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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 6, 2006

3:39 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

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P R O C E E D I N G S

ACTING PRESIDENT LITTLE: The
Senate will come to order.

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

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

ACTING PRESIDENT LITTLE: The
invocation today will be given by the Reverend
Peter G. Young, from Blessed Sacrament Church
in Bolton Landing, in my home of Warren
County.

Father Young.

REVEREND YOUNG: Thank you,
Betty.

Let us pray.

God never fails to provide New York
State citizens with dedicated Senators. May
God pour forth His blessing on our legislators
and provide them with the spirit of courage to
accept the many demands of their elected
offices.

As they are photographed today for
history, may they be again held with You,

1 pictured with You in eternity.

2 Amen.

3 ACTING PRESIDENT LITTLE: Thank
4 you, Father.

5 Reading of the Journal.

6 THE SECRETARY: In Senate,
7 Sunday, March 5, the Senate met pursuant to
8 adjournment. The Journal of Saturday,
9 March 4, was read and approved. On motion,
10 Senate adjourned.

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

14 Presentation of petitions.

15 Messages from the Assembly.

16 Messages from the Governor.

17 Reports of standing committees.

18 Reports of select committees.

19 Communications and reports from
20 state officers.

21 Motions and resolutions.

22 Senator Fuschillo.

23 SENATOR FUSCHILLO: Thank you,
24 Madam President.

25 On behalf of Senator Maltese, I

1 move that the following bill be discharged
2 from its respective committee and be
3 recommitted with instructions to strike the
4 enacting clause: Senate Print Number 2311.

5 ACTING PRESIDENT LITTLE: So
6 ordered.

7 SENATOR FUSCHILLO: Madam
8 President, on behalf of Senator Maltese, I
9 wish to call up Senate Print Number 5463,
10 recalled from the Assembly, which is now at
11 the desk.

12 ACTING PRESIDENT LITTLE: The
13 Secretary will read.

14 THE SECRETARY: Calendar Number
15 80, by Senator Maltese, Senate Print 5463, an
16 act to amend the Labor Law.

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

20 ACTING PRESIDENT LITTLE: The
21 Secretary will call the roll upon
22 reconsideration.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 56.

25 SENATOR FUSCHILLO: Madam

1 President, I now offer the following
2 amendments.

3 ACTING PRESIDENT LITTLE: The
4 amendments are received.

5 SENATOR FUSCHILLO: Thank you.

6 ACTING PRESIDENT LITTLE: Senator
7 Skelos.

8 SENATOR SKELOS: Madam President,
9 I believe there's a substitution at the desk,
10 if we could make it at this time.

11 ACTING PRESIDENT LITTLE: Thank
12 you. The Secretary will read.

13 THE SECRETARY: On page 13,
14 Senator Bonacic moves to discharge, from the
15 Committee on Environmental Conservation,
16 Assembly Bill Number 9517A and substitute it
17 for the identical Senate Bill Number 6417A,
18 Third Reading Calendar 97.

19 And on page 25, Senator Fuschillo
20 moves to discharge, from the Committee on
21 Consumer Protection, Assembly Bill Number 9451
22 and substitute it for the identical Senate
23 Bill Number 6353, Third Reading Calendar 305.

24 ACTING PRESIDENT LITTLE: The
25 substitutions are ordered.

1 Senator Skelos.

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

5 ACTING PRESIDENT LITTLE: Thank
6 you. The Secretary will read.

7 THE SECRETARY: Calendar Number
8 97, substituted earlier today by Member of the
9 Assembly Gunther, Assembly Print Number 9517A,
10 an act to amend the Environmental Conservation
11 Law, in relation to certain inspection
12 reports.

13 ACTING PRESIDENT LITTLE: Read
14 the last section.

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

17 ACTING PRESIDENT LITTLE: Call
18 the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT LITTLE: Senator
21 Bonacic, to explain his vote.

22 SENATOR BONACIC: Thank you,
23 Madam President.

24 This is the third bill that I have
25 sponsored since 2004 on flood control and dam

1 safety. I want to thank the Assembly for
2 passing this bill today, and I want to thank
3 my colleagues in this chamber for passing the
4 other two bills.

5 Let me tell you what has happened
6 since we have moved on these three bills. The
7 DEP has instituted a snow-melt policy,
8 reducing water levels in the Pepacton and the
9 Neversink, which will help alleviate potential
10 flooding.

11 They have also instituted a
12 rain-melt policy. This is something new. So
13 in anticipation of rainfall for a particular
14 month, they will lower the water levels in the
15 Pepacton and the Neversink.

16 And last but not least, they are
17 building a water channel below the Ashokan
18 Reservoir.

19 These are three positive steps that
20 we welcome in the watershed area. It does two
21 things. It preserves and gives a level of
22 confidence for the structural integrity of the
23 dams in the watershed area. So that is
24 helpful to the people that live below the
25 dams, but more importantly, it is important to

1 the New York City residents to make sure they
2 have a reservoir system that is safe, intact
3 for their water supply.

4 I still have concerns for the
5 Ashokan, because we know they're trying to
6 repair the Gilboa Dam in Schoharie County.
7 All of that water is going into the Ashokan,
8 and right now there's more water going in than
9 coming out. That's a particular danger zone,
10 come April, for flooding.

11 More work needs to be done. But I
12 wanted to thank my colleagues and the DEP for
13 taking some positive steps to address dam
14 safety and flood control measures.

15 Thank you very much, Madam
16 President.

17 ACTING PRESIDENT LITTLE: Thank
18 you, Senator Bonacic.

19 The Secretary will announce the
20 results.

21 THE SECRETARY: Ayes, 56.

22 ACTING PRESIDENT LITTLE: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 103, by Senator Balboni Senate Print 939A, an

1 act to amend the General Business Law and the
2 Penal Law, in relation to operating an
3 aircraft while intoxicated.

4 ACTING PRESIDENT LITTLE: Read
5 the last section.

6 THE SECRETARY: Section 9. This
7 act shall take effect on the first of
8 November.

9 ACTING PRESIDENT LITTLE: Call
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 56.

13 ACTING PRESIDENT LITTLE: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 183, by Senator Robach, Senate Print 6477, an
17 act to amend the Civil Service Law, in
18 relation to the reassignment.

19 ACTING PRESIDENT LITTLE: Read
20 the last section.

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

23 ACTING PRESIDENT LITTLE: Call
24 the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT LITTLE: Senator
2 Duane, to explain your vote.

3 SENATOR DUANE: Thank you, Madam
4 President.

5 I strongly support this bill, which
6 requires 12 months' notice before reassigning
7 state employees to a location outside the area
8 in which they are currently working.

9 But I would be remiss if I didn't
10 note that the Governor's budget envisions
11 changing Camp Pharsalia in Chenango County
12 from a DOCS facility to an OMH facility for
13 those who are going to be civilly committed.

14 This year's budget bill says that
15 there is an exception to the 12-month rule --
16 which, by the way, was a bill that we passed
17 in a previous session of this Legislature, a
18 very good bill which would provide that kind
19 of notice.

20 So I support giving notice in all
21 of those cases, but I think it's important for
22 us to keep an eye on the Governor's budget
23 bill, because it would throw away what we
24 worked so hard to do in this Legislature and
25 for what we're trying to do today.

1 So I'll be voting yes, Madam
2 President.

3 ACTING PRESIDENT LITTLE: Thank
4 you. Senator Duane will be recorded in the
5 affirmative.

6 The Secretary will announce the
7 results.

8 THE SECRETARY: Ayes, 56.

9 ACTING PRESIDENT LITTLE: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 228, by Senator Nozzolio, Senate Print 5522A,
13 an act to amend the Agriculture and Markets
14 Law, in relation to certain claims.

15 ACTING PRESIDENT LITTLE: Read
16 the last section.

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

19 ACTING PRESIDENT LITTLE: Call
20 the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 56.

23 ACTING PRESIDENT LITTLE: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 231, by Senator Winner, Senate Print 1244A, an
2 act to amend the Alcoholic Beverage Control
3 Law and the Vehicle and Traffic Law, in
4 relation to the imposition.

5 ACTING PRESIDENT LITTLE: Read
6 the last section.

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

10 ACTING PRESIDENT LITTLE: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 54. Nays,
14 2. Senators Duane and Montgomery recorded in
15 the negative.

16 ACTING PRESIDENT LITTLE: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 246, by Senator Robach, Senate Print 2997A, an
20 act to amend the Retirement and Social
21 Security Law, in relation to increasing.

22 ACTING PRESIDENT LITTLE: Read
23 the last section.

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

1 ACTING PRESIDENT LITTLE: Call
2 the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 56.

5 ACTING PRESIDENT LITTLE: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 259, by Senator Marcellino, Senate Print 5634,
9 an act to amend the Vehicle and Traffic Law,
10 in relation to establishing.

11 ACTING PRESIDENT LITTLE: Read
12 the last section.

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

16 ACTING PRESIDENT LITTLE: Call
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 56.

20 ACTING PRESIDENT LITTLE: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 272, by Senator Little, Senate Print 6386, an
24 act to authorize the Lyon Mountain Fire
25 District to contract.

1 ACTING PRESIDENT LITTLE: Read
2 the last section.

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

5 ACTING PRESIDENT LITTLE: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 56.

9 ACTING PRESIDENT LITTLE: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 285, by Senator Maziarz, Senate Print 4186, an
13 act to amend the Workers' Compensation Law, in
14 relation to unresolved cases.

15 ACTING PRESIDENT LITTLE: Read
16 the last section.

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

19 ACTING PRESIDENT LITTLE: Call
20 the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: Ayes, 56.

23 ACTING PRESIDENT LITTLE: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 288, by Senator Maziarz, Senate Print 6648, an
2 act to amend Chapter 831 of the Laws of 1981,
3 amending the Labor Law.

4 ACTING PRESIDENT LITTLE: Read
5 the last section.

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

8 ACTING PRESIDENT LITTLE: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 56.

12 ACTING PRESIDENT LITTLE: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 305, substituted earlier today by Member of
16 the Assembly Pheffer, Assembly Print Number
17 9451, an act to amend the General Business
18 Law.

19 ACTING PRESIDENT LITTLE: Read
20 the last section.

21 THE SECRETARY: Section 2. This
22 act shall take effect on the same date and in
23 the same manner as Section 1 of Chapter 553 of
24 the Laws of 2005.

25 ACTING PRESIDENT LITTLE: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 56.

4 ACTING PRESIDENT LITTLE: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 306, by Senator DeFrancisco, Senate Print 35,
8 an act to amend the Penal Law, in relation to
9 payment.

10 ACTING PRESIDENT LITTLE: Read
11 the last section.

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

14 ACTING PRESIDENT LITTLE: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 56.

18 ACTING PRESIDENT LITTLE: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 330, by Senator Saland, Senate Print 3678, an
22 act to amend the Education Law, in relation to
23 involuntary transfer.

24 SENATOR MONTGOMERY: Lay it
25 aside.

1 ACTING PRESIDENT LITTLE: The
2 bill is laid aside.

3 THE SECRETARY: Calendar Number
4 334, by Senator Young, Senate Print 568B, an
5 act to amend the Alcoholic Beverage Control
6 Law, in relation to prohibiting the sale.

7 ACTING PRESIDENT LITTLE: Read
8 the last section.

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

11 ACTING PRESIDENT LITTLE: Call
12 the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT LITTLE: Senator
15 Sabini, to explain your vote.

16 SENATOR SABINI: Thank you, Madam
17 President, to explain my vote.

18 One of the things I vowed when I
19 got elected to the Senate was that I would try
20 to reform Albany, and therefore I don't want
21 to participate in these rerun debates that we
22 hear so much on one-house bills in this
23 chamber. So if my colleagues want to know the
24 annotated version of the debate, they can look
25 on last year.

1 I'm going to be voting no on this
2 bill. I believe this bill, while
3 well-intentioned, perhaps, and a sincere
4 effort to curb drunk driving in this state, I
5 believe that this is akin to outlawing an
6 ice-cube tray or a refrigerator or a glass.

7 The machine involved is not the
8 culprit here, it's what you put into the
9 machine, which New York State regulates
10 through our liquor laws in New York. I just
11 think this is an attempt to go a little far.

12 There are clubs and restaurants in
13 our state that have suffered over the last few
14 years because of the smoking ban, and people
15 are trying to look for new ways to make some
16 money, this being one of them. Attempts at
17 having poker in our state at bars and
18 restaurants are another one, a bill I'm
19 carrying. And I think this just goes to --
20 while being well-intentioned, it does not
21 really achieve the desired goal of curbing
22 accidents and fatalities on our state's
23 highways.

24 So I'll be voting no in the hopes
25 that this continues to be a one-house bill.

1 ACTING PRESIDENT LITTLE: Thank
2 you. Senator Sabini will be recorded in the
3 negative.

4 Senator Young, to explain your
5 vote.

6 SENATOR YOUNG: Thank you, Madam
7 President, to explain my vote.

8 These alcohol-without-liquid
9 machines are extremely dangerous devices. And
10 the reason that I say that is that the only
11 intent is to get extremely intoxicated from
12 them.

13 What you do is you take a shot of
14 liquor, hard liquor, mix it with alcohol, and
15 this diffuses into a vapor, which you inhale.
16 And basically that inhalation of that alcohol
17 does not go through the normal processes, so
18 it doesn't have the buffer of the stomach
19 lining, it doesn't go through the small
20 intestine. And in fact, it just goes right to
21 the lungs, into the bloodstream, and directly
22 to the brain.

23 There are scientists and
24 researchers at Brown University that use this
25 method of vaporizing alcohol to get rats

1 addicted because they say it's the most
2 quickest, fastest way for rats to get addicted
3 to alcohol so that they can conduct
4 experiments. At the same time, it damages
5 your lungs, it damages your brain. And that's
6 why we need to ban these particular machines.

7 Several states have banned them
8 already. There's pending litigation in other
9 states. And when you think about it, when the
10 only quality of these machines is to get
11 extremely, frankly, blasted, what kind of
12 redeeming quality do they have to society?
13 Because it increases young people getting
14 addicted to alcohol, it increases alcohol
15 addiction, it encourages drunken driving and
16 it's bad for your health.

17 So I am voting yes on this bill and
18 I encourage my colleagues to do the same,
19 because it's very important for the public
20 safety and health of all New Yorkers.

21 ACTING PRESIDENT LITTLE: Thank
22 you. Senator Young will be recorded in the
23 affirmative.

24 The Secretary will announce the
25 results.

1 THE SECRETARY: Those recorded in
2 the negative on Calendar Number 334 are
3 Senators Duane, Gonzalez, L. Krueger, Parker,
4 Sabini, Savino and Schneiderman.

5 Ayes, 49. Nays, 7.

6 ACTING PRESIDENT LITTLE: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 337, by Senator Farley, Senate Print 5947, an
10 act to amend Chapter 355 of the Laws of 2005,
11 amending the Tax Law.

12 ACTING PRESIDENT LITTLE: Read
13 the last section.

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

16 ACTING PRESIDENT LITTLE: Call
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 56.

20 ACTING PRESIDENT LITTLE: The
21 bill is passed.

22 Senator Volker, that completes the
23 reading of the noncontroversial calendar.

24 SENATOR VOLKER: Thank you, Madam
25 President.

1 May we now have the controversial
2 reading of the calendar, please.

3 ACTING PRESIDENT LITTLE: Thank
4 you.

5 The Secretary will first ring the
6 bell.

7 The Secretary will read the
8 controversial calendar.

9 THE SECRETARY: Calendar Number
10 330, by Senator Saland, Senate Print 3678, an
11 act to amend the Education Law.

12 ACTING PRESIDENT LITTLE: Read
13 the last section.

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

17 ACTING PRESIDENT LITTLE: Call
18 the roll.

19 (The Secretary called the roll.)

20 SENATOR MONTGOMERY: Explanation.

21 SENATOR VOLKER: Madam President,
22 they're asking for an explanation.

23 ACTING PRESIDENT LITTLE: The
24 Secretary will withdraw the roll call, and the
25 bill is on the floor.

1 Senator Saland, for an explanation.

2 SENATOR SALAND: Thank you, Madam
3 President.

4 Madam President, this bill is a
5 response to a decision by the commissioner of
6 education going back as far as 1998 in which
7 the commissioner determined, in a case coming
8 out of the city of Buffalo, that the school
9 district in the city of Buffalo, which
10 directed that a child who had been involved in
11 an altercation, be suspended and removed from
12 school and placed in another school, had
13 exceeded its authority -- that the law
14 provided in effect for the suspension of such
15 a student, but the transfer of a student for
16 disciplinary purposes was deemed to be not
17 permitted under the law.

18 What this attempts to do is to say
19 where you have a disciplinary problem in
20 school -- the existing law says that you can
21 provide for a suspension or even a series of
22 suspensions. What this would propose to do
23 would be to say that that child, so long as
24 that child has an alternative school wherein
25 he or she can be educated, could be removed.

1 The quality of his or her education would not
2 suffer.

3 The likelihood is is that the
4 remaining students would not see, to the
5 extent that the child was disruptive in class,
6 see their classroom disrupted and have their
7 ability to receive their education in school
8 in some way impaired or impeded.

9 The fact of the matter is is that
10 the language in this bill categorizing who the
11 students are that would be subject to this
12 legislation is, in fact, existing law. The
13 principal change, again, is not with who the
14 law shall apply to, because the existing law
15 applies to a pupil who is insubordinate or
16 disorderly or violent or disruptive and whose
17 conduct otherwise endangers the safety,
18 morals, health or welfare of others. It
19 merely says that suspension is no longer the
20 sole means by which such a student can be
21 treated.

22 Keeping in mind again -- and I
23 would emphasize this, as I have, I believe, in
24 prior debates -- that the education of the
25 child must be provided for. And after a

1 while, suspension or a series of suspensions
2 is futile not only for the child but for those
3 who would seek to assist in his or her
4 education.

5 Thank you, Madam President.

6 ACTING PRESIDENT LITTLE: Senator
7 Montgomery.

8 SENATOR MONTGOMERY: Yes, Madam
9 President, on the bill.

10 I will just respond to this
11 legislation as I have in prior years when it's
12 come before us. I have expressed opposition
13 to it. And I want to make it clear that it is
14 not in opposition to the need to address
15 students who are violent in their schools
16 against people and have infractions
17 specifically against someone, an adult or
18 another youngster or what have you.

19 But this legislation refers to
20 students who are disruptive. Now, there are a
21 lot of people in this room who are very
22 disruptive to me in some ways. They don't let
23 me get to the table to eat when I want to,
24 they don't let me -- I have neighbors who come
25 to me and they push me around and they

1 threaten me and whatever have you. They are
2 disruptive. But it doesn't mean that they
3 have broken a law.

4 So we are treating young people
5 like we don't treat ourselves. We don't treat
6 each other who are disruptive to us or our
7 friends or our neighbors as if they've broken
8 the law, but this is what we want to do with
9 young people. And so I think we need to think
10 about that, Senator Saland.

11 And I also am -- I have stood on
12 this floor and I've gone everywhere, all over
13 my district and all over the state and
14 everywhere to talk about the need for
15 school-based health clinics. Senator Saland,
16 there is not a school-based health clinic that
17 provides comprehensive health and mental
18 health, including crisis intervention, in any
19 high school in my district.

20 Now, I don't know about yours, but
21 I -- the students in my district need that.
22 Because when they come to school and something
23 has happened to them on the way or in their
24 family or there's something that has upset
25 him, when they hit that school, there is no

1 one there for them to speak to.

2 So what happens is if they act out,
3 if they misbehave, if they are disruptive,
4 there's the police there to take care of them.
5 That's it. No other support, no other
6 services, no other person in that school to
7 pay attention to the emotional-stress needs of
8 young people in their school.

9 So I think that we have to think
10 about not only do we have a need to remove
11 them from school, to suspend them when they
12 are violent, when the behavior is far out of
13 line, but also that we need to try and meet
14 them halfway, at least, and provide for them
15 some crisis intervention, some mental health
16 services so that we don't have our young
17 people cast aside and just attempt to get rid
18 of them -- out of sight, out of mind --
19 because that's the easiest thing to do.

20 So, Madam President, I'm going to
21 oppose this legislation again because I think
22 that we need to send a different message to
23 young people in our state. Certainly I want
24 my youngsters to have a different message.
25 And that is if they at least -- we are there

1 to at least try to help them. And so if
2 there's any way that we can send that message,
3 then I'm willing to go halfway on this issue.

4 So I'm continuing to vote no on
5 this legislation.

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

8 Senator Coppola.

9 SENATOR COPPOLA: Thank you.

10 I would like to say that I will be
11 supporting this bill. I will be supporting
12 this bill today. It is relative to an
13 incident that took place in my district in the
14 city of Buffalo.

15 But also to put a human face on
16 this, a very good friend of mine, a former
17 teacher at Lafayette High School, was injured
18 severely during a fight from a student. That
19 student then was able to come back to the
20 school because of this situation in the
21 court's ruling. That student was able to come
22 back to the school and cause more harm, more
23 harm.

24 And it should not happen. It
25 should not happen. There should be a fair and

1 equitable way to deal with those students, to
2 give them the support services that they need.
3 However, the school district does need the
4 ability to decide, for those children who are
5 left in the school and those teachers who want
6 to be there to teach, want to be there to
7 learn and should not be worried about being
8 harmed.

9 This same student who was allowed
10 to come back again also caused another fight
11 and wound up almost attacking a teacher with a
12 pair of scissors. So obviously the student
13 needs some help, but the district had nothing
14 other than to allow that student to continue
15 to come back to the same school, and it caused
16 multiple problems over and over again.

17 So while I agree that there needs
18 to be an adequate and equal, fair system in
19 place for the children, there also has to be
20 protections for the children who are remaining
21 in the school and also for the teachers and
22 staff there.

23 Thank you.

24 THE PRESIDENT: Senator Stavisky.

25 SENATOR STAVISKY: Thank you,

1 Madam President.

2 I think Senator Montgomery brought
3 out a very important point, the fact that we
4 don't have the proper kinds of support
5 services in the schools to handle the child --
6 in some cases they're not children, they're
7 young adults who for one reason or another act
8 out.

9 And I think this demonstrates the
10 need for the Campaign for Fiscal Equity
11 lawsuit to be settled with the proper kind of
12 support that we should show in our state
13 budget.

14 At the same time, my first teaching
15 job was in a New York City high school
16 considered a tough school. I was never
17 attacked. I was a young teacher fresh out of
18 college. But I can tell you that there were
19 people who were attacked. And I don't think
20 that teacher should be forced to come back to
21 the same situation. I think it's a traumatic
22 experience for the teacher as well.

23 And for that reason, Madam
24 President, I vote yes.

25 THE PRESIDENT: Senator Diaz.

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

3 THE PRESIDENT: You may proceed.

4 SENATOR DIAZ: It is a well-known
5 fact that parents send their children to
6 school to be educated. And in the district
7 that I represent, there are many children that
8 are afraid to go to school because there are
9 some bullies. And parents are afraid to send
10 their children to school because of the
11 bullies.

12 And many children, many children
13 would like to have -- or the majority of the
14 children would like to have an education in a
15 sound, safe environment.

16 There are teachers that I know that
17 are even afraid of some students because
18 they -- either they go to school to show off
19 or they go to school just to disrupt the
20 classes and stop other children from learning.
21 And some of them wait till the good children
22 come out of school to catch them outside and
23 to fight with them and to beat them.

24 And those children lose their
25 incentive to go to school, and they don't even

1 want to go to school. And there are teachers,
2 there are parents -- a lot of parents in my
3 district call into my office asking for
4 transfers for their children because they
5 cannot have a good education because they're
6 afraid of the bullies.

7 And we always, always, always we're
8 trying to blame the system: It is because of
9 the system. It is because of the system.

10 Well, ladies and gentlemen, if I have 25
11 students in a classroom and five of them don't
12 want to get an education and five of them come
13 just to bully the others, the rest, and to
14 show off and to stop the other 20 from getting
15 a good education, let's get those five out of
16 there to wherever they belong. They are
17 stopping the majority of students from getting
18 a good education.

19 So yes, yes, this is a good bill.
20 I said it last year, I'm saying it again this
21 year. If you want to come to school, you come
22 to school to obey the teacher, to be
23 responsible, to get an education and not to
24 stop other students from getting an education.
25 If you come to school to stop other children

1 from getting a good education, get yourself to
2 another school. You don't belong. You don't
3 belong here.

4 So yes, yes, we have to be
5 concerned with those children. Oh, yes, we
6 have to be concerned. But my first concern,
7 ladies and gentlemen, my first concern is with
8 the majority of the students that want to get
9 a good education. And my first concern is to
10 protect and to see that the majority of
11 students get that education without the
12 bullies. And that the parents that send their
13 children to school don't have to be worried
14 about, oh, my child, my girl, my daughter, my
15 son doesn't want to go to school because he's
16 afraid of the other children.

17 So let's vote for this bill. Let's
18 send a message. We want to send a message?
19 Yes, let's send a clear message to the whole
20 state, to everybody. Vote for this bill, send
21 a message: If you come to school to be a
22 bully, you don't belong. Go to somewhere
23 else. Let's give the children of our
24 community the good education that they
25 deserve.

1 Thank you, Madam President.

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

4 Then the debate is closed.

5 The Secretary will ring the bell.

6 Senator Saland.

7 SENATOR SALAND: Thank you, Madam
8 President. To explain my vote.

9 THE PRESIDENT: We'll wait on
10 that, Senator. Thank you.

11 Read the last section.

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

15 THE PRESIDENT: Call the roll.

16 (The Secretary called the roll.)

17 THE PRESIDENT: Senator Saland,
18 to explain your vote.

19 SENATOR SALAND: Thank you, Madam
20 President.

21 In my opening remarks, my
22 explanation of the bill, I failed to
23 mention -- and I would hope that this did not
24 somehow, in some way influence some of the
25 reservations expressed by Senator Montgomery

1 and some who might be voting in the
2 negative -- that this does in fact provide
3 that no student could be transferred without a
4 fair hearing. There's nothing arbitrary about
5 this particular measure or the means by which
6 a student could be transferred. There is
7 certainly due-process protection under law
8 provided in this bill.

9 With that, Madam President, I vote
10 in the affirmative.

11 THE PRESIDENT: You will be so
12 recorded, Senator, as voting in the
13 affirmative.

14 The Secretary will announce the
15 results.

16 THE SECRETARY: Those recorded in
17 the negative on Calendar Number 330 are
18 Senators Duane, Montgomery, and Parker.

19 Those Senators absent from voting:
20 Senator Flanagan.

21 Ayes, 54. Nays, 3.

22 THE PRESIDENT: The bill is
23 passed.

24 Senator Skelos, that completes the
25 controversial reading of the calendar.

1 SENATOR SKELOS: Thank you, Madam
2 President.

3 Is there any further business at
4 the desk?

5 THE PRESIDENT: No, there isn't,
6 Senator.

7 SENATOR SKELOS: Would you please
8 recognize Senator Valesky.

9 THE PRESIDENT: Senator Valesky.

10 SENATOR VALESKY: Madam
11 President, I have a motion at the desk. I'd
12 like to have it called up at this time,
13 please.

14 THE PRESIDENT: The Secretary
15 will read.

16 THE SECRETARY: Senate Print
17 5544A, by Senator Valesky, an act to amend the
18 Insurance Law and the State Finance Law.

19 THE PRESIDENT: Senator Valesky,
20 would you like to speak on the petition?

21 SENATOR VALESKY: Thank you very
22 much, Madam President.

23 Madam President, many small
24 business owners have expressed to me their
25 concern and frustration with the fact that

1 health insurance costs and their ability to
2 provide health insurance to their employees
3 has continued to rise, and that that has had a
4 negative impact on their ability to be
5 successful.

6 The piece of legislation that I
7 have sponsored, Senate Bill 5544A, would
8 create the Small Business Insurance Pool that
9 would allow for a newly created small business
10 insurance board to negotiate on behalf of
11 small businesses in New York State, small
12 businesses defined as those employing between
13 one and 100 people.

14 This would theoretically allow the
15 state, in negotiating with insurance
16 companies, to spread the risk of health
17 insurance policies across a larger spectrum of
18 businesses.

19 If approved, this measure would
20 have a twofold benefit. One, we could reduce
21 the costs of doing business for thousands of
22 small-business owners across the State of
23 New York who are continuing to find it more
24 and more difficult to stay in business and who
25 are also having to pass on increases in

1 premiums to their employees. It would reduce
2 those costs on those small-business owners and
3 it would also allow us to reduce the number of
4 uninsured in New York State.

5 Madam President, this is a
6 commonsense bill that can help improve the
7 business climate here in New York State, and I
8 encourage all of my colleagues to support it.

9 Thank you.

10 THE PRESIDENT: All those
11 Senators in favor of the petition out of
12 committee please signify by raising their
13 hands.

14 THE SECRETARY: Those recorded in
15 agreement are Senators Breslin, Connor,
16 Coppola, Diaz, Dilan, Duane, Gonzalez, Klein,
17 L. Krueger, C. Kruger, Montgomery, Onorato,
18 Oppenheimer, Parker, Paterson, Sabini,
19 Sampson, Savino, Schneiderman, A. Smith,
20 M. Smith, Stachowski, Stavisky and Valesky.

21 THE PRESIDENT: The petition is
22 not agreed to.

23 Senator Skelos.

24 SENATOR SKELOS: Thank you, Madam
25 President.

1 There being no further business to
2 come before the Senate, I move we stand
3 adjourned until Tuesday, March 7th, at
4 3:00 p.m.

5 THE PRESIDENT: On motion, the
6 Senate now stands adjourned until Tuesday,
7 March 7th, at 3:00 p.m.

8 (Whereupon, at 4:20 p.m., the
9 Senate adjourned.)

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