NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 5, 2006

3:07 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, Sunday, June 4, the Senate met pursuant to adjournment. The Journal of Saturday, June 3, 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 Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Golden, on page 67 I offer the following amendments to Calendar 934, Senate Print 7503, and I ask that this 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 FARLEY: Madam President, on behalf of Senator Little, I wish to call up her bill, Print Number 6387A, which was recalled from the Assembly and it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

340, by Senator Little, Senate Print 6387A, an act to amend the Tax Law.

SENATOR FARLEY: Madam President, I now move to reconsider the vote by which this bill passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

SENATOR FARLEY: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: On behalf of Senator Little again, I wish to call up her bill, Print 6388B, which was recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 341, by Senator Little, Senate Print 6388B, an act to amend the Tax Law.

SENATOR FARLEY: Madam President, I now move to reconsider the vote by which this bill passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

SENATOR FARLEY: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: On behalf of Senator Winner, Madam President, I wish to call up his bill, 6448A, recalled from the Assembly, and it's now at your desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 342, by Senator Winner, Senate Print 6448A, an act to amend Chapter 365 of the Laws of 2005.

SENATOR FARLEY: Madam President, I now move to reconsider the vote by which this bill passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

SENATOR FARLEY: I now offer the

following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: Madam President, on behalf of Senator Balboni, I wish to call up his bill, Print Number 6913, recalled from the Assembly, and it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 468, by Senator Balboni, Senate Print 6913, an act to amend the Executive Law.

SENATOR FARLEY: I now move to reconsider the vote by which this bill passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

SENATOR FARLEY: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: On behalf of Senator Nozzolio, I wish to call up his bill, 6647, which was recalled from the Assembly and

it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1063, by Senator Nozzolio, Senate Print 6647, an act to amend the Highway Law.

SENATOR FARLEY: Madam President, I now move to reconsider the vote by which this bill passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

SENATOR FARLEY: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: On behalf of Senator Balboni, Madam President, I wish to call up his bill, 6822, which was recalled from the Assembly and it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1003, by Senator Balboni, Senate Print 6822,

an act to amend the Waterfront Commission Act.

SENATOR FARLEY: Madam President, I now move to reconsider the vote by which this bill passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

SENATOR FARLEY: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: That's it.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, I believe there are substitutions at the desk, if we could make them at this time.

THE PRESIDENT: There are, Senator Skelos.

The Secretary will read.

THE SECRETARY: On page 43, Senator Maziarz moves to discharge, from the Committee on Labor, Assembly Bill Number 4397 and substitute it for the identical Senate Bill Number 4946, Third Reading Calendar 429.

On page 77, Senator Morahan moves to discharge, from the Committee on Local Government, Assembly Bill Number 8697A and substitute it for the identical Senate Bill Number 5734A, Third Reading Calendar 1109.

On page 91, Senator Meier moves to discharge, from the Committee on Social Services, Children and Families, Assembly Bill Number 8652A and substitute it for the identical Senate Bill Number 5754B, Third Reading Calendar 1264.

And on page 95, Senator DeFrancisco moves to discharge, from the Committee on Finance, Assembly Bill Number 11223 and substitute it for the identical Senate Bill Number 7867, Third Reading Calendar 1308.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a Resolution 5526 at the desk by Senator Maziarz. If we could have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Maziarz, Legislative Resolution Number 5526, commending Tyler Hasstings upon the occasion of receiving Honorable Mention in the 2006 Essay Contest of the Disabilities Awareness Program sponsored by the New York State Commission on Quality of Care and Advocacy for Persons with Disabilities.

THE PRESIDENT: All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a Resolution 5584, by Senator Maziarz, at the desk. If we could have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Maziarz, Legislative Resolution Number 5584, honoring Chief Thomas J. Roche upon the

occasion of his retirement from the Gates Police Department.

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.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a resolution at the desk by Senator Bonacic. If we could have it read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bonacic, legislative resolution commending the Valedictorians, Salutatorians and Honored Students of the 42nd Senate District, in recognition of their outstanding accomplishments, at a celebration to be held at the State Capitol on June 5, 2006.

"WHEREAS, It is the sense of this Legislative Body to act, in accord with its

long-standing traditions, to honor the youth of today, the leaders of tomorrow, whose character and achievements exemplify the ideals and values cherished by this great state and nation; and

"WHEREAS, This Legislative Body is justly proud to recognize and commend the high achievements of these dedicated students in the 42nd Senate District on the occasion of a special celebratory visit to the State Capitol in Albany, New York, on Monday, June 5, 2006. At this time the Valedictorians, Salutatorians, and Honored Students who have been selected by their school leadership for outstanding community service will receive special recognition from the Senate in the Senate Chamber. Lunch will be served on the third-floor Terrace of the Legislative Office Building, followed by a tour of the State Capitol; and

"WHEREAS, These Valedictorians, Salutatorians and Honored Students represent the best of developed potential inherent in our most precious resource, our youth. Their achievements have brought enduring honor to

their families and communities and should be recognized and saluted; and

"WHEREAS, The Valedictorians who are being commended today for their outstanding academic performances and exemplary achievements include: Adam Barrett, Megan Lesperence, Kathleen Kline, Jolene Dechow, Kyle Anthony, Richelle Blauvelt, Brody Ehrlich, Francesca Bevilacqua, Melissa Gardner, Michael Parry, Julia Perzley, Erin Slaver, Caroline Price, Claire Cella, Joseph Palazzo, Jon Tveit, Christina Makram, John Garry, Gina Fullam, Emily Cole, Carl Davidson, Jessica Koonz, Angela Niforatos, Kristina Perazone, Kelli Huggins, Nicholas Malgieri, Allison Griffith, Amanda Hanselman, Katelin Meehan, Eleanor Bryan, Danielle Musa, Gregory Raymond and Kevin Groover; and

"WHEREAS, The Salutatorians who are being commended today for their outstanding academic performances and exemplary achievements include: Josh Weaver, Annabel Kugler, Johanna Sluiter, Courtney Hoyt, Andrea Boyar, Meredith Mirrer, Lisa Scheinman, Jael Schlafer, Nicole Hartz, David Kelley, Juliana

Guarente, Marshall Isseks, Miranda Zeininger, Russell White, Peter Baltera, Susan Barnes, Zachary Bialecki, Matthew Wilsey, Lauren Manganiello, Adrian Ward, Stephanie Brock, Tammy Schaaffe, James Harris, Jr., Kelly Paden, Christopher Ransford, Emily Jeanne Gage, David Lundgren, Joe Garigliano, Benjamin Baker, and Bethany George; and

"WHEREAS, The Honored Students who are being commended today and who have been selected by their school leadership for outstanding school or community service include: Kerri Gilley, Amanda Gutliph, Sarah Doran, Mara Phelan, Sarah Kochik, Amanda Scott, Pranali Trivedi, Heather Hoag, Joe D'Abbraccio, Scott Milici, Sara Rink, Christopher Mikesh, Kendra Harris, Emily Suttmeier, Christine Meno, Bryan Mang, Kyle Knoetgen, Adam Nebzydoski, James Walsh and Erin Anderson; and

"WHEREAS, These Valedictorians, Salutatorians, and Honored Students may now stand with pride as they assess their achievements, experience the satisfaction of their labors and the joy of their

accomplishments, eager to face the new experiences of a challenging world; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commend the Valedictorians, Salutatorians, and Honored Students of the 42nd Senate District, in recognition of their outstanding accomplishments at a celebration to be held at the State Capitol on June 5, 2006; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the aforementioned Valedictorians, Salutatorians and Honored Students."

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

First of all, I'd like to welcome all of our honored students, parents, educators and friends to the Senate chambers. We had a wonderful day today. It's a day that I always look forward to.

We had a seminar -- I'll call it a seminar -- we had four speakers. We had our

Lieutenant Governor come, who spoke eloquently to the group. And we had 40 boxes of pizza. I want you to know you did a good job. It was all low-cal.

But you are our best and brightest from our Senate district. I would ask you to consider coming back to New York to live here, work here, and raise your family and make life better for the next generation and keep New York strong and keep America strong.

You are our future. And I'm glad that you are our future, because I know we will be better as we go forward having students such as yourselves. Thank you for being here.

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.

Congratulations. We're so proud and in awe of all of you. Best wishes for

continued success.

(Applause.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, I believe Senator Marcellino has motions.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

I offer amendments to the following Third Reading Calendar bills:

Myself, page 33, Calendar Number 165, Senate Print Number 1286D;

Senator LaValle, page number 33, Calendar 172, Senate Print Number 1092A;

Senator Maziarz, page number 36, Calendar Number 215, Senate Print Number 3209A;

Senator Alesi, page number 50, Calendar Number 609, Senate Print Number 1078;

Senator LaValle, page number 51, Calendar Number 662, Senate Print Number 2450;

Senator Marchi, page 52, Calendar Number 667, Senate Print Number 5418;

Senator Seward, page 52, Calendar

Number 694, Senate Print Number 6677;

Senator Nozzolio, page 57, Calendar Number 775, Senate Print Number 7221;

Myself, page number 57, Calendar Number 777, Senate Print Number 2851;

Senator Saland, page number 61, Calendar Number 856, Senate Print Number 6290;

Senator Nozzolio, page number 62, Calendar Number 858, Senate Print Number 7234;

Senator Nozzolio, page number 65, Calendar Number 903, Senate Print Number 6699.

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 all retain their place on the Third Reading Calendar.

Senator Rath.

SENATOR RATH: Madam President, amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Robach, page 67, Calendar Number 936, Senate Print Number 7597;

By Senator Morahan, page number 67,

Calendar Number 937, Senate Print 7664A;

Senator Seward, page 67, Calendar Number 945, Senate Print Number 6474A;

Senator Fuschillo, page 69, Calendar 987, Senate Print 7562;

Senator Young, page 71, Calendar 1019, Senate Print 7213;

Senator LaValle, page 79, Calendar 1124, Senate Print 2862B;

Senator Farley, page 84, Calendar 1182, Senate Print 7428;

Senator Morahan, page 88, Calendar Number 1239, Senate Print 6964;

Senator Morahan, page 91, Calendar Number 1268, Senate Print 7652;

Senator Spano, page 94, Calendar 1296, Senate Print 3278;

Senator Leibell, page number 96, Calendar 1314, Senate Print 3798;

Senator Seward, page 97, Calendar 1324, Senate Print 7899.

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 Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President.

On page number 52, I offer the following amendments to Calendar Number 685, Senate Print Number 6706, and ask that said bill retain its place on Third Reading Calendar, on behalf of Senator Morahan.

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 16, by Senator Meier, Senate Print 4301A, 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, 56. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 66, by Senator Rath, Senate Print 5839, 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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 95, by Senator LaValle, Senate Print 3658A, an act to amend the Environmental Conservation Law and the Public Lands 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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 152, by Senator LaValle, Senate Print 279A, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first day of a sales tax quarterly period.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 371, by Senator Golden, Senate Print 2197B, an act to amend the General Business Law.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Golden, to explain your vote.

SENATOR GOLDEN: On the bill, Madam President.

This bill today that we're passing, the cyber-cafe bill, would look to these businesses that operate within New York City and allow for the jurisdictions outside of New York City to opt in, to regulate these facilities as to 13-, 14-, 15-year-old children in these facilities during school hours and at 1:00, 2:00, 3:00, 4:00 o'clock in the morning when they should not be in these locations unsupervised.

This cyber-cafe bill will address those concerns and start to regulate those cyber-cafes so that our children are supervised and there are responsible people running these locations and that they are accountable, with a license that would be

renewed every two years.

I also have with me today, up in the balcony here, a school. These children don't spend any time in these cyber-cafes, as you will hear.

This one child that I have here, from I.S. 30 from Brooklyn, Natalie Van Tyne, she is the winner of the "Senator For A Day" contest in Brooklyn. And she is here with her father, her mother, her brother, her sister. She is here with her class and her teacher from I.S. 30, Adrian Lyss.

And we welcome them here today because Adrian taught this class well in how to enter into this contest. And Natalie became a winner out of thousands of essays, 250-word essays or more, that were submitted. She was above and beyond in her performance, in the way she spoke, in the way she addressed the judges and spoke of reducing overcrowding in our schools. And she did an outstanding job.

I want to thank her, I want to thank I.S. 30, and I want to thank her family for their dedication and being able to get

into this contest and to be the winner out of the many thousands of kids that participated in Brooklyn.

So I'd ask my colleagues to join me in congratulating this young lady and her family and her classroom. Thank you.

(Applause.)

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

Senator Sabini, to explain your vote.

SENATOR SABINI: Thank you, Madam President.

I just rise in support of the bill. This is an industry that government has to catch up with. These cafes have sprung to prominence in the last six or seven years.

And one of the things that perhaps adults don't know about is that part of the attraction of some of these cafes are linked-up games, linked-up games from other -- within a computer network that young people are taking off from school or playing after school.

These games are violent, they're bloody, they're often tinged with racism and bigotry. And people who are making money off these should be held to a standard that requires them to at least police their own operation and make sure that there is some sort of standard not to promote violence, not to promote bigotry, not to promote things that kids shouldn't be doing in their off-hours, never mind some of the young people who are doing this on-hours.

So I want to congratulate Senator Golden for his persistence in moving this legislation. I'll be voting aye.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 56. Nays, 1. Senator Libous recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 385, by Senator Spano, Senate Print 4155B, an

act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. 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 389, by Senator Maziarz, Senate Print 6225A, an act providing for the Commissioner of Transportation.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 429, substituted earlier today by Member of

the Assembly Ortiz, Assembly Print Number 4397, an act to amend the Workers' Compensation 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 506, by Senator Seward, Senate Print 3087B, an act to amend the Insurance Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

597, by Senator DeFrancisco, Senate Print 7011A, an act to amend the Public Officers 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 DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: Yes, I'm explaining my "yes" vote.

I think this is an important piece of legislation, because over the years we've expanded the materials that are available under the Freedom of Information Law.

The problem was when there was noncompliance, there was no real remedy. And this remedy allows courts, if they choose, to award attorney's fees to the party who brings the action to be able to enforce their right to obtain information.

Many of us know, in the Freedom of Information context, sometimes incomplete

information is given, sometimes inordinate delays take place. This, in the short term, will give a remedy so that the requester doesn't have to pay for the attorney's fees.

And for those who complain about attorney's fees, I don't think there's too many lawyers who are going to make a living off of this type of litigation. But it gives the recipient the right to obtain this information and not be hurt financially.

Lastly, over the long term what it does is that it's less likely that information will be withheld or inordinately delayed because the agencies, once they get hit with a bill from the court for attorney's fees, they're going to be more likely to comply with what they're required to do anyway.

So I think it's an important bill that puts teeth in the rights of citizens to obtain information.

Thank you, Madam President.

THE PRESIDENT: And you will be recorded, Senator DeFrancisco, as voting in the affirmative on this bill.

Senator Valesky, to explain your

vote.

SENATOR VALESKY: Thank you, Madam President.

I rise in support of this bill and to commend Senator DeFrancisco for his leadership efforts on this measure. It is certainly a commonsense thing that we ought to be doing, and it's a good thing that we're passing this bill today.

I would suggest, though, that we ought to go one step further. Presently the Freedom of Information Law, as it applies to executive agencies in state government, there is a presumption that documents are available unless those are -- those that are not are specifically spelled out in the law.

The Legislature is just the opposite. I have introduced a bill to bring the Legislature and the application of the Freedom of Information Law to documents generated by the Legislature to at least the same standard as we have in executive agencies of state government. I encourage this body to take that measure up before we adjourn the legislative session.

I vote in the affirmative on this bill.

THE PRESIDENT: And you will be so recorded as voting in the affirmative, Senator.

The Secretary will announce the results.

THE SECRETARY: Ayes, 56. Nays, 1. Senator Malcolm Smith recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 598, by Senator Nozzolio, Senate Print 1973D, an act to amend the Energy 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

666, by Senator Larkin, Senate Print 854A, an act to amend the Real Property Tax 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 684, by Senator Libous, Senate Print 1818A, an act to amend the Mental Hygiene Law.

THE PRESIDENT: Read the last section.

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

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 be voting in favor of

this bill, which requires the Commission of Care and Advocacy for Persons With Disabilities in order to review programs of the Commission for the Blind and Visually Handicapped. And this is a good bill, and we should do everything in our power to help those with visual impairments.

But I imagine that especially if a person finds out later in life that they have -- that they are getting a visual impairment or that they are going blind, that that would cause a tremendous amount of anxiety and probably depression.

And ironically, here we would have someone with a visual handicap who also potentially would be very depressed about that, which is a mental illness. And who knows how they would treat it if they couldn't get the professional help they needed -- maybe through alcohol or some other chemical substance to try to take the edge off of the depression because of the beginning of a handicap.

But even more ironically, while they may be able to get special services

because of their visual impairment, most likely they wouldn't be able to get help for the mental illness of aggression or anxiety that might go along with it, because we still haven't passed Timothy's Law.

Now, here we are the beginning of June, session is winding down. And I have to say it's getting pretty darn embarrassing that this body refuses to take up such an important piece of legislation that really would help New Yorker.

So while I'm voting for this bill, I hope -- and really, at this point, I'm going to have to start to demand that we get Timothy's Law on the floor here so that we can vote in favor of it.

Thank you, Madam President.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 688, by Senator Young, Senate Print 6820A, an act to amend the Parks, Recreation and Historic Preservation Law.

SENATOR SKELOS: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 813, by Senator Bonacic, Senate Print 6521A, an act to amend the Public Authorities Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 863, by Senator Balboni, Senate Print 7358A, an act to amend the Eminent Domain Procedure Law.

SENATOR DUANE: Lay it aside,

please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 880, by Senator Skelos, Senate Print 7450, an act to amend the General Business Law.

SENATOR SKELOS: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 887, by Senator Stachowski, Senate Print 1604, 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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 897, by Senator Padavan, Senate Print 3914B,

an act to amend the Penal Law, the Executive Law, the Civil Practice Law and Rules, and the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 905, by Senator Volker, Senate Print 6753, an act to amend the Civil Practice Law and Rules.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 917, by Senator Morahan, Senate Print 706, an act to amend the Military 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 976, by Senator Skelos, Senate Print 7086B, an act to authorize.

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, 56. Nays, 1. Senator Bonacic recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 984, by Senator Saland, Senate Print 7314A, an act to authorize.

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 995, by Senator LaValle, Senate Print 1477A, an act to amend the Business Corporation Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 13. This act shall take effect on the first of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1001, by Senator Spano, Senate Print 5747A, an act to amend the Public Authorities 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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1109, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8697A, an act to amend the Real Property Tax 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 1044, by Senator Wright, Senate Print 5005D, an act to amend the Penal Law.

THE PRESIDENT: 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 SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1070, by Senator Maziarz, Senate Print 7329A, an act to amend the Highway Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1178, by Senator DeFrancisco, Senate Print 7217A, 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 1196, by Senator Larkin, Senate Print 7259, an act to amend the General Business 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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1204, by Senator Fuschillo, Senate Print 783, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1205, by Senator Fuschillo, Senate Print 788, 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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1207, by Senator Alesi, Senate Print 971, an

act to amend the Penal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act --

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1213, by Senator Volker, Senate Print 3712, 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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1264, substituted earlier by the Assembly Committee on Rules, Assembly Print Number

8652A, an act to amend the Domestic Relations Law and the Civil Practice Law and Rules.

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 1308, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 11223, an act to amend Chapter 203 of the Laws of 2004.

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.

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

SENATOR SKELOS: Thank you, Madam President. If we could go to the controversial reading.

THE PRESIDENT: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 863, by Senator Balboni, Senate Print 7358A, an act to amend the Eminent Domain Procedure Law.

SENATOR DUANE: Explanation, please.

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

SENATOR BALBONI: Thank you very much, Madam President.

This is a bill that is in response to many things -- some of them the Supreme Court case of the Kelo decision, some of them the specific circumstances that have occurred down in my district.

But essentially, what this involves is a change that has overcome our society. It

used to be that in the times of kings and queens, a feudal lord would be sent out to go and seize property. Well, today we just use eminent domain.

And that's exactly what's happened, that we have taken eminent domain and we've changed its application. And I believe that that is an overreaching of the intent of the law, and this bill seeks to change it. And here are some of the reasons why.

First off, the bill is very specific. It only affects the town of North Hempstead. And that is because the town of North Hempstead is very environmentally sensitive. It has extensive groundwater protection areas. And when you take a large facility, like say a golf course, and you take it off the rolls and perhaps you're going to use it to develop it, then you will endanger the groundwater protection area.

Second, you'll have an impact on the real property taxpayers, because you'll take property that is currently on the tax rolls and then you'll take it off for a municipal purpose, and that will have a

dramatic effect on places like school districts.

And lastly, I believe that this is something that we need to have a break on. You know, this is America, folks. And normally when you want to lose your property, you want to lose it for getting lots of nice money that you decide to sell. And what this bill does not do is curtail the ability of any municipality to enter into a negotiated settlement where property is acquired.

Thank you, Madam President.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I rise to support Senator Balboni's legislation --

THE PRESIDENT: To speak on the bill?

SENATOR MONTGOMERY: To speak on the bill.

THE PRESIDENT: Go ahead.

SENATOR MONTGOMERY: And to support his legislation.

The only problem that I have with

this legislation, Madam President, is that Senator Balboni has taken care of the feudal lord -- is that what you call them? -- in his own district, but not the one in mine. So I'm unhappy about that.

(Laughter.)

SENATOR MONTGOMERY: Now, I understand that this process is supposed to be a process which allows government to be able to acquire property for the purpose of public benefit. However, as Senator Balboni has -- his bill addresses, we now have a situation where the acquisition of private property for other private economic development, quote, unquote, purposes is just a matter of course. So we no longer have the protection of private property owners that is assumed in our Constitution. And I think that Senator Balboni's legislation goes in the right direction to correct that.

I would just like to point out that there are other members in this house who do have legislation that would perhaps go further than Senator Balboni's, and I hope that we're going to be considering those bills.

I note that Senator Flanagan has several bills that he has introduced to, one, require compensation of up to 150 percent of the fair market value so that property owners would receive fair value for their property. He also would create a temporary commission, state commission, to examine the appropriate constitutional standard for condemnation proceedings which would be used for economic development. I think that's what we should do, at least, in the least, is establish a commission to study this issue.

And let me just also add that I also have a bill, which is very, very simple. It would grant the City Council of the City of New York the authority to approve or disapprove, via majority vote, on any decision to do eminent domain in the City of New York. And it would require at least one official public hearing so that citizens in the City of New York would have an opportunity to respond.

That's only a very small number, limited number, a number of us have legislation on because we care about this. And, Madam President, I hope that this is just

the beginning by this Legislature to examine and to correct what is going on in our state, in the counties and cities across, where we have the transfer of property from private property owners to people who want to build stadiums and malls and other so-called economic development projects at the expense of private owners in our state.

Thank you. I'm supporting this legislation. Thank you.

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

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. On the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR LIZ KRUEGER: Thank you.

Well, as I read the bill and listened to Senator Balboni's explanation, it involves a golf course in a town in his district, and it seems to be an eminent domain fight between the rich and the richer over who gets to have the golf course. And I will support the bill.

But again to highlight what Senator Montgomery was raising, eminent domain is a very serious issue in the State of New York. And there are debates going on throughout the State of New York about whether our law in fact is appropriate in the 21st century and whether we in the New York State Legislature have sat by while local governments have too broadly interpreted their powers of use of eminent domain, where some of us believe the State of New York has too broadly allowed eminent domain, under the auspices of public authorities and even IDAs using eminent domain to take the property of others.

So I have to tell you that I'm concerned that at the closing of session in 2006 it appears so far the only eminent domain bill we're dealing with is one subspecific to a golf course in a town.

And Senator Montgomery raised her bill, which basically calls for public hearings and the participation of the local government.

I wanted to reference Senator DeFrancisco's bill, which quite a few members

have signed on to, 5938, which I think does an excellent job of clarifying where we ought to go in eminent domain reform in New York State.

The original concept of eminent domain was the recognition that there are occasions when government -- for public, good purposes -- needs to take private property. And the concept behind it is that when they need to take private property, they will of course give fair reimbursement to the owners.

And the original intent of eminent domain was so that you could assure that you could build highways and have public transportation that needed to go through areas that you might need to take property for pumping stations, for water works, for reservoirs, for jails and police and fire stations, for city halls and other public buildings. For cemeteries, conceivably. For parks and playgrounds. For putting in sewers and pipelines and aqueducts.

I don't think we ever imagined the golf course as one of the critical public issues facing us in the taking of land. But as we know, in the last year and a half we had

a Supreme Court case, Kelo v. the City of New London, that some people interpreted as saying the Supreme Court of the United States said anything in eminent domain is okay.

That is a misreading of the Kelo case. The Kelo case said this is a state's decision, not a federal government decision; hence, under that Connecticut law, what was happening was considered allowable by the U.S. Supreme Court.

But I would argue that the U.S. Supreme Court actually said to us, in all 50 states: It is your obligation to go back and reevaluate how you are using eminent domain in your states, whether in fact you are violating your original intent for the use of eminent domain.

I would argue that on case after case in New York, if we were to take a hard look at the facts, we might all agree, both sides of the aisle, that we have gone too far, that we are not correctly interpreting eminent domain under our state law as was the original intention of the purpose for public good. And that we should be, today, on this floor,

actually discussing any number of eminent domain bill proposals.

But I'd be happy if we were just dealing with Senator Montgomery's bill as she spoke on, S5949, and Senator DeFrancisco's 5938.

We have a few days left in session this year. I hope perhaps we might see these bills on the floor, because I think that the people of New York deserve us to evaluate what is going on in eminent domain law in the State of New York. And that each of us might have stories about what we believe our local outrage is in our own districts under the current statute.

So I will support the bill. But again, we have much bigger issues than just golf courses to deal with in this state.

Thank you, Madam President.

THE PRESIDENT: The debate is closed.

The Secretary will ring the bell.

Senator Skelos.

SENATOR SKELOS: Before we read the last section, I just want to of course

welcome back Senator Hassell-Thompson.

Welcome back, and we're glad you're feeling better.

(Extended applause.)

THE PRESIDENT: Thank you, Senator Skelos.

I know we are very happy to see you back. You look great. And I think you wanted to say something.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. And thank you, Senator Skelos.

I left in February to go to have what I thought was a very simple surgical procedure. And I guess I forgot that being 63 is not the same as being 23; the bones don't knit quite as quickly.

But barring some complications, I'm back, and I want to just say I thank you -- many of you called, almost every one of you sent me a note, flowers, some greeting -- some way of saying thank you very much.

In the Democratic conference earlier today, I made the statement -- and I don't want people to think I'm being

redundant -- but unless you've been to a very dark place in your life, you don't know what it means to come back from that. And I think that a lot of people in this room are responsible for helping me to come back, helping me to know that illness is not the worst thing. And it helped me get through some very dark times.

And Carl Marcellino, I didn't think you liked me as much.

(Laughter.)

SENATOR HASSELL-THOMPSON: But I want to thank you. I want to thank every one of you who remembered me and sent me some greeting, some acknowledgment.

And my daughter wanted to know why was Senator Volker calling me so much.

(Laughter.)

SENATOR HASSELL-THOMPSON: And I said because he's one of my best friends.

And I'll tell you that when it really comes down to it, when you're in a position of governance and you really understand what that means, it isn't about party, but it is about decency and respect.

And I -- and I appreciate the respect that I have been shown since I've been in the Senate chambers.

And I thank you, Madam President.

(Applause.)

SENATOR SKELOS: Madam President, I would also like to point out that it's nice to see a Senator sitting in their chair when there are flowers on the desk.

(Laughter.)

THE PRESIDENT: Oh, absolutely. We'll all second that.

SENATOR SKELOS: If we could read the last section, please.

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 DeFrancisco, to explain your vote.

SENATOR DeFRANCISCO: Yes, I support the bill. But it is -- I agree that it's an incomplete solution to the eminent

domain problem.

I know Senator Alesi had hearings all throughout the state, we had a hearing here in Albany, and there's been recommendations by the Bar Association and so forth. But right now, there unfortunately is not a consensus.

But we have to pass a bill that ends basically two things, where a governmental agency or in some cases an IDA can actually seize property and the sole justification can be that whatever the new development is going to be, it brings in more tax dollars. I don't think that's what the framers of our Constitution had in mind when they gave government the power to seize property for eminent domain.

And the other part of it is is that we've got to have a bill that makes certain that those who have their property seized for a legitimate government purpose are properly compensated. This issue has expanded so much that the government really has total control of whose property they want to take, and they can give it to another private individual or

entity. And it's just wrong.

So hopefully we can get an agreed-upon bill or some common language that we could move as quickly as possible.

The Bar Association unfortunately suggested that we appoint a commission and study it. The last time there was a commission appointed to study eminent domain, the first bill that came out was seven years later, and that's when the solution took place. We can't wait that long.

So thank you, Madam President. I vote in the affirmative.

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

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 863 are Senators Duane and Malcolm Smith.

Ayes, 56. Nays, 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

897, by Senator Padavan, Senate Print 3914B, an act to amend the Penal Law and others.

SENATOR SABINI: Explanation.

THE PRESIDENT: Senator Padavan, an explanation has been requested by Senator Sabini.

SENATOR PADAVAN: Thank you, Madam President.

This is the second year we've dealt with this legislation, that deals comprehensively with the horrible modern-day slavery known as human trafficking.

The Justice Department tells us that annually there are over 800,000 individuals brought across various international borders, primarily women and children, for all kinds of purposes, significantly among them being prostitution, child labor and the like.

In our various statutes in our penal code there are provisions for dealing with certain aspects of that activity. But there is no comprehensive bill, law, that brings it all together in a fashion that prosecutors, the attorney general, and other

law enforcement agencies -- primarily, the police department -- can act in dealing with this horrendous problem.

We have it in this state, we have it in New York City. From time to time we read stories about those situations. And we must deal with it.

This legislation adds Article 136 to the Penal Law. It creates the crime of human trafficking, involuntary labor servitude and involuntary sexual servitude, promoting human trafficking, patronizing a trafficking victim, and promoting sex tourism. Sex tourism -- that's where individuals sign up for a tour to go to some foreign country to engage in sexual activity with children. Currently they're immune from prosecution in this state, in this country. This would change that.

We deal with the restitution and assistance to trafficking victims. It amends the Executive Law to include trafficking victims in the definition of victim for purposes of crime victim compensation. It amends the Civil Practices Law and Rules to

provide for the seizure and forfeiture of the assets of traffickers and amends the Penal Law and Criminal Procedure Law to include human trafficking as a predicate crime for enterprise corruption.

That's the essential aspect of this bill.

THE PRESIDENT: Senator Sabini.

SENATOR SABINI: Madam President, I believe there's an amendment at the desk. I'd like to waive its reading and be heard on the amendment.

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

SENATOR SABINI: Madam President, Senator Padavan has a very good piece of legislation here dealing with human trafficking. We've read Bob Herbert's compelling piece in The Times the other day. The amazement that New York State hasn't moved forward with a law on this should be obvious to everyone. So it's a good piece of legislation.

I have an amendment I think makes it a little better, because it not only goes

towards the combatting of human trafficking but deals with the human aspect of it, and that is the victim, the person who's brought here unsuspectingly from another country to the promise of America, the golden door, the land of milk and honey. And then they're forced into a situation of slavery and servitude, and under horrible conditions, in places like in my district, where we've had these instances time and time again.

What my bill does is offer a package of services to those who are the victims. Penalties are important too, and I support them and I intend to vote for the bill. But my amendment would provide for services for trafficking of persons within the Office of Temporary and Disability Assistance. It would call for the creation of an interagency advisory committee and a forum for collaboration of all state agencies and service providers to develop state policies for the victims.

Some of the victims face deportation, as Senator Padavan's bill allows people to sue. These are not people who are

going to have access to quick legal work in the country they're deported to.

The demand for prostitution in New York and in areas where we have lots of day laborers is large. We have lots of men who come to America and to New York in particular to find work, sometimes to send it back home to their families. They have needs; they seek out prostitutes. Women are brought in here, trafficked, under coercion. Once they're here, they're forced into a situation of slavery.

There was a situation recently in Senator Morahan's district, in Spring Valley, where there were prostitution arrests made of young women, underage and at the age of majority, taken into custody by the U.S. Immigration Service. It's likely they'll be returned to Mexico and Guatemala and their countries of origin. And who will they meet there when they get back? The same people who sent them here in the first place. They'll be shunned, perhaps tortured, perhaps worse.

So I think it's important that we do the things we need to do to stop this

trade, but I think it's important that the State of New York step up and offer some services to the people that are victims of it.

We have an organization -- you know, my district is a very diverse one, as many know. In neighborhoods like Jackson Heights and Corona, people come from all of the world. We have an agency called Solace; it's a division of the old Victim Services Agency. And they provide a unique service that most people would be amazed is needed. They provide service to people who come from other countries who are victims of torture from other countries, who then have to live here with the horror of what happened to them at their home country.

So that if someone came from the former Communist-bloc regime of Albania and saw their parents tortured, they may need psychological training in their native language. Not so easy to find. Or if they saw their children tortured -- or worse -- in a country like China or the Sudan or Ghana, they need those services available in their own language. And that organization, Solace,

does that.

I'd like to see that replicated for these victims of human trafficking. So I offer this amendment not in a sense that Senator Padavan's bill is bad -- no, it's good, and I intend to vote for it -- but rather to go to the victim's side of the equation and to get the state to step up to the plate and say we have to do something for these folks. And the amendment is offered in the spirit of helping those victims, Madam President.

Thank you.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: Madam President, first, I appreciate Senator Sabini's support of the bill, the underlying legislation.

But I'd like to comfort him in this sense. Everything he talks about -- the need to help those who are the victims, the need to collect information and data so that we can fully understand the nature of the crimes being committed, the need to provide services, the need to interface with federal authorities

between the Attorney General, our police agencies, our Division of Criminal Justice Services, so these individuals would find help to become legalized as residents -- all of that is contained in the bill you have before you.

Now, what is not there that Senator Sabini's amendment does provide is the establishment of a separate entity, a new office, a bureaucracy to do all those things.

Now, we have a difference of opinion. I think our Division of Criminal Justice Services, the Attorney General's office, our police departments, the federal agencies with whom they are to cooperate under this statute, are sufficient to do the job if we give them the law and the tools to do it with. We need not set up a new entity to supersede what is already in place in terms of structure and assets. That's where we differ.

Now, there's one problem we do have. And the problem we have is that this will be the second time we've passed this bill. Assemblyman Dinowitz in the other house has been working very, very diligently with

his bill, which is quite similar, but he's having a great deal of trouble getting it out of the Codes Committee in that house.

And that's where we need your help, to give him the assistance to get this thing moving, pass a bill there so we can work out whatever minor differences there are and put it into law. I'd hate to see this session end not having accomplished anything.

THE PRESIDENT: Senator Sabini.

SENATOR SABINI: Thank you, Madam President. I just want to just amplify Senator Padavan's point about the other house.

The victim services piece that I proposed is in the Assembly bill and I think would make it more palatable to both houses if that were there.

And secondly, yes, we do have a disagreement in philosophy. My language goes toward social service professionals and not toward the enforcement folks -- who can go to social service professionals, but I believe this is such a unique situation involving people from so many different places on the globe that need so many special services that

it's not just something the Attorney General, the Criminal Justice Division, the police departments, they may not be the most -- best-equipped people to deal with the rather complex problems of the victims of this trafficking.

So we are talking shades of gray, but I think it's important enough that we go to the root of the problem and try to help the victims of this not just by closing down these rings but making sure that the victims are not lost in the shuffle.

So we do have a disagreement of philosophy, but I think this amendment would make it more palatable to the Assembly.

Thank you.

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

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

Valesky.

THE PRESIDENT: The amendment is not agreed to.

Does any other Senator wish to be heard?

Senator Volker.

SENATOR VOLKER: Madam President, let me just say, I think Senator Padavan mentioned it, but this bill was the subject of a hearing in New York City. And Senator Duane was there, and a number of people from this house on both sides of the aisle.

I have to be honest with you. You know, Senator Sabini, your amendment is fine in a way. That's not what the Assembly's problem is. The Assembly's problem -- and I met with a lot of the major groups in New York City on this while I was there in the city, and since then up here in Albany. Because to me, this is one of the issues that I really believe we should deal with during this session.

And the reason is that I don't think any of us realized, until we had the hearing and researched it, the enormity of

this problem. And it's not just in New York City, but the worst of it is in New York City.

It appears -- and we're still working with the Assembly to try to work this out. And I am very hopeful that we will be able to do it, because I think this is a problem that needs desperately to be dealt with.

But the main reason the Assembly is reluctant to do a bill has to do with penalties. I mean, you know -- and it's not -- I get frustrated sometimes because the same people in the Assembly sometimes who profess to be so tough and profess to be ready to put people in jail then are reluctant, when you get a problem of this nature, to do it.

In all honesty, it seems to me that the real trouble has to do with the fact that the Assembly at times would rather find a way to counsel people than put them in jail. But how do you do that with people who are abducting people, kidnapping them and turning them into slaves? It seems to me that that's so abhorrent that we must deal, first of all, with the criminal side.

And the social side has got to be dealt with too. I don't think there's any question that we need to have programs and all that sort of thing. But the first thing you have to do is deal with the fact that people are doing something that is so abhorrent to our society that it needs to be dealt with in the most efficient and the toughest and quickest way possible.

And the best way to do that is to pass Senator Padavan's bill or a bill very similar to it. And I would hope that before this session is over, either this part of the session or sometime this year, that we will be able to come to an agreement, because it cries out -- you know, there aren't a lot of issues that cry out, to me, to be done. This is one that does. This and the sexual predator legislation, it seems to me, cries out to be done during this session.

So I thank Senator Padavan for his interest, Senator Duane, and a lot of other people in this chamber. This has been an issue that I think has found pretty unanimous support in this house. And I'm going to do

everything I can to make sure that it gets the same kind of support in the Assembly.

THE PRESIDENT: The debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 897, absent from voting: Senator Gonzalez.

Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1207, by Senator Alesi, Senate Print 971, an act to amend the Penal Law.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Madam President, I would like to have a brief explanation.

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

SENATOR ALESI: Thank you, Madam President. Since I'm recovering from laryngitis, I'd be happy to offer a brief explanation.

This bill simply increases the penalties for false personation from a B misdemeanor to an A misdemeanor. And it removes the requirement in existing law that someone who is being questioned has to be informed ahead of time that if they give false information as to their identity that it is a misdemeanor.

Thank you very much, Madam President.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you, Madam President. On the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR MONTGOMERY: Thank you.

Madam President, I see that the main thing that I have a huge problem with

with Senator Alesi's legislation is that it contradicts the original intent of the bill that was passed in 1997, I believe, in this Legislature to establish this particular crime. Which is a person is guilty of false personation when, after being informed of the consequences of such act, he or she knowingly misrepresents himself or herself, et cetera. I changed some of the wording.

And in fact, the Legislature, in the memorandum in support of that legislation -- and I want to remind people that we were still a Republican controlled Legislature at that time -- and it said specifically in the memo of support that the first element of the crime requires that the subject be informed of the consequences of such act. The concept appears to be to provide the subject with actual notice of the criminal nature of the conduct, both in fairness and in a desire to encourage compliance.

So it seems to me that this bill intends to cast aside the original intent of the legislation, which was to establish that

when an officer stops someone, wherever they are, and requests information, and that person may or may not be telling the truth, the officer is obligated to say simply that if you lie to me, there will be consequences. It is a penalty. It is a crime.

I don't understand, as I have said in the past when Senator Alesi has introduced this same legislation, why would we remove that requirement from a police officer? It just seems such a simple and straightforward process that the officer automatically would do, that if you break this law there are consequences.

I have said in past debates on this bill why I'm opposed to it is because in particular when police officers stop teenagers, which very often happens in my district, I want those police officers to at least be required to let those young people know that whatever they do or say, it can be held against them, that it is a crime even if you lie about your name and address.

I don't think that's too much to ask. I have never had any police officer --

and I work with them all the time -- complain to me that this is burdensome, we don't want to do this, it prevents us from doing our job. None of that has ever been spoken about.

So I cannot understand what is the purpose of Senator Alesi's bill. In fact, I think that it contradicts the original intent of this, or at least the original concern that we should at least have a fair opportunity for a person to respond to a police officer.

And furthermore, he raises the penalty from a B to an A. And I think that's also a problem for me, because in the case of young people we don't want to be increasing the penalties.

There is a lot of discussion these days, Madam President, about the problem that we have for some young people in our society that there is a pathway from the -- from cradle to prison. It's especially in the case of young African-American males, that they are born into a situation where it is almost a direct path from the cradle to the prison. It's called the cradle-to-the-prison pipeline.

And I consider this to be part of

how the pipeline works. And so I'm going to continue to oppose this legislation. I think that it's not necessary to help police officers to do a better job enforce the law. And it certainly will have the impact of increasing the penalties and in fact ensnaring more particularly young people into it. I'm voting no.

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

Then the debate is closed.

The Secretary will ring the bell.

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 PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1207 are Senators Duane, Hassell-Thompson, Montgomery and Parker.

Absent from voting: Senator

Gonzalez.

Ayes, 53. Nays, 4.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the reading of the calendar.

SENATOR SKELOS: Thank you, Madam President. Is there any further business at the desk?

THE PRESIDENT: No, there isn't.

SENATOR SKELOS: There being none, I move we stand adjourned until Tuesday, June 6th, at 3:00 p.m.

THE PRESIDENT: On motion, the Senate now stands adjourned until Tuesday, June 6th, at 3:00 p.m.

(Whereupon, at 4:38 p.m., the Senate adjourned.)