NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 1, 2006

11:18 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, Tuesday, February 28, the Senate met pursuant to adjournment. The Journal of Monday, February 27, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Winner, on page number 27 I offer the following amendments to Calendar Number 352, Senate Print Number 2453, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR FUSCHILLO: Madam President, on behalf of Senator Padavan, I move to recommit Senate Print Number 1055A, Calendar Number 380 on the order of first report, to the Committee on Environmental Conservation, with instructions to said committee to strike out the enacting clause.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, I believe there are substitutions to be made at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 28, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 9566A and substitute it for the identical Senate Bill Number 6466A, Third Reading Calendar 397.

THE PRESIDENT: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a resolution at the desk by Senator DeFrancisco. If we could have it read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 3711, congratulating the 2005 North Syracuse

Babe Ruth 15-Year-Old All-Stars for advancing to the Babe Ruth World Series.

"WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit, nurtured by dedicated coaching and strategic planning; and

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success and developing a sense of fair play and competition; and

"WHEREAS, It is the sense of this Legislative Body to recognize those young people among us and within the State of New York who achieve excellence and success in competitive sports; and

"WHEREAS, One such group of young people is the North Syracuse Babe Ruth 15-Year-Old All-Stars, which consisted of team members who had prior experience as players in the North Syracuse Babe Ruth League, but who

had never played together as a team. In 2005, they achieved a most outstanding season; and

"WHEREAS, This remarkable group of elite athletes consisted of players from seven different schools in the greater Syracuse area. The purpose of building such a team is to provide these top athletes an organized baseball program in the summer months when schools are closed and when skills are honed in competition with others of outstanding abilities; and

"WHEREAS, These extraordinary gifted young men had all proven themselves to be an outstanding combination of athletic prowess and discipline before being named a part of this All-Star team. They had already brought much pride to their parents, their schools, their friends and their communities; and

"WHEREAS, The team members and coaches of the 2005 North Syracuse Babe Ruth 15-Year-Old All-Stars were just one of almost 3,000 other talented teams that had the goal of winning the national World Series title, to be determined in August 2005. The road to the

World Series was filled with many stops where the North Syracuse All-Stars had to prove to themselves and to others their exceptional talents; and

"WHEREAS, The race to the World Series began in early July of 2005 with the District 2 Championship, where competition was held among teams from Central New York. North Syracuse emerged from the double elimination competition, which was held in Syracuse, by sweeping three games. The North Syracuse Babe Ruth 15-Year-Old All-Stars thereby earned the right to move on to the Western New York State Championship; and

"WHEREAS, A familiar North Syracuse Junior High School baseball field was the site of the Western New York State Championship. Teams from the Syracuse, Rochester, Buffalo and Ithaca areas participated and, once again, the North Syracuse All-Stars swept their series, this time in four games, to move on to the Mid-Atlantic Regional Championships, which were held in Frederick, Maryland; and

"WHEREAS, Only the best of Babe Ruth 15-year-olds from throughout the

Northeast participated in the regional competition. The North Syracuse Babe Ruth 15-Year-Old All-Stars again faced the challenge of competing with increasingly talented teams, just as they had in the earlier rounds. For the regionals, that included the top teams from eastern New York, New Jersey, Pennsylvania, Delaware, and Maryland; and

"WHEREAS, As they had in the past, the North Syracuse Babe Ruth 15-Year-Old All-Stars swept another four games and were named the Mid-Atlantic Regional Champions, having brought their tournament record to 11-0. Most importantly, they earned the distinction of being just one of ten teams from all 50 states to qualify to play in Abbeville, Louisiana, with the hope of winning the 2005 15-Year-Old Babe Ruth World Series; and

"WHEREAS, In Louisiana, the North Syracuse Babe Ruth 15-Year-Old All-Stars played four games in five days in 'pool play.' They went 2-2 and thereby qualified as one of just four teams to advance to the final

elimination; and

"WHEREAS, The North Syracuse Babe Ruth 15-Year-Old All-Stars next took on a most talented team from Norwalk, Connecticut. North Syracuse's outstanding pitching made the difference as the All-Stars went on to win 7-5 and head to the semifinals on Friday, August 19; and

"WHEREAS, North Syracuse was matched with Oahu, Hawaii, in the semifinal. Oahu surprised North Syracuse early and led by 8-0 after the first inning. North Syracuse was unable to recover, and the game ended with a 12-4 win for Oahu. Overall, the North Syracuse Babe Ruth 15-Year-Old All-Stars ended tied for third place in the World Series competition; and

"WHEREAS, No matter how gifted any one team member may be, no team can accomplish all that the North Syracuse Babe Ruth 15-Year-Old All-Stars accomplished on the field. Its team members, and the schools they attend, include Brett Botsford (Baldwinsville), Dom Caruso (Liverpool), Paul Conte (Baldwinsville), Joe Ilacqua

(Cicero-North Syracuse), David Kernan (Cicero-North Syracuse), Matt Marra (Central Square), Alex Nodzo (Henninger), Pat O'Brien (Cicero-North Syracuse), D.J. Pastuf (Cicero-North Syracuse), Ryan Poplawski (Bishop Ludden), Aaron Schuldt (Liverpool), Dan Sisto (CBA), Matt Wessinger (Liverpool), Aaron Wirth (Liverpool), and Jakob Wirth (Liverpool). Special mention is also made of the team's official World Series Bat Boy, Andrew Gaudette, the grandson of the team manager, Joe Sacco; and

"WHEREAS, The success of this team, which was formed just two months prior to traveling to Louisiana, is due in large part to the efforts of Manager Joe Sacco and his coaches Mark Botsford, John Ilacqua and Dan Pastuf, as well as the never-ending encouragement and support of friends, family and the entire community; and

"WHEREAS, This tribute to the team does not end with their last game. About one month later, the team learned that one of its host families in Louisiana was virtually wiped out by the devastation of Hurricane Rita. The

team showed its true spirit by organizing a fundraiser for Huey and Carla Delcambre of Abbeville, Louisiana. They and their 7-year-old son were flown to Syracuse by the team, not knowing what the team had planned; and

"WHEREAS, On Saturday, November 5, 2005, the Mattydale VFW was the site of a 'surprise' fundraiser which raised a significant amount for the Delcambres. Approximately 300 people attended, four professional comedians donated their time, and numerous donations of food and merchandise, much of which was won by those attending but turned over by them to the Delcambres, helped to make the event a success; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the North Syracuse Babe Ruth 15-Year-Old All-Star Team, their coaches and supporters on their successful season, overall team record, and outstanding efforts that culminated in their third-place finish in the 2005 Babe Ruth 15-Year-Old World Series

Championship, and for the outstanding citizenship these individuals, who just months earlier had never been together as a team, displayed by assisting one of their host families; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to Manager Joe Sacco, Coaches John Ilacqua, Mark Botsford and Dan Pastuf, as well as the members of the 2005 North Syracuse Babe Ruth All-Star Team."

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Madam President.

You know, we have a lot of champions in Central New York, and we keep bringing these championship teams here to congratulate them for their outstanding seasons and for the competition that they participated in and became winners.

Well, this group of young people that we're honoring today came in third; they didn't win the World Series of the All-Star Babe Ruth League. There were 3,000 teams

throughout the country; they came in third. To me, they're winners.

But the real reason I brought them here is what was stated in one of the paragraphs. And that is that they probably learned a lesson, and gave us a lesson for us to learn, that these competitive sports are much more than who gets that final victory.

When you hear about how a host team in Louisiana was virtually wiped out by a hurricane and what this team did to bring the family to Syracuse to have a fundraiser for them, and to have them be able to participate in a fundraiser showing that we care in Central New York about their plight and, more than just caring, we're going to do something about it. And these are young people that not only learned a great lesson but are teaching us a great lesson today in not only how to win, how to compete, but also how to care for others who are truly in need.

So I brought them here for that reason. They're true champions in not only their final success in the tournament, but also in how they dealt with a very, very

serious situation.

So thank you all for what you've done, and congratulations on your exploits. I played a little baseball in my day, and you're going to remember this the rest of your life.

Is Manager Joe Sacco here? I played ball with Joe Sacco since I was 9 years old. We're the same age. I look much better.

(Laughter.)

SENATOR DeFRANCISCO: But he was a great ballplayer and a great human being, and I'm sure it's in large part because of him and because of the assistant coaches and the parents that the success of this team was such as it was. And I thank them for everything they've done.

Thank you.

THE PRESIDENT: Senator Valesky.

SENATOR VALESKY: Thank you, Madam President. I rise to join my colleague from Onondaga County, Senator DeFrancisco.

Senator, thank you for your efforts in bringing the team here to Albany and for offering this resolution today.

I would just add my comments and

congratulations to the Babe Ruth 15-Year-Old All-Star League from North Syracuse, and remind my colleagues that this is a team as an All-Star team that did not have an opportunity to play with each other very much before competitive competition.

And their success in what they accomplished throughout last summer's All-Star season, how they came together as a team certainly reminds all of us of the importance of teamwork and working together.

And Senator DeFrancisco is absolutely correct in suggesting that the life lesson that they learned throughout that process, when one of their host families was virtually devastated by Hurricane Rita, they stepped up to the plate, as it were, back in Syracuse, hosted a number of events, fundraisers, brought the family to Syracuse to show their support for the devastation that occurred in the state of Louisiana to their host family.

So congratulations on your success in baseball. Congratulations and we look forward to many more great things from you as

leaders in the community as you grow older.

Thank you, Madam President.

THE PRESIDENT: On the resolution, all in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Congratulations and best wishes for your continued success. We're confident, based on your record, that you will be successful in your future endeavors. Have a great celebration.

(Applause.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, can we go to the noncontroversial reading of the calendar, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 64, by Senator Morahan, Senate Print 5733A, an act to amend the Penal Law, in relation to

possession of gambling devices.

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, 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 96, by Senator Bonacic, Senate Print 6415A, an act to amend the Environmental Conservation Law, in relation to requiring.

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, 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 163, by Senator DeFrancisco, Senate Print

4856, an act to amend the Estates, Powers and Trusts Law, in relation to the right of election.

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, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 219, by Senator Leibell, Senate Print 4761A, an act directing the Commissioner of Labor to issue a report.

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, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 248, by Senator Robach, Senate Print 3186, an act to amend the Civil Service Law, in relation to the authority of the Civil Service Commission.

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, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 251, by Senator Maziarz, Senate Print 302A, an act to amend the Highway Law, in relation to the designation of the "General Casimir Pulaski Interchange."

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, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 255, by Senator Alesi, Senate Print 2272, an act to amend the Vehicle and Traffic Law, in relation to additional penalties.

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, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 268, by Senator Rath, Senate Print 3313, an act to amend the General Municipal Law, in relation to municipal cooperative activities.

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, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 271, by Senator Little, Senate Print 6384, an act in relation to creating the Dodge library.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 298, by Senator DeFrancisco, Senate Print 5999A, an act to amend the Public Health Law, in relation to promotion.

THE PRESIDENT: Read the last section.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 313, by Senator Maziarz, Senate Print 691, an act to amend the Penal Law, in relation to the crime of obstructing firefighting operations.

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, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 327, by Senator Alesi, Senate Print 5023, an act to amend the Retirement and Social Security Law, in relation to option election.

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, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 328, by Senator Golden, Senate Print --

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

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 396, Senate Budget Bill, Senate Print Number 6465, an act to amend the Racing, Pari-Mutuel Wagering and Breeding 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.)

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

397, substituted earlier today, Assembly Budget Bill, Assembly Print Number 9566A, an act to amend Chapter 55 of the Laws of 2005, making appropriations for the support of government.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 398, by Senator Robach, Senate Print 6806, an act to amend the Retirement and Social Security Law, in relation to investments.

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, 47.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Thank you, Madam

President. If we could go to the controversial reading of the calendar.

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

The Secretary will read.

THE SECRETARY: Calendar Number 298, by Senator DeFrancisco, Senate Print 5999A, an act to amend the Public Health Law.

SENATOR LIZ KRUEGER: Explanation.

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

SENATOR DeFRANCISCO: Thank you, Madam President.

This bill would provide for the establishment of a public cord blood banking program. And it calls upon the Department of Health to promote public awareness of the potential benefits of public cord blood banking and to promote research in the use of cord blood, and to facilitate the donation of umbilical cords for use in research and also

for use for individuals who may need this blood based upon some disease that they may have.

Basically, what the bill is doing is to preserve rather than to throw away medical waste that is being thrown away routinely in the State of New York, and to provide that material, which has been proven to save lives -- to have that material placed in some public bank for the use of others, to cure diseases. It also is going to be used for research.

Just about a month ago in Syracuse, New York, there was a young child who ended up going to Duke Hospital, since there was no such facility here, in order to get umbilical cord blood, and was cured of a very serious disease. That is the purpose of the bill.

There is a same-as in the Assembly sponsored by Assemblyman Joe Lentol.

THE PRESIDENT: Senator Krueger.

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

SENATOR DeFRANCISCO: Yes.

THE PRESIDENT: The Senator does yield. You may proceed, Senator Krueger, with a question.

SENATOR LIZ KRUEGER: Thank you.

I certainly can support ensuring that there is a mechanism for more people to be able to store and donate their umbilical cords from their children, in the hope that future research will find that this is a valuable research option that may in fact lead to both cures for illnesses and treatment for illnesses.

But I do have several questions about the bill. Senator, on page 2, line 6, paragraph D, it says that one of the responsibilities of the Department of Health will be to "promote research through public and private funding sources in the potential benefits of cord blood as an alternative to tissue transplantation as a source of stem cells in the treatment of disease."

Is it your intent in this legislation to discourage people from donating their tissue?

SENATOR DeFRANCISCO: No, it's

not.

SENATOR LIZ KRUEGER: It is not, thank you.

If, through you, Madam President, the sponsor would continue to yield.

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

SENATOR DeFRANCISCO: Yes.

THE PRESIDENT: You may proceed, Senator, with a question.

SENATOR LIZ KRUEGER: Thank you. And while you've changed the cover memo to your bill since earlier today -- and so concerns that I had with your previous memo I have to say I don't have anymore, because you've changed your memo.

But I would like to ask you, for the record, is it the intent of this legislation to in any way prohibit embryonic stem cell research in the future in the state of New York?

SENATOR DeFRANCISCO: Yes, I did change the memo. Because apparently there was a lobbyist running around Albany 10 minutes ago, at the last minute, saying that there's

some objectionable language in the bill memo -- without coming to me to suggest maybe I could correct that language.

There was language in the bill memo that was intended to say that there's a debate on ethical grounds and other grounds as to whether or not embryonic blood cells should be collected and used for this type of purpose.

The intent of the memo, what I was trying to say was that we may be debating that issue in the future, it may be held up because of various opposition from some parties, but there is no opposition from anyone that I know of with respect to using umbilical cord blood.

And the point in my prior memo was rather than wait for this debate to develop and rather than to postpone further research and rather than to not be in a position to help young kids that have diseases, like this young child in Syracuse that has to go out of state to find some cord blood for a cure, that we should get this done now.

It certainly does not -- so I changed the language to be more politic about that, stating what I just said.

But my point was to be, namely, that let's not hold this up. The future debate is going to happen, no doubt, at some point in time, and when it happens the cards will fall as they may based upon the number of votes that are available on both sides of that issue.

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

THE PRESIDENT: Senator, do you yield?

SENATOR DeFRANCISCO: Yes.

THE PRESIDENT: He does yield. You may proceed, Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. And I appreciate your explanation. But again, just since the intent of the Legislature sometimes gets used in debates after bills have become law, can I just ask you, with a yes or no, does this bill intend to prohibit embryonic stem cell research in the state of New York?

SENATOR DeFRANCISCO: It does not intend to prohibit that.

It intends to have this lifesaving umbilical cord available for research and saving lives now, rather than wait for that debate to develop and materialize one way or the other.

SENATOR LIZ KRUEGER: Thank you.

Madam President, on the bill.

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

SENATOR LIZ KRUEGER: Thank you.

I want to thank Senator DeFrancisco for his explanation and thank him for the bill. New York State clearly should be moving forward with legislation that ensures that any kind of research this is going to lead us down the road of curing diseases, of preventing diseases, of saving lives should be allowed in New York State.

And in fact, he has answered the two concerns that I did have about the bill. One, would it discourage tissue donation. And he said no, it is not intended to discourage tissue donation.

Which is an important issue for us to highlight on the record, because in fact,

according to the Musculoskeletal Transplant Foundation, at least 750,000 tissue transplants occur in the United States each year. This has more than doubled annually since the early '90s.

Often, individual donors make possible more than a hundred tissue transplants. In 1998, donated tissue from one volunteer firefighter ended up being transplanted to help 422 individual people. Between 1994 and 2003, in the United States the number of donors of blood and related tissues more than tripled, rising from 6,000 to 20,000 donors.

These tissue transplants save limbs from being amputated, give sight to the blind, allow recipients to walk without pain, lift up their child, or perform other functions in employment and in their lives. In fact, I would argue that we need to do everything we can to expand public knowledge about the importance of donating tissue and organs because the waiting lists are far greater than the number of donors available.

He also answered another important

question for me, is this bill in any way an attempt to discourage moving forward with the option for embryonic stem cell research in the state of New York. And again, I would argue, as I have before -- and I carry a bill that I hope this house will take up sometime in the near future, or someone else's version therein, that would establish regulatory guidelines for what would and wouldn't be appropriate in doing embryonic stem cell research in the state of New York.

Because the scientists in the country have made it clear that while there are many options that they hope will come out of umbilical cord blood cell research, that it is a much more limited option in research than embryonic stem cell research. And that it is critical for this state, as so many other states now have already moved forward, to move forward with passing legislation that would establish what is appropriate research in the state of New York, what will we encourage, what will we limit.

In my law, we could exclude any option for human cloning, but we would

absolutely allow donations of embryonic cells from fertility clinics, with the full knowledge of the donors that this is what their surplus embryonic cells would be used for. We would establish a scientific committee that would be there to evaluate, on an ongoing basis, since medical research is a dynamic field, what is moving forward, what is not, what is successful, what is not. We would have bioethicists involved who would evaluate where are the lines that perhaps the State of New York should not cross, who will be overseeing the type of research that goes forward, who will be ensuring that the right kind of research goes forward without putting any of us and our futures at risk.

So I am happy to have had the debate today with Senator DeFrancisco. I will be voting for the bill. I urge my colleagues to do so. But I again strongly, strongly urge this house to take up a discussion and a debate of the importance of passing a broader stem cell research law for the State of New York.

Thank you, Madam President.

THE PRESIDENT: Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Madam President.

I too join with my colleague Senator Krueger in commending Senator DeFrancisco for this bill.

Many of us have heard, read, or have personal knowledge of how beneficial this can be, especially to young people. And any doubts that I may have had, Senator DeFrancisco has allayed all of those fears by his answers. And I want to personally thank him for this.

And I will be voting yes, and I look forward to working with him closer to make sure that we can go forward to ensure that other bills come to the floor that will be of benefit to our constituents.

THE PRESIDENT: Senator Diaz.

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

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

SENATOR DIAZ: It is well known

that the use of embryos in the stem cell research is the killing of life. And the use of embryos is -- to some of us is unacceptable, by killing embryos and using their parts.

According to Senator DeFrancisco, this bill is not intended to prohibit the use of embryos. But if we can prove that umbilical cord blood is effective and that we don't have to kill embryos by using umbilical cords, even though the bill does not prohibit the use of embryos, but if in the future we could prove that the umbilical cord is sufficient to cure many illnesses and we don't have to use embryos, let it be. It will be a godsend.

So I congratulate you, Senator DeFrancisco. I'm voting for this bill. We all know that the umbilical cords have been used, have been effective curing many illnesses, including lymphoma, leukemia, and many others. So it is a good move. Again, I repeat myself: If we could prove that we don't need to use the embryos, let it be.

This is a good bill. I'm voting

yes.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I'm going to vote in favor of this bill. However, I want to note a couple of things.

The Governor and my colleagues on the other side of the aisle have proposed $200 million in this year's budget to expand biomedical studies, which is an excellent step. The Assembly is proposing $300 million for stem cell research. That's a terrific step.

I'm hopeful that in the budget process we can work out what's best for the people of this state, because the issue of biomedical research, which I hope will include stem cell research, is very important just for humanitarian purposes, but is also very important to the economy of our state, from Long Island to New York City to Roswell Park.

So I'm assuming that will be worked out as we move forward in the budget. And I'm hoping that that will happen, because we

really have to get ahead of this issue. Other states are already working on this issue, and we really need to be competitive. And let's face it, New York is the best place to conduct this kind of research. And we can't let any time go by.

I personally have concerns about this bill, though I'm going to vote in the affirmative, because of the language that says -- talks about the potential benefits of cord blood as an alternative to tissue transplantation. It's hard to tell whether or not if this bill and the companion bill, which is introduced by Assembly Member Lentol in the Assembly, passes, if that would have the impact of discouraging tissue donation and an impetus towards stem cell research. I think that that would be a mistake.

And while I have, and I think they know this tremendous esteem, for the sponsor here in this house and also the Assembly sponsor, I think we would do a disservice to the state and do a disservice to people in general and hoped-for cures for diseases and better treatment for diseases if we did

discourage tissue donation in any way or having a focus on stem cell research as well.

I also would be remiss if I didn't mention that my colleague Senator Krueger has a bill on this topic as well, and her bill would authorize the conducting of stem cell research. And it would have safeguards. There would be informed consent, and there would be a prohibition against human reproductive cloning, which I know is appropriately a concern to people as well.

I also think this is an issue that deserves hearings. And I think we could have hearings quickly. I think people would be more than happy, experts in the field, to come and testify on this issue. I think it would be educational for all of us. I personally am not an expert in biomedical issues; I know some of my colleagues probably are, but I am not. But for those of us who are not, I would be interested to hear what experts in the field had to say on this issue.

And I think if we did do that, one of the outcomes would be is that while this is good-intentioned and something we should vote

for, it's not enough. And even if the Assembly companion bill passed, it would not be enough.

So I'm going to vote yes on this bill, in the hope that no one here thinks that we have done our job on this issue and that we will come back to together -- both houses, both parties -- and really make the best investment we possibly can and the most inclusive investment we possibly can in biomedical research.

Thank you, Madam President.

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

Then the debate is closed.

The Secretary will ring the bell, and the members should return to their seats so we can vote on this bill.

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 PRESIDENT: Senator DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: Yes, I rise to explain my yes vote.

I want to thank all those who spoke and those that didn't that have the same beliefs as those that spoke.

And I think -- I want to make very clear that probably should be hearings on some of the issues concerning the use of embryonic cells and that type of donation and the like. There should be hearings on that. And those hearings may take some time. And whatever results from those hearings in an ultimate bill, an ultimate vote, will come someday, there's no question about that.

But my whole point in doing this bill is that we can do this now, and we can create a public bank of umbilical cord blood. Right now many of you know that there are private banks where people can actually take the umbilical cords and store them for use of their own children or their own family members.

Well, there's a lot of people in the general public that don't have that ability. And if we can start creating such a

bank today, while whatever other debate goes forward, and provide the education and try to encourage people to donate this medical waste, is what it is right now, we can truly do a great service, not only in research but also in curing people right here and now as they've been cured.

And I appreciate what Senator Diaz says. You know, maybe this will affect the ultimate debate on further type of use of materials that many, many feel should not be used. If this is as successful as I think it would be, that could be a relevant factor in the ultimate debate on use of other types of blood cells.

So I vote yes, and I again thank my colleagues for their support.

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

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 298, those absent pursuant to Rule 9: Senators Breslin and Johnson.

Those absent from voting: Senators C. Kruger and Montgomery.

Ayes, 51. Nays, 0.

THE PRESIDENT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 396, Senate Budget Bill, Senate Print 6465, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

SENATOR DUANE: Explanation.

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

SENATOR LARKIN: Madam President, this bill is a technical amendment to the Racing and Wagering Law, Section 208B, which modifies the provisions that govern the Nonprofit Racing Association's Oversight Board.

This board, as we all know, was established last year, and aspects of it are to observe and address the NYRA until NYRA's franchise ends on 31 December, '07.

Basically what this law does, it creates the oversight board that assumes the

responsibility of the State Thoroughbred Racing Capital Investment Fund, which was a public benefit corporation. The oversight board, when it was created, was not designated as a public benefit corporation. This bill corrects that discrepancy.

Also, as a public benefit corporation, it must abide by all of the public authority's transparency laws.

THE PRESIDENT: Does any member wish to be heard on this bill?

SENATOR LIZ KRUEGER: Yes, I'm just out of my place. I'm so sorry.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. I apologize. I seem to be over there with the Republicans today, so I -- and they're over here. It's all very confusing. Sorry, Madam President.

If the sponsor would please yield for a question.

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

SENATOR LARKIN: Yes ma'am.

THE PRESIDENT: You may proceed,

Senator Krueger, with a question.

SENATOR LIZ KRUEGER: Thank you very much.

How does changing to a public benefit corporation actually change anything about the way we're operating with this situation?

SENATOR LARKIN: First of all, you have to recognize now they'll have to abide by other laws. They don't have any bonding authority. But they have the oversight, which we didn't have before, and which was the cause of the problems that we have, because we didn't have a definitive board observing and interacting with NYRA.

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

THE PRESIDENT: Senator Larkin, do you continue to yield?

SENATOR LARKIN: Yes.

THE PRESIDENT: You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you.

It's my understanding from the bill

and from your explanation that this would require that they do quarterly reports to the Legislature --

SENATOR LARKIN: Yes.

SENATOR LIZ KRUEGER: -- and therefore we would actually have the opportunity --

SENATOR LARKIN: It will be accountability, Senator.

SENATOR LIZ KRUEGER: Yes. Thank you.

Thank you, Madam President. Speaking on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR LIZ KRUEGER: I'm very pleased we're moving forward with this legislation. I think it highlights how important it is for the Legislature to play an oversight role in overseeing agencies and public authorities.

And I think it's exactly what many of us have been talking about in the State of New York of having, as Senator Larkin just said, more accountability for the people's

money and the process. That public authorities should go through careful scrutiny and oversight and tracking. And the Comptroller's office would have a role here, the State Legislature would have a role here. And that we should be following our own lessons from this legislation on any number of other areas of the state where we have not been careful enough in providing oversight and evaluation and asking the hard questions.

So I'm very happy to support this bill. Thank you, Senator Larkin.

Thank you, Madam President.

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

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 396: Senator Duane.

Those absent pursuant to Rule 9: Senators Breslin and Johnson.

Those absent from voting: Senators C. Kruger and Montgomery.

Ayes, 50. Nays, 1.

THE PRESIDENT: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 397, substituted earlier today, Assembly Budget Bill, Assembly Print Number 9566A, an act to amend Chapter 55 of the Laws of 2005, making appropriations for the support of government.

SENATOR SABINI: Explanation.

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

SENATOR LARKIN: Madam President, this is a budget bill that authorizes the Division of Lottery to loan, to loan to NYRA up to $20 million so that NYRA can remain in operation and assist the system as the current

operator of the state racing franchise in its construction of VLTs at Aqueduct.

The money will be paid back to the Division of Lottery with a 4 percent interest rate when the VLTs are up and running. However, before any money is transferred to NYRA, the Nonprofit Racing Association's Oversight Board that we just talked about -- to prove that we will have accountability and transparency, John -- will approve any of these transfers.

The money will be gradually lent to NYRA depending upon NYRA's accomplishing the goals that were stated in this bill. Among the standards NYRA will need to comply with include the development of a cash management plan so that NYRA revenues will equal NYRA expenses; develop a plan to reduce NYRA's expenses to minimize further losses; NYRA is to increase the amount of money that it retains from each bet to increase its revenue; alter NYRA's cash management statement so that the oversight board may review its cash management practices on a real-time, continuing basis.

Implementing this bill is essential to retain stability in New York's racing industry, while the future of the management of the state's racing franchise to operate their tracks at Aqueduct, Belmont, and Saratoga is resolved by the law in existence which terminates 31 December, 2007.

THE PRESIDENT: Senator Sabini.

SENATOR SABINI: Madam President, if the sponsor will yield for a question.

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

SENATOR LARKIN: Yes, Madam President.

THE PRESIDENT: You may proceed, Senator, with a question.

SENATOR SABINI: Through you, Madam President, I'm wondering if the sponsor can tell me, if there is so much debt and mismanagement at the New York Racing Association, how are they going to pay off this loan before their franchise ends in 2007?

SENATOR LARKIN: I think a couple of things that I said, John, just a few minutes ago, what we've been talking around

this Capitol since December when this concept was first originally proposed. If you recall, the original concept was for $30 million, was to sell land, to sell paintings. But there was no estimate of how to repay it.

What we structured here is, one, up to $20 million; two, when they do the 5,000 slot machines at Aqueduct, we're talking about a revenue of a billion dollars. They'll be able to pay that back at an interest rate of 4 percent.

I don't know who you're talking to, but the people that I'm talking to in the financial market assure us that this is a concept based on the fact that they're not going to get $20 million, they're going to get up to 20.

The oversight board is in place. You know, the Assembly just appointed their people. They'll be able to start monitoring, as a concept of the Governor, Senate Majority, Senate, and Assembly. This board has the oversight responsibility.

So they're not going to get a pile of money thrown at them. They're going to get

money, as they request it, based on what is thought to be needed and how the oversight board reviews it.

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

THE PRESIDENT: Senator Larkin, will you yield for another question?

SENATOR LARKIN: Yes, Madam President.

THE PRESIDENT: You may proceed with a question.

SENATOR SABINI: I'm wondering if the sponsor is aware of the fact that NYRA claims they can't pay their New York State tax this year.

SENATOR LARKIN: John, you and I both sit on the same committee, and we've been observant of this for a number of years.

This concept that we're doing here today was the vehicle to try to straighten that management up. You know, when you start to look at the number of people that are employed in the racing industry just in those three tracks, you're talking 35,000 people. Are we going to lay 35,000 people off? Or are

we going to do good management, reorganize it, put it in place, and allow it to be invested and the return?

They're going to pay this back at 4 percent. That's better than banks are doing today.

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

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

SENATOR SABINI: Thank you, Madam President.

I don't know if my new colleague to my right, Senator Coppola, has been to a racetrack of a thoroughbred nature. But if you go to the track and you're serious about horse racing, you buy the Racing Form, look at past performances. Just like a business would go and look at a credit report or a management report before investing money in another business, if we were in the investing business.

It is my assertion that NYRA's past performance is dismal. They're a nag. I heard the chairman of the committee in June of

2004 talk about a bill, if we just passed this bill, everything would be fine, Aqueduct would be up and running. We passed another bill in the August of 2004. The chairman said if we passed that bill, Aqueduct would be up and running. Well, let's look at the record.

In 2003, the New York Racing Association lost $22 million. In 2004, they lost $15 million. They currently owe us, without this money, $60 million. They are $100 million in debt. As of the end of 2004, NYRA's accumulated deficit totaled $102.2 million. That's the Comptroller's figure -- not NYRA's, not mine, but the Comptroller's, based on his audit about their franchise fee calculations and related operations of 2002 and 2003.

And their condition continues to deteriorate. The Comptroller determined that NYRA underpaid their franchise fee to us, to the State of New York's taxpayers, at least $25.7 million and maybe as high as $27.7 million, from the Comptroller's observations. They are now $13 million behind in the pension fund to the workers that we all

care about.

And the chairman is right, horse racing is a big business here. We don't want to see the business fold up, we just think someone else maybe could do it better. Because the people that are doing it now, in some of the crown-jewel locales of racing, aren't doing the job properly.

They're even behind $17.6 million in property tax to Nassau County and New York City, because part of their franchise agreement is they're supposed to pay their property tax and the water bill on the tracks.

They recently received a tax warrant for $1.25 million for taxes generated at Aqueduct. They want to sell the paintings off the walls. They're talking about selling the tracks that we don't know if they own.

And I could get into a debate here at length as to who owns the racetracks. Oddly enough, the chair of the oversight board that we just memorialized, J. Patrick Barrett, says that we own them. So why would we do business with an organization that won't even agree with us as to what we own and what they

own?

We make compacts with Indian tribes and Native Americans over what land they own, and yet we have less honest dealings with NYRA than we do with some of the tribes who are our adversaries.

Last year, Comptroller Hevesi called NYRA the poster child for mismanagement and corruption. They gave a $700,000 no-bid contract to the former CEO's son-in-law and daughter, a $1.6 million no-bid PR contract, and spent $400,000 in that one year on trophies alone.

In 2003 they agreed to a plea bargain from federal prosecution for tax evasion and agreed to pay a $3 million fine and submit to a court-appointed monitor.

They've been investigated by the Attorney General, who said they lack appropriate financial and operational controls and have rampant criminal activities at state-owned thoroughbred racetracks. Notice he said "state-owned," so I guess the Attorney General recognizes that we may own that land as well.

Perhaps most onerous of all, or most scandalous of all, is that there are several NYRA officials now under indictment for rigging the scales. That goes right to the heart of our pari-mutuel wagering industry and tells the bettors that the races may not be honest, that there were jockeys riding who may not be at the weight they're supposed to. Not in minor races in January at Aqueduct, but as big a race as the Cigar Mile, which is a major stakes, Class 1 stakes race.

And that really -- if that continues to happen, we won't a thoroughbred racing pari-mutuel industry in New York, because the bettors won't want to come.

When New York State extended NYRA's franchise in 1997 -- even then people complained -- it required NYRA to operate in a sound, economical, efficient, effective manner so as to produce reasonable revenue for the support of our government, because that's what they're supposed to do. They're not doing it.

Now, I've heard from other people that, well, they're getting better. Well, this Comptroller's report was released on

February 17th, not that long ago. Just a couple of weeks ago. And in it the Comptroller stated: "NYRA has made little effort to produce realistic budgets or rein in its expenses."

The Comptroller reported NYRA inappropriately categorized certain expenses as promotional or extraordinary and nonrecurring and improperly excluded these costs from tests for excess expenses. They improperly included operational expenses such as $800,000 for trophies for next year in this category. They have done everything they can do to violate their franchise, which could be terminated today if it was so seen.

In July of 2003 the Attorney General concluded in a report that the Legislature and the Governor should end NYRA's franchise now, that the current structure has not, does not, and will not work. And that was before all the convictions and indictments and plea bargains I mentioned before.

It's time for this to end. That is not a business plan that you would loan money to. That is not an entity you would loan that

kind of money to. And it's about time that we got realistic about the fact that their franchise has to end.

My colleague, the distinguished chairman of the committee, wrote an op-ed in the New York Post, and I read it with interest. He said: "We need fresh ideas, new energy, and a new model for racing in New York." I agree with him.

This is not the new model. This is an extension of the old model. And when I heard the explanation about how they need this money to get better, it sounded an awful lot like a guy borrowing money at a racetrack. You know, "if you just get me through this next race, I'll have the money to pay you back for all the other money you loaned me." And how often does that happen that that money comes back?

I know, and I think you all know, that this is a bad investment. NYRA has taken what was the jewel locations of thoroughbred racing in America -- Saratoga, Belmont, and Aqueduct -- so important to the economy of this state, so important to the economy of our

agriculture upstate, because horse farms need other things, and squandered the goodwill of the betting public, squandered the goodwill of this Legislature. And I believe that we can't continue to pour money down this hole.

So, Madam President, I will be voting no.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Thank you, Madam President. And thank you, Senator, for your comments.

And what's great about what goes on in this chamber is that all of us are representative and we can all talk about our opinions, and we don't have to be right. That's what's good about it. And you are about as wrong in what you are saying as anybody can be, in all due respect to you, sir.

Saratoga is in my district. Saratoga is the premier racing place in the whole world. People come from all over the world. Forty thousand people work in agriculture and in racing in this state. And the Senator is right, the model doesn't work.

The model is broken. And we are fixing it together -- with the Assembly, with you, with the Governor. We're fixing it.

We passed the law that says we have a nine-member committee that will review all of the bids that will be put in between now and December 31, '07, when the NYRA franchise expires. By law. That's the law.

That committee has had open hearings. There are nine members functioning. And the rest of what will happen is they will take -- put together a new model, a model that will work.

Because you've had some extremely successful, bright people, CEOs and chairmen of NYRA -- and you're right, Senator, they all fail. They all lose money. It doesn't take a genius to know that if you get some of the most successful people in the country in charge and they still lose $30 million, $40 million, $50 million, something is wrong with the model. And shame on us that we didn't change it a long time ago. But we're changing it now.

But the option is not to do this

legislation. Don't do it. That's an option. And let NYRA go bankrupt, let them go bankrupt, and then let them operate under the federal courts. Let the federal judge dictates what happens out there in the lives of the 40,000 people who are grooms, who are growing crops, who are walking the horses, who are making $7 and $8 and $9 an hour. Let the federal judge say what's going to happen. That's an option. But it's a very poor option.

So this money that we are voting on will help bridge getting NYRA, with their broken model, to the VLTs which should have been operative already. And the state has lost about a billion and a half dollars for education because they're not up and running. So this will help get them running.

And MGM should be operating, when this is done, by February of next year, which is about two years-plus later than they were supposed to. And we lose about a half a billion dollars a year.

So it's simple arithmetic. And this money is for education, it's to help

finance CFE, it's to help finance the high-need districts of this state.

So an alternative is let them go bankrupt. Let the feds take over horse racing in New York State. It's an option. Because they don't have the cash flow to continue.

So in the wisdom of Senator Larkin -- and I think you participated, Senator -- and the Speaker and the Governor and all of the others involved, this plan was put together. And is it a bailout of NYRA? No, it's an investment in NYRA, in horse racing, and it will be paid back. The dollars will be paid back.

You're right, have they paid back in the past? No. Why? Because they couldn't. Why? Because they don't have the money. That's why.

So where will the final word be on how this franchise continues? Where will it be? Right here in this chamber. That's the procedure. That's the law. When the bids are put out and the responses are there -- and you'll have responses. I hope NYRA is one of them, with whatever partners partner with

them. I hope people come in from all over the world and bid.

And the committee, with some very, very bright people, will make a recommendation to the Legislature, the Assembly, and the Senate, and we will vote on how to proceed, how to select, how to go forward and fix what is wrong and has been wrong with horse racing.

Because, Senator, you're right. This should be -- New York State should have, and we do have, despite all of the failures, we have some of the best racing in the country. And we will have the best racing in the world. Not just to have racing, but because it is a sport, it creates jobs, more and more jobs, it stimulates the economy with tourism.

And tourism still is the second-largest industry, second only to agriculture, thanks to Senator Young and all the others that maintain agriculture as the most viable, largest industry in this state. And racing is part of agriculture, and it's part of tourism, and it will also be part of the funding of education that is so critical

in the city and in the rest of the state.

So thank you, Senator, for sharing your point of view. And thank you to my colleagues -- Senator Duane, are you going to speak? What does this mean, Senator? Does that mean that I'm talking too much?

SENATOR DUANE: Never. I would never say that.

SENATOR BRUNO: What does it mean?

Thank you. I respectfully sit down. When my esteemed leader here on my left goes like this, I'm sitting down. Because I hope I've made my point, sir.

Thank you. Thank you, Madam President.

THE PRESIDENT: Thank you, Senator Bruno.

Senator Ada Smith has the floor.

SENATOR ADA SMITH: Thank you, Madam President.

My district stops at the Home Depot which is next door to Aqueduct. So it is of grave importance to my community and my constituents what happens there.

And in listening to both sides of the argument, I'm even more perplexed. Because it's my understanding that NYRA is supposed to be the money machine to generate funds to pay for public education. And I'm well aware that the CFE decision mandates that we give more money to the City of New York for the children there.

But if NYRA is wasting $60 million and we're giving them another $20 million and we're not giving anything to the children of the City of New York, who's losing? We're throwing good money after bad money, and we're not getting a win, place, or show bet out of it. And our children, who haven't even begun to get an education, are losing.

I'm even more perplexed that I'm told that the VLTs at Aqueduct will begin to pay back the $20 million. The $20 million on top of the $60 million that they haven't paid, and they're going to do all of this in 22 months. Well, in all the years that they've existed, they haven't paid back any. So why in 22 months, all of a sudden, they're going to be made whole again?

But what concerns me even more is it's my constituents who live next door to Aqueduct that's going to be spending the money that they can ill afford to spend on the VLTs. So not only do they lose in the educational funding, but they're losing out by spending money on these VLTs that they can ill afford. So they're in essence, as we would say in the community, screwed twice.

I don't understand how we, as supposed lawmakers, can make a decision to give money to NYRA, who has proven themselves to be a bad bet. Because I believe that when you place a bet, you place it to win. And in placing a bet on NYRA, we are certainly losing.

Thank you, Madam President.

THE PRESIDENT: Senator Duane, would you like to speak?

SENATOR DUANE: I thought you'd never ask, Madam President.

THE PRESIDENT: You may proceed.

SENATOR DUANE: Thank you.

It's the universal symbol of chatting. Don't bring up the Scouts.

(Laughter.)

THE PRESIDENT: Senator Duane, is your microphone on?

SENATOR DUANE: Yes, Madam President. Thank you.

You know, it's no secret I don't like gambling. I don't like gambling. I don't like horse racing less than I don't like gambling in general. And I have to say that Saratoga is wonderful. And I know that it's absolutely something that Senator Bruno, appropriately, is very proud of and we should be proud of what happens there as a state. And I like the sport, I just don't like the gambling part of it.

And the other thing I don't like with what's happened at the tracks is this VLT thing. And I have been to a VLT place in Monticello, and I'm sorry to say the buffet is horrible.

(Laughter.)

SENATOR DUANE: And the other tragedy is that it's supposed to be a place where people, you know, from out of state or all around the state come and spend some

money, maybe have the buffet -- although, again, I don't suggest it. But there's a really sad part of it too. I believe that it sucks money from people who can least afford it.

And I've seen Access-A-Ride vans pull up to the VLT place in Monticello. And if you are coming by Access-A-Ride and you're spending your Social Security check, that's a problem. I know that's different than horse racing, but the VLTs go where the horse racing is.

You know, we're supposed to swallow gambling because it's supposed to fund education. But in this case, the lottery, which is supposed to be funding education, is -- instead of giving millions to education, they're loaning it to NYRA so that they can, I think, lose it.

You know, I don't know much about gaming. I don't know much about the odds. I really don't. But what I do know about NYRA is they are always in trouble -- with us, with the law, right, with localities, with the feds. Always in trouble. And they lose

money. And, you know, I know that this is a "we," and we're all working on it together. But actually, that's not true. We don't have any appointments to any of the three boards over here. We don't have an appointment to NYRA or the ad hoc or that other thing that they have, the Nonprofit Racing Association Oversight -- don't blame us. We don't have any people on that. Senator Sabini's not on that. He'd be a welcome addition on any of them. But we don't have anybody. Don't blame us.

NYRA loses money. It's a big problem. We know it's a big problem, but somehow the admitting that it's a big problem doesn't really get us to do anything about the problem. Right? What's the definition of insanity? Doing the same thing over and over again and expecting different results. Like gambling. Keep spending money, think you're going to win, but you don't.

The house is supposed to win. The state's not winning. Enough already. Let's get rid of it. Vote no.

Thank you.

THE PRESIDENT: Senator Krueger.

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

I thought Senator Sabini did an excellent analysis for us about what's wrong with continuing to try to bail out NYRA. Senator Tom Duane said it very well.

So I will just repeat, somebody recently said it was lunacy to want to put all this new money into public education in New York City and underutilized high-need areas of the State of New York. And I have to say it's lunacy for the State of New York to keep putting more money into gambling that's losing money.

There are different debates on this floor about the ethical issues of supporting gambling or government funding of operation of gambling. But if it's supposed to be for public education, and instead we're taking money out of the lottery for public education to give it to an entity that keeps losing it, I don't understand this at all. This is completely counterintuitive to what our mission is supposed to be.

So I'll agree that we have great racetracks, and I would suspect somebody is making a lot of money somehow on racing in New York State. So it constantly escapes my understanding why we would use children's education money to continue to bail out an entity that, as others have pointed out, keeps getting in trouble with us and with the law, never seems to be able to figure out how to avoid the next set of problems, and keeps coming begging the Legislature for money.

We have so many unmet needs in the State of New York because we say "we don't have the money for you." It's very confusing to me why we would waste more of the taxpayers' money bailing out a gambling industry. I also say vote no.

Thank you, Madam President.

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

Senator Sabini.

SENATOR SABINI: Thank you, Madam President. Again, on the bill.

I just want to point out that as Senator Krueger said, we are taking money out

of the Division of Lottery to pay this loan. And we heard about how the money is going to be paid back, by the sponsor, based on the VLTs.

Let me just also point out to my colleagues, you know, there's an old story about a guy at the racetrack, walks along and meets someone. The guy says: "Listen, I'd like you to help me, I need a thousand dollars for my wife's operation." And he says: "Well, if it's serious, I'd be happy to do it, but how do I know you won't use it for gambling money?" And the guy says: "Well, I have gambling money."

(Laughter.)

SENATOR SABINI: The money for the VLTs, based on legislation passed in this house, was supposed to help education. And some of it, based on action by this house and the other house, was supposed to do track improvements, money for the breeders, money to the horsemen, improvements on the tracks' perimeters, making the racing industry better. One-third of that was supposed to go to that. And then the rest was supposed to go to

education.

But now we're putting in more money to pay off the money we're lending them to get to that point. It's a very vicious circle that I think they will never get out of. And in fact, I suspect we'll be back debating their franchise and they'll be holding all this money over our head and saying, Well, you got to keep us around, we owe you so much money.

So while I respect the arguments of the chair and the Majority Leader, I just don't see how doing this helps matters. I am concerned about a federal judge as well. But you know what? The pension fund's in debt now, they're selling off assets to the track. I don't know that a judge could do worse.

Thank you, Madam President.

THE PRESIDENT: Senator Bruno, to close debate.

SENATOR BRUNO: I just want to clarify, Madam President. I agree with some of the other Senators: I hate gambling. I hate gambling. I am probably one of the few people in this chamber that originally voted

against the lottery because it was gambling. Okay? I just want to make that clear.

Most of our colleagues hate gambling. Hate it. The fact of the matter is, if we, anybody here was king of the whole world, there would be no gambling anywhere. None. But you're not king of the world. Sorry. I'm not king of the world.

So go to Pennsylvania, 61,000 VLTs activated to fund education. Go to New Jersey, by the tens of thousands you can gamble, 45 minutes out of New York City from your home. Go to Connecticut, Foxwood and Mohegan Sun, 2 hours and 15 minutes from here, the two biggest casinos in the whole world. Go to Canada, to Montreal, Toronto, Niagara, the other side of the river. Gambling.

The fact of the matter is, New York is an island surrounded by gambling. And you know what is tragic and sad? The biggest exporters of gamblers are in New York State, second only to California. Okay? You know what that means? That means that our bettors that you'd like to keep home, that you would like to keep home, that I would like to keep

home are funding education in New Jersey -- our bettors -- in Connecticut, in Canada, in Pennsylvania. Those are our dollars that people are funding education all around us.

So I hate gambling. And if there's any way that you could stop it in Canada, let me know. Okay? If you can stop it in Connecticut, let me know. If you can stop it in New Jersey, let me know. Okay? Pennsylvania, 61,000 of them all over. But if anybody here has an idea on how we can limit, stop it, I'm your partner. Okay? We can't. Common sense tells us we can't.

So common sense tells me that this is the right thing to do. It's not a bailout. This is equity. This is representative of the taxpayers of New York State, so that they have equity in that we are able to step up and fund education and not see our dollars flow in all of the other countries and states that surround us.

I hate gambling, Madam President, and I wish it wasn't necessary anywhere in the world. There shouldn't be gambling. But there is. So I deal in common sense. I deal

in reality. And I would urge a vote on this, my colleagues, to support the children of New York State.

THE PRESIDENT: 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: Senator Diaz, to explain your vote.

SENATOR DIAZ: Thank you, Madam President.

In explaining my vote, I have to say that I heard Senator Bruno's speech on Pennsylvania, Connecticut, New Jersey. So everybody is making money out of gambling. Therefore, because everybody is making money, we should also make money.

I am opposing this piece of legislation because I don't believe in gambling. In my neighborhood and in New York City, in New York State, there are parents and

people that use children to sell drugs because they make money. And because they make money, therefore I have to make money, then I should pay my children to go and sell drugs to compete with the others? And that's the kind of mentality that we are having.

The other day I heard before, on the stem cell research, somebody says that it's good, beneficial; embryos, stem cell research will financially benefit New York State. So because it's financially good, let's kill children and living creatures.

And I hate to think that we are doing things because everybody is making money or because everybody is doing it, let's do it. We have to have some kind of standard, some kind of belief or moral belief and ethics, not saying because people are making money out of gambling so we should gamble too.

I oppose this bill. Ladies and gentlemen, gambling is no good, gambling is disastrous to our society. So I'm voting no.

THE PRESIDENT: You will be so recorded as voting in the negative, Senator.

Senator Onorato, to explain your

vote.

SENATOR ONORATO: To explain my vote, Madam President.

I've been listening to the debates here quite a bit. I remember a few years ago I got up to debate about how we were balancing our budget. And I reminded the crowd that we had a built-in $5 billion deficit because we were premising it on the Lotto money -- not only Lotto money, but the video lottery terminals that were not online. They weren't online three years ago, and here we are today trying to lend money to NYRA.

You know, in this particular case in private industry, when the bookmaker's runners don't come back with the money that they took from bets, that runner is no longer operating for that bookmaker. He's out of business.

Well, we're the bookmakers here for NYRA. They work for us. And they've been losing money for all of these years, and we've still got them in business. Why? Why haven't we gotten rid of them, gotten new runners, got new operators of the thing?

Plus, again, we're still hoping that they're going to pay us back with video lottery terminals from the Aqueduct Racetrack that are still not online. When are we going to learn?

When they're online and you got the money, you expend it. But let's stop betting with "if" money. I am going to vote no. Put the video lottery terminals on, and I'll vote for the bill.

THE PRESIDENT: You will be recorded, Senator, as voting no.

Senator Stavisky.

SENATOR STAVISKY: Madam President, to explain my vote.

I too vote no. There are many institutions facing bankruptcy or in bankruptcy, particularly those serving the most vulnerable of our society, whether they be healthcare institutions or whatever.

And when we lend money, it seems to me this is wrong. One person's investment is another person's bailout. And I think when we have so many institutions, particularly in the healthcare field, in bankruptcy, it seems to

me that this is not a wise investment, and instead it's a bailout.

And that perhaps these institutions should start going into the lottery business, because that seems to be the way to do it. I think it's wrong, and I vote no.

THE PRESIDENT: You will be so recorded as voting in the negative, Senator.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 397 are Senators Andrews, Connor, Coppola, Diaz, Dilan, Duane, Gonzalez, Klein, L. Krueger, Montgomery, Onorato, Padavan, Parker, Paterson, Sabini, Sampson, Savino, Serrano, A. Smith, Stavisky and Valesky.

Those absent pursuant to Rule 9: Senator Breslin.

Those absent from voting: Senator C. Kruger.

Ayes, 32. Nays, 21.

THE PRESIDENT: The bill is passed.

Senator Bruno, that completes the

controversial calendar.

SENATOR BRUNO: Can we recognize Senator Paterson, Madam President. Thank you.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, it's always great to be recognized by the Majority Leader and by you.

And it is my honor today to introduce to all of you our newest member. He served for seven years in the Buffalo City Council. He became the majority leader of the City Council. And who knows, maybe one day he'll be the majority leader right here in this Senate.

And we are very proud to have him among us, and I would like to introduce to everyone our new Senator from Buffalo, Senator Marc Coppola.

(Applause.)

THE PRESIDENT: Senator, congratulations and welcome.

Senator Spano.

SENATOR SPANO: Madam President, on behalf of Senator Bruno, in consultation with Senator Paterson, I'd like to hand up the

following leadership and committee assignment changes.

THE PRESIDENT: They will be recorded in the Journal, Senator.

SENATOR SPANO: Can you please recognize Senator Johnson for a motion.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Madam President, pursuant to Rule 9, I was required to be at a meeting of the Finance Committee and cast my votes as follows for the bills on the controversial calendar:

5999A, Calendar Number 298, in the affirmative; 6465, Calendar Number 396, in the affirmative.

Thank you.

THE PRESIDENT: You will be so recorded, Senator Johnson.

Senator Golden, with a motion.

SENATOR GOLDEN: Madam President, on page number 25 I offer the following amendments to Calendar Number 328, Senate Print Number 6624, and ask that the said bill retain its place on the Third Reading Calendar.

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

SENATOR GOLDEN: Thank you, Madam President.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Thank you, Madam President.

Just two announcements. We want to remind the members that the Senate picture will be taken on Monday, March 6, promptly at 3:00 o'clock.

And also we'd like to announce that after session that we will have a father from the Cathedral Church who will be giving ashes in the east lobby, east lobby of the Assembly. That's after session, but that's actually at 1:30 today in the east lobby of the Assembly.

I'd like to recognize Senator Sabini for a motion.

THE PRESIDENT: Senator Sabini.

SENATOR SABINI: Thank you, Madam President.

I have a motion at the desk. I'd like to have it called up at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Sabini, Senate Resolution Number 2302, amending Section 1 of Rule XI of the Senate Rules.

THE PRESIDENT: Senator Sabini.

SENATOR SABINI: Thank you, Madam President.

This is a motion to discharge a resolution, something we haven't done. Normally we discharge bills. But I think this is perhaps more important to the framework of what we do in this chamber than almost any bill we could propose for discharge.

This resolution amends Senate Rule XI to delete language that was added in January of 2005. We heard a lot of talk in 2004 -- as my leader, Senator Paterson, often says, there were more press conferences in October of 2004 on reform than in the twenty years before. And we came here in January, and we passed a few measures that changed or tinkered with the Senate rules and gave the appearance of change.

One thing that was done here, which I believe will make sure that there will never be real change here, is to put the rules of the Senate into the Rules Committee and not be allowed to be discussed on the floor. The intent of that was clear. The intent of it was to avoid any discussion in the future on reform in this house.

Now, despite making some mild progress on reform, the State Legislature continues to be called dysfunctional by people that look at it and many of us who are in it. Giving the Senate Rules Committee more authority is a step backward. In short, making the Rules Committee stronger fails the test of reform.

Debates over Senate rules, if we ever have a debate again on Senate rules, will be consigned to Room 332 of the Capitol, the Majority Leader's office, outside the view of the public who might be watching now on the Internet or on television.

Earlier this year, Citizens Union, Common Cause/New York, the League of Women Voters, NYPIRG, and the Brennan Center for

Justice at NYU Law School issued a document entitled "2005 Midterm Report Card on Reform for New York State Government." And they stated the problem pretty succinctly: "Most disturbing about the Senate approach to rules reform in 2005 was the cynical decision to require all future rules changes to be considered and approved by the Rules Committee of the Senate rather than raised and approved in the full chamber at the beginning of session. That reform" -- air quote -- "effectively killed any rules reform in the Senate for the future."

The Senate received an F grade on reform in that report.

This proposal brings back Senate rules onto the Senate floor and empowers all of us -- those on the Rules Committee, as I am, and those not -- to talk about reform, act on reform, and takes it out of the centralized situation that that so-called reform, which was a step backwards, did.

And I urge all my colleagues to vote yes to discharge this resolution.

Thank you.

THE PRESIDENT: All those Senators in favor of the petition out of committee please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Coppola, Connor, Diaz, Dilan, Duane, Gonzalez, Klein, L. Krueger, Montgomery, Onorato, Parker, Paterson, Sabini, Sampson, Savino, Serrano, A. Smith, Stavisky and Valesky.

THE PRESIDENT: The petition is not agreed to.

Senator Spano.

SENATOR SPANO: Madam President, there being no further business, I would ask that we adjourn until Monday, March 6th, 3:00 p.m., intervening days to be legislative days.

THE PRESIDENT: On motion, the Senate stands adjourned until Monday, March 6th, 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:58 p.m., the Senate adjourned.)