NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 2, 2006

3:06 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, May 1, the Senate met pursuant to adjournment. The Journal of Sunday, April 30, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Golden, on page number 13 I offer the following amendments to Calendar Number 44, Senate Print Number 5756A, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Young moves to discharge, from the Committee on

Investigations and Government Operations, Assembly Bill Number 9871 and substitute it for the identical Senate Bill Number 6631, Third Reading Calendar 344.

THE PRESIDENT: The substitution is ordered.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar, with the exception of Resolution 4887.

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 Number 4887, have the title read, move for its immediate adoption, and open it up for cosponsorship.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator

Maltese, Legislative Resolution Number 4887, commemorating the 58th anniversary of independence of the State of Israel and paying tribute to Prime Minister Ehud Olmert.

THE PRESIDENT: All in favor of 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: Madam President, there's a privileged resolution, 4940, at the desk by Senator DeFrancisco. If we could have it read in its entirety, move for its immediate adoption, and then open it up for cosponsorship.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number

4940, mourning the untimely death of New York State Trooper Craig J. Todeschini.

"WHEREAS, It is the sense of this Legislative Body to convey its grateful appreciation and heartfelt regret in recognition of the loss of a courageous police officer who dedicated his purposeful life and career in faithful service to his family, community, and the New York State Police Department; and

"WHEREAS, 25-year-old Craig J. Todeschini was tragically taken from us on Sunday, April 23, 2006, while performing his duties as a member of the New York State Police. At the time, he was trying to apprehend a speeding motorist; and

"WHEREAS, Craig J. Todeschini was a 1999 graduate of West Genesee High School. He attended Onondaga Community College, where he graduated with an associate's degree in criminal justice. He then went on to proudly serve with the New York State Police. He was first stationed in Malone and then Hastings. He was most recently assigned to Lafayette, New York; and

"WHEREAS, Craig J. Todeschini proved from an early age that he was dedicated to public service. He first exhibited this interest as a member of an Explorer Post at the Camillus Fire Department. Later, he joined the Taunton Fire Department as a Junior Firefighter, where he became a full-time volunteer when he turned eighteen; and

"WHEREAS, He ended his service at Taunton when he moved to Solvay in 2003. There, he joined the Solvay Fire Department, where he became a lieutenant; and

"WHEREAS, He followed in his father's footsteps when he chose law enforcement as his life's work. His father, Jim Todeschini, is a retired police officer, having served with the Town of Geddes Police Department; and

"WHEREAS, Those who knew him best describe Trooper Todeschini as a 'Trooper's Trooper.' According to a superior, everyone that worked alongside of Trooper Todeschini had nothing but praise for him. Among his many attributes, he took his job seriously, was dedicated to all who needed his help, and

had unsurpassed compassion; and

"WHEREAS, Thousands of individuals, in and out of law enforcement, some of whom knew Trooper Todeschini and many of whom did not, paid tribute to him in the days following his tragic death. That so many did so and stood for hours to pay their respects speaks volumes about what a fine and promising young family man and professional man he was. His loss has been deeply felt by many; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the untimely death of New York State Trooper Craig Todeschini, knowing that he has forever left a void in the hearts and minds of those he loved and those he touched, and to convey its sincere condolences to his wife, Kristi; his stepson, Tyler; his parents, Jim and Cindy Todeschini; his sister, Lindsay, and his many other family members; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to Mrs. Kristi Todeschini and her family."

THE PRESIDENT: Senator

DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Madam President.

I rise to speak on this resolution about the tragic circumstances surrounding the death of Trooper Todeschini. He was 25 years old -- 25 years old. I'm looking at the resolution, and it talks about his graduation in 1999 from high school.

I mean, it's just unbelievable. We were here a few weeks ago on West Point Day to mourn the death of Tim Moshier, also a 25-year-old, who was killed in Iraq who was a recent graduate of West Point. You know, it's a shame that we're here on these occasions so frequently.

This young man was chasing a speeding motorcyclist. And there's a group apparently in our area that thinks this is fun; they even have a website that tells how to try to outrace police officers. It's sort of like a game, and they give instruction as to the best way to play this game. Well, this trooper was trying to apprehend that individual, lost control of his car, hit a

tree and is now dead.

I went to the funeral services last week, and Governor Pataki was there, Eliot Spitzer was there, others were there. Thousands of troopers came from all over the United States, law enforcement officials. And I even saw one, a highway patrolman, from California. Thousands of people.

He also was a volunteer fireman, which was -- made it equally attended by volunteer firefighters from throughout the area and in some cases out of state.

And Trooper Todeschini was a fine young man. He left, surviving him, his wife, who was eight months pregnant. I mean, how much more tragic can you possibly have a situation.

Which is what troopers, what law enforcement officials, what members of the military go through every day of the week, not knowing what the next day is going to bring.

His mother spoke at this proceeding. And there was the Superintendent of Troopers, and there was Governor Pataki, all dignitaries spoke. But his mother spoke;

I don't know how she did it. And her message was a positive message, Cindy Todeschini. Her message was basically we have to respect each other. These things don't happen if you simply have respect.

And unfortunately, this was not the situation which led to this individual's death.

Last year the Senate passed a bill sponsored by Senator Alesi -- it didn't pass the Assembly -- which would increase the penalties for irresponsible human beings who try to avoid being stopped by law enforcement officials that place the law enforcement officials' lives in jeopardy. We're going to be -- that particular bill was passed through the Codes Committee today and no doubt will be at the floor very soon. There may be other bills that arise from it.

But I guess the message is this. You know, somehow we've got to make sure that individuals realize the seriousness of these offenses so these tragic deaths don't happen again.

So to Officer Todeschini's

survivors, to his soon-to-be-born child, you know, we're doing everything we can in this Legislature to try to make the streets safe. And our sympathies go out to all of you. And we truly mourn the death of this wonderful young man whose future, bright future was cut off so short by a very, very irresponsible action.

So thank you for hearing of this in this Senate chamber, and I offer the resolution for cosponsorship to anyone who chooses to be.

And we'll assume, Madam Chairman, if it's okay with you, that if you don't want to be on the resolution, to notify the chair. Otherwise, you will be a cosponsor.

Thank you.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Madam President, I just want to say quickly -- thank Senator DeFrancisco for this resolution.

And as he said, we just reported a bill today and I expect we will probably pass it next week. We are going to try very, very hard to get the Assembly to agree to a bill.

There have been a number of these types of bills relating to chases.

I agree with what Senator DeFrancisco said. Unfortunately, I don't think a lot of people realize the dangers that are involved in some of these chases. And I always laugh at reading in the paper there should be a policy and all this stuff. Well, if anybody has ever been involved in these -- and I have. I was involved in a lot of chases when I was a police officer, for lots of reasons.

And I can tell you, you can have all the policies in the world, but when you're involved in a high-speed chase, you've got to make split-second decisions and sometimes you make the wrong decisions. And unfortunately for this trooper, one way or another -- and he was driving a fairly good-sized vehicle, by the way. But it doesn't matter. When you're driving fast, things can happen.

I must tell one quick story to people that don't think you should chase people. A good friend of mine was a police officer in Tonawanda, New York, many years

ago, on New Year's Eve, and he was chasing a car that eventually reached speeds of 110 miles an hour. He stopped chasing him, saying it was too dangerous. The car went on for two miles and hit a car at an intersection and killed two elderly people.

The reason I say that, now the person that was in the car lived, which is unfortunately -- I don't mean unfortunately -- but the drunk driver he was chasing. But it taught a lesson to a lot of us. And that is you can say disengage chases, but that doesn't mean that that person is going to slow down. In fact, we always took the position that if there's any way you can get somebody, get them before they kill somebody else.

So I just want to say that this is another incident of one of our finest, the New York State Police, giving his life in an attempt to keep things in this state under control. And we should never forget that it doesn't have to be criminal activity as such -- in other words, with a gun or drugs or whatever -- that can bring down and kill a person, but merely things that appear to be

innocent but they're not innocent.

And the family of this police officer -- from what I understand, a wonderful family -- is without a child. And I can only say that he will never be forgotten. And very shortly, by the way, in the memorial, police memorial, he will be there on the memorial. In fact, next week, Tuesday. And I remind everybody of that also.

Thank you.

THE PRESIDENT: All in favor of 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 resolution please notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

And the Senate will stand at ease pending the return of the report.

THE PRESIDENT: There will be an immediate meeting of the Finance Committee in the Majority Conference Room, and the Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:19 p.m.)

(Whereupon, the Senate reconvened at 3:34 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MORAHAN: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees for the Finance report at this time.

ACTING PRESIDENT MORAHAN: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Johnson, from the Committee on Finance, reports the following nomination.

As Secretary of State, Christopher L. Jacobs, of Buffalo.

ACTING PRESIDENT MORAHAN: We recognize Senator Johnson to move the nomination.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT MORAHAN: Senator Johnson moves the nomination.

Senator Volker.

SENATOR VOLKER: Mr. President, may I speak just for a second.

ACTING PRESIDENT MORAHAN: Did you say to second?

SENATOR VOLKER: Yes, I'm seconding. Yes, thank you, Mr. President.

I just want to say that Chris Jacobs has been a friend of mine for many, many years, his entire family. His mother was a SUNY Board of Trustees member, the distinguished Pamela Jacobs. His father was one of the most distinguished doctors and researchers in this state, Dr. Larry Jacobs, who died several years ago, one of the real towering experts in multiple sclerosis.

I believe Christopher probably is one of the youngest secretaries of state. But

I have to tell everyone that he's had a very long and experienced period in Buffalo and Western New York. He's been involved in a lot of not only community activities, but areas where he has showed his expertise and his understanding of human principles and of management. There's no question in my mind that he'll make an excellent secretary of state.

And we have had, by the way, some wonderful secretaries of state over the years, including the father of the Minority Leader, who I knew very well many years ago, Basil Paterson. So he follows in the footsteps of giants.

And I'm sure that, although he may not be a giant yet, but he certainly is going to be one of the real fine secretaries of state in this country.

And congratulations, Chris.

ACTING PRESIDENT MORAHAN: Senator Rath.

SENATOR RATH: Thank you, Mr. Chairman. I rise, along with Senator Volker, to second the nomination of Chris Jacobs for

New York State Secretary of State.

Chris I have known for a long time; he's a friend of my son's and a whole group of young men in Buffalo who are taking on a mantle of leadership in Western New York. And to have Chris Jacobs to be nominated and be able to serve in this position will be a shining example for young people that there are opportunities to serve.

Chris is experienced, as Senator Volker has said to you about his family. I would add another one that maybe Chris might be surprised I would remember, but his grandfather, Tom Ryan, was the sheriff of Erie County and served with great deal of distinction many years ago. There is a tradition of leadership in the Jacobs family.

Chris's own resume will point out to you all of the honors and distinctions that he has had in his relatively short career. And one of the greatest that I will always recall is the BISON Scholarship Fund, which attracts and develops funds and resources for scholarships for inner-city children.

So I'm very pleased that the

Governor has made this nomination, and I'm very proud to second it.

ACTING PRESIDENT MORAHAN: Senator Coppola.

SENATOR COPPOLA: Thank you, Mr. President.

It's always nice to see somebody not only from my district, from my city of Buffalo -- actually, from my neighborhood -- to succeed in a very prestigious position. Chris and I have known each other for about eight to 10 years now. We've grown to be friends. I supported him as an elected official of the school board in Buffalo. I think he's done a great job. And I'm happy to be able to support his nomination today.

And again, I say that Chris and I are good friends and I think this is a good position for him. I think he'll serve the state well, and I wish him luck in his new endeavor.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Coppola.

Senator Staz -- Stachowski.

SENATOR STACHOWSKI: Easy for you to say.

Mr. President, thank you very much. I too rise to second the nomination of Chris Jacobs.

Fortunately, I've known his family for quite some time. And I related it in the committee meeting that I wasn't sure what I was going to do about this nomination, having not heard from the nominee. But his mom called this morning and said what a wonderful job she thought Chris would do, and so I had no choice but to get up and support him.

And I'm proud to support his nomination, and I hope that he does as good a job as secretary of state as his mom did on the SUNY Board of Trustees.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

The question is on the nomination of Christopher L. Jacobs as Secretary of State. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Opposed, nay.

(No response.)

ACTING PRESIDENT MORAHAN: Christopher L. Jacobs is hereby confirmed as Secretary of State.

He is joined in the gallery today with his wife, Patti, and his stepson, Max Vitale.

Welcome, Mr. Secretary, and good health and best wishes for success. Thank you.

(Applause.)

ACTING PRESIDENT MORAHAN: Senator Skelos.

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

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 344, substituted earlier today by Member of the Assembly Parment, Assembly Print Number 9871, an act to amend the Tax Law.

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

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 527, by Senator Marchi, Senate Print 6772, an act to amend the Civil Service Law, in relation to credits allowed.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The

bill is passed.

THE SECRETARY: Calendar Number 650, by Senator Spano, Senate Print 7008, an act to amend the Penal Law and the Public Health Law, in relation to enacting Cynthia's Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 675, by Senator LaValle, Senate Print 5166, an act to authorize the Independent Group Home Living Program, Inc.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 676, by Senator Balboni, Senate Print 6781, an act authorizing the assessor of the County of Nassau.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 55. Nays,

1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 727, by Senator Seward, Senate Print 7040, an act in relation to legalizing, validating, ratifying and confirming certain actions.

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

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 754, by Senator Golden, Senate Print 2737, an act to amend the Executive Law, in relation to certain crime victim compensation.

ACTING PRESIDENT MORAHAN: Read

the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of January next succeeding.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 756, by Senator Farley, Senate Print 6397, an act in relation to affecting the health insurance benefits and contributions.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Senator Farley, to explain his vote.

SENATOR FARLEY: Just to explain my vote.

This is one of the most significant pieces of legislation we will pass this year. It is the number-one priority of the retired public employees. It's also a major priority of CSEA, PEF, NYSUT, AFSCME, the Alliance of Public Retired Organizations, the Retired Police Associations and Fire Associations, the Professional Police and Fire Retirees, the New York City Police Department.

Let me say something about this. This is the same legislation that we pass for the teachers every year that protects their health insurance when they retire. This bill has been passed by both houses, I think three years in a row. It's been vetoed every year.

Unfortunately, it's opposed by the officials of the New York City Police Department, pretty much, and -- because -- and also in the veto message it says that really they don't change this for retired employees. Untrue. I can name a couple of villages and towns where they have changed the health benefits for the retirees.

It's a piece of legislation that we've got to get signed this year. So I urge every one of my colleagues to energize and so forth to make sure that we get it signed this year, because it's unfair. There's nothing more important to a retiree than his health insurance, and this is something that is very, very significant.

There's almost no opposition to this anywhere, and there's no reason for this to be vetoed. And I'm going to personally contact the Governor, as I wish almost everybody in this chamber would.

It's a great piece of legislation, and I urge everybody to support it, as you have in the past. And I thank you for that.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Farley. You will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number

757, by Senator Spano, Senate Print 6441, an act to amend the Labor Law, in relation to requiring public employers.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 765, by Senator Larkin, Senate Print 2345A, an act to amend the Correction Law, the Criminal Procedure Law, and the Family Court Act.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 769, by Senator Saland, Senate Print 4757, an act to amend the Executive Law, in relation to payment of fees.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as Section 68 of Chapter 264 of the Laws of 2003.

ACTING PRESIDENT MORAHAN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 771, by Senator Alesi, Senate Print 6366, an act to amend the Correction Law and the Penal Law, in relation to barring sex offenders.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 776, by Senator Johnson, Senate Print 7277, an act to amend the Executive Law, in relation to requiring.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

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

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MORAHAN: Yes, Senator Skelos.

SENATOR SKELOS: If we could go to the controversial reading of the calendar and start off with Senator Larkin's bill, Calendar Number 765.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 765, by Senator Larkin, Senate Print 2345A, an act to amend the Correction Law, the Criminal Procedure Law, and the Family Court Act.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MORAHAN: Senator Larkin, an explanation has been

requested by Senator Duane.

SENATOR LARKIN: Senator Duane, this bill would require persons adjudicated as juvenile delinquents and youthful offenders for violent sex offenses to register pursuant to the Sex Offender Registration Act.

Unfortunately, today, as we look at the statistics that are developed for us in this area of criminal justice, there are more and more persons who have committed sexually violent offenses that are ages 13, 14 and 15.

In my district alone, just recently there was one individual who at the age of 14 committed a sexually violent offense. After being released and sent home, he committed the same offense in the same neighborhood in less than three months.

It is not a pleasure to have to introduce a bill like this. However, it is important that the community know of the existence of individuals, no matter what their age is, who reside in their communities that have a strong inclination to commit sexually violent offenses.

This bill is important because

children ages 13 to 15 who are covered by this bill tend to prey on persons of their own age. Hence, the bill attempts to protect our children in middle and junior high schools from violence committed by perpetrators who have been released into their communities.

ACTING PRESIDENT MORAHAN: Thank you, Senator Larkin.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. Would the sponsor, Senator Larkin, yield for a question or two?

SENATOR LARKIN: Yes, I will yield for one question, as she asked.

SENATOR MONTGOMERY: Oh, no, I said "or two." You'll yield for --

SENATOR LARKIN: Go ahead.

SENATOR MONTGOMERY: Okay, thank you.

Senator Larkin, you talked about -- I'm looking at your support memo and I didn't see it indicated here, but in your notes there you talked about that there were 13-year-olds and 14-year-olds in your district who had committed violent sexual acts.

SENATOR LARKIN: Yes. Yes.

SENATOR MONTGOMERY: Through you, Mr. President, would Senator Larkin continue to --

ACTING PRESIDENT MORAHAN: Senator Larkin, will you continue to yield?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR MONTGOMERY: Thank you, Mr. President.

Senator Larkin, did these children -- were they -- subsequent to being charged, were they sentenced at all to any punishment?

SENATOR LARKIN: Yes.

SENATOR MONTGOMERY: Thank you.

Mr. President, just one last question to Senator Larkin.

ACTING PRESIDENT MORAHAN: Senator Larkin, will you continue to yield?

SENATOR LARKIN: I do.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR MONTGOMERY: Yes, thank you.

Senator Larkin, I'm assuming that once the young people were -- they were sentenced, apparently they served their sentence and were released back into society. My question is, was there any process whereby the young person -- I'm assuming a 13-year-old is about the sixth grade, maybe the seventh grade, I'm not sure.

SENATOR LARKIN: They were seventh-graders.

SENATOR MONTGOMERY: Seventh-graders, okay.

So if they were a seventh-grader, my assumption is that they would have been reintegrated into the school environment as well as the community.

And so my question is, was there any process whereby the institution that they were sentenced to communicated with the school where they were returning, and what kind of program in your district is there or was there established to monitor and to continue to work with these young people, under the assumption

that they may have needed more treatment beyond the facility that they were being incarcerated in?

SENATOR LARKIN: I don't know all the mechanics of it, except that I know this. In this specific case that was brought to my attention, this individual was released to his community and he went back to school. They had said that over the past X months that they had done everything humanly possible to make sure. It was their assumption that he would go back to his community and maybe be good. And when I asked them, they said he could be bad.

The question here has to do not with how much we cater to these individuals, but how much are we going to do in order to protect the others? This is not an uncommon thing. You can look at all the criminal justice across the nation and you'll find out, as my good friend Dale Volker told me, you'll find out over and over that these are some of the toughest cases to handle. Because everybody takes an attitude of they didn't mean it, they'll never do it again. Well, we

know that they do.

And what we're saying here is that put them on a register. In some cases, it's my personal belief that this is the only way you're going to make them stand up and take notice.

SENATOR MONTGOMERY: Thank you, Senator Larkin.

ACTING PRESIDENT MORAHAN: Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, I would like to comment on the bill briefly.

ACTING PRESIDENT MORAHAN: On the bill.

SENATOR MONTGOMERY: Yes, thank you.

Senator Larkin indicates that, number one, he is not aware of there being a program which definitively -- because Senator Larkin's bill does not deal with the universe of sex offenders; it deals with 13-year-olds, 14-year-olds and 15-year-olds.

But he is not aware and I'm not aware, certainly, of a program that

specifically says if a 13-year-old or a 14-year-old is engaging in inappropriate sexual activities of any sort, that there is an indication at an early point, early enough point, I would hope, that we would identify that as a serious problem and would treat it as such.

And the treatment that I'm talking about is not necessarily and certainly not solely on the criminal justice system. But there needs to be, it seems to me, some way of dealing with this on the psychiatric, emotional level.

We don't have that. And even when the young person is incarcerated, charged and incarcerated, they come home to nothing. No treatment, no direct intervention in that young person's situation.

And so we have possibly a troubled child -- because these are children -- a troubled child who comes home from having been incarcerated for being sick, having mental issues. And what do they do? They come home to a community that doesn't either know or is not in a position to support them in any way.

So I think that is wrong. It's wrong for us to now say, as Senator Larkin implies, that how are we going treat this. Not giving them support, not giving them treatment. How are we going to treat this? We're going to put them in the registry. We're going to put 13-year-olds in the sex offender registry. That's what he wants to do.

That's his cure for children who obviously are demonstrating that there is something very wrong going on with them at an early age. And the only answer that Senator Larkin can come up with, Mr. President, is when they come back, let's put them in the registry. And then of course that's going to protect us and keep our children safe and take care of the problem.

So I just think with every good intention -- I know that Senator Larkin is looking for something. And certainly we all would like to see solutions. But it's very sad that the only solution that we always seem to be able to come up with is the criminal justice system.

So obviously I don't think the citizens in New York State are asking for this kind of solution for children who are clearly illustrating that there is something wrong. And it's very deeply emotional and mental, and we're not offering any other treatment.

So, Mr. President, I'm going to oppose this bill, as I have in the past, and I know that some of my other colleagues -- I ask my colleagues to join me in rejecting this program of criminalizing every child in our state.

I vote no.

ACTING PRESIDENT MORAHAN: Thank you, Senator Montgomery. You will be recorded in the negative.

Senator Volker.

SENATOR VOLKER: Mr. President, I just want to make a couple of comments.

We're not criminalizing anything. And by the way, they're not sent to the same facility. When you say a prison, it's really not a prison. These youth facilities are not exactly prisons.

The interesting question about

treatment is a fascinating one, because we're not sure exactly how to treat these people. Remember, there is treatment for young people. What he's saying is he's trying to protect the community, I assume at the same time there's some sort of treatment.

There's something I think you should understand, though. These children, as you call them -- there was one child, and I forget his name now -- killed 14 people by the time he was 14 years old. He admitted to beginning to kill people at 12. Now, that person, by the way, is now incarcerated in our system. They tried to bring him out to deal with his problems, they unhooked his bracelets, and he actually bit a bunch of people, he was so bitter.

Now, I don't know what treatment you would give this kind of a person. He's in jail, he's also in and out of the facilities that we have to try to treat people for problems. But simply because they're young and simply because they're apparently children doesn't mean that they may not be extremely violent and have problems.

What Senator Larkin is saying is that there should be some way of identifying these people to the community. Now, we certainly don't say that the only possibility is to go to the registry. But it is one of the ways that we protect other people.

One of the things we do know is this, that people in mental health are saying to us that people with these kinds of problems -- that is, sex abuse problems -- are not mentally ill, they're sick. That's what they tell us. Nobody is exactly sure what that means. What they mean is they don't respond to normal mental health treatment.

Which is why, by the way, this house is trying so hard to get through a civil confinement bill, a civil confinement bill that would allow us to put people who are not prepared to get out into the community into an intensive-supervision kind of situation, internally, with the best mental health people we can find to try to find out how we deal with these people.

So just because they may be young in age does not mean that they should be

allowed and the risks should be allowed to other people in the neighborhoods, in the schools, and so forth. Certainly we should treat them. And we've got to find better ways to treat these people. But we also have to watch out for the people that are out there in the streets. And I think that's why Senator Larkin has sponsored this bill.

ACTING PRESIDENT MORAHAN: Thank you, Senator Volker.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

If the sponsor would please yield to a question.

ACTING PRESIDENT MORAHAN: Senator Larkin, will you yield?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR LIZ KRUEGER: Thank you.

As I read your bill, it says that conviction includes any conviction of a juvenile offender for a sex offense or a

sexually violent offense would then fall under your law to be registered as a sex offender for the rest of their life.

What is the difference between a violent sex offender and a nonviolent sex offender? Because under your law, this would apply equally to children of 13 and 14 and 15, whether or not their charge was violent or defined as violent under the law.

I'm referencing Section 16, the first -- I guess it's lines 5, 6, 7, 8, 9, 10 on page 1 of your bill.

SENATOR LARKIN: Well, Senator Krueger, the statute defines what we're talking about. That's number one.

Number two, we passed this bill last year 57-4. We rattled on about this bill before, what it does and what it doesn't do.

For me, I look at 13 grandchildren in my home that we have. And if somebody is going to go out there and commits a violent sexual offense to one of my children, I will be outraged. And my whole community will be. But what I'm getting from your side of the aisle is first let's take care of the person

who committed the crime.

Thank you, Senator Smith, I will.

It's a very serious issue. I take it very serious. We have a responsibility in this chamber to make sure that we introduce and pass legislation for the public safety of our constituents.

This is a bill that says if these individuals commit that type of a crime, they will register. What are you so upset about them registering? I think Senator Volker covered it very clearly. I think if you look at the statute -- I'm not an attorney. You don't have to be an attorney to determine what you should do to protect the people of your district. To me, that's the end of it.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Larkin.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. I'll speak on the bill.

ACTING PRESIDENT MORAHAN: Senator Krueger, on the bill.

SENATOR LIZ KRUEGER: Thank you.

Well, I listened to Senator Volker and I listened to Senator Volker discussing someone who was a murderer. And certainly I have no disagreement with my concerns about letting murderers out on the street. I think he was actually referencing somebody who was a serial murderer starting at a young age. And I would assume that his discussion of what is mental illness or not probably correlates to questions about sociopathic behavior and serial murderers that start off young in life.

And, clearly, you are verbally and emotionally committed to your bill. My reason for my question between the difference between a violent sexual offense and a nonviolent sexual offense is I think that under the statute, and in our understanding, we might recognize that there are differences. That there are different standards of crimes for adults in the criminal code as there are different standards for penalties and treatment for youthful offenders because of the recognition that 13-, 14-, 15-year-olds may in fact be different than fully formed adults. And that there may be opportunities

for treatment and rehabilitation for many young people that perhaps are not available once they get beyond a certain age.

I think there's also a well-established history in our criminal code and in our criminal justice system of recognizing the responsibilities in bad behavior of adults versus youthful offenders.

So while I will not disagree with outrage at the community level or an individual level -- you referenced if they came after your own grandchildren, I believe -- that all of us would feel about the concept of a violent attack by any one of any age, I do have a problem with the fact that your bill is treating all sexual offenses as if they are violent offenses for purposes of lifelong registration in the sexual offender category.

We had earlier debates in this chamber over whether Levels 3, 2, and 1 sex offenders as adults ought to all be treated exactly the same when it came to lifetime and permanent registration with the sexual offender laws of this state. And I think

there was reasonable debate and disagreement about not all sex offenses are the same, even for adults, and that's why we established Levels 3, 2 and 1 in the law.

This bill doesn't address those differences and in fact says whether this is a violent sex offense or a nonviolent sex offense, even though you are 13, 14, 15 years old, we are going to give you the added penalty of being labeled a sexual offender for the rest of your life.

And to point out how right I believe Senator Montgomery was with her concerns about the absence of treatment, I would argue that if you look at the research and you see 13-, 14-, 15-year-olds committing sex offenses, while it may be true that some of the time we're talking about the kinds of sociopaths Senator Volker was describing when addressing murder, not sex offense, that often the research shows that you're talking about children who are coming out of homes where they have been sexually abused, and that in fact what we ought to be doing to stop this horrible cycle of violence and abuse that ends

up being generational in our communities is to rapidly intervene on behalf of young children who have been the victims of sexual abuse themselves and then unfortunately sometimes turn into abusers themselves.

That labeling for life doesn't necessarily protect our communities or our families, while intense intervention to avoid this cycle continuing and stopping the next generation who have been abused from becoming the abusers would be a far more valuable service to our communities.

So as I have voted against this bill before, I will vote against it today, because I do not believe it addresses the real problems when 13-, 14- and 15-year-olds are acting out sexually. And I do not think it is right to pass a bill that labels all sex offenders as violent sex offenders when they clearly are not, and treats them the same. So I'll be voting no.

Thank you very much, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Krueger. You will be recorded in the negative.

Does any other member wish to be heard?

The debate is closed.

The Secretary will ring the bell.

Senators, please take your seats.

Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I'm going to vote against this bill, which makes sexual offenders 13 years or older who are juvenile delinquents juvenile offenders or youthful offenders subject to the sexual offender registry. I just -- the idea of putting a 13-year-old on the sex offender registry permanently is just outrageous.

Although I do think we have to ask ourselves why would a 13-year-old be acting

out in such an unhealthy manner. Could it be that the family of that child was unable to access mental health treatment because their insurance wouldn't cover it? Well, that wouldn't be the case if we passed Timothy's Law.

And so here we are another day in the State Senate. We've yet to see Timothy's Law come to the floor of the State Senate. Many of the ills that face our state, that face the young people as well as adults of our state could actually be dealt with and treated if we had Timothy's Law.

So I urge my colleagues to work with me and get Timothy's Law to the floor so that we can vote in the affirmative on that. And then persons such as myself wouldn't be put in the position of having to vote on a bill like this where I'll be voting in the negative.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Duane. You will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 765 are Senators Duane, L. Krueger, Montgomery and Parker.

Those Senators absent from voting: Diaz, Dilan, Flanagan and Gonzalez.

Ayes, 49. Nays, 4.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 771, by Senator Alesi, Senate Print 6366, an act to amend the Correction Law and the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 771 are Senators Duane, L. Krueger, Montgomery and

Parker.

Those Senators absent from voting: Diaz, Dilan, Flanagan and Gonzalez.

Ayes, 49. Nays, 4.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 757, by Senator Spano, Senate Print 6441, an act to amend the --

ACTING PRESIDENT MORAHAN: Can we hold it down in the chamber, please.

THE SECRETARY: -- an act to amend the Labor Law.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MORAHAN: Senator Spano, an explanation has been requested by Senator Duane.

SENATOR SPANO: This is a bill that would require public employers to develop and implement programs to prevent workplace violence.

We had this bill, it was passed last year. The Governor, unfortunately, vetoed the bill. We have made some amendments

to satisfy some of the portions of the veto message. And hopefully the Governor will look at this bill favorably this year.

ACTING PRESIDENT MORAHAN: Senator Savino.

SENATOR SAVINO: Thank you, Mr. President. On the bill.

ACTING PRESIDENT MORAHAN: Senator Savino, on the bill.

SENATOR SAVINO: Thank you.

I would like to commend Senator Spano for bringing this measure to the floor.

And as he stated in his justification memorandum, workplace violence is now one of the leading causes of death in the workplace and the leading cause of workplace fatalities for women. Each year, an average of 20 workers are murdered and 18,000 are assaulted while at work or on duty. In addition to the obvious pain and suffering, nonfatal assault results in millions of dollars in lost work days, insurance costs and lost wages.

Mr. President, would Senator Spano yield for a question.

ACTING PRESIDENT MORAHAN:

Senator Spano, do you yield for a question?

SENATOR SPANO: Yes.

ACTING PRESIDENT MORAHAN: The Senator yields.

SENATOR SAVINO: Thank you.

Senator Spano, I see that in your comments you indicated that your present version of the bill addresses some of the issues that were raised by the Governor in his veto of last year, a bill that passed this house unanimously and almost unanimously in the Assembly -- I think it was only five no votes in the Assembly. And I understand that we believe that we have addressed the concerns that the Governor has put forth. And I imagine that this bill is going to pass both houses again.

So the question I have is, in the event the Governor vetoes this bill this year, would you lead the override of the Governor's veto?

SENATOR SPANO: Would I --

SENATOR SAVINO: Would you be willing to lead the call for an override of

the Governor's veto?

SENATOR SPANO: When the Governor vetoed this bill, there were a number of issues that he had an issue with. Language about increasing staff, that we amended the bill and eliminated that language. Language that he was concerned about possibly putting federal money in jeopardy. And we put notwithstanding language in there to make sure we comply with JCAH standards in the federal government.

So I really hope that the Governor will sign this bill this year. But if the Governor decides to veto this bill, certainly we have not been shy in our ability to stand up for whether it be the taxpayers of the state or to stand up for the working men and women of this state. And certainly I would not be shy about overriding the Governor's veto.

But I think that we are hopeful that by amending the bill in the way, the fashion that we did, having the great support of every public employee organization across the state being in such support of this bill,

that that will be unnecessary.

SENATOR SAVINO: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT MORAHAN: Thank you, Senator Spano.

Senator Savino, on the bill.

SENATOR SAVINO: Thank you.

I'm going to take you at your word, Senator Spano. And in the event, the unfortunate event that the Governor does again veto this critically important piece of legislation, I will be looking to you to lead the call for the override.

And I would just like to say that this legislation actually could make a real difference in the lives of working people across New York State. As it's been indicated, it has the support of every public-sector labor union in the state and every employee in the state of New York.

I plan to vote for this bill. I hope that everybody in the chamber votes for this bill. And I hope that everybody will urge the Governor to sign the bill this year.

Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator Savino. You will be recorded in the affirmative.

The debate is closed.

Ring the bells, please.

The Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 120th day.

ACTING PRESIDENT MORAHAN: The Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 757, those Senators absent from voting: Senators Diaz, Dilan, Flanagan and Gonzalez.

Ayes, 53. Nays, 0.

ACTING PRESIDENT MORAHAN: The bill is passed.

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

SENATOR SKELOS: Mr. President, is there any further business at the desk?

ACTING PRESIDENT MORAHAN: There is no other business at the desk, Senator.

SENATOR SKELOS: Would you please recognize Senator Serrano.

ACTING PRESIDENT MORAHAN: Senator Serrano.

SENATOR SERRANO: Thank you very much, Mr. President.

I want to thank Senator Bruno, Senator Paterson, and my colleagues on both sides of the aisle for providing unanimous consent for me to speak today on a very important issue.

As we all know, I have tremendous respect for this institution. I love being a Senator. I respect the institution, and I respect the concerns and the views of my colleagues on both sides of the aisle.

And it's in that vein that I am somewhat disappointed that I was not able to speak on this issue yesterday when it was the Day of the Immigrant, the Day Without Immigrants. It was a very important day, not only across this state but across this nation, as we paused, many in protest, to shed light

on a very important problem.

I believe firmly that the federal government is doing a very poor job in regards to immigrants. I have said on this floor many a time that I firmly believe that immigrants are the foundation of this society, they are the fabric of this nation, they have built this nation. And I believe that we should do better than some of the onerous proposals that we see coming before Congress now, which would make it a felony for an immigrant who doesn't have proper paperwork.

And I ask my colleagues, as we reflect on the protests of yesterday, if we keep in mind that the regulations and the rules that are in place now are not conducive to immigration, are not conducive to allowing immigrants, Americans who want to be here, to gain their citizenship in a timely manner, to gain the American dream, to be part of the engine of this economy in a way that is meaningful for generations to come.

So in that vein I ask my colleagues to pause and reflect upon what yesterday meant, and that every day be a day for

reflection on the plight and many of the ways that the cards are stacked against immigrants in this nation, and that we do better to make this truly a place where our huddled masses can come to find the American dream, to raise their children, and to seek a better life.

And once again, I thank my colleagues for giving me this opportunity.

ACTING PRESIDENT MORAHAN: Thank you, Senator Serrano.

Senator Skelos, there is no other business at the desk.

SENATOR SKELOS: Mr. President, there being no further business, I move we stand adjourned until Wednesday, May 3rd, at 11:00 a.m.

ACTING PRESIDENT MORAHAN: On motion, the Senate stands adjourned until Wednesday, May 3rd, 11:00 a.m.

(Whereupon, at 4:26 p.m., the Senate adjourned.)