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

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,

pictured with You in eternity.

Amen.

ACTING PRESIDENT LITTLE: Thank you, Father.

Reading of the Journal.

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

ACTING PRESIDENT LITTLE: 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 Maltese, I

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

ACTING PRESIDENT LITTLE: So ordered.

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

ACTING PRESIDENT LITTLE: The Secretary will read.

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

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

SENATOR FUSCHILLO: Madam

President, I now offer the following amendments.

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR FUSCHILLO: Thank you.

ACTING PRESIDENT LITTLE: Senator Skelos.

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

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

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

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

ACTING PRESIDENT LITTLE: The substitutions are ordered.

Senator Skelos.

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

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

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR BONACIC: Thank you, Madam President.

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

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

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

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

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

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

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

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

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

Thank you very much, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Bonacic.

The Secretary will announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT LITTLE: The bill is passed.

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

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR DUANE: Thank you, Madam President.

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

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

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

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

So I'll be voting yes, Madam President.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT LITTLE: The bill is passed.

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

SENATOR MONTGOMERY: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

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

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

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

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

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

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

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

Senator Young, to explain your vote.

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

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

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

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

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

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

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

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

The Secretary will announce the results.

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

Ayes, 49. Nays, 7.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT LITTLE: The bill is passed.

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

SENATOR VOLKER: Thank you, Madam President.

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

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will first ring the bell.

The Secretary will read the controversial calendar.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

SENATOR MONTGOMERY: Explanation.

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

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

Senator Saland, for an explanation.

SENATOR SALAND: Thank you, Madam President.

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

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

The quality of his or her education would not suffer.

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

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

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

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

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Senator Montgomery.

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

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

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

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

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

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

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

one there for them to speak to.

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

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

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

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

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

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

Senator Coppola.

SENATOR COPPOLA: Thank you.

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

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

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

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

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

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

Thank you.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Thank you,

Madam President.

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

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

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

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

THE PRESIDENT: Senator Diaz.

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

THE PRESIDENT: You may proceed.

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

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

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

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

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

And we always, always, always we're trying to blame the system: It is because of the system. It is because of the system. Well, ladies and gentlemen, if I have 25 students in a classroom and five of them don't want to get an education and five of them come just to bully the others, the rest, and to show off and to stop the other 20 from getting a good education, let's get those five out of there to wherever they belong. They are stopping the majority of students from getting a good education.

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

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

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

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

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.

Senator Saland.

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

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Saland, to explain your vote.

SENATOR SALAND: Thank you, Madam President.

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

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

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

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

The Secretary will announce the results.

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

Those Senators absent from voting: Senator Flanagan.

Ayes, 54. Nays, 3.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Thank you, Madam President.

Is there any further business at the desk?

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

SENATOR SKELOS: Would you please recognize Senator Valesky.

THE PRESIDENT: Senator Valesky.

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

THE PRESIDENT: The Secretary will read.

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

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

SENATOR VALESKY: Thank you very much, Madam President.

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

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

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

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

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

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

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

Thank you.

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

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

THE PRESIDENT: The petition is not agreed to.

Senator Skelos.

SENATOR SKELOS: Thank you, Madam President.

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

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

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