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

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.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator DeFrancisco.

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

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

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

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

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

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

Senator Skelos.

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

THE PRESIDENT: Yes, there are.

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

THE PRESIDENT: The Secretary will read.

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

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

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

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

identical Senate Bill Number 6933, Third Reading Calendar 993.

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

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

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

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 have the title read on Resolution

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

THE PRESIDENT: The Secretary will read.

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

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: If we could take up Resolution 5245, 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 Winner, Legislative Resolution Number 5245, honoring Trooper Andrew J. Sperr posthumously upon the occasion of his designation as recipient of the Brummer Award by the New York State Police.

THE PRESIDENT: Senator Winner.

SENATOR WINNER: Thank you, Madam President.

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

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

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

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

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

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

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

dedication to our safety and well-being.

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

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

THE PRESIDENT: Senator Robach.

SENATOR ROBACH: Yes, Madam Speaker.

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

His whole family is full of people

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

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

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

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

Thank you, Madam President.

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, if we could call up Resolution Number 4940, by Senator DeFrancisco, have it read in its entirety and move for its immediate adoption.

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 the 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 18; 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 who 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.

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

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

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

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

So thank you very much for being here today.

THE PRESIDENT: This resolution was previously adopted.

Thank you, Senator DeFrancisco.

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

Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

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

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

THE PRESIDENT: Senator Winner.

SENATOR WINNER: Thank you, Madam President.

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

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

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

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

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

Thank you, Madam President.

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.

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

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Resolution 5255, 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 5255, congratulating the American Red Cross, and its employees and volunteers, upon the occasion of celebrating its 125th Anniversary in May 2006.

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.

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

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Resolution 5260, 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 Hannon, Legislative Resolution Number 5260, memorializing Governor George E. Pataki to proclaim May 2006 as Amyotrophic Lateral Sclerosis (ALS) Awareness Month in the State of New York.

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 Schneiderman.

SENATOR SCHNEIDERMAN: Yes, Madam President.

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

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

Senator Breslin.

SENATOR BRESLIN: Yes, Madam President.

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

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

Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

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

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

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

act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

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

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 795 are Senators LaValle, Marcellino, Padavan and Serrano.

Ayes, 53. Nays, 4.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Saland, to explain your vote.

SENATOR SALAND: To explain my vote.

Madam President, I would rarely

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

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

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

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

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

the Legislature and the Education Department.

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

I vote in the affirmative.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

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

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays,

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last

section.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

Ayes, 52. Nays, 7.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President.

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

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

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

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

Thank you.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last

section.

SENATOR SKELOS: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

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

THE PRESIDENT: The Secretary will read.

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

SENATOR SKELOS: Explanation.

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

SENATOR ALESI: Thank you, Madam President.

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

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

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

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

THE PRESIDENT: Senator DeFrancisco.

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

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

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

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

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

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

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

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

Thank you, Madam President.

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

Then the debate is closed.

Senator Volker.

SENATOR VOLKER: Madam President, I will be brief.

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

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

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

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

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

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

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

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

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

because you could charge them generally with reckless driving.

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

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

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

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

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

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

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

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

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

THE PRESIDENT: The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

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

Ayes, 57.

THE PRESIDENT: The bill is passed.

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

SENATOR SCHNEIDERMAN: Brief explanation.

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

SENATOR FLANAGAN: Thank you, Madam President.

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

executive, CSEA, the Attorney General, and NYSAC.

THE PRESIDENT: Does any member wish to be heard?

Senator Montgomery.

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

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

SENATOR FLANAGAN: Yes.

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

SENATOR MONTGOMERY: Thank you.

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

SENATOR FLANAGAN: Senator, I am not sure.

SENATOR MONTGOMERY: Okay, thank

you. I believe so, Senator.

Madam President, just briefly on the bill.

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

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

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

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

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

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

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

So, Madam President, I'm voting no.

THE PRESIDENT: The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Flanagan, to explain your vote.

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

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

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

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

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

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

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

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

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

Ayes, 43. Nays, 15.

THE PRESIDENT: The bill is passed.

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

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR SEWARD: Certainly, Madam

President.

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

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

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

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

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

THE PRESIDENT: Senator Klein.

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

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

SENATOR KLEIN: Thank you, Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Madam President.

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

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

THE PRESIDENT: The amendment is not agreed to.

Senator Schneiderman.

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

THE PRESIDENT: You may proceed on the bill.

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

The difficulty we face is that this

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

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

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

This legislation proposed to us

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

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

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

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

the penalty?

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

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

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

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

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

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

Thank you, Madam President.

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

Then the debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: Yes, I vote no.

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

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

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

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

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

Thank you. I vote no.

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

Senator Seward, to explain your vote.

SENATOR SEWARD: Thank you, Madam President.

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

Now, the department can only go so

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

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

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

Senator Johnson, to explain your vote.

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

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

sue anymore.

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

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

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

I'm voting aye.

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

The Secretary will announce the results.

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

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

Ayes, 41. Nays, 17.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the reading of the calendar.

SENATOR SKELOS: Thank you, Madam President.

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

THE PRESIDENT: Motions and resolutions.

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

THE PRESIDENT: The Secretary will read.

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

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: If you could recognize Senator Little, please.

THE PRESIDENT: Senator Little.

SENATOR LITTLE: Thank you, Madam President.

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

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

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

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

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

Senator Skelos.

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

THE PRESIDENT: No, there is not, Senator.

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

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

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