is in a position of

trust.

SENATOR DUANE: Thank you, Madam President.

On the bill.

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR DUANE: For the record, I think this is an excellent bill, and I am going to be supporting it.

And though while we seem to be doing a lot, both at the end of last session and the beginning of this session, on sex crimes bills, I can't help but notice that there is a glaring omission, and that is regarding the specific issue of clergy sexual abuse.

Really, nothing has been done to really address this issue in this chamber since 2002, when the issue burst on to the national scene with reports of clergy abuse and victims coming forward.

As many of you know, I held hearings on the issue, and I heard testimony from countless survivors of clergy sex abuse, and also I've heard from countless survivors

outside of that hearing, and I really hear from them on a weekly and sometimes daily basis.

And from my point of view, there are four things that I think we need to do. One is the mandatory reporting of clergy abuse. And, you know, I think it's pretty inexcusable that the two chambers can't get their acts together and pass a bill. There has been a bill languishing in both houses since 2002. And I think it's just time for both sides of the aisle and both chambers to sort of lay aside the politics and get a bill passed.

As you know, I have a bill which would require mandatory clergy reporting dating back 50 years, and there would be stiff felony penalties for repeat failures to report.

And I also think that we have to end the loophole of allowing charity organizations to get out if they're engaging in closed or gagged settlement agreements. There are examples of bishops using Catholic charity money in sex abuse cases under a gag

settlement agreement, and that's wrong. It's just wrong for any charity to use charitable dollars in secret. And again, I have a bill that would fix that loophole.

We also have to eliminate the statute of limitations for child sex abuse. Remember, it often takes years and year for a child in any kind of sex abuse situation or trauma to come to terms with his or her abuse. We also need to open a one-to-three-year window on the civil statute of limitations for childhood sex abuse claims in state courts.

You know, I hope that my colleagues noticed that the New York Times recently endorsed this exact position. And California and Illinois have done this.

And, you know, some people think it would be a terrible thing if there were lawsuits on this issue and that there might be a torrent of lawsuits. But if we look at the experience of what happened in California, that's not what's happened.

You know, it's almost impossible for a sexually abused child to talk about what happened to them at the time that the abuses

happened. And more often than not, the statute of limitations will run out and the perpetrator will escape justice.

The New York State Court of Appeals recently heard arguments on this very issue, and Judge Kaye stated during that oral argument that the Legislature should take action.

So in conclusion, we need to pass bills this session on this issue. The Assembly passed Assembly Member Markey's bill last June, which is a very good bill. And there's no reason why we can't do that or something similar and bring both houses and both parties together to really address this terrible issue.

Thank you, Madam President.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. On the bill.

Senator Duane talked about the fact that he has a bill, and I think that we have witnessed in this house several attempts on the part of other legislators to pass a child

sexual assault bill that would cover a variety of ills --

THE PRESIDENT: Excuse me, Senator. I want to get some order.

You may proceed, Senator.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

For the last three years I have been working very closely in this Senate with several members of the Senate on both sides of the aisle. And one of the things that's glaringly missing, each of the bills that we have been at least successful in passing in this house have all been without the provision of elimination of the statute of limitations. Some of us want it to be eliminated altogether.

I know that in the three years that I have been attempting to get a bill at least presented and introduced in this house, I have been talking with DAs, and one of the things that they've said is that part of the physical evidence and some of the kinds of testimony that we would expect to get that would create accuracy perhaps would be lost if we were to

have an indeterminate period. And so that we have adjusted the bill to talk about at least back 30 years.

It is interesting to me how, whenever many of my colleagues have presented bills on this floor, they have talked about those states that have passed this bill and they think that New York ought to keep up with the times. And yet here we have sexual assault bills on children that have been passed in other states and in states contiguous to our state who have looked at this issue for as long if not longer than we have, and we cannot seem to do a comprehensive bill that meets these kinds of requirements.

I would like to hope that the next bill that comes before us does at least attempt to address this issue of the statute of limitations and that we close all the loops.

And if we're really concerned about sexual assault, and not just those that make big headlines, but those that happen to our children every day, those that are abuses of incest, those that are abuses by people that

our children know -- we teach our children to not speak to strangers, we teach our children that those who are strange to them they should avoid.

But we have bills in this house that address the issue, and we tiptoe around the fact that these are people of trust. And those people of trust include teachers. Those people of trust include our clergy. And if we're afraid to deal with these issues, we do a great disservice to our children, because they count on us to be their voice. They count on us to have some integrity about how we stand up and really support them.

And it is strange to me that those issues that make sensational headlines are the ones that we come and we browbeat each other with and we talk about, Oh, we must do something. And those that want to be hesitant, those that want to be cautious are accused of being in the pockets of the perpetrators.

But rather, that same caution -- I always advocate that we use caution. But there's a difference between being cautious

and -- you know, I use the analogy for people that you don't stand still at a stop sign. It's not a rest stop, it's a stop sign. We pause for caution.

But we have to move forward. And we have to act in this Legislature as though we really do understand the depth and breadth of the nature of the kinds of crimes that are being perpetrated against our children.

Thank you, Madam President.

THE PRESIDENT: Senator Schneiderman.

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

THE PRESIDENT: You may proceed.

SENATOR SCHNEIDERMAN: I commend my colleagues on both sides of the aisle for moving ahead on this important package of legislation measures to protect our most vulnerable populations, bills on sexual assault and abuse.

But I would urge my colleagues that, as we discussed in debates last week, if we pass bills that don't pass both houses and become laws, we're actually doing nothing.

I would urge that we have an unusual opportunity here to move forward this year in this area. Last week we went downstairs for the Governor's signing of the Megan's Law extender which Senator Skelos and others had fought so hard for, and several of my colleagues voiced their hope that the Assembly would agree to conference committees on the bills in this important area.

Well, ladies and gentlemen, I am pleased to report that Speaker Sheldon Silver yesterday, in announcing that the Assembly would move forward on civil confinement, stated that his goal was to move forward with conference committees on all legislation that passes both houses where differences exist.

And we should include in these conference committees Senator Duane's proposals on clergy sex abuse, the issue of the statute of limitations as raised by Senator Ruth Hassell-Thompson, as raised by Senator Klein.

This is an opportunity we have to seize. It is important to make statements when we can only make statements. But when we

can actually move forward through conference committees to pass legislation, we must take action. Let's get all these issues into a conference committee, let's resolve it that way, and then let's move on to the next critical set of issues facing us in the Senate, to funding high-needs school districts, to dealing with all of the difficult issues that are before us.

But on the issue of the Senate package that we passed today with overwhelming support on most of these pieces of legislation, let's get to a conference committee. The Assembly has taken the offer extended by my colleagues on the other side of the aisle last week. Let's do this the right way. Let's deal with this. Let's put this together with issues related to DNA, statute of limitations, clergy sex abuse in the conference committees, and let's pass actual legislation this year.

Thank you, Madam President. I will support this bill, as I have supported others, but I urge that this is a critical time for us to take the Speaker up on his offer and move

ahead.

Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, if I could comment, this house and certainly this Majority is not just making a statement, we're taking action by passing this legislation.

In order to go to joint conference committee, as Senator Schneiderman knows, we need similar legislation passed by the other house. So I anxiously await the Assembly in an expeditious way, hopefully next week, that they pass their legislation so that we then can go to conference committee.

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

Senator Diaz.

SENATOR DIAZ: Thank you. Thank you, Madam President.

Standing here on the bill, on the bill, to congratulate Senator Skelos, this time, for two things. First, for this bill, which creates a new crime of sexual assault against a child by the person in a position of

trust. So I congratulate him for that. And also for the fantastic way, the magnificent way, the sophisticated way in which he turns the table, always, on us.

But talking about the bill, I heard some of my colleagues asking if this bill includes clergy. And I am a clergy, and I am the president of the New York Hispanic Clergy Organization, an organization that represents 150 Hispanic clergy in the City of New York.

And yes, yes, that is true that in the latest years, clergies have been abusing children. And we have to take whoever it is and prosecute, clergies or no clergy.

But you know what makes me wonder, what makes me wonder is that for years we know of an organization named NAMBLA, an organization that publicly promotes and push and do everything possible to promote sex between an adult and children. And members here that I hear being so happy because clergy now are included, they all have been supporting NAMBLA. So this is known now, that children have been abused? Our children have been abused for years.

But, ladies and gentlemen, you cannot have your cake and eat it too. If you really are going to protect children, you have to denounce NAMBLA. And you have to denounce an organization and anybody that promotes sex between an adult and children.

So let's be fair; let's be honest. Yes, Senator Skelos, thank you for including clergy. I support that. I'm a clergy too. But people here have to understand that NAMBLA has been there for many years and there are people out there promoting sex between children and adults that here have been applauded by people.

So let's be honest with us, and let's be fair. Thank you for including clergies --

SENATOR HASSELL-THOMPSON: It didn't include clergy.

SENATOR DIAZ: Yes. Yes, he says people of trust. People of trust include clergy; right?

SENATOR HASSELL-THOMPSON: No clergy.

SENATOR DIAZ: No clergy.

But we should include clergy too. We should include clergy. Why not? Clergy also have been committing sexual abuses with children, so clergy should be included too.

And anybody, anybody that promotes sex between children and adults should be included in this bill and should be punished for the fullest extent of the law.

But I support the bill. Thank you, Madam President.

THE PRESIDENT: The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 1, those absent pursuant to Rule 9 are Senators Breslin, Johnson and Montgomery.

Ayes, 56.

THE PRESIDENT: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 35, by Senator Flanagan, Senate Print 6378, an act to amend the Election Law.

THE PRESIDENT: Senator Sabini.

SENATOR SABINI: Madam President, I believe there's an amendment at the desk. I'd like to waive the reading and ask to be considered and to speak on it.

THE PRESIDENT: The reading is waived, and you may be heard on the amendment.

SENATOR SABINI: Thank you, Madam President.

My amendment, which would tack onto Senator Flanagan's bill my bill, which would solve us a lot more debate and tsuris and problems and angst, my bill, S5625, very simply takes the voting machine selection process and settles it in something that I think virtually every member here understands, agrees with, and we could have in place by

September -- and that's optical scanning.

Optical scanning is so well known to New Yorkers now that anyone that has taken a test as a student past 1964 knows how to do it, anyone who's filled out a New York State lottery ticket knows how to do it. It guarantees a paper trail, it's verifiable, it's accurate, it's cheap, and it's technology we know now and in fact have in place in some places in this state either for voting or for our absentee ballots.

Senator Flanagan's bill expands this committee on -- the modernization advisory committee and adds some people on, and that may be all well and good. But if you see today's New York Times, there's an editorial in there that says what is it that New York State is doing wrong that we still haven't come to a conclusion, we are last in the country in implementing HAVA.

Now, I don't want to contradict myself, and a couple of months ago I said, you know, maybe we actually lurched uncontrollably into something good by being last. We didn't buy voting machines that don't work. We

didn't make the mistakes that other states made. Maybe we can learn from some of the mistakes that other states have made.

And I think my amendment does that by implementing optical scanning, which would make virtually every interest group that has expressed a desire on elections happy, would provide the voters a simple way of voting, would settle it once and for all, and we'd have a verifiable paper trail that people would feel comfortable with.

So that's why I'm happy to offer this amendment. It's not, in an adjectival sense, a hostile amendment; rather, a friendly way for us to settle this once and for all and push the Assembly into a situation where I think that individually, if you got us individually in a room, every member of this body would probably feel very comfortable with an optical scanning voting system, I think the voters would, I think the Boards of Elections would, and that's why I offer the amendment.

Thank you, Madam President.

THE PRESIDENT: Senator Schneiderman.

Senator Krueger, you're being acknowledged.

SENATOR KRUEGER: Thank you very much. Thank you, Senator Schneiderman.

I rise in support of Senator Sabini's amendment. We are a few months away from a mandate to have new voting machines up in every voting precinct in the State of New York. And regardless of how we got, to this point in time, this close to a mandate, it is so clear that the only possible technology we can go forward with at this point in time, that we can assure the voters of New York State that their votes will be counted, that the audits will be available, that there will be transparency and reliability, are precinct-based optical scanners.

So I hope that we will revisit this question today, not in dispute with Senator Flanagan's bill, but in recognition, I think, of the same thing he knows, that New York State is in serious trouble right now when it comes to assuring the integrity of our next set of elections into the future.

And if we were to move this amendment of Senator Sabini's, which is also a freestanding bill, which is also a bill that has been introduced in the Assembly, we could assure the voters of New York State that we could meet our obligations not just under federal law but to protect the integrity of their vote through a technology that has been used for decades throughout the State of New York, which is reliable, which is affordable, and we believe is available.

So I urge everyone to consider a vote for this amendment.

Thank you, Madam President.

THE PRESIDENT: All those Senators in favor of the amendment please signify by raising your hand.

The Secretary will announce the results.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Diaz, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Onorato, Oppenheimer, Parker, Paterson, Sabini, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski,

Stavisky, and Valesky.

THE PRESIDENT: The amendment is not agreed to.

Does any other member wish to be heard on the bill?

Then the debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Flanagan, to explain your vote.

SENATOR FLANAGAN: Thank you, Madam President. Just briefly to explain my vote.

This bill is relatively simple. It extends the modernization advisory committee for three months. We add two new members; one is the League of Women Voters, and one is the Disabled Veterans. That's it. It gives more time to deal with the issues relative to machine certification.

I wouldn't want anyone to leave

here thinking that we did not complete this process in terms of HAVA and the implementation of HAVA. Conference committees went on ad infinitum long before I ever became chair of the committee, and there was a consensus reached last year, on a bipartisan basis, that was overwhelmingly supported by both houses.

Let's be clear on a few things. We do have a voter-verifiable paper trail. We mandated that. We have the most stringent accessibility and disability requirements of any state in the country, and that's something that we should be lauding and be positive about. And that's part of the certification process.

How do we as the State of New York -- we add a sip-and-puff requirement. We've made it tougher for the machine manufacturers. That's a good thing. That will provide greater access for more people to vote. So the things that people are concerned about, we have already addressed.

I would hasten to add that the State Board of Elections has an obligation,

just the way we do, to get on it, stay involved, and get it done. That's what really matters. We still have time to do it the right way. They should be working 24/7 until everything is dealt with in a proper fashion.

THE PRESIDENT: You will be recorded as voting in the affirmative on your bill, Senator Flanagan.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 35, those absent pursuant to Rule 9 are Senators Breslin, Johnson and Montgomery.

Ayes, 56.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Madam President, with the consistent of the Minority, would you please call up Calendar Number 88, by Senator Hannon, noncontroversial.

THE PRESIDENT: Back to the noncontroversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 88, substituted earlier today by Member of the Assembly Gottfried, Assembly Print Number 9462, 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, 59.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the reading of the calendar.

SENATOR SKELOS: Madam President, thank you. Is there any further business at the desk?

THE PRESIDENT: No, there is not, Senator.

SENATOR SKELOS: There being no further business to come before the Senate, I move we stand adjourned until Monday, January 30th, at 3:00 p.m., intervening days being legislative days.

THE PRESIDENT: On motion, the Senate stands adjourned until Monday, January 30th, 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:59 a.m., the Senate adjourned.)