NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 14, 2006

2:05 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

THE PRESIDENT: The Senate will please come to order.

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

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

THE PRESIDENT: In the absence of clergy, may we bow our heads in a moment of silence, please.

(Whereupon, the assemblage respected a moment of silence.)

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, March 13, the Senate met pursuant to adjournment. The Journal of Sunday, March 12, 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 Little.

SENATOR LITTLE: Thank you, Madam President.

On behalf of Senator Marcellino, on page 7 I offer the following amendments to Calendar Number 93, Senate Print 1485B, and ask that 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 LITTLE: Thank you.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, on behalf of Senator Savino, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting

clause: Senate 6946.

THE PRESIDENT: So ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar, with the exception of Resolution 3890.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is so adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Resolution 3890, have the title read, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Hannon, Legislative Resolution Number 3890, memorializing Governor George E. Pataki to proclaim March 2006 as National Kidney Disease

Awareness Month in the State of New York.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Move we adopt the resolution.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Any member who does not wish to cosponsor the last resolution please notify the desk.

Senator Skelos.

SENATOR SKELOS: Thank you. If we could go to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 92, by Senator Marcellino, Senate Print 632A, an act to amend the Environmental Conservation Law, in relation to management of wildlife

resources.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 203, by Senator Farley, Senate Print 3110B, an act to amend the Public Authorities Law, in relation to the construction and financing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 279, by Senator Farley, Senate Print 4039, an

act to amend the Banking Law, in relation to facilities.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 328, by Senator Golden, Senate Print 6624A, an act to amend the Retirement and Social Security Law, in relation to presumptive eligibility.

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, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 341, by Senator Little, Senate Print 6388B, an act to amend the Tax Law, in relation to authorizing the County of Essex.

THE PRESIDENT: Read the last section.

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

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

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39. Nays, 1. Senator Valesky recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 403, by Senator Meier, Senate Print 2487, an act to amend the Domestic Relations Law, in relation to notification.

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, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 413, by Senator Alesi, Senate Print 5494, an act authorizing the Town of Chili to discontinue.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 408, by Senator Nozzolio, Senate Print 516, an act to amend the General Municipal Law, in relation to participants.

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, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 416, by Senator Volker, Senate Print 6227, an act to amend the Local Finance Law, in relation to sale of bonds and notes.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 431, by Senator Maltese, Senate Print 6797, an act to amend Chapter 350 of the Laws of 2002 amending the Labor Law and others.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 504, by Senator Skelos, Senate Print 6872A, an act to amend the Public Health Law, in relation to establishing.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 504, by Senator Skelos, Senate Print 6872A, an

act to amend the Public Health Law.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR SKELOS: Thank you very much, Madam President.

This legislation, in my opinion, is the most comprehensive Medicaid -- anti-Medicaid fraud, to-combat-Medicaid-fraud plan ever proposed. It will create a more accountable system and fight fraud at every step of the way.

I'd like to first thank my colleagues in the Senate Majority -- Senator Bruno, Senator Meier, Senator Hannon, and Senator Volker -- for their assistance, and certainly people on the Senate staff and those who testified at numerous hearings that were held throughout the state.

At this time last year, when we held a public hearing in September, the Department of Health and the Attorney General's office insisted that Medicaid fraud was under control in New York State and that

we were the model for the rest of the nation.

After the Senate passed legislation -- and I'm delighted that we've been the driving force behind some of the changes that have occurred, and also more changes that will occur -- the Governor created the office of Medicaid inspector general by Executive order. And in this year's budget resolution by the Assembly, they've included stronger inspector general provisions in their budget bills.

The Attorney General has indicated since last year -- and it's amazing what happens in a year -- that we now need sweeping reform of the Medicaid system. Beyond these rhetorical changes, our efforts have forced the Department of Health and the Attorney General, his office, to become more aggressive and get more of the taxpayers' hard-earned money back.

Since we began our crusade to reform the Medicaid system, the Attorney General's office has increased annual recoveries by 700 percent. We congratulate him for that. On average, over the years, the

Attorney General's office has been collecting about $35 million. And since our initiative began last year, they have upped it to about $200 million.

We also have counties more involved now in fighting Medicaid fraud, and we've looked at this issue from every possible direction. I think one of the main pieces of testimony that occurred -- and I know that Senator Schneiderman was at that hearing on Long Island -- was the testimony of the Texas Medicaid inspector general, who explained to us that when Texas went to a system similar to this legislation -- and in fact, our legislation goes beyond and is stronger than what is occurring in Texas -- Texas is now recovering 5 percent, 5 percent of their total Medicaid expenditures.

To put that in perspective, if New York State were to collect 5 percent of our Medicaid budget, we would be saving the taxpayers of New York State $2.3 billion right now, money that could be used on education, money that could be used for tax cuts, money that could be used to protect those who need

healthcare.

The Texas Medicaid inspector general has also indicated to us that he will be using this legislation as model legislation when he testifies before the U.S. Senate in Washington.

The legislation has been developed working with the Association of Counties, the Hospital Association, and the District Attorneys Association, and really reforms the way we fight fraud at every step in the process.

From setting up a corporate compliance program to detecting and investigating and prosecuting fraud and recovering improper payments, this is the most comprehensive Medicaid fraud plan ever proposed anywhere.

And as I mentioned before, it's modeled after the successful reforms in Texas. I mentioned the 5 percent. And in fact, in the first year that Texas established an independent Medicaid inspector general, they increased their recoupments by 30 percent with no additional cost to the state. In fact,

that was the directive.

The independent office of the Medicaid inspector general really involves program integrity. It consolidates about 550 Medicaid audit and fraud staff from seven agencies, and it will deal with compliance, investigation, recoupment, and sanctions.

And in fact, it will be the job of the inspector general to basically investigate and, where there is fraud that should be prosecuted, take the file, hand it to the Attorney General and tell him go prosecute or to seek a civil recovery.

In this legislation also, if the Attorney General fails to accept the case within 30 days -- and remember, this is a totally prepped case -- the case will be offered to the local district attorney.

And what's significant about bringing the local district attorneys into the process is that there would be a partial restoration of local share. As we know, under the Medicaid cap that exists, the counties are not entitled to share in the recoveries. If the local district attorney develops the case,

15 percent would go to the county, half each to the district attorney's office for their expenses and half to the county that they could use for property tax reductions.

If the local district attorney investigates and prosecutes the case, the district attorney and the county would share each 10 percent of the recovery.

There are also false claim act provisions to protect whistle-blowers, and certain sanctions and civil penalties. There is a very strong corporate compliance requirement which we have developed in partnership with HANYS. There are reporting requirements by the inspector general, by the State Insurance Department, and there is also money in the budget, in the Senate's version of the budget, which would provide a half a million dollars to the New York Prosecutors Training Institute to help train prosecutors to perform their duties if they prosecute these types of Medicaid cases.

Is that sufficient?

SENATOR SCHNEIDERMAN: It wasn't an O.J. explanation, but it was good.

THE PRESIDENT: Senator Sampson.

SENATOR SAMPSON: Madam President, I have an amendment at the desk. I ask that reading be waived and that I be heard on the amendment.

THE PRESIDENT: Yes, it is so waived, and you're recognized to speak on the amendment.

SENATOR SAMPSON: Thank you very much, Madam President.

Senator Skelos, I want to commend you on your leadership and your direction in dealing with the Medicaid atrocities that's going on in our communities, because you're correct, this Medicaid fraud is constantly robbing our communities of valuable resources. And what you have done is you have slammed the door on these individuals who engage in this Medicaid fraud.

However, there's just a small crack. You know, being a defense attorney, we always look for those small cracks and those loopholes. And what my amendment does here today, it basically tries to seal that crack.

And the amendment, which is called

the Martin Act for Healthcare, it does three things, and three things that I think are very important, especially to the prosecutor's point of view, which one day I hope to be a prosecutor.

(Laughter.)

SENATOR SAMPSON: First of all -- I was pretty close.

First of all, it restores the limitations that hamper prosecutors. Because we know that Medicaid fraud usually is prosecuted under the larceny by false pretenses, which you have to prove not only a person lied but the person relied upon that lie.

What we're trying to do here is especially to prosecute individuals who engage in half-truths, deceptions and omissions. We want to go after those individuals.

The second thing that it would do is this would provide a new investigative tool, such as testimonies under oath, which we can use that testimony in civil proceedings to recover certain asset or forfeitures.

The third thing I think which is

very important, it creates a new crime called "scheme to defraud a health plan." And this is under the enterprise corruption, which allows us to use eavesdropping and surveillance warrants to get the information that we need in order to prosecute these individuals.

And what I'm saying is what I want to do is just seal up that small crack that is presented. Because, you know, I commend you once again on what you're doing, because you know what, Medicaid fraud is a huge thing that is robbing our communities of vital, vital resources.

So this amendment just seals up that crack. And I hope all my colleagues understand that if we can seal up that crack, we can definitely slam the door shut with cement when dealing with Medicaid fraud.

Thank you very much, Senator Skelos.

Madam President, thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Thank you, Madam President. If I could comment.

Number one, Senator Sampson, you are a gentleman, you are a great senator, and you are a great lawyer.

And as a great lawyer, you should know that the Martin Act was originally established in 1921, when the securities industry was not really regulated by the state. And at that time, both the federal government and the state were given authority to regulate the securities industry. And certainly we've seen the activity over the last several years of the Attorney General in that area.

The difference when it comes to the healthcare industry is the fact that the Health Department regulates this industry and Medicaid.

So I know that your intentions are good. However, applying a Martin Act here would be superfluous and unnecessary. And don't ask me how to spell "superfluous."

But I appreciate your recommendation. And certainly let me just say this. I'm still hoping that the Attorney General will see fit to join us at some point

and discuss this legislation with the Assembly. As you know, this version was part of our budget, so that now it can become part of conference committee discussions.

I mentioned to the Attorney General -- we happened to be passing each other on the way to a reception, I believe it was at the AFL-CIO. I had nothing to eat there, and I stood the entire time.

(Laughter.)

SENATOR SKELOS: And I said to him, "Let's talk," and he gave me a five-finger wave. So I'm confident that with that wave, at some point he will come forth, discuss it with us.

It's a far different version of the legislation than the Senate passed last year. I have no pride in authorship. But we need a solid bill this year, not press releases from the Attorney General saying how great the world is. We need for him to sit with us and develop legislation that really protects the taxpayers of this state.

So thank you for your amendment, but I believe there will not be sufficient

people on the petition.

SENATOR SAMPSON: Thank you very much, Senator Skelos.

THE PRESIDENT: Senator Hannon.

SENATOR HANNON: Madam President, I'd like to add, in regard to this amendment, two things.

First of all, in the main bill that Senator Skelos has proposed, there is a comprehensive revision of the healthcare offenses, to meet and I think fully comply with the points that have been made that larceny by false pretenses is too complicated and archaic a statute.

Second, there needs to be a point that there is not a dynamic here that one agency or one individual has not done a good job. The hearings have pointed out that it's the organization of the current government that has caused the overlap, that has caused the ball to be dropped, that has caused us not to do as good a job as can be.

And to the extent that people need to realize, it's the system more than anything else. And I would say therefore your

amendment is unnecessary. We should go forward with the main provisions of changing the system so we can have the system work appropriately.

THE PRESIDENT: On the amendment, those Senators in agreement please signify by raising your hands.

Senator Schneiderman, first.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I just want to speak very briefly and will speak on the main bill after this is over, because I do believe this has been -- being on the task force on Medicaid fraud, I've learned a lot. And I think this is a work in progress. I think we have all learned a great deal.

I want to speak in support of the amendment very briefly, just because I do think there is a critical element that still is missing here.

The suggestion for a more aggressive approach that would enable the Attorney General's office, Medicaid Fraud Control Unit, to act in cases where it cannot

now act actually came out of our first hearing. It was a discussion with a representative of the Attorney General's office.

And while I urge my colleagues that I like the main bill here, I think it takes a big step forward, I appreciate Senator Skelos's statement that, you know, it is a work of progress, no pride of authorship -- let's make it better and better. Let's get the Governor and the Attorney General to collaborate on this.

But in addition to what Senator Sampson pointed out, that we do need to change the law relating to how you prosecute the crime, what the elements of the crime are, his amendment would add something else that is missing from the current bill. It would provide the power for the Medicaid Fraud Control Unit to issue written interrogatories, to -- again, based on a lot of other statutes that are active in a lot of other states -- empower them to conduct examinations under oath to get Medicaid providers to the table. And that's been a very effective tool in

securities fraud prosecution.

So I do think that it's worth considering the additional elements, not as a criticism but as an addition from Senator Sampson's amendment. I would urge everyone to vote in favor of that, and then we will be speaking about the bill in chief, which I do think has a lot of other good provisions in it.

Thank you, Madam President.

THE PRESIDENT: On the amendment, all Senators in favor of the amendment please signify by raising your hand.

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

THE PRESIDENT: The amendment is not agreed to.

Senator Rath, on the bill.

SENATOR RATH: Thank you, Madam Chairman.

This house traditionally -- for the last several years, at any rate, if that's tradition -- has been very strong and firm in their interest in seeing Medicaid reform. Several years ago, at the conclusion of the Medicaid task force, which was attended by many of the members in the Democrat Minority, and who really added a great deal to it, the bill went almost unanimously. But it was an omnibus bill, and we knew at that time that there were going to have to be pieces of it that were picked apart and individual kinds of items that had to be addressed.

Today is one of those days. And I want to congratulate Senator Skelos on moving forward with the inspector general, because we know that there are issues of fraud and abuse that are taking an awful lot of money out of the system that should be in the system.

I might call your attention to today the front page of several of the national newspapers that are pointing out there is a historic growth in federal social programs -- most importantly Medicaid, a 17 percent rise in enrollment over the last

five years, when at the same time our population has only grown by 5 percent. So, according to USA Today, the largest growth in the federal safety net system since President Johnson's Great Society.

Spending on the social programs totals now $1.3 trillion in 2005, the nation's largest entitlement program, with 18 million beneficiaries nationwide.

And I only call these numbers to your attention because every time we quote them, they're higher. Every time we talk about the programs where the need is, the need is greater.

And so with a program such as is proposed by Senator Skelos today, and which I'm sure will be passed overwhelmingly here today, we have a chance to recoup some of the money that is being drawn out of the system by people who are less than reputable, less than honest, and who none of us would agree that their intent is for the best for the people of the State of New York.

So we need to control the system and take this step today so that we will have

Medicaid here and available for the people in New York State that need Medicaid.

Thank you.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

I too want to congratulate my colleague Senator Skelos on this bill. It is really time that this state government get a hold of the Medicaid bills in New York.

They are budget-busters at the local level. Last year and the year before, we heard continuously from our county executives, those who had to pay their share of the bill. In Rockland County alone, it was $44 million, a substantial amount of money for a county that size.

And Rockland County got involved through the Association of the Counties and worked out an arrangement with IBM and perfected a database that would go over all their Medicaid bills, according to the regulations, and match suppliers and providers. And they found a minimum of 10 percent, which is over $4 million for that

one county, of fraud, strong indications of fraud. It went on almost up to 30 percent if you talked about billing errors, which may be a big part of this. It may even be bigger than the fraud.

But whatever it is, it needs fixing. And we had the hearings, and there was some question where we ever came up with this 10 percent number. Well, I can attest to the Rockland County findings that 10 percent indeed is a minimum.

If we can curtail, control the Medicaid bill for the State of New York, we can do one or both of two things. One, we can reduce local property tax, because that's where 25 percent of this bill lands, directly on the property tax, and/or increase services to those who need the services.

We're not finding the fraud on behalf of those who make application, we're finding it on the providers, those who would get rich quick. And I know in the Governor's State of the State message he talked about adding people, 500 people. I think it turns out to be like 70. But the effort is to

combine the effort of existing people to bring that sort of attention, that sort of a workforce, that sort of an investigative group together behind this policy and to have this inspector general, if you will, be equipped to do what has to be done, in conjunction with the attorney general and in conjunction with local district attorneys.

I congratulate you, Senator Skelos, your other colleagues and us who served on the task force. Members of the Minority also served on that task force, on those public hearings. And I think this is a day that the Senate can stand up and say to our county executives, to our local taxpayers: We're doing our job, we're trying to do the best we can.

This is a great effort. It's a great day. Congratulations. I vote yes.

THE PRESIDENT: Senator Marcellino, on the bill.

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

I would like to rise and thank my colleague Senator Skelos and all the members

of the task force who worked tirelessly for many, many months to make this day come to pass. This is a great day in this state.

We've worked a long time. This bill is a forward-thinking bill. It is a move in the right direction, it is a step -- it is a giant leap in the right direction, I might add, towards reducing the costs of healthcare to our citizens.

Healthcare is the largest growing part of every governmental level's budget. It is increasing exponentially on an annual basis, and one of the prime reasons is fraud, people who are taking advantage of the system, taking advantage of the complexity of the system, and trying to basically rip off the public.

If we were to return, just as Senator Skelos indicated, just $2.3 billion, 5 percent, that's not a huge amount in the scheme of things, but it is a lot of money if we can put it back into people's pockets. Cut taxes, cut the cost of going to the doctor.

How many of you remember when you used to go to the doctor and it was a doctor

and a nurse that were sitting there and that was the only people that were involved? Now you go into a doctor's office and there's a dozen people sitting behind a counter, pushing paper, filing forms, returning documents, making phone calls to try to collect bills.

This process has become extremely complicated and extremely costly. We must return some sanity to the system. This bill doesn't take anything away from anybody. It's not pointed at any individual or any level of government. It is designed to consolidate and streamline a very cumbersome system, to reduce the interactivity of different agencies of government that are fighting amongst themselves rather than working together and pulling in opposite directions rather than pulling in the same direction.

This is a great idea. I sat at the hearings that Senator Skelos hosted on Long Island to listen to the Texas Medicaid fraud coordinator, and it was phenomenal the way it was done. So the way they're doing it in Texas, if we did it here, it will be great.

And I think Senator Skelos again is

to be congratulated. I urge a unanimous vote on this particular piece of legislation.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

As I indicated before, this is -- it has been fascinating to me and actually a real pleasure to watch the evolution of this legislation as we proceeded with the Medicaid task force. Senator Skelos has provided leadership on this since before the task force, and then the task force chaired by Senators Hannon and Meier gave us the opportunity to hear testimony that, quite frankly, changed my view of this situation.

I was very skeptical about the Medicaid inspector general's office. I thought it was just creating a new agency where we already have too many conflicting agencies. But hearing the testimony at the hearings made me a convert.

I also think that it is -- you know, people working together can produce new ideas. I do think that we all -- there's

enough credit to go around for all the new ideas that are coming here.

But I would again like to emphasize the fact that the proposal to clarify the healthcare laws, make it easier to investigate and prosecute Medicaid fraud that was in Senator Sampson's amendment, really came out of a dialogue when we were talking representative of Attorney General Spitzer's office at one of the hearings.

So we're moving this process forward. I do think there is further room for improvement. In addition to the issues discussed related to the amendment, the one thing that I think is very, very important as we move forward with this is that I do think the false claims act provision in this draft of the legislation needs some improvement.

We need to provide an incentive for whistle-blowers to report Medicaid fraud to the authorities. Such a provision would allow New York to retain an additional 10 percent in Medicaid fraud recoveries, based on federal legislation signed in January.

This bill before us now does not

meet that requirement because it does not have the "qui tam" provision in it. It doesn't provide the incentive that is required. And I believe there is a bill in the Assembly that does provide it.

Interestingly enough, I don't know that I've ever seen this since I've been in the Senate, the Assembly bill actually has tougher penalties than the Senate bill, so this is -- maybe there was a mistake or something like that. But the civil penalties in the Assembly bill are actually a little higher.

So having said that, I do think we want a false claims act that enables us to keep the extra 10 percent provided by federal law. We do want to give an incentive for people to come forward and to recover funds and assist in the recovery of funds.

But having said that, I think this bill does go a long way to getting us there. I also was very impressed by the reports coming from Texas.

And let me emphasize one other thing. The task force is called the task

force on Medicaid fraud. But we learned in the hearings, what I learned is we're talking about a lot of things that are not just fraud. There's a lot of waste and abuse that also could be prevented under a Medicaid inspector general system.

Some of the money that is recovered in Texas, and it's 5 percent, has to do with things as basic as ensuring that third-party insurers who could reimburse the state reimburse the state. I mean, it's sort of -- at some points it can be almost a little embarrassing that we're not taking these basic steps in New York.

But I know that this legislation is an effort to, as Senator Sampson said, seal this off, deal with issues of fraud, but also just deal with issues of the neglect and waste and a failure to collect money that is due and owing.

So this is a comprehensive approach, and I'm happy to report that I've dropped my earlier objection to this vision of an inspector general's office. I thank my colleagues for educating me -- gently at

times, sometimes not. And I think that -- but at least, you know, we're giving each other five-finger waves, which is better than waves with fewer fingers, which sometimes happens in this house.

So I appreciate the leadership of my colleagues on the other side of the aisle on this. I'm proud to vote for this bill. I do think there are some improvements to make, but I think we're moving things along in this critical area very rapidly through this process of the task force.

Thank you, Madam President.

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

Senator Hannon.

SENATOR HANNON: Thank you, Madam President.

Conversions are always welcome.

And one other gentle piece of education: The task force's name is Medicaid reform, not Medicaid fraud. And we've been doing it since 2003, we've been doing it on a bipartisan basis. Senator Paterson was a member.

To the extent we have fraud today, that's an essential thing to root out. To the extent we've focused before on changing the system, making it more than paying bills, making it deliver healthcare in an efficient way, making it deliver healthcare in an economical way, we've been doing that. There are still provisions for improving on the reform itself in the budget, and we think there's a comprehensive way.

Today, it's essential to focus on the fraud that needs to be rooted out. And I'm glad that Senator Skelos has pointed us in that direction and given us the leadership.

Thank you, Madam President.

THE PRESIDENT: The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Ayes, 58. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Wright, that completes the reading of the calendar.

SENATOR WRIGHT: Thank you, Madam President.

I was absent from the chamber on personal family business when the vote was taken on the following bills yesterday: Calendar Number 496 through Calendar Number 503, Senate 6454B through Senate 6463.

I would like the record to reflect had I been present, I would have voted in favor of each of the aforementioned bills.

THE PRESIDENT: The record will so reflect the votes.

Senator Wright.

SENATOR WRIGHT: Is there any further business at the desk?

THE PRESIDENT: No, Senator.

SENATOR WRIGHT: If you would recognize Senator Krueger, please.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I believe I have a motion at the desk. I'd like to waive reading and speak on my motion.

THE PRESIDENT: The reading is so waived. You may speak on the petition.

SENATOR LIZ KRUEGER: Thank you, Madam President.

I rise today to speak on Bill S2735, my bill to repeal the Urstadt Law.

Last week in New York City I attended a New York City Council hearing, chaired by Councilmember Erik Martin Dilan, the son of our colleague here in the Senate. And this hearing was to involve the City of New York's decision to follow through yet again with a bill that we expect that they will pass on March 22nd, a home-rule bill calling for the State Legislature to repeal a law called the Urstadt Law.

The basis for the City Council's decision on this, as I believe they will pass on March 22nd -- that's the City Council has advised me -- is a recognition that New York

City continues to have a housing crisis. And in fact, they've passed a resolution --

THE PRESIDENT: If the members would take their conversations out of the chamber.

If you'd wait a minute, please, Senator, for order.

SENATOR LIZ KRUEGER: Thank you.

THE PRESIDENT: You may proceed.

SENATOR LIZ KRUEGER: Thank you so much, Madam President.

The City Council has passed a Resolution Number 79 recognizing that an emergency requiring rent control and regulation in the City of New York continues to exist and will continue to exist on and after April 1, 2006.

They have followed through acting by the mayor on a Housing and Vacancy Survey Report from the year 2005, with initial results being released to the City Council on March 3rd documenting the continuing and growing crisis of inadequate housing for the people of New York City.

Again, I want to emphasize the City

of New York recognizes that it is in a housing crisis requiring the continuation of rent regulation and tenant protections.

The findings of the 2005 Housing and Vacancy Survey again prepared with the U.S. Census Bureau and the city's Housing and Preservation Department, at the --

THE PRESIDENT: I'm going to again ask for order so the Senator can be heard. Please, let's wait until the chamber is quiet. I'm asking for order, please, in the chamber so the speaker can be heard.

All right. You may proceed, Senator.

SENATOR LIZ KRUEGER: Thank you very much, Madam President.

Again, the 2005 Housing and Vacancy Survey, which is done in a collaboration between the U.S. Census Bureau and the New York City Housing Preservation and Development Department, has found yet again that the City of New York is in a housing crisis.

The initial results from the 2005 survey find that rent-controlled units have

dropped by 16,000 since the last survey three years earlier, or by 27 percent. There are only 43,000 rent-controlled units left in the City of New York. That there are 1,044,000 rent-stabilized units, comprising 50 percent of the rental stock in 2005 in New York.

That the vacancy rate for low-rent units is extremely low. The vacancy rate in 2005 for units with monthly rents of less than $500 per month was just 1.38 percent of the units available.

Vacancy rates for units with asking rent levels between $500 and $799 per month were just above 2 percent. And the numbers continue to a disturbing rate of less than 3 percent vacancy -- excuse me, 3.09 percent vacancy of units in the city of New York.

In that same 2005 Housing and Vacancy Survey, we found that the median income of renter households was just $32,000 in 2004, a real income decrease of 5.6 percent since three years earlier. In rent-stabilized units, the median income was $32,000, an 8.6 decline from 2004 after inflation adjustment. The median monthly contract rent

of rent-stabilized units was $844 in 2005, an 8.2 percent increase in the last three years. And the monthly gross rents between $500 and $799 per month and between $800 and $999 per month decreased by 16.2 percent in the last three years.

The tenants of New York City do not have alternatives. They do not have additional apartments to go to. They cannot afford the rents that they are living with. And the fact is that until the State of New York repeals this Urstadt Law passed in 1971, the City of New York's hands are tied to come up with housing policies that make sense for the City of New York.

Prior to 1971, New York City had home rule over our rent and eviction and tenant protections covering these more than 1 million rent-regulated and rent-controlled apartments. In 1971, home rule was taken away by the Urstadt Law pushed by Governor Nelson Rockefeller. Since then, this legislative body has repeatedly weakened the rent laws, particularly in 1997 and in 2003. And not surprisingly, the housing crisis in New York

City has worsened since we took those actions starting in '97.

Again, our vacancy rate is just 3 percent, and just over 1 percent for units at the $500 per month level. I would dare to challenge any of my colleagues from anywhere else in the state to look at the numbers for affordable units in their own districts and see if they were at a 1 percent vacancy rate for affordable housing.

This rent hardship is afflicting everyone in the City of New York, regardless of income, because the pressures are so extreme on housing and the ability to hold on to housing. Poor New Yorkers are disproportionately affected, middle-class households alike, and senior citizens, I would argue, disproportionately, because they do not have alternative housing options and they are living on fixed incomes, trying to stay in the homes that they have been in now for 30 and 40 and even 50 years.

The workers of New York City cannot afford to live in our city. Our firefighters, our nurses, our teachers, our police officers,

our construction workers, our artists, thousands of New Yorkers can no longer live in the community that they serve. And the fact is that the growing crisis of housing at the lowest end of income has directly correlated to the increased number of homeless families in the city of New York.

As families are forced out of their homes, rents are frequently increased to exorbitant levels, contributing to an even tighter housing market, reflecting the differences between the 2002 house vacancy survey and the 2005 housing vacancy survey data I just read from. The rent guidelines board has found that we are losing more units than we gain, both in rent-regulated and in other housing, because the City of New York cannot control its own destiny in housing.

Yes, there are housing problems throughout the state of New York. There are different solutions in different localities. Home-rule bills come to this house on a regular and continuing basis. I would even argue that it has been a bedrock philosophy of many in the Republican Party to actively

advocate for and recognize home rule, that when a locality comes to the State Legislature and says "We need a change in the laws because we need it at home, at our local level, because we recognize, the local legislative body, what is in the best interests of our county, our town, or our municipality," it is often the Republicans in this Senate who argue in recognition of the importance of home rule.

And yet, year after year, the Assembly passes repeal of the Urstadt Law. New York City's local government asks us for home rule, as they will do again on March 22nd of this year, they will ask us to give the City of New York the ability to make its own housing policies, to determine its own future in housing.

I urge my colleagues, finally, give New York City home rule over its housing policies. Perhaps the crisis won't go away overnight, but allow local government, affecting the lives of almost 9 million New Yorkers, to have the ability and power to make their own determinations over housing policy and land use policy and tenant

protections in the five boroughs of New York City.

I urge my colleagues to support me in moving this motion and ultimately in passing this law in the Senate.

Thank you very much, Madam President.

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

The Secretary will announce the results.

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

THE PRESIDENT: The petition is not agreed to.

Senator Wright.

SENATOR WRIGHT: Thank you, Madam President.

There being no further business to

come before the Senate, I move we adjourn until Wednesday, March 15th, at 11:00 a.m.

THE PRESIDENT: On motion, the Senate now stands adjourned until Wednesday, March 15th, 11:00 a.m.

(Whereupon, at 3:00 p.m., the Senate adjourned.)