

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

1 P R O C E E D I N G S

2 THE PRESIDENT: The Senate will
3 please come to order.

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

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

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

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

14 THE PRESIDENT: Reading of the
15 Journal.

16 THE SECRETARY: In Senate,
17 Monday, March 13, the Senate met pursuant to
18 adjournment. The Journal of Sunday, March 12,
19 was read and approved. On motion, Senate
20 adjourned.

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

24 Presentation of petitions.

25 Messages from the Assembly.

1 Messages from the Governor.
2 Reports of standing committees.
3 Reports of select committees.
4 Communications and reports from
5 state officers.

6 Motions and resolutions.

7 Senator Little.

8 SENATOR LITTLE: Thank you, Madam
9 President.

10 On behalf of Senator Marcellino, on
11 page 7 I offer the following amendments to
12 Calendar Number 93, Senate Print 1485B, and
13 ask that said bill retain its place on the
14 Third Reading Calendar.

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

18 SENATOR LITTLE: Thank you.

19 THE PRESIDENT: Senator
20 Stachowski.

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

1 clause: Senate 6946.

2 THE PRESIDENT: So ordered.

3 Senator Skelos.

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

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

10 (Response of "Aye.")

11 THE PRESIDENT: Opposed, nay.

12 (No response.)

13 THE PRESIDENT: The Resolution
14 Calendar is so adopted.

15 Senator Skelos.

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

20 THE PRESIDENT: The Secretary
21 will read.

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

1 Awareness Month in the State of New York.

2 THE PRESIDENT: Senator Skelos.

3 SENATOR SKELOS: Move we adopt
4 the resolution.

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

8 (Response of "Aye.")

9 THE PRESIDENT: Opposed, nay.

10 (No response.)

11 THE PRESIDENT: The resolution is
12 adopted.

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

16 Senator Skelos.

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

20 THE PRESIDENT: The Secretary
21 will read.

22 THE SECRETARY: Calendar Number
23 92, by Senator Marcellino, Senate Print 632A,
24 an act to amend the Environmental Conservation
25 Law, in relation to management of wildlife

1 resources.

2 THE PRESIDENT: Read the last
3 section.

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

6 THE PRESIDENT: Call the roll.
7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 40.

9 THE PRESIDENT: The bill is
10 passed.

11 THE SECRETARY: Calendar Number
12 203, by Senator Farley, Senate Print 3110B, an
13 act to amend the Public Authorities Law, in
14 relation to the construction and financing.

15 THE PRESIDENT: Read the last
16 section.

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

19 THE PRESIDENT: Call the roll.
20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 40.

22 THE PRESIDENT: The bill is
23 passed.

24 THE SECRETARY: Calendar Number
25 279, by Senator Farley, Senate Print 4039, an

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

3 THE PRESIDENT: Read the last
4 section.

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

7 THE PRESIDENT: Call the roll.
8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 40.

10 THE PRESIDENT: The bill is
11 passed.

12 THE SECRETARY: Calendar Number
13 328, by Senator Golden, Senate Print 6624A, an
14 act to amend the Retirement and Social
15 Security Law, in relation to presumptive
16 eligibility.

17 THE PRESIDENT: Read the last
18 section.

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

21 THE PRESIDENT: Call the roll.
22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 40.

24 THE PRESIDENT: The bill is
25 passed.

1 THE SECRETARY: Calendar Number
2 341, by Senator Little, Senate Print 6388B, an
3 act to amend the Tax Law, in relation to
4 authorizing the County of Essex.

5 THE PRESIDENT: Read the last
6 section.

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

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

11 Call the roll.

12 (The Secretary called the roll.)

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

15 THE PRESIDENT: The bill is
16 passed.

17 THE SECRETARY: Calendar Number
18 403, by Senator Meier, Senate Print 2487, an
19 act to amend the Domestic Relations Law, in
20 relation to notification.

21 THE PRESIDENT: Read the last
22 section.

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

25 THE PRESIDENT: Call the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 40.

3 THE PRESIDENT: The bill is
4 passed.

5 THE SECRETARY: Calendar Number
6 413, by Senator Alesi, Senate Print 5494, an
7 act authorizing the Town of Chili to
8 discontinue.

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

11 Read the last section.

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

14 THE PRESIDENT: Call the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 40.

17 THE PRESIDENT: The bill is
18 passed.

19 THE SECRETARY: Calendar Number
20 408, by Senator Nozzolio, Senate Print 516, an
21 act to amend the General Municipal Law, in
22 relation to participants.

23 THE PRESIDENT: Read the last
24 section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 THE PRESIDENT: Call the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 40.

5 THE PRESIDENT: The bill is
6 passed.

7 THE SECRETARY: Calendar Number
8 416, by Senator Volker, Senate Print 6227, an
9 act to amend the Local Finance Law, in
10 relation to sale of bonds and notes.

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

13 Read the last section.

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

16 THE PRESIDENT: Call the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 40.

19 THE PRESIDENT: The bill is
20 passed.

21 THE SECRETARY: Calendar Number
22 431, by Senator Maltese, Senate Print 6797, an
23 act to amend Chapter 350 of the Laws of 2002
24 amending the Labor Law and others.

25 THE PRESIDENT: Read the last

1 section.

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

4 THE PRESIDENT: Call the roll.
5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 40.

7 THE PRESIDENT: The bill is
8 passed.

9 THE SECRETARY: Calendar Number
10 504, by Senator Skelos, Senate Print 6872A, an
11 act to amend the Public Health Law, in
12 relation to establishing.

13 SENATOR SCHNEIDERMAN: Lay it
14 aside.

15 THE PRESIDENT: The bill is laid
16 aside.

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

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

22 THE PRESIDENT: The Secretary
23 will read.

24 THE SECRETARY: Calendar Number
25 504, by Senator Skelos, Senate Print 6872A, an

1 act to amend the Public Health Law.

2 SENATOR SCHNEIDERMAN:

3 Explanation.

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

6 SENATOR SKELOS: Thank you very
7 much, Madam President.

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

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

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

1 we were the model for the rest of the nation.

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

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

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

1 Attorney General's office has been collecting
2 about \$35 million. And since our initiative
3 began last year, they have upped it to about
4 \$200 million.

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

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

1 healthcare.

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

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

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

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

1 that was the directive.

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

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

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

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

1 15 percent would go to the county, half each
2 to the district attorney's office for their
3 expenses and half to the county that they
4 could use for property tax reductions.

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

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

23 Is that sufficient?

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

1 THE PRESIDENT: Senator Sampson.

2 SENATOR SAMPSON: Madam

3 President, I have an amendment at the desk. I
4 ask that reading be waived and that I be heard
5 on the amendment.

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

9 SENATOR SAMPSON: Thank you very
10 much, Madam President.

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

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

25 And the amendment, which is called

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

6 (Laughter.)

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

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

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

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

25 The third thing I think which is

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

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

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

20 Thank you very much, Senator
21 Skelos.

22 Madam President, thank you.

23 THE PRESIDENT: Senator Skelos.

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

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

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

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

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

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

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

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

10 (Laughter.)

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

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

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

1 people on the petition.

2 SENATOR SAMPSON: Thank you very
3 much, Senator Skelos.

4 THE PRESIDENT: Senator Hannon.

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

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

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

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

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

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

8 Senator Schneiderman, first.

9 SENATOR SCHNEIDERMAN: Thank you,
10 Madam President.

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

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

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

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

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

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

1 securities fraud prosecution.

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

10 Thank you, Madam President.

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

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

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

23 Senator Rath, on the bill.

24 SENATOR RATH: Thank you, Madam
25 Chairman.

1 This house traditionally -- for the
2 last several years, at any rate, if that's
3 tradition -- has been very strong and firm in
4 their interest in seeing Medicaid reform.

5 Several years ago, at the conclusion of the
6 Medicaid task force, which was attended by
7 many of the members in the Democrat Minority,
8 and who really added a great deal to it, the
9 bill went almost unanimously. But it was an
10 omnibus bill, and we knew at that time that
11 there were going to have to be pieces of it
12 that were picked apart and individual kinds of
13 items that had to be addressed.

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

20 I might call your attention to
21 today the front page of several of the
22 national newspapers that are pointing out
23 there is a historic growth in federal social
24 programs -- most importantly Medicaid, a
25 17 percent rise in enrollment over the last

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

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

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

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

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

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

3 Thank you.

4 THE PRESIDENT: Senator Morahan.

5 SENATOR MORAHAN: Thank you,
6 Madam President.

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

11 They are budget-busters at the
12 local level. Last year and the year before,
13 we heard continuously from our county
14 executives, those who had to pay their share
15 of the bill. In Rockland County alone, it was
16 \$44 million, a substantial amount of money for
17 a county that size.

18 And Rockland County got involved
19 through the Association of the Counties and
20 worked out an arrangement with IBM and
21 perfected a database that would go over all
22 their Medicaid bills, according to the
23 regulations, and match suppliers and
24 providers. And they found a minimum of
25 10 percent, which is over \$4 million for that

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

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

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

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

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

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

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

20 THE PRESIDENT: Senator
21 Marcellino, on the bill.

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

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

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

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

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

18 If we were to return, just as
19 Senator Skelos indicated, just \$2.3 billion,
20 5 percent, that's not a huge amount in the
21 scheme of things, but it is a lot of money if
22 we can put it back into people's pockets. Cut
23 taxes, cut the cost of going to the doctor.

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

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

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

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

25 And I think Senator Skelos again is

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

3 THE PRESIDENT: Senator
4 Schneiderman.

5 SENATOR SCHNEIDERMAN: Thank you,
6 Madam President.

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

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

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

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

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

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

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

25 This bill before us now does not

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

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

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

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

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

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

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

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

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

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

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

13 Thank you, Madam President.

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

16 Senator Hannon.

17 SENATOR HANNON: Thank you, Madam
18 President.

19 Conversions are always welcome.

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

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

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

15 Thank you, Madam President.

16 THE PRESIDENT: The debate is
17 closed.

18 The Secretary will ring the bell.
19 Read the last section.

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

22 THE PRESIDENT: Call the roll.

23 (The Secretary called the roll.)

24 THE PRESIDENT: The Secretary
25 will announce the results.

1 THE SECRETARY: Ayes, 58. Nays,

2 1. Senator Duane recorded in the negative.

3 THE PRESIDENT: The bill is
4 passed.

5 Senator Wright, that completes the
6 reading of the calendar.

7 SENATOR WRIGHT: Thank you, Madam
8 President.

9 I was absent from the chamber on
10 personal family business when the vote was
11 taken on the following bills yesterday:
12 Calendar Number 496 through Calendar Number
13 503, Senate 6454B through Senate 6463.

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

17 THE PRESIDENT: The record will
18 so reflect the votes.

19 Senator Wright.

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

22 THE PRESIDENT: No, Senator.

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

25 THE PRESIDENT: Senator Krueger.

1 SENATOR LIZ KRUEGER: Thank you,
2 Madam President.

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

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

8 SENATOR LIZ KRUEGER: Thank you,
9 Madam President.

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

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

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

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

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

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

8 SENATOR LIZ KRUEGER: Thank you.

9 THE PRESIDENT: You may proceed.

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

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

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

25 Again, I want to emphasize the City

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

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

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

13 All right. You may proceed,
14 Senator.

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

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

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

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

7 That the vacancy rate for low-rent
8 units is extremely low. The vacancy rate in
9 2005 for units with monthly rents of less than
10 \$500 per month was just 1.38 percent of the
11 units available.

12 Vacancy rates for units with asking
13 rent levels between \$500 and \$799 per month
14 were just above 2 percent. And the numbers
15 continue to a disturbing rate of less than
16 3 percent vacancy -- excuse me, 3.09 percent
17 vacancy of units in the city of New York.

18 In that same 2005 Housing and
19 Vacancy Survey, we found that the median
20 income of renter households was just \$32,000
21 in 2004, a real income decrease of 5.6 percent
22 since three years earlier. In rent-stabilized
23 units, the median income was \$32,000, an
24 8.6 decline from 2004 after inflation
25 adjustment. The median monthly contract rent

1 of rent-stabilized units was \$844 in 2005, an
2 8.2 percent increase in the last three years.
3 And the monthly gross rents between \$500 and
4 \$799 per month and between \$800 and \$999 per
5 month decreased by 16.2 percent in the last
6 three years.

7 The tenants of New York City do not
8 have alternatives. They do not have
9 additional apartments to go to. They cannot
10 afford the rents that they are living with.
11 And the fact is that until the State of
12 New York repeals this Urstadt Law passed in
13 1971, the City of New York's hands are tied to
14 come up with housing policies that make sense
15 for the City of New York.

16 Prior to 1971, New York City had
17 home rule over our rent and eviction and
18 tenant protections covering these more than
19 1 million rent-regulated and rent-controlled
20 apartments. In 1971, home rule was taken away
21 by the Urstadt Law pushed by Governor Nelson
22 Rockefeller. Since then, this legislative
23 body has repeatedly weakened the rent laws,
24 particularly in 1997 and in 2003. And not
25 surprisingly, the housing crisis in New York

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

3 Again, our vacancy rate is just
4 3 percent, and just over 1 percent for units
5 at the \$500 per month level. I would dare to
6 challenge any of my colleagues from anywhere
7 else in the state to look at the numbers for
8 affordable units in their own districts and
9 see if they were at a 1 percent vacancy rate
10 for affordable housing.

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

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

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

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

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

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

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

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

1 protections in the five boroughs of New York
2 City.

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

6 Thank you very much, Madam
7 President.

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

11 The Secretary will announce the
12 results.

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

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

22 Senator Wright.

23 SENATOR WRIGHT: Thank you, Madam
24 President.

25 There being no further business to

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

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

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

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25