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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 16, 2006

3:02 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

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P R O C E E D I N G S

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 15, the Senate met pursuant to
adjournment. The Journal of Sunday, May 14,
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.

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 DeFrancisco.

8 SENATOR DeFRANCISCO: Amendments
9 are offered to the following Third Reading
10 Calendar bills:

11 Senator LaValle's bill, page 10,
12 Calendar Number 152, Senate Print 279;

13 Senator Morahan's bill, page 33,
14 Calendar 703, Senate Print 6787A;

15 Senator Saland's bill, page 53,
16 Calendar Number 984, Senate Print Number 7314.

17 Madam President, I now move that
18 these bills retain their place on the order of
19 third reading.

20 THE PRESIDENT: The amendments
21 are received, and the bills will retain their
22 place on the Third Reading Calendar.

23 Senator Skelos.

24 SENATOR SKELOS: Madam President,
25 are there any substitutions at the desk?

1 THE PRESIDENT: Yes, there are.

2 SENATOR SKELOS: If we could make
3 them at this time, please.

4 THE PRESIDENT: The Secretary
5 will read.

6 THE SECRETARY: On page 17,
7 Senator Balboni moves to discharge, from the
8 Committee on Education, Assembly Bill Number
9 8925 and substitute it for the identical
10 Senate Bill Number 5816, Third Reading
11 Calendar 332.

12 On page 26, Senator DeFrancisco
13 moves to discharge, from the Committee on
14 Local Government, Assembly Bill Number 10108B
15 and substitute it for the identical Senate
16 Bill Number 6905B, Third Reading Calendar 547.

17 On page 35, Senator DeFrancisco
18 moves to discharge, from the Committee on
19 Finance, Assembly Bill Number 4576A and
20 substitute it for the identical Senate Bill
21 Number 7077, Third Reading Calendar 721.

22 On page 54, Senator Spano moves to
23 discharge, from the Committee on Tourism,
24 Recreation and Sports Development, Assembly
25 Bill Number 10466 and substitute it for the

1 identical Senate Bill Number 6933, Third
2 Reading Calendar 993.

3 And on page 56, Senator Maltese
4 moves to discharge, from the Committee on
5 Agriculture, Assembly Bill Number 9998 and
6 substitute it for the identical Senate Bill
7 Number 6798, Third Reading Calendar 1018.

8 THE PRESIDENT: Substitutions
9 ordered.

10 Senator Skelos.

11 SENATOR SKELOS: Madam President,
12 if we could adopt the Resolution Calendar,
13 with the exception of Resolutions 5171, 5245,
14 5246, 5255, 5259, 5260, and 4940.

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

18 (Response of "Aye.")

19 THE PRESIDENT: Opposed, nay.

20 (No response.)

21 THE PRESIDENT: The Resolution
22 Calendar is so adopted.

23 Senator Skelos.

24 SENATOR SKELOS: Madam President,
25 if we could have the title read on Resolution

1 5171, move for its immediate adoption, and
2 open it up for sponsorship.

3 THE PRESIDENT: The Secretary
4 will read.

5 THE WITNESS: By Senator Maziarz,
6 Legislative Resolution Number 5171,
7 memorializing Governor George E. Pataki to
8 declare September 25, 2006 as a Day of
9 Remembrance of Murder Victims in the State of
10 New York.

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

13 (Response of "Aye.")

14 THE PRESIDENT: Opposed, nay.

15 (No response.)

16 THE PRESIDENT: The resolution is
17 adopted.

18 Any member who does not wish to
19 cosponsor the last resolution, please notify
20 the desk.

21 Senator Skelos.

22 SENATOR SKELOS: If we could take
23 up Resolution 5245, have the title read, move
24 for its immediate adoption, and open it up for
25 cosponsorship.

1 THE PRESIDENT: The Secretary
2 will read.

3 THE SECRETARY: By Senator
4 Winner, Legislative Resolution Number 5245,
5 honoring Trooper Andrew J. Sperr posthumously
6 upon the occasion of his designation as
7 recipient of the Brummer Award by the New York
8 State Police.

9 THE PRESIDENT: Senator Winner.

10 SENATOR WINNER: Thank you, Madam
11 President.

12 This is a very important
13 resolution. On March 1 of 2006, New York
14 State Trooper Andrew "A.J." Sperr, a 10-year
15 highly respected veteran of the New York State
16 Police, was shot and killed in the town of Big
17 Flats, in my legislative district.

18 There will be a memorial service
19 tomorrow at the New York State Police Academy.
20 We'll honor and pray tribute to Trooper
21 Sperr's service, and they will posthumously
22 award him the Brummer Award, which is the
23 State Police's highest award for bravery.

24 Trooper Sperr was doing his job on
25 March 1 when he was patrolling in the town of

1 Big Flats, in a rural area, and he came upon a
2 vehicle that looked suspicious. Or maybe he
3 was just responding to try to provide aid to
4 those motorists, and not knowing whether it
5 was just disabled.

6 But unbeknownst to him, only
7 moments before he responded to investigate
8 that vehicle, there was a robbery at a bank
9 branch in the town of Big Flats. And
10 apparently those individuals that were in that
11 vehicle were the people that were involved in
12 that robbery.

13 And Trooper Sperr, in an effort to
14 try to render aid to that vehicle, then was
15 shot numerous times, nine times. And although
16 he was wearing a protective vest, he succumbed
17 to those injuries and ostensibly bled to death
18 at the side of that vehicle.

19 And it was a tragedy in an area
20 such as mine to have such an incident occur.
21 But Trooper Sperr epitomizes the absolute
22 dedication of our New York State Police Force,
23 in their dedication and their selfless
24 response to all activities and incidents in a
25 manner of the highest professionalism and

1 dedication to our safety and well-being.

2 And, you know, Trooper Sperr's
3 family will sorely miss him. He was the tenth
4 of 11 children in a suburb of Rochester, and a
5 10-year veteran of the New York State Police
6 Force. He did the State Police proud, and we
7 sorely mourn his passing and give thanks for
8 the fact that we have such dedicated men and
9 women serving us in the New York State Police.

10 Thank you, Madam President, for the
11 ability to honor him with this resolution and
12 the ceremony tomorrow by the State Police.

13 THE PRESIDENT: Senator Robach.

14 SENATOR ROBACH: Yes, Madam
15 Speaker.

16 I want to applaud Senator Winner
17 for the resolution, but just add for the
18 record not only was Andy Sperr a great state
19 trooper and a good job, but having grown up in
20 Rochester in the district, knowing his entire
21 family and knowing him pretty well, I think
22 it's important to note, in addition to being a
23 great public servant and a great policeman, he
24 was also a wonderful human being.

25 His whole family is full of people

1 who are so active in our community, as avid
2 sportsmen, conservationists, nurses -- you
3 name in it in his family, a large, large
4 family. His dad, former president of the
5 volunteer ambulance corps in my town of
6 Greece.

7 But just a wonderful, wonderful
8 guy. And such a tragic thing, here defending
9 or doing his job, killed over less than \$1,800
10 in a botched bank robbery speeding through a
11 small town. Very, very tragic.

12 So I think it's important we do
13 memorialize him, think about him. And I guess
14 I would end with this. Andy was the kind of
15 guy who, even though he was married, he didn't
16 have any children. And when he moved to the
17 Southern Tier, because there was a lot of kids
18 in his neighborhood, a lot of kids who were
19 more agrarian in nature, some of them even
20 migrants, didn't have a lot of resources, he
21 thought it was important on his own property,
22 he built a playground, a swing set, a bunch of
23 things for those kids to entertain them.
24 Really just a wonderful, wonderful human
25 being.

1 And so it's very fitting that we
2 take this memorialization today to think about
3 him and remember his sacrifice as well as the
4 unnecessary and tragic loss that occurred, and
5 maybe even ponder this more in some of our
6 deliberations on what we can do to better
7 protect the people, the men and women like
8 Andy who are every day out there doing the job
9 for us.

10 Thank you, Madam President.

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

13 (Response of "Aye.")

14 THE PRESIDENT: Opposed, nay.

15 (No response.)

16 THE PRESIDENT: The resolution is
17 adopted. Any member who does not wish to
18 cosponsor the last resolution, please notify
19 the desk.

20 Senator Skelos.

21 SENATOR SKELOS: Madam President,
22 if we could call up Resolution Number 4940, by
23 Senator DeFrancisco, have it read in its
24 entirety and move for its immediate adoption.

25 THE PRESIDENT: The Secretary

1 will read.

2 THE SECRETARY: By Senator
3 DeFrancisco, Legislative Resolution Number
4 4940, mourning the untimely death of New York
5 State Trooper Craig J. Todeschini.

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

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

20 "WHEREAS, Craig J. Todeschini was a
21 1999 graduate of West Genesee High School. He
22 attended Onondaga Community College, where he
23 graduated with an associate's degree in
24 criminal justice. He then went on to proudly
25 serve with the New York State Police. He was

1 first stationed in Malone and then Hastings.
2 He was most recently assigned to Lafayette,
3 New York; and

4 "WHEREAS, Craig J. Todeschini
5 proved from an early age that he was dedicated
6 to public service. He first exhibited this
7 interest as a member of an Explorer Post at
8 the Camillus Fire Department. Later, he
9 joined the Taunton Fire Department as a Junior
10 Firefighter where he became a full-time
11 volunteer when he turned 18; and

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

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

22 "WHEREAS, Those who knew him best
23 describe Trooper Todeschini as a 'trooper's
24 trooper.' According to a superior, everyone
25 that worked alongside of Trooper Todeschini

1 had nothing but praise for him. Among his
2 many attributes, he took his job seriously,
3 was dedicated to all who needed his help, and
4 had unsurpassed compassion; and

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

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

25 "RESOLVED, That a copy of this

1 resolution, suitably engrossed, be transmitted
2 to Mrs. Kristi Todeschini and her family."

3 THE PRESIDENT: Senator
4 DeFrancisco.

5 SENATOR DeFRANCISCO: Thank you,
6 Madam President.

7 The Todeschinis are in the gallery
8 with us today. This resolution previously
9 passed, and every one of the members of this
10 house are cosponsors of that resolution.

11 I spoke on the resolution
12 previously and talked about how difficult it
13 had to be for the family to lose such an
14 incredibly wonderful young man, who not only
15 was a state trooper, but, at the early age of
16 25 when he died, he had also been a member of
17 a volunteer fire department for many years; he
18 started when he was 16 years of age.

19 I've already delivered that
20 resolution to the family, and I delivered it
21 today because they're here today to do
22 something, make something positive happen out
23 of an incredible tragedy. And that is to pass
24 the Craig Todeschini Bill, which is on the
25 calendar for today.

1 And I really appreciate their being
2 here. I appreciate very much that they would
3 get behind a bill that's sponsored by Senator
4 Alesi, similar to a bill he sponsored for many
5 years, and that I can cosponsor that bill so
6 something good can come out of something so
7 very, very bad.

8 So thank you very much for being
9 here today.

10 THE PRESIDENT: This resolution
11 was previously adopted.

12 Thank you, Senator DeFrancisco.

13 And once again, on behalf of the
14 state and the Senate, we offer you our deepest
15 sympathy.

16 Senator Skelos.

17 SENATOR SKELOS: Madam President,
18 if we could have title read on Resolution
19 5246, move for its immediate adoption, and
20 open it up for cosponsorship.

21 THE PRESIDENT: The Secretary
22 will read.

23 THE SECRETARY: By Senator
24 Winner, Legislative Resolution Number 5246,
25 honoring Senior Investigator Gary V. Ferguson

1 upon the occasion of his designation as a
2 recipient of a Superintendent's Commendation
3 Award by the New York State Police.

4 THE PRESIDENT: Senator Winner.

5 SENATOR WINNER: Thank you, Madam
6 President.

7 In conjunction with the tragic
8 death of Trooper Andy Sperr, there was the
9 exhibition of tremendous competency and great
10 work by the senior investigator, Gary
11 Ferguson, of the State Police.

12 And tomorrow at the ceremony at the
13 New York State Police Academy, there will be
14 an award, the Superintendent's Commendation,
15 given to Trooper Ferguson for his tremendous
16 work in setting up an immediate command post
17 and providing the leadership that was
18 necessary to make a prompt apprehension and
19 arrest of the perpetrators of that horrible
20 crime that was done to Trooper Andrew Sperr.

21 And again, in recognition to the
22 tremendous efforts by individuals of the State
23 Police, this award is fitting to the efforts
24 of Trooper Gary Ferguson. And I'm hopeful
25 that that award will be significant

1 recognition for all of his efforts on behalf
2 of the citizens of the Southern Tier, for
3 which he did provide tremendous leadership and
4 protection in the prompt apprehension and
5 arrest of those individuals.

6 So we're pleased that this
7 Legislature will provide for suitable
8 recognition of Trooper Gary Ferguson's efforts
9 and wish him congratulations on the award, the
10 Superintendent's Commendation Award tomorrow
11 at that ceremony.

12 Thank you, Madam President.

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

15 (Response of "Aye.")

16 THE PRESIDENT: Opposed, nay.

17 (No response.)

18 THE PRESIDENT: The resolution is
19 adopted.

20 And any member who does not wish to
21 cosponsor the last resolution, please notify
22 the desk.

23 Senator Skelos.

24 SENATOR SKELOS: Madam President,
25 if we could take up Resolution 5255, have the

1 title read, move for its immediate adoption,
2 and open it up for cosponsorship.

3 THE PRESIDENT: The Secretary
4 will read.

5 THE SECRETARY: By Senator
6 Maltese, Legislative Resolution Number 5255,
7 congratulating the American Red Cross, and its
8 employees and volunteers, upon the occasion of
9 celebrating its 125th Anniversary in May 2006.

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

12 (Response of "Aye.")

13 THE PRESIDENT: Opposed, nay.

14 (No response.)

15 THE PRESIDENT: The resolution is
16 adopted.

17 And any member who does not wish to
18 cosponsor the last resolution please notify
19 the desk.

20 Senator Skelos.

21 SENATOR SKELOS: Madam President,
22 if we could take up Resolution 5260, have the
23 title read, move for its immediate adoption,
24 and open it up for cosponsorship.

25 THE PRESIDENT: The Secretary

1 will read.

2 THE SECRETARY: By Senator
3 Hannon, Legislative Resolution Number 5260,
4 memorializing Governor George E. Pataki to
5 proclaim May 2006 as Amyotrophic Lateral
6 Sclerosis (ALS) Awareness Month in the State
7 of New York.

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

10 (Response of "Aye.")

11 THE PRESIDENT: Opposed, nay.

12 (No response.)

13 THE PRESIDENT: The resolution is
14 adopted.

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

18 Senator Schneiderman.

19 SENATOR SCHNEIDERMAN: Yes, Madam
20 President.

21 On page number 21 I would offer the
22 following amendments to Calendar Number 421,
23 Senate Print 1143, and ask that said bill
24 retain its place on the Third Reading
25 Calendar. On behalf of Senator Dilan.

1 THE PRESIDENT: The amendment is
2 received, and the bill will retain its place
3 on the Third Reading Calendar.

4 Senator Breslin.

5 SENATOR BRESLIN: Yes, Madam
6 President.

7 On page number 16, I offer the
8 following amendments to Calendar Number 292,
9 Senate Print 6263, and I ask that the said
10 bill retain its place on the Third Reading
11 Calendar.

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

15 Senator Skelos.

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

19 THE PRESIDENT: The Secretary
20 will read.

21 THE SECRETARY: Calendar Number
22 308, by Senator Seward, Senate Print 122, an
23 act to amend the Penal Law.

24 THE PRESIDENT: Read the last
25 section.

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

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

6 THE SECRETARY: Ayes, 52. Nays,
7 1. Senator Duane recorded in the negative.

8 THE PRESIDENT: The bill is
9 passed.

10 THE SECRETARY: Calendar Number
11 332, substituted earlier today by the Assembly
12 Committee on Rules, Assembly Print Number
13 8925, an act to amend the Education Law.

14 THE PRESIDENT: Read the last
15 section.

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

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

20 THE SECRETARY: Ayes, 53.

21 THE PRESIDENT: The bill is
22 passed.

23 THE SECRETARY: Calendar Number
24 547, substituted earlier today by Member of
25 the Assembly Magnarelli, Assembly Print Number

1 10108B, an act authorizing the Commissioner of
2 General Services.

3 THE PRESIDENT: Read the last
4 section.

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

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

9 THE SECRETARY: Ayes, 54.

10 THE PRESIDENT: The bill is
11 passed.

12 THE SECRETARY: Calendar Number
13 578, by Senator Fuschillo, Senate Print 2224,
14 an act to amend the Real Property Tax Law.

15 THE PRESIDENT: Read the last
16 section.

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

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

21 THE SECRETARY: Ayes, 54.

22 THE PRESIDENT: The bill is
23 passed.

24 THE SECRETARY: Calendar Number
25 641, by Senator Skelos, Senate Print 487, an

1 act to amend the Penal Law.

2 THE PRESIDENT: Read the last
3 section.

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

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

9 THE SECRETARY: Ayes, 53. Nays,
10 1. Senator Duane recorded in the negative.

11 THE PRESIDENT: The bill is
12 passed.

13 THE SECRETARY: Calendar Number
14 721, substituted earlier today by Member of
15 the Assembly Carrozza, Assembly Print Number
16 4576A, an act to amend the Executive Law.

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, 57.

24 THE PRESIDENT: The bill is
25 passed.

1 THE SECRETARY: Calendar Number
2 767, by Senator Flanagan, Senate Print
3 2842A --

4 SENATOR SCHNEIDERMAN: Lay it
5 aside.

6 THE PRESIDENT: The bill is laid
7 aside.

8 THE SECRETARY: Calendar Number
9 790, by Senator Marcellino, Senate Print 6932,
10 an act to authorize the Town of Oyster Bay,
11 County of Nassau.

12 THE PRESIDENT: Read the last
13 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, 57.

19 THE PRESIDENT: The bill is
20 passed.

21 THE SECRETARY: Calendar Number
22 795, by Senator Little, Senate Print 4914, an
23 act to amend the Environmental Conservation
24 Law.

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: Those recorded in
7 the negative on Calendar Number 795 are
8 Senators LaValle, Marcellino, Padavan and
9 Serrano.

10 Ayes, 53. Nays, 4.

11 THE PRESIDENT: The bill is
12 passed.

13 THE SECRETARY: Calendar Number
14 906, by Senator Balboni, Senate Print 6765, an
15 act to amend the Criminal Procedure Law.

16 THE PRESIDENT: Read the last
17 section.

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

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

22 THE SECRETARY: Ayes, 57.

23 THE PRESIDENT: The bill is
24 passed.

25 THE SECRETARY: Calendar Number

1 926, by Senator Robach, Senate Print 2875B, an
2 act to amend the Education Law.

3 THE PRESIDENT: Read the last
4 section.

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

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

9 THE SECRETARY: Ayes, 57.

10 THE PRESIDENT: The bill is
11 passed.

12 THE SECRETARY: Calendar Number
13 960, by Senator Saland, Senate Print 7499, an
14 act to amend the Education Law.

15 THE PRESIDENT: Read the last
16 section.

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

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

21 THE PRESIDENT: Senator Saland,
22 to explain your vote.

23 SENATOR SALAND: To explain my
24 vote.

25 Madam President, I would rarely

1 rise on an uncontested or noncontroversial
2 calendar to explain a vote.

3 This is a bill which is intended to
4 not merely reaffirm legislative intent, but
5 this is a bill which is intended to reinforce
6 something this house and the other house did
7 last year when we did the school
8 accountability bill.

9 Every single player involved in
10 that negotiation -- the Comptroller's office,
11 the School Boards Association, the school
12 boards, the Assembly, the Senate and the
13 Education Department -- all agreed that this
14 was a BOCES -- the internal claims audit
15 function was a BOCES-aidable expense.

16 We are now confronted by a bunch of
17 pencil-pushers in the Division of the Budget
18 who have unilaterally determined,
19 notwithstanding the Ed Department assuring us
20 that this was a BOCES-aidable expense, that
21 they will not permit it to be so.

22 This is a breach of faith, this is
23 an abuse of discretion, this is an absolute
24 disgrace and an abomination to have these
25 faceless bureaucrats spitting in the face of

1 the Legislature and the Education Department.

2 This reaffirms what everybody
3 believed to be true last year, it's no less
4 true today than it was last year, and there
5 should be no reason to have to do this.

6 I vote in the affirmative.

7 THE PRESIDENT: You will be
8 recorded as voting in the affirmative,
9 Senator.

10 The Secretary will announce the
11 results.

12 THE SECRETARY: Ayes, 59.

13 THE PRESIDENT: The bill is
14 passed.

15 THE SECRETARY: Calendar Number
16 967, by Senator Bonacic, Senate Print 3887, an
17 act to amend the General Municipal Law.

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

20 Read the last section.

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

23 THE PRESIDENT: Call the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 57. Nays,

1 2. Senators Duane and L. Krueger recorded in
2 the negative.

3 THE PRESIDENT: The bill is
4 passed.

5 THE SECRETARY: Calendar Number
6 979, by Senator Golden, Senate Print 7201, an
7 act to amend the General Municipal Law.

8 THE PRESIDENT: Read the last
9 section.

10 THE SECRETARY: Section 3. This
11 act shall take effect upon enactment into law
12 by the State of New Jersey identical
13 legislation.

14 THE PRESIDENT: Call the roll.
15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 59.

17 THE PRESIDENT: The bill is
18 passed.

19 THE SECRETARY: Calendar Number
20 992, by Senator Flanagan, Senate Print 5109C,
21 an act to amend the Parks, Recreation and
22 Historic Preservation Law and the Public
23 Authorities Law.

24 THE PRESIDENT: Read the last
25 section.

1 THE SECRETARY: Section 3. This
2 act shall take effect on the 180th day.

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

5 THE SECRETARY: Ayes, 59.

6 THE PRESIDENT: The bill is
7 passed.

8 THE SECRETARY: Calendar Number
9 993, substituted earlier today by Member of
10 the Assembly Rivera, Assembly Print Number
11 10466, an act to amend Chapter 383 of the Laws
12 of 1991.

13 THE PRESIDENT: Read the last
14 section.

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

17 THE PRESIDENT: Call the roll.
18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 59.

20 THE PRESIDENT: The bill is
21 passed.

22 THE SECRETARY: Calendar Number
23 996, by Senator Libous, Senate Print 2497, an
24 act to amend the Religious Corporations Law.

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, 59.

7 THE PRESIDENT: The bill is
8 passed.

9 THE SECRETARY: Calendar Number
10 998, by Senator Leibell, Senate Print 4537A,
11 an act to amend the Not-for-Profit Corporation
12 Law.

13 THE PRESIDENT: Read the last
14 section.

15 THE SECRETARY: Section 3. This
16 act shall take effect on the 60th day.

17 THE PRESIDENT: Call the roll.
18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 59.

20 THE PRESIDENT: The bill is
21 passed.

22 THE SECRETARY: Calendar Number
23 1006, by Senator Trunzo, Senate Print 7256, an
24 act to amend Chapter 672 of the Laws of 1993,
25 amending the Public Authorities Law.

1 THE PRESIDENT: Read the last
2 section.

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

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

7 THE SECRETARY: Ayes, 59.

8 THE PRESIDENT: The bill is
9 passed.

10 THE SECRETARY: Calendar Number
11 1009, by Senator Flanagan, Senate Print 7672,
12 an act to amend the Labor Law.

13 THE PRESIDENT: Read the last
14 section.

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

17 THE PRESIDENT: Call the roll.
18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 59.

20 THE PRESIDENT: The bill is
21 passed.

22 THE SECRETARY: Calendar Number
23 1010, by Senator Seward, Senate Print 2390B,
24 an act to amend the Insurance Law.

25 THE PRESIDENT: Read the last

1 section.

2 SENATOR MONTGOMERY: Lay it

3 aside.

4 THE PRESIDENT: The bill is laid

5 aside.

6 THE SECRETARY: Calendar Number
7 1018, substituted earlier today by Member of
8 the Assembly Grannis, Assembly Print Number
9 9998, an act to amend Chapter 534 of the Laws
10 of 2005, amending the Agriculture and Markets
11 Law.

12 THE PRESIDENT: Read the last
13 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, 59.

19 THE PRESIDENT: The bill is
20 passed.

21 THE SECRETARY: Calendar Number
22 1020, by Senator Larkin, Senate Print 7224, an
23 act to amend the Agriculture and Markets Law.

24 THE PRESIDENT: Read the last
25 section.

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

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

5 THE SECRETARY: Ayes, 59.

6 THE PRESIDENT: The bill is
7 passed.

8 THE SECRETARY: Calendar Number
9 1037, by Senator Fuschillo, Senate Print 789,
10 an act to amend the Penal Law.

11 THE PRESIDENT: Read the last
12 section.

13 THE SECRETARY: Section 2. This
14 act shall take effect on the first of
15 November.

16 THE PRESIDENT: Call the roll.
17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 59.

19 THE PRESIDENT: The bill is
20 passed.

21 THE SECRETARY: Calendar Number
22 1038, by Senator Padavan, Senate Print 855, an
23 act to amend the Penal Law.

24 THE PRESIDENT: Read the last
25 section.

1 THE SECRETARY: Section 3. This
2 act shall take effect on the first of
3 September.

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

6 THE SECRETARY: Those recorded in
7 the negative on Calendar Number 1038 are
8 Senators Dilan, Duane, Montgomery, Parker,
9 Sampson, Schneiderman, and Serrano.

10 Ayes, 52. Nays, 7.

11 THE PRESIDENT: The bill is
12 passed.

13 THE SECRETARY: Calendar Number
14 1040, by Senator Larkin, Senate Print 2348A,
15 an act to amend the Penal Law.

16 THE PRESIDENT: Read the last
17 section.

18 THE SECRETARY: Section 10. This
19 act shall take effect on the 180th day.

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

22 THE SECRETARY: Ayes, 59.

23 THE PRESIDENT: The bill is
24 passed.

25 THE SECRETARY: Calendar Number

1 1042, by Senator Flanagan, Senate Print 2807,
2 an act to amend the Penal Law.

3 THE PRESIDENT: Read the last
4 section.

5 THE SECRETARY: Section 2. This
6 act shall take effect on the first of
7 November.

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

10 THE SECRETARY: Ayes, 58. Nays,
11 1. Senator Montgomery recorded in the
12 negative.

13 THE PRESIDENT: The bill is
14 passed.

15 THE SECRETARY: Calendar Number
16 1047, by Senator Saland, Senate Print 7353, an
17 act to amend the Penal Law.

18 THE PRESIDENT: Read the last
19 section.

20 THE SECRETARY: Section 2. This
21 act shall take effect on the 90th day.

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

24 THE PRESIDENT: Senator Duane, to
25 explain your vote.

1 SENATOR DUANE: Thank you, Madam
2 President.

3 I'm going to vote for this bill
4 because I certainly believe that we need to
5 protect children who are sexually abused. And
6 that especially goes for someone in a position
7 of authority who's the abuser. In fact, I had
8 a hearing on this two weeks ago.

9 And obviously children who have
10 suffered from sexual abuse need mental health
11 treatment, but the sad fact is that many in
12 New York can't afford that. And that is
13 wrong. Shouldn't we be helping these
14 children?

15 If we passed Timothy's Law, then
16 all children would be protected in terms of
17 getting the mental health services that they
18 need. May is rapidly coming to a close. We
19 don't have much time. Come on, let's get
20 Timothy's Law to the floor here and let's vote
21 on it.

22 I'm voting yes on this bill, Madam
23 President, and I'm hoping I'm going to get a
24 chance to vote on Timothy's Law in the very
25 near future.

1 Thank you.

2 THE PRESIDENT: You will be
3 recorded as voting in the affirmative,
4 Senator.

5 The Secretary will announce the
6 results.

7 THE SECRETARY: Ayes, 59.

8 THE PRESIDENT: The bill is
9 passed.

10 THE SECRETARY: Calendar Number
11 1048, by Senator Volker, Senate Print 7588, an
12 act to amend the Penal Law.

13 THE PRESIDENT: Read the last
14 section.

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

17 THE PRESIDENT: Call the roll.
18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 59.

20 THE PRESIDENT: The bill is
21 passed.

22 THE SECRETARY: Calendar Number
23 1050, by Senator Alesi, Senate Print 7858, an
24 act to amend the Penal Law.

25 THE PRESIDENT: Read the last

1 section.

2 SENATOR SKELOS: Lay it aside.

3 THE PRESIDENT: The bill is laid
4 aside.

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

7 SENATOR SKELOS: Madam President,
8 if we could go to the controversial reading of
9 the calendar, beginning with Calendar Number
10 1050.

11 THE PRESIDENT: The Secretary
12 will read.

13 THE SECRETARY: Calendar Number
14 1050, by Senator Alesi, Senate Print 7858, an
15 act to amend the Penal Law.

16 SENATOR SKELOS: Explanation.

17 THE PRESIDENT: Senator Alesi, an
18 explanation has been requested.

19 SENATOR ALESI: Thank you, Madam
20 President.

21 Earlier this session we listened to
22 some resolutions honoring members of the State
23 Police and, by extension, all of those people
24 who protect us on a daily basis in law
25 enforcement. This bill recognizes the dangers

1 that those brave men and women face every day
2 in a number of ways. But specifically to this
3 bill, it recognizes that high-speed police
4 chases are as dangerous to those men and women
5 in uniform as malicious people carrying
6 firearms with intent to kill or harm.

7 Recognizing that, this bill makes
8 it an E felony for anyone who eludes a police
9 officer at a rate of speed exceeding 20 miles
10 over the limit or driving recklessly, a
11 D felony if someone is injured as a result of
12 that elusive activity, and a C felony if
13 someone is injured or, as in the tragic case
14 of Trooper Craig Todeschini, killed in the
15 performance of their duty.

16 This bill is rightfully before us
17 today in a timely manner as we recognize the
18 appearance of the family. And in our efforts
19 to honor Craig Todeschini's service, we offer
20 this bill, in his memory and to all of those
21 people who protect us on a daily basis, as
22 means of protecting them while they're doing
23 just that.

24 THE PRESIDENT: Senator
25 DeFrancisco.

1 SENATOR DeFRANCISCO: As I stated
2 when we were discussing the resolution, the
3 amazing thing about this family is that,
4 despite this tragedy only a very short time
5 ago, that they want to get something positive
6 done to help other people. And that's why
7 they're here today.

8 And earlier I received a question
9 concerning this bill and -- you know: Why do
10 you need it, because why would a bill like
11 this in any way inhibit someone who has
12 committed a serious felony from fleeing the
13 scene and still putting the officers in
14 jeopardy?

15 Well, what many don't know, and I
16 didn't know until the morning of the funeral,
17 there's actually a website that one of the
18 state troopers had told me about, a website
19 that shows motorcyclists, those irresponsible
20 motorcyclists, how to taunt a police officer
21 to get them to chase the police officer. It's
22 like a game, even to the point of what
23 clothing you should wear.

24 You know, obviously people
25 generally are responsible. But for those who

1 are not, for doing something like this -- not
2 in conjunction with another crime, but for
3 doing something like this, there should be
4 greater penalty than simply a violation. And
5 just as Senator Alesi mentioned, that penalty
6 should be graduated depending upon on the harm
7 that was done.

8 And this bill does just that. And
9 Senator Alesi should be commended. I'm happy
10 to cosponsor this bill. He's been pushing
11 this issue for many years. And we hope this
12 year that the Assembly will be able to pass
13 this bill.

14 And with the Todeschinis is
15 Assemblyman Jeff Brown, who has sponsored the
16 bill in the Assembly, and he's going to work
17 both sides of the house in order to make sure
18 that this happens.

19 So again, thank you. I urge
20 everyone in this chamber to honor the name of
21 Craig Todeschini and that family by voting in
22 the affirmative on this bill that will help
23 many, many law enforcement agents and many
24 families who wait for them each day they go
25 off to work.

1 Thank you, Madam President.

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

4 Then the debate is closed.

5 Senator Volker.

6 SENATOR VOLKER: Madam President,
7 I will be brief.

8 It was interesting, as I stood at
9 the press conference -- and I want to sort of
10 apologize a little to the family for what
11 happened at the -- I think -- personally, I
12 think the media, the way they treated the
13 issue was kind of, in my opinion, wrong. But
14 that's just in debating other issues while
15 that press conference was going on.

16 Standing right next to me at the
17 press conference was Dan De Federicis, who is
18 the head of the State Police PBA. And as we
19 talked, Dan and I, I mentioned one of the
20 chases I was involved in when I was a police
21 officer that ironically probably had his
22 father involved.

23 I was involved in a very high speed
24 chase, ended up running into a car to stop
25 him. The person was driving at about

1 135 miles an hour at one time, because he had
2 a sports car. When I testified at the
3 hearing, they said: "How do you know he was
4 going 120?" I said, "Well, the Oldsmobile I
5 was driving had the needle flat out at 120,
6 and he was still moving away from me."

7 The reason I mention this is I
8 really don't think people understand this.
9 One of the reporters said to me, "You know,
10 they shouldn't be doing some of these chases."

11 I said, "Well, I'll tell you a
12 story about a friend of mine who was a
13 Tonawanda police officer on New Year's Eve
14 sometime in the '60s. It was a bad night.
15 And he started chasing somebody, the guy got
16 to 100 miles an hour, and he said, 'Forget it,
17 it's too fast.' He stopped, didn't chase him.
18 The guy continued on for three to four miles
19 at 100 miles an hour and hit an old couple at
20 an intersection at 100 miles an hour, killed
21 them outright. He said to me: 'You know, my
22 conscience has bothered me ever since then.
23 If I had continued and been able to somehow
24 get that guy under control, those people would
25 be alive today.'"

1 I could cite you I don't know how
2 many incidents involving high-speed chases.
3 And, you know, the thing I like about this, by
4 the way -- and I commend you, Jim. And this
5 house has passed chase bills, I don't know,
6 for a decade, I would think. Jim has had a
7 bill; Mike.

8 The thing about this that's
9 interesting is -- and I've had the bills
10 myself -- is the delineation of the speed and
11 the specification. And although some of the
12 chases I was involved, I had an unmarked car,
13 it is correct to use the marked car because
14 that, I think, will probably get the
15 Assembly -- my personal opinion is this bill
16 probably is going to pass the Assembly
17 finally.

18 The Assembly is reluctant -- and
19 I'll tell you exactly why, they don't like
20 felonies. They just have this thing about
21 felonies that maybe somebody innocent is going
22 to be driving at 120 miles an hour. I mean,
23 the thing I think that you got to realize is
24 all that you can get somebody for now is a
25 violation. Actually, it's a little more,

1 because you could charge them generally with
2 reckless driving.

3 But of course in New York City
4 reckless driving would be reduced, almost
5 certainly, to some sort of parking or some
6 misdemeanor or whatever, so you end up with
7 virtually nothing. Which is crazy, when you
8 think about it, that somebody could be
9 killed -- and by the way, it's not just the
10 police officers that we're thinking about,
11 it's the people that that person is
12 endangering their lives. The person that I
13 chased at 120 miles an hour nearly killed a
14 half a dozen people. And what made me keep
15 pushing him was he kept running cars off the
16 road.

17 The point I'm trying to make, I
18 think, is this is not some sort of casual
19 problem. This is a very serious problem. And
20 with the Internet today and with some of the
21 people around, you got to realize that we have
22 to deal with this.

23 One final story that I will tell
24 you, and I'll stop telling stories. But at
25 one point when we were police officers -- and

1 most of the people were young fellows at
2 night, the day-shift people were older police
3 officers -- there was a whole bunch of chases.
4 And they just stopped chasing them, and they
5 said: "We're not going to chase them." What
6 happened is people were running away from
7 police cars all over the place. So we decided
8 we had to stop them, because the word was out
9 if you don't chase them, you're going to get a
10 ton more of those chases.

11 Well, just to say the least, we
12 made sure the next one we had, we got the
13 person. And just let me say that poor guy got
14 more summonses than he ever did, he ended up
15 in jail. And just to make sure everybody
16 knew, we drive around to the various saloons
17 and said: "This guy's in jail, don't run," or
18 whatever.

19 The reason I say that is you don't
20 realize the streets are unbelievable in the
21 knowledge of what goes on. The police officer
22 that was involved here was a courageous guy.
23 He was driving, by the way, a vehicle that
24 could withstand a lot of hits. But when
25 you're a police officer, you know, a lot of it

1 has to do with the fortunes of what you're
2 involved in. You can't make determinations
3 that easily. You have to decide what you're
4 going to do and do it as quickly as possible.

5 This guy was a courageous guy. The
6 trooper who was killed -- and by the way, got
7 two of the people that shot him as he was
8 going down -- they're all courageous people.
9 We not only should do this because it's the
10 right thing to do, but to honor these people
11 because these are people who are trying to
12 save our lives.

13 So I just say to you, thank you,
14 Senator Alesi, thank you, Senator DeFrancisco,
15 and I'm going to do everything I can with the
16 Assembly to make sure that it passes the
17 Assembly this year. And I think it will
18 eventually pass the Assembly.

19 THE PRESIDENT: The debate is
20 closed.

21 The Secretary will ring the bell.
22 Read the last section.

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

1 THE PRESIDENT: Call the roll.

2 (The Secretary called the roll.)

3 THE PRESIDENT: The Secretary
4 will announce the results.

5 THE SECRETARY: Those Senators
6 absent from voting on Calendar Number 1050:
7 Senators Gonzalez, C. Kruger, and M. Smith.

8 Ayes, 57.

9 THE PRESIDENT: The bill is
10 passed.

11 THE SECRETARY: Calendar Number
12 767, by Senator Flanagan, Senate Print 2842A,
13 an act to amend the Executive Law and the
14 Criminal Procedure Law.

15 SENATOR SCHNEIDERMAN: Brief
16 explanation.

17 THE PRESIDENT: Senator Flanagan,
18 an explanation has been requested.

19 SENATOR FLANAGAN: Thank you,
20 Madam President.

21 This bill would allow counties to
22 charge some additional fees for probation
23 services, including for administrative fees,
24 drug testing and electronic monitoring. This
25 bill is supported by the Westchester County

1 executive, CSEA, the Attorney General, and
2 NYSAC.

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

5 Senator Montgomery.

6 SENATOR MONTGOMERY: Yes, Madam
7 President. I believe that I voted against
8 this legislation last session. And I just
9 wanted to ask Senator Flanagan, through you,
10 Madam President, if he would yield for one
11 question.

12 THE PRESIDENT: Senator Flanagan,
13 do you yield for a question?

14 SENATOR FLANAGAN: Yes.

15 THE PRESIDENT: You may proceed
16 with a question, Senator.

17 SENATOR MONTGOMERY: Thank you.

18 Senator Flanagan, I believe there
19 was a bill on our calendar yesterday that
20 called for lifetime probation under certain
21 circumstances. Do you recall that we did that
22 yesterday, I believe?

23 SENATOR FLANAGAN: Senator, I am
24 not sure.

25 SENATOR MONTGOMERY: Okay, thank

1 you. I believe so, Senator.

2 Madam President, just briefly on
3 the bill.

4 THE PRESIDENT: You may proceed
5 on the bill, Senator.

6 SENATOR MONTGOMERY: In my
7 statement last session I indicated, in
8 explaining why I was in opposition, was that
9 this issue of probation and charging people on
10 probation -- and I believe I calculated last
11 time that it was up to approximately \$3,000
12 annually, depending on the extent of the
13 requirements for reporting and testing.

14 The person who receives probation
15 generally is receiving that as an alternative
16 to incarceration. And so while we are
17 attempting to give someone an opportunity to
18 redeem themselves by not getting into any
19 other trouble, we have here in this bill a
20 requirement for them to pay a pretty steep
21 fee: I believe, according to this memo, \$900
22 per probationer, up to \$900 per year, and up
23 to \$300 per year for drug testing.

24 So this really is a tremendous cost
25 to someone who is basically able to be

1 employed marginally, if at all. In many
2 instances, there is a family member who
3 actually takes care of this person. Many of
4 them are young people.

5 So it sounds very reasonable. If
6 you go before the judge and you get probation,
7 you should pay. But in my opinion, this goes
8 against, it's a total contradiction to the
9 purpose of probation.

10 So I'm going to continue to oppose
11 this. I note that a number of my colleagues
12 have opposed this in prior years as well, and
13 possibly for similar reasons and additional
14 reasons. But certainly I think this is very
15 harsh, onerous on a particular group, an
16 especially vulnerable group of people that we
17 don't need to plow money out of.

18 So, Madam President, I'm voting no.

19 THE PRESIDENT: The debate is
20 closed.

21 The Secretary will ring the bell.

22 Read the last section.

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

25 THE PRESIDENT: Call the roll.

1 (The Secretary called the roll.)

2 THE PRESIDENT: Senator Flanagan,
3 to explain your vote.

4 SENATOR FLANAGAN: Yes, thank
5 you, Madam President, to explain my vote.

6 Just -- Senator Montgomery had
7 raised some valid comments, but I just want to
8 assure everybody that, like many of the things
9 that we do here, this bill strikes a balance.

10 Probation is expensive. It asks
11 for a contribution, but it's capped. It's
12 \$600 for drug testing, \$900 for electronic
13 monitoring, and the administrative fee of
14 \$30 a month strikes a balance between running
15 these programs and making sure that our
16 taxpayers who have not committed these types
17 of offenses aren't bearing all the costs.

18 And the other thing, too, everybody
19 should know is that there's a provision in
20 this bill that speaks to indigency and
21 hardship. If someone can't pay, there are
22 provisions to make sure that they don't have
23 to.

24 So it's not just a broad, sweeping,
25 yeah, you got to pay, you're on probation. It

1 strikes a balance between the interests of the
2 taxpayer and the legitimate interests of the
3 people who are on probation.

4 THE PRESIDENT: You will be
5 recorded as voting in the affirmative,
6 Senator.

7 THE SECRETARY: Those recorded in
8 the negative on Calendar Number 767 are
9 Senators Connor, Diaz, Dilan, Duane,
10 L. Krueger, Montgomery, Parker, Paterson,
11 Sabini, Sampson, Schneiderman, Serrano,
12 A. Smith, M. Smith and Stavisky.

13 Those Senators absent from voting:
14 Gonzalez and C. Kruger.

15 Ayes, 43. Nays, 15.

16 THE PRESIDENT: The bill is
17 passed.

18 THE SECRETARY: Calendar Number
19 1010, by Senator Seward, Senate Print 2390B,
20 an act to amend the Insurance Law.

21 SENATOR SCHNEIDERMAN:
22 Explanation.

23 THE PRESIDENT: Senator Seward,
24 an explanation has been requested.

25 SENATOR SEWARD: Certainly, Madam

1 President.

2 The purpose of this bill is to
3 reduce auto insurance premiums through a
4 reduction in no-fault fraud. In general
5 terms, this bill would enhance opportunities
6 for the insurers to combat fraud, it would
7 afford these insurers more time to raise fraud
8 as a defense, and increase penalties for
9 insurance fraud, particularly for repeat
10 offenders.

11 Now, the need for this type of
12 legislation is greater now than ever. Even
13 though we have seen some progress in the auto
14 fraud area through changes that the Insurance
15 Department has made, and we have made a couple
16 of changes in statute last year, there's so
17 much more that can be done and should be done,
18 and it's embodied in this legislation.

19 We've seen some very disturbing
20 trends in the area of auto insurance fraud,
21 organized crime becoming involved and also
22 this vertical integration of this fraud,
23 actual staging of accidents, these runners.
24 And we have dealt with that earlier today, in
25 both of those cases, through legislation. As

1 well as falsification of medical records. I
2 mean, the list goes on and on in terms of
3 what's still going on and what needs to come
4 to a close. Because the consumers of our
5 state are paying more than they need to in
6 auto insurance premiums because of fraud.

7 A couple of other quick points.
8 This bill would also create a temporary panel
9 on medical care and treatment under no-fault,
10 as well as specifically in the bill requires
11 the Superintendent of Insurance, when they are
12 reviewing rate changes on the part of the
13 insurers, that they be required to pass along
14 any savings because of these measures to the
15 consumer.

16 THE PRESIDENT: Senator Klein.

17 SENATOR KLEIN: Madam President,
18 I believe I have an amendment at the desk. I
19 ask that the reading of the amendment be
20 waived and I have the opportunity to speak on
21 the said amendment.

22 THE PRESIDENT: The reading is
23 waived, and you may be heard on the amendment.

24 SENATOR KLEIN: Thank you, Madam
25 President.

1 My amendment to this legislation,
2 while I believe that Senator Seward, his
3 legislation will go a long way towards
4 reducing fraud and thus lower our premiums, my
5 amendment goes into another area, not car
6 insurance but homeowner insurance.

7 Many here may be aware that over
8 the last couple of months, Allstate canceled
9 over 28,000 policies in coastal communities in
10 New York City, Westchester, and Long Island.
11 They left many of their policyholders high and
12 dry, not having the ability to even get any
13 other insurance, without even giving them an
14 explanation.

15 What was very, very interesting, a
16 lot of these canceled policies happened in
17 places out on Long Island, many in my district
18 in the Bronx, like Edgewater Park, City
19 Island, Silver Beach. And when I had an
20 opportunity to speak to my constituents, they
21 were given absolutely no reason why these
22 policies were canceled.

23 As a matter of fact, it was also
24 interesting that when I asked further if some
25 of these homeowner policies were in coastal

1 regions and they were also insured by Allstate
2 for their car insurance, they weren't dropped.
3 But if they just had this homeowner policy for
4 coastal insurance, they actually were dropped.

5 My amendment is very, very simple.
6 First, according to existing law, no insurance
7 company can cancel more than 4 percent of
8 their policies in New York State. Under my
9 amendment, it would lower that threshold to
10 2 percent. Already Allstate has canceled over
11 3.1 percent of their policyholders in
12 New York. And I have a feeling that they're
13 trying to get towards that 4 percentage mark.
14 Which, if they go beyond that, that's of
15 course when the State Insurance Department can
16 step in and do something about it.

17 Also, under my amendment, it would
18 require that insurers demonstrate a potential
19 risk loss to justify such cancellations. As I
20 said earlier, right now they don't have to
21 give any reason why they even canceled these
22 policies.

23 And then finally, under this
24 amendment, we would direct the Insurance
25 Department to conduct a study on the

1 profitability of the property/casualty
2 insurance industry. In other words, once and
3 for all figuring out if indeed there is a loss
4 to the insurance industry by insuring people
5 who live in coastal communities.

6 All the experts I spoke to claim
7 that the next hurricane that's going to hit
8 New York State is maybe every 500 years. So
9 certainly I don't think Allstate is doing
10 right by our constituents who live in coastal
11 communities by equating New York State with
12 South Florida and New Orleans.

13 I think what they're doing is
14 they're setting themselves up -- setting up, I
15 should say, the consumer to try to get a
16 national policy which would cover insurance
17 damage in catastrophic emergencies. I believe
18 that that's what they're doing.

19 So I hope my colleagues will
20 support this amendment, which I think goes a
21 long way towards ensuring that our
22 constituents, especially those who live in
23 coastal communities, will continue to be
24 insured.

25 Thank you, Madam President.

1 THE PRESIDENT: On the amendment,
2 those Senators in agreement please signify by
3 raising your hand.

4 THE SECRETARY: Those recorded in
5 agreement are Senators Breslin, Connor,
6 Coppola, Diaz, Dilan, Duane, Klein,
7 L. Krueger, Montgomery, Onorato, Oppenheimer,
8 Parker, Paterson, Sabini, Sampson, Savino,
9 Schneiderman, Serrano, A. Smith, M. Smith,
10 Stachowski, Stavisky, and Valesky.

11 THE PRESIDENT: The amendment is
12 not agreed to.

13 Senator Schneiderman.

14 SENATOR SCHNEIDERMAN: Thank you,
15 Madam President. Briefly on the bill.

16 THE PRESIDENT: You may proceed
17 on the bill.

18 SENATOR SCHNEIDERMAN: I think
19 that the point that underlies Senator Klein's
20 amendment -- which I'm sorry was defeated, and
21 I hope we will revisit the issues that he just
22 raised before the session is over -- really it
23 also underlines some problems with this
24 legislation that is proposed to us now.

25 The difficulty we face is that this

1 legislation in large respects -- and I believe
2 that last year in the debate, Senator
3 DeFrancisco said this is not a balanced bill.
4 This favors insurance, makes it tougher on
5 consumers, on the insured, and makes it easier
6 on insurance companies. And I think that
7 continues to be true.

8 The problem we've got is that the
9 assumption that the only people who cause
10 trouble and commit fraud and engage in
11 wrongful conduct in the context of insurance
12 claims are the insured is just false.
13 Insurance companies all the time wrongfully
14 delay claims. And I think this bill would
15 make a bad situation worse in several
16 respects.

17 The Assembly has a bill, sponsored
18 by Assemblyman Grannis, Assembly 8357B, that I
19 think is a far more balanced approach. And I
20 would urge my colleagues if we do pass this
21 bill, let's get to a conference committee.
22 But that at the conference committee we should
23 consider some of the provisions that the
24 Assembly has provided.

25 This legislation proposed to us

1 today would extend the current 30-day period
2 within which an insurer may contest the
3 validity of a claim to more than 70 days.
4 Now, keep in mind that any insurance company
5 now can already extend the 30-day period
6 simply by filing a request for further
7 verification.

8 So this is, I think, an unnecessary
9 and unwarranted extension of time that could
10 cause a severe hardship on someone who's
11 waiting to have a claim paid. And there's no
12 counterbalance. There's nothing to make sure
13 that the insurance company pays in a timely
14 manner.

15 The Assembly's bill would extend
16 the time frame from 30 days to only 45 days --
17 much more reasonable, in my view.

18 The legitimate concern with people
19 who are committing insurance fraud should not
20 cloud our eyes from the fact that insurance
21 companies need to have tightened regulation
22 and, frankly, are -- I think everyone knows,
23 anecdotally, insurance companies have no
24 particular incentive in New York State right
25 now to pay promptly. If you don't pay, what's

1 the penalty?

2 Insurance companies -- and you've
3 probably experienced this in your health
4 insurance, we all do, or in your property and
5 casualty insurance. They deny claims all the
6 time, and a lot of people just give up. They
7 wear you down, and that's a problem that is
8 not really addressed by this bill.

9 The Assembly bill, in contrast,
10 would increase the penalty imposed on insurers
11 who delay payments. The Assembly proposal
12 would require insurers to provide
13 plain-language notices of medical bills
14 submitted for treatment rendered as a result
15 of the accident.

16 Again, it's a commonsense measure
17 that would assist honest accident victims in
18 helping insurers discover questionable bills
19 and ensure that the legitimate bills are paid
20 on time.

21 So I would suggest that we need a
22 more balanced approach. The insurance
23 industry in New York State is imposing onerous
24 costs on all the other businesses of the
25 state. We're trying to reduce the cost of

1 doing business in this state. It's time that
2 we look at the cost of insurance as one of
3 those costs.

4 So I'm going to be voting against
5 this bill, in the hope that we will proceed to
6 a conference committee with the Assembly's
7 bill and try and resolve this issue this year.
8 We need to do something to streamline the
9 process, ensure that valid claims are paid and
10 also provide for improved mechanisms to root
11 out insurance fraud.

12 Thank you, Madam President.

13 THE PRESIDENT: Does any other
14 Senator wish to be heard?

15 Then the debate is closed.

16 The Secretary will ring the bell.

17 Read the last section.

18 THE SECRETARY: Section 12. This
19 act shall take effect immediately.

20 THE PRESIDENT: Call the roll.

21 (The Secretary called the roll.)

22 THE PRESIDENT: Senator
23 DeFrancisco, to explain your vote.

24 SENATOR DeFRANCISCO: Yes, I vote
25 no.

1 I think when the no-fault insurance
2 law went into effect, the concept was there
3 would be a quid pro quo: You can't bring a
4 lawsuit if you could promptly get your
5 insurance claims paid for medicals and lost
6 earnings if you didn't have a serious physical
7 injury. This is contrary to that concept.

8 Secondly, there's many
9 opportunities, if the insurance company wants
10 more money, to obtain -- to request more
11 information and give them more time to decide
12 on the claim. All this does is, I think,
13 increase the likelihood that the carrier can
14 deny a claim whether it's fraud or not.

15 Secondly, there should be a more
16 balanced approach. I've had a bill that I
17 drafted that's passed the Assembly before, and
18 languishes in this house, concerning fire and
19 homeowner insurance policies. Where the real
20 fraud that's taking place, I think, is in many
21 instances with insurance companies who delay
22 payment, knowing that the cost of litigating
23 will give them a much better bargaining
24 position in giving the homeowner much less
25 than the fair value of the loss.

1 So there should be a balanced
2 approach. Namely, insurance companies should
3 have penalties when they don't fairly address
4 the claims, fairly settle the claims. And I
5 don't see any of that legislation coming to
6 the floor.

7 So when there's a balanced
8 approach, then I'll support bills like this.

9 Thank you. I vote no.

10 THE PRESIDENT: You will be
11 recorded as voting in the negative, Senator.

12 Senator Seward, to explain your
13 vote.

14 SENATOR SEWARD: Thank you, Madam
15 President.

16 I rise in support of this bill that
17 I am sponsoring because I consider it to be a
18 pro-consumer piece of legislation. We have
19 seen, in the last couple of years, auto
20 premiums be reduced in the State of New York
21 primarily because of the efforts on the part
22 of the Insurance Department and the companies
23 in combating insurance fraud. And that has
24 resulted in real savings for the consumer.

25 Now, the department can only go so

1 far administratively. They need some
2 additional help through changes in statute.
3 And that's exactly what this piece of
4 legislation would do, to provide through the
5 statutes of the State of New York some
6 additional means for combating no-fault fraud
7 in this state. And that would be translated
8 into additional savings for those who are
9 paying too much for their auto insurance
10 today.

11 So I consider this piece of
12 legislation antifraud, pro-consumer, and I
13 vote aye.

14 THE PRESIDENT: You will be
15 recorded as voting in the affirmative,
16 Senator.

17 Senator Johnson, to explain your
18 vote.

19 SENATOR JOHNSON: Yes, I'd like
20 to explain my vote.

21 I'm voting in the affirmative. But
22 we had an explanation here by Senator
23 DeFrancisco, who said that insurance companies
24 are dragging things out. He said no-fault is
25 not working anymore, he says, and people can't

1 sue anymore.

2 The fact is when we drafted this
3 bill 30 years ago, no-fault was to make sure
4 people got their medical bills paid with no
5 problem, with no lawsuits or nothing. And it
6 worked fine for a while. But that was when
7 the average claim might have been \$10,000 or
8 \$15,000.

9 Lawyers and doctors and their
10 coconspirators have devised ways to get the
11 claim over \$50,000 in an instant. And then
12 they can go to court, besides getting all
13 their bills paid. So what they're doing is
14 running up a lot of bills just in order to
15 qualify to take it to court. I think they're
16 misusing the intent of the law. That \$50,000
17 limit probably should be \$100,000 today. But
18 who knows, it wouldn't take them long to run
19 it up to \$100,000.

20 But that was the reason we did
21 no-fault. Pay your bills, no legal, no
22 problem, no suing. It's not working anymore,
23 because it's being abused. And this bill --
24 and further reform is definitely needed.

25 I'm voting aye.

1 THE PRESIDENT: You will be
2 recorded as voting in the affirmative,
3 Senator.

4 The Secretary will announce the
5 results.

6 THE SECRETARY: Those recorded in
7 the negative on Calendar Number 1010 are
8 Senators Breslin, Connor, Coppola,
9 DeFrancisco, Duane, L. Krueger, LaValle,
10 Onorato, Parker, Paterson, Sabini, Sampson,
11 Savino, Schneiderman, Serrano, A. Smith, and
12 Stavisky.

13 Those Senators absent from voting:
14 Gonzalez and C. Kruger.

15 Ayes, 41. Nays, 17.

16 THE PRESIDENT: The bill is
17 passed.

18 Senator Skelos, that completes the
19 reading of the calendar.

20 SENATOR SKELOS: Thank you, Madam
21 President.

22 If we could return to motions and
23 resolutions, I believe there's a --

24 THE PRESIDENT: Motions and
25 resolutions.

1 SENATOR SKELOS: I believe
2 there's a Resolution 5259 at the desk, by
3 Senator Bruno. Could we have the title read,
4 move for its immediate adoption, and open it
5 up for cosponsorship.

6 THE PRESIDENT: The Secretary
7 will read.

8 THE SECRETARY: By Senators Bruno
9 and Golden, Legislative Resolution Number
10 5259, mourning the death of Rabbi Moses
11 Teitelbaum, the grand rabbi of the Satmar
12 Hasidim.

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

15 (Response of "Aye.")

16 THE PRESIDENT: Opposed, nay.

17 (No response.)

18 THE PRESIDENT: The resolution is
19 adopted.

20 Any member who does not wish to
21 cosponsor the last resolution, please notify
22 the desk.

23 Senator Skelos.

24 SENATOR SKELOS: If you could
25 recognize Senator Little, please.

1 THE PRESIDENT: Senator Little.

2 SENATOR LITTLE: Thank you, Madam
3 President.

4 On behalf of Senator Skelos, on
5 page 29 I offer the following amendments to
6 Calendar Number 608, Senate Print Number
7 6831A, and ask that said bill retain its place
8 on Third Reading Calendar.

9 THE PRESIDENT: The amendments
10 are received. The bill will retain its place
11 on the Third Reading Calendar.

12 Senator Schneiderman.

13 SENATOR SCHNEIDERMAN: Thank you,
14 Madam President.

15 On behalf of the great Senator
16 Velmanette Montgomery, on page 64 I would
17 offer the following amendments to Calendar
18 Number 1095, Senate Print Number 1302, and ask
19 that said bill retain its place on Third
20 Reading Calendar, as befits a woman of her
21 style and distinction.

22 THE PRESIDENT: The amendment is
23 received. The bill will retain its place on
24 the Third Reading Calendar.

25 Senator Skelos.

1 SENATOR SKELOS: Is there any
2 further business at the desk?

3 THE PRESIDENT: No, there is not,
4 Senator.

5 SENATOR SKELOS: There being
6 none, I move we stand adjourned until
7 Wednesday, May 17th, at 11:00 a.m.

8 THE PRESIDENT: On motion, the
9 Senate now stands adjourned until Wednesday,
10 May 17th, 11:00 a.m.

11 (Whereupon, at 4:21 p.m., the
12 Senate adjourned.)

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